

THE FISHERIES ACT 2023

Act No. 15 of 2023

I assent

PRITHVIRAJ SING ROOPUN, G.C.S.K.

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President of the Republic of Mauritius

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

1. Short title
2. Interpretation
3. Application of Act

PART II – OBJECTIVES AND PRINCIPLES

4. Objectives of Act
5. General principles
6. Good governance

PART III – ADMINISTRATION OF FISHERIES AND AQUACULTURE

7. Administration of Act
8. Delegation of powers
9. Consultative Committee
10. Meetings of Consultative Committee
11. Secretary to Consultative Committee

PART IV – CONSERVATION, MANAGEMENT, DEVELOPMENT AND SUSTAINABLE USE**Sub-Part A – General**

12. Conservation and management measures
13. Implementation of international conservation and management measures
14. Allowable catches, applied effort and allocations
15. Fisheries Management Plans
16. Research for effective conservation and management
17. Declaration of, and prohibitions or restrictions respecting, protected, threatened or endangered species of fish

Sub-Part B – Marine Protected Areas

18. Declaration of Marine Protected Areas
19. Marine Protected Area Fund

Sub-Part C – Marine Environmental Quality

20. Protection of marine ecosystem
21. Illegal construction or placement of structures or platforms in maritime zones of Mauritius and stop order

Sub-Part D – Management Measures and Prohibitions

22. Management of bycatch
23. Management of genetic resources
24. Marking and protection of vessels and their gear
25. Fish aggregating devices
26. Prohibition to fish on data buoys
27. Prohibition on commercial whaling and conservation of marine mammals
28. Prohibition on removal and sale of shark fins
29. Prohibition to use large-scale driftnets and demersal trawl nets
30. Prohibition to use aircraft and unmanned aerial vehicles
31. Prohibition to use artificial light to attract fish
32. Prohibition to tamper with or destroy property in maritime zones
33. Prohibition to fish, store, land, sell, possess or do illegal activity with specific species of fish
34. Prohibition to use, possess, manufacture, import, purchase or sell prohibited gear
35. Prohibition on abandoning or discarding gear, fish and fish products
36. Prohibition on abandoning fishing vessel or equipment or implement used in connection with fishing or fishing related activities
37. Prohibition to sink or cause to sink fishing vessel

38. Prohibition of use of harmful fishing methods and sale of fish caught using such methods
39. Prohibition of interference with inspected fish and fish products
40. Prohibition to possess, trade and export in fish and fish products taken or obtained in contravention with Act or international conservation and management measure
41. Prohibition to trade in fish and fish products taken or obtained in contravention of relevant laws of another State
42. Prohibition in relation to listed vessels
43. Prohibition in relation to fishing vessels without nationality
44. Prohibition to fish during closed periods

PART V – GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES

45. Compliance with Act, registration, licence or authorisation
46. Reporting requirements
47. Requirements for vessels to report entry to, exit from and regularly while in maritime zones
48. Gear stowage
49. Requirements for Mauritius nationals in areas beyond national jurisdiction
50. Requirements for compliance with labour conditions of personnel on board fishing vessels
51. Prohibition to engage with transnational criminal group
52. Transshipment in the port of Mauritius, maritime zones and areas beyond national jurisdiction
53. Supply activities in maritime zones of Mauritius

PART VI – REQUIREMENTS FOR FISHERIES ACCESS

Sub-Part A – Fisheries Access Agreement

54. Fisheries access agreement
55. Payment of fees under access agreement with regional economic integration organisation
56. Other terms and conditions for fisheries access
57. Review of fisheries access
58. Preference for products of Mauritius

Sub-Part B – Joint Venture and Charter Agreements

59. Requirements for joint venture and charter agreements
60. Charter agreements to comply with applicable international conservation and management measures

Sub-Part C – Fisheries Management Agreement

61. Fisheries management agreement

Sub-Part D – Performance Bonds

62. Performance bond
63. Requirements for performance bonds
64. Drawing on performance bond
65. Cash deposit of performance bond to be returned

PART VII – FISH FARMING AND AQUACULTURE**Sub-Part A – Fish Farming**

66. Fish farming in pond, tank, barachois or fish hatchery
67. Fish farming zones and fish farming industry
68. Fish farming at sea
69. Concession of area in fish farming zones
70. Licence for fish farming at sea
71. Marked-off areas in fish farming zones
72. Cancellation or suspension of concessions
73. Removal of concession right
74. Small-scale fish farming
75. Authorisation for fishing in fish farms
76. Disease outbreak in fish farm

Sub-Part B – Aquaculture

77. Aquaculture activities and research
78. Interfering with aquaculture facility
79. Restricted aquaculture products
80. Genetically modified aquatic organism in aquaculture
81. Import of live aquatic organism for aquaculture
82. Genetic engineering activities in aquaculture

PART VIII – IMPORT AND EXPORT OF FISH AND FISH PRODUCTS

83. Import of fish and fish products
84. Trusted Trader Certificate for importation of fish and fish products
85. Import of live fish
86. Quarantine procedures for importation of live ornamental fish
87. Prohibition to dispose of or release imported live ornamental fish
88. Export of fish and fish products

PART IX – INFORMATION, DATA AND STATISTICS

89. Establishment of information system
90. Information required and inspected
91. True, complete and correct information required and destruction of documents prohibited
92. Information sharing bilaterally, regionally, internationally
93. Confidential Information
94. Confidentiality of information in relation to Fisheries Monitoring Centre
95. Ownership of information
96. Public access to information

PART X – LICENCES, AUTHORISATIONS AND REGISTRATIONS**Sub-Part A – Requirements and Conditions for Licences, Authorisations and Registrations**

97. General requirements for application
98. Terms and conditions for licences and authorisations
99. Pre-licensing and pre-registration inspection and other requirements
100. Standards for grant of licence, authorisation or vessel registration
101. Grounds for denial or non-renewal of licence, authorisation or vessel registration
102. Fees, levies and other charges
103. Duration of registration, licence or authorisation
104. Altered, defaced or mutilated registration, licence or authorisation
105. Suspension, cancellation, surrender or termination of registration, licence or authorisation

Sub-Part B – Process for Registrations, Licences and Authorisations

106. Application for registration, licence or authorisation
107. Determination of application for registration, licence or authorisation
108. Grant and issue of registration, licence and authorisation
109. Registration, licence and authorisation to be in writing
110. Registration, licence and authorisation to be subject to terms and conditions

Sub-Part C – Requirements for Fishing Vessel for Registration as Mauritius Fishing Vessel

111. Requirements for registration as Mauritius fishing vessel
112. Suspension and cancellation of registration of Mauritius fishing vessel
113. Deregistration of Mauritius fishing vessel
114. Modification of Mauritius fishing vessel
115. Transfer of ownership, name and address of Mauritius fishing vessel

Sub-Part D – Requirements for Fishing or Fishing Related Activities by Mauritius Fishing Vessel

116. Licence required by Mauritius fishing vessel for fishing or fishing related activities in maritime zones of Mauritius
117. Authorisation required by Mauritius fishing vessel for fishing or fishing related activities in areas beyond national jurisdiction or area of competence of a relevant regional fisheries management organisation

Sub-Part E – Requirements for Fishing or Fishing Related Activities by Foreign Fishing Vessel

118. Licence required by foreign fishing vessel for fishing or fishing related activities in maritime zones of Mauritius

Sub-Part F – Licence and Registration Requirements for Fishmongers, Artisanal Fishers, Bank Fishers and Trainee Fishers

119. Fishmonger licence
120. Registration of artisanal fisher, bank fisher and trainee fisher
121. Requirement to possess fisher identity card while engaging in fishing or fishing related activities
122. Deregistration of registered fishers
123. Obligations of registered fishers

Sub-Part G – Licence Requirements for Gears

124. Licence required for manufacture, import, sale or supply of gear except for basket trap, fish spear, line, rod, reel or lure
125. Gear licence required for bait gear, canard net, gill net, large net, pocket net and shrimp net
126. Duties of holder of gear licence
127. Disposal or replacement of licensed gears
128. Net or gear exceeding authorised length

Sub-Part H – Other Requirements for Fishing or Fishing Related Activities

129. Licence required for underwater fishing
130. Licence required for exploratory fishing
131. Authorisation required to operate in net fishery
132. Authorisation required for importation and construction of fishing vessel

Sub-Part I – Register for Registrations, Licences and Authorisations

133. Registers

PART XI – MONITORING, CONTROL AND SURVEILLANCE**Sub-Part A – Functions and Powers of Fisheries Control Officers and Fisheries Enforcement Officers**

134. Powers of entry and search
135. Powers of investigation
136. Powers to take, detain, remove and secure evidence
137. Powers of detention
138. General powers of fisheries control officers
139. Power to order vessel to the port of Mauritius
140. Powers of seizure
141. Removal of parts from seized fishing vessels
142. Pursuit beyond the maritime zones of Mauritius
143. Powers of investigation in areas beyond national jurisdiction
144. Obligation for inspection of Mauritius fishing vessels in areas beyond national jurisdiction
145. Request for assistance

Sub-Part B – Observers

146. Appointment of observers
147. Responsibilities of observers
148. Observer costs
149. Duty of operators and crew members to assist observers
150. Notice on intention to place observer
151. Observers and field inspectors under a regional fisheries management organisation observer scheme

Sub-Part C – Protection and obstruction of authorised persons

152. Protection of authorised persons
153. Obstruction of authorised persons

Sub-Part D – Monitoring Systems and Fisheries Monitoring Centre

154. Vessel monitoring systems – technical requirements
155. Vessel monitoring systems – requirements for operators
156. Automatic identification system
157. Fisheries Monitoring Centre

Sub-Part E – Port State Measures

158. Application of Sub-part E
159. Designation of ports
160. Prerequisites for entry or use of port of Mauritius
161. Denial of entry into the port of Mauritius and use of port

162. Force majeure or distress
163. Denial of use of the port of Mauritius after entry
164. Conduct of inspections of fishing vessels in the port of Mauritius
165. Denial of use of the port of Mauritius after inspection
166. Unlawful assistance to fishing vessel
167. Requirements for Mauritius fishing vessels in foreign port

Sub-Part F – Presumptions of IUU Fishing or fishing related activities and Actions in Relation to Fishing Vessels on IUU Vessels List

168. Presumptions of IUU Fishing or fishing related activities in contravention of international conservation and management measures
169. Actions in relation to fishing vessels on an IUU Vessels List of relevant regional fisheries management organisation

PART XII – DISPOSAL, RELEASE AND FORFEITURE OF SEIZED ITEMS

170. Disposal of perishable seized goods
171. Release of seized items upon bond, surety or other security
172. Release of seized items by supervising officer or Court
173. Failure to comply with conditions of bond or other security
174. Disposal of forfeited item

PART XIII – JURISDICTION, PROSECUTION AND LIABILITIES

Sub-Part A – Jurisdiction and Prosecution

175. Jurisdiction
176. Prosecution

Sub-Part B – Liabilities

177. Liability of associations and officers of associations
178. Liability of operators
179. Liability of principal for actions of agent

PART XIV – ADMINISTRATIVE PROCEEDINGS

180. Administrative Sanctions Commission
181. Conduct of administrative proceedings
182. Payment of administrative penalty
183. Agreement for administrative penalty final and conclusive
184. Criminal offences not eligible for administrative proceedings

PART XV – EVIDENCE

185. Certificate evidence
186. Certificate of location of fishing vessel
187. Photographic evidence

-
- 188. Evidence from position fixing instrument
 - 189. Vessel monitoring system evidence
 - 190. Satellite based evidence
 - 191. Presumptions
 - 192. Interfering with evidence

PART XVI – OFFENCES, FINES AND OTHER PENALTIES

Sub-Part A – Offences and Fines

- 193. Offences
- 194. Guidelines for determination of fines
- 195. Increased maximum fine for associations

Sub-Part B – Other Penalties

- 196. Imposition of other penalties
- 197. Ordering deprivation of monetary benefits
- 198. Ordering compensation for loss or damage
- 199. Banning order
- 200. Forfeiture order
- 201. Cancellation order

Sub-Part C – Fixed Penalty Offences and Fixed Penalties

- 202. Fixed Penalty Notice
- 203. Payment of fixed penalty
- 204. Non-payment of fixed penalty

PART XVII – MISCELLANEOUS

- 205. Protection from liability
- 206. Regulations
- 207. Repeal
- 208. Consequential amendments
- 209. Saving and transitional provisions
- 210. Commencement

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

FOURTH SCHEDULE

FIFTH SCHEDULE

SIXTH SCHEDULE

An Act

To repeal the Fisheries and Marine Resources Act and replace it by a more appropriate legislative framework following the recommendations made by the Directorate-General for Maritime Affairs and Fisheries of the European Commission (DG MARE)

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Fisheries Act 2023.

2. Interpretation

In this Act –

“abandoned state” –

- (a) in relation to a fishing vessel, means a vessel, including a wrecked vessel, which is moored, stranded, unattended, in a dismantled condition, unoccupied or in any other way abandoned; or
- (b) in relation to a gear, an equipment or an implement used in connection with fishing or fishing related activities, means an equipment or implement, including a wrecked equipment or implement, which is unattended, in a dismantled condition, unoccupied or in any other way abandoned,

in such a way that it becomes an eyesore or an obstruction, a danger or a hazard to navigation, the marine environment or to the public;

“agent” means a person in Mauritius who –

- (a) is appointed by the operator of a fishing vessel holding a valid and applicable licence or authorisation; and
- (b) is authorised to receive, or is capable of responding to, any legal action instituted in Mauritius against his principal;

“aircraft” –

- (a) means a craft which is capable of self-sustained movement through the atmosphere; and
- (b) includes a helicopter and a manned, an unmanned or a remotely operated airborne device;

“allowable commercial catch” means that part of the total allowable catch available annually for commercial fishing in accordance with section 14;

“aquaculture” –

- (a) means the cultivation, propagation or farming of freshwater and saltwater fish and any other aquatic organism; and
- (b) includes –
 - (i) fish farming;
 - (ii) the cultivation, propagation or farming from eggs, spawn, spat or seed, or by rearing fish taken from the wild or imported into Mauritius, or by other similar process;
 - (iii) the collecting and holding of live fish, under controlled conditions for the purposes of trade, business or research; and
 - (iv) both inland aquaculture and mariculture in the marine environment;

“aquatic organism” –

- (a) means any aquatic plant or animal, or other living organisms in the marine or aquatic environment, including bacteria and viruses;
- (b) includes any fish, crustacean, mollusc, coral, echinoderm, or aquatic reptile or aquatic mammal and its shell, eggs, body parts or other naturally occurring products; but
- (c) does not include birds;

“areas beyond national jurisdiction” –

- (a) means areas beyond the maritime zones of Mauritius; and
- (b) includes the high seas and exclusive economic zones of other States;

“area of competence”, in relation to a relevant regional fisheries management organisation, means the geographical area over which that organisation has a mandate in accordance with its constitutive instrument;

“artisanal fisher” means a fisher who carries out fishing or fishing related activities up to 15 nautical miles from the baseline of the maritime zones of Mauritius;

“artisanal fishing vessel” means a fishing vessel of less than 12 metres in length overall which –

- (a) may be used for fishing or fishing related activities up to 15 nautical miles from the baseline of the maritime zones of Mauritius; and
- (b) is registered in the name of an artisanal fisher or a person or company that is authorised to register the vessel;

“association” means a body corporate, a company, a *société* or any other association established or incorporated under any enactment;

“authorised person” means, for the purposes of sections 152 and 153, a fisheries control officer or an observer appointed in accordance with this Act or under an observer programme of a relevant regional fisheries management organisation;

“automatic identification system” means the system required pursuant to Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea as may be applicable to fishing vessels from time to time;

“bait gear” means a gear used for catching fish to be used as bait;

“bank fisher” means a fisher who carries out fishing or fishing related activities on the fishing banks of Mauritius;

“barachois” means a pond which is within or adjacent to the sea and enclosed by a weir or dam through which the sea flows and reflows;

“bareboat charter” means a written agreement by virtue of which the owner of a fishing vessel leases his vessel to a charterer for a fixed period of time wherein the charterer shall –

- (a) acquire control and possession of the vessel, including its management and operational control;
- (b) be responsible towards any third party as if he is the owner of the vessel; and
- (c) generally be substituted in all respects to the owner of the vessel; but
- (d) have no right to sell or mortgage the vessel;

“baseline” has the same meaning as in the Maritime Zones Act;

“basket trap” means a trap which has meshes of such size which allows a cylinder measuring not less than 4 centimetres in diameter to pass through;

“bioprospecting”, in relation to activities under this Act –

- (a) means the systematic search for and development of new sources of chemical compounds, genes, micro-organisms, macro-organisms, and other valuable products from fish; and
- (b) includes the search for economically valuable genetic and biochemical resources from fish;

“bycatch” –

- (a) means fish harvested in a fishery but which –
 - (i) are not the species of fish that are directly targeted or appear to be directly targeted;

- (ii) belong to any species not identified as bycatch in an applicable licence or plan of management for a fishery; and
 - (iii) belong to any species not identified in an applicable licence or plan of management for a fishery except for the species falling under subparagraph (i); and
- (b) includes –
- (i) discards;
 - (ii) non-target species identified by any international conservation and management measure, applicable licence or fisheries management plan;
 - (iii) undersized or juvenile individuals or the prohibited sex of the target species;
 - (iv) species which are incidentally affected by interacting with fishing equipment in the fishery, but are not taken; and
 - (v) those components of the target species of industrial fisheries that are rejected, inter alia, because –
 - (A) the sizes are too small for canning or other external markets; or
 - (B) of the heavy metal content of larger fish, damage during hauling, depredation or rejection of target species by primary markets for other quality concerns;

“canard net” means a net which is –

- (a) used in conjunction with a large net for catching mullets and which does not exceed 100 metres in length and 5 metres in width when mounted; and
- (b) made of several layers of nets fitted with poles to maintain the whole net afloat on the surface of water and the meshes of any of the layers are not less than 9 centimetres when stretched diagonally;

“carlet net” means a net in the shape of a bag with meshes of any size, the mouth of which is kept open by a hoop not exceeding one metre in diameter, and is an unlicensed net used for fishing crab carlet;

“cast net” means a conical net, with weights attached to the open circumference of the base and having meshes measuring not less than 9 centimetres when stretched diagonally and when the net is wet;

“catch documentation scheme” means such scheme consistent with conservation and management measures, established in accordance with such relevant international obligations as the Ministry may determine;

“chartered vessel” means a fishing vessel flying the flag of a contracting party or cooperating non-contracting party of a relevant regional fisheries management organisation and contracted for a defined period of time by an operator in another member State without the change of flag;

“chartering member” means a member State that holds the quota allocation or fishing possibilities;

“chartering of vessel” means a charter agreement that meets the requirements under section 60(2);

“company” means a company incorporated or registered under the Companies Act;

“competent authority” means the division of the Ministry responsible for the inspection and certification of any fish and fish products intended for export;

“confidential information” means confidential information referred to in section 93;

“demersal trawl net” means large nets that are pulled through the water with the bottom edge of the net touching the seabed to target bottom-dwelling species living on and near the seabed, and at each edge the net is held open by metal trawl doors which act as hydroplanes pulling the net mouth open;

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“Director of Shipping” has the same meaning as in the Merchant Shipping Act;

“discards” –

- (a) means that portion of the total catch which is thrown away or slipped at sea; and
- (b) includes economic discards and regulatory discards;

“donor vessel” means a fishing vessel engaged in a transshipment operation that transfers any quantity of fish on board to another vessel;

“driftnet” –

- (a) means any net of any size which is fitted with floats or weights which make it hang vertically at the surface level of the sea, in mid- water, or from the floor of the sea; but
- (b) does not include a large-scale driftnet;

“economic discards” –

- (a) means fish that are discarded because they are of little or no economic interest to the fisher; and
- (b) includes high grading discards which occur when a fisher discard small, damaged or relatively low value catch so it does not count against his quota;

“electronic reporting system” or “ERS” means a digital framework or structure used to record, report, process, store and send fisheries data, including geographical positions with corresponding catch, landings and transshipment;

“endangered species” includes species that are declared endangered under any enactment or any applicable international agreement;

“ERS Administrator” means –

- (a) an officer posted at the Fisheries Monitoring Centre or such other entity as the supervising officer may determine; and

(b) designated as such by the supervising officer;

“ERS application” means the software used in electronic reporting system;

“ERS unit” means the beacon, antenna and the digital tablet or personal computer equipped with the ERS application;

“EEZ of Mauritius” means the exclusive economic zone of Mauritius, as defined in section 14 of the Maritime Zones Act;

“exploratory fishing” means fishing for the purpose of assessing the sustainability and feasibility of future commercial fisheries by contributing to scientific data relating to such fisheries;

“explosive” has the same meaning as in the Explosives Act;

“export” has the same meaning as in the Customs Act;

“field inspector” means a person who collects information on land during the unloading of fishing vessels;

“fish” –

(a) means any water-dwelling aquatic or marine animal or plant, other than a bird, whether alive or not, including their eggs, spawn, spat and juvenile stages, or any of their parts; and

(b) includes any aquatic organism;

“fish aggregating device” –

(a) means an object or group of objects of any size with which fish may associate or cluster, whether drifting, anchored, deployed and tracked or not, that is natural, manufactured or a combination of both designed to float on, or near the surface of water for the purpose of aggregating target species for consequent capture; and

(b) includes buoys, floats, netting, webbing, plastics, metals, bamboo, logs or objects with electronic devices affixed to facilitate its location;

“fish farm” means a pond, tank, barachois, fish hatchery, structure, zone or any area in a designated fish farming zone where fish farming or fish culture is carried out;

“fish farm operator” means a person who is issued with an authorisation to carry out fish farming;

“fish farming” involves commercial breeding of fish, most often for food, in fish tanks or artificial enclosures such as fish ponds;

“fish farming zone” means the fish farming zone referred to in section 67;

“fish landing station” means an area near the shore as the Minister may, by notice in the Gazette, designate;

“fish products” –

- (a) means partly or wholly processed, unprocessed or any edible form of fish; and
- (b) includes –
 - (i) fish feed, fish meal and fish-based products; and
 - (ii) any product derived from fish intended for human consumption or for animal feeding; but
- (c) does not include pharmaceutical products containing derivatives from fish;

“fisher card” means a card issued to a registered fisher under section 120(3);

“fisher identity card” means a fisher identity card issued to a registered fisher under section 120(3);

“fisheries” means –

- (a) one or more stocks of fish, or parts thereof, which may be treated as a unit for the purposes of conservation and management, taking into account the geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; and
- (b) any fishing for such stocks;

“fisheries control officer” means –

- (a) a fisheries protection officer of the Fisheries Protection Service of the Ministry;
- (b) an officer of the Fisheries Division of the Ministry;
- (c) an officer of the Competent Authority;
- (d) a police officer under the Police Act and the National Coast Guard Act;
- (e) an officer of the Customs Department of the Mauritius Revenue Authority;
- (f) a forest officer under the Forests and Reserves Act;
- (g) an authorised officer under the Food Act;
- (h) a veterinary officer under the Animal Diseases Act; and
- (i) an authorised officer of the Ministry responsible for the subject of commerce;

“fisheries enforcement officer” means –

- (a) a fisheries protection officer of the Fisheries Protection Service of the Ministry; and
- (b) a police officer under the Police Act and the National Coast Guard Act;

“Fisheries Monitoring Centre” means a specialised unit of the Ministry responsible for the control and monitoring of fishing vessels operating in and beyond the maritime zones of Mauritius;

“fishing” –

- (a) means attracting, locating, taking, catching, collecting, harvesting, killing or destroying any fish by any method; and
- (b) includes –
 - (i) searching for, or the attempted searching for fish using any method, including the use of any type of manned or unmanned aircraft;

- (ii) engaging in any activity which can be expected to result in the attracting or locating of fish for the purpose of taking, catching, collecting, harvesting, killing or destroying such fish;
- (iii) anchoring, placing, retrieving or searching for any fish aggregating device or associated electronic equipment including radio beacons; and
- (iv) any operation at sea in support of or in preparation for any activity in relation to activities described in paragraphs (a) and (b)(i) to (iii);

“fishing banks” –

- (a) means relatively shallow plateau under the sea; and
- (b) includes the Nazareth, Saya de Malha, St Brandon, Soudan, Albatross and Hawkins banks found in the EEZ of Mauritius;

“fishing net” means any net, mounted or unmounted, which is used, intended to be used, or capable of being used for fishing;

“fishing related activities” –

- (a) means any operation in support of, or in preparation for, fishing; and
- (b) includes –
 - (i) landing, packaging, processing, transshipping or transporting of fish and fish products; and
 - (ii) provisioning of personnel, fuel, gear or other supplies at sea;

“fishing vessel” –

- (a) means any boat, ship, water going craft or any other type of vessel used or intended to be used, or equipped or intended to be equipped, for fishing or fishing related activities; and
- (b) includes an artisanal fishing vessel, a semi-industrial fishing vessel or an industrial fishing vessel;

“fishing vessel without nationality” means a fishing vessel used for fishing or fishing related activities that is not entitled to fly the flag of any State or sails under the flag of 2 or more States;

“fishmonger” means a person who purchases fish for the purpose of resale from a registered fisher or from an applicant fisher at a fish landing station or at an approved cold room;

“Fixed Penalty Notice” or “FPN” means a notice referred to in section 202(2);

“flag member” means the member of a relevant regional fisheries management organisation in which a chartered vessel is registered;

“foreign fishing vessel” means any foreign flagged vessel engaged in fishing or fishing related activities;

“foreign inspector” means a person authorised by a foreign State to perform inspections and enforcement pursuant to section 144;

“Fund” means the Marine Protected Area Fund established under section 19;

“gear”, in relation to fishing –

- (a) means any equipment, implement or other item that may be used for fishing; and
- (b) includes a net, a rope, a line, a float, a trap, a hook, a fish aggregating device or a winch;

“gill net” means a net which –

- (a) is set for catching fish;
- (b) does not exceed 250 metres in length and 2.5 metres in width;
- (c) is made up of square meshes measuring not less than 11 centimetres when stretched diagonally; and
- (d) is fitted with floats and weights from the seafloor;

“high seas” means the waters beyond the national jurisdiction of any State;

“illegal fishing net” means any unauthorised or unlicensed net, mounted or unmounted, used, intended to be used or capable of being used for fishing;

“illegal, unreported and unregulated fishing” or “IUU fishing” has the same meaning as in paragraph 3 of the 2001-International Plan of Action of the Food and Agriculture Organisation to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and as described in the First Schedule;

“implement” means any article or device used, or intended to be used, for fishing or fishing related activities;

“import” has the same meaning as in the Customs Act;

“industrial fishing vessel” means a fishing vessel of 24 metres or more in length overall which –

- (a) may be used for fishing or fishing related activities beyond 15 nautical miles from the baseline of the maritime zones of Mauritius; and
- (b) is owned or operates under a bareboat charter by –
 - (i) one or more persons who are citizens of Mauritius; or
 - (ii) an association and having a place of business in Mauritius;

“instrumented buoy” means a buoy clearly marked with a unique reference number allowing identification of its owner and equipped with a satellite tracking system to monitor its position.

“internal waters” has the same meaning as in the Maritime Zones Act;

“international agreement” means a bilateral, sub-regional, regional or international agreement, treaty, convention or other arrangement which is legally binding and to which Mauritius is a party;

“international conservation and management measure” means any legally binding measure to conserve and manage living marine resources that is adopted by any relevant regional fisheries management organisation or international agreement applicable

to Mauritius, and applied consistently with the relevant rules of international law, including those reflected in the 1982 United Nations Convention on the Law of the Sea and the 1995 United Nations Fish Stocks Agreement;

“International Whaling Commission” means the international body responsible for the management of whaling and conservation of whales;

“lagoon” means a body of seawater located between the reef and the highwater mark on the shoreline;

“landing”, in relation to fish –

- (a) means all transfers of fish from a fishing vessel, other than transshipment; and
- (b) includes the transfer of fish from a fishing vessel to a container, a truck, a train, an aircraft or another means of transportation;

“landing net” means a net in the form of a bag having meshes of any size, a hoop of a diameter not exceeding 50 centimetres and which is fitted with a handle;

“large net” means a net which –

- (a) when used for fishing in lagoon, shall not exceed 500 metres in length and 2.5 metres in width when mounted; or
- (b) when used for fishing off lagoon, shall not exceed 1,000 metres in length and 5 metres in width when mounted; and
- (c) is made up of square meshes measuring not less than 9 centimetres when stretched diagonally;

“large-scale driftnet” means a gill net or other net which is, or a combination of nets which are, more than 2.5 kilometres in length, the purpose of which is to enmesh, entrap or entangle fish, by drifting on the surface of, or in, the water column;

“LED light” means light produced by light-emitting diode when a voltage is applied to it;

“light stick” means a device which contains chemical substances capable of emitting light through chemical reaction.

“listed vessel” means a fishing vessel which is listed on an IUU Vessel List maintained by a regional fisheries management organisation;

“maritime zones” has the same meaning as in the Maritime Zones Act;

“master” means –

- (a) the person in charge or in command of a fishing vessel; or
- (b) for the time being in charge or apparently in command of a fishing vessel;

“Mauritius fishing vessel” means a fishing vessel registered under this Act;

“Mauritius national” means a citizen of Mauritius or a Mauritius fishing vessel;

“Minister” means the Minister to whom responsibility for the subject of fisheries is assigned;

“Ministry” means the Ministry responsible for the subject of fisheries;

“net” means a net, mounted or unmounted, which is used, or intended to be used, for fishing;

“next of kin” means person’s closest living blood relative who may have inheritance rights and obligations;

“observer” means a person appointed as such under section 146(1);

“operator”, in relation to a fishing vessel –

- (a) means any person who is in charge of, responsible for the operations of, directs or controls, the vessel; and
- (b) includes the owner, agent, charterer, master and the beneficiary of the economic or financial benefit of the operations of the vessel;

“ornamental fish” means live fish kept in a marine or fresh water aquarium, tank, pond or container both for decorative or display purposes and which are not intended for release;

“owner”, in relation to a fishing vessel –

- (a) means a person who owns, or persons who own, the vessel; and
- (b) includes –
 - (i) a beneficial owner;
 - (ii) a charterer, whether bare vessel, time or voyage;
 - (iii) a person who acts in the capacity of a charterer; or
 - (iv) a person upon whom control over the destination, function or operation of the vessel is conferred under a management agreement or other similar agreement;

“pass” –

- (a) means a passage through the reefs in which the sea flows and reflows; and
- (b) includes the entrance to any harbour, bay or creek;

“person” includes natural and legal persons;

“perforated fish” means fish perforated or pierced either on one side or on both sides by means of a spear, speargun, an artisanal speargun or any other object;

“pocket net” means a net which –

- (a) does not exceed 15 metres in length and 12 metres in width;
- (b) has 2 arms, each of length not exceeding 10 metres;
- (c) is made up of square meshes measuring not less than 9 centimetres when stretched diagonally; and
- (d) is used in conjunction with a large net;

“port of Mauritius” –

- (a) means the Port Louis Harbour as described in the Ports Act; and
- (b) includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;

“position fixing instrument” –

- (a) means any device, instrument or equipment, placed on board a fishing vessel which transmits automatically, independently or in conjunction with other instruments, information relating, inter alia, to the position, course and speed of the vessel; and
- (b) includes a vessel monitoring system and automatic identification system;

“purchase” includes –

- (a) barter or attempt to barter;
- (b) purchase or attempt to purchase;
- (c) trade or attempt to trade;
- (d) receive on account or consignment; or
- (e) receive in order to send, forward or deliver for sale;

“receiving vessel” means any fishing vessel engaged in a transshipment operation that receives any quantity of fish from another vessel;

“regional fisheries management organisation” means an intergovernmental fisheries organisation or arrangement that has the competence to establish conservation and management measures;

“registered fisher” means an artisanal fisher or a bank fisher registered as such under section 120(1)(a);

“registered trainee fisher” means a trainee fisher registered as such under section 120(1)(b);

“regulatory discards” means fish that are discarded because of management regulations which may restrict landings by, inter alia, minimum size or quota;

“relevant regional fisheries management organisation” means a regional fisheries management organisation in which Mauritius is a party or member, or by which Mauritius is otherwise legally bound by international conservation and management measures adopted in accordance with its procedures;

“sell” –

- (a) means hawk, expose, keep or offer for sale, convey or consign for the purpose of sale; and
- (b) includes –
 - (i) any method of disposition for consideration, including cash, trade and barter, of anything which has value or which can be exchanged for cash;
 - (ii) disposition to an agent for sale on consignment;
 - (iii) offering or attempting to sell, or receiving or having in possession for sale, or displaying for sale, or sending or delivering for sale, or causing or permitting to be sold, offered or displayed for sale;
 - (iv) disposition by way of raffle, lottery or other game of chance;

“semi-industrial fishing vessel” means a fishing vessel of 12 metres or more but less than 24 metres in length overall which –

- (a) may be used for fishing or fishing related activities beyond 15 nautical miles from the baseline of the maritime zones of Mauritius; and
- (b) is owned or operates under bareboat charter by –
 - (i) one or more persons who are citizens of Mauritius; or
 - (ii) an association and having a place of business in Mauritius;

“shrimp net” means a net in the form of a bag not exceeding 2 square metres, which –

- (a) is fitted with a hoop measuring not more than 50 centimetres diametrically or diagonally; or

(b) is mounted on 2 handles fitted with weights;

“small-scale fish farming” means a fish farming activity carried out in a designated fish farming zone at sea or an approved inland zone, with an annual turnover not exceeding 10 million rupees;

“spear gun” means an implement fitted with a trigger and a spear, whether in a fully mounted or dismantled form;

“structure” means any jetty, slipway, ramp, dam, pier, floating platform, pontoon, marina, gate, cairn, buoy or any similar object;

“supervising officer” means –

(a) the senior chief executive of the Ministry; but

(b) where there is no senior chief executive in the Ministry, the Permanent Secretary of the Ministry;

“*tate*” means a piece of iron rod with one sharp end but without a catapult;

“territorial sea” has the same meaning as in the Maritime Zones Act;

“TradeNet” has the same meaning as in the Customs Act;

“trainee fisher” means a person who undergoes training as a fisher;

“total allowable catch” means the maximum quantity of fish of individual species or groups of species made available annually, or during such other period as may be prescribed, for combined recreational, subsistence, commercial and foreign fishing in accordance with section 14;

“total applied effort” means –

(a) the maximum number of fishing vessels, the type, size and engine power thereof or the fishing methods applied thereby for which a valid and applicable licence to fish may be issued for individual species or groups of species; or

(b) the maximum number of persons on board a fishing vessel for which a valid and applicable licence may be issued to fish individual species or groups of species;

“toxic fish” means such fish as may be prescribed;

“toxic substance” means any substance likely to kill, stun or injure or cause damage in any manner whatsoever to any fish, or damage or pollute the aquatic ecosystem;

“transhipment” means the direct transfer of any quantity of fish on board from one fishing vessel to another fishing vessel regardless of the location of the event, without the fish being recorded as landed;

“trusted trader” means a person who holds a trusted trader certificate;

“trusted trader certificate” means a certificate issued under section 84(4);

“trusted trader committee” means the committee set up under section 27H of the Economic Development Board Act;

“undersized fish” in relation to fishing, means a fish the size of which is less than the minimum size prescribed or required for catching and keeping that species of fish;

“underwater fishing” means fishing by diving or with the use of a snorkel, flippers, goggles, diving belt, compressed air cylinder or other similar equipment;

“unfit for human consumption”, in relation to fish –

(a) means fish that –

(i) are meshed or crushed in the purse seine;

(ii) are damaged due to depredation; or

(iii) have died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch, and efforts to release the fish alive; but

(b) does not include fish that –

(i) are considered undesirable in terms of size, marketability, or species composition; or

(ii) are spoiled or contaminated as the result of an act or omission of the crew of a fishing vessel;

“unlicensed net” means any fishing net for which no applicable licence has been issued or whose applicable licence has expired;

“use of port” means use for landing, transshipping, packaging, or processing of fish or for other port services including, inter alia, refuelling and resupplying, maintenance and dry docking;

“vessel monitoring system” means a satellite-based reporting system to monitor the position and activities of fishing or fishing related activities;

“wetland” –

- (a) means areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary with water that is static or flowing, fresh, brackish or salt; and
- (b) includes areas of marine water, the depth of which at low tide does not exceed 6 metres;

“zaleine” –

- (a) means a device which is comprised of an iron rod with a sharp end and a catapult; but
- (b) does not include a *tate*.

3. Application of Act

(1) This Act, unless the context otherwise requires, shall apply to –

- (a) all areas over which Mauritius exercises jurisdiction or sovereign rights;
- (b) all fishing, fishing related activities and any other activity or matter falling under this Act;
- (c) all persons, vessels, vehicles, aircrafts, export facilities or other crafts, or places engaged in, or otherwise connected with, any activity or matter falling under this Act;

- (d) all persons, including non-citizens, and all fishing vessels, including foreign fishing vessels and fishing vessels without nationality in and in relation to –
 - (i) the maritime zones of Mauritius; and
 - (ii) areas beyond national jurisdiction –
 - (A) following hot pursuit initiated in the maritime zones of Mauritius and conducted in accordance with international laws; or
 - (B) as may be required pursuant to this Act or any international conservation and management measure or international agreement, or permitted by international laws; and
- (e) all Mauritius fishing vessels and all persons on them or dealing with or having any relevant relationship to them or persons on them, in and in relation to any areas within or beyond the national jurisdiction of Mauritius.

(2) This Act shall have extraterritorial application according to its provisions and tenor.

PART II – OBJECTIVES AND PRINCIPLES

4. Objectives of Act

(1) The general objective of this Act shall be to ensure the long-term conservation, management and development of fisheries and aquaculture in Mauritius while safeguarding the marine resources, biodiversity, environment and ecosystems for the benefit of the people of Mauritius.

(2) The management objectives of this Act shall, taking due account of international fisheries instruments and international conservation and management measures, be to –

- (a) provide for the development and management of sustainable fishing and aquaculture activities;

- (b) ensure long-term conservation and sustainable use of living marine resources;
- (c) combat IUU fishing or fishing related activities and exercise powers under a catch documentation scheme;
- (d) provide protection of biodiversity, in particular vulnerable marine ecosystems, in accordance with international agreements;
- (e) implement international conservation and management measures adopted by a relevant regional fisheries management organisation in relation to its maritime zones and fishing vessels entitled to fly its flag;
- (f) implement, to the extent possible, action plans of a relevant regional fisheries management organisation, including relevant recommendations of a subsidiary scientific body;
- (g) ensure effective monitoring, control, surveillance and enforcement of fishing or fishing related activities, in accordance with international agreements and standards;
- (h) conduct research or cause research to be conducted in areas related to fisheries, fishing, fishing related activities, aquaculture and conservation and to operate a national research centre for that purpose; and
- (i) ensure the conduct of responsible fishing, fish farming and aquaculture.

5. General principles

All functions, duties and responsibilities under this Act shall be performed in a manner consistent with the following principles –

- (a) all fisheries and aquaculture resources of Mauritius, including the environment in which they exist, shall be the natural assets and heritage of all the people of Mauritius and shall

be managed, developed and used sustainably for the benefit of present and future generations in Mauritius as a whole with a view to achieving sound ecological balance and socio-economic benefits, including economic growth, human resource development and employment creation, consistent with national policy, plans and development objectives;

- (b) conservation and management measures shall be based on the best technical knowledge and international practices as well as scientific evidence available to maintain or restore stocks at levels capable of producing sustainable yield, as qualified by relevant environmental and economic factors, including fishing patterns, the interdependence of stocks and relevant international standards, also taking into account traditional knowledge of the resources and their habitat;
- (c) conservation and management measures shall be consistent with the obligations and commitments of Mauritius under applicable international agreements and, where appropriate, be based on applicable standards agreed at all levels of governance;
- (d) conservation and management measures shall be implemented and enforced through effective monitoring, control and surveillance;
- (e) the precautionary approach shall be applied to the management and development of the fisheries at a standard that is equal or superior to the standard provided under any applicable international instrument or agreement;
- (f) an ecosystem approach shall be applied to the management and development of fisheries and aquaculture in order to promote the health of the general marine environment, and shall take into account climate change and relevant international commitments and global developments;

- (g) activities and measures taken under this Act shall aim at protecting and enhancing biodiversity to eliminate or minimise –
 - (i) waste, bycatch, discards, regulatory discards, economic discards and catch by lost or abandoned gear;
 - (ii) catch of non-target species;
 - (iii) catch of critically endangered species; and
 - (iv) pollution;
- (h) complete and accurate data and information in relation to all activities and resources under this Act shall be required, collected and, where appropriate, shared in a timely manner;
- (i) development and use of selective, environmentally safe and cost-effective gear and techniques shall be promoted;
- (j) over-fishing and excess capacity shall be prevented or eliminated and levels of fishing effort managed so they do not exceed those commensurate with sustainable use of fisheries resources;
- (k) the interests of small-scale or artisanal fishers shall be taken into account, including their participation in management of their respective fisheries;
- (l) the welfare of current and future generations shall be safeguarded, including through the recognition of special needs relating to gender equity and vulnerable groups;
- (m) an understanding of and broad and accountable participation by stakeholders in the conservation, management, development and sustainable use of fisheries resources shall be promoted to the extent practicable, including the principles of visibility, transparency, participation and inclusivity in the decision-making process as well as relevant environmental awareness and capacity-building;

- (n) any action taken by the Ministry and by any person authorised under this Act shall be consistent with the applicable gender equity policies and any other enactment; and
- (o) effective cooperation shall be pursued with other States and regional and inter-governmental organisations in matters under this Act.

6. Good governance

The Ministry shall establish and promote a system of collaboration, participatory decision making, good governance and transparency in the conservation, management and development of fisheries and aquaculture in Mauritius.

PART III – ADMINISTRATION OF FISHERIES AND AQUACULTURE

7. Administration of Act

(1) Subject to subsection (2), the supervising officer shall be responsible for the administration of this Act.

(2) The supervising officer may, for the administration of this Act, delegate any of his powers under this Act to an officer of the Ministry.

8. Delegation of powers

(1) Subject to subsection (2), the Minister may delegate any of his powers under this Act to the supervising officer.

(2) The supervising officer may, subject to the approval of the Minister, delegate any powers conferred upon him by the Minister to an officer of the Ministry.

9. Consultative Committee

(1) There shall be a Consultative Committee which shall be responsible to –

- (a) advise on matters of general policy; and

(b) inquire into matters,

in relation to fisheries, fishing or fishing related activities, aquaculture and the conservation and management of marine resources, or in relation to such other matter under this Act.

(2) The Consultative Committee shall consist of –

- (a) the supervising officer, as Chairperson;
- (b) the supervising officer of the Ministry responsible for the subject of finance;
- (c) the supervising officer of the Ministry responsible for the subject of foreign affairs;
- (d) the supervising officer of the Ministry responsible for the subject of health;
- (e) the supervising officer of the Ministry responsible for the subject of tourism;
- (f) the supervising officer of the Ministry responsible for the subject of cooperatives;
- (g) the supervising officer of the Ministry responsible for the subject of environment;
- (h) the Director of Fisheries;
- (i) the Commissioner of Police;
- (j) the Director of Shipping;
- (k) a veterinary officer of the Ministry responsible for the subject of agro-industry, to be designated by its supervising officer;
- (l) the Director-General of the Mauritius Ports Authority;
- (m) the Director-General of the Continental Shelf, Maritime Zones Administration and Exploration;
- (n) a representative of the University of Mauritius;

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- (o) 2 representatives of the fishing industry operations, to be appointed by the Minister;
 - (p) a representative of the fishing cooperatives, to be appointed by the Minister; and
 - (q) a representative of the artisanal fisheries, to be appointed by the Minister.
- (3) A member, other than an ex officio member, shall hold office for a period of 3 years and shall be eligible for reappointment.
- (4) A member, other than an ex officio member, shall cease to hold office –
- (a) on the completion of his term of office;
 - (b) on his resignation;
 - (c) where, without sufficient cause, he fails to attend 3 consecutive meetings of the Consultative Committee;
 - (d) in case of any criminal or disciplinary proceedings are instituted against him.
- (5) The Consultative Committee may co-opt such other person as may be of assistance in relation to any matter before it.

10. Meetings of Consultative Committee

- (1) The Consultative Committee shall meet as often as may be necessary but at least once every month at such time and place as the Chairperson may determine.
- (2) At any meeting of the Consultative Committee, 9 members shall constitute a quorum.
- (3) Where the Chairperson is absent from a meeting of the Consultative Committee, the members present shall elect a member to chair the meeting.
- (4) Subject to this section, the Consultative Committee shall regulate its meetings and proceedings in such manner as it may determine.

11. Secretary to Consultative Committee

(1) There shall be a Secretary to the Consultative Committee who shall be an officer of the Ministry, to be designated by the supervising officer.

- (2) The Secretary to the Consultative Committee shall –
- (a) give notice of every meeting of the Committee to the members;
 - (b) prepare and attend every meeting of the Committee;
 - (c) keep minutes of its proceedings of any meeting of the Committee;
 - (d) follow up on the implementation of the Committee's decisions;
 - (e) provide administrative support to enable the Committee to discharge its functions efficiently and effectively; and
 - (f) perform such other duties as may be conferred upon him by the Committee.

**PART IV – CONSERVATION, MANAGEMENT,
DEVELOPMENT AND SUSTAINABLE USE**

Sub-Part A – General

12. Conservation and management measures

(1) The supervising officer shall, for the purposes of this Act, develop, implement, monitor and enforce conservation and management measures necessary to ensure the long-term sustainable use of fisheries and aquaculture resources, including measures applicable to fishing and any other activity under this Act.

(2) Any conservation and management measure shall provide for the sustainable management and development of fisheries and aquaculture

and implement obligations and standards under international agreements and international conservation and management measures and may, inter alia –

- (a) provide for allocations, areas, gear, spatial and temporal closures, effort limitation, fishing capacity, quotas, participatory rights, management of bycatch and reduction of discards and reporting;
- (b) provide for or prohibit, inter alia, the landing, transporting, transshipping, receiving or possession of fish and fish products;
- (c) provide for the utilisation and disposition of fish and fish products;
- (d) regulate any activity under this Act which may have an adverse effect on living or non-living marine resources or the marine environment;
- (e) provide for aquaculture management of operations, including in relation to facilities, species, disease and the environment;
- (f) provide, where appropriate, for the restoration of fish stocks;
- (g) include positive incentives for the sustainable business development of the fishing industry and for full compliance; and
- (h) provide for any other activity under this Act that is relevant to the conservation and management of fisheries and aquaculture resources.

(3) Except as otherwise provided in this Act, conservation and management measures shall have legal force and effect –

- (a) upon approval by the Minister;
- (b) as per the terms and conditions of a valid and applicable registration, licence or authorisation granted or issued under this Act;

- (c) in accordance with procedures described in section 13 concerning applicable international conservation and management measures; or
- (d) through Fisheries Management Plans as described in section 15.

(4) Without prejudice to the jurisdiction and sovereign rights of Mauritius over fisheries and aquaculture resources under its jurisdiction, conservation and management measures shall –

- (a) implement applicable international conservation and management measures adopted by a relevant regional fisheries management organisation in relation to –
 - (i) any fishing vessel or person in areas under the jurisdiction of Mauritius; and
 - (ii) any Mauritius national in the area of competence of a relevant regional fisheries management organisation; and
- (b) where appropriate, implement action plans and recommendations of the scientific committee of a relevant regional fisheries management organisation, and notwithstanding paragraph (a), conservation and management measures may take into account measures recommended by any organisation or body in which Mauritius is a party.

(5) Conservation and management measures shall be developed taking into account the objectives and principles of this Act and consultations with stakeholders to the extent possible.

13. Implementation of international conservation and management measures

(1) The requirements of any applicable international conservation and management measure in relation to –

- (a) any operator of any Mauritius fishing vessel holding a valid and applicable licence or authorisation and

is entered on the Record of Authorised Vessels of a relevant regional fisheries management organisation and authorised to fish for the species and in the area of competence under the mandate of such organisation;

- (b) any operator of any other fishing vessel under this Act and the applicable international conservation and management measure; and
- (c) any citizen of Mauritius,

shall have full legal effect under this Act upon such public notice of the applicable international conservation and management measure requirements as the Minister may approve, and, subject to subsection (2), the obligation to comply shall apply *mutatis mutandis* to each of the operator of the vessel or the citizen of Mauritius.

(2) Notwithstanding subsection (1), where, for technical reasons, it is not possible for a fishing vessel to fulfil the applicable international conservation and management measure requirements under subsection (1), the supervising officer may give, for a limited period of time, an extension to allow it to fulfil the requirements.

(3) The supervising officer shall notify every holder of a valid and applicable registration, licence or authorisation of the relevant obligations of each applicable international conservation and management measure upon its publication.

(4) Any operator of a Mauritius fishing vessel or of any other fishing vessel under this Act, or any citizen of Mauritius who contravenes any international conservation and management measure implemented under this section shall commit an offence.

14. Allowable catches, applied effort and allocations

- (1) The Minister shall determine –
 - (a) the total allowable catch, the total applied effort or a combination thereof;

- (b) the allocation of portions of the total allowable catch, the total applied effort, or a combination thereof, in any year to subsistence, recreational, local, commercial and foreign fishing respectively.

(2) The Minister may, for the purposes of subsection (1), determine that the total allowable catch, or the total applied effort, or a combination thereof, shall, inter alia, apply –

- (a) in a particular area, or in relation to a particular species, or a group of species of fish; and
- (b) to the use of a particular gear, fishing methods or types of fishing vessel.

(3) Where there is an increase in the allowable commercial catch in relation to which commercial fishing rights exist, the mass of the increase shall be available for allocation by the Minister.

(4) Notwithstanding this section, the Minister may determine that –

- (a) the total allowable catch;
- (b) a portion of the total allowable catch as contemplated in subsection (1)(b); or
- (c) an allocation in accordance with subsection (3),

shall be nil.

15. Fisheries Management Plans

(1) The supervising officer shall be responsible for the preparation and implementation of fisheries management plans, taking into account consultations with relevant stakeholders and any applicable international conservation and management measure.

(2) A fisheries management plan shall be consistent with the objectives and principles of this Act and may apply to all persons, fishing vessels, fish and fishing related activities and any other related activity under this Act.

(3) A fisheries management plan shall have no force or effect unless and until it is approved by the Minister and published in the Gazette.

(4) A fisheries management plan shall –

- (a) identify the fishery and its characteristics, including the –
 - (i) current status of the fishery and resource, including area, species and fishing;
 - (ii) possible adverse effects of fishing on the resource and environment;
 - (iii) status of the resource as a protected, threatened or endangered species under any enactment and applicable international agreement;
 - (iv) applicable sub-regional, regional and international context;
- (b) specify the management objectives and strategy for the fishery, including the biological, ecological and socio-economic aspects;
- (c) identify the process for development and implementation of the fisheries management plan, including stakeholder consultations;
- (d) specify management measures to be applied to the fishery;
- (e) specify plans for periodic monitoring and review of the fishery and the fisheries management plan;
- (f) where appropriate, make provision in relation to any other matter necessary for effective conservation, management and sustainable use of the fishery.

(5) The supervising officer may cause copies of any fisheries management plan to be made available on relevant websites and at such other place as he may approve.

(6) No compensation shall be payable where a fisheries management plan is made or amended or anything previously permitted is prohibited or regulated under the plan, but this shall not prevent a fisheries management plan or regulations made under this Act from providing for payment of compensation.

(7) A fisheries management plan may provide for a co-management arrangement with any person or entity.

(8) The Minister may, by regulations, give effect to the management plan, including management measures, fines, penalties and sanctions, as well as the licensing and enforcement powers, authorities and other requirements in each fisheries management plan.

16. Research for effective conservation and management

The supervising officer may, for the purposes of research for effective conservation and management –

- (a) request a person to provide a sample, specimen or product to be taken of a catch;
- (b) a person to provide such information as may be necessary on fishing or fishing related activities;
- (c) grant an applicable authorisation for the use of any gear.

17. Declaration of, and prohibitions or restrictions respecting, protected, threatened or endangered species of fish

(1) The Minister may, on the best available scientific evidence, declare, by Order, as protected, threatened or endangered any species of fish that are designated as protected, threatened or endangered under an international agreement or by a relevant regional fisheries management organisation.

(2) No person shall take, land, sell, deal in, transport, receive, buy, possess, import or export fish and fish products declared as protected, threatened or endangered under this section.

(3) Any person who contravenes subsection (2) shall commit an offence.

Sub-Part B – Marine Protected Areas**18. Declaration of Marine Protected Areas**

(1) The Minister may, by regulations –

(a) declare –

- (i) any area in the maritime zones of Mauritius, including the seabed underlying such zones to be a Marine Protected Area;
- (ii) any land associated in the maritime zones of Mauritius to be a Marine Protected Area;
- (iii) any wetland to be a Marine Protected Area; or
- (iv) any area as a temporary Marine Protected Area for the purpose of conservation and rehabilitation of the marine ecosystem;

(b) provide measures for the protection, conservation and management of any area referred to in paragraph (a).

(2) The Minister may, by regulations made under subsection (1), designate a Marine Protected Area to be –

- (a) a Fishing Reserve;
- (b) a Marine Park; or
- (c) a Marine Reserve.

19. Marine Protected Area Fund

(1) There is established for the purposes of this Act a Marine Protected Area Fund –

(a) into which shall be paid –

- (i) any money appropriated by the National Assembly for the purposes of this Act;
- (ii) any grant received by, or donation made to, the Fund;

- (iii) any sum payable under this Act, including fees, rent or other charges received as a result of the authorised use of a Fishing Reserve, Marine Park or Marine Reserve; and
 - (iv) any sum that may accrue to the Fund from any other source; and
 - (b) out of which shall be paid all expenses incurred in the management of a Marine Protected Area.
- (2) The fund shall be managed and administered by a committee to be set up by the supervising officer.
- (3) Article 910 of the Code Civil Mauricien shall not apply to the Fund.

Sub-Part C – Marine Environmental Quality

20. Protection of marine ecosystem

- (1) No person shall introduce into the maritime zones of Mauritius, directly, indirectly, deliberately or accidentally, any deleterious substance, including substances which may have toxic, hazardous or other harmful properties or effects in relation to fish or the marine environment.
- (2) The supervising officer may prohibit any activity which he has reasonable grounds to suspect may result or is resulting in non-compliance with subsection (1).
- (3) No person shall, without an applicable authorisation –
 - (a) cut, lop, remove, take away, relocate, transplant or otherwise cause any damage to a mangrove plant, seagrass or coral.
 - (b) cause another person to cut, lop, remove, take away or otherwise cause any damage to a mangrove plant, seagrass or coral.

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- (4) Every operator of a fishing vessel shall –
- (a) where possible, use biodegradable materials for fishing operations;
 - (b) take back to the port of Mauritius for disposal any unused bait and waste generated on his vessel by fish processing or other human activities; and
 - (c) carry out bunkering operations in compliance with this subsection.

(5) No person shall, without an applicable authorisation, leave in or in a position to enter the maritime zones of Mauritius any fishing gear or any other non-biodegradable object used for fishing after the termination of any fishing activity, except in an emergency when the incident is promptly reported to the supervising officer.

(6) The supervising officer may cause the fishing gear or any other non-biodegradable object referred to in subsection (5) to be removed by any other person authorised for that purpose, and any cost incurred in connection with such removal may be recovered from the person responsible for leaving the gear or object.

(7) The operator of a fishing vessel shall bear all the restoration costs related to any damage caused to any coral reef or marine ecosystem in the event the vessel is involved in a grounding, discharge of any deleterious substance, oil spill or an accident at sea.

(8) Any person who contravenes subsection (1), (3), (4) or (5) shall commit an offence.

21. Illegal construction or placement of structures or platforms in maritime zones of Mauritius and stop order

(1) No person shall construct or place, or cause to be constructed or placed, any structure or platform in the maritime zones of Mauritius without an applicable authorisation.

(2) Where a person commences or carries out any development or activity in the maritime zones of Mauritius –

- (a) related to illegal construction or placement of structures or platforms at sea; or
- (b) that affects marine resources or habitats such as removal and sale of molluscs, removal of coral, destruction of mangroves or illegal dredging,

without an applicable authorisation, or in contravention with such authorisation, and there is reasonable evidence of adversely impacts or potential adverse impacts to the marine ecosystem, the supervising officer may cause to be served on the person, his representative or any person responsible for the giving of instructions for the carrying out of such development or activity, a stop order prohibiting the development or activity.

(3) An order served under subsection (1) shall take immediate effect or take effect from such date as may be specified in the order.

(4) Any structure or platform constructed or placed in the maritime zones of Mauritius without an applicable authorisation shall be removed if no person has been found responsible and contravened for the said activity.

(5) Any person who contravenes subsection (1) or fails to comply with an order served under subsection (2) shall commit an offence.

Sub-Part D – Management Measures and Prohibitions

22. Management of bycatch

(1) The operator of a fishing vessel in the maritime zones of Mauritius or of a Mauritius fishing vessel in areas beyond national jurisdiction that is equipped to catch tuna or tuna-like species with purse seine or longline gear shall ensure that –

- (a) measures are taken to mitigate bycatch of non-target species;

-
- (b) non-target species are not discarded at sea, dumped on land as fish waste or are otherwise discarded or abandoned, except where the master of the vessel determines that the non-target species –
 - (i) caught are unfit for human consumption; and
 - (ii) were caught during the final set of a trip and there is insufficient storage capacity to accommodate the non-target species;
 - (c) non-target species taken alive shall be released in accordance with this Act or any other enactment, or in accordance with any other international obligations, unless otherwise authorised by the supervising officer or pursuant to subsection (3);
 - (d) dead non-target species fit for human consumption that are not vulnerable species or species of concern are landed.

(2) Notwithstanding subsection (1)(c), where there is no facility at the port of landing to purchase and utilise the bycatch, the supervising officer may give a derogation allowing the bycatch to be sold elsewhere.

(3) Notwithstanding subsection (1), purse seine vessels may retain on board and land, to the extent practicable, non-targeted species or species group other tunas such as rainbow runner, dolphinfish, triggerfish, billfish and wahoo, except fish considered unfit for human consumption.

(4) Any person who contravenes subsection (1) shall commit an offence.

23. Management of genetic resources

(1) The management of access to fisheries as genetic resources, including for purposes of marine bioprospecting, shall be in accordance with the objective and principles of this Act and regional and international norms and standards applicable to Mauritius, including the fair and equitable sharing of benefits from their use, the conservation of biological diversity

and the sustainable use of its components, and where any fishing activity includes marine bioprospecting, no registration, licence or authorisation shall be granted or issued without the prior approval required pursuant to the Maritime Zones Act for the exploration and exploitation of genetic resources.

(2) Any person who contravenes subsection (1) shall commit an offence.

24. Marking and protection of vessels and their gear

(1) The operator of a fishing vessel in the maritime zones of Mauritius or of a Mauritius fishing vessel in areas beyond national jurisdiction shall ensure that the vessel and set gear are clearly marked in accordance with such minimum standards and other requirements as –

- (a) may be prescribed or as may be required by the supervising officer, subject to an exemption of any vessel or gear, or class of vessel or gear, as the supervising officer may approve; or
- (b) may be required by an applicable international conservation and management measure or relevant coastal State.

(2) No person shall falsify, delete, fail to affix or conceal the Identification mark of a fishing vessel or gear referred to in subsection (1).

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

25. Fish aggregating devices

(1) The operator of –

- (a) a fishing vessel shall not –
 - (i) have on board, deploy or maintain any fish aggregating device in the maritime zones of Mauritius;

(ii) deploy or allow to be deployed any drifting fish aggregating device equipped with an instrumented buoy in areas beyond national jurisdiction that drifts into the maritime zones of Mauritius;

(b) a Mauritius fishing vessel shall not deploy or allow to be deployed any drifting fish aggregating device equipped with an instrumented buoy in the area of competence of a relevant regional fisheries management organisation,

without an applicable authorisation and in accordance with such terms and conditions as he may impose or otherwise specified in this Act or an applicable international conservation and management measure.

(2) The operator of a fishing vessel holding a valid and applicable authorisation for the use of fish aggregating devices in accordance with this Act shall comply with this Act or in accordance with an applicable international conservation and management measure.

(3) Unless otherwise provided under this Act, permission to deploy a fish aggregating device shall not confer any exclusive right to fish in the vicinity of the device and no person shall claim such right.

(4) No person shall –

(a) remove, destroy, damage or take any part of a fish aggregating device deployed by the Ministry without an applicable authorisation;

(b) anchor or otherwise connect a fishing vessel to a fish aggregating device deployed by the Ministry;

(c) engage in fishing in a radius of one nautical mile of a fish aggregating device deployed by the Ministry unless he is a registered fisher.

(5) Any person who contravenes subsection (1), (2) or (4) shall commit an offence.

26. Prohibition to fish on data buoys

(1) No person, including the operator of a fishing vessel, shall deploy a data buoy in the maritime zones of Mauritius or from a Mauritius fishing vessel in the area of competence of a relevant regional fisheries management organisation without an applicable authorisation.

(2) The operator of a fishing vessel in maritime zones of Mauritius or of a Mauritius vessel in the area of competence of a relevant regional fisheries management organisation shall comply with such conditions as may be prescribed or as may be required by the supervising officer in relation to fisheries activities that may be directly or indirectly related to data buoys.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

27. Prohibition on commercial whaling and conservation of marine mammals

(1) No person shall engage, support or assist in commercial whaling for any species or population of whales in the maritime zones of Mauritius or being a citizen of Mauritius or using a Mauritius fishing vessel in areas beyond national jurisdiction, including in any sanctuary established by the International Whaling Commission.

(2) The operator of a fishing vessel in the maritime zones of Mauritius shall ensure that all fishing or related activities, operations and gear are carried out or used and disposed of in a manner that avoids entanglement or any other adverse or harmful impact on any marine mammal, including avoidance of whale concentrations wherever possible, and shall comply with best practices developed under subsection (3)(b) and any requirement made pursuant to this Act or an international conservation and management measure.

(3) The supervising officer shall cooperate with relevant authorities and stakeholders to –

- (a) mitigate the effects of underwater anthropogenic noise on marine mammals; and
- (b) develop best practices to avoid entanglement of marine mammals in fishing gear or debris.

(4) The operator of a fishing vessel in the maritime zones of Mauritius or a Mauritius fishing vessel in the area of competence of any relevant regional fisheries management organisation shall not intentionally cause or allow a purse seine net to be set around any marine mammal or whale shark if it is sighted prior to the commencement of the set.

(5) Where any marine mammal or whale shark is unintentionally encircled in a purse seine net, the operator referred to in subsection (3) shall take such actions as may be prescribed or as may be required by the supervising officer, or as may be provided pursuant to an international conservation and management measure.

(6) Any person who contravenes subsection (1), (2), (4) or (5) shall commit an offence.

28. Prohibition on removal and sale of shark fins

(1) The operator of a fishing vessel in the maritime zones of Mauritius or of a Mauritius fishing vessel in areas beyond national jurisdiction shall, unless otherwise provided, comply with such prohibitions on the removal of shark fins and sale and of illegally removing such shark fins as may be prescribed or as may be required by an applicable conservation and management measure.

(2) Any person who contravenes subsection (1) shall commit an offence.

29. Prohibition to use large-scale driftnets and demersal trawl nets

(1) The operator of a fishing vessel in the maritime zones of Mauritius or of a Mauritius fishing vessel in the area of competence of a relevant regional fisheries management organisation or otherwise beyond areas of national jurisdiction shall not use large-scale driftnets or demersal trawl nets except for research purposes.

(2) An operator of a fishing vessel shall be presumed to have used large-scale driftnets or demersal trawl nets where the vessel is found operating in the maritime zones of Mauritius or in the area of competence of a relevant regional fisheries management organisation and it is configured to use large-scale driftnets or demersal trawl nets.

(3) The operator of a fishing vessel that is configured to use large-scale driftnets or demersal trawl nets shall ensure that such driftnets, demersal trawl nets and related fishing equipment are stowed or secured in such a manner that they are not readily available to be used for fishing.

(4) For the purpose of subsection (3), “configured to use large-scale driftnets” means having on board assembled gear that collectively would allow the fishing vessel to deploy and retrieve large-scale driftnets.

(5) Any person who contravenes subsection (1) or (3) shall commit an offence.

(6) Where an operator is convicted for an offence under this section, the prohibited gear shall be forfeited and be returned to the State.

30. Prohibition to use aircraft and unmanned aerial vehicles

(1) The operator of a fishing vessel, including support, supply and auxiliary vessels, in the maritime zones of Mauritius or a Mauritius fishing vessel in the area of competence of a relevant regional fisheries management organisation shall not use an aircraft, including an unmanned aerial vehicle, as a fishing aid without a valid and applicable authorisation.

(2) Any aircraft and unmanned aerial vehicle used for scientific or monitoring, control or surveillance purposes shall not be subject to the prohibition referred to in subsection (1).

(3) Any operator who contravenes subsection (1) shall commit an offence.

31. Prohibition to use artificial light to attract fish

(1) The operator of any –

- (a) fishing vessel in the maritime zones of Mauritius equipped with purse seine gear;
- (b) Mauritius fishing vessel in areas beyond national jurisdiction and in the area of competence of a relevant regional fisheries management organisation,

shall not use, install or operate surface or submerged artificial lights, including on drifting fish aggregating devices, for the purpose of aggregating or that are likely to aggregate any fish species.

(2) The operator of a fishing vessel, other than a vessel referred to in subsection (1), shall not use, install or operate surface or submerged artificial lights, including those associated with gear, for the purpose of aggregating any fish species in the maritime zones of Mauritius unless he holds a valid and applicable licence.

- (3) An applicable licence under subsection (2) may be issued –
- (a) to the operator of a fish farm, for the purpose of fishing in the fish farm;
 - (b) for the purpose of catching undersized crabs to stock a fish farm;
 - (c) for the purpose of catching shrimps with a shrimp net;
 - (d) for the purpose of catching fish to be used as bait;
 - (e) for light sticks, or LED light to be used when attached to a submerged fishing gear; or
 - (f) for such other type of fishing activity as the Minister may determine.

(4) Any light stick used for attracting swordfish, navigation lights and lights necessary to ensure safe working conditions shall not be subject to the requirements in this section.

(5) Where the operator of a fish farm is issued with an applicable licence under subsection (2), any person may, with the permission of the operator, fish with artificial light in that fish farm.

(6) Any person who contravenes subsection (1) or (2) shall commit an offence.

32. Prohibition to tamper with or destroy property in maritime zones

- (1) No person shall, in the maritime zones of Mauritius –
- (a) remove any fish from any fishing gear unless he is the owner or is acting with the authority of the owner;

- (b) tamper with, destroy, damage or impair the functioning of any fishing gear which belongs to another person;
- (c) tamper with, destroy, damage, remove or take any part of a fish aggregating device, artificial reef, mooring buoy, float, trap or other devices which have been authorised and deployed in accordance with this Act and belongs to another person; or
- (d) engage in fishing for fish aggregated by, or within half a nautical mile from a fish aggregating device that belongs to another person without the authorization of the supervising officer.

(2) Nothing in this section shall limit powers of a fisheries control officer or prevent the disposal of unauthorised gear or equipment in accordance with this Act.

(3) Any person who contravenes subsection (1) shall commit an offence.

(4) For the purpose of this section –

“property” includes –

- (a) things and rights that can be owned or that have a monetary value; and
- (b) fishing vessels, gear and any fish caught, enmeshed, encircled or controlled by a person.

33. Prohibition to fish, store, land, sell, possess or do illegal activity with specific species of fish

(1) Subject to subsection (2), no person shall fish, store, land, sell or have in his possession, or cause any person to fish, store, land, sell or have in his possession any–

- (a) toxic fish;
- (b) fish and fish products which are unfit for human consumption;
- (c) perforated fish;

-
- (d) marine turtle, marine turtle egg, carapace or stuffed marine turtle;
 - (e) marine mammal;
 - (f) undersized fish;
 - (g) crab, shrimp or lobster in the berried state;
 - (h) fish species prohibited for import;
 - (i) fish and fish products which are inaccurately labelled;
 - (j) sea urchins;
 - (k) fresh fish species prohibited during a closed season or in a specified area;
 - (l) native coral, whether dead or alive; or
 - (m) other fish species as may be prescribed.

(2) Notwithstanding subsection (1), a person may, with a valid and applicable authorisation, fish, store, land, sell or have in his possession –

- (a) any fish specified in subsection (1) for reproductive, conservation or any other purpose beneficial to the community;
- (b) undersized fish by the operator of a fish farm for stocking the fish farm;
- (c) undersized fish specified in the Second Schedule for use as bait;
- (d) sea cucumbers, sea urchins, oysters, crabs or lobsters for culture or commercial purposes; or
- (e) marine ornamental fish.

(3) No person shall –

- (a) take, swim with as a recreational activity, harass, intentionally feed or intentionally kill any marine turtle on shore or at sea; or
- (b) take, harass, intentionally feed or intentionally kill a marine mammal on shore or at sea.

(4) Any person who contravenes subsection (1) or (3) shall commit an offence.

34. Prohibition to use, possess, manufacture, import, purchase or sell prohibited gear

(1) No person shall use, possess, manufacture, import, purchase or sell such prohibited gear as may be prescribed.

(2) No person shall use or permit to be used, and no operator of a fishing vessel shall carry on board, a vessel gear without an applicable authorisation, except that the vessel gear may be carried on board a vessel where the operator of the vessel has declared such gear to the supervising officer prior to entering the maritime zones of Mauritius and keeps the gear stowed at all times while in the maritime zones.

(3) The supervising officer shall not issue gear licences for more than –

- (a) 10 large nets, 10 pocket nets, 10 canard nets, 5 gill nets and 100 shrimp nets for fishing in the Island of Mauritius;
- (b) 5 large nets, 5 pocket nets, 5 canard nets and 15 shrimp nets for fishing in the lagoon of the Island of Rodrigues;
- (c) 2 large nets for fishing in the lagoon of the Island of Agaléga.

(4) Any person who contravenes subsection (1) or (2) shall commit an offence.

35. Prohibition on abandoning or discarding gear, fish and fish products

(1) No person shall, in the maritime zones of Mauritius or being a citizen of Mauritius or associated with a Mauritius fishing vessel in areas beyond the national jurisdiction, with or without intention, abandon or discard any gear, fish and fish products unless otherwise provided for under this Act.

(2) Any person who contravenes subsection (1) shall commit an offence.

36. Prohibition on abandoning fishing vessel or equipment or implement used in connection with fishing or fishing related activities

(1) No fishing vessel or equipment or implement used in connection with fishing or fishing related activities shall be left in an abandoned state for a continuous period of more than one month in the maritime zones of Mauritius.

(2) Where, pursuant to subsection (1), a fishing vessel, an equipment or an implement is left in an abandoned state, the supervising officer may –

- (a) take possession of the vessel, equipment or implement; or
- (b) light or buoy the vessel; and
- (c) cause the vessel to be deregistered.

(3) Where the owner of the fishing vessel, equipment or implement is known, the supervising officer shall issue a notice to that owner to take back possession of the vessel, equipment or implement within 21 days of the notice, failing which the supervising officer shall cause the vessel, equipment or implement to be disposed of as provided for under this section.

(4) Where the owner takes possession of the fishing vessel, equipment or implement, he shall refund any expenses incurred by the supervising officer under subsection (3).

(5) Where the owner of the fishing vessel, equipment or implement is not known, the supervising officer shall cause a notice to be published to that effect in 2 daily newspapers for 2 consecutive days.

(6) Where, following a notice under subsection (5), no person makes a claim to the fishing vessel, equipment or implement within 21 days of the last publication of the notice, the supervising officer may sell the vessel, equipment or implement, or dispose of it as he may determine, having regard to the state in which the vessel, equipment or implement was found.

(7) The supervising officer shall be discharged of any liability where he disposes of a fishing vessel, equipment or implement under subsection (6).

(8) Notwithstanding this section, where a person establishes to the satisfaction of the supervising officer that he was the owner of the fishing vessel, equipment or implement within 3 months from the date of the sale, the supervising officer shall pay to the person the proceeds of sale, without interest, after deduction of any expenses that he may have incurred.

(9) Where no claim is made under subsection (8), the supervising officer shall pay the proceeds of the sale into the Consolidated Fund.

(10) Where the supervising officer is of the opinion that a fishing vessel, equipment or implement has purposely been left in abandoned state, he may request for an investigation by a relevant authority.

(11) Any person who contravenes subsection (1) or (3) shall commit an offence.

37. Prohibition to sink or cause to sink fishing vessel

(1) No person shall sink or cause to sink a fishing vessel in the maritime zones of Mauritius without a valid and applicable authorisation.

(2) Where the supervising officer is of the opinion that a fishing vessel has purposely been sunk in the maritime zones of Mauritius, he may request for an investigation by a relevant authority.

(3) Where the supervising officer is of the opinion that a fishing vessel which has been sunk is likely to cause harm to the environment if removed, he shall not allow its removal and the owner shall not be entitled to any compensation.

(4) Any person who contravenes subsection (1) shall commit an offence.

38. Prohibition of use of harmful fishing methods and sale of fish caught using such methods

(1) No person shall, unless he holds a valid and applicable licence –

- (a) engage in fishing with –
 - (i) a canvas, a cloth, a creeper, a leaf, a herb, a lime, a mosquito net, a bird net or any other net;
 - (ii) a poison or toxic substance;
 - (iii) an explosive;
 - (iv) a driftnet, a cast net, an unauthorised, an unlicensed or an illegal fishing net;
 - (v) a large-scale driftnet;
 - (vi) a fish spear, or *zaleine* or *tate* in conjunction with a catapult, a rubber or an elastic band;
 - (vii) a bottom trawl net; or
 - (viii) such other gear or method as may be prescribed;
- (b) use any implement that may be transformed into a gear;
- (c) keep on board a fishing vessel, any implement that may be transformed into a gear;
- (d) have in his possession, or in his dwelling or other premises or on board a fishing vessel, any unlicensed or illegal fishing net, or such other prohibited gear or method as may be prescribed;
- (e) land, sell or have in his possession for the purpose of sale any fish that has been caught by use of one of the gears or methods specified in paragraph (a) or such other prohibited gear or method as may be prescribed;
- (f) fish with, or have in his possession, a spear gun; or
- (g) make use of a net in a pass or place in a pass any object likely to cause obstruction to navigation.

(2) Where an article specified in subsection (1)(a), (b), (c) or (f) is found on board a fishing vessel, it shall be presumed to be used for fishing.

(3) Any person who contravenes subsection (1) shall commit an offence.

39. Prohibition of interference with inspected fish and fish products

(1) No person shall –

- (a) remove, alter or interfere with a trade description, a seal, a stamp or other mark applied to a container or a container system unit containing fish and fish products that have been inspected by a fisheries control officer;
- (b) add to, remove from, or otherwise change the composition of any consignment of fish that has been certified as inspected by a fisheries control officer or alter the relevant certificate; or
- (c) unseal or leave unsealed any boxes that have been inspected by a fisheries control officer,

unless he holds a valid and applicable licence.

(2) Any person who contravenes subsection (1) shall commit an offence.

40. Prohibition to possess, trade and export in fish and fish products taken or obtained in contravention with Act or international conservation and management measure

(1) No person shall buy, sell, possess, export or otherwise trade in fish and fish products taken or obtained in contravention with this Act or an international conservation and management measure, except where such fish and fish products have become the property of the Government in accordance with this Act.

(2) Any person who contravenes subsection (1) shall commit an offence.

(3) Where a person is charged with an offence under subsection (1), the burden of proof shall be on him to prove that the fish was bought, sold, possessed, exported or otherwise in accordance with this Act or an international conservation and management measure.

41. Prohibition to trade in fish and fish products taken or obtained in contravention of relevant laws of another State

(1) Subject to subsection (2), no person shall, on his own account or in any other capacity –

- (a) cause or permit another person to take, buy, sell, import, export, land, tranship, transport, trade, receive or otherwise acquire fish and fish products that were caught in contravention with the relevant laws of another State or of any international conservation and management measure; or
- (b) use or permit a fishing vessel to be used to engage in fishing or fishing related activities for a purpose referred to in paragraph (a).

(2) Notwithstanding this section, where fish and fish products subject to this section have become the property of the Government through forfeiture, Court Order or other judicial process, they may be sold, processed, exported or otherwise dealt with in the same manner as any other Government property and shall not be considered as a product of IUU fishing or fishing related activities.

(3) Where an international agreement with another State provides for a fine, penalty or other determination or any portion of it to be remitted to that State on conviction or other process, such remittance shall be made after all costs and expenses incurred by Mauritius have been deducted.

(4) Any person who contravenes subsection (1) shall commit an offence.

42. Prohibition in relation to listed vessels

- (1) No person shall, being the operator of a fishing vessel –
 - (a) provide, cause to be provided or arrange assistance to a listed vessel in any manner, except for the purpose of rendering assistance where such vessel, or any person on that vessel, is in danger or distress;
 - (b) engage in fish processing operations with a listed vessel;
 - (c) participate, cause participation in or arrange for participation in transhipment or joint fishing operations with a listed vessel; or
 - (d) charter or be associated in any way with the chartering of a listed vessel.

(2) No person shall control, arrange, cause to be controlled or arranged or participate in the import, landing or transhipment of any species from a listed vessel over which the relevant regional fisheries management organisation has competence.

- (3) No person shall –
 - (a) sell a listed vessel or otherwise change legal or beneficial ownership or purchase another vessel with the apparent aim of continuing to maintain control of the listed vessel or the new vessel and continuing IUU fishing or fishing related activities; or
 - (b) operate a listed vessel which has been sold or where the legal or beneficial ownership has been changed as described in paragraph (a).

- (4) A listed vessel shall not be –
 - (a) granted registration under this Act, except where the vessel has changed ownership and the new owner has provided sufficient information demonstrating the previous owner or operator has no further legal,

beneficial or financial interest in, or control of, the vessel, or having taken into account and documented all relevant facts, it is determined that granting the vessel its flag will not result in IUU fishing or fishing related activities; or

- (b) authorised to enter the port of Mauritius, except in case of force majeure or where the vessel, or any person on that vessel, is in danger or distress, unless it is allowed entry into the port for the exclusive purpose of inspection and effective enforcement action.

(5) Notwithstanding this section, where fish and fish products that have been associated with a listed vessel have become the property of the Government through forfeiture, Court Order or other judicial process, they may be sold, processed, exported or otherwise dealt with in the same manner as any other Government property and shall not be considered as a product of IUU fishing or fishing related activities, and any purchaser for valuable consideration shall derive good and unencumbered title in relation to such fish and fish products.

(6) Any person who contravenes subsection (1), (2) or (3) shall commit an offence.

43. Prohibition in relation to fishing vessels without nationality

(1) Where a fishing vessel without nationality engages in fishing or fishing related activities in the area of competence of a relevant regional fisheries management organisation, and such organisation has adopted an applicable international conservation and management measure that considers fishing or fishing related activities by such vessel to be illegal, unreported and unregulated, such vessel –

- (a) shall be prohibited from landing or transshipping fish and fish products in the maritime zones of Mauritius or in areas beyond national jurisdiction involving a Mauritius fishing vessel;

- (b) shall be denied access to, and use of the port of Mauritius;
- (c) may, notwithstanding paragraph (b), be allowed access where it is essential to the safety or health of the crew or safety of the vessel and shall be allowed exclusively for that purpose and not for any other activity or use of the port.

(2) Any operator of a fishing vessel without nationality or any person on board or other person acting in association with or support of a fishing vessel without nationality who lands, tranships or uses the port of Mauritius in contravention with subsection (1)(a) or (b) shall commit an offence.

44. Prohibition to fish during closed periods

(1) Subject to subsection (4), no person shall fish with, or have in his possession at sea, on a river, lake, reservoir or dam –

- (a) a large net, pocket net or gill net from 1 October in a year to the last day of February of the following year;
- (b) a canard net from –
 - (i) 1 May to 31 July in any year; or
 - (ii) 1 October in a year to the last day in February of the following year.

(2) Subject to subsection (1), no person shall fish with, or have in his possession at sea, on a river, lake, reservoir or dam –

- (a) a large net or canard net between 6 p.m and 6 a.m of the following day;
- (b) a gill net between 6 a.m. and 6 p.m. on the same day.

(3) No person shall fish oysters, or have in his possession fresh oysters, from 1 October in a year to the last day in March of the following year, except for oysters that are collected in a fish farm or imported for sale.

(4) No person shall fish or land, or sell or have in his possession fresh octopus during the prescribed closed season.

(5) Notwithstanding subsection (1), the Minister may, by notice published in the Gazette, authorise in any year, fishing at sea or on a river, lake, reservoir or dam with a large net, pocket net, gill net or canard net for a period of not more than 10 days starting from 1 October in the year where owing to weather conditions –

- (a) a large net, pocket net or gill net cannot be operated for any period of 5 consecutive days during the period 1 March to 30 September in that year; or
- (b) a canard net cannot be operated for any period of 5 consecutive days during the periods 1 March to 30 April and 1 August to 30 September in that year.

(6) Any person who contravenes subsection (1), (2), (3) or (4) shall commit an offence.

PART V – GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES

45. Compliance with Act, registration, licence or authorisation

(1) The holder of a valid and applicable registration, licence or authorisation shall –

- (a) comply with the terms and conditions of the registration, licence or authorisation;
- (b) comply with this Act and any applicable international agreement, including an agreement for fisheries access;
- (c) comply with any other enactment, including laws in relation to navigational standards and the seaworthiness and safety of fishing vessels at sea; and
- (d) not engage in any activities under this Act, except in accordance with the registration, licence or authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

46. Reporting requirements

(1) Where any person, including the operator of a fishing vessel, is required to make any report pursuant to this Act or an international conservation and management measure, such report shall be –

- (a) true, correct and complete in every respect;
- (b) prepared by the person or vessel holding a valid and applicable licence or authorisation under this Act or an accredited agent;
- (c) submitted in the required form and format;
- (d) submitted at the required time or times;
- (e) submitted to the designated person or body;
- (f) certified, verified or otherwise validated as may be required.

(2) No person shall falsify, forge, tamper with or submit any report that is false, inaccurate, misleading or incomplete in any way.

(3) No person shall provide sales receipts as documentation in lieu of the catch documentation required pursuant to this Act.

(4) Where estimates for any aspect of the catch may be made pursuant to this Act, no person shall submit an estimate unless –

- (a) an estimation process officially recognised by the supervising officer is used; and
- (b) the supervising officer is satisfied with such proof thereof.

(5) Any person who contravenes subsection (1), (2), (3) or (4) shall commit an offence.

47. Requirements for vessels to report entry to, exit from and regularly while in maritime zones

(1) The operator of every Mauritius fishing vessel or foreign fishing vessel shall, upon entry into and exit from the maritime zones, report directly to the supervising officer through electronic means its position by latitude and longitude, the time of entry and exit, speed, heading and species on board by weight and such other information, as close as possible to real time, in accordance with such requirements as may be prescribed or as may be required by the supervising officer, or as may be required by a relevant regional fisheries management organisation, and shall –

- (a) make such report using an electronic reporting system required by a relevant regional fisheries management organisation, or where this is not possible, by email;
- (b) where the vessel falls within requirements by the International Maritime Organization to continuously operate an automatic identification system, ensure that such operation is effected;
- (c) report continuously through a vessel monitoring system at least every 4 hours at all times while in the maritime zones directly to the Fisheries Monitoring Centre in accordance with such requirements as prescribed;
- (d) where the vessel does not hold a valid and applicable licence for fishing or related activities in the maritime zones, proceed expeditiously and continuously through the maritime zones of Mauritius; and
- (e) where the vessel holds a valid and applicable licence for fishing in the maritime zones of Mauritius, prior to departing from the maritime zones report the last fishing area and weight by species of fish caught in the maritime zones.

(2) Notwithstanding subsection (1), the operator of a fishing vessel shall ensure that the transit report upon first entry is effected manually.

(3) The operator of a foreign fishing vessel not holding a valid and applicable licence shall ensure that the vessel does not engage in fishing or fishing related activities in the maritime zones of Mauritius.

(4) Any operator who contravenes subsection (1), (2) or (3) shall commit an offence.

48. Gear stowage

(1) The operator of a –

- (a) fishing vessel in the maritime zones of Mauritius in any place or at any time where it does not hold a valid and applicable licence for fishing or fishing related activities; or
- (b) Mauritius fishing vessel in areas beyond national jurisdiction which does not hold a valid and applicable authorisation for fishing or related activities pursuant to this Act,

shall ensure that all gears on board are at all times stowed or secured in such a manner that it is not readily available for fishing.

(2) Any operator who contravenes subsection (1) shall commit an offence.

49. Requirements for Mauritius nationals in areas beyond national jurisdiction

(1) No person shall use a Mauritius fishing vessel –

- (a) in areas under the national jurisdiction of another State except in accordance with the relevant laws of that State; or
- (b) to engage in any activity on the high seas or in areas of national jurisdiction of another State that –
 - (i) does not comply with an applicable access agreement; or

- (ii) undermines the effectiveness of applicable international conservation and management measures.

(2) Every Mauritius national in areas beyond national jurisdiction shall comply with –

- (a) applicable international conservation and management measures; and
- (b) the relevant laws of another State, when in areas under the jurisdiction of that State.

(3) Where a Mauritius fishing vessel is used in contravention of any requirement of subsection (1) or (2), the operator of the vessel shall commit an offence.

(4) Where a Mauritius national contravenes subsection (2), he shall commit an offence.

50. Requirements for compliance with labour conditions of personnel on board fishing vessels

(1) The operator of a –

- (a) Mauritius fishing vessel, at all times while in or beyond the maritime zones of Mauritius –
 - (i) of 24 metres in length overall or above; or
 - (ii) of less than 24 metres in length overall that remain at sea for 3 days or more or navigate beyond the maritime zones of Mauritius; and
- (b) foreign fishing vessel holding a valid and applicable licence while in the maritime zones of Mauritius,

shall comply with all applicable requirements under any enactment relating to employment of personnel on board, and failure to comply with such requirements shall result in the cancellation or suspension of any valid and applicable licence or authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

51. Prohibition to engage with transnational criminal group

(1) No person, being a member of or associated with a transnational criminal group shall be permitted to engage in any activity under this Act, and any registration, licence or authorisation granted or issued without knowledge of such association shall be immediately cancelled upon reasonable proof of such membership or association.

(2) Any person who contravenes subsection (1) shall commit an offence.

52. Transshipment in the port of Mauritius, maritime zones and areas beyond national jurisdiction

(1) No person shall conduct transshipment activities in the maritime zones in Mauritius, or being a citizen of Mauritius or on board a Mauritius fishing vessel, shall conduct transshipment operations, whether using a donor vessel or receiving vessel, in areas beyond national jurisdiction without a valid and applicable authorisation.

(2) No person shall, without a valid and applicable authorisation, engage in, support or be associated with transshipment activities –

- (a) in the maritime zones of Mauritius except at a port designated for such purposes by the Minister and within the limits of such port as may be defined under any enactment, except where the supervising officer declares the unavailability of a designated port during a reasonable time period, based on advice from the Mauritius Ports Authority, and the transshipment operations are monitored by such fisheries control officer or observer as may be required; or
- (b) being a Mauritius national, in areas beyond national jurisdiction.

(3) No landing or transshipment shall be authorised for a foreign fishing vessel unless there has been full compliance with all requirements for entry into the port of Mauritius under this Act and the vessel holds a valid and applicable authorisation to enter and use the port.

(4) The operator of a fishing vessel shall provide all such information as may be prescribed or as may be required by the supervising officer, including a declaration containing detailed information about the catch to be landed or transhipped, any catch remaining on board the vessel, including data on fishing effort.

(5) Any person who contravenes subsection (1), (2), (3) or (4) shall commit an offence.

53. Supply activities in maritime zones of Mauritius

(1) No person shall engage in fishing related activities for the purpose of supplying any fishing vessel with food, water, fuel or any other material or persons at sea to prolong its fishing activities or extend its fishing campaign in the maritime zones of Mauritius without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

PART VI – REQUIREMENTS FOR FISHERIES ACCESS

Sub-Part A – Fisheries Access Agreement

54. Fisheries access agreement

(1) The Minister may, in accordance with this Act and any applicable Fisheries Management Plan, international agreement, national policy or plan, and taking into account relevant international guidelines, enter into a fisheries access agreement to authorise access in the maritime zones of Mauritius for fishing or fishing related activities by foreign fishing vessels.

(2) A fisheries access agreement referred to in subsection (1) may be in the form of an international agreement, joint venture agreement, charter agreement or any other written agreement or arrangement with –

- (a) a State;
- (b) a regional economic integration organisation;

- (c) a fishers or vessel owners association, or any similar body;
- (d) a public incorporated company; or
- (e) such other persons or bodies as the Minister, on the recommendation of the supervising officer, may approve.

(3) The Minister shall, prior to entering into a fisheries access agreement, ensure that –

- (a) the terms of the agreement comply with this Act and every international agreement and fisheries management agreement or arrangement to which Mauritius is party;
- (b) any vessel subject to the agreement and its operator –
 - (i) have not engaged in or are reasonably suspected to have engaged in IUU fishing or fishing related activities in any place during the 5 year period prior to conclusion of the agreement; and
 - (ii) where judicial or administrative proceedings have determined that IUU fishing or fishing related activities took place, there has been compliance with a relevant judgment or determination;
- (c) the fishing or fishing related activities of a fishing vessel would not result in any direct or indirect adverse impact on the sustainability of the fisheries resources or the marine ecosystem of Mauritius; and
- (d) there are clear benefits to Mauritius for entering into the agreement.

(4) The Minister shall not enter into a fisheries access agreement to grant or issue a registration, licence or authorisation unless the agreement conforms to the requirements under this section.

(5) The Minister shall, on the recommendation of the supervising officer, approve in respect of each proposed fisheries access agreement –

- (a) the estimated value of the access to the other party based on economic and other relevant considerations; and
- (b) the value of the designated fee and other required benefits for Mauritius, excluding development assistance or benefits that are unrelated to the value of the access.

(6) Access shall be permitted solely for purposes of fishing or fishing related activities in the maritime zones of Mauritius or at a designated port.

(7) No registration, licence or authorisation for fishing or fishing related activities shall be granted or issued in relation to any foreign fishing vessel unless fisheries access has been granted in accordance with this Act and is valid during the full pendency of the registration, licence or authorisation and where such validity ceases prior to the expiration of the such pendency, the registration, licence or authorisation shall be terminated at the same time.

55. Payment of fees under access agreement with regional economic integration organisation

Where there is an international agreement for fisheries access between the Government and a regional economic integration organisation and –

- (a) the State in which the fishing vessel is registered is a member of, and has delegated the competence for entering into fisheries access agreements on its behalf to, such organisation; or
- (b) the fishing association of which the owner or charterer of the fishing vessel is a national of a State described in paragraph (a),

the applicant shall pay the fee referred to in the agreement.

56. Other terms and conditions for fisheries access

In addition to any other terms and conditions for fisheries access as may be prescribed or as may be required by the supervising officer, each agreement entered into by the Government shall require that –

- (a) the other party to the agreement and the operator of a fishing vessel subject to the agreement shall comply with this Act and any other enactment;
- (b) the operator of a fishing vessel subject to the agreement shall hold, in respect of his vessel, a valid and applicable authorisation from the State in which the vessel is registered to carry out fishing or fishing related activities in areas beyond national jurisdiction, including in the maritime zones of Mauritius;
- (c) a fishing vessel subject to the agreement shall have good standing on an authorised vessel list of a relevant regional fisheries management organisation or a register maintained under any applicable fisheries management agreement, and the agreement shall automatically terminate should the vessel's good standing on any such register be withdrawn;
- (d) no fishing vessel subject to the agreement is a listed vessel, and the agreement and any registration, licence or authorisation granted or issued thereunder shall automatically terminate should the vessel be a listed vessel;
- (e) the other party to the agreement and an operator of a fishing vessel subject to the agreement shall take all necessary measures required to ensure compliance with the agreement and this Act;
- (f) a fishing vessel or operator of a fishing vessel that does not comply fully with the agreement, this Act or any applicable international conservation and management measure may be denied renewal or issuance of a registration, licence or authorisation under the access agreement for a period of up to 10 years;

- (g) in the case of an agreement entered into with a corporation or any other body acting on behalf of its members or other persons, that the corporation or other body shall be liable for the undischarged liabilities of its members or other persons arising out of any operation under the agreement and the agreement itself, including fees;
- (h) fees, levies and other charges be fully paid at the required time, and the agreement shall automatically terminate on non-payment or late payment;
- (i) the other party to the agreement shall ensure specified benefits to citizens of Mauritius, including training and employing such level of qualified citizens as crew members and such other benefits as the Minister may determine; and
- (j) in the case of an agreement with a term of more than one year, the agreement shall be subject to an annual review or such other period as the Minister may determine and subject to termination or suspension in accordance with section 57(2).

57. Review of fisheries access

(1) Where the term of an access agreement is more than one year, the Minister shall review the agreement annually to assess compliance with the terms and conditions of the agreement, including –

- (a) the compliance by the other party with any other enactment and the terms of the agreement;
- (b) the realised benefits to Mauritius under the agreement for the preceding year;
- (c) the estimated value of the continuing fisheries access provided under the agreement; and
- (d) such other matters as may be required by the Minister in accordance with this Act.

(2) The Minister may, after consultation with the supervising officer, terminate or suspend an agreement at any time according to its terms or upon material non-compliance by the other party with this Act or any other condition of the agreement.

(3) The Minister shall, pursuant to subsection (2) give the other party reasonable notice of the termination or suspension to ensure the prompt termination of fishing or fishing related activities.

(4) The Minister may suspend or otherwise limit an access agreement –

- (a) where continued fishing at current levels would pose a risk to the sustainability of any fish stocks based on a precautionary approach; or
- (b) on such other grounds as may be specified in this Act.

(5) The suspension of an access agreement under subsection (2) or (4) may be for such time or until such conditions as may be required by the Minister are complied with.

(6) Where an access agreement is suspended or limited under subsection (4)(a), such portion of the access fees as determined by the Minister may be refunded on a pro rata basis for suspended fishing opportunities.

58. Preference for products of Mauritius

(1) The holder of a registration, a licence, an authorisation, an approval, a clearance or other permission granted or issued for purposes of fisheries access pursuant to this Part shall, in the conduct of all relevant activities and to the maximum extent possible, give preference to –

- (a) materials and products made in Mauritius;
- (b) service agencies located in Mauritius and owned by –
 - (i) a citizen of Mauritius;
 - (ii) a company; and
 - (iii) a statutory body.

(2) Any review of the performance of the holder of a registration, a licence, an authorisation, an approval, a clearance or other permission shall take into consideration whether, and the extent to which, preference

was given to materials, products and service agencies in Mauritius, and the evaluation shall be considered when recommending the renewal of any registration, licence, authorisation, approval, clearance or other permission.

Sub-Part B – Joint Venture and Charter Agreements

59. Requirements for joint venture and charter agreements

(1) No agreement governing joint ventures or the chartering of any foreign fishing vessel for purposes of fishing or fishing related activities in or beyond the maritime zones of Mauritius shall be valid unless it is approved by the Minister.

(2) A joint venture or charter agreement may be approved or accredited where the following requirements are fully met –

- (a) the joint venture or charter agreement provides clearly identifiable benefits with no adverse effects to Mauritius, its fisheries or its marine environment, including –
 - (i) development of fishing industry in Mauritius;
 - (ii) training of citizens of Mauritius;
 - (iii) foreign exchange earnings for Mauritius;
 - (iv) investment in Mauritius;
 - (v) landing and domestic distribution activities; and
 - (vi) development of export activities;
- (b) establishment of a company with specified ownership, control and equity by citizens of Mauritius;
- (c) the joint venture or charter agreement approved under this Act shall –
 - (i) be registered in Mauritius;
 - (ii) comply with any other enactment and national policies in Mauritius;

- (iii) submit a legally binding undertaking that all financial obligations of the foreign fishing vessel will be met promptly and effectively, including payment of all taxes, fees and any applicable fine, penalty or other determination which may result from the vessel's activities; and
- (iv) in respect of a charter agreement, provide that the flag State shall be responsible for exercising full and effective control over the fishing vessel when it is in areas beyond the national jurisdiction of Mauritius.

(3) Any fishing vessel engaged in fishing under an approved joint venture or charter agreement shall be subject to all requirements of this Act in respect of foreign fishing vessels.

60. Charter agreements to comply with applicable international conservation and management measures

(1) Any chartering of vessels shall comply with this Act and any applicable international conservation and management measure.

(2) A charter agreement shall contain the following conditions, in addition to any other condition required under this Act –

- (a) the flag member has consented in writing to the agreement;
- (b) the duration of the fishing operations under the agreement does not exceed such time in any calendar year as may be prescribed;
- (c) a fishing vessel to be chartered shall be registered to a responsible member or cooperating non-member of the relevant regional fisheries management organisation, which shall –
 - (i) explicitly agree to apply international conservation and management measures of the relevant regional fisheries management organisation and enforce them on their vessels; and

-
- (ii) effectively exercise his duty to control the vessel to ensure compliance with international conservation and management measures;
 - (d) a fishing vessel to be chartered shall be on the applicable record of authorised vessels of the relevant regional fisheries management organisation;
 - (e) without prejudice to the duties of the chartering member, the flag member shall ensure that the chartered vessel complies with international conservation and management measures of both the chartering member and the flag member or cooperating non-member;
 - (f) where the chartering member allows the chartered vessel to engage in fishing in the high seas, the flag member shall be responsible for controlling the high seas fishing conducted pursuant to the arrangement, and the chartered vessel shall report vessel monitoring system and catch data to both the chartering member and flag member and to the secretariat of the relevant regional fisheries management organisation;
 - (g) all catches, including bycatch and discards, taken pursuant to the agreement, as well as the observer coverage shall be counted against the quota or fishing possibilities of the chartering member;
 - (h) the chartering member shall report to the secretariat of the relevant regional fisheries management organisation all catches, including bycatch and discards, and other information required under any Charter Notification Scheme adopted by the relevant regional fisheries management organisation;
 - (i) a vessel monitoring system and, where appropriate, tools for the differentiation of fishing areas, such as fish tags or marks, shall be used for effective fisheries management in accordance with relevant international conservation and management measures;

- (j) a chartered vessel shall have a fishing licence issued by the chartering member, and shall not be a listed vessel;
- (k) when operating under the agreement, the chartered vessel shall not, to the extent possible, be authorised to use the quota, if any, or entitlement of the flag members or cooperating non-members;
- (l) no chartered vessel shall be authorised to fish under more than one charter agreement at the same time;
- (m) unless specifically provided in the agreement and in accordance with any other enactment, the catches of the chartered vessel shall be unloaded exclusively in the port of the chartering member or under its direct supervision in order to assure that the activities of the chartered vessel do not undermine international conservation and management measures;
- (n) the chartered vessel shall at all times be required to carry a copy of the following documentation –
 - (i) the name, in both native and Latin alphabets, and registration of the chartered vessel, and, where eligible, International Maritime Organisation (IMO) ship identification number;
 - (ii) the name and contact address of the beneficial owner of the vessel;
 - (iii) the description of the vessel, including the length overall, type of vessel and the type of fishing method to be used under the charter;
 - (iv) a copy of the agreement and any fishing licence or authorisation it has issued to the vessel, including in particular the quota allocation or fishing possibility assigned to the vessel; and the duration of the chartering arrangement;
 - (v) its consent to the agreement; and
 - (vi) the measures adopted to implement these provisions.

Sub-Part C – Fisheries Management Agreement

61. Fisheries management agreement

The Minister may, after consultation with the supervising officer, enter into a fisheries management agreement, other than an access agreement, that has, as its purpose, to cooperate or coordinate in fisheries management measures with other States.

Sub-Part D – Performance Bonds

62. Performance bond

(1) The Minister may require either as a precondition of issuing a licence to any foreign fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in such manner as he may approve, taking into account, *inter alia* –

- (a) the level of compliance by the vessel, its operator and, where appropriate, an associated fleet of vessels with requirements of the flag State, other coastal States, relevant regional fisheries management organisations and international laws;
- (b) any risk of non-compliance with this Act or any other relevant enactment; or
- (c) such other criteria as the Minister may determine.

(2) A performance bond provided under subsection (1) shall serve as a financial assurance for the fulfilment of all obligations arising out of the licence and this Act, including potential costs relating to rescue, recovery of other costs and fines, penalties or compensation in contravention of this Act, and shall be drawn upon in accordance with this Act.

(3) The amount of financial assurance provided under this section shall be determined by the Minister, considering criteria that may be recommended by the supervising officer, and having regard to any applicable fishery management plan, the value of the relevant fishery and the maximum amount of a fine provided under this Act for any potential offence, including the risks specified in subsection (1).

(4) The form of a performance bond may be any or a combination of the following –

- (a) surety bond;
- (b) insurance policy;
- (c) cash deposit;
- (d) any other form of financial guarantee.

63. Requirements for performance bonds

(1) A performance bond issued shall –

- (a) be in such form as the Minister may determine;
- (b) be valid for such period of time as the Minister may determine;
- (c) be lodged with such bank as the Minister may determine; and
- (d) subject to subsection (2), authorise the Minister to draw directly on the bond in the event of non-compliance with any term, condition or requirement of the licence or of any provision of this Act.

(2) A performance bond may be lodged in respect of –

- (a) each and every foreign fishing vessel in a sum specified in an access agreement under and in accordance with which each vessel holding a valid and applicable licence or authorisation; and
- (b) any other fishing vessel in a sum as determined under the terms and conditions of the licence or by the Minister.

(3) A performance bond provided under this Act shall not be considered as a payment of security into any Court and shall not be used for any such purpose.

64. Drawing on performance bond

(1) The Minister may draw on a performance bond for non-compliance with any terms and conditions of a licence under this Act.

(2) Where the Minister draws on a performance bond in accordance with subsection (1), he shall, subject to subsection (6), give written notice in accordance with subsection (3) to the licensee or legal representative or agent of the licensee.

(3) A notice under subsection (2) shall –

- (a) contain a description of the non-compliance alleged and a statement of the amount which it is proposed to draw; and
- (b) state that the bond will be drawn upon if no objection is received by the Minister within 7 days from the date of the notice.

(4) Unless the terms of the licence otherwise permits, the amount that may be drawn on the performance bond under subsection (3)(a) shall not exceed 10 per cent of the maximum fine for the relevant offence.

(5) Where no objection is received by the Minister within 7 days from the date of a notice under this Act, the Minister may draw directly on the performance bond, and where an objection is received by the Minister shall refer it to the Attorney General who shall determine, on the merits of the objection, whether the Minister may draw directly on the performance bond.

(6) Notwithstanding this Act, where a person who has been duly served a summons to answer a charge of a contravention of, or failure to comply with, a term or condition of his licence, fails to appear in answer to the summons, the Minister may, without notice, draw directly on any performance bond lodged in respect of the licence to an amount not exceeding 100 per cent of the maximum fine for the relevant offence.

65. Cash deposit of performance bond to be returned

A performance bond in the form of a cash deposit shall, subject to this Act, be returned at the end of the period of validity of the fishing licence.

PART VII – FISH FARMING AND AQUACULTURE**Sub-Part A – Fish Farming****66. Fish farming in pond, tank, barachois or fish hatchery**

(1) Subject to section 67, no person shall carry out fish farming for commercial purposes in a pond, tank, barachois or fish hatchery without a valid and applicable licence.

(2) The supervising officer may require an applicant to furnish such other documents and clearances from the Department of Environment of the Ministry responsible for the subject of environment and other authorities as he shall specify.

(3) The supervising officer may, with the approval of the Minister, grant or reject an application.

(4) The holder of a valid and applicable licence under this section shall not sell or transfer the ownership of his fish farm without the authorisation of the supervising officer.

(5) Where, pursuant to an authorisation under subsection (4), the holder of the valid and applicable licence sells or transfers the ownership of his fish farm, he shall, within 7 days of the sale or transfer, notify the supervising officer and surrender to him his licence.

(6) Any person who contravenes subsection (1), (4) or (5) shall commit an offence.

67. Fish farming zones and fish farming industry

Notwithstanding any other enactment, the areas of the sea specified in the Third Schedule shall, for the purposes of this Part, be used to develop a fish farming industry in respect of such fish farming activities as may be prescribed.

68. Fish farming at sea

(1) No person shall carry out fish farming in any fish farming zone without a valid and applicable licence.

(2) No person shall be eligible to be licensed under this section unless he –

- (a) is a company;
- (b) obtains an EIA licence under the Environment Protection Act; and
- (c) is the holder of a concession granted by the Prime Minister.

(3) An application for a licence under this section shall –

- (a) be made to the Chief Executive Officer of the Economic Development Board, in such form and manner as he may approve; and
- (b) be accompanied by –
 - (i) a full and detailed account of the fish farming project;
 - (ii) a social impact assessment to identify the impact of the proposed fish farming project on the local community and a written undertaking by the applicant indicating the benefits that shall accrue to the local community and to small entrepreneurs generally, in terms of employment and business opportunities;
 - (iii) an implementation plan relating to the fish farming project with full details including a timeframe for its completion; and
 - (iv) such other particulars or information as may be required in the application form.
- (c) be dealt with in accordance with the Economic Development Board Act.

(4) The Chief Executive Officer of the Economic Development Board shall make his recommendations on the application to the supervising officer.

(5) Upon the recommendation of the Chief Executive Officer of the Economic Development Board, the supervising officer may, with the approval of the Minister, grant or reject an application.

(6) Where the supervising officer rejects an application, he shall, within 14 days of his decision, inform the applicant of his decision and the reasons thereof.

(7) Any person who contravenes subsection (1) shall commit an offence.

69. Concession of area in fish farming zones

(1) Where the supervising officer grants an application under section 67(5), the applicant shall apply to the Prime Minister for a concession in a fish farming zone in respect of its fish farming project.

(2) On receipt of an application under subsection (1), the Prime Minister may, on the recommendations of the Minister and the Economic Development Board, grant to the applicant a concession by way of a deed of concession.

(3) Any concession granted under subsection (2) shall –

- (a) not exceed 20 years duration and may be renewable for successive periods of 10 years;
- (b) not be transferable except with the written authorisation of the Prime Minister;
- (c) be subject to the concessionaire complying with the *Maritime Zones Act*;
- (d) be subject to such annual fees and charges as may be determined by the Prime Minister; and
- (e) be subject to such other terms and conditions as may be prescribed by the Prime Minister.

70. Licence for fish farming at sea

Where a concession is granted under section 69 to the applicant, the supervising officer shall, on payment of such fee as may be prescribed and on such terms and conditions as he may impose, issue an applicable licence to the applicant.

71. Marked-off areas in fish farming zones

(1) The concessionaire of any area in a fish farming zone shall clearly and visibly mark off the area subject to the concession, in such manner as the Prime Minister may approve and shall properly maintain the marked-off area.

(2) Every marked-off area shall be under the overall control and administration of the concessionaire.

(3) A concessionaire who contravenes subsection (1) shall commit an offence.

72. Cancellation or suspension of concessions

Where a concessionaire –

- (a) uses the area subject of the concession for any purpose other than that for which it has been granted, without the prior written approval of the Prime Minister;
- (b) utilises the area subject of the concession so as to constitute a nuisance, or to cause any detriment to, or be a source of pollution of, the natural resources and the environment;
- (c) fails to carry out, or insufficiently carries out, fish farming in the area subject of the concession; or
- (d) fails to comply with this Act, or any regulations made under this Act, or any of its obligations under the deed of concession,

the Prime Minister may suspend or cancel the concession.

73. Removal of concession right

The Prime Minister may, on the ground of public interest, or of the implementation of a project of national interest that modifies the status of the fish farming zone, remove a concession from a concessionaire, subject to payment of a reasonable compensation to the concessionaire.

74. Small-scale fish farming

(1) No person shall carry out small-scale fish farming in any fish farming zone without a valid and applicable licence.

(2) The supervising officer may, with the approval of the Minister, grant or reject an application.

(3) Any person who contravenes subsection (1) shall commit an offence.

75. Authorisation for fishing in fish farms

(1) No person shall engage in fishing in any fish farm unless authorised to do so in writing by the fish farm operator.

(2) Any person who contravenes subsection (1) shall commit an offence.

76. Disease outbreak in fish farm

(1) Any fish farm operator shall, within 24 hours of the outbreak of any disease in his fish farm, inform the supervising officer of such outbreak.

(2) Where the supervising officer is informed under subsection (1) and is satisfied that a fish farm has been affected by a disease, he may direct the fish farm operator to –

- (a) take such measures as he may determine to control the disease and prevent its spreading further;
- (b) remove and destroy any fish affected by the disease;
- (c) disinfect the fish farm; and
- (d) take such other measures as may be required.

(3) A fish farm operator who contravenes subsection (1) or (2) shall commit an offence.

Sub-Part B – Aquaculture

77. Aquaculture activities and research

The supervising officer may, for the purpose of aquaculture activities and research –

- (a) authorise the site, design and materials to be used in the construction of a fish farm;
- (b) monitor and assess health conditions of fish under culture in a fish farm;
- (c) authorise the introduction of species that do not naturally occur in Mauritius;
- (d) impose measures to be undertaken for the prevention of the spread of fish diseases to the wild stocks;
- (e) impose measures to be undertaken for the control of pollution in a fish farm; and
- (f) monitor and assess infrastructure impacts on the environment resulting from aquaculture.

78. Interfering with aquaculture facility

(1) No person shall interfere with or harvest the product of an aquaculture facility without the authorisation of a licensee.

(2) Any person who contravenes subsection (1) shall commit an offence.

79. Restricted aquaculture products

(1) No person shall import, possess, culture, sell or export any restricted aquaculture products or fish without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

80. Genetically modified aquatic organism in aquaculture

(1) No person shall import, possess, culture, sell or export any genetically modified aquatic organism or use any genetically modified aquatic organism in aquaculture or related activity without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

81. Import of live aquatic organism for aquaculture

(1) No person shall import into Mauritius a live aquatic organism for aquaculture without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

82. Genetic engineering activities in aquaculture

(1) No person shall engage in genetic engineering activities in respect of aquatic organism in aquaculture without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

**PART VIII – IMPORT AND EXPORT OF
FISH AND FISH PRODUCTS****83. Import of fish and fish products**

- (1) No person shall import –
- (a) fish and fish products, without a valid and applicable authorisation, obtained either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the supervising officer may determine; or
 - (b) any marine turtle or turtle egg, or marine mammal, whether dead, alive or stuffed, without a valid and applicable authorisation for scientific, conservation or management purposes.

(2) Every person who imports fish and fish products shall, at the time of importation, pay to the Director-General of the Mauritius Revenue Authority such fee as may be prescribed, either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the supervising officer may determine.

(3) Where a fisheries control officer has reasonable grounds to suspect that fish and fish products which have been imported are unfit for human consumption, he may, after the supervising officer of the Ministry responsible for the subject of health has obtained an order under section 5(2)(b) of the Food Act, cause the fish and fish products to be disposed of in accordance with the order.

(4) Notwithstanding any other enactment, the importer of fish and fish products which are disposed of under this section shall not be entitled to any compensation where the Ministry responsible for the subject of health certifies that the fish and fish products are unfit for human consumption.

(5) Any person who contravenes subsection (1) shall commit an offence.

84. Trusted Trader Certificate for importation of fish and fish products

(1) No person shall import, during a specified period, specified fish and fish products from a specified supplier in a specified country without a valid Trusted Trader Certificate.

(2) A person who intends to import, during a specified period, specified fish and fish products from a specified supplier in a specified country shall, notwithstanding section 83(1)(a), apply to the supervising officer, in such form and manner as he may approve, and in accordance with such guidelines as issued under this Act, for a Trusted Trader Certificate.

(3) Where the supervising officer is satisfied that an applicant for a Trusted Trader Certificate meets such criteria as may be prescribed, the supervising officer shall make recommendations to the Trusted Trader Committee for the applicant to import the specified fish and fish products from the specified supplier in the specified country during the specified period.

(4) Where the Trusted Trader Committee gives its approval pursuant to subsection (3), the supervising officer shall, on such terms and conditions as he may impose, issue the applicant with a Trusted Trader Certificate to import the specified fish and fish products from the specified supplier in the specified country during the specified period.

(5) Where the supervising officer rejects an application under subsection (2), he shall, not later than 15 days after his decision, inform the applicant in writing.

(6) Where a trusted trader fails to comply with any term or condition of his Trusted Trader Certificate or with this Act, the supervising officer may, subject to subsection (7), suspend or cancel the certificate.

(7) The supervising officer shall, before suspending or cancelling a Trusted Trader Certificate, inform the trusted trader, in writing, of the reasons thereof.

(8) A trusted trader shall, not later than 14 days after being informed of the decision of the supervising officer under subsection (6), make written representations to the supervising officer as to why the Trusted Trader Certificate should not be suspended or cancelled.

(9) Where a Trusted Trader Certificate is suspended or cancelled, the person to whom the certificate was issued shall forthwith surrender the certificate to the supervising officer.

(10) Where the supervising officer suspends or cancels a Trusted Trader Certificate, he shall forthwith inform the Director-General of the Mauritius Revenue Authority.

(11) In this section –

“specified country” means the country from which an applicant intends to import the specified fish and fish products;

“specified fish and fish products” means the fish and fish products an applicant intends to import;

“specified supplier” means the supplier from which an applicant intends to import the specified fish and fish products.

85. Import of live fish

(1) No person shall import any live fish for aquaculture or ornamental purposes without a valid and applicable authorisation obtained either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the supervising officer may determine.

(2) No live fish imported pursuant to subsection (1) shall be released to the importer without a valid and applicable authorisation obtained either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the supervising officer may determine.

(3) The supervising officer shall not grant an authorisation under subsection (1) unless –

- (a) the fish has been kept under observation and control for such period and on such terms and conditions as may be prescribed or as may be required by the supervising officer;
- (b) an assessment has been carried out on the environmental impact of the release by the importer; and
- (c) the supervising officer is satisfied, on a report submitted to him by the importer, that the release of the live fish shall not be detrimental to the environment.

(4) The supervising officer may prohibit the import of any live fish that may be detrimental to the environment, including fish species categorised as invasive, or which may pose biosecurity risks.

(5) Where the supervising officer has reasonable grounds to suspect that any live fish which is introduced into Mauritius is unsuitable for aquaculture or ornamental purposes, he shall order the fish to be seized and disposed of.

(6) Any live fish prohibited from import shall be seized and disposed of at the point of entry, or at a quarantine facility or any other place where it is displayed or offered for sale.

(7) Notwithstanding any other enactment, the importer of any live fish which is disposed of under this section shall not be entitled to any compensation.

(8) Any person who contravenes subsection (1) shall commit an offence.

86. Quarantine procedures for importation of live ornamental fish

(1) Any consignment of live ornamental fish imported into Mauritius shall be subject to the quarantine procedures as may be determined by the competent authority in an approved quarantine facility.

(2) The competent authority shall have access to carry out the post quarantine inspection of any hatchery, rearing facility or farm.

(3) Where a consignment of live ornamental fish imported into Mauritius does not pass quarantine, the entire consignment shall, at the expense of the importer, be destroyed in accordance with such directives as the competent authority may issue.

(4) Notwithstanding any other enactment, the importer of any live ornamental fish which is disposed of under this section shall not be entitled to any compensation.

87. Prohibition to dispose of or release imported live ornamental fish

(1) No person shall dispose of, or release, any imported live ornamental fish in any water body.

(2) Any person who contravenes subsection (1) shall commit an offence.

88. Export of fish and fish products

(1) No person shall export fish and fish products, live fish or live ornamental fish including any aquaculture product –

- (a) without a valid and applicable authorisation obtained either electronically through the TradeNet or, in exceptional or unforeseen circumstances, in such other manner as the supervising officer may determine; and

(b) unless he is registered with the competent authority.

(2) Any person who exports fish and fish products, live fish or live ornamental fish shall comply with such directives as the competent authority may issue.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

PART IX – INFORMATION, DATA AND STATISTICS

89. Establishment of information system

(1) There shall be established and maintained an information system in the Ministry with the objectives of meeting national, regional and international requirements relating to information and data, including the objectives and principles of this Act.

(2) The information system shall be available on the website of the Ministry and subject to confidentiality requirements, taking into account best international practices for transparency and accountability.

(3) The information system shall include such information that supports implementation of this Act and international conservation and management measures, including such information as the supervising officer may determine in relation to fisheries management, fishing or fishing related activities, monitoring, control and surveillance, legal and administrative matters, statistical and economic aspects and other information consistent with the objectives and principles of this Act.

(4) The supervising officer shall, where appropriate, ensure that information is released from the database and communicated to other national agencies, States and regional and international organisations in a timely manner to ensure the discharge of national, regional and international obligations of Mauritius, including as a flag State, port State and as a member of a relevant regional fisheries management organisation.

(5) A person may, on payment of such fee as may be prescribed, access any non-confidential information from the information system.

90. Information required and inspected

(1) Any person carrying out activities under this Act shall keep and maintain such records and information and supply them to the supervising officer in such form and manner as he may approve or as may be required pursuant to this Act, notwithstanding any other enactment or any applicable conservation and management measure or international agreement.

(2) The supervising officer shall ensure the collection and analysis of statistical data and other information in relation to activities and persons under this Act and the provision of data and information to a relevant regional fisheries management organisation as may be required by an applicable international conservation and management measure.

(3) The supervising officer may, for the purposes of verifying accounts, records, documents and other information required to be kept, furnished or communicated under subsection (1) direct –

- (a) the audit or inspection of any account, record, document, data and other information or place where such information may be kept;
- (b) the audit or inspection of any fishing vessel, processing plant or other facility to which this Act applies; and
- (c) any person to provide further information regarding any account, record, document, data and other information kept, furnished or communicated under this Act in accordance with such time limit as he may determine.

(4) Any person who –

- (a) fails to keep, furnish or communicate any account, record, document, data and other information as may be required under subsection (1); or
- (b) does not facilitate, assist or comply with the requirements for an audit or inspection undertaken under subsection (3),

shall commit an offence.

91. True, complete and correct information required and destruction of documents prohibited

(1) Every person shall keep records and provide information, data and statistics as required under this Act and such records, information, data and statistics shall, at all times, be true, complete and correct and shall not be false, misleading or inaccurate.

(2) No person shall alter, destroy, erase or obliterate any –

- (a) declaration, certificate or other documents, information, data or statistics made or required to be made or issued under this Act;
- (b) label subject to this Act; or
- (c) required markings on fishing vessels or gear.

(3) No person shall submit to the supervising officer, the Ministry, Court, Government department or other relevant State or relevant regional fisheries management organisation, international organisation or other body or person any information or documents that are fraudulent or, in the case of written information or documents, forged.

(4) The requirements of this section shall apply to any record, information, data and statistics required under this Act without regard to whether they are submitted to the supervising officer, the Ministry, Court, Government department or other relevant State or relevant regional fisheries management organisation, international organisation or other body or person.

(5) Any person who contravenes subsection (1), (2) or (3) shall commit an offence.

92. Information sharing bilaterally, regionally, internationally

(1) The supervising officer may prepare and share information that falls under this Act, including fisheries statistics and vessel information, to the Food and Agriculture Organisation of the United Nations, and any international organisation or any regional organisation to which Mauritius is a party or pursuant to an international agreement, as may be required

by such organisation or international agreement, taking into account any confidentiality requirements, and shall do so where required by international agreement or a relevant regional fisheries management organisation.

(2) Where the information is required, it shall be shared within a time limit that may be agreed upon or promptly upon the demand or request for such information.

93. Confidential Information

(1) A person carrying out duties or responsibilities under this Act, including the Minister, supervising officer or officer of the Ministry shall not, unless authorised under this Act or in accordance with data confidentiality policy and procedures of a relevant regional fisheries management organisation, reveal confidential information acquired by virtue of his duties and responsibilities to any person not having such duties and responsibilities.

(2) The Minister may, by written notice, declare –

- (a) any information to be confidential information; and
- (b) that certain general summaries of such information are not confidential information.

(3) The supervising officer may, in writing, authorise any person to –

- (a) receive or access confidential information;
- (b) access such premises holding confidential information as he may designate or restrict access to such premises.

(4) The following information shall be confidential information unless otherwise provided by notice in the Gazette –

- (a) any information or data of a commercial nature provided in records, returns or other documents required to be kept, furnished or communicated under this Act; and
- (b) any information or other data supplied by a mobile transceiver unit in accordance with this Act.

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- (5) Any confidential information may be disclosed –
- (a) to the extent that –
 - (i) the disclosure is authorised or required under this Act or under any other enactment; or
 - (ii) the person providing the confidential information authorised its disclosure; or
 - (b) as may be necessary to –
 - (i) enable the supervising officer to publish statistical information relating to the fisheries sector;
 - (ii) enable other agencies of the Government to enforce any other enactment;
 - (iii) promote cooperation and coordination among relevant national agencies and at sub-regional, regional and international levels in the monitoring, control and surveillance of fisheries-related and other relevant activities; or
 - (iv) enable advice to be given to the Minister consistent with the objectives of this Act.
- (6) The supervising officer may authorise the release of confidential information –
- (a) relating to the real-time or other position of any fishing vessel, upon request, to any authority for the purposes of assisting with surveillance, search and rescue and other emergency responses; and
 - (b) for purposes that the supervising officer believes are supportive of the objectives and enforcement of this Act, including reasonable transparency in decision-making.
- (7) Any confidential information shall maintain its classification for a period of 3 years from the date that it is declared to be confidential information under subsection (2).

(8) The supervising officer may extend the classification of confidential information at the expiry of the 3-year period referred to in subsection (7) for one or more periods of up to 3 years as the supervising officer may determine to achieve the objectives of this Act and assist with its enforcement.

(9) Any person who receives confidential information pursuant to this Act shall not use or disclose such information except for the purposes of this Act and in accordance with any international conservation and management measure.

(10) Any person who does not comply with any requirement in subsection (1) or (9) shall commit an offence.

94. Confidentiality of information in relation to Fisheries Monitoring Centre

(1) Any information received and recorded by the equipment in the Fisheries Monitoring Centre shall be treated as confidential and may only be disclosed –

- (a) to a person who is authorised to gather information in order to decide whether criminal proceedings should be instituted against any person;
- (b) to a prosecutor or authorised legal representative who requires such information for the purpose of prosecuting or defending criminal proceedings;
- (c) to a person who is empowered to ensure compliance with this Act, other enactment or obligations under international law;
- (d) to a relevant regional fisheries management organisation, in accordance with its international conservation and management measures and any applicable policy on confidentiality and may be subject to a reservation by the supervising officer;
- (e) to a body or organisation, including an international organisation, to which Mauritius is a member or

cooperates for the purposes of fisheries monitoring, control and surveillance and in accordance with any applicable confidentiality requirements, and may be subject to a reservation by the supervising officer;

- (f) when the revealing of such information is necessary in order to conduct search or rescue operations in relation to any fishing vessel;
- (g) in aggregated form for purposes of research as the supervising officer may determine; or
- (h) in accordance with official policy.

(2) Any person who obtains information for a purpose referred in subsection (1) shall use that information for such purpose and may not reveal such information to any other person except for that purpose.

(3) Any person who reveals or uses information contrary to subsection (1) or (2) shall commit an offence.

95. Ownership of information

The ownership of any information required to be reported, notified or otherwise given to the Government and all information generated by mobile transceiver units or similar device that is part of a vessel monitoring system or an automatic identification system under this Act shall be vested in the Government.

96. Public access to information

(1) The public shall have access to information not designated as confidential under this Act.

(2) The supervising officer may, in writing, determine and publicise an administrative fee for categories of information that is not readily available, which shall be charged for public access to such information.

**PART X – LICENCES, AUTHORISATIONS
AND REGISTRATIONS**

**Sub-Part A – Requirements and Conditions for Licences,
Authorisations and Registrations**

97. General requirements for application

(1) An application for a licence or an authorisation under this Act shall not be considered unless –

- (a) in the case of an application for a fishing vessel to engage in fishing or fishing related activities, the application is accompanied by a valid and applicable Certificate of Registry, a certificate of Seaworthiness and Safety and an Insurance Certificate;
- (b) the applicant is the natural or legal person to whom a fishing vessel is registered as per the Certificate of Registry;
- (c) it is accompanied by such fee as may be prescribed or as may be required by the supervising officer;
- (d) in case the applicant is a company, the application is accompanied by a document issued by the body that has incorporated the company certifying the legal and beneficial ownership of the company and that the applicant is the natural or legal person whose name is mentioned in the Certificate of Registry of the fishing vessel;
- (e) in the case of a foreign fishing vessel, the application is accompanied by a certified copy of a valid and applicable authorisation for the applicable fishing or fishing related activities issued by the flag State; and
- (f) in the case of a Mauritius fishing vessel, foreign fishing vessel or such other category of vessel as may be prescribed, the applicant declares that there is no participation by, or association with, a transnational

criminal group in the relevant activities and guarantees that there shall be no such participation or association during the period of validity of the licence or authorisation.

(2) An application for a licence, an authorisation or a registration under this Act shall not be considered where –

- (a) there are reasonable grounds to suspect that the operator of a fishing vessel or any other person to be involved in fishing or fishing related activities is associated with any transnational criminal group;
- (b) true, correct and complete information is not provided on the application form or information is found to be false, inaccurate, misleading or incomplete.

(3) Where, after the grant or issue of a licence, an authorisation or a registration, it is found that any information, declaration or documentation required under this section is false, forged or misleading, the licence, authorisation or registration shall be deemed invalid and shall be cancelled immediately.

98. Terms and conditions for licences and authorisations

(1) A licence or an authorisation issued or granted under this Act –

- (a) shall be subject to the terms and conditions provided under this Act or as may be prescribed, and to such other terms and conditions as may be specified in writing by the supervising officer or provided in applicable international conservation and management measures, which may include, inter alia –
 - (i) the type of gear and method of fishing or fishing related activities authorised;
 - (ii) the area within which fishing or fishing related activities is authorised;

- (iii) the species and amount of fish authorised to be taken, including any restriction on bycatch;
 - (iv) information relating to closed periods;
 - (v) reporting obligations, including electronic reports, electronic logbook data recording systems and vessel monitoring system; and
 - (vi) the carrying on board of communications, data recording systems, position fixing or other equipment for the transfer of reports and logbook data;
- (b) may, upon reasonable notice by the supervising officer, be subject to any varied, amended or additional terms and conditions consistent with the objectives and principles of this Act or with any applicable conservation and management measures as may be prescribed or as may be required by the supervising officer where it is expedient for the management of a fishery;
- (c) shall enter into force on the date specified in it; and
- (d) shall remain in force until the date on which it expires in accordance with the period approved by the supervising officer for the class of permission to which it belongs, unless sooner suspended or cancelled in accordance with this Act.

(2) The operator of a fishing vessel holding a valid and applicable licence or authorisation shall ensure that the original or a certified scanned electronic version or certified copy of it is on board the vessel at all times during the period of validity, except where the vessel was at sea when such document was issued and has not entered the port of Mauritius since issuance, in which case an electronic copy shall suffice, and the master of the vessel shall, upon request, produce it to a fisheries control officer or any other person authorised by the supervising officer.

(3) The holder of a licence or an authorisation shall display his licence or authorisation or a certified copy thereof in his registered business office and shall, on request, produce it to a fisheries control officer.

(4) The operator of a Mauritius fishing vessel shall –

- (a) at all times, carry on board such documents issued and certified by the supervising officer, or as may be required by the supervising officer or an international conservation and management measure, and shall, on request, produce them to a fisheries control officer or any other person authorised under any other enactment or who is carrying out duties pursuant to a relevant regional fisheries management organisation;
- (b) while in areas under the national jurisdiction of any other State, comply with the laws of that State; and
- (c) while in an area of competence of a relevant regional fisheries management organisation, comply with all applicable conservation and management measures.

(5) The operator of a fishing vessel holding a valid and applicable licence or authorisation shall, as a condition of the licence or authorisation, maintain log books and make such reports relating to fishing or fishing related activities at such times, containing such information and in such form as may be approved by the supervising officer or as may be required by an applicable international conservation and management measure.

(6) The holder of a licence or an authorisation shall, within 14 days, report to the supervising officer –

- (a) the sale or transfer of any vessel company or item that is subject to or operating under the licence or authorisation, upon such sale or transfer;
- (b) any other change of information that was provided in the application form or any other requirement to obtain the licence or authorisation.

(7) Every licence or authorisation issued or granted under this Act shall not be transferable, unless otherwise authorised by the supervising officer, and no person shall –

- (a) transfer or attempt to transfer such licence or authorisation to another person or fishing vessel; or
- (b) use or attempt to use a transferred licence or authorisation as authority for fishing or fishing related activities.

(8) Any person who contravenes subsection (2), (3), (4), (5), (6) or (7) shall commit an offence.

(9) Where a person is convicted pursuant to subsection (1), his relevant licence or authorisation may be suspended or cancelled, and in the case the person contravenes subsection (6), his relevant licence or authorisation shall be deemed invalid immediately after the expiry of the 14 day period.

99. Pre-licensing and pre-registration inspection and other requirements

(1) The operator of a fishing vessel, in respect of which an application has been made for a licence, an authorisation or a registration shall, prior to being granted or issued the licence, authorisation or registration –

- (a) avail the vessel intended to be used for fishing or fishing related activities for inspection, survey or other requirement either at Port Louis Harbour or any other port nominated by the applicant and approved by the supervising officer, or where there is an exceptional need to inspect a vessel going into or in a dry dock or to another port for repair; and
- (b) fulfil pre-licensing and pre-registration criteria as the supervising officer may determine.

(2) Subject to subsection (1)(a), the operator of a fishing vessel shall provide not less than 48 hours advance notice of the vessel's estimated time of arrival, weight by fish species catch on board and port of call to the supervising officer.

(3) Where the applicant has nominated a port other than Port Louis Harbour, the applicant shall bear all costs for inspection of the vessel in the nominated port, including full costs of travel, inspection and any other costs that the supervising officer may determine.

(4) A fisheries control officer shall undertake and verify the pre-licensing or pre-registration inspection of any vessel in accordance with this Act and such criteria as the supervising officer may determine and, in addition, the supervising officer may designate a survey inspector to undertake such inspections.

(5) The operator of a fishing vessel subject to the requirements under this section shall –

- (a) allow and assist any fisheries control officer and survey inspector to board and inspect the vessel and otherwise exercise his powers under this Act; and
- (b) provide to the supervising officer all documentation and information required for the grant or issue of a licence, an authorisation or a registration.

(6) Where the costs of inspection required under subsection (3) are not paid in full, the operator shall not be granted or issued a licence, an authorisation or a registration under this Act.

100. Standards for grant of licence, authorisation or vessel registration

(1) Unless otherwise provided for under this Act, the supervising officer shall, within a reasonable time and taking into account any recommendations of the review of the applications and associated documents, grant or reject an application for a licence, an authorisation or a vessel registration under this Act, but shall reject an application where the review has so recommended.

(2) In granting or issuing a licence, an authorisation or a vessel registration under this Act, the supervising officer shall take into account the extent to which any relevant State, operator of the fishing vessel or other relevant person or company, or the fishing vessel, as appropriate –

- (a) has complied with this Act or any other relevant enactment, applicable licensing terms and conditions and any applicable access agreement;
- (b) has complied with any applicable requirements concerning the appointment of agents and the agents have complied with this Act and any other relevant enactment;
- (c) has complied with requirements for seaworthiness and safety;
- (d) has provided all required data and information and vessel attributes promptly and accurately, including any applicable vessel monitoring system requirements;
- (e) has complied with all applicable international conservation and management measures and such other applicable regional and international standards;
- (f) has been included in the record of authorised vessels of any relevant regional fisheries management organisation;
- (g) has not been, or is not, associated with a listed vessel;
- (h) is fit for the purpose for which the application has been made; and
- (i) the ability to comply with this Act.

(3) In this section –

“vessel attributes” includes the type, construction, capacity, machinery and other attributes of a fishing vessel, and specifications and other information in relation to its gear, equipment, aircraft and instrumentation.

101. Grounds for denial or non-renewal of licence, authorisation or vessel registration

(1) The supervising officer shall reject an application for the grant or issue of a licence, an authorisation or a vessel registration under this Act where he determines that –

- (a) the standards set out in section 100 have not been met at all or any times;
- (b) the exploitation of the fisheries is unsustainable;
- (c) the operator of the fishing vessel has not complied with or fulfilled pre-licensing or pre-registration requirements in accordance with section 99;
- (d) the operator of the fishing vessel has been convicted of an offence involving dishonesty or fraud;
- (e) notwithstanding this Act, the operator of the fishing vessel or the fishing vessel is subject to an access agreement and has not fully complied with the agreement, this Act or any applicable international conservation and management measure;
- (f) there is sufficient evidence that the operator of the fishing vessel or any person associated with the fishing vessel has engaged in IUU fishing or fishing related activities or any other relevant illegal activity and has not satisfied any relevant judgement or determination or been involved in an organised criminal group or transnational crime;
- (g) the operator of the fishing vessel has committed an offence in the maritime zones of Mauritius, or the fishing vessel has been used for such an offence and any consequent process has not been concluded;
- (h) the operator of the fishing vessel is associated with a listed vessel;

- (i) the fishing vessel is registered under a flag that is reasonably considered to be a “flag of non-compliance” because of the failure of the flag State to exercise effective flag State responsibility based, inter alia, on criteria set out in paragraph 2 of the FAO Voluntary Guidelines for Flag State Performance;
- (j) the fishing vessel is not fit for the purpose for which the application has been made;
- (k) the safety, health and welfare of persons engaged in any capacity on board the fishing vessel are at stake;
- (l) port State measures have been taken against the fishing vessel under an applicable conservation and management measure, there is reasonable evidence that the vessel had engaged in IUU fishing or fishing related activities and the operator of the vessel has not submitted to such legal or other process as may be required by a relevant port State, coastal State or flag State in relation to such evidence;
- (m) the applicant or any of the operator of the fishing vessel has not –
 - (i) complied with the terms and conditions of an existing or previous licence or any other requirement under this Act;
 - (ii) complied with the laws of Mauritius; and
 - (iii) submitted to due process under this Act in respect of the non-compliance or fully satisfied any applicable judgment or determination.

(2) Where the information in an application for a licence, an authorisation or a registration, or renewal thereof, is found to be false, misleading or inaccurate in any material particular, the supervising officer may reject the application.

(3) A licence shall not be issued or renewed in relation to a foreign fishing vessel previously licensed for fishing or fishing related activities by a foreign State if that vessel undermined the effectiveness of applicable international conservation and management measures and –

- (a) the foreign State suspended the previous licence, and the suspension has not expired; or
- (b) the foreign State, within the last 3 years preceding the application for a licence under this Act, withdrew the previous licence.

(4) The restriction in subsection (3) shall not apply where –

- (a) the ownership of the fishing vessel has changed since the vessel undermined the effectiveness of applicable international conservation and management measures; and
- (b) the new owner of the fishing vessel has provided evidence to the supervising officer that, in his opinion, demonstrates that the previous owner has no further legal, beneficial or financial interest in the vessel.

(5) The supervising officer shall notify, in writing, the applicant of his refusal to grant, issue or renew a licence, an authorisation or a registration and the reasons for the refusal, within 14 days of his decision.

102. Fees, levies and other charges

(1) No registration, licence or authorisation shall be granted, issued or renewed under this Act unless such applicable fee, levy or other charge as may be prescribed or as may be required by the supervising officer is paid.

(2) Any payment for a fee, levy or other charge shall not be refundable except where pro rata refunds may, with approval of the supervising officer, be made.

(3) Where a person to whom a registration, a licence or an authorisation under this Act satisfies the supervising officer that the

registration, licence or authorisation has been lost, destroyed or defaced, the supervising officer may, on payment of such fee as may be prescribed, issue a duplicate registration, licence or authorisation.

103. Duration of registration, licence or authorisation

Any registration, licence or authorisation shall, unless suspended or cancelled, remain valid for a period of one year from the date it is granted or issued, or such period as the supervising officer may approve.

104. Altered, defaced or mutilated registration, licence or authorisation

(1) A registration, a licence or an authorisation which has been altered without lawful authority or has been defaced or mutilated shall be deemed invalid for the purpose of this Act.

(2) Any person who alters a registration, a licence or an authorisation without lawful authority shall commit an offence.

105. Suspension, cancellation, surrender or termination of registration, licence or authorisation

(1) The supervising officer may suspend or cancel a registration, a licence or an authorisation under this Act where –

- (a) the holder has contravened –
 - (i) this Act or any terms and conditions specified in the registration, licence or authorisation;
 - (ii) any applicable access agreement; or
 - (iii) any applicable international conservation and management measure;
- (b) the holder had provided false, misleading or incomplete information in the application;
- (c) the holder has not submitted to the required judicial or administrative proceedings;

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- (d) another State suspends or cancels the licence of a Mauritius fishing vessel that has been issued an authorisation to fish in that State's waters for reasons related to IUU fishing or fishing related activities or in contravention of the relevant laws of that State;
 - (e) there has been a change in circumstances affecting the eligibility criteria required for the registration, licence or authorisation, and where a Mauritius fishing vessel ceases to be registered under this Act, its fishing licence shall automatically lapse;
 - (f) there has been a material change since the grant or issue of the registration, licence or authorisation;
 - (g) it is necessary to do so to ensure the sustainable use of the fisheries resource or to implement any international conservation and management measure;
 - (h) such seaworthiness, safety and labour standards as may be required are not met at all times;
 - (i) there is sufficient evidence that the operator of a fishing vessel has engaged in any IUU fishing or fishing related activities not otherwise addressed under this section or any other illegal activity or is associated with any organised criminal group or transnational criminal activity;
 - (j) information included in the application for the grant, issue or renewal of the registration, licence or authorisation is found to be false, misleading or inaccurate;
 - (k) this Act, or any applicable access agreement or applicable international conservation and management measure so requires;
 - (l) judicial or administrative proceedings taken in relation to the holder thereof so requires;

- (m) in the case of a foreign fishing vessel, the licence or authorisation issued by the flag State has been suspended or cancelled; or
- (n) for such other reasons as may be prescribed.

(2) The suspension or cancellation of any registration, licence or authorisation shall be promptly communicated by the supervising officer to the holder thereof by way of a written notice.

(3) Where a relevant access agreement terminates during the period of validity of a registration, a licence or an authorisation, it shall terminate on the same date as the access agreement and shall no longer be valid.

(4) No person whose registration, licence or authorisation is suspended or cancelled under subsection (1) or (2) is entitled to the refund of any fee, levy or other charge paid in respect thereof.

(5) Notwithstanding subsection (4), a pro rata refund, based on the duration of the suspension, shall be made in respect of the registration, licence or authorisation which is suspended or cancelled under subsection (1)(g).

(6) The holder of a registration, a licence or an authorisation under this Act shall surrender it to the supervising officer after ceasing fishing operations or upon suspension or cancellation, without prejudice to any liability or obligations which have accrued on the holder thereof prior to the date of surrender.

(7) Any person who finds a registration, a licence or an authorisation granted or issued under this Act shall surrender it to the supervising officer or to the nearest police station.

Sub-Part B – Process for Registrations, Licences and Authorisations

106. Application for registration, licence or authorisation

(1) An application for the grant, issue or renewal of a registration, a licence or an authorisation for any activity under this Act shall be made

to the supervising officer in such form and manner as he may approve, and shall be accompanied by such documents or information as the supervising officer may require.

(2) On receipt of an application under subsection (1), the supervising officer may carry out such investigation, or consult such person, as may be necessary to verify any document or information submitted under this section, and any person associated with the investigation or having been consulted shall give full cooperation and compliance.

(3) The supervising officer shall, in the case of an application for the registration of an industrial fishing vessel, refer the application to the Director of Shipping for his clearance.

107. Determination of application for registration, licence or authorisation

- (1) The supervising officer may, where an applicant –
- (a) is compliant with this Act, grant the application; or
 - (b) is not compliant with this Act, reject the application.

(2) Where, in the case of an application for the registration of an industrial fishing vessel, the applicant is not compliant with the Merchant Shipping Act, the supervising officer shall reject the application.

(3) Where the supervising officer makes a determination under subsection (1) or (2), he shall, within 14 days of his determination, inform the applicant of his decision and where he rejects the application, the reasons thereof.

108. Grant and issue of registration, licence and authorisation

A registration, a licence and an authorisation under this Act shall, unless otherwise provided for, be granted or issued by the supervising officer.

109. Registration, licence and authorisation to be in writing

A registration, a licence and an authorisation granted or issued under this Act shall be in writing.

110. Registration, licence and authorisation to be subject to terms and conditions

A registration, a licence and an authorisation shall be granted or issued subject to such terms and conditions as may be specified under this Act, or as may be prescribed or as may be required by the supervising officer.

Sub-Part C – Requirements for Fishing Vessel for Registration as Mauritius Fishing Vessel**111. Requirements for registration as Mauritius fishing vessel**

- (1) No fishing vessel shall be registered as a Mauritius fishing vessel under this Act where –
- (a) it poses or is reasonably expected to pose a risk to the safety of navigation or to the marine environment, including by not meeting required seaworthy standards;
 - (b) it is reasonable to foresee that it will be used for criminal purposes;
 - (c) the safety, health and welfare of persons engaged in any capacity on board the vessel are at stake;
 - (d) the registration is detrimental to the interests of Mauritius or is in breach of any international agreement;
 - (e) the operator of the vessel has been involved in IUU fishing or fishing related activities and any related judgement or determination has not been satisfied;
 - (f) it is reasonably foreseeable that the vessel will not be operated in compliance with applicable international fishery conservation and management measures;
 - (g) the vessel was previously registered in another country and the operator has not submitted a document showing that the vessel has been deleted from the register of that country;

- (h) the vessel is under a bareboat charter and the operator does not submit a document showing that the previous registry has been suspended.

(2) Any person who makes an application for the registration of a fishing vessel as a Mauritius fishing vessel shall not be granted registration unless –

- (a) the supervising officer approves such registration; and
- (b) in the case of an industrial fishing vessel, necessary clearances have been obtained by the Director of Shipping certifying that the vessel meets the requirements of the Merchant Shipping Act.

(3) Any person who makes an application for the registration of a fishing vessel as a Mauritius fishing vessel under this Act shall not be granted registration unless the supervising officer approves such registration.

(4) The supervising officer shall, in considering the approval of an application for the registration of a foreign fishing vessel, take into account, *inter alia* –

- (a) whether the vessel is or has been a listed vessel;
- (b) whether the vessel or the operator of the vessel has been involved in any form of non-compliance with national fisheries laws or international conservation and management measures over the preceding 10 years;
- (c) whether the vessel is fit for the purpose of fishing or fishing related activities and is compliant with this Act;
- (d) whether the vessel, the operator of the vessel or any crew member of the vessel has been involved in transnational criminal activities or an organised criminal group within the past 10 years;
- (e) such other activities that may indicate the likelihood of future non-compliance with this Act.

(5) Where any of the conditions exist under subsection (4), the supervising officer shall not approve a registration.

(6) Where the supervising officer registers an industrial fishing vessel, he shall inform the Director of Shipping accordingly.

112. Suspension and cancellation of registration of Mauritius fishing vessel

(1) The supervising officer may suspend or cancel the registration of a Mauritius fishing vessel registered under this Act –

- (a) on any of the grounds on which he would have been entitled to reject an application for registration;
- (b) where, in the case of an artisanal fishing vessel, the owner ceases fishing or fishing related activities, passes away or surrenders his fisher card;
- (c) where, other than in the case of an artisanal fishing vessel –
 - (i) the operator of the vessel ceases fishing or fishing related activities;
 - (ii) the association that owns the vessel ceases to exist; or
 - (iii) ownership of the vessel is transferred to another person;
- (d) where he has reasonable grounds to suspect that the fishing vessel has been used in contravention of this Act or any international fisheries conservation and management measure;
- (e) where he has contravened any provision of the Merchant Shipping Act; or
- (f) on any other grounds specified in section 105.

(2) Where the registration of a Mauritius fishing vessel is cancelled, the owner of the vessel shall, not later than 7 days of being

informed of such deregistration, cause the identification mark affixed to the vessel to be removed and, where applicable, take necessary measures for the vessel not to be in an abandoned state.

(3) The owner of a fishing vessel who fails to remove the identification mark pursuant to subsection (2) shall commit an offence.

113. Deregistration of Mauritius fishing vessel

(1) The owner of a Mauritius fishing vessel may apply to the supervising officer for the deregistration of his Mauritius fishing vessel and the supervising officer may, subject to subsection (2), deregister the vessel.

(2) Where a Mauritius fishing vessel registered under this Act is abandoned, lost or destroyed, the owner of the vessel shall, within 48 hours thereof, give written notice of the abandonment, loss or destruction to the supervising officer.

(3) The supervising officer shall not deregister a Mauritius fishing vessel under subsection (1) or (2) unless the owner of the vessel complies with any liability or obligations which have accrued thereof prior to the date of deregistration.

(4) Where a Mauritius fishing vessel is deregistered, the owner of the vessel shall, not later than 7 days of being informed of such deregistration, surrender the certificate of registration to the supervising officer and cause the identification mark affixed to the vessel to be removed and, where applicable, take necessary measures for the vessel not to be in an abandoned state.

(5) The owner of a fishing vessel who contravenes subsection (2) or (4) shall commit an offence.

114. Modification of Mauritius fishing vessel

(1) The owner of a Mauritius fishing vessel shall not modify or cause another person to modify the size, structure or engine capacity of a Mauritius fishing vessel without authorisation.

(2) The owner of a Mauritius fishing vessel who contravenes subsection (1) shall commit an offence.

115. Transfer of ownership, name and address of Mauritius fishing vessel

(1) Where there is a transfer of ownership of a Mauritius fishing vessel or where the owner of a Mauritius fishing vessel charters the vessel to another person, the former owner and the new owner or the charterer, as the case may be, shall, not later than 14 days after the transfer or charter, give written notice of the transfer or charter to the supervising officer.

(2) Where there is a change of name or address of a Mauritius fishing vessel, the owner or agent of the vessel shall, not later than 14 days of the change of name or address, give written notice of the change of name or address to the supervising officer.

(3) A person who contravenes subsection (1) or (2) shall commit an offence.

Sub-Part D – Requirements for Fishing or Fishing Related Activities by Mauritius Fishing Vessel**116. Licence required by Mauritius fishing vessel for fishing or fishing related activities in maritime zones of Mauritius**

(1) No person shall use or cause another person to use a Mauritius fishing vessel for fishing or fishing related activities in the maritime zones of Mauritius without a valid and applicable licence.

(2) In this section –

“Mauritius fishing vessel” includes a vessel registered as a pleasure craft under the Tourism Authority Act but, for the purposes of this Act –

- (a) engages in fishing or fishing related activities for sports or recreational purpose; and
- (b) the fish taken during the fishing or fishing related activities are sold, bartered or traded.

(3) Any person who contravenes subsection (1) shall commit an offence.

117. Authorisation required by Mauritius fishing vessel for fishing or fishing related activities in areas beyond national jurisdiction or area of competence of a relevant regional fisheries management organisation

(1) No person shall use or cause a Mauritius fishing vessel to be used for fishing or fishing related activities in areas beyond national jurisdiction or the area of competence of a relevant regional fisheries management organisation without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

Sub-Part E – Requirements for Fishing or Fishing Related Activities by Foreign Fishing Vessel

118. Licence required by foreign fishing vessel for fishing or fishing related activities in maritime zones of Mauritius

(1) No person shall use or cause another person to use a foreign fishing vessel for fishing or fishing related activities in the maritime zones of Mauritius without a valid and applicable licence.

(2) Any person who contravenes subsection (1) shall commit an offence.

Sub-Part F – Licence and Registration Requirements for Fishmongers, Artisanal Fishers, Bank Fishers and Trainee Fishers

119. Fishmonger licence

(1) No person shall sell, or have in his possession for sale, any fish without a valid fishmonger licence.

(2) Subsection (1) shall not apply to a registered fisher who sells fish at a fish landing station.

(3) Any person who contravenes subsection (1) shall commit an offence.

120. Registration of artisanal fisher, bank fisher and trainee fisher

- (1) Subject to subsection (2), no person shall engage in fishing as –
 - (a) an artisanal fisher or a bank fisher unless he is registered as a registered fisher; or
 - (b) a trainee fisher unless he is registered as a registered trainee fisher.
- (2) Subsection (1) shall not apply to a person who –
 - (a) is employed as a bank fisher on a registered semi-industrial fishing vessel;
 - (b) engages in fishing for sports or recreational purposes; or
 - (c) accompanies a registered fisher on a fishing trip in a registered fishing vessel.
- (3) The supervising officer shall issue a registered fisher with a fisher identity card and a fisher card.
- (4) No person shall, without lawful excuse, prevent, interfere with, hinder or harass a registered fisher in the conduct of his fishing activities.
- (5) Any person who contravenes subsection (1) or (4) shall commit an offence.

121. Requirement to possess fisher identity card while engaging in fishing or fishing related activities

- (1) Every registered fisher shall, while engaging in fishing or fishing related activities, have in his possession his fisher identity card.
- (2) Any person who contravenes subsection (1) shall commit an offence.

122. Deregistration of registered fishers

- (1) The supervising officer shall deregister a registered fisher who –
 - (a) retires;
 - (b) is found to be medically unfit;

- (c) surrenders his fisher card;
- (d) does not obtain, without any valid reason, a stamp for his fisher card for a consecutive period of more than 6 months;
- (e) is engaged in any gainful employment;
- (f) is convicted for a drug dealing offence under the Dangerous Drugs Act;
- (g) ceases fishing or fishing related activities; or
- (h) passes away.

(2) Where a registered fisher surrenders his fisher card, he may, with the approval of the supervising officer, transfer the card to his next of kin.

123. Obligations of registered fishers

(1) No registered fisher shall land his catch at a place other than at the fish landing station where the fishing vessel is registered, except in case of force majeure.

(2) A fisher shall, for landing purposes, moor his fishing vessel in a radius of not more than 50 metres from the fish landing station, or within such other distance as the supervising officer may approve.

(3) A registered fisher who lands his catch at the fish landing station shall, at the request of a fisheries enforcement officer, cause the fish to be weighed and provide such particulars on the catch as the officer may require.

(4) A registered fisher shall, during each fishing trip and at the time of landing, take all necessary measures to store his catch in such manner and in such place as the supervising officer may approve.

(5) A registered fisher shall, prior to proceeding on a fishing trip, inform, one day in advance, the fisheries post where the fishing vessel is registered, of the region where he intends to engage in fishing and his expected date of return.

(6) Where a fishing vessel is not on a fishing trip, the registered fisher of the vessel shall moor the vessel at such place as the supervising officer may approve.

(7) Any registered fisher who contravenes subsection (1), (2), (3), (4) or (6) shall commit an offence.

Sub-Part G – Licence Requirements for Gears

124. Licence required for manufacture, import, sale or supply of gear except for basket trap, fish spear, line, rod, reel or lure

(1) No person shall manufacture, import, sell or supply any gear other than a basket trap, fish spear, line, rod, reel or lure without a valid and applicable licence.

(2) The holder of a valid and applicable licence under this section shall –

- (a) keep a register in which he shall enter particulars of every purchase and sale of any gear manufactured or imported by him, including –
 - (i) the name and address of the seller or purchaser of the gear;
 - (ii) the description, measurements and number of gears purchased and sold by him; and
 - (iii) the number and date of issue of the licence held by the seller and purchaser;
- (b) on demand, make available the register to a fisheries enforcement officer; and
- (c) not later than 14 days after any sale or purchase of any gear, submit to the supervising officer, in writing, the particulars specified in paragraph (a).

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

125. Gear licence required for bait gear, canard net, gill net, large net, pocket net and shrimp net

(1) No person shall use or possess a bait gear, canard net, gill net, large net, pocket net or shrimp net without a valid gear licence issued in respect of the bait gear, canard net, gill net, large net, pocket net or shrimp net.

(2) No licence to concurrently use or possess a gill net and a large net shall be issued to the same person.

(3) The holder of a gear licence shall not transfer his licence to any other person.

(4) The supervising officer may cause to be affixed a seal or any other identification mark on such type of gear as he may determine.

(5) Any person who contravenes subsection (1) or (3) or tampers with a seal or an identification mark affixed to a gear pursuant to subsection (4) shall commit an offence.

126. Duties of holder of gear licence

(1) The holder of a gear licence shall –

- (a) on demand, produce his licence to a fisheries control officer;
- (b) on demand, produce any gear in his possession or indicate its location to any fisheries control officer;
- (c) report to the supervising officer any damage to the seal or identification mark affixed under section 125(4);
- (d) surrender licensed gear to the supervising officer on the expiry or cancellation of his licence; and
- (e) engage in fishing only within the limits specified in the licence.

(2) Where the holder of a gear licence –

- (a) surrenders his licence to the supervising officer;
- (b) surrenders his gear to the supervising officer;

- (c) dies; or
- (d) is, in the case of an association, wound up,

the licence shall lapse.

(3) Where a gear licence lapses pursuant to subsection (2), the gear shall be surrendered to the supervising officer for safe keeping until disposal.

(4) The holder of a gear licence who contravenes subsection (1) or (3) shall commit an offence.

127. Disposal or replacement of licensed gears

(1) The holder of a gear licence who intends to dispose of his licensed gear shall inform the supervising officer in writing and surrender the gear to the supervising officer or a fisheries control officer.

(2) The holder of a gear licence shall not replace any licensed gear referred to in subsection (1) without a valid and applicable authorisation.

(3) The supervising officer may cause to be destroyed any gear which is surrendered.

(4) The owner of any gear destroyed under subsection (3) shall not be entitled to any compensation.

(5) The holder of a gear licence who contravenes subsection (1) or (2) shall commit an offence.

128. Net or gear exceeding authorised length

(1) No person, including the holder of a gear licence or the authorised agent of a net fishery, shall possess at sea, on land or in his premises or dwelling place, any net or gear which exceeds the authorised length or has a mesh size less than that authorised under this Act.

(2) Any person who contravenes subsection (1) shall commit an offence.

Sub-Part H – Other Requirements for Fishing or Fishing Related Activities

129. Licence required for underwater fishing

(1) Subject to subsection (2), no person shall engage in underwater fishing without a valid and applicable licence.

(2) A licence for underwater fishing may only be issued for the purpose of catching ornamental fish or such other purpose as the supervising officer may determine.

(3) No person shall, for the purpose of underwater fishing, be in possession of a diving cylinder.

(4) Any person who contravenes subsection (1), (2) or (3) shall commit an offence.

(5) Any person who is found to be in possession of fish, together with a diving cylinder, shall be deemed to have been engaged in underwater fishing.

130. Licence required for exploratory fishing

(1) No person shall engage in exploratory fishing without a valid and applicable licence.

(2) The holder of a licence for exploratory fishing shall –

- (a) conduct exploratory fishing with due regard to the protection of the marine environment;
- (b) not use a trawl net along the sea floor in the maritime zones of Mauritius;
- (c) ensure that the catch or bycatch of exploratory fishing shall not be transhipped prior to arrival of the fishing vessel used for exploratory fishing to Port Louis harbour;
- (d) land the catch and bycatch at Port Louis harbour;
- (e) process or export the catch and bycatch from the Island of Mauritius;

- (f) submit reports in respect of the data obtained or generated from the exploratory fishing to the supervising officer at such intervals as he may determine;
- (g) not tamper, or allow or cause another person to tamper, with the data from exploratory fishing;
- (h) provide all required data to the supervising officer on a confidential basis.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

131. Authorisation required to operate in net fishery

(1) No person, other than the holder of a valid net fisher card, shall operate in a net fishery without a valid and applicable authorisation.

(2) Any person who contravenes subsection (1) shall commit an offence.

132. Authorisation required for importation and construction of fishing vessel

(1) No person shall import or construct any fishing vessel without a valid and applicable authorisation.

(2) A person who contravenes subsection (1) shall commit an offence.

Sub-Part I – Register for Registrations, Licences and Authorisations

133. Registers

(1) The supervising officer shall, for the purposes of this Act, keep –

- (a) a register of Mauritius fishing vessels;
- (b) a register of foreign fishing vessels;
- (c) a register of registered fishers;

- (d) a register of registered trainee fishers; and
- (e) any other register for any other registration, licence or authorisation granted or issued under this Act.

(2) A Register may consist of manual or electronic records or such other records as the supervising officer may determine.

(3) The supervising officer may amend an entry in a Register where a clerical error is apparent or there is evidence that the entry is otherwise incorrect.

(4) Any person may, on application to the supervising officer and on good cause shown, obtain a transcript of an entry in a Register.

PART XI – MONITORING, CONTROL AND SURVEILLANCE

Sub-Part A – Functions and Powers of Fisheries Control Officers and Fisheries Enforcement Officers

134. Powers of entry and search

(1) Where a fisheries control officer has reasonable grounds to suspect that this Act is being contravened, he may, at any time and without warrant –

- (a) stop, board, stay on board and search any vessel, vehicle or aircraft which is being used or is intended to be used for fishing or fishing related activities;
- (b) stop, board, stay on board and search any Mauritius fishing vessel or any fishing vessel flying the flag of a State party to an international agreement to which Mauritius is a party and which provides for such stopping, boarding and searching, in areas beyond national jurisdiction;
- (c) stop, board, stay on board and search any fishing vessel pursuant to an international conservation and management measure;

- (d) stop, board, stay on board and search any foreign fishing vessel following hot pursuit;
- (e) stop, board, stay on board and search any fishing vessel without nationality on the high seas; or
- (f) enter and inspect any place or premise including areas related to aquaculture activities, except that premises used solely for dwelling may only be entered with the consent of the occupier or with a warrant.

(2) Any person who obstructs or who otherwise interferes with a fisheries control officer in the exercise of his powers under this section shall commit an offence.

135. Powers of investigation

(1) In the course of an inspection under section 134, a fisheries control officer shall have access to all parts of a fishing vessel, a premises, an aquaculture premises, a vehicle or an aircraft, or port facilities, including the quay area, storage rooms, production facilities and cold stores, and may –

- (a) examine and take or require copies of any relevant document or information about fish, fishing or fishing related activities, aquaculture or other activities under this Act including, registrations, licences or authorisation, logbooks and any document and information stored electronically;
- (b) examine any gear, fish or fish products, any equipment, any document, any record, any article, any apparatus, any container or the contents of any kind that is found in or on the vessel, vehicle, aircraft, premises, facility or place;
- (c) examine or test or cause to be examined or tested any electronic equipment required to be on board the vessel or used for any activity that falls under this Act, including any position fixing instrument or navigational, observation or communication equipment;

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- (d) break open any hold or compartment, container or other receptacle upon a boarded vessel that the officer has reasonable grounds to suspect may contain evidence in relation to an offence under this Act;
 - (e) take samples of fish or fish products at the expense of the owner;
 - (f) open any packing material to verify its content at the cost of the owner;
 - (g) require that parts of or all fish are weighed on certified scales;
 - (h) where weather or any technical condition does not allow the carrying out of inspection or search, require the operator of the vessel to take the vessel to any place, port or harbour for the purpose of performing or completing the inspection or search;
 - (i) stop any person and examine any record, article, container, gear, apparatus, device or fish in the possession of that person;
 - (j) notwithstanding any other enactment, pass across any land;
 - (k) monitor landing and transshipment operations and take samples, photographs, videos and relevant documentation;
 - (l) require a person engaged or apparently engaged in any activity for which a registration, a licence or an authorisation is required under this Act or an applicable international agreement or international conservation and management measure to –
 - (i) give information about the relevant activity;
 - (ii) state whether he holds a registration, a licence or an authorisation under this Act and, if so, to produce the permission;

- (iii) state his name, date of birth and place of abode;
- (m) make an entry dated and signed by him in a vessel's logbook, and require the master to sign the entry, or to indicate on a chart or other document the position of the vessel at that time and initial such chart or other document accordingly;
- (n) require any person associated or apparently associated with the vessel, vehicle, aircraft, premises, facility or other place or activity falling under this Act to provide such information as may be reasonably required for the enforcement of this Act;
- (o) issue an order to stop ongoing activities to the extent required to perform the inspection;
- (p) issue an order, in writing, to stop any activity in contravention of this Act; or
- (q) perform such other duties as may be reasonably required in the course of the inspection.

(2) Where an inspection is carried out under subsection (1), the operator of the fishing vessel or any other person in charge of the premises, aquaculture area, vehicle or aircraft shall –

- (a) provide such assistance, information and facilities as may be necessary to enable the fisheries control officer to exercise his powers under this section;
- (b) produce, at the request of the fisheries control officer, all relevant materials and documents;
- (c) ensure the personal safety of the fisheries control officer; and
- (d) bear any cost arising therefrom.

(3) Any person who obstructs or who otherwise interferes with a fisheries control officer in the exercise of his powers under this section shall commit an offence.

136. Powers to take, detain, remove and secure evidence

- (1) A fisheries control officer may, for the purposes of this Act –
 - (a) inspect, take, detain and secure samples, documents, logbooks, including electronic logbooks or other information, or copies thereof, from any fishing vessel, premises, facilities or other place, other than premises used exclusively as a dwelling house, but including premises that are part of or attached to a dwelling house used for activities under this Act;
 - (b) make or take copies of any record, and for this purpose, may take possession of and remove any record from the place where they are kept, for such period of time as may be reasonable in the circumstances;
 - (c) where necessary, require a person to reproduce, or assist the officer to produce in a useable form, information recorded or stored in a document; and
 - (d) require any person associated or apparently associated with a fishing vessel, premises, facilities or other place or activity falling under this Act to provide such information as may be reasonably required for the monitoring or enforcement of this Act.
- (2) Where a fisheries control officer is questioning a person for the purposes of subsection (1)(d), he may –
 - (a) require the person being questioned to provide answers, including any explanation or information concerning any fishing vessel or any place or thing or fishing method, gear, apparatus, record, document, article, device, or any other thing relating to the taking, sale, purchase, or possession of any fish; and
 - (b) require that person or any other person to produce any registration, licence or authorisation or other document granted or issued in respect of any fishing vessel or person.
- (3) Any person who obstructs or who otherwise interferes with a fisheries control officer in the exercise of his powers under this section shall commit an offence.

137. Powers of detention

(1) Where a fisheries control officer has reasonable grounds to suspect that an offence under this Act is being or has been committed, he may –

- (a) detain any person, fishing vessel, vehicle, parcel, package, record, document, article, gear, equipment, apparatus, device, container, fish or such other thing for such period as is reasonably necessary to enable an examination or search under this Act; or
- (b) hand such person or other thing over to the police where he is not a police officer.

(2) Where a fishing vessel or vehicle is detained, including any of its gear and equipment, a Notice of Detention shall be issued to the operator of the vessel, vehicle or item and a copy of such notice shall be promptly transmitted to any relevant department of the Government.

(3) Where a fishing vessel is detained at sea, it shall be taken to Port Louis harbour or such other suitable port together with the persons employed on the vessel as the fisheries control officer reasonably believes will be required for any examination or search.

(4) Where a foreign fishing vessel is detained, the supervising officer shall ensure that the flag State is notified thereof.

(5) Any person who obstructs or who otherwise interferes with a fisheries control officer in the exercise of his powers under this section shall commit an offence.

138. General powers of fisheries control officers

(1) A fisheries control officer who has reasonable grounds to suspect that a person is committing or has committed an offence under this Act, he may –

- (a) order that person to immediately cease and desist;

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- (b) require that person to give his name, date of birth, residential address and occupation and, where applicable, the name and address of the owner of any fishing vessel or vehicle used in the commission of the suspected breach of this Act, and request such verification of those details as is reasonable in the circumstances;
 - (c) as soon as practicable, bring him or her to the nearest police station or National Coast Guard station for further enquiry.
- (2) A fisheries control officer may –
- (a) do such acts and things and give such directives as are reasonably necessary for the purposes of performing or exercising his functions and powers under this Act; and
 - (b) use such force as is reasonably necessary to exercise his powers under this Act.
- (3) Where a person associated with a foreign fishing vessel is arrested, the supervising officer shall ensure that the flag State is notified thereof.
- (4) Any person who fails to comply with an order under subsection (1)(a) or a requirement under subsection (1)(b), or who obstructs or who otherwise interferes with a fisheries control officer in the exercise of his powers under this section, shall commit an offence.

139. Power to order vessel to the port of Mauritius

- (1) A fisheries control officer who has reasonable grounds to suspect that a fishing vessel, including its gear or equipment, is being or has been used in contravention of this Act, an international conservation and management measure or any agreement entered into under this Act may –
- (a) take the vessel as soon as reasonably practicable to the nearest available port of Mauritius for purposes related to inspection or such port or place that will facilitate inspection, having due regard for the safety of the

vessel and crew and the need for sufficient port services to continuously maintain the vessel's electricity, water and other requirements and avoid the spoilage of fish or fish products;

- (b) remain in control of the vessel at the port of Mauritius for such period as is reasonably necessary to enable a fisheries control officer to exercise any other powers under this Act, until the vessel is permitted to depart from the port.

(2) The vessel shall be authorised to depart within such time as it may take to expediently conduct a full inspection of the vessel and all relevant evidence and consult with the relevant Government officials and relevant regional fisheries management organisations, and the supervising officer determines there are no reasonable grounds to suspect a contravention as described in subsection (1).

(3) The operator of any vessel who obstructs a fisheries control officer in the exercise of his powers under this section or departs or attempts to depart from the port of Mauritius without authorisation given under subsection (2) shall commit an offence.

140. Powers of seizure

- (1) A fisheries enforcement officer may seize –
 - (a) any fishing vessel or other conveyance, gear, implement, appliance, material, container, goods, equipment or thing where he has reasonable grounds to suspect that it is being, has been or is intended to be used in the commission of an offence under this Act;
 - (b) fish or fish products, including any other fish with which such fish may be intermixed, where he has reasonable grounds to suspect that they are being or have been taken, killed, transported, bought or sold or have been found in the possession of any person in contravention of this Act;

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- (c) any item, article, record or thing where he has reasonable grounds to suspect that it may provide evidence of an offence under this Act or any contravention of an applicable international conservation and management measure;
 - (d) any passport and seaman's record book –
 - (i) of the master and crew of a fishing vessel directed to return to and remain in port pursuant to this Act until the vessel is permitted to depart;
 - (ii) of any person arrested, until that person is brought before a Court; or
 - (iii) pursuant to any order of the Court; and
 - (e) any other item which he has reasonable grounds to suspect –
 - (i) has been or is being used to commit an offence under this Act;
 - (ii) has been forfeited under this Act; or
 - (iii) has been unlawfully removed from custody under this Act.

(2) A fisheries enforcement officer shall deliver anything seized under subsection (1) into the custody of the supervising officer for safekeeping under such procedures as he may determine.

(3) A written notice of the seizure shall be given to the person from whom any article or thing was seized or to any other person whom the fisheries enforcement officer believes is the owner or person otherwise entitled to possession of the article or thing seized, and the grounds for such seizure shall be specified in the notice.

(4) The supervising officer shall, upon seizure of a foreign fishing vessel, ensure that the flag State is promptly notified of any action taken and penalties imposed.

(5) For the purposes of this section, a vessel's equipment, gear, furniture, appurtenances, stores and cargo shall be deemed to form part of the vessel.

141. Removal of parts from seized fishing vessels

(1) A fisheries enforcement officer may remove or cause to be removed any part from a fishing vessel seized pursuant to this Act for the purpose of immobilising that vessel.

(2) Any part or parts removed under subsection (1) shall be kept safely and returned to the fishing vessel upon its release.

(3) No person, except with an authorisation from the supervising officer, shall –

- (a) possess or arrange to obtain any part or parts removed under subsection (1);
- (b) possess or arrange to obtain or make any replacement or substitute part or parts for those removed under subsection (1); or
- (c) fit or attempt to fit any part or parts or any replacement or substitute part or parts to a fishing vessel seized pursuant to this Act.

(4) Any person who contravenes subsection (3) shall commit an offence.

142. Pursuit beyond the maritime zones of Mauritius

(1) A fisheries enforcement officer who has reasonable grounds to suspect that a foreign fishing vessel has contravened this Act, an applicable international conservation and management measure or international agreement may undertake hot pursuit of the vessel in accordance with conditions recognised under international law, including –

- (a) the fisheries enforcement officer being satisfied that the vessel or one of its associated boats is in the maritime zones of Mauritius, based upon evidence from, inter alia –
 - (i) vessel monitoring system;
 - (ii) geographical positioning system;
 - (iii) aerial photography;

- (iv) satellite systems; or
 - (v) any other accepted international communication system;
- (b) the pursuit may only be commenced after a visual or an auditory signal to stop has been given at a distance which enables it to be seen or heard by persons aboard the vessel;
 - (c) it is not necessary that, at the time when the vessel receives the order to stop, the vessel giving the order should likewise be in the maritime zones of Mauritius;
 - (d) the pursuit shall be continuous and not interrupted;
 - (e) the right of hot pursuit ceases as soon as the vessel pursued enters the territorial sea of its State or of a third State; and
 - (f) the right of hot pursuit may be exercised by vessels or aircraft clearly marked and identifiable as being on Government service and authorised to that effect.

(2) A fisheries enforcement officer exercising powers specified in subsection (1) shall inform the supervising officer, who shall, through the Ministry responsible for the subject of foreign affairs, inform the appropriate flag State.

(3) A fisheries enforcement officer may, following hot pursuit outside the maritime zones of Mauritius and in areas beyond national jurisdiction in accordance with subsection (1) and international law, stop, board and search outside any fishing vessel which he has reasonable grounds to suspect has been used in the commission of an offence under this Act, exercise any powers conferred by this Act and bring such vessel and all persons and things on board back into the maritime zones of Mauritius.

(4) The operator of any fishing vessel who does not comply with the order to stop given under subsection (1)(b) or with any powers exercised by a fisheries enforcement officer pursuant to subsection (3) shall commit an offence.

143. Powers of investigation in areas beyond national jurisdiction

- (1) A fisheries enforcement officer may –
 - (a) investigate any person where he has reasonable grounds to suspect that such person, natural or legal, is associated directly or indirectly with any fishing vessel or activity that may not be complying with this Act in areas beyond national jurisdiction;
 - (b) request another State to carry out investigations of any fishing vessel or person, natural or legal, where he has reasonable grounds to suspect that such vessel or person has been involved in IUU fishing or fishing related activities in contravention of this Act, any international conservation and management measure or international agreement.

(2) Any person who obstructs a fisheries enforcement officer in the exercise of his powers under subsection (1)(a) shall commit an offence.

144. Obligation for inspection of Mauritius fishing vessels in areas beyond national jurisdiction

(1) The operator of a Mauritius fishing vessel shall not withhold consent to, and cooperate fully with, any boarding and inspection in areas beyond national jurisdiction where it is undertaken by any person, including foreign persons –

- (a) authorised to inspect fishing vessels at sea used for fishing or fishing related activities in accordance with an inspection scheme operating under an international agreement in the applicable area;
- (b) authorised to inspect fishing vessels in waters or ports under the jurisdiction of another State in accordance with relevant laws of that State and procedures.

(2) Where an inspection is carried out at sea under subsection (1)(a), the foreign inspector shall have the powers agreed pursuant to the international agreement.

(3) The operator of a Mauritius fishing vessel shall fully cooperate with all inspections in the manner specified in this Act.

(4) Any person who contravenes subsection (1) or (3) shall commit an offence.

145. Request for assistance

(1) A fisheries control officer may, for the purposes of this Act, require any person to assist him –

- (a) to bring a fishing vessel to a place in Mauritius in accordance with this Act; or
- (b) in circumstances where the need for assistance in enforcing this Act is immediate and urgent,

and that person shall be deemed to have the authority and powers of a fisheries control officer for the purposes for which, and time during which he is required to act, except for the powers of arrest.

(2) Subsection (1) shall apply where a person has been duly appointed by another State with powers and authority similar to those of a fisheries control officer under this Act and, in addition, the Minister may, in consultation with authorities of such other State, declare such person to have the authority and powers of a fisheries control officer under this Act for a specified purpose, area or time except for the power of arrest.

Sub-Part B – Observers

146. Appointment of observers

(1) The supervising officer may, on such terms and conditions as he may impose, appoint any person or category of persons as an observer for the purpose of observing, collecting, recording and reporting reliable and accurate information and data for scientific, monitoring, management and compliance purposes under this Act.

(2) The supervising officer shall not appoint as observer any person who has a direct or an indirect interest or association with a fishing

vessel, an activity or persons being observed, such as an operator of a fishing vessel, crew member or other person associated with the operator, and no such person shall be permitted to serve as an observer on any fishing vessel or for any activity under this Act.

(3) An observer may be deployed, as may be directed by the supervising officer in accordance with this Act and any applicable international agreement, or international conservation and management measures, on any fishing vessel, in the maritime zones of Mauritius or in areas beyond national jurisdiction, used for fishing, transshipment, transportation or landing of fish and such other activity under this Act.

147. Responsibilities of observers

(1) The responsibilities of observers shall include observing, collecting, recording and reporting the following information –

- (a) observe and record the harvesting, handling and processing of fish and fish products and related operations;
- (b) collect and record scientific, biological and other information related to activities under this Act;
- (c) the species, quantity, size, age and condition of fish taken, including as bycatch and whether the species is threatened or endangered;
- (d) the methods by which, the areas in which, and the depths at which, fish are taken;
- (e) the effects of fishing methods on fish and the environment, including where applicable cases of entanglement in nets;
- (f) all aspects of the operation of any fishing vessel, including activities relating to bribery, corruption or illegal activities;
- (g) processing, transportation, transshipment, storage or disposal of fish and fish products;

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- (h) take samples or photographs of fish harvested or anything on board a fishing vessel;
 - (i) monitor the implementation of conservation and management measures taken pursuant to this Act, applicable international conservation and management measures and international agreements; and
 - (j) such other information as may be required under this Act.
- (2) The responsibilities of observers shall include performing –
- (a) such other activities to implement applicable international conservation and management measures as may be assigned by the supervising officer; and
 - (b) such other activities that may assist the supervising officer to obtain, analyse or verify information for fisheries scientific, conservation, management and compliance purposes, and as may be assigned by the supervising officer.

148. Observer costs

(1) The costs for observers performing duties under this Act shall be charged as a separate “observers levy” in addition to all other charges, including the fees relating to authorisations and licences, in such amount and manner as the Minister may require on the recommendation of the supervising officer.

- (2) The costs referred to in subsection (1) shall include –
- (a) full insurance coverage;
 - (b) salary;
 - (c) allowances;
 - (d) equipment;
 - (e) training;
 - (f) all travel and associated expenses to and from the fishing vessel or other place to which the observer is assigned; and

- (g) other costs associated with the management and administration of an observer programme at a level to be approved by the Minister on the recommendation of the supervising officer.

(3) Where payment required pursuant to subsection (1) is not made as required, the applicable authorisation or licence shall not be granted or issued, or if granted or issued be deemed to be suspended and without legal force or effect until payment in full has been made and acknowledged in writing by the supervising officer.

(4) All payments received pursuant to the observer levy shall be deposited into a special account and used for payment of costs incurred as described in subsection (2).

149. Duty of operators and crew members to assist observers

(1) The operator and each crew member of any fishing vessel on which an observer is placed shall, at all times in the maritime zones of Mauritius and areas beyond national jurisdiction, allow and assist the observer, in the performance of his duties, to –

- (a) board such vessel at such port as the supervising officer may designate;
- (b) provide the observer with appropriate working space, access to all spaces and communication equipment;
- (c) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment;
- (d) ensure that accommodation, meals and treatment of the observer is at the same standard as officers on board the vessel;
- (e) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;

- (f) gather such other information relating to fisheries as may be required for purposes of carrying out the objectives of this Act or any applicable conservation and management measure; and
- (g) disembark at such time and place as the supervising officer may require, provided that such disembarkation is in accordance with the safe operation of the vessel.

(2) An operator or a crew member of any fishing vessel on which an observer is placed in accordance with this Act shall commit an offence.

150. Notice of intention to place observer

(1) The supervising officer shall, before placing any observer on a fishing vessel, give the operator of the vessel notice of his intention to place an observer on the vessel.

(2) The operator of the fishing vessel shall, for purposes of observer placement and deployment –

- (a) notify the supervising officer at the beginning of each licensing period of the port in Mauritius where it intends to base operations, and where placement is not possible at such port, be responsible to the Ministry for all and any extra costs incurred in observer placement; and
- (b) notify the supervising officer of the intended time of entry into and subsequent departure from the port at such reasonable time prior to such entry as the supervising officer may direct.

151. Observers and field inspectors under a regional fisheries management organisation observer scheme

(1) This Act shall apply to activities under the observer scheme of a relevant regional fisheries management organisation and the collection of verified catch data and other scientific data related to the fisheries for tuna and tuna-like species in the area of competence of such relevant regional fisheries management organisation.

(2) An observer assigned to a fishing vessel shall monitor the catches at unloading to identify the composition of catches of such species as may be identified by the supervising officer.

(3) An observer shall, inter alia –

- (a) record and report fishing activities, verify positions of the fishing vessel;
- (b) observe and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, by-catches and size frequency;
- (c) record the gear type, mesh size and attachments employed by the master of the fishing vessel;
- (d) collect information to enable the cross-checking of entries made to the logbooks and, where available, species composition and quantities, live and processed weight and location; and
- (e) carry out such other scientific work as requested by the Scientific Committee of the relevant regional fisheries management organisation.

(4) A field inspector shall monitor catches at the landing place with a view to estimating catch-at-size by type of fishing vessel, gear and species, or carry out such scientific work as requested by the Scientific Committee of a relevant regional fisheries management organisation.

(5) The confidentiality rules, policy and procedures for fine-scale data set out in any applicable international conservation and management measure shall be applicable and have the force of law in Mauritius.

Sub Part C – Protection and obstruction of authorised persons

152. Protection of authorised persons

Where a fishing vessel is being brought to a place in Mauritius as directed in accordance with this Act –

- (a) the master of the vessel, being in control of the vessel, shall be responsible for the safety of the vessel and of each person on board until the vessel arrives at the designated place; and

- (b) no claim shall be made against an authorised person in respect of any death, injury, loss or damage that occurs while the vessel is being brought to such place.

153. Obstruction of authorised persons

- (1) Any person who –
 - (a) is the operator or a crew member of a fishing vessel fails or refuses to allow or assist an authorised person to –
 - (i) safely board the vessel;
 - (ii) have full access to and use of such facilities, gear and equipment on board as the authorised person may determine is necessary to perform or exercise his functions and powers, including the bridge, fish and fish products on board, gear and areas which may be used to hold, process, weigh or store fish;
 - (iii) have full access to the vessel's records, including its logbook, charts and documentation and other information relating to fishing, whether required to be carried and maintained under this Act or otherwise, for purposes of performing or exercising his functions and powers under this Act, including records inspection and copying;
 - (iv) have access to navigational and communications equipment;
 - (v) take, measure, store on or remove from the vessel and retain, such reasonable samples or whole specimens of any fish as may be required for scientific purposes; and
 - (vi) safely disembark from the vessel;
 - (b) fails or refuses to allow, obstructs or hinders an audit, inspection, examination or search that is authorised under this Act;

- (c) fails or refuses to facilitate by all reasonable means an authorised person's entry into and any inspection of –
 - (i) any premises, facility or export facility, including storage areas and suspected storage areas, facilities or locations;
 - (ii) fish and fish products, gear, equipment or records;
- (d) fails or refuses to comply with a lawful instruction or direction given by an authorised person;
- (e) denies a request made by an authorised person in the course of performing or exercising his functions and powers under this Act, including a request for access to records, documents, areas, gear and equipment and a request that equipment be turned on;
- (f) fails or refuses to give the person's birth name, date of birth and place of abode to an authorised person, when lawfully required to do so;
- (g) when lawfully required to give information to an authorised person, gives information which is false, incorrect or misleading in any material respect;
- (h) resists lawful arrest for any act prohibited by this Act;
- (i) interferes with, delays or prevents by any means, the apprehension or arrest of another person by an authorised person, if the authorised person has reasonable grounds to suspect that the person has committed an offence under this Act;
- (j) fails or refuses to –
 - (i) allow an authorised person to carry out his functions safely; or
 - (ii) take all reasonable measures to ensure the safety of an authorised person as appropriate in the performance of his functions;

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- (k) impersonates an authorised person or falsely represents himself or herself to be an authorised person or a person lawfully acting under the supervising person's instructions or in aid of an authorised person;
 - (l) impersonates or falsely represents himself to be the master or an officer, or not to be the master or an officer, of a vessel;
 - (m) if requested by an authorised person, fails to sail a seized vessel to a place in Mauritius designated by the authorised person and fails to ensure the safety of all those on board;
 - (n) bribes or intentionally attempts to bribe an authorised person;
 - (o) interferes with an authorised person in the performance of his functions and exercise of his powers under this Act;
 - (p) in any other way obstructs or hinders an authorised person in the performance or exercise of his functions and powers under this Act;
 - (q) is in breach of any other duty to an authorised person as required under this Act;
 - (r) obstructs, resists, hides, delays, refuses boarding or other access to, intimidates or kidnaps –
 - (i) an authorised person who is carrying out his functions or exercising his powers under this Act or as a consequence of his having done so; or
 - (ii) any person lawfully acting under an authorised person's instructions or in his aid or as a consequence of his having done so; or
 - (iii) aids, incites, or encourages another person to do so; or
 - (s) assaults, uses abusive or threatening language or insulting gestures or behaves in a threatening or insulting manner towards an authorised person who

is performing his functions or exercising his powers under this Act or as a consequence of his having done so, or towards any person lawfully acting under the authorised person's instructions or in his aid, or aids, incites or encourages another person to do so,

shall commit an offence.

(2) It shall be a defence to any prosecution under subsection (1)(a)(i) if it is proved that compliance with the requirement for safe boarding of the relevant fishing vessel would have placed the safety of the vessel or the lives of its crew in imminent and overwhelming danger for reasons unrelated to such boarding.

Sub-Part D – Monitoring Systems and Fisheries Monitoring Centre

154. Vessel monitoring systems – technical requirements

(1) The supervising officer shall approve the technology to be used in relation to any monitoring or reporting system applicable to fishing vessels which is required pursuant to this Act, including –

- (a) vessel monitoring system;
- (b) electronic monitoring system;
- (c) electronic reporting system;
- (d) any other system or technology adopted by the Ministry for purposes of monitoring, control or surveillance under this Act.

(2) Technical requirements for mobile transceiver units, including installation, may, in addition, be prescribed or may be required by the supervising officer.

(3) No licence or authorisation shall be issued or granted, or a licence or an authorisation shall be cancelled, where the operator of a fishing vessel does not comply with the technology or technical requirements of the supervising officer, including installation, pursuant to subsection (1) or (2) in respect of any mobile transceiver unit used by the vessel.

155. Vessel monitoring systems – requirements for operators

(1) The operator of a fishing vessel holding a valid and applicable licence or authorisation under this Act shall, unless the vessel falls within a category of vessels exempted by the Minister, comply and ensure compliance by all persons associated with the vessel with any condition or requirement that may be required by the supervising officer or any applicable international conservation and management measure, including inter alia –

- (a) the type of vessel monitoring system equipment to be used;
- (b) installation procedures;
- (c) operational requirements;
- (d) information requirements;
- (e) confidentiality; and
- (f) declarations and reports.

(2) Any operator of a fishing vessel who does not comply with any condition or requirement as may be required by the supervising officer or any applicable international conservation and management measure shall commit an offence.

(3) Any person who, without lawful excuse, renders inoperative or otherwise interferes or tampers with a mobile transceiver unit so that it does not operate automatically or accurately or in accordance with any licence conditions or otherwise in accordance with this Act shall commit an offence.

156. Automatic identification system

(1) The supervising officer may require, including as a condition of a licence or an authorisation that the operator of the fishing vessel maintains an automatic identification system on board in accordance with the specifications in Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea, and that the vessel continually reports to the Fisheries Monitoring Centre and the National Coast Guard.

(2) Any person who contravenes subsection (1) shall commit an offence.

157. Fisheries Monitoring Centre

(1) The Fisheries Monitoring Centre shall be equipped with computer hardware and software enabling automatic data processing and electronic data transmission and other equipment for purposes of monitoring the activities of fishing vessels by receiving and recording information through, inter alia –

- (a) a vessel monitoring system, including an electronic monitoring system and an electronic reporting system; and
- (b) an automatic identification system.

(2) The Fisheries Monitoring Centre shall be in a room that is locked in a secured manner.

(3) No person, other than an officer of the Ministry authorised by the supervising officer, a fisheries control officer or any other person authorised by the supervising officer, shall enter the Fisheries Monitoring Centre.

(4) A list of names of persons authorised to enter the Fisheries Monitoring Centre shall be displayed on the door of the room of the centre.

Sub-Part E – Port State Measures**158. Application of Sub-part E**

(1) This Sub-part shall apply to –

- (a) foreign fishing vessels and fishing vessels not entitled to fly the flag of Mauritius that are seeking entry to a port or are in a port of Mauritius, except for container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have been engaged in IUU fishing or fishing related activities;
- (b) persons, vessels, aircrafts, export facilities or other crafts or places engaged in or otherwise connected with any activity falling under this Act;

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- (c) all fishing or fishing related activities in support of such fishing in areas over which Mauritius exercises jurisdiction or sovereign rights; and
 - (d) all fishing or fishing related activities in support of such fishing in areas beyond national jurisdiction –
 - (i) by citizens of Mauritius, including fishing vessels and persons and all persons on board such vessels or dealing with them or having any relevant relationship to them or to persons on them, to the extent that it does not conflict with the jurisdiction of another State;
 - (ii) as required pursuant to this Act, international agreement, relevant regional fisheries management organisation or applicable international conservation and management measures;
 - (iii) otherwise in relation to IUU fishing or fishing related activities in support of such fishing consistent with international laws.

(2) The provisions in this Sub-part shall be applied in a fair, transparent and non-discriminatory manner, consistent with international laws.

(3) The supervising officer shall, in implementing this Sub-part, ensure that an electronic Port State Measures system of a relevant regional fisheries management organisation is used to the greatest extent possible.

159. Designation of ports

The Minister shall ensure that –

- (a) the port or ports to which foreign fishing vessels may request entry are designated and publicised; and

- (b) a list of each port designated pursuant to paragraph (a) is provided to any international organisation and to any relevant regional fisheries management organisation pursuant to an applicable conservation and management measure.

160. Prerequisites for entry or use of port of Mauritius

(1) The operator of a foreign fishing vessel shall not enter or use a port of Mauritius unless –

- (a) the port has been designated and publicised in accordance with section 159(a);
- (b) in the case of –
 - (i) a vessel holding a valid and applicable licence to fish in the maritime zones of Mauritius, the operator has, at least 24 hours in advance, requested entry into port and has provided such information as may be prescribed or as may be required by the supervising officer; or
 - (ii) any other vessel, the operator has, at least 72 hours in advance, requested entry into port and has provided such information as may be prescribed or as may be required by the supervising officer;
- (c) the supervising officer has authorised entry of such fishing vessel into port and communicated such authorisation to the master of the vessel and any agent of the vessel in Mauritius; and
- (d) upon the fishing vessel's arrival at port, the master of the vessel or the vessel's representative has presented the authorisation for entry into the port to a person authorised to receive it on behalf of the supervising officer.

(2) The operator of a fishing vessel who contravenes subsection (1) shall commit an offence.

161. Denial of entry into port of Mauritius and use of port

(1) Where there is sufficient proof that a fishing vessel seeking entry into a port of Mauritius has been engaged in IUU fishing or fishing related activities in support of such fishing, in particular where it is a listed vessel, the supervising officer –

- (a) shall cause the vessel not to be authorised to enter port, and shall deny entry to such vessel; or
- (b) notwithstanding paragraph (a), may allow such vessel to enter a port exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international laws which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing or fishing related activities in support of such fishing; and
- (c) shall communicate any decision taken pursuant to paragraph (a) or (b) –
 - (i) to the vessel or its representative; and
 - (ii) to the Mauritius Ports Authority or to any other relevant authority, which shall implement the Ministry's decisions taken under this Act.

(2) The supervising officer may cause entry into, and use of, the port of Mauritius to be denied to any fishing vessel that he has reasonable grounds to suspect has contravened this Act and shall communicate such decision to any person referred to in subsection (1)(c).

(3) Where entry or use of the port of Mauritius is denied under subsection (1)(a) or (b) or (2), the supervising officer shall notify the decision to the operator, flag State of the fishing vessel and, where appropriate, to each relevant coastal State, relevant regional fisheries management organisation and other international organisation.

162. Force majeure or distress

(1) Nothing in this Act shall affect the entry of a fishing vessel to a port in Mauritius in accordance with any other enactment for reasons of force majeure or distress, provided that –

- (a) a claim of force majeure or distress shall not apply where –
 - (i) it is contrived, untrue or otherwise intentionally created; or
 - (ii) its objective is to avoid liability;
- (b) the burden of proof that a claim of force majeure or distress is valid and does not fall within prohibitions in paragraph (a) shall be on the operator of the vessel;
- (c) a fisheries control officer may board and inspect the vessel at any time in accordance with this Act for the purpose of verifying the claim of force majeure or distress; and
- (d) a vessel that claims force majeure or distress shall be subject to the direction of the supervising officer.

(2) The supervising officer may grant a fishing vessel that falls under this Act entry into the port of Mauritius for reasons of force majeure or distress, provided that –

- (a) the vessel may enter port under its claim of force majeure or distress for such period of time as may be necessary to remedy such claim; and
- (b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

(3) The operator of a foreign fishing vessel that is authorised to enter the port of Mauritius pursuant to subsection (2)(a) or (b) shall not allow or cause such vessel to engage in the use of port.

(4) The operator of a fishing vessel in respect of which an inapplicable claim described in subsection (1)(a) was made or who does not comply with the requirements of subsection (3) shall commit an offence.

163. Denial of use of the port of Mauritius after entry

(1) Where a fishing vessel that has been authorised to enter the port of Mauritius pursuant to section 162(1)(c) and (d) has entered a port, the supervising officer shall cause the use of port to be denied to such vessel where –

- (a) the vessel does not have a valid and applicable licence or authorisation to engage in fishing or fishing related activities required by –
 - (i) its flag State; or
 - (ii) a coastal State in respect of areas under its national jurisdiction;
- (b) there is clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- (c) the flag State does not confirm within a reasonable period of time, on the request of the supervising officer, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation; or
- (d) there are reasonable grounds to suspect that the vessel was otherwise engaged in IUU fishing or fishing related activities unless the operator or charterer of the vessel can establish –
 - (i) that it was acting in a manner consistent with relevant conservation and management measures, including international conservation and management measures; or

- (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel that had engaged in IUU fishing or fishing related activities.
- (2) Notwithstanding subsection (1), the supervising officer shall –
 - (a) not deny a fishing vessel the use of port services –
 - (i) where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven; or
 - (ii) where appropriate, for the scrapping of the vessel; and
 - (b) where the use of port has been denied, notify the decision to the flag State of the fishing vessel and, where appropriate, to each relevant coastal State, any relevant regional fisheries management organisation and other international organisation.
- (3) Where the use of port has been denied pursuant to this Act, the supervising officer shall –
 - (a) withdraw such denial in respect of a fishing vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply; and
 - (b) promptly notify the withdrawal to each person that was notified pursuant to this Act.

164. Conduct of inspections of fishing vessels in the port of Mauritius

- (1) The supervising officer shall ensure that vessel inspections are conducted as necessary to achieve the objectives of this Act, and at least at a level that may be agreed pursuant to an applicable international conservation and management measure.

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- (2) The supervising officer shall prioritise vessel inspections –
- (a) on fishing vessels that have been denied entry or use of a port in accordance with an applicable conservation and management measure;
 - (b) based on a request from another State or relevant regional fisheries management organisation to inspect a fishing vessel, particularly where the request is supported by evidence of IUU fishing or fishing related activities by the vessel in question;
 - (c) on vessels –
 - (i) whose automatic identification system, electronic monitoring system or vessel monitoring system are suspicious or indicate dubious movements; and
 - (ii) that have not entered into the Record of Authorised Vessels or the Record of Carrier Vessels of a relevant regional fisheries management organisation to verify that tuna and tuna-like species and sharks are not on board; and
 - (d) on other fishing vessels for which there are clear grounds for suspecting that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing.

(3) The supervising officer shall, to the extent possible, ensure inspection of a minimum level of fishing vessels as may be required by any applicable conservation and management measure.

(4) During inspections of a fishing vessel in the port of Mauritius, authorised officers shall carry out inspection in conformity with such procedures as may be required by the supervising officer, and complete a written report of the inspection in such form as may be prescribed or as may be required by the supervising officer and submit it to him.

(5) The operator of a fishing vessel shall, in relation to inspection of the vessel, give the authorised officers all necessary assistance and information, and present relevant material and documents as may be required, or certified copies thereof.

(6) The supervising officer shall ensure that the results of an inspection under this Act are transmitted –

- (a) to the flag State of the inspected fishing vessel;
- (b) where appropriate, to parties to a relevant international agreement;
- (c) to the relevant coastal State and the State of which the fishing vessel master is a national;
- (d) to a relevant regional fisheries management organisation; and
- (e) to other relevant international organisations.

165. Denial of use of the port of Mauritius after inspection

(1) Where, following an inspection, there are clear grounds for believing that a fishing vessel has been used for engaging in IUU fishing or fishing related activities in support of such fishing, the supervising officer shall –

- (a) promptly notify the flag State and, where appropriate, relevant coastal States, regional fisheries management organisations and other international organisations, and the State of which the vessel's master is a national of the findings; and
- (b) cause denial of the use of port by the vessel if these actions have not already been taken in respect of the vessel.

(2) Notwithstanding subsection (1)(b), the supervising officer shall not deny a fishing vessel the use of port services, where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven.

166. Unlawful assistance to fishing vessel

- (1) Where a fishing vessel –
 - (a) is in the port of Mauritius in contravention of –
 - (i) requirements for entry specified in section 160;
 - (ii) an applicable denial of authorisation to enter the port pursuant to section 161(1)(a) and (2);
 - (b) has been permitted to enter the port of Mauritius exclusively for the purpose of –
 - (i) inspection pursuant to section 161(1)(b);
 - (ii) rendering assistance to persons or vessels in danger or distress pursuant to section 162(2); or
 - (c) has not been permitted or has been denied the use of port under this Act,

no person, including the operator or crew member of such vessel or any person that is acting directly or indirectly in relation to the vessel, shall do the actions specified in subsection (2).

- (2) It shall not be allowed to –
 - (a) cause or allow the fishing vessel in contravention of subsection (1)(a) to enter the port of Mauritius;
 - (b) engage in, facilitate or be associated with the use of such port of Mauritius; or
 - (c) allow or assist, directly or indirectly, the use of port by such fishing vessel,

unless permission is given in writing by the supervising officer for port services to be used for the safety or health of the crew or the safety of the vessel in accordance with this Act and the port is used exclusively for such purposes.

167. Requirements for Mauritius fishing vessels in foreign port

- (1) The operator of a Mauritius fishing vessel shall –
 - (a) not enter a foreign port without –
 - (i) holding a valid and applicable authorisation granted by the supervising officer; and
 - (ii) being authorised by the competent authority in the relevant port State;
 - (b) cooperate fully with inspections carried out in the ports of other States in accordance with their laws and procedures; and
 - (c) not engage in any use of port, including landing, transshipping, packaging or processing fish or using other port services, in a port State identified by a relevant regional fisheries management organisation as not acting in accordance with, or in a manner consistent with, applicable international or regional instruments or international conservation and management measures relating to port State measures.

(2) Where there are clear grounds to believe that a Mauritius fishing vessel has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, the supervising officer shall, where appropriate, request such State to inspect the vessel or take other measures consistent with applicable international or regional instruments.

(3) Where, following port State inspection in another State, there are clear grounds to believe that a Mauritius fishing vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the supervising officer shall cause the matter to be immediately and fully investigated and, upon sufficient evidence shall cause enforcement action to be taken without delay in accordance with this Act.

(4) An operator of a Mauritius fishing vessel that contravenes subsection (1) shall commit an offence.

Sub-Part F – Presumptions of IUU Fishing or fishing related activities and Actions in Relation to Fishing Vessels on IUU Vessels List

168. Presumptions of IUU Fishing or fishing related activities in contravention of international conservation and management measures

(1) The operator of a fishing vessel shall be presumed to have engaged in IUU fishing or fishing related activities where the vessel has, in contravention of any international conservation and management measure of a relevant regional fisheries management organisation and in relation to its area of competence –

- (a) engaged in fishing or fishing related activities and was not registered on the relevant Record of Vessels authorised to fish for such species or recorded in the Active List of Vessels;
- (b) engaged in fishing or fishing related activities when its flag State was without quota, catch limit or effort allocation under an applicable international conservation and management measure unless flagged to a member or cooperating non-member of such organisation;
- (c) failed to record or report its catches in accordance with any applicable conservation and management measure or has made false reports;
- (d) taken or landed undersized fish;
- (e) engaged in fishing or fishing related activities during closed fishing periods or in closed areas;
- (f) used prohibited gear;
- (g) transhipped fish to, or otherwise participated in joint operations with, supported or re-supplied vessels not included on the Record of Authorised Vessels or on the Record of Vessels Authorised to Received Transhipments At-Sea;
- (h) engaged in fishing or fishing related activities in the maritime zones of Mauritius in contravention of this Act or in areas under the jurisdiction of any other coastal State in contravention of the relevant laws of that State;

- (i) engaged in fishing or fishing related activities while being a fishing vessel without nationality;
- (j) engaged in fishing or fishing related activities having intentionally falsified or concealed its markings, identity of registration; or
- (k) engaged in fishing or fishing related activities in contravention of any other applicable international conservation and management measure, and the supervising officer shall provide information and evidence to a relevant regional fisheries management organisation where any vessel has engaged or is engaging in an activity that is presumed to involve IUU fishing or fishing related activities.

(2) The presumption in subsection (1) shall apply to any vessel in the maritime zones of Mauritius and any Mauritius fishing vessel in areas beyond national jurisdiction.

(3) Notwithstanding subsection (2), and where it is presumed that any fishing vessel in the maritime zones of Mauritius has engaged in IUU fishing or fishing related activities in the area of competence of the relevant regional fisheries management organisation, the operator of the vessel shall be deemed to have committed an offence under this Act.

(4) An operator of a fishing vessel who is presumed to have engaged in any IUU fishing or fishing related activities referred to in subsection (1) shall commit an offence.

169. Actions in relation to fishing vessels on an IUU Vessels List of relevant regional fisheries management organisation

(1) The operator of any Mauritius fishing vessel, cargo vessel or other ship shall not, in relation to any listed vessel, provide assistance in any way, engage in fish processing operations, or participate in transshipment or joint fishing operations with such vessel, except for rendering assistance where such vessel, or any person on that vessel, is in danger or distress.

(2) Any Mauritius fishing vessel that is a listed vessel shall immediately be deregistered and any relevant registration, licence or authorisation shall be cancelled and the operator and the vessel may not be granted or issued with any registration, licence or authorisation under this Act for a minimum period of 5 years.

(3) The following shall be prohibited in respect of a listed vessel, and an operator of such vessel shall not undertake any activity, make any request or seek any permissions in relation to –

- (a) entry into the port of Mauritius, except in cases of force majeure or where the vessel, or any person on that vessel, is in danger or distress unless entry is permitted for the exclusive purpose of inspection and effective enforcement action;
- (b) chartering of such vessel;
- (c) registration of such vessel in Mauritius, except if the vessel has changed owner and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the supervising officer determines that granting the vessel its flag will not result in IUU fishing or fishing related activities; and
- (d) importing, landing or transshipment of species within the competence of such organisation.

(4) No person shall engage in transactions, including import, landing and transshipments, of species under the mandate of a relevant regional fisheries management organisation and caught or carried by a fishing vessel on its IUU Vessels List.

(5) The supervising officer shall collect and exchange with other members and cooperating non-members of a relevant regional fisheries management organisation any appropriate information with the aim of detecting, controlling and preventing false import or export certificates for fish from listed vessels.

(6) An operator of a fishing vessel who contravenes this section shall commit an offence.

**PART XII – DISPOSAL, RELEASE AND
FORFEITURE OF SEIZED ITEMS**

170. Disposal of perishable seized goods

(1) Subject to subsection (2) and subject to any other enactment, any perishable item, including fish and fish products, that has been seized or confiscated pursuant to this Act shall be disposed of in accordance with this section.

(2) Any perishable item referred to in subsection (1) shall be kept in the custody of, and subject to disposition by, the supervising officer who may apply for a Court order to sell, destroy or otherwise dispose of the item.

(3) The supervising officer shall notify the owner or the person who may be the owner of any application for a Court order in relation to any perishable item made in accordance with subsection (2).

(4) Where the supervising officer cannot ascertain the true ownership of any item at the time of seizure, he shall make reasonable enquiries to ascertain the true owner, and if he has not ascertained the true owner within a reasonable time, taking into account the perishability of the item seized, the supervising officer may apply for a Court order to sell, destroy or dispose of the item in accordance with this section.

(5) The operator or other person associated with a fishing vessel or other place from which any perishable item was seized or the activity leading to the seizure shall –

- (a) be prohibited from purchasing the item;
- (b) take all measures to preserve the perishable item at all times;
- (c) not tamper with the seized item or interfere with the means of preservation.

(6) A purchaser for valuable consideration of any item sold under this section shall derive good and unencumbered title in respect of such item.

(7) Where a perishable item is suspected to have been subject to IUU fishing or fishing related activities, it shall, upon the sale, not be considered to have been associated with such activities and be considered legitimate provided that –

- (a) proof of IUU fishing or fishing related activities was not addressed or determined; and
- (b) if, after the sale and subsequent to due process it is determined that the item was subject to IUU fishing or fishing related activities, the proceeds of the sale shall not be returned to the owner, who shall –
 - (i) be deprived of any monetary benefits from relevant activities; and
 - (ii) bear all costs related to such activities and the sale of the perishable item.

(8) Any item seized pursuant to this Act, and the proceeds from the sale of such item, shall be deposited with the Accountant-General until –

- (a) the Director of Public Prosecutions prosecutes the offence which relates to the seizure of the item; or
- (b) the Court –
 - (i) has completed its proceedings in respect of the offence which relates to the seizure of the item; and
 - (ii) has issued an Order in relation to the proceeds of sale of the item.

(9) The decision to prosecute the offence in relation to any item seized under this Act shall be made as soon as reasonably practicable after the item is seized, taken possession of or detained.

(10) The supervising officer shall, where possible, take reasonable measures to facilitate the preservation of the perishable item after seizure and before sale, but shall not otherwise be liable for any spoilage or deterioration in the quality of any fish or other item seized, taken possession of or detained.

171. Release of seized items upon bond, surety or other security

(1) A person from whom an item was seized pursuant to this Act or the owner or person entitled to possession of such item may, within 15 days after the seizure, apply to the Court for the release of the item.

(2) Upon receipt of an application under subsection (1) relating to the seizure of a foreign fishing vessel, the Court shall order –

- (a) that the operator of the vessel pay to the Court a bond, surety or other security having regard to –
 - (i) the fair market value of the vessel and any item, including fish and fish products, on board the vessel;
 - (ii) the maximum fine or fines that apply for the offences or alleged offences that led to the seizure of the foreign fishing vessel; and
 - (iii) the costs likely to be recovered by the prosecution if convicted; and
- (b) that the vessel to be released upon receipt of the bond, surety or other security, subject to such conditions as the Court may impose, unless the vessel is reasonably required as evidence in Court proceedings or for any further investigation of offences under this Act.

(3) Upon receipt of an application under subsection (1) that does not relate to the seizure of a foreign fishing vessel, the Court may order –

- (a) that the operator of the vessel pay to the Court a bond, surety or other security having regard to –
 - (i) the fair market value of the item and, in the case of a vessel, any other items, including fish and fish products, on board the vessel;
 - (ii) the maximum fine or fines that apply for the offences or alleged offences that led to the seizure of the item; and
 - (iii) the costs likely to be recovered if convicted; and

-
- (b) the item to be released upon receipt of the bond, surety or other security and subject to such conditions as the Court may impose.
- (4) In the event of an appeal from an order of forfeiture, the Court may, pending the final determination of the appeal and of any retrial –
- (a) continue any bond, surety or other security deposited in accordance with subsection (2) or (3); or
- (b) require an additional bond, surety or other security to be deposited with it.
- (5) Exoneration of any bond, surety or other security deposited in accordance with subsection (2), or (3) is conditional upon –
- (a) the return of the released item to the Court without any impairment of its value; or
- (b) final disposition of or discontinuation of proceedings under this Act and payment of any fine, penalty and other determination imposed by the Court.
- (6) An item seized under this Act or a bond, surety or other security paid under subsection (2) or (3) shall be held until any proceedings under this Act have been disposed of or discontinued and any fine, penalty and other determination imposed have been paid.
- (7) Where a bond, surety or other security has been paid under subsection (2) or (3) and the item has been released –
- (a) the sum paid in respect of the value of the fishing vessel or property shall be forfeited from the bond, surety or other security;
- (b) any fine or penalty ordered upon the conviction of any person who committed an offence which led to the seizure of the item shall be paid from the bond, surety or other security; and
- (c) any order for costs against a person accused of committing an offence under this Act which led to the seizure of the item shall be applied against the bond,

surety or other security, including costs incurred by the Ministry or other Government departments in the handling of the fishing vessel, crew and other activities directly associated with the seizure.

172. Release of seized items by supervising officer or Court

(1) Subject to subsection (2), the supervising officer shall immediately release an item seized under this Act, or immediately release the proceeds from the sale of such item, to the person entitled to the item, where –

- (a) the Director of Public Prosecutions prosecutes the offence which relates to the seizure of the item;
- (b) the person charged with the offence that led to the forfeiture of the item has been acquitted; or
- (c) all Court proceedings relating to offence which led to the forfeiture of the item has been finally disposed of without any order for forfeiture have being made in accordance with this Act.

(2) The Court may direct –

- (a) that the release of any item seized, or proceeds from the sale of the item under subsection (1), be contingent on payment of all fines, penalties orders for costs and other determinations imposed in respect of any offence; and
- (b) that failing the payment referred to in subsection (1) within the time allowed, the item seized be sold and the balance of the proceeds of sale be returned to the owner, his nominee or the person who may be the owner in accordance with this Act, after deducting all fines, penalties, orders, costs and other determinations imposed and the costs for the sale.

(3) Notwithstanding this section, where a fisheries control officer returns to the water at the time of seizure any fish seized pursuant to this Act that he believes to be alive, the fisheries control officer shall bear no

criminal liability or civil liability to the person from whom the fish was seized, in the event of a decision is made not to prosecute the offence in respect of the fish, or of the person being acquitted of the charge.

173. Failure to comply with conditions of bond or other security

Where a person to whom an item is released under this Act fails to comply with the conditions of the bond or other security imposed for release of that item –

- (a) the item may be re-seized at any time; or
- (b) the bond or security shall be automatically forfeited.

174. Disposal of forfeited item

(1) Any item or security forfeited under this Act shall become the property of the Government.

(2) The Government may dispose of any forfeited item as it thinks fit, and upon the application of the Government, the Court shall make an order to dispose of any fishing vessel found or determined to have contravened this Act, together with its gear, equipment or other appurtenances as appropriate, by selling, destroying, otherwise disposing of the vessel or transferring it to the Government.

(3) Where any forfeited item is sold or otherwise disposed of by the Government or the supervising officer, the operator or other person associated with any fishing vessel, fish, fish products or other item forfeited, shall be prohibited from directly or indirectly purchasing or possessing or otherwise dealing with the item at any time during or after the sale, including through any subsequent re-sale, transfer or other transaction.

PART XIII – JURISDICTION, PROSECUTION AND LIABILITIES

Sub-Part A – Jurisdiction and Prosecution

175. Jurisdiction

- (1) Notwithstanding –
 - (a) section 114 of the Courts Act; and

- (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a District Court or the Intermediate Court shall, subject to subsection (2), have jurisdiction to try an offence under this Act and may impose any penalty provided for that offence.

(2) Where an offence under this Act is committed in areas beyond national jurisdiction or in the area of competence of a relevant fisheries management organisation, that offence shall be deemed to have been committed in Mauritius and the Intermediate Court shall, notwithstanding section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act, have jurisdiction to try that offence under this Act and may impose any penalty provided for that offence.

(3) Notwithstanding this section, nothing shall preclude the Supreme Court to try an offence under this Act.

176. Prosecution

A fisheries enforcement officer may swear an information upon oath and, with the consent of the Director of Public Prosecutions, conduct prosecution before the District or Intermediate Court in respect of an offence under this Act.

Sub-Part B – Liabilities

177. Liability of associations and officers of associations

- (1) Where an offence is committed under this Act by –
- (a) an employee, officer or agent of an association, the association;
 - (b) an association, every person who, at the time of the commission of the offence, was concerned in the management of the association or was purporting to act in that capacity,

shall also commit the like offence, unless it or he proves that the offence was committed without its or his knowledge or consent and that it or he took all reasonable steps to prevent the commission of the offence.

(2) Where an association is charged with an offence under this Act, a representative may appear before the appropriate Court and enter a plea of guilty or not guilty on behalf of the association.

(3) For the purpose of subsection (2) –

“representative” means a director, or the secretary, of the association to or a person duly authorised by the association represent it.

178. Liability of operators

(1) In any proceedings under this Act, the act or omission of a crew member of a fishing vessel or a person working in association with a fishing vessel is deemed to be that of the operator of the vessel, unless otherwise expressly provided.

(2) The operation of subsection (1) does not absolve the crew member or other person of any liability he may have under this Act.

179. Liability of principal for actions of agent

(1) Where a person (“the principal”) is required by or under this Act to do or refrain from doing anything, every act or omission of any person acting or purporting to act as agent for the principal in respect of any such requirement is deemed for the purposes of this Act to be the act or omission of the principal, unless the principal proves that the person purporting to act as agent had no authority, either express or implied, to act as the principal’s agent in carrying out the act or omission.

(2) The operation of subsection (1) does not absolve the principal of any liability he may have under this Act.

PART XIV – ADMINISTRATIVE PROCEEDINGS

180. Administrative Sanctions Commission

(1) There shall be, for the purposes of this Part, an Administrative Sanctions Commission which shall consist of –

- (a) a law officer of at least 10 years standing from the Attorney-General’s Office, to be appointed by the Attorney-General; and

- (b) 2 senior officers of the Ministry, to be designated by the supervising officer.

(2) The Administrative Sanctions Commission shall be responsible for determining the amount of administrative penalty to be paid by a person who has committed an offence under this Act.

(3) There shall be, for the proper administration of the Administrative Sanctions Commission, a Secretary and such other officers as the supervising officer may designate.

(4) The Chairperson and the members of the Administrative Sanctions Commission, including its officers, shall be paid such fees as the Minister may determine.

181. Conduct of administrative proceedings

(1) Where a person has committed an offence under this Act, the Administrative Sanctions Commission shall promptly notify the person of the offence and shall request the person, within 7 working days of receiving such notification, to either consent to, or refuse, administrative proceedings.

(2) Where a person consents to administrative proceedings, he shall notify, in writing, the Administrative Sanctions Commission within 7 working days of the notification –

- (a) admitting to having committed the offence; and
- (b) consenting to the offence being dealt with by administrative proceedings.

(3) Where the person notifies the Administrative Sanctions Commission pursuant to subsection (2), he shall –

- (a) be deemed to have consented to any seizure which may take place in accordance with this Act in relation to the offence that is subject to the administrative proceedings; and

- (b) not engage in any fishing or fishing related activities or any other activity being the subject of the administrative proceedings until an administrative penalty determined under this Act, including any other penalty or compensation, has been paid in full.

(4) A person who engages in fishing or fishing related activities or any other activity which is the subject of the administrative proceedings while prohibited from so doing under subsection (3)(b) shall commit an offence and shall –

- (a) on conviction, be liable to the fine and imprisonment specified for that offence; and
- (b) in addition, be liable to any penalty that the Court may impose under Part XVI, the provisions of which shall apply *mutatis mutandis*.

182. Payment of administrative penalty

(1) Where, pursuant to section 181, a person consents to administrative proceedings, the Administrative Sanctions Commission may, with the consent of the Director of Public Prosecutions, order the person to pay such amount, not exceeding the maximum fine specified for the offence, as determined under subsection (2).

(2) In determining the amount of administrative penalty to be paid, the Administrative Sanctions Commission shall take the following into consideration –

- (a) the circumstances by which the offence was committed;
- (b) any report that may be prepared by the supervising officer regarding the details of the offence;
- (c) the fair market value of any fish caught illegally;
- (d) such amount that may be necessary to deprive the person of monetary benefits acquired or saved by the person as a result of the commission of the offence based on an assessment by an expert that would otherwise be acceptable in a Court of law;

- (e) the past convictions of the person, if any; and
- (f) the guidelines specified in section 194 and any other penalty that a Court may impose under Part XVI, the provisions of which shall apply *mutatis mutandis*.

(3) Any administrative proceedings initiated under section 181 shall be null and void if the full amount of the administrative penalty determined under subsection (2) is not paid within 14 days of the notification of such penalty to the person, and the matter shall immediately be referred to the Director of Public Prosecutions for prosecution.

(4) Where the person to the administrative proceedings is not a citizen of Mauritius and payment originates from another country, the High Commission representing such country shall verify the payment of the penalty determined under subsection (2).

(5) On payment of the administrative penalty in full under this section and as appropriate the verification of the High Commission under subsection (4), the Administrative Sanctions Commission may order the release of any item seized under this Act or of the proceeds of sale of such item on such conditions as it may determine.

(6) An agreement for the payment of an administrative penalty may provide that any item used or involved in the commission of the offence be confiscated or forfeited.

(7) Where the Director of Public Prosecutions does not give his consent for a person to pay the administrative penalty, the Director of Public Prosecutions may initiate prosecution against that person for the offence committed.

(8) Any administrative penalty paid for an offence shall accrue to the Consolidated Fund.

183. Agreement for administrative penalty final and conclusive

(1) Every agreement to pay an administrative penalty shall be final and conclusive and, on payment of the agreed amount, no criminal proceedings with regard to the offence shall be initiated against the person.

(2) Where a person has been subject to administrative proceedings, any admission made by the person during those proceedings shall not be used against him in the prosecution for the offence committed.

(3) In any proceedings brought against a person for an offence under this Act, it shall be a defence where such person proves that he has paid an administrative penalty for that offence.

184. Criminal offences not eligible for administrative proceedings

This Part shall not apply to –

- (a) a criminal offence under any other enactment, notwithstanding that such offence may also be an offence under this Act; and
- (b) any offence relating to transnational organised crime or individuals in or associated with a transnational criminal group.

PART XV – EVIDENCE

185. Certificate evidence

In all prosecutions before a Court, a certificate under the hand of a fisheries control officer or any other officer designated in writing by the supervising officer stating that –

- (a) a specified fishing vessel was or was not on a specified date a Mauritius vessel, a local vessel, a joint venture vessel or a foreign fishing vessel, a sport fishing vessel or a commercial fishing vessel or such other vessel designated under this Act;
- (b) a specified fishing vessel or person was or was not on a specified date the holder of an applicable registration, licence or authorisation;
- (c) an appended document is a true copy of the certificate of registration, licence or authorisation for a specified fishing vessel or person and that specified conditions were attached to such document;
- (d) a particular location or area of water was on a specified date within the maritime zones of Mauritius, or within a closed,

- limited, restricted or in any other way controlled area of the maritime zones of Mauritius, or an area within the maritime zones of Mauritius subject to specified conditions;
- (e) a fishing vessel was located at a particular place or area at the date and time or during the period of time stated;
 - (f) a fishing vessel was used for fishing or fishing related activities at a particular place or area at the date and time or during the period of time stated;
 - (g) an appended chart shows the boundaries on a specified date of the maritime zones of Mauritius, closed or limited areas or other maritime zones delineated for any specified purpose;
 - (h) a particular item or piece of equipment is gear;
 - (i) the cause and manner of death of, or injury to, any fish is as stated;
 - (j) an appended document is a true copy of a valid and applicable charter agreement, access agreement or fisheries management agreement;
 - (k) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular fishing vessel;
 - (l) an appended position or catch report or other record was given in respect of a specified fishing vessel;
 - (m) a specified fishing vessel is or is not a listed vessel;
 - (n) a specified fishing vessel, mobile transceiver unit or other item fulfils or does not fulfil registration requirements under this Act, an applicable access agreement or any international conservation and management measure;
 - (o) an appended document is a true certificate of calibration of a specified measuring device;
 - (p) an offence was committed under the laws of another State, as declared in an appended copy of a statement signed by a competent authority of such State;

- (q) specified international conservation and management measures are in force, as declared in an appended copy of a statement signed by the supervising officer, or its equivalent, of the international organisation or arrangement which adopted such measures;
- (r) a certification as to the condition of fish given under this Act was made in accordance with this Act and by the person who is signatory to the certificate;
- (s) the fish and fish products or other items disposed or dealt with as a perishable item under this Act are fully described in the certificate;
- (t) a photograph is a true and accurate representation of what it is meant to represent;
- (u) a photograph was taken by a specified person;
- (v) an appended document is a true copy of admissible evidence from another jurisdiction; or
- (w) any specified return, logbook, record or information required to be kept or furnished under this Act was or was not kept or furnished,

shall be sufficient evidence of the facts stated in it, without proof of the handwriting of that officer, unless the Court decides that the attendance of the officer is necessary.

186. Certificate of location of fishing vessel

(1) Where in any proceedings under this Act the place or area in which a fishing vessel is alleged to have been at a particular date and time or during a particular period of time is material to the prosecution of an offence charged, the place or area stated in a certificate produced in section 185 shall be prima facie evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) A fisheries control officer or any other officer designated in writing by the supervising officer shall in any certificate made under section 185, state –

- (a) his name, address, official position, country of appointment and the authority under which he is appointed;
- (b) the name and call sign, if known, of the fishing vessel concerned;
- (c) the date and time or period of time that the fishing vessel was in the place or area;
- (d) the place or area in which it is alleged the fishing vessel was located;
- (e) the position fixing instruments used to fix the place or area stated referred to in paragraph (d) and their accuracy within specified limits;
- (f) that he verified the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and
- (g) if a position fixing instrument which is not judicially recognised as notoriously accurate is used, that he verified the instrument used as soon as possible after the time concerned against an instrument that is judicially recognised as notoriously accurate.

(3) For the purpose of this section –

“fisheries control officer” includes observers and those charged with similar responsibilities in other States, including surveillance officers.

187. Photographic evidence

(1) Where a photograph is taken of any fishing related activity, and simultaneously the date and time and position from which the

photograph is taken are superimposed on the photograph, it shall be prima facie evidence that the photograph was taken on the date, at the time and in the position so appearing.

(2) Subsection (1) shall apply where –

- (a) the camera taking the photograph is connected directly to the instrument which provided the date, time and position concerned;
- (b) the instrument which provides the date, time and position is recognised as being accurate and is verified by a fisheries control officer, as soon as possible after the taking of the photograph and appeared to be working correctly;
- (c) the photograph was taken by a fisheries control officer, or transmitted digitally to the supervising officer by a fishing vessel holding a valid and applicable licence to fish in the maritime zones of Mauritius; and
- (d) any digitally transmitted photograph shall be verified and once confirmed shall constitute prima facie evidence.

(3) Any person who takes a photograph in accordance with subsection (1) may give a certificate appending the photograph stating –

- (a) his name, official position and place of posting;
- (b) the name and call sign, if known, of any fishing vessel appearing in the photograph;
- (c) the type of camera and other devices supplying the date and time and of the position fixing instrument;
- (d) whether he checked those devices and instruments at a reasonable time before and after taking the photograph and the working condition of the devices and instruments; and
- (e) the accuracy of the location fixing instrument used within specified limits.

188. Evidence from position fixing instrument

(1) Any information or data transmitted automatically by a position fixing instrument shall be prima facie evidence that such information or data –

- (a) came from the fishing vessel so identified;
- (b) was accurately relayed or transferred; and
- (c) was given by the operator of the fishing vessel, and evidence may be given of information and data so transmitted whether from a printout or visual display unit.

(2) Subsection (1) shall apply irrespective of whether or not the information or data was stored before or after any transmission or transfer.

(3) Any fisheries control officer may issue a certificate stating –

- (a) his name, address, official position and place of posting;
- (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information or data transmitted by a position fixing instrument;
- (c) the date and time the information or data was obtained or ascertained from the position fixing instrument as well as the position of the fishing vessel at such date and time;
- (d) the name and call sign of the fishing vessel on which the position fixing instrument is or was installed; and
- (e) that there appeared to be no malfunction in the position fixing instrument, its transmissions or any other machine used in obtaining or ascertaining the information or data transmitted by the position fixing instrument.

(4) Any person who destroys, damages, renders inoperative or otherwise interferes with a position fixing instrument aboard a fishing vessel shall commit an offence.

189. Vessel monitoring system evidence

(1) Any information or data obtained or ascertained by the use of a mobile transceiver unit required under this Act, including use of a camera or video or other streaming device on board a fishing vessel for observation purposes, shall be presumed, unless the contrary is proved, to –

- (a) come from the vessel so identified;
- (b) be accurately relayed or transferred;
- (c) be given by the operator of the vessel,

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(2) The presumption under subsection (1) shall apply whether or not the information was stored before or after any transmission or transfer.

(3) A mobile transceiver unit or other monitoring device installed and operated in accordance with this Act shall be judicially recognised as notoriously accurate.

(4) A fisheries control officer or any other officer authorised in writing by the supervising officer may give a certificate stating –

- (a) his name, address and official position;
- (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from a mobile transceiver unit;
- (c) the date and time the information was obtained or ascertained from the mobile transceiver unit and the details of the information;
- (d) the name and call sign of the fishing vessel on which the mobile transceiver unit is or was located as known to him or as ascertained from any official register, record or other document; and
- (e) a declaration that there appeared to be no malfunction in the mobile transceiver unit, its transmissions or other machines used in obtaining or ascertaining the information.

190. Satellite based evidence

Any evidence gathered from satellites with a capacity to provide accurate tracking or other information concerning fishing vessels shall be admissible and presumed to be accurate, whether or not a fishing vessel intentionally transmits through such satellites.

191. Presumptions

(1) Any fish found on board any fishing vessel which has been used in the commission of an offence under this Act shall be presumed to have been caught during the commission of that offence, unless the contrary is proved.

(2) Where, in any legal proceedings under this Act –

- (a) the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place; and
- (b) the production of a written copy or extract of the entry certified by a fisheries control officer as a true copy of the accurate extract is *prima facie* evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft.

(3) Where in any legal proceedings relating to an offence under this Act –

- (a) a fisheries control officer or observer gives evidence that any fish to which the charge relates were taken in a specified area within the maritime zones of Mauritius or the area of competence of a relevant regional fisheries management organisation; and
- (b) the Court considers that, having regard to that evidence the grounds are reasonable,

all the fish shall be presumed to have been so taken, unless the contrary is proved.

-
- (4) Where in any legal proceedings for an offence under this Act –
- (a) a fisheries control officer gives evidence that any fish to which the charge relates were taken by the use of driftnets; and
 - (b) the Court considers that, having regard to the evidence, the grounds are reasonable,

all the fish shall be presumed to have been so taken, unless the contrary is proved.

(5) Where any information is given in respect of any fishing or fishing related activities of a fishing vessel, it shall be presumed to have been given by the operator of the vessel concerned, unless it is proved that it was not given or authorised to be given by him.

(6) Any entry in writing or other mark in or on a logbook, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel shall be deemed to be that of the operator of the vessel.

(7) Any position fixing instrument on board a fishing vessel or an aircraft used for the enforcement of this Act shall be presumed to be accurate.

192. Interfering with evidence

(1) No person shall interfere with any evidence which may be related to an offence under this Act.

- (2) Without limiting the generality of subsection (1), no person –
- (a) being on board any fishing vessel being pursued, about to be boarded, being boarded or notified that it will be boarded by a fisheries control officer, whether within or beyond the maritime zones of Mauritius, shall throw overboard or destroy any fish, fish product, equipment, document, explosive, noxious substance or other thing with intent to avoid its seizure or the detection of any offence under this Act;

- (b) shall remove from custody any fishing vessel, fish, fish product, equipment or other item held in custody under this Act, or act or omit to act so that the vessel, fish, fish product, equipment or other item held in custody under this Act may be removed from custody, whether or not he knew that the vessel, fish, fish products, equipment or other item was being held in custody;
- (c) shall destroy, damage, render inoperative or otherwise interfere with any premises or facilities licensed under this Act; or
- (d) shall, where a mobile transceiver unit is required under this Act, whether within or beyond the maritime zones of Mauritius, destroy, damage, render inoperative or otherwise interfere with any part of such mobile transceiver unit aboard a fishing vessel, or feed or input into a mobile transceiver unit or an applicable fishing vessel monitoring system information or data which is not officially required or is meaningless.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

PART XVI – OFFENCES, FINES AND OTHER PENALTIES

Sub-Part A – Offences and Fines

192. Offences

- (1) Any person who –
 - (a) contravenes any section specified in the second column of Part I of the Fourth Schedule shall commit an offence and shall, on conviction, be liable to the level of fine as specified in the corresponding fourth column of that Schedule;
 - (b) otherwise contravenes any provision of this Act for which no specific penalty is provided for shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

(2) The level of fine shall be the maximum amount of fine and imprisonment as specified in Part II of the Fourth Schedule.

(3) Any fine imposed by the Court may be paid in its equivalent US dollars.

(4) Where an offence under this Act has been committed in the maritime zones of Mauritius by a person who is a national of a foreign State, the person shall, notwithstanding any other enactment, not be sentenced to a term of imprisonment unless there is an agreement to the contrary between Mauritius and the State of which that person is a national.

(5) Section 153 of the Criminal Procedure Act shall not apply to a conviction for an offence under this Act.

194. Guidelines for determination of fines

(1) The determination of any fine to be imposed for an offence under this Act shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities.

(2) In determining any fine to be imposed for an offence under this Act, the Court shall, in particular, take the following into account –

- (a) the seriousness of the offence, taking into consideration the –
 - (i) maximum amount of fine;
 - (ii) international and national requirements and best practices in relation to serious offences, including their definition in international fisheries instruments;
 - (iii) degree of impact of the offence on the fisheries resources, the environment and the economic and social well-being of citizens of Mauritius;
 - (iv) scope of the offence;
 - (v) duration of the offence;

- (vi) whether personal injury or loss of life was involved; and
 - (vii) associated offences, if multiple offences were committed;
 - (b) the situation of the offender, taking into consideration –
 - (i) the material and other benefits received as a result of commission of the offence;
 - (ii) whether it is a first, second, third or subsequent offence;
 - (iii) whether multiple offences are involved;
 - (iv) whether the offender was acting alone or associated with others in committing the offence;
 - (v) the likelihood that the offender will repeat the offence; and
 - (vi) the impact of the amount of fine on the offender;
 - (c) an aggravated fine shall be imposed for offences involving assault, obstruction or bribery of any person carrying out duties and responsibilities under the Act, damage to gear or fishing vessels, personal injury, loss of life, illegal fishing, forgery or damages to the environment;
 - (d) where it appears that any offence under this Act involved transnational criminal activity or was committed in association with other transnational criminal activity, an aggravated fine shall be imposed.
- (3) The following mandatory guidelines shall be considered when determining fines –
 - (a) for illegal operations involving commercial fishing or related activities for tuna and tuna-like species, at least 60 per cent of the maximum fine;

- (b) for illegal fishing or fishing related activities involving –
 - (i) a vessel of less than 12 metres in length overall, at least 20 per cent of the maximum fine;
 - (ii) a vessel of 12 metres or more but less than 24 metres in length overall, at least 40 per cent of the maximum fine;
 - (iii) a vessel of 24 metres or more in length overall, at least 60 per cent of the maximum fine.

195. Increased maximum fine for associations

Where an association is convicted of an offence under this Act, the Court may impose a fine of up to 3 times the maximum fine provided for that offence.

Sub-Part B – Other Penalties

196. Imposition of other penalties

Where a person is convicted of an offence under this Act and that offence has resulted in damage to fish or the marine environment in general, a penalty, in addition to any level of fine imposed for that offence –

- (a) equal to twice the value of the reduction in market value caused by the offence;
- (b) twice the total cost of restoration of the fisheries resources; or
- (c) twice the total cost of restoration of the environment,

shall be imposed by the Court and that penalty shall be recovered in the same manner as a fine.

197. Ordering deprivation of monetary benefits

(1) Where a person is convicted of an offence under this Act and the Court is satisfied that, as a result of committing the offence, the person has acquired monetary benefits or monetary benefits accrued to that person, the Court shall, in addition to any level of fine imposed for that offence, order the person to pay a penalty in an amount equal to the those monetary benefits and that penalty shall be recovered in the same manner as a fine.

(2) Where a person is convicted of an offence under this Act for intentional contraventions or contraventions resulting from gross negligence, the Court shall, in addition to any level of fine imposed for that offence, order the person to pay any economic benefit that the person obtained through the violation.

198. Ordering compensation for loss or damage

Where a person is convicted of an offence under this Act, the Court shall, in addition to any level of fine imposed for that offence, order the person to pay –

- (a) compensation to the owner of any property damaged or destroyed as a direct result of the offence;
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence;
- (c) any costs incurred in detaining or seizing any property, fish, article or thing in respect of that offence;
- (d) compensation for the cost of clearing any pollution of the maritime zones of Mauritius that may have been caused as a direct result of the offence or removing any object that continue to cause such pollution; or
- (e) any other loss or damage caused by the offence,

and the compensation for such loss, damage or costs shall be recovered in the same manner as a fine.

199. Banning order

- (1) Where the operator of a fishing vessel is convicted of –
 - (a) an offence involving unlicensed fishing; or
 - (b) multiple offences under this Act,

the Court shall, in addition to any level of fine imposed, ban the operator from fishing in the maritime zones of Mauritius for a period not exceeding 5 years.

(2) Where the operator of a fishing vessel is convicted of any offence or offences under this Act on 3 separate occasions, the Court shall, in addition to any level of fine imposed, ban the operator from fishing in the maritime zones of Mauritius.

200. Forfeiture order

(1) Where a person is convicted of an offence under this Act, the Court, in addition to any level of fine imposed for that offence –

- (a) shall order the forfeiture of –
 - (i) any gear, structure or any other article or instrument used in the commission of the offence under this Act;
 - (ii) any fish or fish products caught in breach of this Act;
 - (iii) the benefits accruing from the commission of the offence under this Act; or
 - (iv) any security or other guarantee furnished under this Act; or
- (b) may order the forfeiture of any vehicle fishing vessel used in the commission of the offence under this Act.

(2) Any item forfeited under this section shall be the property of the Government.

201. Cancellation order

Where a person is convicted of an offence under this Act, the Court shall, in addition to any level of fine imposed for that offence, order that any registration, licence or authorisation granted or issued to that person be cancelled.

Sub-Part C – Fixed Penalty Offences and Fixed Penalties

202. Fixed Penalty Notice

(1) Where a person commits an offence specified in the second column of the Fifth Schedule, a fisheries enforcement officer who detects

the offence shall require the person to elect whether to accept a Fixed Penalty Notice (FPN) or for the offence to be reported with a view to proceedings being taken against him before a Court.

(2) Where the person elects to accept an FPN pursuant to subsection (1), one copy of the FPN, in the form set out in the Sixth Schedule and drawn up in quadruplicate, shall immediately be served on him, calling upon him to pay within 21 days the corresponding fixed penalty specified in the third column of the Fifth Schedule at the appropriate District Court.

(3) The fisheries enforcement officer who detects the offence shall –

- (a) forward one copy of the FPN to the supervising officer and the Commissioner of Police;
- (b) forward one copy to the appropriate District Court; and
- (c) retain the fourth copy.

(4) Where the person elects to accept an FPN pursuant to subsection (1), the fisheries enforcement officer shall forfeit any equipment or any other article used in contravention of the offence and that equipment or article shall, on payment of the fixed penalty under section 203, be disposed of.

203. Payment of fixed penalty

(1) A person who elects to accept an FPN pursuant to section 202 shall, within 21 days –

- (a) attend the appropriate District Court specified in the FPN;
- (b) produce the FPN and his National Identity Card; and
- (c) pay the fixed penalty specified in the FPN.

(2) On receipt of payment made under subsection (1), the District Court Officer shall fill in Part II of the FPN and, within 14 days of the date of payment, return Part II of FPN to the fisheries enforcement officer.

204. Non-payment of fixed penalty

Where a person who has been served with an FPN under section 202 fails to pay the appropriate fixed penalty within the time limit mentioned in the FPN and criminal proceedings are instituted against him for the offence in respect of which he was served with the FPN, he shall, on conviction, be liable to a fine which shall not be less than twice the fixed penalty in respect of that offence.

PART XVII – MISCELLANEOUS**205. Protection from liability**

No action shall lie against the Ministry, the Minister, the supervising officer, an officer of the Ministry, a fisheries control officer or an observer in respect of any act done or omission made by it or him in good faith in the discharge of its or his functions, or exercise of its or his powers, under this Act.

206. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations under subsection (1) may provide for –

- (a) the taking of fees and levying of charges; or
- (b) the amendment of any Schedule to this Act.

207. Repeal

The Fisheries and Marine Resources Act is repealed.

208. Consequential amendments

(1) The Beach Authority Act is amended, in section 2, in the definition of “beach enforcement officer”, in paragraph (b), by deleting subparagraph (v) and replacing it by the following new subparagraph –

- (v) a fisheries protection officer referred to in the Fisheries Act 2023;

(2) The Environment Protection Act is amended, in the Fifth Schedule, in Part B, by deleting item 14A and replacing it by the following item –

14A. Fish farm in the fish farming zones under the Fisheries Act 2023

(3) The Merchant Shipping Act is amended –

(a) in section 2, by deleting the definition of “fishing vessel” and replacing it by the following definition –

“fishing vessel” means a Mauritius fishing vessel registered under the Fisheries Act 2023;

(b) in section 12(1), by repealing paragraph (d) and replacing it by the following paragraph –

(d) Fourth Part for fishing vessels registered as Mauritius fishing vessels under the Fisheries Act 2023;

(c) in section 14, in subsection (1), by inserting, after the words “24 metres in length”, the words “, other than a fishing vessel,”;

(d) by inserting, after section 19, the following new section –

19A. Memorandum of Understanding

(1) The Fishing Division of the Ministry responsible for the subject of fisheries and the Shipping Division under this Act shall enter into a Memorandum of Understanding with regard to an application made under the Fisheries Act 2023 for the registration of a fishing vessel of 24 metres or more in length overall.

(2) A Memorandum of Understanding under subsection (1) shall provide, inter alia, that –

(a) any application for the registration of a fishing vessel of 24 metres

or more in length overall shall be referred to the Shipping Division by the Fisheries Division;

- (b) no registration of such vessel shall be granted without the clearance of the Shipping Division; and
 - (c) any registration of such a fishing vessel shall, in addition to the Fisheries Act 2023, comply with this Act.
- (e) in section 40, by adding the following new subsections –

(7) Where the Registrar is satisfied that a fishing vessel is in contravention of this Act, he shall refer the matter to the supervising officer of the Ministry responsible for the subject of fisheries.

(8) Where a matter is referred pursuant to subsection (7), the supervising officer shall take such action as he deems necessary in accordance with the Fisheries Act 2023.

(4) The Native Terrestrial Biodiversity and National Parks Act is amended, in section 2, by deleting the definition of “fish” and replacing it by the following definition –

“fish” has the same meaning as in the Fisheries Act 2023;

(5) The Non-Citizens (Property Restriction) Act is amended, in section 3(3)(a), by repealing subparagraph (ii) and replacing it by the following subparagraph –

- (ii) a deed of concession under the Fisheries Act 2023; or

209. Saving and transitional provisions

(1) Any proceedings, whether judicial or extra-judicial, started under the repealed enactment and pending on the commencement of this Act shall be deemed to have been started under the repealed enactment.

(2) (a) Any prosecution in respect of any act so investigated under the repealed enactment may, on the commencement of this Act, be instituted under the repealed enactment as if this Act had not come into operation.

(b) The Court shall, in respect of any prosecution instituted under paragraph (a), have all the powers that it could exercise pursuant to the repealed enactment as if this Act had not come into operation.

(3) (a) Any Order issued by a Judge or Court under the repealed enactment and valid on the commencement of this Act shall be deemed to have been issued by the Judge or Court under this Act.

(b) Any application for an Order made under the repealed enactment and pending on the commencement of this Act shall be deemed to have been made under this Act and shall be dealt with in accordance with this Act.

(4) Any registration, licence, authorisation, approval, clearance or other permission granted or issued under the repealed enactment and valid on the commencement of this Act shall be deemed to have been granted or issued under this Act.

(5) Any application for a registration, a licence, an authorisation, an approval, a clearance or other permission made under the repealed enactment and which is pending on the commencement of this Act shall be dealt with in accordance with this Act.

(6) Any concession granted under the repealed enactment and valid on the commencement of this Act shall be deemed to have been granted under this Act.

(7) The Marine Protected Area Fund established under the repealed enactment shall be deemed to have been established under this Act.

(8) Any property seized or confiscated under the repealed enactment shall, on the commencement of this Act, be deemed to have been seized or confiscated under this Act and shall be dealt with in accordance with this Act.

(9) All rights, obligations and liabilities subsisting in favour of or against the Ministry under the repealed enactment shall, on the commencement of this Act, continue to exist on the same terms and conditions in favour of or against the Ministry under this Act.

(10) Any act or thing done by the Ministry under the repealed enactment shall, on the commencement of this Act, be deemed to have been done, and shall continue to be done, by the Ministry under this Act.

(11) Any fishing vessel registered under the Merchant Shipping Act prior to the commencement of this Act shall, on the commencement of this Act, be deemed to have been registered under this Act and shall be dealt with in accordance with this Act.

(12) Where this Act does not make provision for any saving or transition, the Minister may make such regulations as may be necessary for such saving or transition.

(13) In this subsection –

“repealed enactment” means the Fisheries and Marine Resources Act repealed under section 207.

210. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on the seventh day of November two thousand and twenty three.

Urmeelah Devi Ramchurn (Ms)
Acting Clerk of the National Assembly

FIRST SCHEDULE

[Section 2]

**ILLEGAL, UNREPORTED AND UNREGULATED
FISHING (IUU FISHING)****PART I – ILLEGAL FISHING**

Illegal fishing refers to fishing activities –

- (a) conducted by national or foreign fishing vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- (b) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law; or
- (c) in contravention of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.

PART II – UNREPORTED FISHING

Unreported fishing refers to fishing activities –

- (a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (b) undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.

PART III – UNREGULATED FISHING

Unregulated fishing refers to fishing activities –

- (a) in the area of application of a relevant regional fisheries management organisation that are conducted by fishing vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or
- (b) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

SECOND SCHEDULE

[Section 33(2)(c)]

UNDERSIZED FISH THAT MAY BE USED AS BAIT

	Fish	Commonly known as
1.	<i>Mugil sp.</i> and <i>Valamugil spp.</i>	Mullet
2.	<i>Parupeneus spp.</i> <i>Upeneus spp.</i> <i>Mulloidess spp.</i>	Rouget

THIRD SCHEDULE

[Section 67]

FISH FARMING ZONES

In a radius of up to 300 metres around the following GPS points –

Zone	Area of sea	Reference coordinates GPS	
		Latitude (South)	Longitude (East)
1.	Sud Pointe de Grande Passe	20°19'28.21"	57°47'28.03"
2.	Sud Diamant Reef	20°19'48.76"	57°48'08.15"
3.	Roche Plat	20°20'12.61"	57°47'25.79"
4.	Roche Zamari	20°20'48.72"	57°47'03.22"
5.	Est Pointe Bambous 1	20°21'08.82"	57°47'00.04"
6.	Est Pointe Bambous 2	20°21'28.47"	57°46'55.59"
7.	Nord Est de Jonchée Bar	20°21'50.85"	57°46'51.23"
8.	Ouest îlot Marianne	20°22'35.55"	57°44'49.29"
9.	Baie Fer à Cheval	20°23'15.04"	57°45'50.63"
10.	Sud Banc Fer à Cheval Spit	20°23'22.45"	57°45'30.24"
11.	Sud Ouest Olive Bank	20°23'27.95"	57°44'23.64"
12.	Pointe des Amourettes	20°21'58.38"	57°46'30.14"
13.	Le Morne 1	20°25'00.32"	57°18'22.65"
14.	Le Morne 2	20°23'10.22"	57°19'14.67"
15.	Bambous 1	20°15'43.59"	57°21'40.71"
16.	Bambous 2	20°14'36.14"	57°22'05.26"

17.	Grand Gaube 1	19°59'0.457"	57°39'0.592"
18.	Grand Gaube 2	19°59'33.335"	57°39'40.600"
19.	Poudre d'Or 1	20°3'21.020"	57°41'51.580"
20.	Poudre d'Or 2	20°3'2.200"	57°41'58.420"
21.	Grande Rivière Sud Est 1	20°18'0.161"	57°47'0.060"
22.	Grande Rivière Sud Est 2	20°18'20.589"	57°47'5.778"
23.	Quatre Soeurs 2	20°18'40.604"	57°47'10.477"
24.	Bambous Virieux 1	20°20'52.5643"	57°46'18.0355"
25.	Bambous Virieux 2	20°21'16.491"	57°45'59.983"
26.	Banc Milien 1	19°48'02.799"	57°45'17.500"
27.	Banc Milien 2	19°48'04.319"	57°44'39.740"
28.	Banc Milien 3	19°48'33.956"	57°44'18.576"
29.	Banc Milien 4	19°49'09.441"	57°44'23.084"

FOURTH SCHEDULE

[Section 193]

PART I – LEVEL OF FINES AND IMPRISONMENT

Section	Offence	Level of Fine and imprisonment
1. 13(4)	Implementation of international conservation and management measure	Level 5
2. 17(3)	Declaration of, and prohibitions or restrictions respecting, protected, threatened or endangered species of fish	Level 4
3. 20(8)	Protection of marine ecosystem	Level 5
4. 21(5)	Illegal construction or placement of structures or platforms in maritime zones of Mauritius and stop order	Level 3
5. 22(4)	Management of bycatch	Level 3
6. 23(2)	Management of genetic resources	Level 5
7. 24(3)	Marking and protection of vessels and their gear	Level 3
8. 25(5)	Fish aggregating devices	Level 4
9. 26(3)	Prohibition to fish on data buoys	Level 4
10. 27(6)	Prohibition on commercial whaling and conservation of marine mammals	Level 5
11. 28(2)	Prohibition on removal and sale of shark fins	Level 4
12. 29(5)	Prohibition to use large-scale driftnets and demersal trawl nets	Level 5
13. 30(3)	Prohibition to use aircraft and unmanned aerial vehicles	Level 4
14. 31(6)	Prohibition to use artificial light to attract fish	Level 4

15.	32(3)	Prohibition to tamper with or destroy property in maritime zones	Level 3
16.	33(4)	Prohibition to fish, store, land, sell, possess or do illegal activity with specific species of fish	Level 3
17.	34(4)	Prohibition to use, possess, manufacture, import, purchase or sell prohibited gear	Level 4
18.	35(2)	Prohibition on abandoning or discarding gear, fish and fish products	Level 3
19.	36(11)	Prohibition on abandoning fishing vessel or equipment or implement used in connection with fishing or fishing related activities	Level 5
20.	37(4)	Prohibition to sink or cause to sink fishing vessel	Level 5
21.	38(3)	Prohibition of use of harmful fishing methods and sale of fish caught using such methods	Level 3
22.	39(2)	Prohibition of interference with inspected fish and fish products	Level 3
23.	40(2)	Prohibition to possess, trade and export in fish and fish products taken or obtained in contravention with Act or international conservation and management measure	Level 5
24.	41(4)	Prohibition to trade in fish and fish products taken or obtained in contravention of relevant laws of another State	Level 5
25.	42(6)	Prohibition in relation to listed vessels	Level 6
26.	43(2)	Prohibition in relation to fishing vessels without nationality	Level 5
27.	44(6)	Prohibition to fish during closed periods	Level 5
28.	45(2)	Compliance with Act, registration, licence or authorisation	Level 5

29.	46(5)	Reporting requirements	Level 4
30.	47(4)	Requirements for vessels to report entry to, exit from and regularly while in maritime zones	Level 5
31.	48(2)	Gear stowage	Level 4
32.	49(3) or (4)	Requirements for Mauritius nationals in areas beyond national jurisdiction	Level 5
33.	50(2)	Requirements for compliance with labour conditions of personnel on board fishing vessels	Level 4
34.	51(2)	Prohibition to engage with transnational criminal group	Level 6
35.	52(5)	Transshipment in the port of Mauritius, maritime zones and areas beyond national jurisdiction	Level 5
36.	53(2)	Supply activities in maritime zones of Mauritius	Level 5
37.	66(6)	Fish farming in pond, tank, barachois or fish hatchery	Level 3
38.	68(7)	Fish farming at sea	Level 3
39.	71(3)	Marked-off areas in fish farming zones	Level 4
40.	74(3)	Small-scale fish farming	Level 3
41.	75(2)	Authorisation for fishing in fish farms	Level 5
42.	76(3)	Disease outbreak in fish farm	Level 5
43.	78(2)	Interfering with aquaculture facility	Level 5
44.	79(2)	Restricted aquaculture products	Level 2
45.	80(2)	Genetically modified aquatic organism in aquaculture	Level 5
46.	81(2)	Import of live aquatic organism for aquaculture	Level 5

47.	82(2)	Genetic engineering activities in aquaculture	Level 5
48.	83(5)	Import of fish and fish products	Level 5
49.	85(8)	Import of live fish	Level 5
50.	87(2)	Prohibition to dispose of or release imported live ornamental fish	Level 5
51.	88(3)	Export of fish and fish products	Level 5
52.	90(4)	Information required and inspected	Level 4
53.	91(5)	True, complete and correct information required and destruction of documents prohibited	Level 5
54.	93(10)	Confidential Information	Level 2
55.	94(3)	Confidentiality of information in relation to Fisheries Monitoring Centre	Level 2
56.	98(8)	Terms and conditions for licences and authorisations	Level 4
57.	104(2)	Altered, defaced or mutilated registration, licence or authorisation	Level 5
58.	112(3)	Suspension and cancellation of registration of Mauritius fishing vessel	Level 5
59.	113(5)	Deregistration of Mauritius fishing vessel	Level 5
60.	114(2)	Modification of Mauritius fishing vessel	Level 5
61.	115(3)	Transfer of ownership, name and address of Mauritius fishing vessel	Level 4
62.	116(3)	Licence required by Mauritius fishing vessel for fishing or fishing related activities in maritime zones of Mauritius	Level 6
63.	117(2)	Authorisation required by Mauritius fishing vessel for fishing or fishing related activities in areas beyond national jurisdiction or area of competence of a relevant regional fisheries management organisation	Level 6

64.	118(2)	Licence required by foreign fishing vessel for fishing or fishing related activities in maritime zones of Mauritius	Level 6
65.	119(3)	Fishmonger licence	Level 4
66.	120(5)	Registration of artisanal fisher, bank fisher and trainee fisher	Level 3
67.	121(2)	Requirement to possess fisher identity card while engaging in fishing or fishing related activities	Level 1
68.	123(7)	Obligations of registered fishers	Level 3
69.	124(3)	Licence required for manufacture, import, sale or supply of gear except for basket trap, fish spear, line, rod, reel or lure	Level 5
70.	125(5)	Gear licence required for bait gear, canard net, gill net, large net, pocket net and shrimp net	Level 5
71.	126(4)	Duties of holder of gear licence	Level 4
72.	127(5)	Disposal or replacement of licensed gears	Level 4
73.	128(2)	Net or gear exceeding authorised length	Level 5
74.	129(4)	Licence required for underwater fishing	Level 5
75.	130(3)	Licence required for exploratory fishing	Level 5
76.	131(2)	Authorisation required to operate in net fishery	Level 5
77.	132(2)	Authorisation required for importation and construction of fishing vessel	Level 5
78.	134(2)	Powers of entry and search	Level 5
79.	135(3)	Powers of investigation	Level 5
80.	136(3)	Powers to take, detain, remove and secure evidence	Level 5
81.	137(5)	Powers of detention	Level 4

82.	138(4)	General powers of fisheries control officers	Level 4
83.	139(3)	Power to order vessel to the port of Mauritius	Level 5
84.	141(4)	Removal of parts from seized fishing vessels	Level 5
85.	142(4)	Pursuit beyond the maritime zones of Mauritius	Level 6
86.	143(2)	Powers of investigation in areas beyond national jurisdiction	Level 6
87.	144(4)	Obligation for inspection of Mauritius fishing vessels in areas beyond national jurisdiction	Level 5
88.	149(2)	Duty of operators and crew members to assist observers	Level 5
89.	153(1)	Obstruction of authorised persons	Level 4
90.	155(2) or (3)	Vessel monitoring systems – requirements for operators	Level 4
91.	156(2)	Automatic identification system	Level 3
92.	160(2)	Prerequisites for entry or use of port of Mauritius	Level 4
93.	162(4)	Force majeure or distress	Level 4
94.	167(4)	Requirements for Mauritius fishing vessels in foreign port	Level 5
95.	168(4)	Presumptions of IUU Fishing or fishing related activities in contravention of international conservation and management measures	Level 6
96.	169(6)	Actions in relation to fishing vessels on an IUU Vessels List of relevant regional fisheries management organisation	Level 6
97.	188(4)	Evidence from position fixing instrument	Level 5
98.	192(3)	Interfering with evidence	Level 4

PART II – MAXIMUM FINE AND IMPRISONMENT

Level	Maximum fine (Rs)	Maximum imprisonment
Level 1	10 million	--
Level 2	15 million	One year
Level 3	25 million	2 years
Level 4	40 million	5 years
Level 5	50 million	10 years
Level 6	100 million	25 years

FIFTH SCHEDULE
[Section 202(1) and (2)]

FIXED PENALTY OFFENCES

Offence	Fixed penalty (Rs)
1. Prohibition to fish, store, land, sell, possess or do illegal activity with specific species of fish – section 33(1)	5,000
2. Selling or having in possession for sale any fish without a valid fishmonger licence – section 119(1)	5,000
3. Engaging in fishing as an artisanal fisher without being registered as a registered fisher – section 120(1)	5,000
4. Not being in possession of fisher identity card while carrying fishing or fishing related activities – section 121(1)	2,000
5. Landing catch at a place other than at the fish landing station where fishing vessel is registered – section 123(1)	5,000
6. Mooring fishing vessel outside prescribed distance for landing purposes – section 123(2)	5,000
7. Storing catch in any manner or place not approved – section 123(4)	5,000
8. Mooring fishing vessel in place not approved while fishing vessel not on fishing trip – section 123(6)	5,000
9. Manufacture, import, sale or supply of any gear except for basket trap, fish spear, line, rod, reel or lure without valid licence – section 124(1)	5,000
10. Using or possessing bait gear, canard net, gill net, large net, pocket net or shrimp net without being the holder of a valid gear licence – section 125(1)	5,000
11. Failure to surrender gear on lapsing of gear licence – section 126(3)	5,000

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|--|-------|
| 12. Replacing licensed gear without a valid authorisation – section 127(2) | 5,000 |
| 13. Possession of net or gear exceeding authorised length or having mesh size less than authorised – section 128(1) | 5,000 |
| 14. Engaging in underwater fishing without a valid licence – section 129(1) | 5,000 |
| 15. Operating net fishery without holder of a valid fisher card – section 131(1) | 5,000 |
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SIXTH SCHEDULE

[Section 202(2)]

FIXED PENALTY NOTICE

PART I

Fixed Penalty Notice no.

Surname of offender

Name(s) of offender

Address

This is to bring to your attention that today
(date)

at (time) at (place) you
have committed the following offence(s) –

OFFENCE	OFFENCE CODE	FIXED PENALTY (Rs)
1.		
2.		
3.		

You have to pay the abovementioned fixed penalty at the District Court of (name of District Court) at latest by (date), failing which you shall be liable, on conviction, to a fine of not less than twice the amount specified above.

You have to attend Court personally and produce the FPN and your National Identity Card or passport in case you are not the holder of a National Identity Card.

.....
Name of Fisheries Protection
Officer/Police Officer

.....
Signature of Fisheries Protection
Officer/Police Officer

PART II
IN THE DISTRICT COURT OF

.....

PARTICULARS OF OFFENDER

(to be filled in by District Court Officer)

National Identity Card no./Passport no. *

Date of payment

.....
Signature of offender

.....
Name of District Court Officer

.....
Signature of District Court Officer

.....
Office stamp

**Delete as appropriate*
