

FISHERIES LAW, 1991

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Section

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IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this Law is hereby made:

PART I—BUILDING AND IMPORTATION OF MOTOR FISHING VESSELS

1. (1) No person shall undertake in Ghana the building of any motor fishing vessel unless he has been granted a licence to do so by the Secretary for Industries in consultation with the Secretaries for Transport and Communications and Agriculture.

Licence for
building of
motor
fishing
vessels, etc.

(2) The design for the building of a motor fishing vessel shall be subject to the approval of the Shipping Commissioner.

(3) The building of any motor fishing vessel in Ghana shall be supervised by a surveyor employed by the person who commissioned the building of the vessel and it shall be the duty of such employer to submit periodic progress reports of the work on the vessel to the Shipping Commissioner.

(4) No person shall sell or offer for sale, whether within or outside Ghana, any new motor fishing vessel or craft built in Ghana unless there has been issued in respect of that vessel a certificate of seaworthiness by the Shipping Commissioner in the prescribed form.

(5) The Secretary for Transport and Communications may in consultation with the Secretary by legislative instrument make regulations prescribing the standards and specifications for the design and construction of different types of motor fishing vessels or craft and also for the forms of applications, licence and certificate of seaworthiness and fees payable for such licence and certificate.

(6) Any person who contravenes subsection (1), (2), (3) or (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵500,000.00 or to imprisonment for a term not exceeding 2 years or to both; and in addition the Court may order the forfeiture of the vessel in respect of which the offence was committed.

2. (1) No person shall—

- (a) without the prior approval in writing granted by the Secretary on the advice of the Secretary responsible for Transport and Communications import into Ghana any motor fishing vessel; or
- (b) import into Ghana any motor fishing vessel which is more than five years of age from the date of construction or more than seven years from the date of construction in the case of a tuna fishing vessel.

Importation
of foreign
built motor
fishing
vessels.

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(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵500,000 or to a term of imprisonment not exceeding 2 years or to both; and in addition the Court may order the forfeiture of the vessel in respect of which the offence was committed.

PART II—LICENSING OF FISHING CRAFT

Prohibition
of
fishing
operations
without
licence.

3. (1) Subject to the provisions of this Part and without prejudice to sections 24 and 25 of this Law, no person shall operate any fishing craft (whether imported or not) within the coastal waters and riverine system of Ghana for the purpose of taking fish or in connection with any fishing activity, unless he has been granted a licence for that purpose in respect of the fishing craft by the Licensing Officer.

(2) Any person who contravenes subsection (1) of this section shall—

- (a) in the case of a foreign owned or registered fishing vessel, incur a pecuniary penalty of the equivalent in cedis of not less than 150,000.00 US dollars or more than 500,000.00 US dollars;
- (b) in the case of a locally owned or a locally registered fishing vessel, incur a pecuniary penalty of not less than ₵300,000.00 or more than two million cedis;
- (c) in the case of a canoe, incur a pecuniary penalty of not less than ₵50,000.00 or more than ₵100,000.00.

(3) The Court may in addition to any fine that it imposes under subsection (2), order the forfeiture of the fishing craft, catch or other apparatus or a combination of any of them involved in the commission of the offence.

(4) The Licensing Officer shall not grant a licence to an applicant in respect of any fishing craft—

- (a) owned by a Ghanaian unless the vessel is registered with the Shipping Commissioner and a certificate of seaworthiness has been issued in respect of it by the Shipping Commissioner; or
- (b) owned by a foreign person unless the vessel is registered with, and a certificate of seaworthiness has been issued in respect of it by the appropriate authority with power to register and issue such certificate.

(5) Without prejudice to subsection (4) the Licensing Officer shall not grant a licence to an applicant in respect of any fishing craft unless he is satisfied—

- (a) in the case of a motor fishing vessel other than a tuna fishing vessel, that the vessel is owned by the State, a

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citizen of Ghana or a public corporation; or by a limited liability company registered in Ghana under the Companies Code, 1963 (Act 179) which has its principal place of business in Ghana and its shares are wholly owned by the State, a citizen of Ghana or a public corporation or an association of any of these persons;
or

- (b) in the case of a tuna fishing vessel, that not less than twenty-five per cent of the interest in the vessel is owned by the Government, a citizen of Ghana, a public corporation, or a limited liability company registered in Ghana under the Companies Code, 1963 (Act 179) which has its principal place of business in Ghana and its shares are owned wholly by the Government, a citizen of Ghana, a public corporation or an association of any of them;
- (c) that there has been issued in respect of the vessel a valid policy or certificate of insurance;
- (d) on a Surveyor's report, that the vessel is seaworthy and operational;
- (e) in the case of a canoe, that the canoe—
 - (i) is owned by a citizen of Ghana, a partnership or company registered in Ghana under the relevant enactment;
 - (ii) has been registered by the Department of Fisheries; and
 - (iii) it bears the prescribed markings;
- (f) that the operation of the fishing craft are not likely to be prejudicial to the fishing industry.

(6) Notwithstanding paragraph (b) of subsection (5) of this section the Licensing Officer may grant a licence to a motor vessel if—

- (a) the vessel is to be used for the transshipment or export of tuna;
- (b) the vessel is on charter to any of the persons referred to in paragraph (5)(b);
- (c) the agreement for the charter of the vessel confers on the person who charters the vessel a right to purchase the vessel within three years of the date of the charter; and
- (d) the Licensing Officer is satisfied that adequate provision has been made in the agreement for the training of Ghanaians and imparting to them the skills and expertise of tuna fishing and the management of tuna vessels.

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(7) If before the expiration of the three years referred to in paragraph (c) of subsection (6) of this section the chartered vessel is returned to the person from whom it was chartered, another vessel may be chartered with the approval in writing of the Licensing Officer for the unexpired period of the three years.

(8) If at the expiration of the three years the person by whom the vessel was chartered has not for any reason entered into a written agreement for the purchase of the vessel or has not purchased the vessel that person shall not again be granted a licence in respect of any other vessel chartered or purchased by him, whether solely or in association with another person.

(9) The Licensing Officer shall not grant a licence in respect of a chartered vessel to the person by whom the vessel was chartered unless he is satisfied that the agreement relating to the purchase is satisfactory and reasonable and that all the relevant requirements of this Law and any other enactment applicable in Ghana have been complied with in relation to the sale.

Form and conditions of licences.

4. (1) The licence shall be issued by the Licensing Officer in such form and shall be subject to such conditions as the Secretary may prescribe.

(2) The licence shall be issued yearly or quarterly and shall expire—

(a) in the case of a yearly licence on 31st day of December in the year in which it is issued;

(b) in the case of a quarterly licence on the 31st day of March, the 30th day of June, the 30th day of September or the 31st day of December.

Licence fees.

5. (1) Subject to subsection (2) of this section, there shall be charged in respect of the issue of the licence such fee as the Secretary may prescribe.

(2) A fee charged under subsection (1) of this section in respect of a tuna fishing vessel or carrier for tuna shall be paid in US dollars if the vessel or carrier is wholly owned by persons other than Ghanaians or substantial interest therein is owned by persons other than Ghanaians.

Licences not transferable without permission. Renewal of licences.

6. No licence granted shall be transferred to another person without the permission of the Licensing Officer endorsed on the licence.

7. (1) The holder of a licence may upon expiration of the licence apply in writing to the Licensing Officer for a renewal of the licence and subject to the provisions of subsection (2) of this section, the Licensing Officer shall renew the licence upon the payment of such fee as the Secretary may prescribe.

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(2) The Licensing Officer may refuse to renew a licence on any or all of the following grounds if:

- (a) the fishing craft does not meet the prescribed safety standards;
- (b) the fishing craft does not bear the prescribed markings;
- (c) the fishing craft does not meet the requirements of the prescribed net mesh sizes;
- (d) the fishing craft is manned by a crew that is not qualified under this Law;
- (e) the fishing craft is not seaworthy;
- (f) the fishing craft is not covered by a valid certificate or policy of insurance which shall cover injury to third parties;
- (g) the owner of the motor fishing vessel has failed to submit the returns in respect of his operations or maintain a log book as required under section 37 or 39 of this Law;
- (h) the owner of the fishing craft engages in any activity prejudicial to the fishing industry.

8. Where a person contravenes a provision of this Law in respect of which a pecuniary penalty is imposed, the Licensing Officer may use any or all of the grounds stated in section 7 of this Law to cancel or suspend the licence in respect of a fishing craft for such period as he thinks fits. Cancellation and suspension of licence.

9. Any person aggrieved by the refusal of the Licensing Officer to issue or renew a licence under section 3 or section 7 or by the cancellation or suspension of the licence under section 8 of this Law may within fourteen days of such refusal, cancellation or suspension appeal in such manner as may be prescribed to the Appeals Board established under section 10 of this Law. Appeals.

10. (1) There is hereby established an Appeals Board which shall consist of the following members who shall be appointed by the Secretary— Appeals Board.

- (a) a representative of the Attorney-General's Department not below the rank of a Chief State Attorney who shall be the Chairman;
- (b) a representative of the National Fisheries Advisory Council; and
- (c) a representative of the Fishing Industry who is not an interested party in the subject matter of the appeal.

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(2) The Appeals Board shall hear and determine an appeal lodged by any person aggrieved by a decision of the Licensing Officer in respect of matters concerning the refusal to issue or renew a licence under section 3 or section 7 or the cancellation or suspension of a licence under section 8 of this Law.

(3) The Appeals Board may upon the determination of an appeal confirm, reverse or vary the decision of the Licensing Officer.

(4) The decision of the Appeals Board shall be final.

PART III—MANNING OF MOTOR FISHING VESSELS

Application
of provisions
of this Part.

11. This Part shall apply to motor fishing vessels engaged in any form of fishing.

Manning of
motor
fishing
vessels.

12. (1) A motor fishing vessel exceeding 60 gross registered tonnage shall not proceed to sea or call at a port in Ghana unless it has on board—

- (a) a skipper who is the holder of a certificate of competency issued by the competent authority;
- (b) a mate or secondhand as the case may be who is the holder of a Certificate of competency issued by the competent authority;
- (c) an engineer who is the holder of First Class Engineer's Certificate of competency issued by the competent authority;
- (d) an engineer who is the holder of a Second Class Engineer's Certificate of competency issued by the competent authority;
- (e) a bosun who is the holder of an Ablebodied Seaman's Certificate of competency issued by the competent authority;
- (f) in the case of a vessel equipped with marine radio telephone, a radio operator with the requisite certificate of competency issued by the competent authority;
- (g) in the case of a vessel equipped with marine telegraphy a radio officer with the requisite certificate of competency issued by the competent authority.

(2) No motor fishing vessel of less than 60 gross registered tonnage shall proceed to sea from a port in Ghana unless it is provided with—

- (a) a coxswain who is the holder of a certificate of competency issued by the competent authority;

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- (b) a bosun who is the holder of Ablebodied Seaman's Certificate of competency issued by the competent authority;
- (c) a marine motor mechanic who is the holder of a certificate of competency issued by the competent authority.

(3) The owner or operator of any motor fishing vessel which proceeds to sea in contravention of any provision of each paragraph of subsection (1) or (2) of this section shall be liable on summary conviction to a fine of not less than ₦100,000.00 or to a term of imprisonment not exceeding 6 months or to both.

(4) Except in case of emergency at sea no person shall—

- (a) hold himself out as a skipper, secondhand, radio officer, radio operator or bosun or an engineer of a motor fishing vessel unless he had been duly certificated as such under section 13 of this Law;
- (b) employ any person as a skipper secondhand, radio officer, radio operator or bosun or an engineer of a motor fishing vessel without first ascertaining that he has been duly certificated as a skipper secondhand, radio officer, radio operator or bosun or an engineer under this section;

and any person who contravenes the provisions of this subsection shall be liable on summary conviction to a fine of not less than ₦100,000 or to a term of imprisonment not exceeding 6 months or to both.

13. For the purpose of this Part a person shall be deemed to be duly certificated as skipper, mate or secondhand, radio officer, radio operator or bosun or engineer if he is the holder for the time being of a certificate of competency granted by the competent authority.

Certificate of competency of skipper, mate or secondhand radio officers bosuns, etc.

14. Where the skipper or an engineer of a motor fishing vessel is absent, the competent authority may on application by the owner of the vessel, and on being satisfied that the absence of the skipper or engineer is unavoidable, authorise the holder of a lower grade fishing certificate to act for a period not exceeding two months as the skipper or engineer of the vessel as the case may be during the period that the skipper or engineer is absent, and the holder of the lower grade certificate of competency so authorised to act shall for the purposes of section 13 of this Law be deemed to be a duly certificated skipper or engineer.

Absence of skipper or engineer.

15. A competent authority shall keep a record of every certificate of competency issued under this Part and of any suspension, alteration or cancellation or any other matter affecting any such certificate.

Competent authority to keep record of certificates, etc.

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PART IV—FISHING ZONES AND FISHING GEAR

Prohibited fishing in specified zones.

16. (1) No towing gear shall be used in coastal waters the depth of which is less than 30 meters.

(2) No motor fishing vessel of 50 gross registered tonnage or more shall use a bottom trawl in coastal waters the depth of which is less than 30 meters.

(3) The Director of Fisheries may in writing exempt a research or any other fishing vessel from the provisions of subsection (1) or (2) of this section.

Closed seasons for fishing.

17. The Secretary may, on the advice of the Director of Fisheries, by legislative instrument, declare closed seasons and the duration of the seasons for fishing in specific areas of coastal waters or the riverine system.

Manufacture, importation or sale of fishing nets.

18. (1) Subject to the provisions of this section the Secretary shall have power to specify the nature and the type of nets to be manufactured or imported.

(2) Except as otherwise provided in sub-section (3) of this section no person shall—

(a) import into, manufacture, sell or use in fishing in Ghana any fishing net or netting the mesh of which is less than 25 millimeters in stretched diagonal length;

(b) use any unauthorised contrivance as fishing gear for the purpose of taking fish in any body of water.

(3) The Director of Fisheries may for the purposes of research in fishing or other activity approved by him permit in writing the importation, manufacture or use of such net or netting, subject to such conditions as he deems fit.

Minimum mesh of trawl nets.

19. No person shall operate from or carry on board or in any fishing craft a trawl net the mesh of which is less in stretched diagonal length than the prescribed mesh.

Prohibition of use of seine nets in inland waters.

20. (1) Subject to subsection (2) of this section, no person shall use a seine net in any river or body of water forming any part of the riverine system.

(2) The Director of Fisheries may permit in writing the use of seine nets in estuarian waters but no such permit shall authorise the use of the seine net the mesh of which is less than 50 millimetres in stretched diagonal length.

Prohibition of seine nets in coastal waters.

21. No person shall use for the purpose of taking fish in coastal waters a seine net the mesh of which is less than 25 millimeters in stretched diagonal length.

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22. No person shall use in coastal waters for the purpose of taking tuna a seine net the mesh of which is less in stretched diagonal length than the prescribed mesh. Seine nets for tuna fishing.

23. (1) No gill net, whether drifting or set, shall be used in any river or body of water forming part of the riverine system if the mesh of the net is less than 50 millimetres in stretched diagonal length in the case of multifilament net or 75 millimetres in stretched diagonal length in the case of monofilament net. Gill nets.

(2) No person shall set a gill net across any river from bank to bank so as to form a barrier for the purpose of taking fish from river.

(3) No person shall knowingly take gravid lobsters or any other gravid crustacea during fishing and where any such gravid lobsters or gravid crustacea are accidentally taken they shall be immediately returned to the sea, river or lake as the case may be.

(4) All young lobsters or other young crustacea as shall be determined by fisheries regulations made under this Law that may be accidentally caught during fishing shall be immediately returned to the sea, river or lake as the case may be.

(5) Any person who contravenes subsection (3) or (4) of this section commits an offence and is liable on conviction to a fine not exceeding ₦300,000.00 and in addition the fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director of Fisheries may direct.

24. The Licensing Officer shall allocate to every motor fishing vessel licensed under this Law such registration letters and numbers and other markings as may be prescribed. Markings of motor fishing vessel.

25. The Licensing Officer shall allocate to every canoe registered under this law such letters and numbers and other markings as he may determine. Markings of fishing canoes.

26. Every submerged stationary fishing gear or surface drifting gear shall bear conspicuous surface markers using brightly coloured buoys, flags or floating poles and at night lighted markers all of which must at least be visible in clear weather at a distance of one nautical mile; except that in the case of a net the markers shall be placed at intervals of 25 metres along the full length of the net. Markers of submerged gear.

27. Any person who contravenes any of the provisions of this Part shall incur a pecuniary penalty of not less than ₦300,000.00 or the value of the catch, whichever is the greater; and in addition to the catch, fishing gear or other apparatus or any combination of them may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director of Fisheries thinks fit. Penalties.

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PART V—MONITORING, CONTROL, SURVEILLANCE AND ENFORCEMENT

Establishment of Monitoring Unit, its functions and composition.

28. (1) There shall be established at the Ministry of Agriculture a unit to be known as the Fisheries Monitoring, Control, Surveillance and Enforcement Unit (hereafter referred to in this Law as “the Unit”).

(2) The Unit shall be responsible—

- (a) for the monitoring, control and surveillance of all fishing operations within the coastal waters and riverine system of Ghana; and
- (b) for the enforcement of the provisions of this Law and regulations made thereunder.

(3) The Unit shall consist of such personnel from the Ghana Navy, the Ghana Air Force and Department of Fisheries as the Secretary shall, in consultation with the Secretary for Defence determine.

(4) The Secretary may from time to time request the service of personnel from other Government agencies and departments to assist the Unit in the performance of its functions.

(5) The Council shall in consultation with the Secretary appoint the Head of the Unit.

(6) For the enforcement of the provisions of this Law and regulations made thereunder the personnel of the Unit shall have the same powers and privileges as are conferred by any enactment on police officers.

(7) Without prejudice to subsection (6) of this section the personnel of the Unit shall—

- (a) arrest any person or fishing craft where there is a reasonable suspicion that any act has been done by the person or in relation to the craft in contravention of any of the provisions of this Law or regulations made thereunder;
- (b) board any fishing craft to inspect any licence or other document issued in relation to such fishing craft;
- (c) board any fishing craft to search and examine any fishing gear or other apparatus carried on or in such fishing craft;
- (d) require the owner or person in charge of a fishing craft to exhibit his fishing gear or apparatus or catch;
- (e) enter any premises ashore where there is reasonable suspicion of any contravention of this Law, and inspect

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such premises and examine the catch, fishing gear or other apparatus or fishing craft involved in such contravention.

(8) The personnel of the Unit may, in arresting any person or fishing craft which they have reasonable suspicion has done any act in contravention of the provisions of this Law, use such force as is reasonably necessary in the circumstances to effect the arrest.

(9) Any person who obstructs the personnel of the Unit or otherwise interferes with the performance of their functions under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding ₵300,000 or in the case of a foreigner the equivalent in cedis of 10,000 US dollars or to a term of imprisonment not exceeding 12 months or to both such fine and imprisonment.

29. No action shall be brought against the head of the Unit, the Director of Fisheries, the personnel of the Unit or any person authorised to assist the Unit in respect of any act done in good faith in the performance of their functions under this Law. Indemnity.

30. (1) There is hereby established a Technical Committee which shall consist of the following members to be appointed by the Secretary: Technical Committee.

- (a) the Head of the Unit who shall be the Chairman;
- (b) a representative of the Navy;
- (c) a representative of the Ghana Air Force;
- (d) a representative of the Ghana Police Service;
- (e) a representative of the Ministry of Foreign Affairs;
- (f) a representative of the Attorney-General's Department;
- (g) a representative of the Fisheries Department; and
- (h) a representative of the Customs, Excise and Preventive Service.

(2) The functions of the Technical Committee are—

- (a) to co-ordinate the functions of the various Government agencies responsible for the formulation and implementation of policies affecting fisheries;
- (b) to advise the Head of the Unit on matters relating to the implementation of the Government's policies; particularly with regard to the monitoring, control and surveillance of the fishery resources and the enforcement of this Law and other enactments concerning fisheries:

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(c) to assist the Head of the Unit in the preparation of an operational manual for use by the personnel both at sea and on shore.

(3) The Technical Committee shall regulate its own procedure.

(4) The Unit shall establish a special fund into which shall be deposited all pecuniary penalties imposed under this Law and shall be used to meet the operational needs of the Unit.

(5) Funds established under subsection (4) shall be subject to normal auditing.

PART VI—MISCELLANEOUS

Transfer of ownership of licensed fishing craft.

31. (1) Where the ownership of a fishing craft licensed under this Law is transferred by the owner to another person both the owner and that other person shall within one month of such transfer notify the Licensing Officer in writing of the transfer of ownership of the fishing craft.

(2) Any person who contravenes subsection (1) of this section shall incur a pecuniary penalty of not less than ₵100,000.00.

Prohibition of export or import of live fish.

32. (1) No person shall import into or export from Ghana any live fish unless he has been granted a permit by the Licensing Officer.

(2) A permit granted by the Licensing officer under subsection (1) of this section shall be in such form and subject to such conditions as may be prescribed.

(3) Any person who contravenes subsection (1) of this section shall incur a pecuniary penalty of not less than ₵200,000.00 or more than one million cedis or the equivalent in cedis of 10,000 US dollars in the case of a foreigner or the value of the fish whichever is greater.

Transshipment and export of tuna and other marine products.

33. (1) Except where the restrictions imposed by this subsection are varied by regulations made under subsection (6) of this section the entire catch of every tuna vessel and every other fishing vessel licensed under this Law shall be landed in Ghana before any transshipment or export of the catch.

(2) No black skipjack tuna and also no fish other than tuna comprised in the catch of any tuna vessel licensed under this Law shall be transhipped or exported from Ghana.

(3) No other species of tuna shall be exported from Ghana without the permission of the Secretary responsible for Trade.

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(4) Not less than ten per cent of the catch of the following species of tuna landed in Ghana by any tuna vessel licensed under the Law shall be offered for sale to persons engaged in industrial processing of fish in Ghana to the extent of their requirements:

- (a) Skipjack;
- (b) Yellowfin;
- (c) Bigeye;
- (d) Albacore.

(5) Any person who contravenes subsection (1), (2) or (3) of this section shall incur a pecuniary penalty of not less than one million cedis or the value of the catch, whichever is the greater, and in addition his fishing licence may be cancelled or suspended for such period as the Licensing Officer thinks fit.

(6) Regulations made under section 44 of this Law may—

- (a) vary the restrictions imposed by subsection (1) of this section on the transshipment or export of catch; or
- (b) vary the percentage or categories of tuna required to be offered for sale under subsection (4) of this section.

(7) For the removal of doubt section 10 of the Exchange Control Act, 1961 (Act 71) shall apply to the export of tuna and other marine products.

(8) Notwithstanding subsection (6) of this section any person who exports tuna or other marine products—

- (a) in contravention of section 10 of the Exchange Control Act, 1961 (Act 71); or
- (b) except the Bank of Ghana otherwise directs in writing, without the Bank of Ghana being satisfied that the tuna or other marine product exported is paid for in external currency adequate in relation to the quantity of tuna or other marine product exported, and that the proceeds of the currency are duly paid to the Bank of Ghana or an authorised dealer within the meaning of the Exchange Control Act, 1961 (Act 71),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding three times the value of the export or the equivalent in cedis of fifty thousand US dollars whichever is the greater or to a term of imprisonment not exceeding five years or to both such fine and imprisonment and in addition the Court shall order the forfeiture of the fish in respect of which the offence was committed.

34. (1) No person in command or in charge of fishing craft registered in Ghana and fishing in Ghana shall land or discharge the catch outside Ghana, (including the high seas).

Landing of catch made in Ghana/ outside Ghana is prohibited.

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(2) Any person who contravenes subsection (1) of this section shall incur a pecuniary penalty of not less than ₵500,000.0 or the value of the catch, whichever is the greater, and in addition the licence of the skipper may be suspended or cancelled

(3) Any person who aids and abets another person in the contravention of subsection (1) of this section shall be deemed to have contravened the subsection.

Prohibition
of use of
explosives,
etc.

35. (1) No person shall—

- (a) take, destroy or attempt to take or destroy any fish by use of dynamite, gelignite or other explosive substance or by the use of any noxious or poisonous matter; or
- (b) carry on board or in any fishing craft whether afloat or ashore, any dynamite, gelignite or other explosive substance or noxious or poisonous matter.

(2) No person shall without lawful authority, have in his possession any dynamite, gelignite or other explosive substance or noxious or poisonous matter at any place within a distance of two kilometres radius from the shore or a river.

(3) Any person who contravenes subsection (1) or (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one million cedis or to imprisonment not exceeding three years or to both; and in addition the Court shall order the forfeiture of the catch and the substance or matter used in the commission of the offence.

Seventy-five
per cent of
crew of
motor fishing
vessels to be
Ghanaians.

36. (1) Subject to subsection (2) of this section, the owner of any motor fishing vessel licensed under this Law shall employ crew of which not less than seventy-five per cent shall be Ghanaians.

(2) The provisions of subsection (1) of this section shall not apply—

- (a) to a foreign motor fishing vessel engaged within coastal waters to undertake transshipment of tuna for a period of less than three months;
- (b) to a motor fishing vessel in respect of which the Licensing Officer is satisfied that there are not enough qualified Ghanaians to be employed in the required positions.

(3) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding the equivalent in Cedis of 10,000 US dollars or imprisonment not exceeding two years or to both such fine and imprisonment; and in addition the Court may order the cancellation or suspension of his fishing licence for such period as the Court may think fit.

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37. (1) The owner of a motor fishing vessel licensed under this Law shall submit to the Licensing Officer such written returns concerning the fishing operations of the vessel as he may require. Returns.

(2) Without prejudice to subsection (1) of this section any person who imports or exports any fish or fish product shall furnish to the Director of Fisheries returns in respect of the species, quantity and value of the fish within 14 days of such import or export.

38. (1) All fishing crafts must be sound and seaworthy, and with respect to a motor fishing vessel its engine shall be maintained in serviceable and good condition at all times. Sea-worthiness and inspection of fishing crafts.

(2) All motor fishing vessels shall be subject to inspection and survey by a surveyor at such intervals as may be prescribed.

39. (1) The person in command or charge of a motor fishing vessel whether afloat or ashore, shall carry on board the vessel the relevant licence. Licence and log books to be carried on board motor fishing vessels.

(2) Every motor fishing vessel exceeding 60 gross registered tonnage shall carry at all times on board the vessel a log book in such form as may be prescribed.

(3) The log book shall be subject to inspection at any time by an authorised officer; and for the purposes of this subsection an "authorised officer" means personnel of the unit, a Fisheries Officer, a Customs Officer or a surveyor.

40. (1) There is hereby established a Fisheries Advisory Council which shall consist of the following members to be appointed by the Secretary: Fisheries Advisory Council.

- (a) the Deputy Secretary for Agriculture responsible for Fisheries who shall be the Chairman;
- (b) the Director of Fisheries;
- (c) a representative of the Ghana Navy;
- (d) a representative of the Ghana Air Force;
- (e) a representative of the Ministry of Trade;
- (f) a representative of the Agricultural Development Bank;
- (g) a representative of the Ministry of Finance and Economic Planning;
- (h) a representative of the Ministry of Industries, Science and Technology;
- (i) a representative of the Customs, Excise and Preventive Service;
- (j) a representative of the Volta River Authority;

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- (k) a representative of the Ministry of Transport and Communication;
- (l) a representative of the Institute of Aquatic Biology;
- (m) a nominee of the Tuna Association;
- (n) a nominee of the Marine Fisheries Association;
- (o) a nominee of the Marine Canoe Fisheries Council;
- (p) a nominee of the Inland Canoe Fisheries Council;
- (q) a representative of the Ghana Inshore Fisheries Association;
- (r) three other persons appointed by the Secretary;

(2) The Advisory Council shall advise the Secretary on all matters affecting the fishing industry as well as matters relating to the implementation of the Government's policies with respect to the development, management and utilization of the fisheries resources of Ghana.

(3) The Chairman of the Advisory Council shall preside at all meetings of the Advisory Council and in his absence a member of the Advisory Council elected by the Members from among themselves shall preside.

(4) The quorum at any meeting of the Advisory Council shall be ten.

(5) Subject to subsections (3) and (4) of this section, the Advisory Council shall regulate its own procedure.

(6) The Secretary shall provide the Advisory Council with such staff and services as it may require for the efficient discharge of its functions.

41. Any person who—

- (a) forges or fraudulently alters or assists in forging or fraudulently altering or procures to be forged or fraudulently altered any licence or certificate under this Law;
- (b) makes, assists in making or procures to be made any false representation for the purpose of obtaining any licence or certificate under this Law;
- (c) fraudulently uses any licenses or certificate which has been forged, altered, cancelled or suspended or to which he is not entitled; or
- (d) fraudulently lends his licence or certificate or allows another person to use it,

Other offences.

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shall be guilty of an offence and liable on summary conviction to a fine of not less than one million cedis or to imprisonment not exceeding three years or to both.

42. Where an offence is committed under this Law or any regulations made thereunder by a body of persons— Offences by
bodies of
persons.

(a) in the case of a body corporate, other than a partnership, every director and officer of that body corporate shall also be guilty of that offence, and

(b) in the case of a partnership every partner shall also be guilty of that offence;

but no such person shall be guilty of an offence under this Law if he proves that the offence was committed without his knowledge or that he exercised all due care and diligence to prevent the commission of the offence.

43. (1) Subject to subsection (2) of this section, all pecuniary penalties imposed under this Law shall be subject to the approval in writing of the Secretary. Power of
Secretary to
mitigate
penalties.

(2) The Secretary may mitigate such penalties but shall not impose a penalty lesser than the minimum penalty prescribed in relation to the contravention in respect of which the penalty was imposed, and may also order the restoration of any licence or certificate cancelled or suspended or any catch, fishing gear or other apparatus forfeited as a result of any contravention of this Law.

(3) Where under this Law a pecuniary penalty is imposed, such penalty shall be payable to the Director of Fisheries.

44. (1) The Secretary may by legislative instrument make regulations— Regulations

- (a) controlling the taking of fish;
- (b) prohibiting the use of fishing crafts, fishing gears, apparatus or methods of taking fish considered to be harmful to the fishing industry in Ghana;
- (c) prescribing the procedure for the application, issue and renewal of licences and forms of licence and the fees payable for licences;
- (d) providing for the registration and markings of fishing craft;
- (e) providing for the identification of positions of submerged fishing gears or floating fishing gears;
- (f) providing for the procedure for reporting the arrest of offenders and investigating offenders;

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- (g) providing for the inspection of premises and apparatus used for the curing, preserving, storage or sale of fish;
- (h) providing for anything to be prescribed under this Law and otherwise for giving full effect to the purposes of this Law.

(2) The Secretary for Transport and Communications in consultation with the Secretary for Agriculture may by legislative instrument make regulations—

- (a) providing for the examination and certification of skippers, secondhands and engineers of fishing vessels;
- (b) providing for the registration, survey and licensing of fishing crafts;
- (c) providing for the safety and marine radio equipment to be installed in motor fishing vessels; and
- (d) providing for the safety of life and property at sea.

(3) Regulations made under this section may—

- (a) impose in respect of any contravention of the provisions of the regulation a fine not exceeding the equivalent in cedis of 10,000.00 US dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment and also in the case of any contravention of a continuing nature, an additional fine not exceeding the equivalent in cedis of 5,000.00 US dollars in respect of each day on which the offence continues. In addition, the catch, fishing craft, fishing gear or apparatus or thing whatsoever involved in the commission of the contravention may be forfeited; or
- (b) in lieu of criminal prosecution, prescribe in relation to any contravention of the provisions of the regulations a pecuniary penalty of not less than ₵500,000.00 or the value of the catch, whichever is the greater; and in addition the forfeiture of the catch, fishing gear, fishing craft, apparatus or thing whatsoever involved in the commission of the contravention;
- (c) provide for the enforcement of such regulations where appropriate, by a District Assembly.

Interpretation.

45. In this Law unless the context otherwise requires—

- “canoe” means a boat which is propelled by means of sails, oars, paddles, poles, outboard engine or a combination of any of them;
- “coastal waters” means the area of the sea declared by an enactment as the territorial sea, exclusive economic one or continental shelf of Ghana;

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- “competent authority” means the person authorised by any enactment to issue the relevant certificate of competency referred to under this Law;
- “Council” means Provisional National Defence Council;
- “Court” includes Public tribunal;
- “engineer” means the holder of a first or second class engineer’s certificate of competency;
- “fishing craft” includes a motor fishing vessel, tuna fishing vessel, canoe and ancillary craft for fishing;
- “foreigner” includes the owner or operator of a foreign vessel;
- “foreign vessel” means a motor fishing vessel which is wholly owned by persons other than Ghanaians or in which the substantial interest is owned by persons other than Ghanaians;
- “licence” means a licence issued under section 4 of this Law;
- “Licensing Officer” means an officer appointed as such by the Secretary;
- “motor fishing vessel” means a boat constructed or adapted for the purpose of fishing which is mechanically propelled by an inboard engine;
- “owner” includes any person in possession of a motor fishing vessel under a hire-purchase or agreement but does not include any person in possession under a charter-party;
- “public corporation” means a corporation of any body of persons established as a corporate body by or under any enactment and funded out of public funds;
- “riverine system” means a natural drainage system comprising rivers and their tributaries which originate from their sources and terminate at their estuaries, and includes any lake, impoundment, dam or weir artificially created on the riverine system;
- “Secretary” means the P.N.D.C. Secretary responsible for Agriculture;
- “secondhand” means the mate or person next in authority or command to the skipper on board a motor fishing vessel;
- “surveyor” means a surveyor appointed under the Merchant Shipping Act, 1963 (Act 183);
- “towing gear” means a fishing gear with a bag or cod end which is towed at the bottom or mid water by a motor fishing vessel and used for the purpose of taking fish;