

BELIZE:

AQUATIC LIVING RESOURCES BILL, 2011

ARRANGEMENT OF CLAUSES

PART I

Preliminary

1. Short title
2. Interpretation

PART II

Objectives and Principles

3. Objective of long term sustainable use
4. Principles and measures

PART III

Fisheries Council, Fisheries Fund, etc.

5. Fisheries Council
6. Fisheries Fund
7. Submission of budget estimates

PART IV

Fisheries Conservation, Management and Development

8. Determination of total allowable level of fishing
9. Fishery management plans
10. Fishing priority areas
11. Species requiring special protection
12. Co-management

PART V

Marine and Inland Water Reserves

13. Marine and inland water reserves
14. Offences and penalties within reserves
15. Permission of Minister needed to conduct prohibited activities in reserves
16. Consent of Minister required for activities having detrimental impact within reserves
17. Power to make regulations for reserves

18. General offence and penalty

PART VI

Local Fishing Licences

19. Local fishing vessel licence
20. Local fisher's licence
21. Fees

PART VII

Foreign Fishing within Belize Fisheries Waters

22. Regional cooperation in fisheries
23. Fisheries Access Agreements
24. Foreign fishing vessel licences

PART VIII

Provisions Applicable to Both Foreign and Local Fishing

25. No fishing without a licence
26. Validity of fishing licences
27. Conditions of fishing licences
28. Notice
29. Cancellation or suspension of fishing licence
30. Appeals from decision of Fisheries Administrator

PART IX

Fishing by Belizean Vessels in Waters Beyond National Jurisdiction

31. Purpose and application
32. Application for a high seas fishing licence
33. Conditions attaching to a high seas fishing licence
34. Validity of a high seas fishing licence
35. Cancellation or suspension of a high seas fishing licence
36. Transshipment licence
37. Use of vessels of other flags by Belizean nationals on high seas
38. Use of vessels by Belizean nationals beyond fisheries waters
39. Regulation of fishing in areas beyond national jurisdiction
40. Quotas and fees
41. Security for release of a fishing vessel

PART X

Implementation of International Conservation and Management Measures

42. Giving effect to international conservation and management measures and international agreements

PART XI

Port Measures

43. Port measures.

PART XII

Marine Scientific Research & Test Fishing Operations

44. Marine scientific research operations related to fisheries
45. Test fishing operations

PART XIII

Prohibited Fishing Methods, Stowage of Gear, and Transshipment

46. Prohibited fishing methods
47. Stowage of fishing gear
48. Transshipment

PART XIV

Record of Fishing Vessels

49. Record of fishing vessels authorized to fish in fisheries waters
50. Record of fishing vessels authorized to fish beyond fisheries waters
51. Verification, certification and documentation

PART XV

Aquaculture

52. Aquaculture operations

PART XVI

Monitoring, Control and Surveillance

53. Appointment of officers
54. Appointment of authorized officers from other states
55. Powers of entry and search
56. Power to question persons and require production of documents

57. Powers of arrest
58. Power to give directions to master
59. Power to use reasonable force and to take copies of documents
60. Powers of seizure
61. General powers
62. Powers with respect to measures of a regional fisheries management organization
63. Persons to assist authorized officer
64. Protection of authorized officer from liability
65. Requirements for seized property, etc.
66. Removal of parts from seized vessels, etc.
67. Observers
68. Duties towards authorized officers and observers
69. Identification of authorized officers and observers
70. Mobile Transceiver Units requirements
71. MTU information
72. MTU evidence

PART XVII

Jurisdiction and Evidence

73. Jurisdiction of Supreme Court
74. Liability for non-payment of penalties
75. Liability for loss, damage or costs incurred
76. Certificate evidence
77. Certificate as to location of vessel
78. Validity and procedures for certificates
79. Photograph evidence
80. General Presumptions
81. Presumption as to authority
82. Strict liability
83. Liability of Directors and Managers
84. Liability of principal for actions of agent in relation to records and returns
85. Liability of companies and persons for actions of officers and employees
86. Tampering with evidence
87. Liability of master, or other person in charge of vessel
88. Forfeiture and suspension of fishing rights, licences etc.
89. Power of fisheries officers to undertake prosecutions
90. Damage to the marine ecosystem

PART XVIII

Sale, Release and Forfeiture of Retained Property

91. Forfeiture of property on conviction
92. Application of bond etc.
93. Removal of seized items
94. Disposal of forfeited items
95. Sale of perishable items
96. Liability for loss, damage or deterioration of items in custody
97. Removal of item in custody
98. Release of seized items upon bond, etc.
99. Failure to comply with conditions of bond
100. Release of seized items upon decision not to proceed, acquittal and absence of forfeiture order

PART XIX

Regulations

101. Regulations
102. Negative Resolution.

PART XX

General

103. Prohibition on fishing for scheduled species.
104. General offence and penalty
105. Conflict of laws
106. Power to delegate
107. Repeal and savings
108. Commencement

BELIZE:

BILL

For

AN ACT to make new and improved provisions to promote long term conservation, management, and sustainable use of the aquatic living resources of Belize; to provide for fishing and registration of foreign and local fishing vessels which desire to fish on the High Seas; to repeal the Fisheries Act, Chapter 210 of the Laws of Belize, Revised Edition 2000; to repeal the High Seas Fishing Act, Chapter 210:01 of the Substantive Laws of Belize, Revised Edition 2000-2003; and to provide for matters connected therewith or incidental thereto.

BE IT ENACTED by and with the advice and consent of the House of Representatives and Senate of Belize, and by the authority of the same, as follows:

(Gazetted, 2011).

PART I
Preliminary

Short title.

1. This Act may be cited as the
AQUATIC LIVING RESOURCES ACT, 2011.

Interpretation.

2. In this Act

“aquaculture” means any activity designed to cultivate or farm fish and other living aquatic resources, and includes the cultivation, propagation or farming of aquatic organisms from eggs, spawn, spat or seed, or by rearing fish or aquatic plants

lawfully taken from the wild or lawfully imported into Belize, or by other similar process;

“aquatic living resources” means living organisms in the fisheries waters of Belize, including any aquatic flora or fauna;

“authorized officer” means any fisheries officer and any other person or category of persons designated as an authorized officer by the Minister under section 53 of the Act;

“Belize high seas fishing vessel” means a fishing vessel authorized to fly the flag of Belize and used to fish in areas beyond the fisheries waters;

“bio-prospecting” means the research, collection and utilization of biological and genetic resources for purposes of applying the knowledge derived there from primarily for commercial purposes;

“commercial fishing” means fishing for the purpose of sale, barter or exchange for monies worth;

“Council” means the Fisheries Council established under section 5 of the Act;

“closed season” means a period of time during which fishing is prohibited;

“Department” means the Belize Fisheries Department;

“fish” means the whole or any part, and the offspring and its eggs, of any aquatic animal, whether piscine or not, and includes aquatic flora;

“fisheries officer” means the Fisheries Administrator and any other officer appointed under section 53 of the Act;

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management;

“fisheries waters” means the waters of the exclusive economic zone and the territorial sea of Belize and internal waters as defined in section 2 of the Maritime Areas Act, all inland waters of Belize, and such other waters in respect of which Belize exercises jurisdiction from time to time for fisheries purposes;

“fishing” means catching or taking or killing fish by any method and includes

- (a) searching for fish;
- (b) the attempted searching for or catching or taking of fish;
- (c) engaging in any other activity that can reasonably be expected to result in the taking of fish;
- (d) bio-prospecting;
- (d) the use of an aircraft or a conveyance in relation to any activity described in paragraphs (a) through (d);

but does not include the taking of fish from an aquaculture facility or any other activity related to aquaculture;

“fishing gear” means equipment, implement or other thing that can be used in the act of fishing, including any fishing net, rope, line, float, trap, hooks, winch, boat, beacon or locating device;

“fishing vessel” means any boat or craft used or equipped for commercial or non commercial fishing or related activities;

“Fish Stocks Agreement” means the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted at New York on 4 August 1995;

“foreign fishing vessel licence” means a licence issued in respect of a foreign fishing vessel under section 24 of the Act;

“foreign fishing vessel” means any fishing vessel other than a local fishing vessel or a Belize high seas fishing vessel;

“high seas” means the waters beyond the territorial sea or exclusive economic zone (or other zone of extended fisheries jurisdiction) of any State, to the extent that such territorial sea or exclusive economic zone (or other zone of extended fisheries jurisdiction) is recognized by Belize;

“inland waters” means permanent water bodies on the mainland and include rivers, lakes, floodplains, reservoirs, wetlands, and inland saline systems;

“illegal, unreported and unregulated fishing” has the same meaning as it is given in the International Plan of Action to prevent, deter and eliminate Illegal, Unreported and Unregulated Fishing, adopted at FAO, Rome in June 2001;

“international conservation and management measures” means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law reflected in the 1982 United Nations Convention of the Law of the Sea, the FAO Compliance Agreement and the Fish Stocks Agreement either by global, regional or sub-regional organizations, or by treaties, or arrangements to which Belize is a Party or is a cooperating non contracting party;

“IMMARBE” means the International Merchant Marine Registry of Belize;

“length”

(a) in respect of a foreign fishing vessel means,

- (i) for any fishing vessel of Belize built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and
- (ii) for any fishing vessel of Belize built before 18 July 1982, registered length as entered on the vessel’s documentation;

“length overall” means the distance in a straight line parallel to the design waterline, between the foremost point of the bow to the aftermost point of the stern;

“local fishing vessel” means any fishing vessel which is

- (a) wholly owned by the State or by a public corporation established by or under the law of Belize; or
- (b) wholly owned by one or more natural persons who are citizens of Belize; or
- (c) wholly owned by a fishers' co-operative society, fishers' association or other such society or association of persons established under the law of Belize or by a local fishing company;

“management plan” means the plan for the management and development of an area or areas or a fishery;

“master” means the person or persons having control of a fishing vessel at any given time;

“Minister” means the Minister with responsibility for fisheries and Ministry shall be construed accordingly;

“mobile transceiver unit” or “MTU” means a device placed on a vessel that transmits either in conjunction with another device or devices or independently information concerning the position, fishing and such other activities of the vessel as may be required

“non-commercial fishing” means fishing without the intention of sale or barter and includes, recreational fishing and subsistence fishing;

“operator” means any person who is in charge of or directs or controls a fishing vessel, or whose direct economic or financial benefit a vessel is being used, including the master, owner and charterer;

“owner” in relation to a fishing vessel means any person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his own behalf or on behalf of another and includes a person who is the owner jointly with any other person or person and any manager, director or secretary of any body corporate;

“recreational fishing” harvesting fish for personal use, leisure and challenge;

“related activities” in relation to fishing means

- (a) transshipping fish to or from any vessel whether or not for the purpose of sale or barter; or
- (b) storing, processing or transporting fish taken from the fisheries waters up to the time it is first landed; or
- (c) refueling or supplying fishing vessels or performing other activities in support of fishing operations; or
- (d) the use of an aircraft or a conveyance in relation to any activity described in this paragraph;
- (e) attempting or preparing to do any of the above,

“shark finning” means the removal and retention of shark fins and the discard at sea or on land of the rest of the carcass.

“**sport fishing**” means fishing for the purpose of leisure or recreation only, without the intention of selling the fish;

“**subsistence fishing**” means fish used directly by families and kin of the fishers;

“**test fishing operations**” means any fishing operations undertaken over a limited period of time for the purpose of testing the feasibility of commercial fishing operations;

“**transshipment**” means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in any port.

PART II

Objectives and Principles

Objective of long term sustainable use.

3. The fundamental objective of this Act is to promote long-term conservation, management, and sustainable use of the aquatic living resources of Belize for the people of Belize.

Principles and measures.

4. (1) The Minister or Fisheries Administrator, when performing their functions or exercising powers under this Act, shall

(a) apply, in particular, the following principles and measures

(i) conservation and management of fishery resources shall be conducted in a transparent, accountable and inclusive manner, taking into account applicable best international or regional practices;

(ii) fishing shall be commensurate with the sustainable use of fishery resources taking into account the impacts on non-targeted and associated or dependent species and the general obligation to protect and preserve the marine environment;

(iii) measures and management decisions shall be based on the best information available and designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, or any other approved reference points, as qualified by relevant environmental, social and economic factors, and taking into account fishing patterns, the interdependence of stocks;

(iv) overfishing and excess fishing capacity shall be prevented or

eliminated;

- (v) data on fisheries, including information relating to the ecosystems, social and economic systems in which fisheries occur, shall be collected, verified, reported and shared in a timely and appropriate manner;
- (vi) effective enforcement of, and compliance with, conservation and management measures shall be pursued to protect biodiversity;
- (vii) pollution and waste originating from fisheries operations, discards, by-catch, lost or abandoned gear and impacts on other species and marine ecosystems shall be minimized or eliminated where possible;
- (viii) the welfare and livelihood of fishers and the fishing community shall be improved; and

(b) apply the precautionary approach and an ecosystem approach in accordance with paragraph 2.

(2) (a) The precautionary approach as described in the Fish Stocks Agreement shall be applied widely to the conservation and management of fishery resources in order to protect those resources and to preserve the aquatic ecosystems in which they occur, and in particular the Minister or the Fisheries Administrator shall

- (i) be more cautious when information is uncertain, unreliable, or inadequate;
- (ii) not use the absence of adequate scientific information as a reason for postponing or failing to take conservation and management measures; and
- (iii) take account of best practices regarding the application of the precautionary approach, including Annex II of the Fish Stocks Agreement;
- (iv) take into account livelihoods and users of aquatic living resources.

(b) An ecosystem approach shall be applied widely to the conservation and management of aquatic resources through an integrated approach under which management decisions are taken in the context of the functioning of the wider ecosystems in which they occur to ensure the long-term conservation and sustainable use of those resources and in so doing, safeguard those

ecosystems.

PART III

Fisheries Council, Fisheries Fund, etc.

Fisheries Council.

5. (1) There is established a Fisheries Council which shall advise and make recommendations to the Minister on

- (a) matters relating to the conservation, management, use and development of fisheries;
- (b) the development and implementation of comprehensive fisheries policies;
- (c) the monitoring and review including the evaluation, of conservation guidelines and ecosystem-based management measures;
- (d) consideration and review of fishery management plans;
- (e) coordination of policies with regard to fisheries with other departments, including joint venture agreements and investments in the fisheries sector;
- (f) matters requiring coordination and cooperation; and
- (g) any other matter at the request of the Minister.

(2) The Council shall comprise the following members

- (a) the Fisheries Administrator or his designate;
- (b) the Chief Executive Officer of the Coastal Zone Management Authority and Institute or his designate;
- (c) the Solicitor-General or his designate;
- (d) the Chief Environmental Officer or his designate;
- (e) the Chief Executive Officer in the Ministry responsible for Economic Development or his designate;
- (f) the Director of the Belize Tourism Board or its successor organization, or his designate;
- (g) three members selected by fishing cooperatives and associations, at least one of whom shall represent the Belize Fisherman Cooperative Association;
- (h) one member representing a non-governmental organization with an interest in the conservation and sustainable utilization of aquatic living resources, the corporate headquarters of which is in Belize, recommended by the Fisheries Administrator; and
- (i) an independent fisher recommended by the Fisheries Administrator;

(j) an independent scientist with expertise in fisheries science recommended by the Fisheries Administrator.

(3) The Minister shall publish by Notice in the *Government Gazette*, the names of members and any changes in membership of the Council as constituted under subsection (2).

(4) A person appointed under subsection (3) shall be appointed for a term of up to two years and may serve no more than three consecutive terms.

(5) The Council may co-opt any person as the Council thinks fit by reason of any particular knowledge or skill, to assist the Council for a specific purpose, and the person co-opted shall not be entitled to vote on any question before the Council.

(6) The quorum for a meeting of the Council shall be at least half of its members being present for the duration of the meeting.

(7) Except for the determination of the quorum, the Council may regulate its own proceedings.

(8) A person appointed under subsection (3) may be removed by the Minister from holding a position on the Council

- (a) where he has engaged in misconduct;
- (b) where he has been absent without reasonable excuse from three consecutive meetings;
- (c) where he is deemed unfit to hold office whether by reason of infirmity of body or mind.

(9) A member of the Council shall disclose an interest in any matter that comes before the Council for deliberations and shall recuse himself from deliberations of the Council in respect of that matter in which that member has a substantial interest.

(10) The Council may establish sub-committees chaired by a member of the Council to deliberate on a specific issue or with specified responsibilities and for a specified term.

(11) The sub-committee shall make recommendations to the Council for deliberation.

6. (1) There shall be a Fisheries Fund created in accordance with the Finance and Audit (Reform) Act.

(2) The Fisheries Fund shall be kept to meet contingencies and for such other purposes as the Department deems fit.

(3) The Fisheries Fund shall consist of

- (a) such sums as may be voted annually for the purposes of the Department by the National Assembly;
- (b) monies received as fees, fines, levies, proceeds of sale and other charges;
- (c) subventions, donations and bequests granted to the Department;
- (d) all other monies belonging to the Department derived from any source whatsoever;

(3) The management of the Fisheries Fund, the sums to be carried from time to time to the credit thereof, the charges to be made against it, and any other application of the moneys comprised therein shall be as the Department determines

provided that

- (a) no part of the Fisheries Fund shall be applied otherwise than for the use of the Department in keeping with the objectives of this Act and any subsidiary law made under this Act; and
- (b) the power of the Minister responsible for Finance to give directions to the Department shall extend to the giving them of directions as to any matter relating to the establishment or management of the Fisheries Fund, the carrying of monies to the credit of the Fisheries Fund, or to the application of the monies of the Fisheries Fund, notwithstanding that the direction may be of a specific character.

Submission of
budget
estimates.

7. The Department shall, in such form and by such dates as may be prescribed by the Financial Secretary, prepare and submit to the Minister of Finance, through the Minister responsible for fisheries estimates of income receivable and the expenditure to be incurred during each financial year (including any supplementary estimates), and the Minister of Finance shall present the said estimates to the National Assembly, with such

amendments and modifications, if any, as he may consider necessary for the implementation of a management plan(s) or generally for the application of this Act.

PART IV

Fisheries Conservation, Management and Development

Determination of total allowable level of fishing.

8. The Minister may, in consultation with the Fisheries Council, determine the total allowable catch or total allowable level of fishing in any fishery in the fisheries waters of Belize.

Fishery management plans.

9. (1) The Fisheries Administrator shall prepare and keep under review a management plan or plans to be prepared in respect of each fishery or category of fisheries.

(2) A fishery management plan shall

- (a) identify and address trends in the biological, economic and social characteristics of the fishery including issues requiring special attention;
- (b) address how the fishery is to be managed using precautionary and ecosystem approaches to fisheries;
- (c) identify the target and other fish stocks, fisheries management units and management objectives for each fishery;
- (d) address the proposed conservation, management and development measures to be applied to the fishery with due regard to the performance of historical measures;
- (e) describe the processes and indicators for management and measuring management performance;
- (f) make provision in relation to any other matter necessary for sustainable use of fishery resources.

(3) The Fisheries Administrator may make provision for further contents to be included in a fishery management plan required under this section.

(4) In preparing a fishery management plan under this section, the Fisheries Administrator shall

- (a) submit the proposed management plan to the Fisheries Council for its review and recommendations;
- (b) publish the following by Notice in the *Gazette* or in two national newspapers with wide circulation in Belize
 - (i) the indication of public offices where copies of the proposed fisheries management plan will be made available for consultation by the public;
 - (ii) an invitation to the public, and particularly to the residents of the area concerned, to submit written or oral comments on the proposed fisheries management plan within a specified period of time, not less than two months but not more than four months;
 - (iii) the indication of dates and places where public meetings shall be held within the period of time specified under paragraph (ii) above to allow the public to submit comments.

(5) Unless otherwise determined by the Fisheries Administrator, each fishery management plan shall be valid for a period of up to five years and may be reviewed or extended as deemed necessary by the Fisheries Administrator.

(6) Each fishery management plan and each review of a fishery management plan shall be submitted to the Minister for approval.

(7) Where a review of a fishery management plan recommends amendments to the plan, the Fisheries Administrator shall consult with the Fisheries Council and shall require the approval of the Minister prior to implementation of the amended plan.

(8) A fishery management plan prepared under this section shall be submitted to the Minister for approval and the decision shall be given within thirty days of the submission.

(9) Following approval, a fishery plan shall enter into force by Order of the Minister published in the *Gazette*.

Fishing priority areas.

10. The Minister may, by Order published in the *Gazette*, declare any area of the fisheries waters to be a fishing priority area, where he considers that special measures are necessary to ensure that authorized fishing within the area is not impeded or otherwise interfered with.

Species requiring special protection.

11. (1) The Minister may, on the recommendation of the Fisheries Administrator declare by Order published in the *Gazette*, that a specific area, fishery, management unit, stock, or species of fish be closed to fishing in order to

- (a) prevent further depletion;
- (b) promote recovery and ecosystem services;
- (c) protect critical habitats.

(2) The Fisheries Administrator shall prepare a fishery management plan for the management of each area, fishery, management unit, stock, or species of fish that has been declared under subsection (1).

Co-management.

12. (1) The Minister, after consultation with the Fisheries Council, may delegate management responsibility in whole or in part for any fishery or area declared under this Act, to a locally registered non-governmental organization that

- (a) is willing, and has the capacity to co-manage any fishery or area;
- (b) agrees to implement the management plan that exists for the fishery or area;
- (c) under the guidance of the Fisheries Administrator, agrees to prepare in accordance with section 9, or periodically update the management plan for

the respective fishery or area based on consultations with persons with an interest in the co-management arrangement;

(d) agrees to comply with any other requirements consistent with the purposes for which the fishery or area was declared as subject to co-management.

(2) Where the Minister has delegated management responsibility under subsection (1), he shall cause the preparation of a legally binding agreement that details the duration, terms and conditions for the co-management of the fishery or area between the State and the body to whom delegation of management responsibility is intended.

PART V

Marine and Inland Water Reserves

Marine and inland water reserves.

13. (1) The Minister may, by Order published in the *Gazette*, declare any area of the fisheries waters and, as appropriate, any adjacent or surrounding land, to be a marine or inland water reserve where he considers that special management measures are necessary

- (a) to afford special protection to the flora and fauna of such areas;
- (b) to protect and preserve the natural breeding and nursery grounds and habitats of aquatic life;
- (c) to allow for the replenishment or restoration of aquatic life in areas where such life has been depleted;
- (d) to sustain livelihoods which rely on aquatic living resources;
- (e) to promote scientific study and research in respect of such areas; or
- (f) to preserve and enhance the biodiversity and natural beauty of such areas

provided that prior to making a declaration under this section, the Minister shall consult with the Fisheries Council and shall hold such other public consultations with persons having an interest in the reserve, including users of the area.

(2) The Minister may, by Order published in the *Gazette*, declare zones within any declared marine or inland water reserve within which certain activities may be conducted or prohibited.

(3) Where an area under subsection (1) declared as a reserve no longer serves the purpose for which it was declared the Minister shall, by Order published in the *Gazette*, revoke the declaration

provided that prior to making a declaration under this section, the Minister shall consult with the Fisheries Council and shall hold such other public consultations with persons having an interest in the reserve, including users of the area.

Offences and penalties within reserves.

14. (1) A person commits an offence who, in any marine or inland water reserve, without permission granted under section 15

- (a) fishes, attempts to fish or conducts any related activities;
- (b) takes or destroys any flora or fauna ;
- (c) dredges, extracts coral, sand or gravel, discharges or deposits waste or any other polluting matter, or in any way disturbs, alters or destroys the natural environment;
- (d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve; or
- (e) does any other thing or takes action which is in violation of this law or any other law relating to marine or inland water reserves.

(2) A person who commits an offence under subsection (1) is punishable on summary conviction

- (a) in respect of paragraph (a) or (e), to a fine not less than one thousand dollars but not more than five thousand dollars; or
- (b) in respect of paragraph (b), (c) or (d), to a fine not less than twenty five thousand dollars but not more than one hundred thousand dollars.

Permission of Minister needed to conduct prohibited activities in reserves.

15. The Minister, or any person authorized by him in writing, may give written permission to do any of the things prohibited under this section

provided that in granting permission it does not undermine the effective implementation of a fishery management plan for that reserve.

Consent of Minister required for activities having detrimental impact within reserves.

16. (1) Where an activity that could have a detrimental impact on a marine or inland water reserve is planned within that marine or inland water reserve by any ministry or entity pursuant to any other Act or law, the ministry or entity under whose management that activity is planned shall require the written consent of the Minister, to be given or denied, after consultation with and consideration of, any recommendations made by the Fisheries Council, before commencing any activity in that marine or inland water reserve.

Power to make regulations, orders, etc. for reserves.

17. (1) The Minister may

- (a) make regulations
 - (i) for the general management of marine or inland water reserves;
 - (ii) setting fees for entrance to and activities in a marine or inland water reserve;
 - (iii) providing for the development and adoption of management plans in respect of marine or inland water reserves;
 - (iv) providing for research permits and fees for issuance of such permits;
 - (v) providing for management plans for marine or inland water reserves which shall include
 - (aa) physical, biological, socio-economic and cultural aspects of the marine or inland water reserve;
 - (bb) conservation and management objectives; and
 - (cc) management programmes,
- (b) by Order,
 - (i) establish an advisory committee for each marine or inland water reserve or any combination of reserves;
 - (ii) determine the terms of reference of any advisory committee established under paragraph (i),
- (c) do any other thing or take any action necessary for the protection and preservation of a marine or inland water reserve.

General offence and penalty.

18. A person who undertakes any activity contrary to the provisions of this section or to any regulations made pursuant to this section commits an offence and is liable to a fine not less than five hundred dollars but which may extend up to one hundred thousand dollars

depending on the circumstances of the case, or to imprisonment for a term not less than one year but not more than three years or to both fine and imprisonment.

PART VI
Local Fishing Licences

Local fishing
vessel licence.

19. (1) No local fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid licence issued under this section in respect of that vessel.

(2) Subsection (1) shall not apply to any local fishing vessel used purely for the purpose of fisheries related research in respect of which there is a valid authorization issued under this Act.

(3) An application for a local fishing vessel licence or for the renewal of a local fishing vessel licence shall be made in the prescribed form to the Fisheries Administrator.

(4) Subject to subsection (5) of this section, the Fisheries Administrator may issue a local fishing vessel licence in the prescribed form.

(5) No local fishing vessel licence shall be issued or renewed in respect of any local fishing vessel unless

- (a) an application has been made in accordance with subsection (3);
- (b) the vessel has been listed on the record of local fishing vessels in accordance with section 49; and
- (c) any fees payable in respect of the licence have been paid.

(6) The Fisheries Administrator may refuse to issue or renew a local fishing vessel licence in respect of any local fishing vessel

- (a) where it is necessary to do so in order to give effect to the provisions of any applicable fishery management plan;
- (b) where the licence application is made in respect of a fishery that has not hitherto been exploited in Belize and where the Fisheries Administrator is satisfied that it would be contrary to the interests of the proper management of that fishery to issue the fishing vessel licence; or
- (c) for such other grounds as may be specified in this Act or any regulations made under this Act.

(7) Where a local fishing vessel is used in contravention of subsection (1) or of any condition of the local fishing vessel licence, the master, owner and charterer of that vessel each commits an offence, and is liable on summary conviction to a fine not less than one thousand dollars but not more than five thousand dollars.

Local fishers' licence.

20. (1) A person who wishes to engage in the following types of fishing or related activities is required to hold a licence issued by the Fisheries Administrator

- (a) commercial fishing,
- (b) non commercial fishing,
- (c) sport fishing,
- (d) aquarium trade,
- (e) export or import of fish,
- (f) fish processing,
- (g) research;
- (h) bio-prospecting.

(2) The Minister may attach conditions to any licence issued under subsection (1).

(3) The manner of, application for, and renewal of, licences and any other matter related to licensing shall be as prescribed in Regulations made under this Act.

Fees.

21. (1) There shall be payable in respect of every licence issued under this Part such fees as may be prescribed in Regulations made under this Act.

(2) Notwithstanding subsection (1) the Fisheries Administrator may waive fees payable in respect of any licence issued under this Act.

PART VII

Foreign Fishing within Belize Fisheries Waters

Regional co-operation in fisheries.

22. (1) The Minister may enter into arrangements or agreements with other countries in the region or with any competent sub-regional, regional or global organization with the purpose of promoting regional co-operation in fisheries.

(2) Arrangements or agreements referred to in subsection (1) may concern but are not limited to the harmonization of systems for collecting statistics, carrying out surveys for assessing the state of the fishery resources, harmonization of licensing procedures regarding foreign fishing vessels, and co-operation in enforcement measures in respect of foreign fishing vessels.

Fisheries Access Agreements.

23. (1) The Government of Belize may enter into access agreements with other states and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those states or associations.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the appropriate fisheries plan.

(3) Any agreement entered into under this section shall include a provision establishing the responsibility of the foreign state or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in the fisheries waters.

(4) For the purpose of this section the term "State" shall include any regional organization to which the power to negotiate access agreements has been delegated by the member countries of that organization.

Foreign fishing vessel licences.

24. (1) No foreign fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid foreign fishing vessel licence issued under this section.

(2) Subsection (1) shall not apply to any foreign fishing vessel used purely for the purpose of fisheries related research in respect of which there is a valid authorization issued under this Act.

(3) An application for a foreign fishing vessel licence shall be made, in the prescribed form, to the Fisheries Administrator.

(4) Subject to the provisions of this Act and any regulations made under this Act, the Fisheries Administrator, after consultation with the Fisheries Council, may issue a foreign fishing vessel licence in the prescribed form authorizing a foreign fishing vessel to be used in the fisheries waters for such fishing or related activities as may be specified in the licence.

(5) Subject to sub-sections (6) and (7), no foreign fishing vessel licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer is a member, an access agreement to which the Government of Belize is a party.

(6) A licence may be issued in respect of

- (a) test fishing operations;
- (b) a locally based foreign fishing vessel,

notwithstanding the absence of an access agreement otherwise required under subsection (5).

(7) Where the Minister determines that an agreement under section 23 in respect of a foreign fishing vessel is not practical, he may issue a licence in respect of that vessel where the applicant provides sufficient financial and other guarantees relating to his fulfillment of all obligations arising under this Act.

(8) Where a fishing vessel is used in contravention of subsection (1) or of any condition of a foreign fishing vessel licence, the master, operator, owner and charterer of that vessel each commits an offence and each is liable on summary conviction to a fine not less than one thousand dollars but not more than ten thousand dollars.

PART VIII

Provisions Applicable to Both Foreign and Local Fishing

No fishing
without a
licence.

25. No person shall engage in commercial fishing or be engaged or employed in or on any boat while in use for commercial fishing unless he is the holder of a valid fishing licence issued under regulations made under this Act.

Validity of
fishing
licences.

26. (1) Unless earlier cancelled in accordance with section 29, a fishing licence is valid for such period not more than twelve months as may be specified in the licence.

(2) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence automatically ceases to be valid.

(3) A fishing licence is valid only for the fisheries or areas that have been specified in the licence.

(4) No licence is transferable.

Conditions
of fishing
licences.

27. (1) Every fishing licence is subject to any management plan in effect for the respective fisheries or area.

(2) A fishing licence issued under this Act shall be in the prescribed form and is subject to

- (a) general or specific conditions as may be prescribed under this Act;
- (b) any conditions as may be specified under subsection (2); and
- (c) special conditions as may be specified under subsection (3).

(3) The Minister may, by Regulations, specify conditions additional to those prescribed to which all fishing licences or any category of fishing licences shall be subject including conditions relating to open and closed seasons, fishing areas, gear types and restrictions, species, sizes and submission of catch information.

(4) The Fisheries Administrator may attach to any local fishing licence such special conditions as he may think fit relating to the proper management of fisheries, including but not limited to, catch limits, the base of operations of the vessel, the landing of its catch and the gathering of information on the vessel's operations.

(5) The Fisheries Administrator may, from time to time, where he is satisfied that it is expedient for the proper management of fisheries in the fisheries waters or the proper regulation of fishing operations, vary any special conditions attached to any fishing licence.

(6) Where the Minister or the Fisheries Administrator varies any conditions attached to any category of fishing licence he shall notify the licence holder of such variation as soon as practicable and any such variation shall be enforceable provided the licence holder is informed.

Notice.

28. Any variation of a condition given under section 27 or cancellation or suspension under section 29 shall be in writing, which may include electronic communication.

Cancellation or suspension of fishing licence.

29. (1) The Fisheries Administrator may cancel or suspend a fishing licence or a category of fishing licences where he is satisfied that

- (a) it is necessary to do so in order to allow for the proper management of any particular fishery in accordance with a fishery management plan for that fishery; or
- (b) where, following the inspection of a local fishing vessel, the certificate of registration of the vessel has been cancelled under this Act; or
- (c) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulations made thereunder, or of any conditions of the licence or in breach of any applicable access agreement; or
- (d) he is required or authorized to do so in accordance with the provisions of any agreement entered into under section 23.

(3) Where the Fisheries Administrator is of the opinion that a fishing licence ought to be suspended or cancelled, the Fisheries Administrator shall notify the holder of the fishing licence of the intention to suspend or cancel it, stating the grounds for suspension or cancellation and inviting the holder to make representation, within fourteen (14) working days, whether in person or in writing of the intention to suspend or cancel.

Appeals from decision of Fisheries Administrator.

30. A person affected or aggrieved by

- (a) the refusal of the Fisheries Administrator to issue or renew a licence in accordance with this Act; or
- (b) the cancellation or suspension by the Fisheries Administrator of a licence issued under this Act;

may, within 30 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

PART IX

Fishing by Belizean Vessels in Waters Beyond National Jurisdiction

Purpose and application.

31. (1) The purpose of this Part is to

- (a) enable Belize to give effect to international conservation and management measures adopted by global, regional or sub-regional organizations or arrangements to which Belize is a party or where it is a cooperating non contracting party, as well as to obligations arising under the Compliance Agreement and the Fish Stocks Agreement;
- (b) establish a system for the regulation and control of Belizean high seas fishing vessels operating in areas beyond the national jurisdiction of Belize.

(2) This Part applies

- (a) within the jurisdiction of Belize including the fisheries waters;
- (b) to any fishing vessel of Belize and any act or omission occurring on or by such a vessel wherever that vessel may be; and
- (c) to any act or omission by an authorized officer on the high seas.

Application for a high seas fishing licence.

32. (1) The owner, charterer or operator of a Belize registered fishing vessel may apply for a high seas fishing licence in respect of that vessel by completing an application in a

notarized form prescribed by the Fisheries Administrator. The application form shall contain details of

- (a) the vessel's name, previous names (if known), registration numbers and port of registry;
- (b) the vessel's previous flags (if any);
- (c) the vessel's International Radio Call Sign (if any);
- (d) the names, addresses and details of the vessel's beneficial owners and operators;
- (e) where and when the vessel was built;
- (f) the type of vessel;
- (g) the vessel's length;
- (h) the type of fishing method or methods;
- (i) the moulded depth of the vessel;
- (j) the beam of the vessel;
- (k) the gross tonnage and gross registered tonnage of the vessel;
- (l) the power of the main engine or engines of the vessel;
- (m) vessel navigation and position fixing equipment; and
- (n) any other information or relevant documentation the Fisheries Administrator requires for the purpose of giving effect to international conservation and management measures.
- (o) processing equipment
- (p) intended area of operation, intended port of discharge and species to be targeted.

(2) The Fisheries Administrator shall notify the applicant of the decision to issue or deny a licence within 30 days of receipt of an application.

(3) The Fisheries Administrator shall have regard to the following matters in determining whether or not to grant a high seas fishing licence

- (a) whether the vessel is registered with IMMARBE, and its owners or operators are in good standing with IMMARBE;
- (b) whether the vessel is on a list of fishing vessels maintained by a regional fisheries management organization of vessels that are believed to have engaged in illegal, unreported, or unregulated fishing;
- (b) the previous conduct of the person or persons applying for the licence; and
- (c) any other relevant matter.

(4) The Fisheries Administrator shall not issue a high seas fishing licence in respect of a vessel unless satisfied that Belize will be able to exercise effectively its responsibilities and under applicable international conservation and management measures with respect to that vessel.

(5) Subject to the provisions of subsections (6) and (7), the Fisheries Administrator shall not issue a high seas fishing licence in respect of any fishing vessel, if that vessel was previously authorized to be used for fishing on the high seas by a foreign State, and

- (a) the foreign state suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or
- (b) the foreign state, within the last three years preceding the application for a licence under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures; or
- (c) the vessel is at the time of application for a high seas fishing licence on a list of vessels maintained by a global or regional fisheries organization that are believed to have engaged in illegal, unregulated or unreported fishing; or
- (d) there is reason to believe that the vessel has engaged in trafficking of people, drug trafficking, or has treated fish workers on board in a cruel and inhumane manner.

(6) The restriction in subsection (5) does not apply if the ownership of the vessel has changed since the vessel undermined international conservation and management measures, and the new owner has provided sufficient evidence to the Fisheries Administrator demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in the vessel.

(7) A person who knowingly or recklessly provides any information required to be given under this section which is false in a material particular commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars but not more than two hundred and fifty thousand dollars or in default, to imprisonment for a period not exceeding five years and may suffer a suspension or cancellation of his licence.

Conditions
attaching to a
high seas
fishing licence.

33. (1) Every high seas fishing licence shall be in the prescribed form and shall contain the following conditions

- (a) the vessel to which the licence relates shall be marked in accordance with Regulations issued under section 101 of this Act;
- (b) the vessel shall not engage in any activities which undermine the effectiveness of international conservation and management measures; and
- (c) the licence holder shall report such information as the Fisheries Administrator requires, including the area of fishing operations, vessel position and catch statistics.

(2) The Fisheries Administrator may attach such other conditions and restrictions to each high seas fishing licence as are necessary and appropriate to carry out the obligations of Belize under the Compliance Agreement and the Fish Stocks Agreement, and applicable international conservation and management measures including, but not limited to, the following

- (a) the area or areas in which fishing is authorized;
- (b) the period, times or particular voyages during which fishing is authorized;
- (c) the descriptions, quantities, size or presentation of fish which may be taken;
- (d) the method of fishing to be undertaken and type of gear to be used;
- (e) the marking of gear;
- (f) a requirement that the vessel carry observers on board during fishing operations on the high seas;
- (g) a requirement that access be permitted to foreign observers;

- (h) a requirement that specific mobile transceiver units be carried, and the requirements governing its operation;
- (i) measures to be taken to avoid catching non-targeted species;
- (j) requirements for recording and timely reporting of vessel position, catch of target and non target species, fishing effort and other relevant fisheries data;
- (k) requirements for verifying the catch of target, non target species and discards; and
- (l) the stowage of gear.

(3) The Fisheries Administrator may vary any conditions attached to a high seas fishing licence where the Fisheries Administrator is satisfied that this is necessary to ensure compliance by Belize with its obligations under the Compliance Agreement or the Fish Stocks Agreement, or in respect of any applicable international conservation and management measures.

(4) Where the Fisheries Administrator varies any conditions attached to a high seas fishing licence the Fisheries Administrator shall notify the licence holder and the local agent appointed in accordance with subsection (8) of this section of such variation within fifteen working days.

(5) Where conditions are varied under subsection (4), the licence holder shall comply with the conditions within fifteen working days after notification of variation.

(6) Where it is necessary to implement international conservation and management measures relating to the living resources of the high seas as a matter of urgency, the Fisheries Administrator may set a period of not less than ten working days by which time compliance with the conditions of a licence as varied under subsection (4) shall be observed.

(8) No high seas fishing licence shall be issued until such time as the applicant has provided to the Fisheries Administrator, the name and address of an agent based in Belize who has legal authority to act on behalf of the vessel, its owner, charterer, operator or

master, to receive formal communications under this Act, and to provide details of the beneficial ownership of the vessel.

Validity of a high seas fishing licence.

34. (1) A high seas fishing licence is valid for one year or such other period as may be specified in the licence.

(2) A high seas fishing licence is void in the event that the vessel in respect of which it was granted is no longer entitled to fly the flag of Belize.

Cancellation or suspension of a high seas fishing licence.

35. (1) A high seas fishing licence may be

- (a) cancelled or,
- (b) suspended,
 - (i) where it appears to the Fisheries Administrator that it is necessary or expedient to do so for the conservation or management of living marine resources in the high seas;
 - (ii) where the Fisheries Administrator has reason to believe that a vessel has been engaged in illegal, unreported, or unregulated fishing;
 - (iii) where the fisheries Administrator has reason to believe that the vessel has been used in the commission of a serious violation of an international conservation and management measure; or
 - (iv) where the Fisheries Administrator has reason to believe that the vessel has been involved in trafficking of people, drug trafficking, or has treated fish workers on board in a cruel and inhumane manner.

(2) Before a high seas fishing licence is cancelled or suspended under subsection (1), the holder of the licence shall be informed of the intention to revoke or suspend giving reasons for such action and shall be invited to make written submissions within twenty-one days of the receipt of the notification.

Transshipment licence.

36. (1) A person desiring to undertake transshipment activities shall apply to the Fisheries Administrator and upon payment of the prescribed fee, may be issued with a licence.

(2) A person shall not use a Belize high seas fishing vessel for transshipment unless licensed by the Fisheries Administrator to undertake that transshipment.

(3) In considering an application for a licence under subsection (1), the Fisheries Administrator may attach conditions governing transshipment activities.

(4) A person who undertakes transshipment in contravention of this section commits an offence and is liable on summary conviction to a fine of not less than ten thousand dollars but not more than two hundred and fifty thousand dollars

Use of vessels
of other flags
by Belizean
nationals on
high seas.

37. (1) No person, being a Belizean, or a body corporate established under the laws of Belize may use a vessel registered in another country for fishing or related activities on the high seas except in accordance with a qualifying authorization issued by the flag state.

(2) A qualifying authorization may be issued

(a) by a state that is a party to the Fish Stocks Agreement; or

(b) by a state that is a party to the FAO Compliance Agreement.

(3) For the purpose of subsection (1) any notice given by the Minister in the Gazette, specifying any state or category of states as states that may issue a qualifying authorization shall be conclusive of its contents.

(4) A person who contravenes subsection (1) commits an offence, and is liable on conviction to a fine not less than ten thousand dollars but not more than two hundred and fifty thousand dollars.

Use of vessels by
Belizean
nationals beyond
fisheries waters.

38. (1) No person may use a Belizean fishing vessel for fishing or related activities

- (a) in an area under the national jurisdiction of a foreign country except in accordance with the laws of that country;
- (b) in an area subject to a multilateral access agreement or related agreement except in accordance with that agreement;
- (c) on the high seas except in accordance with a licence issued under this Part;
- (d) in an area subject to international conservation and management measures except in accordance with those measures.

(2) Where any vessel is used in contravention of subsection (1), the operator and master of such vessel each commits an offence, and is liable on summary conviction to a fine not less than ten thousand dollars but not more than two hundred and fifty thousand dollars.

(3) Where a Belize high seas fishing vessel is used without having been issued with a high seas fishing licence under this Act or in contravention of any condition or restriction contained in the high seas fishing licence the master, owner, charterer or operator of the vessel each commit an offence and is liable on summary conviction to a fine not exceeding three million dollars, or in default, to imprisonment for a period not exceeding two years.

Serious
violation.

39. (1) Where a Belizean high seas fishing vessel has been engaged in a serious violation of an international conservation and management measure, the master, operator, owner or charterer, as the case may be, commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars but not more than two hundred and fifty thousand dollars.

(2) The Fisheries Administrator shall not issue a licence in respect of a Belizean high seas fishing vessel where it has been established that the vessel has been involved in the commission of a serious violation of an international conservation and management measure until such time as all outstanding sanctions imposed under Belizean law in respect of the violation have been complied with.

(3) In this section “serious violation” has the same meaning as in article 20 of the Fish Stocks Agreement.

Quotas and fees.

40. (1) The Fisheries Administrator shall, by notice published in the Gazette, allocate fishing rights, such as quotas to high seas fishing vessels and determine the level of fees payable in respect of those rights.

(2) In determining the level of fees under subsection (1), the Fisheries Administrator shall have due regard to the fisheries management costs of Belize in fulfilling its obligations under international law.

Security for release of a fishing vessel.

41. (1) Where a Belize high seas fishing vessel is taken or detained under this Act and an information or charge is laid against the master, owner or charterer of the vessel in respect of the offence for which the vessel has been detained, the master, owner or charterer of the vessel may, at any time before the determination of the charge, apply to the Minister for the release of the vessel on provision of security in accordance with this section.

(2) On hearing the application in relation to subsection (1), the Minister may order the release of the fishing vessel after being satisfied that reasonable security has been given to the Belize Fisheries Department in respect of the aggregate of the maximum penalty to which the owner, master or charterer may be liable and taking into account the cost and expenses which Belize Fisheries Department may recover.

PART X

Implementation of International Conservation and Management Measures

Giving effect to international conservation and management measures and international agreements.

42. (1) The Minister shall publish in the Gazette a list of the global, regional or sub-regional organizations or arrangements to which Belize is a party or a cooperating non contracting party.

(2) The Minister shall further publish in the *Gazette* the international conservation and management measures which shall have the force of law in Belize and on all fishing vessels registered in Belize and in doing so he may specify that only a certain part or parts of an international conservation and management measure shall have such effect.

(3) The Minister may, for the purpose of giving effect to any treaty entered into by Belize or any international conservation and management measure or arrangement to which Belize is a party or is a cooperating non contracting party, make such regulations or give notice in the *Gazette* or attach such conditions to a licence as the Minister may consider necessary or expedient for this purpose.

(4) The provisions of a fisheries management plan endorsed by the Minister to give effect to international conservation and management measures shall have the same force as the Act.

(5) Where any Belizean vessel is used in contravention of a fisheries management plan endorsed by the Minister, the master, owner and operator shall each commit an offence and be liable on summary conviction to a fine not less than ten thousand dollars and not more than two hundred and fifty thousand dollars.

(6) The Minister shall publish in the *Gazette* no less than every six months any conditions that have been imposed on individual licences pursuant to this section.

(7) The Minister, in consultation with the Fisheries Administrator and the Minister for Foreign Affairs, shall determine the representation of Belize at meetings of global, regional or sub-regional organizations concerning fisheries.

PART XI

Port Measures

Port measures.

43. (1) For the purpose of promoting the effectiveness of international conservation and management measures or pursuant to treaties or arrangements, the Minister may make regulations concerning the following matters

- (a) the designation and publication of ports in Belize to which foreign fishing vessels, Belize high seas fishing or local fishing vessels authorized to fish on the high seas, or fisheries waters may be permitted access;

- (b) the designation of port inspectors;
- (c) the training and qualifications of port inspectors;
- (d) establishing the procedures, the contents of and the results to be obtained from an inspection regime, including the adoption of port measures adopted by a sub-regional, regional or global fisheries organization, or pursuant to a treaty or arrangement;.
- (e) prescribing the powers of inspectors, the mode of conducting an inspection, including the power to inspect any area of the Belize high seas fishing vessel, the catch (whether processed or not), any fishing gear, equipment or other gear and document which the inspector deems necessary to verify compliance with relevant conservation and management measures;
- (f) requiring the provision of such assistance or information as may be needed in order to undertake inspections;
- (g) requiring, prior to allowing port access to a foreign fishing vessel, that such vessel provides such notice as may be made by regulation made by the Minister prior to entering its port or its exclusive economic zone for the purpose of port access, including vessel identification, any authorization to fish, information on its fishing trip and vessel monitoring systems, quantities of fish on board and such other documentation or information as may be made by regulation made by the Minister;
- (h) regulating or prohibiting the landing, transshipment, packaging or processing of fish, or refueling or resupplying a vessel, including the prohibition of port access of a vessel which has been identified or reported as having been engaged in or supporting fishing activities in contravention with regional, sub-regional or global conservation measures, or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;
- (i) regulating or prohibiting the port access of a vessel that has been included on the list of vessels maintained by sub-regional, regional or global fisheries organizations that are believed to have engaged in illegal, unregulated or unreported fishing;
- (j) regulating or prohibiting the landing, transshipment, packaging or processing of fish, or refueling or resupplying a vessel, including the

prohibition of port access of a vessel which has been identified or reported as having been engaged in or supporting fishing activities in areas under national jurisdiction in contravention of the laws of a particular country, or fishing on the high seas without an authorization to do so from its flag state or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;

- (k) authorizing the cooperation and exchange of information, including inspection results with other States and sub regional, regional or global fisheries organizations;
- (l) providing for a system of appeal against decisions taken in respect of fishing vessels under this section;
- (m) providing for any other measures that may be agreed to by sub-regional regional or global fisheries organizations, or pursuant to a treaty or arrangement.

(2) The Fisheries Administrator, in consultation with the relevant agencies involved in port management, may prohibit from entering a port of Belize a vessel which has been identified as being engaged in or supporting fishing in contravention of international conservation and management measures and whose flag State is not a member of, nor is it a cooperating non contracting Party to, that regional or sub-regional fisheries organization, unless it can be established that the catch on board has been taken in a manner consistent with the relevant conservation and management measures.

(3) A prohibition under subsection (2) may apply to an individual vessel or to a fleet of vessels.

(4) The Fisheries Administrator may refuse entry to a port of Belize to a fishing vessel which he has reasonable grounds to believe is without nationality, or has operated under the flags of two States and has used them according to convenience.

(5) References to ports in this section include offshore terminals and other installations for landing, transshipping, refueling or resupplying vessels.

(6) Regulations made or actions taken pursuant to this section shall apply both within Belize and Belize fisheries waters and in areas beyond Belize fisheries waters.

(7) A person who fails to comply with the provisions of this section or with any regulations made in accordance with its provisions commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars and not more than two hundred and fifty thousand dollars.

PART XII

Marine Scientific Research & Test Fishing Operations

Marine scientific research operations related to fisheries.

44. (1) The Fisheries Administrator may prescribe the criteria according to which a research plan for conducting marine scientific research may be undertaken in Belize.

(2) A person, with or without the use of a vessel, desiring to conduct marine scientific research in Belize or on board any vessel registered in Belize shall apply in writing for a licence to the Fisheries Administrator and shall attach to the application a research plan related to the intended marine scientific research.

(3) Where the Fisheries Administrator is satisfied that the research plan submitted under subsection (2) meets the criteria established under subsection (1), he may authorize the person with or without a vessel, as the case may be, to undertake marine scientific research operations related to fisheries, and may, in granting any such authorization, exempt that vessel or person or both, as the case may be, from the requirements of any fisheries management plan and conservation measures.

(4) The Fisheries Administrator shall attach such conditions as may be prescribed and may attach such additional conditions as he thinks fit and are consistent with those which may be prescribed, to any authorization granted under subsection (3).

(5) Each vessel or person authorized in accordance with this section shall comply with all applicable laws of Belize and any conditions of such authorization.

(6) The Fisheries Administrator may suspend or revoke such authorization if there is failure to comply with the conditions of the authorization or the requirements of this Act.

(7) An authorization or exemption granted under this section shall be in writing.

(8) A person who undertakes or assists in any scientific research or in other fisheries related research, in the fisheries waters or elsewhere in Belize

- (a) without authorization under subsection (2); or
- (b) in contravention of any condition or conditions attached to the authorization under subsection (3); or
- (c) in contravention of the requirements of subsection (4),

commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars but not more than one hundred thousand dollars.

Test fishing operations.

45. (1) Where the Fisheries Administrator considers it to be in the best interests of Belize, he may approve test-fishing operations to be undertaken by a vessel.

(2) Approval given by the Fisheries Administrator under this section shall be in writing and shall be valid for such period not exceeding six months as may be specified in the approval, provided that a longer period may be specified with the approval of the Minister.

(3) Any approval given under this section shall not exempt a foreign fishing vessel or a Belize high seas fishing vessel from the requirement to hold a valid licence under this Act.

PART XIII

Prohibited Fishing Methods, Stowage of Gear and Transshipment

Prohibited fishing methods.

46. (1) A person who

- (a) permits to be used, uses, or attempts to use any explosive, poison, or other noxious substance for the purpose of killing, stunning, disabling, or catching fish, or in any way rendering fish more easily caught; or
- (b) permits to be carried, carries or has in his possession or control any explosive, poison, or other noxious substance in circumstances evidencing an intention of using the explosive, poison, other noxious substance for any of the purposes referred to in paragraph (a),

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding five years or both.

(2) An explosive, poison, or other noxious substance found on board any fishing vessel shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in subsection (1)(a).

(3) Any person who lands, sells, receives, or is found in possession of any fish taken by any means which is in contravention of subsection (1)(a), commits an offence and is liable on summary conviction to a fine not less than five thousand dollars but not more than one hundred thousand dollars or to imprisonment for term not less than six months but not more than two years, or to both fine and imprisonment.

(4) In any proceedings for any offence against this section, a certificate as to the cause and manner of death or injury of any fish, signed by the Fisheries Administrator, or by any person authorized by him or her in writing, shall, until the contrary is proved, be sufficient evidence as to the matters stated in the certificate.

(5) In any proceedings for any offence against this section, the defendant shall be given not less than fourteen days notice in writing of the prosecution's intention to adduce a certificate under subsection (4).

Stowage of
fishing gear.

47. (1) The fishing gear of any foreign fishing vessel which does not have permission to fish in the fisheries waters shall be stowed in the prescribed manner while the vessel is within the fisheries waters.

(2) Where a foreign fishing vessel is licensed to fish by means of a particular type of fishing gear in any specific area of the fisheries waters, any other fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is within that area and all fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is or within any other area of the fisheries waters where it is not licensed to fish.

(3) Where a foreign fishing vessel contravenes subsection (1) or (2), the master, owner and charterer of that vessel is each committing an offence, and is liable on summary conviction to a fine not less than five thousand dollars but not more than two hundred thousand dollars, or to imprisonment for a term not less than six months but not more than two years, or to both fine and imprisonment.

Transshipment.

48. (1) The Minister may authorize in writing any transshipment involving any foreign vessel in the fisheries waters where such activity does not constitute a condition of licence for fishing, in accordance with any applicable access agreement and any requirements which may be prescribed.

(2) The Minister shall attach such conditions as may be prescribed and may attach additional conditions as he thinks fit which are consistent with any conditions which may be prescribed, to any authorization granted under subsection (1).

(3) Each person authorized in accordance with this section shall comply with all applicable laws of Belize and any conditions of such authorization.

(4) The Minister may suspend such authorization if there is failure to comply with the conditions of the authorization or the requirements of this Act.

(5) Any authorization granted under this section shall be in writing.

(6) Any person commits an offence who undertakes any transshipment activity in respect of a foreign vessel without an authorization issued pursuant to this section, and shall be liable on conviction to a fine not less than five thousand dollars but not more than twenty-five thousand dollars, or to imprisonment for a term not less than six months but not more than two years, or to both fine and imprisonment.

PART XIV

Record of Fishing Vessels

Record of
fishing vessels
authorized to
fish in fisheries
waters.

49. (1) The Fisheries Administrator shall cause to be kept a record of fishing vessels that are authorized to fish in the fisheries waters.

(2) The Fisheries Administrator may, by regulation, determine the information that shall be included in the record of fishing vessels authorized to fish in the fisheries waters.

(3) The owner or operator of any fishing vessel authorized to fish in the fisheries waters shall provide to the Fisheries Administrator such information as may be required under subsection (2) of this section, and failure to do so is an offence punishable on summary conviction by a fine not less than five hundred dollars but not more than two thousand dollars.

Record of
fishing vessels
authorized to
fish beyond
fisheries waters.

50. (1) The Fisheries Administrator shall cause to be maintained a record of all Belize high seas fishing vessels that are authorized to fish beyond the limits of the fisheries waters of Belize.

(2) The record of Belize high seas fishing vessels that are authorized to fish beyond the fisheries waters shall contain the following information

- (a) name of fishing vessel, registration number, previous names (if known), and port of registry;
- (b) name and address of owner or owners;
- (c) nationality of the owner or owners and details of the beneficial ownership of the vessel;
- (d) name and nationality of master;
- (e) previous flag (if any);
- (f) International Radio Call Sign;
- (g) vessel communication types and numbers (INMARSAT A, B, C and D numbers and satellite telephone number);
- (h) colour photograph of vessel;
- (i) where and when built;
- (j) type of vessel;
- (k) normal crew complement;
- (l) type of fishing method or methods;
- (m) length overall and length between the perpendiculars;
- (n) moulded depth;
- (o) beam;
- (p) gross registered and gross tonnage;
- (q) power of main engine or engines;
- (r) the nature of the authorization to fish granted by Belize;

(s) carrying capacity, including freezer type, capacity and number and fish hold capacity.

(3) The Fisheries Administrator may additionally require further information to be provided if such information is necessary in order to fulfill any obligations arising under measures adopted by international conservation and management measures.

(4) The Fisheries Administrator may cause to be provided to any global, regional or sub-regional organization or arrangement information on the record of Belize high seas fishing vessels, additions to the record, deletions from the record, the withdrawal of any authorization to fish, or information that a vessel is no longer a Belize high seas fishing vessel.

(5) The owner or operator of any Belize registered fishing vessel which intends to fish, or undertakes fishing in waters beyond the fisheries waters of Belize shall provide to the Fisheries Administrator the information required in subsection (2) above.

Verification,
certification and
documentation.

51. (1) The Fisheries Administrator shall maintain a system for the verification, certification or documentation of catches made by vessels fishing with an authorization made under this Act or under an international conservation and management measure.

(2) The Minister may make regulations setting out the content and details of a catch verification, documentation or certification scheme.

(3) A person who provides false or misleading particulars or who modifies without lawful excuse information required to be provided in respect of a verification, certification, or documentation scheme referred to in subsection (1) commits an offence and is liable on summary conviction to a fine not less than five hundred dollars but not more than two thousand dollars.

Part XV

Aquaculture

Aquaculture
operations.

52. (1) No person shall establish or operate any business or experimental operation involving aquaculture activities including the processing of aquaculture products without the written permission of the Fisheries Administrator.

(2) The Fisheries Administrator may specify any conditions relating to the establishment or operation of aquaculture, including conditions or requirements relating to

(a) the location and nature of the aquaculture operations; and

- (b) the fish or other aquatic organisms to be cultivated or not to be cultivated and the source of the stock; and
- (c) the construction of the aquaculture facilities and the operation of those facilities and measures in place to prevent the introduction of invasive species; and
- (d) the prevention of the spread of communicable fish diseases; and
- (e) the inspection of aquaculture sites and facilities; and
- (f) the provision of statistical, scientific and commercial information; and
- (g) the conservation, management and sustainable use of the aquatic environment;
- (h) and other permits that maybe required by other agencies.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not less than ten thousand dollars but not more than one hundred thousand dollars or to imprisonment for a term not less than one year but not more than three years, or to both fine and imprisonment.

PART XVI

Monitoring, Control and Surveillance

Appointment
of officers.

53. (1) The Minister appoint any public officer a fishery officer either by name or by office as he thinks fit, for the purpose of carrying into effect the provisions of this Act or any regulations made under this Act.

(2) The Minister, by Order published in the Gazette, may appoint any member of the management committee of a local fishing cooperative, a duly elected member of a city, town or village council or any employee of a locally registered non-governmental organization with which the Minister has entered into a co-management agreement under this Act, to be an authorized officer for the purposes of this Act or any Regulations made under the Act.

(3) An appointment made under subsection (2) shall be valid for the period of time as stated in the Order.

(4) An appointment made under subsections (1) and (2) shall be validated by the issuance of an identification card to the named person by the Department.

(5) Every fisheries officer, customs officer, member of the National Coast Guard Service and police officer is deemed to be an authorized officer for the purposes of this Act.

(6) Such officers other than police officers and customs officers and members of the National Coast Guard Service shall be in possession of their identification card issued under subsection (4) as evidence of their authority when acting in pursuance of this Act.

Appointment of authorized officers from other states.

54. The Fisheries Administrator may, in consultation with the Director-General of IMMARBE, by notice published in the *Gazette*, appoint any person, with the exception of any ship-owner, charterer, beneficial owner operator or crew of any Belize high seas fishing vessel, to be authorized officers for purposes of the implementation of Part IX (Fishing by Belizean Vessels In Waters Beyond National Jurisdiction) of this Act, and in doing so may determine the scope of their authority or duties.

Powers of entry and search.

55. (1) In the course of the enforcement and administration of this Act, an authorized officer may, at any time

- (a) stop, enter, board or examine any vessel or vehicle, or enter and examine any premises or place, or examine any record, document, article, and any gear, apparatus, device, or contents of any kind therein;
- (b) stop any person and examine any record, document, article, container, gear, apparatus, device, or fish in the possession of that person;
- (c) pass across any land.

(2) If an authorized officer suspects, on reasonable grounds

- (a) that an offence is being or has been committed against this Act; and
- (b) that

- (i) any fish taken or thing used or intended to be used in contravention of this Act; or
- (ii) any record or information required by or under this Act to be kept, completed, or provided; or
- (iii) any article, record, document, or thing which there is reasonable ground to believe will be evidence as to the commission of an offence against this Act

may be concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record, or thing, then, for the purpose of the enforcement of this Act,

that authorized officer may at any reasonable time enter or pass across any land in order to enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening where necessary), and may examine and search (by stopping or opening where necessary) any such parcel, package, record, or thing.

(3) An authorized officer may detain any person, vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, or thing for such period as is reasonably necessary to enable the fishery officer to carry out an examination or search under this section.

Power to
question persons
and require
production of
documents.

56. (1) For the purpose of the enforcement of this Act if an authorized officer suspects on reasonable grounds that a person

- (a) is or has been engaged in fishing or selling of fish; or
- (b) has purchased or is or has been in possession of fish; or
- (c) is committing or has committed an offence against this Act, the authorized officer may, at any reasonable time question that person or any other person, and
- (d) require the person being questioned to provide an answer, including any explanation or information concerning any vessel, or any place or thing, or any fish or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish; and
- (e) require that person or any other person to produce any permit, authority, approval, permission, licence, or certificate issued in respect of any vessel or person.

(2) Nothing in subsection (1) shall be construed so as to require any person to answer any question tending to incriminate that person.

Powers of
arrest.

57. (1) For the purpose of the enforcement of this Act an authorized officer may, if he believes on reasonable grounds that any person is committing or has committed an offence against this Act,

(a) order that person to forthwith desist from committing an offence;

(b) request that person to supply to that authorized officer the name by which that person is commonly known and the person's family name or surname, date of birth, actual place of residence, and occupation and may request that person to supply such verification of those details as it is reasonable in the circumstances to require the person to provide;

(c) without warrant, arrest that person.

(2) If an authorized officer arrests a person under subsection (1) the authorized officer shall cause the person to be delivered into the custody of a member of the Police Department, or the Fisheries Administrator, or to a member of the Belize Fisheries Department as soon as practicable and the provisions of the Summary Jurisdiction Procedure Act shall apply.

(3) Notwithstanding any other law to the contrary, a person arrested under subsection (2) shall be offered bail in respect of the offence for which he is accused at three (3) times the cost of the maximum penalty for the offence.

Power to give
directions to
master.

58. (1) For the purpose of the enforcement of this Act, an authorized officer may, if he believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any permit, authority, approval, permission, licence, registration, or certificate issued under this Act, require the master to take the vessel, as soon as reasonably practicable, to the nearest available port in Belize, or such other port as may be determined by the authorized officer.

(2) If an authorized officer has given a direction under subsection (1), he may also give to the master or any person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, property, or thing while the vessel is proceeding to port.

Power to use reasonable force and to take copies of documents.

59. (1) For the purpose of the enforcement of this Act, an authorized officer is justified in using such force as may be reasonably necessary to enable the exercise of his powers under this Act.

(2) In exercising powers under this Act, an authorized officer may

- (a) make or take copies of any record or document, and for this purpose may take possession of, and remove from the place where they are kept, any such record or document, for such period of time as is reasonable in the circumstances;
- (b) if necessary, require a person to reproduce, or assist the authorized officer to reproduce, in a useable form, information recorded or stored in a document.

Powers of seizure.

60. (1) An authorized officer may seize

- (a) any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or thing which the authorized officer believes on reasonable grounds is being or has been or is intended to be used in the commission of an offence against this Act;
- (b) any fish which the authorized officer believes on reasonable grounds are being, or have been, taken, killed, transported, bought, sold, or found in the possession of any person or vessel, in contravention of this Act, and any fish with which such fish have been intermixed;

(c) any article, record, document, or thing which the authorized officer believes on reasonable grounds is evidence of the commission of an offence against this Act;

(2) Any property seized under subsection (1) shall be delivered into the custody of the Fisheries Administrator.

(3) A written receipt shall be given for any article or thing seized under this section.

General powers.

61. (1) An authorized officer may do all such acts and things and give such directives as are reasonably necessary for the purposes of exercising any of his powers under this Act.

(2) In exercise of powers under this Act or any regulations hereunder, an authorized officer shall have the authority and powers of a member of the Belize Police Department and may exercise all the powers conferred on a member of the Belize Police Department by this Act or any regulations made hereunder.

(3) The powers conferred on an authorized officer under subsection (2) shall be without prejudice to the functions of a member of the Belize Police Department as contained in the Police Act to enforce all laws, rules and

(4) The powers of an authorized officer under this Act are exercisable

- (a) within Belize;
- (b) in the fisheries waters;
- (c) beyond the fisheries waters;

in relation to any conduct whether or not that conduct occurred in the fisheries waters.

(5) Notwithstanding the provisions of subsection (4) above, subsection (4)(c) does not authorize an authorized officer to exercise any powers under this Act in respect of any foreign vessel or any person aboard any such vessel unless the authorized officer

(a) believes on reasonable grounds that any person on board the vessel has committed an offence in the fisheries waters; and

(b) is in hot pursuit of the vessel; and

(c) commenced that pursuit in the fisheries waters.

(6) An authorized officer may exercise any powers granted under this Act beyond the limits of the fisheries waters in respect of any foreign vessel or Belizean high seas fishing vessel or any person aboard any such vessel and relating to fisheries inspection, compliance or enforcement

provided that the exercise of those powers is authorized by a treaty to which Belize is party or by an international conservation and management measure, or is otherwise authorized under international law.

Powers with respect to measures of a regional fisheries management organization.

62. (1) Subject to subsection (2) of this section, the Minister may authorize an authorized officer to undertake fisheries inspection, compliance and enforcement measures which have been adopted by a regional fisheries management organization of which Belize is a member.

(2) The measures referred to in subsection 1(1) of this section shall be published in the Government *Gazette*.

(3) The Minister may make regulations with respect to the implementation of the measures which have been published in the *Gazette* in accordance with this section.

Persons to assist
authorized officer.

63. (1) An authorized officer or observer exercising any of the powers conferred on him by this Act may do so with the aid of such assistants as he considers necessary for the purpose.

(2) Every person called upon to assist an authorized officer or observer in the exercise of any of the powers conferred on that person by this Act is hereby authorized to render such assistance.

Protection of
authorized
officer from
liability.

64. (1) No authorized officer or observer who does any act under this Act, or omits to do any act required by this Act, shall be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he has acted, or omitted to act, in bad faith.

(2) A person who, while assisting a authorized officer or observer under any provision of this Act, does or omits to do any act required by this Act, shall not be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he has acted, or omitted to act, in bad faith.

(3) The Government shall not be held directly or indirectly liable for an act or omission of any authorized officer or person, unless the authorized officer or person would himself incur liability for the act or omission.

Requirements
for seized
property, etc.

65. (1) The Fisheries Administrator may, at any time until an information or charge is laid in respect of the alleged offence for which the property was seized, on application by

(a) the person from whom the property was seized; or

(b) the owner or person entitled to the possession of the property seized; and

release the property to any such person under bond in such sum and under such sureties and conditions (if any) as the Fisheries Administrator may specify.

(2) Where a person to whom property is released under subsection (1) fails to comply with the conditions of any bond or with any condition specified by the Fisheries Administrator

- (a) the property may be re-seized at any time at the direction of the Fisheries Administrator; and
- (b) the provisions of this section shall thereupon apply to the property as if it had been seized under section 60 of this Act; and
- (c) the Fisheries Administrator may, in the case of failure to comply with the conditions of any bond, apply to the Supreme Court for an order for estreat of the bond; and
- (d) where the Fisheries Administrator so applies the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed; and
- (e) if on the hearing of any such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to estreat the bond to such an amount as it thinks fit to any person bound thereby on whom notice is proved to have been served in accordance with this subsection; and
- (f) any penalty payable in accordance with this subsection shall be recoverable as if it were a fine.

(3) Where, in the opinion of the Fisheries Administrator, any fish or other article seized section 60 of this Act may rot, spoil, deteriorate or otherwise perish, the Fisheries

Administrator may arrange for its sale or disposal in such manner as the Fisheries Administrator may determine and the sale shall be at fair market value.

(4) Where the ownership of any property seized, cannot at the time of seizure be ascertained, the property seized shall be forfeited to the Government and shall be disposed of as directed by the Fisheries Administrator after 90 days from the date of seizure if, within that time, it has not been possible to establish the ownership of the property or where subsection (3) applies, the period of time may be determined by the Fisheries Administrator.

(5) A purchaser for valuable consideration of any fish, article or property sold under subsection (3) or subsection (4) shall derive good and unencumbered title in respect of that fish, article or property, as the case may be.

(6) Subject to subsection (1), all property seized under section 60 of this Act and the proceeds from the sale of any such property pursuant to subsection (3), except where such property has been disposed of by the Government pursuant to subsection (4), shall be held in the custody of the Fisheries Administrator acting on behalf of the Government until

(a) a decision is made not to lay any information or charge in respect of the alleged offence for which the property was seized; or

(b) where such a charge or information is laid, upon the completion of proceedings in respect of the alleged offence for which the property was seized, or such sooner time as the Court may determine.

(7) Where any information or charge has been laid in respect of the alleged offence for which the property was seized pursuant to subsection (1), and that property remains in the custody of the Government, the Court may at any time, on application by

(a) the person from whom the property was seized; or

(b) the owner or person entitled to the possession of the property seized;

release the property under bond to any such person, and any such release may be subject to such sureties and conditions as the Court may specify.

(8) In determining the value of the bond or other form of security, the Court shall have regard to the aggregate amount of

(a) the value of the property to be released;

(b) the total maximum fine or fines provided for the offence charged or likely to be charged; and

(c) the loss, damages or costs the prosecution would be likely to recover if a conviction were entered, and the Court may set the value at such aggregate amount.

(9) The decision whether or not to lay any information or charge in respect of an alleged offence for which any property is seized under section 60 of this Act shall be made as soon as reasonably practicable after the property is seized, taken possession of, or detained.

(10) The Government shall not be liable to any person for any spoilage or deterioration in the quality of any fish seized under section 60 of this Act.

(11) Subject to subsection (10), but notwithstanding any other provisions of this section, where any property has been seized under section 60 of this Act, then

- (a) on a decision being made not to lay an information or charge; or
- (b) on the acquittal of any person charged with an offence for which the property is subject to forfeiture

such property, or the proceeds from the sale of such property, shall forthwith be released from the custody of the Government of Belize to the person entitled thereto and in the case of proceeds of sale from property under section 95(3) the same shall be paid into the Fisheries Fund.

(12) Notwithstanding any other provisions in this section, an authorized officer who at the time of seizure returns to the water any fish seized pursuant to section 60 of this Act that he believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish was seized in the event of a decision being made not to lay an information or charge in respect of the fish, or of the person being acquitted of the charge.

Removal of parts
from seized
vessels, etc.

66. (1) An authorized officer may remove any part or parts from any vessel, vehicle or aircraft held in the custody of the Government for the purpose of immobilizing that vehicle or aircraft.

(2) Any part or parts removed under subsection (1) shall be kept safely and returned to the vessel, vehicle or aircraft upon its lawful release from custody.

(3) No person, otherwise than acting under the authority of the Fisheries Administrator, shall possess or arrange to obtain any part or parts removed under subsection (1) or possess or arrange to obtain or make any replacement or substitute part or parts for those removed under subsection (1) or shall fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft held in the custody of the Government.

Observers.

67. (1) The Fisheries Administrator may designate in writing persons to act as observers on vessels issued with valid licences or authorizations pursuant to this Act.

(2) Notwithstanding subsection (1), observers may be designated in accordance with any fishery management plan, treaty, international conservation and management measure and shall be designated where required by any fishery plan or any agreement or where an observer or class of observers has been certified under the terms of such plan, treaty or international conservation and management measure.

(3) Persons designated in accordance with subsection (2) who are not Belizean nationals shall be subject to the provisions of this Act while carrying out their duties and functions and enforcing their rights.

(4) Observers may exercise scientific, monitoring and other functions.

(5) Observers shall be permitted to board any vessel issued with a valid licence or authorization pursuant to this Act and remain on such vessel for the purpose of exercising the observer's functions.

(6) The operator, master, and each member of the crew of such vessel shall allow and assist an observer to

(a) board and remain on such vessel for the purpose of carrying out his or her duties and functions, at such time and place as the Fisheries Administrator may require;

(b) have full access to and the use of facilities and equipment on board the vessel which the observer may determine is necessary to carry out his or her duties, including

(i) full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;

- (ii) full access to the vessel's records including its log and documentation for the purpose of records inspection and copying;
 - (iii) full access to fishing gear on board;
 - (iv) full access to navigation equipment and radios;
 - (v) take and remove from the vessel reasonable samples for the purposes of scientific investigation and other relevant information;
 - (vi) take photographs of the fishing operations, including fish, fishing gear, equipment, charts and records, and remove from the vessel such photographs or film as he or she may have taken or used on board the vessel;
 - (vii) send or receive messages by means of the vessel's communications equipment; and
 - (viii) gather any other information relating to fisheries in the fisheries waters or other areas as may be authorized by licence or authorization;
- (c) carry out the observers duties safely; and
- (d) disembark at such time and place as may be determined by the Fisheries Administrator or in accordance with an access agreement.

(7) The operator shall provide the observer, while on board the vessel, at no expense to the Government with food, accommodation and medical facilities equivalent to officers or such reasonable standard as may be acceptable to the Fisheries Administrator.

(8) In addition to the requirements in subsection (7), the Fisheries Administrator may require the operator to pay in full the following costs of the authorized observer

- (a) travel costs to and from the vessel;
- (b) such salary as may be notified by the Fisheries Administrator, being the full amount of such salary; and
- (c) full insurance coverage.

(9) Any operator and master of any vessel with a valid licence issued in accordance with this Act shall allow and assist any observer to have full access to any place within Belize where fish taken in the fisheries waters is unloaded or transhipped, to remove samples and to gather any information relating to fisheries in the fisheries waters.

Duties
towards
authorized
officers and
observers.

68. (1) The operator, master, and each crew member of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with every instruction or direction given by an authorized officer or observer as appropriate, and facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any fishing gear, equipment, records, fish and fish products.

(2) The operator, master, and each crew member of a vessel, driver of a vehicle and pilot and crew of an aircraft shall ensure the safety of an authorized officer or observer as appropriate in the performance of his duties.

(3) A person who contravenes subsections (1) or (2), or

- (a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to ensure the safety of or otherwise interfere with an authorized officer or observer in the performance of his duties;
- (b) incites or encourages any other person to assault, resist, or obstruct any authorized officer while in the execution of his powers or duties, or any person lawfully acting under the officer's orders or in his aid;
- (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards any authorized officer or observer while in the execution of his powers or duties, or any person lawfully acting under an authorized officer's orders or in his aid;
- (d) fails to comply with the lawful requirements or any authorized officer or observer;
- (e) furnishes to any authorized officer any particulars which are false or misleading in any material respect;
- (f) personates or falsely represents himself to be an authorized officer, or who falsely represents himself to be a person lawfully acting under an authorized officer's orders or in his aid;
- (g) resists lawful arrest for any act prohibited by this Act;
- (h) is in breach of any other duty to an authorized officer or authorized observer under this Act;

commits an offence.

(4) For the purpose of subsection (3), a person who does not allow an authorized officer, or a person acting under his orders or in his aid, or an observer, to exercise any of the powers conferred on such person by this Act shall be deemed to be obstructing that officer or person.

(5) A person who, being a master, owner, charterer, agent, or a company established under the laws of Belize which owns, partly owns or controls a fishing vessel which transports an authorized officer or observer outside the fisheries waters and causes him or her to disembark outside the territory of Belize, commits an offence and upon conviction shall be liable, in addition to any fine, for all costs of repatriation including board and lodging while out of Belize and direct transportation to Belize.

(6) Any person who commits an offence against this section is liable on conviction to a fine not less than five hundred dollars but not more than two thousand dollars or to imprisonment for a term not less than six months but not more than two years or to both fine and imprisonment.

Identification
of authorized
officers and
observers.

69. An authorized officer or observer when exercising any of the powers conferred on him by this Act shall on request produce identification to show he or she is an authorized officer or observer under this Act.

Mobile
Transceiver
Units
requirements

70. (1) The operator of each foreign or high seas fishing vessel licensed to fish pursuant to this Act shall be required, as a condition of its licence, to install, maintain and operate a registered mobile transceiver unit (MTU) approved by the Fisheries Administrator at all times while in the fisheries waters or such other area as may be agreed or designated, and in accordance with

(a) the manufacturer's specifications and operating instructions; and

(b) such standards as may be required by any body or organization of which Belize is a member;

(c) such other requirements as may be prescribed.

(2) The operator of each vessel referred to in subsection (1) shall ensure that

- (a) no person tampers or interferes with the MTU and that the MTU is not altered, damaged, disabled or otherwise interfered with;
- (b) the MTU is not moved from the required or agreed installed position or removed without the prior written permission of the Fisheries Administrator;
- (c) the MTU is switched on and is operational at all times when the vessel is within the fisheries waters or such other area as may be agreed or designated, and at such times prior to entry into such fisheries waters or other area as may be prescribed;
- (d) upon notification by the Fisheries Administrator that the vessel's automatic location communicator has failed to transmit, the directives of the Fisheries Administrator are complied with until such time that the vessel's MTU is functioning properly;
- (e) the MTU is registered in such manner as the Fisheries Administrator may direct or as may be prescribed, at the operator's expense.

(3) The operator of each vessel referred to in subsection (1) or his or her authorized agent, upon notification by the appropriate authority that the vessel's MTU has failed to report, shall ensure that reports containing the vessel's name, call sign, position (expressed in latitude and longitude to minutes of arc), and date and time for the report, are communicated to a delegated authority at intervals of 8 hours or such shorter period as specified by the delegated authority, commencing from the time of notification of the failure of the MTU. Such reports must continue until such time as the MTU is confirmed operational by the licensing country of appropriate authority.

(4) If it is not possible to make any one or more of the further position reports described in paragraph (3), or when the Fisheries Administrator so directs, the master of the vessel must immediately stow the fishing gear and take the vessel directly to a port identified by the Fisheries Administrator, and as soon as possible, report to the Fisheries Administrator that the vessel is being, or has been, taken to port with gear stowed.

(5) An operator, including the master, owner and charterer, who does not comply with subsections (1), (2), (3) or (4) commits an offence and is liable on conviction to a fine not less than four thousand dollars but not more than one hundred and fifty thousand dollars and in addition the applicable licence shall be cancelled.

MTU information.

71. (1) Ownership of all vessel monitoring system information generated by an MTU required and operating under section 71 is vested in the Government of Belize.

(2) All vessel monitoring information shall be classified as confidential information, and shall be subject to such procedures as may be prescribed by regulation.

(3) Any person who divulges information from a vessel monitoring system, to any person or persons not authorized to receive such information commits an offence and is liable on conviction to a fine exceeding not less than one thousand dollars but not more than two thousand dollars or to imprisonment for a term not less than six months but not more than two years or to both fine and imprisonment.

MTU evidence.

72. (1) All information or data obtained or ascertained by the use of an MTU 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 master, owner and charterer 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 in subsection (1) shall apply whether or not the information was stored before or after any transmission or transfer.

(3) An MTU installed and operated in accordance with this Act shall be judicially recognized as accurate.

(4) The presumption set out in subsection (3) shall apply whether or not the information was stored before or after any transmission or transfer.

(5) A person 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 an MTU;

(c) that the date and time the information was obtained or ascertained from the MTU and the details thereof;

(d) that the name and call sign of the vessel on which the MTU 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 MTU, its transmissions, or other machines used in obtaining or ascertaining the information.

PART XVII

Jurisdiction and Evidence

Jurisdiction of
the Supreme
Court.

73. (1) Any act or omission in contravention of any of the provisions of this Act committed

- (a) by any person within the fisheries waters;
- (b) by any Belizean or person ordinarily resident in Belize outside the fisheries waters; or
- (c) by any person on board any Belizean fishing vessel;

may be dealt with and judicial proceedings taken as if such act or omission had taken place in Belize within the local limits of the jurisdiction of the Supreme Court.

(2) Where an authorized officer or observer is lawfully exercising any powers conferred under this Act outside the fisheries waters or, unless the applicable treaty or international conservation and management measure provides otherwise, any person commits any act or omission, which if committed within the fisheries waters would be an offence against this Act, then the exercise of those powers or the commission of that act or omission shall be deemed to have occurred within the fisheries waters.

(3) Any act or omission on the high seas by a person referred to in subsection (1) (b) or (c), which if committed within the fisheries waters would be an offence against this Act shall be deemed to have been committed within the fisheries waters.

(4) Where any regulation or licence condition requires specifically or incidentally the reporting of any fact while a vessel is on the high seas then proceedings may be taken in respect of any failure to report or the misreporting of such fact as if it had occurred within the fisheries waters.

Liability for
non-payment
of penalties.

74. All pecuniary penalties and all forfeitures incurred or imposed pursuant to this Act, and the liability to forfeiture of any article seized under the authority thereof, and all rents, charges, expenses and duties and all other sums of money payable under this Act

may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in the name of the Fisheries Administrator as the nominal plaintiff, and all such proceedings shall be deemed to be civil proceedings, and the fact that a bond or other security has been paid shall not be pleaded or made use of in answer to or in stay of any such proceedings.

Liability for loss, damage or costs incurred.

75. A person who commits an offence against this Act may, upon conviction, be held liable to the Government of Belize for

- (a) any loss or damage caused by the offence including loss or damage to the ecosystem; and
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence; and
- (c) any costs incurred in detaining or seizing any property, fish, article or thing in respect of that offence,

and the amount of compensation for such loss, damage or costs may be awarded by the Court as restitution in addition to, and recovered in the same manner as, a fine.

Certificate evidence.

76. The Fisheries Administrator or any person authorized in writing by him may give a certificate stating that

- (a) a specified vessel or person was or was not on a specified date the holder of any specified licence, authorization or certificate of registration;
- (b) an appended document is a true copy of the licence, authorization or other document granted or issued under this Act and that specified conditions were attached to such document;
- (c) a particular location or area of water was on a specified date within the fisheries waters, or within a marine or inland reserve or otherwise closed, limited, restricted or in any other way controlled area of the fisheries waters, or an area of the fisheries waters subject to specified conditions;
- (d) an appended chart shows the boundaries on a specified date of the fisheries waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;

- (e) a particular item or piece of equipment is fishing gear;
- (f) the cause and manner of death of or injury to any fish;
- (g) an appended document is a true copy of a treaty or international conservation and management measure or other bilateral or multilateral legal instrument;
- (h) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (i) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel;
- (j) any specified return, log, record or information required to be kept or furnished under this Act was or was not kept or furnished;
- (k) any specified interest in any specified fishing right was or was not held by a person named in the certificate.
- (l) the identity or species of the fish in question.

Certificate
as to
location of
vessel.

77. (1) Where in any proceedings under this Act the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offence charged, then a place or area stated in a certificate given by an authorized officer shall be 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) An authorized officer shall in any certificate made under subsection (1) state
 - (a) his name, address, official position, country of appointment and provision under which appointed;
 - (b) the name and, if known, call sign of the fishing vessel concerned;
 - (c) the date and time or period of time the vessel was in the place or area;
 - (d) the place or area in which it is alleged the vessel was located;

- (e) the position fixing instruments used to fix the place or area stated in (d) and their accuracy within specified limits;
- (f) a declaration that the authorized officer checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly;
- (g) if a position fixing instrument which is not judicially recognized as notoriously accurate or a designated machine is used, a declaration that he or she checked the instrument as soon as possible after the time concerned against such an instrument.

(3) For the purposes of this section "authorized officer" shall include fisheries enforcement officers, surveillance officers and those charged with similar responsibilities in other countries, and high seas inspectors duly authorized under an international conservation and management measure.

Validity and
procedures
for
certificates.

78. (1) Unless the contrary is proved, a document purporting to be a certificate given under section 76 or 77 of this Act shall be deemed to be such a certificate and to have been duly given.

(2) Where a certificate given under section 76 or 77

- (a) is served upon a defendant 28 or more days before its production in court in any proceedings under this Act; and
- (b) the defendant does not, within 7 days of the date of service, serve notice of objection and the grounds therefore in writing upon the prosecutor, then the certificate shall, unless the Court finds the defendant is unduly prejudiced by the failure to object, be conclusive proof of all the facts averred in it.

(3) Where

- (a) a certificate is served less than 28 days before its production in court; or
- (b) written notice of objection and the grounds therefore is served upon the prosecutor within 7 days of service of the certificate on the defendant; or
- (c) the Court finds the defendant is unduly prejudiced by the failure to object,

then the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(4) Any certificate given under sections 76 and 77 of this Act shall be headed “Certificate Made under the Aquatic Living Resources Act” and no certificate issued under sections 76 or 77 of this Act may be used as conclusive proof of the facts averred therein unless it is served with a copy of sections 76 and 77 of this Act.

(5) An omission from or mistake made in any certificate issued under sections 76 and 77 of this Act shall not render it invalid unless the court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(6) Where in any proceedings a certificate made under section 76 and 77 of this Act is produced to the Court, the certificate shall be *prima facie* evidence of the facts therein unless the contrary is proved.

Photograph
evidence.

79. (1) Where a photograph is taken of any fishing or related activity and simultaneously the date and time on which and position from which the photograph is taken are superimposed upon the photograph then it shall be presumed unless the contrary is proved that the photograph was taken on the date at the time and in the position so appearing.

(2) The presumption set out in subsection (1) above shall only arise if

- (a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and
- (b) the instruments which provide the date, time and position are judicially recognized as being notoriously accurate or are designated machines or were checked as soon as possible after the taking of the photograph against such instruments.

(3) Any authorized officer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating

- (a) his or her name, address, official position, country of appointment, and provision under which he or she is appointed;

- (b) the name and call sign, if known, of any fishing vessel appearing in the photograph;
- (c) the names of the camera, watch or clock or other instruments supplying the date and time and the position fixing instrument and a declaration that he or she checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2)(b) and that they all appeared to be working correctly;
- (d) the matters set out in subsection (2)(a);
- (e) the accuracy of the fixing instrument used within specified limits; and
- (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Sections 68 and 69 shall apply to a certificate given under this section as if it had been a certificate given under those sections.

(5) For the purposes of this section “authorized officer” shall include fisheries enforcement officers, surveillance officers and those charged with similar responsibilities in other countries, and high seas inspectors duly authorized under a treaty or international conservation and management measure.

General
presumptions.

80. (1) All fish found on board any fishing vessel which has been used in the commission of any offence under this Act shall be presumed to have been caught in the commission of that offence, unless the contrary is proved.

(2) Where, in any legal proceedings under this Act, 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 *prima facie* evidence of the place in which the event took place, unless the contrary is proved.

(3) *Prima facie* evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft may be given by the production of a written copy or extract of the entry certified by an authorized officer as a true copy of accurate extract.

(4) For the purposes of any proceedings under this Act, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to that vessel shall be deemed to be also that of the operator and master of the vessel.

(5) An entry in writing or other mark in or on any log, 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 and master of the vessel.

(6) Where in any legal proceedings for an offence under this Act

- (a) an authorized officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken in a specified area of the fisheries waters;
- (b) the Court considers that, having regard to that evidence the grounds are reasonable,

the fish shall be presumed to have been so taken, unless the contrary is proved.

(7) In any proceedings for an offence against this Act, an allegation made by the informant in any information or charge relating to whether or not any person was the operator or master of any vessel shall be presumed to be true in the absence of proof to the contrary.

Presumption
as to
authority.

81. A return, log, record or other information purporting to be made, kept or furnished by or on behalf of any person shall, for all purposes of this Act, be deemed to have been made, kept or furnished by that person or by that person's authority unless the contrary is proved.

Strict liability.

82. (1) In any prosecution for any offence against this Act it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.

(2) It shall be a defence in any such prosecution if the defendant proves

- (a) that the defendant did not intend to commit the offence; and
- (b) that

- (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
- (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

Liability of
Directors and
Managers.

83. Where a body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is liable for the commission of that offence if it is proved that the act that constituted the offence took place with the person's authority, permission, or consent, or that the person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Liability of
principal for
actions of
agent in
relation to
records and
returns.

84. (1) Where a person, in this section referred to as the principal, is required by or under this Act to

- (a) keep any account , log or record; or
- (b) furnish any return, log or information; or
- (c) complete any form; or
- (d) take any action in relation to the keeping of any account, log or record or the furnishing of any return, log or information or the completing of any form

every act or omission of any person acting or purporting to act as agent for the principal in respect of any such requirement shall be 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 for the purpose of keeping any account or record, or furnishing any return or information, or completing any form, or taking any action in respect of such matters, as the case may be.

(2) A defence specified in section 82 is available to a principal prosecuted in respect of the act or omission of an agent if the principal satisfies the Court that, having regard to

- (a) any likely or possible benefit or detriment arising to the principal from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected; and
- (b) the purpose or motive of the agent whose act or omission it was; and
- (c) the relationship between the principal and the agent whose act or omission it was, or between the principal and any person appearing or likely to benefit from the alleged offence; and
- (d) where the principal is a body corporate, whether or not any person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and
- (e) any action taken by the principal, once aware of the act or omission, in respect of the agent whose act or omission it was or any person appearing likely to benefit from the alleged offence

it would be in the interests of justice to allow the principal the benefit of any defence provided for in section 82 (2) of this Act.

(3) For the purposes of this section a person may act as an agent for a principal whether or not that person is employed by the principal and whether or not acting for reward.

Liability of companies and persons for actions of officers and employees.

85. (1) Every act or omission of any officer or employee of a person, or of the master or any member of the crew of a vessel that is owned, chartered or leased by the person for the purpose of engaging in fishing, shall be deemed for the purposes of this Act to be the act or omission of the person.

(2) Subject to subsection (3), any defence specified in section 82(2) of this Act in relation to a prosecution under this Act is available to a person only to the extent that it can be proved in respect of the officer, employee, master, or crew member in relation to whose act or omission the prosecution is brought.

(3) A defence specified in section 82(2) of this Act is available to a person prosecuted in respect of the act or omission of a person referred to in subsection (1) if the person satisfies the Court that, having regard to

- (a) any likely or possible benefit or detriment arising to the person from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected; and
- (b) the purpose or motive of the person whose act or omission it was; and
- (c) the relationship between the person and the person whose act or omission it was, or between the person and any person appearing or likely to benefit from the alleged offence; and
- (d) where the person is a body corporate, whether or not any person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and
- (e) any action taken by the person, or, where the person is a body corporate, by any person responsible for its management, once aware of the act or omission, in respect of the person whose act or omission it was or any person appearing or likely to benefit from the alleged offence,

it would be in the interests of justice to allow the person the benefit of any defence provided for in section 82(2) of this Act.

Tampering
with evidence.

86. (1) No person shall destroy, throw overboard, conceal or abandon any fish, fish product, fishing gear, net or other fish appliance, log, return, record, document, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid seizure or the detection of an offence against this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction

- (a) in respect of a Belize high seas fishing vessel or foreign fishing vessel, to a fine not less than five thousand dollars but not more than one hundred and fifty thousand dollars;
- (b) in respect of a local fishing vessel, to a fine not less than five hundred dollars but not less than two thousand dollars or to imprisonment to a term

not less than six months but not more than two years or to both fine and imprisonment.

Liability of master or other person in charge of vessel.

87. Where an offence against this Act has been committed by a person on board or employed on a fishing vessel, the master of the vessel is also liable for that offence.

Forfeiture and suspension of fishing rights, licenses etc.

88. Where a person is convicted of an offence against this Act the court, in the first instance may, and on second or subsequent conviction shall, forfeit or suspend for such period as the court considers appropriate, any applicable fishing right, licence, authorization, or permit.

Power of fisheries officers to undertake prosecutions

89. (1) The Fisheries Administrator may undertake prosecutions in respect of offences against this Act or any regulations made hereunder, and may authorize in writing any authorized officer to undertake such prosecutions.

(2) Prosecutions involving any foreign fishing vessel, or a high seas fishing vessel or in respect of the use by a Belizean national of a vessel registered in another country shall require the prior consent of the Attorney-General.

Damage to the marine ecosystem.

90. A court may, in determining the appropriate penalty to be applied in respect of a particular offence involving fishing or related activities under this Act, take into account the damage done to the marine ecosystem and to the long term sustainability of the marine living resources, wherever the offence may have been committed.

PART XVIII

Sale, Release and Forfeiture of Retained Property

Forfeiture of property on conviction.

91. (1) On the conviction of any person for an offence against this Act for which the maximum penalty is a fine of two thousand dollars or more, the Supreme Court may in addition to imposing any fine order that the following shall be forfeited to the Government unless the Court for special reasons relating to the offence thinks fit to order otherwise

- (a) any property used in respect of the commission of the offence (whether or not seized pursuant to section 60 of this Act); and
- (b) any fish found onboard any foreign vessel or high seas fishing vessels at the time it was seized or detained pursuant to this Act and in any other case any fish in respect of which the offence was committed (whether or not seized pursuant to section 60 of this Act); and
- (c) any proceeds from the sale of such property or fish pursuant to section 60 of this Act; and
- (d) any illegal fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 60 of this Act).

(2) On the conviction of any person for an offence against this Act (not being an offence referred to in subsection (1) or subsection (3)), the Supreme Court may in addition to imposing any fine, order that any of the following shall be forfeited to the Government

- (a) any property used in respect of the commission of the offence (whether or not seized pursuant to section 60 of this Act); and
- (b) any fish in respect of which the offence was committed (whether or not seized pursuant to section 60 of this Act); and
- (c) any proceeds from the sale of such property or fish pursuant to section 95 of this Act; and
- (d) any illegal fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 60 of this Act).

(3) On the conviction of any person for an offence against this Act for which the maximum penalty is a fine that exceeds two thousand dollars the Supreme Court may in addition to imposing any fine order that any of the following shall be forfeit to the Government

- (a) any fish in respect of which the offence was committed; and
- (b) any proceeds from the sale of such fish pursuant to section 95 of this Act; and

- (c) any illegal fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 60 of this Act).

Application of bond, etc.

92. Upon the making of an order for forfeiture under section 91 of this Act, the Supreme Court may, upon application of the Fisheries Administrator, make an order that any bond or security given in respect of that forfeit property or fish shall be applied as follows and in this order

- (a) the discharge of the property or fish ordered forfeited under section 91 of this Act;
- (b) the payment of all fines or penalties imposed in respect of the offences giving rise to the forfeiture ordered;
- (c) the discharge of all orders for restitution of any loss, damages or costs made under this Act.

Removal of seized items.

93. Where any property or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government it is liable to seizure at any time within the fisheries waters.

Disposal of forfeited items.

94. (1) Any property, fish or other item ordered to be forfeited under this Act, at the expiry of the time limited for appeal and if no appeal is lodged, may be

- (a) retained;
- (b) leased;
- (c) donated to a charitable organization;
- (d) destroyed;
- (e) sold at current market prices by the Government of Belize

(i) by tender; or

(ii) by agreement approved by the Fisheries Administrator

provided that if such forfeited item is sold by the Government of Belize the owner or apparent owner prior to forfeiture shall be afforded a reasonable opportunity to bid on or purchase such property.

(2) Any property, fish or other item seized under this Act or any monies held pursuant to this Act but not forfeited in any legal proceedings may be held by the Government until all fines, orders for restitution or costs and penalties imposed under this Act have been paid and failing payment within the time allowed be sold and the balance of the proceeds released after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale.

(3) The Fisheries Administrator or any person acting on his or her behalf, shall not be liable in any way of any costs incurred or damages sustained as of a decision taken under subsection (1).

(4) The proceeds of any sale of any item forfeited in accordance with this section shall be deposited into the Fisheries Fund in accordance with section 6.

Sale of
perishable
items.

95. (1) A perishable item, including fish, fish products or other items, which has been seized or confiscated pursuant to this Act shall be subject to the disposition of the Fisheries Administrator, who may

(a) decide to sell or authorise the sale of such item; or

(b) sell or authorize the sale of such item or otherwise dispose of the item at such time and place as he shall determine,

and the proceeds from such sale if any, shall be held in trust by the Fisheries Administrator pending the final disposition or any proceedings under this Act.

(2) The Fisheries Administrator shall notify the owner or apparent owner of any perishable item seized of the intended sale in accordance with subsection (2), and such owner or his nominee may be present at the sale.

(3) Where the ownership of any item cannot be ascertained at the time of seizure, it shall be forfeited and disposed of as directed by the Fisheries Administrator after ninety (90) days from the date of seizure if, within that time, it has not been possible to establish the ownership of the item.

(4) A *bona fide* purchaser for value without notice, of any item sold under this section shall derive good and unencumbered title in respect of that item.

(5) Subject to subsection (1), all items seized pursuant to section 60 and the proceeds from the sale of such items shall be held in the custody of the Fisheries Administrator until

- (a) a decision is made not to lay any information or charge in respect of the alleged offence for which the item was seized;
- (b) the completion of proceedings in respect of the alleged offence for which the item was seized in instances where a charge or information is laid; or
- (c) the Court has issued an Order in relation to such proceeds.

(6) The decision whether or not to lay an information or charge in respect of an alleged offence for which an item seized under section 60 shall be made as soon as reasonably practicable after the item is seized, taken possession of, or detained.

(7) The Fisheries Administrator, or an authorized officer lawfully exercising any power under this Act, is not be liable for any spoilage or deterioration in the quality of any fish or other item seized, taken possession of or detained.

Liability for loss, damage or deterioration of items in custody.

96. The Government is not liable to a person for any loss, damage to, or deterioration in the condition of, any property or other item while in the custody of the Government under this Act.

Removal of item in custody.

97. A person who removes a vessel, vehicle, aircraft or other item held in the custody of the Government under this Act commits an offence whether or not he knew the vessel, vehicle, aircraft or other item was held in the custody of the Government for the purposes of this Act, and is liable on conviction to a fine not less than twenty-five thousand dollars but not more than two hundred and fifty thousand dollars or to imprisonment for a term not less than one year but not more than three years or to both fine and imprisonment.

Release of seized items upon bond, etc.

98. (1) A person from whom any item was seized or the owner or person entitled to possession of the item seized pursuant to this Act may, within 60 days of such seizure apply to the Court for the release of the item.

(2) Upon receipt of an application under subsection (1), the Court may order, unless the vessel, property or other item is required as an exhibit in court or reasonably required for any further investigation of fisheries offences, shall order

- (a) the payment into court of a bond, surety or other security having regard to
 - (i) the fair market value of the vessel, property or other item and catch on board;
 - (ii) the maximum fine or fines provided for the offences charged or likely to be charged; and
 - (iii) the costs likely to be recovered by the prosecution if a conviction is entered; and
- (b) the release of the vessel, property or other item, upon receipt of the bond, surety or other security referred to in subparagraph (a),

and may require such conditions for such release as it sees fit.

(3) In the event of an appeal from an order of forfeiture, the Court may continue any such bond, surety or other security deposited in accordance with subsection (4) during the pendency of the appeal and any retrial or rehearing on remand or may require additional security to be deposited with the court.

(4) Exoneration of such bond, surety or other security shall be conditional upon the return of the released item to the court without any impairment of its value, or until any final proceedings under the Act have been disposed of or discontinued, and any fines, penalties or other determinations have been paid.

(5) A vessel, property or other item seized under this Act, or where a security has been paid under subsection (4), the security, shall be held until any proceedings under this Act have been disposed of or discontinued, and any fines, penalties or other determinations imposed have been paid.

(6) Where a bond has been paid under subsection (4) and the vessel or property has been released

- (a) an order for forfeiture under this Act shall operate as an order for the forfeiture of the sum paid in respect of the value of the vessel or property;
- (b) the payment of any fine or penalty ordered upon conviction shall be made from the security; and

(c) any order for costs shall be applied against the security.

Failure to
comply with
the conditions
of a bond.

99. (1) Where any person to whom an item is released under section 98 fails to comply with the conditions of any bond or with any condition specified by the Fisheries Administrator

(a) the item may be re-seized at any time at the direction of Fisheries Administrator;

(b) the provisions of this section shall apply to the property as if it had been seized pursuant to section 60;

(c) the Fisheries Administrator may apply to the Court for an order for estreat of the bond;

(d) where the Fisheries Administrator so applies, the Registrar shall fix a time and place for the hearing of the application, and shall, not less than seven (7) days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed;

(e) if on the hearing of such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to escheat the bond thereby on whom the notice is proved to have been served in accordance with this subsection; and

(f) any penalty payable in accordance with this subsection shall be recoverable as if it were a fine.

Release of
seized items
upon decision
not to
proceed,
acquittal, and
absence of
forfeiture
order.

100. (1) Where any item has been seized under section 60, upon

(a) a decision being made not to lay an information or charge;

(b) the acquittal of any person charged with all offences with all the offences for which the item is subject to forfeiture; or

- (c) the final disposition of all offences for which the item is subject to forfeiture, without any order for forfeiture have being made in accordance with this Act,

such item, or the proceeds from the sale of such item, shall, subject to subsection (2), be forthwith released from the custody of the Fisheries Administrator to the person entitled thereto.

(2) The Court may direct that the release of any item, or proceeds from the sale of such item under subsection (1) shall be contingent upon all fines, penalties, orders for costs and other determination imposed by in respect of any of any offence having been paid, and failing payment which such time allowed, such item be sold and the balance of the proceeds returned to the owner, his or her nominee or in the absence of the owner or any nomination the apparent owner in accordance with this Act after deducting all fines, penalties, orders, costs and other determinations under this Act and the costs for the sale.

(3) Notwithstanding any provisions in this section, where an authorised officer who at the time of seizure returns to the water any fish seized pursuant to this Act that he or she believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish was seized in the event of a decision being made not to lay an information or charge in respect of the fish, or of the person being acquitted of the charge.

PART XIX

Regulations

Regulations.

101. (1) The Minister may make such regulations as may be necessary to give effect to the provisions of this Act and for due administration thereof.

(2) Without, limiting the generality of subsection (1), regulations made pursuant to this section may provide for all or any of the following

- (a) measures for licensing and regulation of fisheries or any particular fishery, including the prohibition or regulation of specific activities in any designated fishery or area, any fishing gear as well as the establishment of closed seasons and size limits;
- (b) prescribing the criteria and conditions for the allocation or distribution of total allowable catch

- (c) measures of the licensing, authorization or registration in respect of any vessel or class or category of vessels to be used for fishing, related activities or any other purpose pursuant to this Act, including the form, issuance requirements, grounds for denial, terms and conditions and fees, charges, royalties, and other forms of compensation related to such licensing, authorization or registration;
- (d) licensing, authorization or registration in respect of any fisherman or class of fisherman, the operation of, and conditions and procedures to be observed by any fishing vessel while in the fisheries waters;
- (e) defining the conditions or circumstances under which Belizean fishing vessels may be chartered;
- (f) providing for the installation and use of mobile transceiver units on an individual vessel or a category of vessels authorized to fish under this Act;
- (g) the appointment, maintenance of and procedures for agents appointed to receive and respond to process pursuant to this Act;
- (h) setting out the requirements for providing details of the beneficial ownership of vessels for the catching, loading, landing, handling, transshipping, transporting, possession and disposal of fish;
- (i) for the import and export of fish and fish products, including live fish;
- (j) the importation of any exotic aquatic species and the prevention of the introduction to the wild of invasive species;
- (k) the harvesting and marketing of aquarium fish;
- (l) prohibiting the use of driftnets, trawling and bottom trawling and shark finning;
- (m) regulating or prohibiting the use of self-contained underwater breathing apparatus;
- (n) requiring the provision of statistical and other information related to fisheries;
- (o) the installation, upkeep, and protection of devices that delimit marine and inland reserves and areas protected under this Act;
- (p) regulating or prohibiting fishing for certain stocks or species needing special protection;
- (q) regulating test fishing;
- (r) regulating underwater filming, use of underwater equipment etc.,

- (s) the requirements for the process of development and the contents of any management plan, and the procedures to be followed in their implementation;
- (t) providing for the management, licensing and control of aquaculture and mariculture;
- (u) prescribing offences against the regulations and penalties for such offences;
- (v) prescribing any other matter which is required or authorized to be prescribed by this Act.

Negative resolution.

102. Regulations made under this Part are subject to negative resolution.

PART XX
General

Prohibition on fishing for schedules species. Schedule.

103. (1) No person shall fish for the species prescribed in the Schedule to this Act.

(2) The Schedule to the Act may be amended by the Minister by Order published in the *Gazette*.

General offence and penalty.

104. Unless otherwise stipulated under this Act, contravention of any section of this Act is an offence punishable on conviction by a fine of fifty thousand dollars or imprisonment for two years, or by both fine and imprisonment.

Conflict of laws.

105. (1) Subject to the Belize Constitution, whenever the provisions of this Act or of any Order, rules or regulation made under this Act are in conflict with any other law, rule or regulation relating to the management of aquatic living resources and high seas fishing and matters related to both, the provisions of this Act and any Orders, Rules or Regulations made under the Act shall prevail.

(2) Whenever any powers conferred on the Department or the Commissioner of Police under this Act are similar to powers conferred on a municipal or other authority under any other law and there arises any conflict or dispute as to the exercise of such powers, the matter at issue shall be referred to the Minister who shall decide which authority shall exercise such powers and the manner in which powers shall be exercised.

(3) The decision of the Minister under this section is final.

Power to
delegate.

106. (1) The Minister or Fisheries Administrator, as the case may be, may in relation to any particular matter or class of matters or to any particular part of Belize, by writing under its seal, delegate to any officer or employee of the Department or to any prescribed person all or any of its powers under this Act.

(2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Minister or Fisheries Administrator.

Repeal and
savings.
CAP. 210
CAP. 210:01

107. (1) Upon the commencement of this Act, the Fisheries Act and the High Seas Fishing Act shall stand repealed.

(2) All Regulations, By-laws, Rules, Orders and other subsidiary legislation made under the repealed Acts, to the extent that they are not inconsistent with this Act, shall continue in force after the commencement of this Act, until repealed by Regulations, By-laws, Rules, Orders and other subsidiary legislation made hereunder.

Commencement.

108. This Act comes into force on a day to be appointed by the Minister by Order published in the *Gazette*.

SCHEDULE

[section 103]

English Common Name	Scientific Name
All species of soft coral	Gorgonacea, all species
All species of hard or stony coral	Scleractinia, all species
Whale Shark	<i>Rhincodon typus</i>

Aquatic Living Resources

Nurse shark	<i>Ginglymostoma cirratum</i>
Sawfish	<i>Pristis perotteti</i> and <i>Pristis pectinata</i>
Parrot fish, all species	Scaridae, all species
Surgeon fish, all species	Acanthuridae, all species
Green turtle	<i>Chelonia mydas</i>
Hawksbill turtle	<i>Eretmochelys imbricata</i>
Loggerhead turtle	<i>Caretta caretta</i>
Leatherback turtle	<i>Dermochelys coriacea</i>

DRAFT