

Fisheries Act, 1970

Enacted by the Parliament of the United Republic of Tanzania

PART I - PRELIMINARY

Article 1. - Short title and commencement. - This Act may be cited as the Fisheries Act, 1970 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Article 2. - Interpretation. - In this Act, unless the context otherwise requires:

"aquatic flora" means all aquatic plants and other members of the aquatic vegetable kingdom and includes corals, sponges and weeds;

"authorized officer" means the Chief Fisheries Officer or any fisheries officer or other officer or person authorized in writing by the Minister or the Chief Fisheries Officer to exercise any power or to discharge any duty under this Act or any subsidiary legislation made hereunder;

"Chief Fisheries Officer" means the officer appointed under section 3;

"close period" means any period during which, in relation to any specie or kind of fish, fish product or aquatic flora, such fish, fish product or aquatic flora, as the case may be, may not be captured, killed, injured, gathered or collected by any means whatsoever;

"controlled area" means an area declared to be a controlled area under this Act;

"dam" includes any fixed obstruction used for the purpose of damming, impounding, retaining or controlling the flow of water;

"fish" means all forms of aquatic or amphibious life (including turtles, crabs and shell fish) and includes the spat, brood, fry, spawn, ova and young of all such fish, but does not include any aquatic or amphibious animal to which the provisions of the Fauna Conservation Ordinance (Cap. 302) apply or the young of any such animal;

"fishing" means collection, capture, gathering, killing, snaring or trapping of fish, fish product or aquatic flora;

"fishing gear" means any net, line, cork, buoy, basket, trap, hook or other article, apparatus, structure, construction or installation whatsoever used for the purpose of fishing;

"fish product" means anything made, collected or obtained from fish, and includes fish meal, dried fish, fish manure, offal, fish silage, canned fish, oil or any fish, pearl, mother-of-pearl, shell, beche de mer, ambergris, larva and sponge;

"fishing vessel" means any boat or other aquatic or amphibious craft or vehicle used, outfitted or designed for the purpose of collecting, capturing, gathering, processing or transporting fish, whether operating on, above or below water;

"fishing weir" means any erection, structure, construction or obstruction whatsoever placed across or in any waters and temporarily or permanently fixed to or resting on the bed or a bank, which is designed for the purpose of collection, gathering, capturing, killing or injuring of fish, fish product or aquatic flora, and includes stake nets and basket traps;

"immature" in relation to any specie of fish means a fish of that specie which is smaller in size or length than the size or length prescribed in relation thereto;

"landing" means the landing of fish, fish product or aquatic flora in Tanganyika, whether or not such fish, fish product or aquatic flora was collected, captured, gathered or otherwise obtained within or outside the territorial waters;

"mesh" means the opening or space in a net enclosed by threads of the net or, in the case of a wire net, by the strands of wire; and "mesh size" means the distance between each drag knot of the thread when measured wet and stretched, or, in the case of a wire net, the diameter of the smallest opening enclosed by strands of wire;

"Minister" means the Minister for the time being responsible for fisheries;

"net" means fishing neta made of thread or wire or any other material whatsoever, designed to be used for the purpose of collecting, capturing, gathering, killing or injuring fish, fish product or aquatic flora;

"product of aquatic flora" means anything made out of, or composed wholly or partly of, any aquatic flora;

"territorial waters" means the water within the area extending across the sea to a distance of twelve nautical miles measured from the mean low water line along the coast of Tanganyika and the adjacent islands, and includes all lakes, rivers, fish ponds and dams in Tanganyika.

PART II - OFFICERS

Article 3. - Fisheries officers. - (1) There shall be a Chief Fisheries Officer who shall be appointed by the President.

(2) The Minister may appoint such number of fisheries officers as, in his opinion, may be necessary for the purpose of the administration of this Act and the subsidiary legislation made hereunder.

PART III - DEVELOPMENT AND CONTROL OF THE FISHING INDUSTRY

Article 4. - Minister may regulate fish industry. - (1) The Minister may, by order published in the Gazette, provide that no person shall engage in:

- (a) fishing;
- (b) collecting, gathering or manufacturing fish products or products of aquatic flora;
- (c) selling or marketing of fish, fish products, aquatic flora or products of aquatic flora;
- (c) importing or exporting of fish, fish products, aquatic flora or products of aquatic flora;

save under a licence issued by the Chief Fisheries Officer or any other authorized officer.

(2) An order under subsection (1) may be made to apply to all fish, fish products, aquatic flora or products of aquatic flora or to any specie or kind of fish, fish product, aquatic flora or product of aquatic flora.

(3) Any order made under this section may:

- (a) prescribe fees for licences;
- (b) prescribe terms and conditions of licences;
- (c) prescribe penalties for any contravention of the order or any breach of any term or condition of a licence:

Provided that any penalty so prescribed shall not exceed the general penalty prescribed by section 8;

- (d) provide and impose such exceptions, reservations and conditions as the Minister may think fit.

Article 5. - Minister may impose restrictions. - (1) The Minister may, by order published in the Gazette, declare any area or waters to be a controlled area in relation to all fish, fish products or aquatic flora, or in relation to any specie or kind of fish, fish product or aquatic flora.

(2) Where any area or any portion of territorial waters is declared to be a controlled area, no person shall, save with the authority in writing of the Chief Fisheries Officer or any authorized officer, engage in or do any fishing in such area or waters:

- (a) prescribe penalties for any contravention of the order;

Provided that any penalty so prescribed shall not exceed the general penalty prescribed by section 8;

- (b) provide and impose such exceptions, reservations and conditions as the Minister may think fit.

Article 6. - Preference to be given to citizens. - Where an order is made under section 4 or section 5, the Chief Fisheries Officer or any authorized officer shall not, save with the consent in writing of the Minister, grant any licence or authority, as the case may be, to any person who is not a citizen of the United Republic, or, in the case of a body corporate, to any body corporate which is not incorporated by or under any written law.

PART IV - REGULATIONS

Article 7. - Regulations. - (1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act and may, by such regulations, make provisions which, in his opinion, are necessary or expedient for the purpose of protecting, conserving, developing, regulating or controlling the capture, collection, gathering, manufacture, storage or marketing of fish, fish products, aquatic flora or products of aquatic flora.

(2) Without prejudice to the generality of subsection (1) the Minister may make regulations:

- (a) providing for the issue, suspension and cancellation of licences or authorities granted or given under this Act or any subsidiary legislation made hereunder;
- (b) prescribing the terms and conditions upon which any such licence or authority may be granted or given;
- (c) prescribing the forms of application for licences or authorities and also forms of licences and authorities;
- (d) prescribing fees for licences and authorities;
- (e) requiring all or any category of fishing vessels to be registered;
- (f) providing for and regulating the description, specifications and form of nets to be used in fishing and the size of the meshes thereof;
- (g) prohibiting or regulating the use of any description of fishing gear;

- (h) prohibiting, restricting or regulating the bringing into Tanganyika of any live fish, other than fish indigenous to Tanganyika;
- (i) prohibiting or regulating the sale of any fish, aquatic flora or any fish product or product of aquatic flora;
- (j) prohibiting or restricting the use of explosives for the purpose of fishing;
- (k) prohibiting or restricting the use of any poisonous or toxic substance for the purpose of fishing;
- (l) prohibiting or restricting the capturing, collection, gathering, killing or injuring of immature fish;
- (m) prohibiting or restricting the collection, removal or destruction of any variety of fish, aquatic flora, fish product or product of aquatic flora;
- (n) providing for the protection of spawning areas;
- (o) preventing the obstruction and pollution of territorial waters;
- (p) controlling the import and export of fish, aquatic flora, fish products or products of aquatic flora;
- (q) determining and imposing close periods;
- (r) limiting or controlling the number and size of fishing vessels;
- (s) regulating the marketing of fish, aquatic flora, fish products or products of aquatic flora;
- (t) prohibiting, regulating or controlling the activities of foreign fishing vessels within territorial waters;
- (u) regulating the manufacture of fish products or products of aquatic flora;
- (v) prescribing conditions which every manufacturer of fish products or products of aquatic flora shall comply with;
- (w) prescribing specifications to which any factory, building or other premises used for the purposes of manufacture, storage or sale of any fish, fish product, aquatic flora or product of aquatic flora shall conform;
- (x) establishing marine parks, sanctuaries or reserves for any purpose whatsoever;
- (y) controlling and regulating construction, installation, size and specifications of fishing weirs.

(3) Regulations made under this section may be expressed to apply:

- (a) to all fish, aquatic flora, fish products or products of aquatic flora, or to any specie or kind of fish, aquatic flora, fish product or product of aquatic flora;
- (b) to all persons or to any class of persons specified in the regulations;
- (c) to all areas or to any area or areas specified in the regulations.

PART V - OFFENCES

Article 8. - Penalty for offences. - (1) Where regulations made under section 7 provide that the contravention of any regulation shall be an offence, the Minister may provide in respect of such offence a penalty of a fine not exceeding twenty thousand shillings or of a term of imprisonment not exceeding five years, or of both such fine and imprisonment.

(2) Where any subsidiary legislation made under this Act make no specific provision for penalty for any offence under such subsidiary legislation, any person guilty of the offence shall, upon conviction, be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Article 9. - Power of search and seizure. - (1) The Chief Fisheries Officer, an authorized officer or a police officer of or above the rank of Inspector may, without warrant:

- (a) board and search any vessel, vehicle or any part thereof;
- (b) enter any premises, building, land or other place whatsoever;
- (c) seize, remove and retain any fish, aquatic flora, fish product, product of aquatic flora, fishing gear or any other article or thing whatsoever, whether found on board any vessel or vehicle or in any building, place or premises, and in respect of which it appears to him that any offence under this Act or any subsidiary legislation made hereunder has been committed, or which appears to him to constitute evidence of any such offence having been committed;
- (d) arrest any person whom he reasonably suspects of having committed any offence under this Act or any subsidiary legislation made hereunder or of being about to commit any such offence.

(2) The Chief Fisheries Officer or any authorized officer, or any police officer of or above the rank of Inspector may enter and search without warrant any factory, premises or place used or reasonably suspected of being used, either wholly or in part, for the manufacture of any fish product or any

product of aquatic flora or for storage of fish, aquatic flora, fish product, or product of aquatic flora or for storage of fish, aquatic flora, fish product, or product of aquatic flora in respect of which he has reason to believe an offence under this Act or under any subsidiary legislation made hereunder has been committed or is about to be committed.

Article 10. - Seizure and forfeiture of things used for the commission of offences. - Whenever it is lawful under this Act for the Chief Fisheries Officer, an authorized officer or a police officer to seize and retain any fish, fish product, aquatic flora or product of aquatic flora or other article or thing, it shall be lawful:

(a) to seize and retain:

- (i) any receptacle other than a vessel or vehicle, in which such fish, fish product, aquatic flora, product of aquatic flora or other article or thing is contained;
- (ii) any machinery (other than propellant machinery of a vessel or vehicle), implement, utensil, material or substance used for the commission of any offence under this Act or under any subsidiary legislation made hereunder;
- (iii) any book of account or other document which appears to him to contain evidence that an offence has been or is about to be committed under this Act or any subsidiary legislation made hereunder; and

(b) to direct any vessel or vehicle in which any fish, fish product, aquatic flora or product of aquatic flora or other article or thing is seized in accordance with the provisions of section 9 or of paragraph (a) of this section, to proceed to such port or place in Tanganyika as may be convenient for unloading from the vessel or vehicle such fish, fish product, aquatic flora or product of aquatic flora or other article or thing seized thereon, and may then detain the vessel or vehicle for such time as may reasonably be required to effect the unloading.

Article 11. - Forfeiture of things in respect of which offences are committed.

(1) Where a magistrate is satisfied that an offence under this Act, or any subsidiary legislation made hereunder has been committed in respect of any fish, fish product, aquatic flora or product of aquatic flora, or any other article or thing seized under the provisions of section 9 or section 10, whether or not any person has been convicted in respect of such offence, the magistrate may order such fish, fish product, aquatic flora, product of aquatic flora or other article or thing, to be forfeited to the United Republic.

(2) Notwithstanding anything contained in subsection (1), where any fish, fish product, aquatic flora or product of aquatic flora is seized under section 9 or section 10, the Chief Fisheries Officer or any authorized officer

may, if he is satisfied that the fish, fish product, aquatic flora or product of aquatic flora is of a perishable nature, cause the same to be sold or otherwise disposed of prior to application being made for the forfeiture thereof under subsection (1).

(3) Where any fish, fish product, aquatic flora or product of aquatic flora is sold pursuant to the provisions of subsection (2) an application for the disposal of the proceeds of the sale shall be made to a magistrate, and upon such application being made:

- (a) if the magistrate is satisfied that an offence has been committed in respect of the article to which the proceeds relate, whether or not any person has been convicted of the offence, he may order the proceeds to be forfeited to the United Republic;
- (b) if the magistrate is satisfied that no such offence has been committed in respect of the article to which the proceeds relate, he shall, upon application made by any person claiming to be the owner of such article and upon being satisfied as to the validity of the claim, order such proceeds to be paid to the claimant;
- (c) if no claim is made or the magistrate is not satisfied as to the validity of the claim, the proceeds shall be paid into general revenue of the United Republic.

Article 12. - Forfeiture of vessel or vehicle. - Where, upon conviction for an offence under this Act or any subsidiary legislation made hereunder, the court is satisfied that any vessel or vehicle was used in the commission of the offence, the court may order such vessel or vehicle to be forfeited to the United Republic:

Provided that no order under this section shall be made if the owner of such vessel or vehicle satisfies the court that the vessel or vehicle was so used without his knowledge or consent.

Article 13. - Any person who wilfully obstructs, hinders, assaults or resists the Chief Fisheries Officer, an authorized officer or a police officer in the exercise of his powers under this Act or under any subsidiary legislation made hereunder, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years.

PART VI - MISCELLANEOUS PROVISIONS

Article 14. - Exemptions. - (1) The Minister may, if in his opinion it is in the public interest so to do, exempt any person or organization from all or any of the provisions of this Act or of any subsidiary legislation made hereunder.

(2) The Chief Fisheries Officer, an authorized officer or any other public officer lawfully exercising his powers under this Act or under any subsidiary legislation made hereunder, shall be exempt from the provisions of this Act or such subsidiary legislation creating any offence.

(3) The Chief Fisheries Officer may, in the interests of science or research, exempt by licence any person or organization from all or any of the provisions of this Act or any subsidiary legislation made hereunder subject to such terms and such conditions and for such period as may be specified in such licence.

Article 15. - Indemnity. - No matter or thing done by any person exercising or purporting to exercise any function under this Act or under any subsidiary legislation made hereunder shall, if done bona fide in the execution or purported execution of his functions under any of the provisions of this Act or such subsidiary legislation, subject any such person as aforesaid to any action, liability, claim or demand whatsoever.

Article 16. - This Act to prevail over any by-laws. - Where any provision of any by-law made by a local authority is inconsistent with any provision of this Act or of any subsidiary legislation made hereunder, the provision of this Act or, as the case may be, of the subsidiary legislation, shall be construed so as to revoke, to the extent of the inconsistency, the provision of such by-law.

Article 17. - Repeal of Fisheries Ordinance Cap. 295. - (1) The Fisheries Ordinance is hereby repealed.

(2) Every Fisheries Board established under the Fisheries Ordinance is hereby dissolved.

(3) The Minister may, where he is satisfied that any Fisheries Board to which subsection (2) applies has any asset or liability, at any time during the period of twelve months immediately succeeding the coming into operation of this Act, by order published in the Gazette, make provision for the disposal of such asset or liability, and may for that purpose provide for the vesting of the asset or liability of such Board in any public officer and confer, by such order or by any subsequent order, upon such public officer, such powers as may be necessary or expedient for the purpose of the winding-up of the affairs of the Board and the Disposal of its assets and liabilities.

Article 18. - Repeal of Trout Protection Ordinance Cap. 368. - The Trout Protection Ordinance is hereby repealed.