

THE DRAFT FISHERIES MANAGEMENT BILL, 2011

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Preamble

PART I PRELIMINARY

- Short title **1.** This Act may be cited as the Fisheries Management Act, 2011.
- Commencement **2.** This Act comes into force on such day as is fixed by the President by Proclamation.
- Interpretation **3.** In this Act:

“access rights” means the entitlement to operate in a fishery or in a specific fishing ground and may include limited entry systems, where the overall number of fishers or vessels licensed in a fishery is restricted at a national level; and ‘Territorial Use Rights in Fisheries’ (TURFs) systems, where the power to allocate local fishing rights to a specific local area is delegated to Local Fisheries Management Authority, as established under this Act;

“artisanal fishery” means fish harvesting in coastal habitats by persons whose livelihoods are based on fishing using family or community labour on a share basis and using relatively small, low-technology, fishing vessels.

“authorised officer” means any person authorised by the Minister under section 152(1);

“Board” means the Trinidad and Tobago Fisheries Advisory Board established as a body corporate under section 17;

“commercial fishing” means engaging in fishing as a primary activity and disposing of the catch for profit but does not include fishing for personal use or recreational fishing;

“decision control rule” means a statement on which management measures (including any levels of fishing effort, fish catches or other controls) shall be adopted depending on the status of the fishery, as measured by the positions of the selected fishery indicators relative to the selected reference points, as defined in section 40(1)(i);

“designated landing site” means a location specifically designated for the landing and sale of fish catches under section 139(1);

“designated transshipment port” means a port specifically identified as a designated port for the transshipment of fish or fish products under section 150(1);

“Director” means the public officer appointed by the Public Service Commission as Director of Fisheries, in the Ministry responsible for Fisheries, or any officer appointed to act in that position;

“Director-THA” means the public officer appointed by the Public Service Commission as Director, Marine Resources and Fisheries in the Tobago House of Assembly or any other person appointed by the Tobago House of Assembly to carry out the functions of the Director;

“Ecosystem” means a system of complex interactions among populations of animals, plants and micro-organisms and their environment as a functional unit. “Populations” are regarded as including people, and especially people involved in fisheries, with their technology and institutions.

“Exclusive Economic Zone” has the meaning assigned to it in the Archipelagic Waters and Exclusive Economic Zone Act, 1986 Chapter 51:06;

“FAO Compliance Agreement” means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, approved by the Conference of the Food and Agriculture Organization of the United Nations on 24 November 1993;

“fish” means any aquatic animal or plant, which may include any bony or cartilaginous fish, shellfish, marine turtle, mollusc, crustacean, coral, sponge, echinoderm, marine mammal or seaweed at any stage of their development;

“fisher” means any person engaged in the catching of fish;

“Fisheries Officer” includes the Director of Fisheries, the Director-THA, a Fisheries Assistant, a Fisheries Surveillance Officer, a Fisheries Extension Officer a Fish Inspector, a Fish Inspection Officer and any other officer so designated by the Director or Director-THA;

“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 and which are identified on the basis of ecological, cultural, geographical, scientific, technical, recreational or economic characteristics;

“fisheries management plan” means the fisheries management plan prepared under Part V;

“fishery waters” means the Territorial Sea, Archipelagic Waters and Exclusive Economic Zone, as defined by the Territorial Sea Act, Archipelagic Waters and Exclusive Economic Zone Act, 1986, Chapter 51:06 and any other waters, including extended continental shelf, mangroves, swamps, fresh water rivers and lakes, and other inland waters, over which Trinidad and Tobago, by enactment, proclamation, ruling, judgement or any other form, claims fisheries jurisdiction;

“fishing” means searching for, catching, taking or harvesting fish or attempting to search for, catch, take or harvest fish or any operation at sea, in a pond or river, in connection with, or in preparation for, searching for, catching, taking or harvesting fish, including placing, searching for or retrieving any fish aggregating device and the processing and carrying of fish that have been taken;

“fishing industry” includes any person or organisation having a direct or indirect interest in fishing or engaged in processing, production or marketing of fish and fishery products, or in the supply of gear, tackle or similar equipment used in fishing;

“fishing vessel” means a vessel that is used for fishing, or processing, storage or support of, or ancillary to fishing operations, but excludes a vessel transporting fish or fish products as part of its general cargo;

“foreign fishing” means fishing by a foreign fishing vessel

“foreign fishing vessel” means any fishing vessel that is:

- (a) not registered in Trinidad and Tobago, or
- (b) is not a locally owned fishing vessel;

“harvesting rights” means the entitlement to participate in a fishery at a specific amount of fishing effort or to extract a

specific catch of fish;

Act No. 24 of
1986

“High Seas” means all parts of the sea beyond the exclusive economic zone, territorial sea or internal waters of any State;

“indicator” means a variable, index or signal, the value and trend of which, in relation to reference points, signifies the present state and dynamics of an ecosystem and provides a link between management objectives and measures;

“licence” means a licence granted in accordance with Part XI Part XII, Part XIII, Part XIV, Part XV, Part XVI and Part XIX;

“local fisher” means a fisher, being a citizen or resident of Trinidad and Tobago, who is engaged on a local fishing vessel;

“Local Fisheries Management Area” means the local fisheries management area designated by the Minister under section 15(1)(a);

“Local Fisheries Management Authority” means the Local Fisheries Management Authority designated by the Minister under section 15(1)(b);

“local fishing vessel” means any fishing vessel, which is:

- (a) wholly owned by one or more persons who are citizens or residents of Trinidad and Tobago; or
- (b) wholly owned by any company, society or other association of persons established under the laws of Trinidad and Tobago, of which at least fifty-one percent of the voting shares are held by citizens or residents of Trinidad and Tobago; or
- (c) wholly owned by a statutory corporation established under the laws of Trinidad and Tobago;

“management plan” means any fisheries management plan prepared under sections 16(1) and 38 and approved by the Minister under sections 16(2) and 43(4).

“master” has the meaning as ascribed in the Shipping Act Chapter 50:10;

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

“Motor Launches Act” means the Motor Launches Act Chapter 50:08.

“non-artisanal fishery” means fish harvesting using high-technology, decked fishing vessels usually greater than 12 metres in length with inboard engines of capacity usually greater than 160 Hp and built-in fish- and ice-holds.

“non-vessel fishing operations” means fishing, whether commercial or recreational, without the use of a fishing vessel, and may include “spear fishing”, “beach seine fishing” and “diving”;

“operator” means the person who is in control of a fishing vessel while at-sea;

“owner” has the meaning as ascribed in the Shipping Act Chapter 50:10;

“permit” means a permit for research granted under section 133(6);

“precautionary approach” means an approach to fisheries management, taken in the absence of adequate scientific information, aimed at conserving fisheries resources and their ecosystems.

“recreational fishing”, means fishing for recreation, competition or personal consumption, and not primarily for commercial purposes. For the purpose of this Act, the terms “sport fishing” and “pleasure fishing” shall have the same meaning as “recreational fishing” ;

“reference point” means an estimated value derived from an agreed scientific procedure and/or model, which corresponds to a specific state of the resource and of the fishery, and that can be used as a guide for fisheries management;

“Regulations” mean the Fisheries Management Regulations, 2011;

“relevant Conventions and Agreements” means those Conventions and Agreements relevant to fisheries management to which Trinidad and Tobago is a party;

“resident of Trinidad and Tobago” means a person who has acquired resident status under the laws of Trinidad and Tobago;

“territorial” sea” has the meaning assigned to it in the Territorial Sea Act, 1969;

“Shipping Act” means the Shipping Act Chapter 50:10;

“SCUBA” means any self-contained underwater breathing apparatus;

“the Secretary” means the member of the Executive Council in the Tobago House of Assembly to whom responsibility for fisheries is assigned;

“transshipment” means transfer or receipt of fish or fish products from one fishing vessel to another fishing vessel or to a vessel used for the carriage of fish or cargo;

“UN 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 by the United Nations General Assembly in New York on 4 August 1995; and

“Vessel Monitoring System” means a vessel tracking system which may be satellite-based, and which provides accurate information on fishing vessel positions at regular time intervals.

Application of
the Act

4. The provisions of this Act shall apply to the fishery waters of Trinidad and Tobago, except where it is otherwise expressly stated in the Act.

PART II ADMINISTRATIVE ARRANGEMENTS

- Responsibility for Fisheries Management **5.** Subject to the Tobago House of Assembly Act, the Minister shall have responsibility for fisheries and fisheries management in Trinidad and Tobago.
- Responsibilities of the Secretary **6.** In accordance with the Tobago House of Assembly Act the Secretary shall have responsibility for fisheries and fisheries management in Tobago.
- Minister to work with Secretary and Local Fisheries Management Authorities **7.** (1) The Minister shall work in conjunction with the Secretary and any Local Fisheries Management Authorities to achieve the aims and objectives of this Act.
(2) The Secretary shall work in conjunction with the Minister and any Local Fisheries Management Authorities to achieve the aims and objectives of this Act.
- Responsibilities of the Director **8.** (1) The Director shall provide the Minister with technical and administrative advice for the better discharge of his duties as the Minister under this Act.
(2) The Director shall carry out the functions assigned to him in this Act and shall act on behalf of the Minister as is provided in this Act.
- Responsibilities and powers of the Director-THA **9.** (1) The Director-THA shall provide the Secretary with technical and administrative advice for the better discharge of his duties as Secretary under this Act.
(2) The Director-THA shall carry out the functions assigned to him in this Act and shall act on behalf of the Secretary as is provided in this Act.
(3) Where in this Act, a power is conferred or a duty is imposed on the Director, then unless otherwise stated, the Director-THA, shall exercise that power or discharge that duty in relation to Tobago.
- Staff to collaborate **10.** The Director and the Director-THA and the staff of their divisions shall work in conjunction with each other and shall share information and data to promote coordination in the management and development of the fishery.
- Provision of staff and resources **11.** The Minister and the Secretary shall cause the necessary staff and all other required resources to be provided to the Director and Director-THA in order to achieve the aims and objectives of the Act.
- Delegation of **12.** (1) With the exception of sections 18, 36(2), 46 and 47 and

powers to the Secretary

Part XIII, Part XV, Part XVI and Part XIX, where in this Act a power is conferred on the Minister or he is required to discharge a function, or has a discretion in respect thereof, then in relation to Tobago, the Secretary shall exercise the power conferred on the Minister or discharge the function or discretion so imposed.

(2) The Minister shall consult with the Secretary before discharging the functions conferred by sections 18, 36(2), 46 and 47 and Part XV, Part XVI and Part XIX.

(3) Notwithstanding section 5 of this Act, and section 4 of the Tobago House of Assembly Act, the Secretary shall exercise the powers of the Minister in the fishery waters surrounding Tobago up to an outer limit of six nautical miles from the high water lines of Tobago, except that where six nautical miles are not available, the outer limit shall be:

- (a) the boundary line of the Exclusive Economic Zone, and
- (b) a line equidistant between the high water lines of the island of Tobago and the island of Trinidad.

(4) For the better performance of his functions, the Secretary is hereby empowered to do all such acts and take all such steps as may be necessary for, or incidental to the exercise of his powers or for the discharge of his duties under this Act.

Submission of applications

13. (1) All applications made under Part XV, Part XVI and Part XIX shall be submitted to the Minister, and where such applications are in respect of the fishery waters over which the Secretary is given responsibility in this Act, the Minister shall consult with the Secretary before making a decision in relation thereto.

(2) Subject to subsection (1), applications under this Act which relate to the fishery waters over which the Secretary is given responsibility in this Act, shall be submitted to the Director-THA, and all other applications shall be submitted to the Director.

Officer appointed to act

14. Where in this Act a public officer is required to discharge a function by virtue of his office, the function is also exercisable by any other officer appointed to perform the duties of that office.

Delegation of powers in Local Fisheries Management Areas

15. (1) The Minister may, by Order published in the *Gazette*, designate:

- (a) any area of the fishery waters, including any area of land up to the high water mark adjacent to the fishery waters, as a Local Fisheries Management Area;
- (b) any local fisher's cooperative or association or other appropriate body representing the majority of fishers as the

Local Fisheries Management Authority for the Local Fisheries Management Area designated under paragraph (a).

(2) Where there is no appropriate body representing fishers in a Local Fisheries Management Area, the Director may, by such means as he considers fit, promote the formation of such a body.

(3) The Director shall provide to any Local Fisheries Management Authority any such assistance as may be reasonably necessary for the performance of its functions.

Fisheries management plans for local fisheries management areas

16. (1) A Local Fisheries Management Authority designated under section 15(1)(b) may, after consultation with the Director, develop a fisheries management plan for its Local Fisheries Management Area.

(2) Where a Local Fisheries Management Authority develops a fisheries management plan under subsection (1), it shall submit the plan to the Minister who shall, on the advice of the Director, approve the plan.

PART III

INCORPORATION OF THE TRINIDAD AND TOBAGO FISHERIES ADVISORY BOARD

Establishment of Trinidad and Tobago Fisheries Advisory Board

17. There is hereby established for the purposes of this Act a body corporate to be known as the Trinidad and Tobago Fisheries Advisory Board.

Membership of the Board and tenure of members

18. (1) The Board shall comprise sixteen members appointed by the Minister as follows:

- (i) the Director who shall be the Chairman of the Board;
- (ii) the Director-THA who shall be the Vice-Chairman of the Board;
- (iii) one person with special qualifications and proven expertise in fisheries management;
- (iv) an Attorney-at-Law with at least ten years experience in civil law and practice;
- (v) an appropriate officer from the Ministry with responsibility for trade;
- (vi) an appropriate officer from the Government agency with responsibility for maritime services;
- (vii) an appropriate officer from the Customs and Excise Division;

- (viii) an appropriate officer from the Trinidad and Tobago Coast Guard;
- (ix) one representative of the fish-processing industry;
- (x) one representative of the non-artisanal fishing sub-sector;
- (xi) three representatives of the artisanal fishing sub-sector in Trinidad;
- (xii) one representative of the artisanal fishing subsector in Tobago;
- (xiii) one representative of the recreational fishing sub-sector;
- (xiv) one representative selected from the scientific community with qualifications and proven experience in social sciences, natural resource economics, environmental management or extension development; and

(2) Notwithstanding subsection (1), vacancies in the membership of the Board shall not affect its legal existence unless its membership is reduced to less than eight.

(3) With the exception of the Director and Director-THA, every member of the Board shall hold office for a period of three years and shall be eligible for re-appointment for another term.

Resignation from
and termination
of office of Board
members

19. (1) A member of the Board, other than the Director or Director-THA, may at any time resign from his office by instrument in writing, addressed to the Minister and forwarded through the Chairman.

(2) The Minister may terminate the appointment of a member of the Board if:

- (a) he has been adjudged or otherwise declared bankrupt under any law enforced in any country and has not been discharged;
- (b) subject to subsection (3), he is by reason of mental or physical incapacity unable to perform his duties as a member of the Board;
- (c) he is absent, except on leave granted by the Board, from three consecutive meetings of the Board;
- (d) he is guilty of misconduct in relation to his duties;
- (e) he is convicted in a court of law for any offence pertaining to conservation of the aquatic environment and fisheries resources, immigration, customs, trafficking of drugs or firearms, ammunition, trafficking of persons, sale of fuel, pollution or trade; or
- (f) he is no longer associated with the agency he represents or he

has been requested, in writing, by that agency to resign from membership of the Board.

(3) If a member of the Board is temporarily prevented by illness or other cause from exercising his functions as a member of the Board, the Minister may appoint another person, from the same agency or organization, to act in his stead for the period of such illness or incapacity.

Notification of appointment and termination of office

20. The appointment of any person as a member and termination of appointment of any person as a member, whether by death, resignation or otherwise, shall be published in the *Gazette*.

Secretary to the Board

21. The Board may appoint a suitably qualified person to be the Secretary to the Board on such terms and conditions as it thinks fit.

Remuneration of members of the Board

22. The members of the Board shall be paid such remuneration and allowances in respect of their offices as the Minister with responsibility for finance shall determine.

Functions of the Board

23. (1) The functions of the Board shall be to advise the Minister and where appropriate the Secretary and Local Fisheries Management Authorities on matters relating to the development and management of fisheries in Trinidad and Tobago, including:

- (a) the preparation, review and implementation of management plans;
- (b) the mechanisms for the promotion of public awareness and education and involvement in fisheries management;
- (c) the obligations under regional and international treaties and agreements to which Trinidad and Tobago is a party and to which the management plans must conform;
- (d) the accepted international standards and practices with which management plans must be consistent as well as the aims and aspirations of the communities to which they are to apply;
- (e) research activities for the responsible management of fisheries;
- (f) strategies for the protection and security of persons engaged in fishing, their vessels, gear or equipment against damage or loss and resulting economic loss sustained from collision with other vessels, natural disasters, rough seas, banditry or activities related to oil and gas exploration, development or production;
- (g) subsidy and incentive programmes for fisherfolk and for the fisheries in general;

- (h) any other matter that may be referred to the Board by the Minister, the Secretary or the Local Fisheries Management Authority;
 - (i) strategies for the resolution of conflicts that may arise among fishers at the national level.
- 2) The Board shall be responsible for managing the Fisheries Management Fund established under section 30 and for ensuring that the funds are utilized for the purposes set out in that Part;
 - 3) The Appeals Committee shall hear appeals or complaints arising out of any application submitted pursuant to the Act.

Powers of the Board

24. The Board shall have the power to do all things that are necessary to enable it to perform its functions.

Meetings of the Board

25. (1) The Board shall meet at least once a month and at such other times as may be necessary for the performance of its functions, at such place and time as the Chairman may determine.

(2) Upon the receipt of a written request, signed by no fewer than four members, the Chairman may convene a special meeting of the Board;

(3) The Chairman shall preside at every meeting of the Board, and in his absence the Vice-Chairman shall preside;

(4) The quorum of the Board shall consist of eight members, including the Chairman or the Vice-Chairman, and two representatives appointed under section 18(1)(ix) to (xiii);

(5) The Board shall take its decisions by a majority of the votes of the members present and where there is an equality of votes, the member presiding shall have the casting vote;

(6) The Board shall be deemed to be properly constituted for all purposes, notwithstanding any vacancy in its membership or any defect in the appointment of its members;

(7) The Board may by resolution adopt rules governing the conduct of its proceedings;

(8) The minutes of meetings of the Board shall be taken in proper form and kept by the Secretary and confirmed by the Board at the next following meeting;

(9) Copies of the confirmed minutes of meetings of the Board shall be forwarded to the Minister.

Board to co-opt

26. The Board may, in the performance of its functions, co-opt

other members persons with special knowledge or skills to attend any particular meeting for the purpose of assisting or advising the Board, but no such person shall have the right to vote.

Appointment of Standing and Special Committees

27. (1) The Board shall appoint the following Standing Committees and shall delegate to those Committees such functions as it considers necessary:

- (a) a Financial Affairs Committee, which shall comprise five members, including the Director of Fisheries, who shall be the chairman of the Committee;
- (b) an Appeals Committee, which shall:
 - (i) comprise five members including an Attorney-at Law with ten years experience in civil law and practice, who shall be the chairman of the Committee; and
 - (ii) not include the Director and Director-THA as members.
- (c) a Foreign Fishing Monitoring Committee, which shall comprise five members, including a representative from the Fisheries Division, a representative from the Tobago House of Assembly, a representative of the fishing industry and a representative from the agency with responsibility for maritime services, who shall be chairman of the Committee.

(2) Notwithstanding subsection (1) the Board may appoint such other Standing Committees as it considers necessary for the efficient performance of its functions.

(3) The Board may appoint such Special Committees as it considers necessary to assist in the performance of its functions.

(4) A Committee appointed by the Board under this section shall report to the Board within the period prescribed by its rules.

(5) A Committee of the Board shall consist of at least one member of the Board.

Remuneration of co-opted members of Committees

28. The Board may by resolution, with the approval of the Minister, declare the remuneration of co-opted members of Committees and such funds shall be payable out of the Fisheries Management Fund established under Part IV.

Appointment of employees

29. The Board may, with the approval of the Minister, appoint such employees as may be necessary for the efficient administration, management and performance of its functions on such terms and conditions

of service as it thinks fit.

PART IV FINANCIAL PROVISIONS

Establishment of
the Fund

30. There is hereby established a Fisheries Management Fund hereafter called “the Fund” for the purposes described in section 32.

Management of
the Fund

31. The Fund shall be managed by the Financial Affairs Committee of the Board, which Committee shall be chaired by the Director of Fisheries.

Functions of the
Fund

32. The Fund shall be used to:

- (a) support fisheries and related research aimed at providing the data and information necessary to make responsible management decisions;
- (b) ensure that the results of research are widely disseminated;
- (c) provide for fisheries extension and training, as needed to enable the fishing industry to operate safely and competitively in a global marketplace;
- (d) support the costs of providing economic compensation to the fishing industry for reasons of giving effect to fisheries management plans;
- (e) support the preparation of fisheries management plans, including the costs of stakeholder consultations and participation;
- (f) support any other specific management requirements that are identified in fisheries management plans, including *inter alia* the costs of monitoring, surveillance and enforcement;
- (g) support the participation of fisherfolk representative organizations in the fisheries management process; and
- (h) support any other purpose that the Board shall in its discretion deem fit subject to the approval of the Minister.

Financial
resources of
the Fund

33. The resources of the Fund shall consist of:

- (a) monies allocated to it by Parliament annually;

- (b) donations or grants made by regional and international organisations for the purposes of fisheries research;
- (c) contributions made by members of the fishing industry or other stakeholders;
- (d) any fees collected in respect of issuance of identity cards, licences, Certificates of Exemption, fishery research permits, or any other fees collected under this Act; and
- (e) any other monies collected in any other way in the management of the fisheries of Trinidad and Tobago under this Act.

Financial Year

34. The financial year of the Fund shall commence on the 1st day of October of each year and end on the 30th day of September of the following year, except that the first financial year shall commence on the date on which this Act comes into operation.

Accounts and Audit

35. (1) The Board shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of the moneys of the Fund are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Board and the incurring liability by the Board.

(2) The Board shall submit a financial statement in respect of each financial year to the Minister no later than three months after the close of the financial year.

(3) The accounts of the Board shall be audited annually by the Auditor General or by an auditor authorised by him for such purpose.

(4) The Board shall forward to the Minister a copy of the audited statement of accounts together with any report thereon made by the Auditor General not later than one month after the receipt of such statement.

(5) In addition to the annual audit, the Auditor General may, at any time audit the accounts and examine the records of financial transactions of the Board and shall forthwith draw to the attention of the Chairman and Minister any irregularities disclosed by such audit and examination, which, in the opinion of the Auditor General, are of sufficient importance to be so reported.

Annual report

36. (1) The Board shall, within three months of the end of each financial year submit to the Minister an annual report dealing with the activities of the Board during the previous year together with the financial statements and such other information relating to the operations as the

Minister may require.

(2) The Minister shall cause a copy of the report submitted under subsection (1) to be laid before Parliament, within twenty-eight days of its receipt by him, or if Parliament is not in sitting, within twenty-eight days after commencement of its next sitting.

Board to prepare budget

37. (1) The Board shall prepare a budget for each financial year, in such form as the Minister with responsibility for Finance may direct and shall submit estimates so prepared not later than the deadline date stipulated by the Minister of Finance.

(2) Before the start of the financial year, the Minister with responsibility for Finance shall cause the budget and statement referred to in subsection (1) to be laid before Parliament and if Parliament is not then in session, within twenty-eight days of the commencement of its next session.

PART V FISHERIES MANAGEMENT PLANS

Management plans

38. As soon as possible after the coming into force of this Act, the Minister shall cause to be prepared such Fisheries Management Plans (hereinafter called “management plans”) as are considered necessary for the conservation, management, development and long-term sustainability of fisheries in Trinidad and Tobago.

Scope of management plans

39. (1) Separate management plans shall be prepared taking into account, among other factors, the following:

- (a) the species of fish that are targeted;
- (b) the types of fishing gears that are used in the fishery;
- (c) the types of vessels that are used in the fishery; or
- (d) the geographical areas that are fished.

(2) Regarding subsection 1(a), management plans may apply to a single target species, or include other associated or dependent species caught in the fishery, or may cover a full ‘ecosystem’.

(3) To the extent possible, management plans shall cover the whole stock unit of the main target fish species, over its entire area of distribution, taking into account its biological characteristics and any migration patterns.

(4) For those stocks of fish that are distributed beyond the fishery waters, the management plan may also give consideration to the management and conservation measures under relevant Conventions and Agreements.

Contents of
management
plans

40. (1) Subject to section 41, each management plan may contain the following elements relating to the particular fishery being managed:

- (a) an introduction outlining the need and rationale for management of the fishery;
- (b) the scope of the plan, as described in section 39;
- (c) assessments of the historical development and the current status of the fishery, including its biological, ecological, social and economic dimensions;
- (d) a stakeholder analysis of the fishery and a clear statement on the roles and responsibilities of the different stakeholders in the management process, including any co-management arrangements;
- (e) the goals and objectives for the fishery, for each of the biological, ecological, social and economic dimensions, and the relative prioritisation between any conflicting objectives;
- (f) the indicators and reference points to be used in measuring the performance of management in achieving each objective;
- (g) the management measures that will be used to achieve the objectives, and protect the resources from over exploitation;
- (h) the specifications of any use or access rights to be allowed in the fishery and any conditions to be attached to them;
- (i) a 'decision control rule' framework, developed in consultation with the fishery stakeholders, stating which management measures (including any levels of fishing effort, fish catches or other controls) shall be adopted depending on the status of the fishery, as measured by the positions of the indicators relative to the reference points;
- (j) a statement on the current management recommendation for the fishery, as guided by the decision control rule framework, based on the estimated current status of the fishery and allowing for any uncertainties in the assessment and any associated risks for achievement of the fishery goals;
- (k) an agreed process and timetable for monitoring the state of the fishery, and evaluating and reviewing the management plan as

needed, providing for ongoing consultation with the fishery stakeholders; and

(1) an estimated cost of implementation.

(2) The adoption of management measures and decision control rules in management plans shall be based on the best available scientific evidence and local knowledge of resource users, including but not limited to the Local Fisheries Management Authority. .

Management objectives

41. (1) In setting management objectives for each fishery, priority shall be given to long-term sustainability of resources, as qualified by relevant environmental and socio-economic factors.

(2) Secondary management objectives may be established to provide *inter alia* that:

- (a) the economic conditions under which the fishing industry operate promote responsible fisheries;
- (b) the interests of fishers, including those engaged in artisanal fisheries, are taken into account;
- (c) biodiversity of aquatic habitats and ecosystems is conserved and endangered species are protected;
- (d) depleted stocks are allowed to recover or, where appropriate, are actively restored;
- (e) adverse environmental impacts on the resources from fishing, including pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, and impacts on associated or dependent species, are minimized.

Precautionary approach and reference points

42. (1) The precautionary approach shall be adopted as far as is practicable in the preparation and implementation of management plans in order to protect exploited fish species and to conserve the aquatic environment.

(2) The absence of adequate scientific information shall not be reason for postponing or failing to take conservation and management measures.

(3) In implementing the precautionary approach, full allowance shall be made in the decision control rules adopted under section 40(1)(i) for:

- (i) any uncertainties relating to the indicators and reference points adopted in the management plan; and
- (ii) the likely impact of fishing activities, including

discarding, on non-target and associated or dependent species, as well as environmental and socio-economic conditions.

Adoption and implementation of management plans

43. (1) Management plans shall be prepared in consultation with members of the fishing industry and other stakeholders, including any Local Fisheries Management Authority and Fishing Association and agencies or Ministries with responsibility for coastal zone management and the environment.

(2) The Director shall cause copies of all draft management plans to be submitted to the Board, which shall suggest, in writing to the Director, such amendments or alterations thereto as it considers necessary.

(3) After consideration of the recommendations of the Board, management plans shall be finalised by the Director and copied to the Board;

(4) The Director shall submit the final management plans to the Minister for approval.

(5) After approval by the Minister, management plans shall be implemented by the Director or a Local Fisheries Management Authority where appropriate.

(6) The Director shall cause the contents of each management plan to be publicised, in order to promote the understanding and acceptance of management plans and assist in their implementation.

Validity of plan

44. (1) Every management plan shall be valid for a period of three years, or for any other time agreed between the Director and the parties referred to in section 43(1) for a plan, and shall be reviewed at the end of such period.

(2) Notwithstanding subsection (1), the Director may cause a management plan to be reviewed at any time where such a review is considered necessary by the Minister, the Secretary, the Board or a local fisheries management authority.

Revision of management plans

45. A management plan that has not been reviewed at the end of three years shall be automatically extended for a period not exceeding a further three years.

Plans to conform with other agreements

46. The Minister shall ensure that all management plans are in conformity with such international, regional or national agreements governing fish stock assessments or the management of fisheries to which Trinidad and Tobago is a party.

Compliance with FAO International

47. (1) The Minister may cause to be prepared such national plans of action including but not limited to those required by the UN Food and

Plans of Action Agriculture Organisation.

(2) The Minister shall report to the appropriate committees of the Food and Agriculture Organisation on the implementation of the said national plans of action as part of Trinidad and Tobago's biennial reporting on the Food and Agriculture Organisation Code of Conduct for Responsible Fisheries.

(3) All national plans of action referred to in this section shall be reviewed at least every four years, and revised as necessary.

PART VI FISHERIES MANAGEMENT MEASURES

Selection of
fisheries
management
measures

48. (1) To ensure that fisheries resources are maintained at sustainable levels and to achieve any other specific objectives agreed for a given fishery, the Minister shall adopt for each fishery, an appropriate combination of fishery management measures as outlined in the fisheries management plan.

(2) The selection of fishery management measures shall take into account:

- (a) the best scientific information available or the precautionary approach in the absence of such information;
- (b) the cost-effectiveness and feasibility of alternative options;
- (c) the need to avoid the risk of conflict among fishers using different vessels, gear and fishing methods;
- (d) the practices, needs and interests of local fishing communities which are highly dependent on fishery resources for their livelihood; and
- (e) regional and international fisheries agreements to which Trinidad and Tobago is signatory.

Fishing effort
controls

49. (1) Consistent with the management plans the Minister shall take measures to ensure that the level of fishing effort and the catching capacity of the fishing fleet are commensurate with the sustainable use of the fisheries resources.

(2) To control the amount of fishing effort in a fishery, a combination of management measures may be set, including:

- (a) the numbers of fishing vessels to be allowed;

- (b) the maximum permitted engine horsepower;
- (c) the maximum permitted size of fishing vessels;
- (d) the types of fishing gear and the number of gear units to be allowed by each fisher or vessel; and
- (e) the number of fishing days.

(3) Where excess fishing capacity exists, mechanisms shall be established to reduce capacity to levels commensurate with the sustainable use of fisheries resources so as to ensure that fishers operate under economic conditions that promote responsible fisheries.

Catch controls

50. Without prejudice to section 49, the Minister may take measures to control the level of fish catch over a given time, including the setting of catch quotas:

- (a) on the total catch in the fishery, or
- (b) for a defined fleet or fleet segment, or
- (c) for individual vessels as part of their authorisation to fish.

Additional measures

51. (1) The Minister may take additional measures as required to achieve the fishery management objectives including:

- (a) the species of fish that may be caught;
- (b) size and age limits on fish species;
- (c) closed seasons;
- (d) closed areas or zones reserved for selected fisheries, particularly artisanal fisheries;
- (e) gear restrictions, including mesh sizes of different fishing gears; and
- (f) limitations on the time period of gear deployment.

(2) The Minister shall take measures:

- (a) to ensure that fishing gear, methods and practices which are not consistent with responsible fishing are phased out or prohibited;
- (b) to minimize waste, discards, catch by lost or abandoned gear, catch of non-target species, catch of juvenile and spawning fish and negative impacts on associated or dependent species,

in particular endangered species.

(3) Where the Minister has set a gear regulation, any person who by any means undermines the effectiveness of the management measure commits an offence and is liable to payment of the fine set out in Schedule I.

Review of
measures

52. The Minister shall cause the selected management measures to be reviewed and revised as deemed necessary.

Decision control
rules

53. (1) The Minister may make adjustments, as required, in the management measures to be applied under different conditions.

(2) Adjustments made by the Minister under subsection (1) shall be guided by the outcome of the review under section 52 and decision control rules made under section 40(1)(i), as set out in the management plan.

Decisions to be
made in
accordance with
sections 43 and
48

54. All decisions taken by the Minister under this Part shall be in accordance with sections 43 and 48.

PART VII PROHIBITED FISHING METHODS

Prohibited fishing
methods

55. (1) The Minister, after consultation with the Director, may by Order declare the fishing activities that are prohibited under this Act.

(2) Any person who uses any SCUBA , explosive, poison, or other noxious substance for fishing in the fishery waters, without written authorization of the Director commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) Any SCUBA, explosive, poison, or other noxious substance found on board a fishing vessel shall, unless the contrary is proven, be presumed to be intended for fishing in the fishery waters.

(4) Any person who knowingly lands, sells or receives any fish taken in contravention of subsection (2) commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(5) For the purpose of this section, a certificate as to the cause and manner of death or injury of any fish, signed by any person authorised by the Minister by Order, shall be accepted as *prima facie* evidence in the Court.

(6) In any proceedings brought under this section, the

defendant is entitled to at least fourteen days written notice of the prosecution's intention to adduce the certificate referred to in subsection (5).

PART VIII SUBSIDIES AND ECONOMIC INCENTIVES

Effect of
subsidies

56. In developing management plans, the Minister shall consider the possible effects of subsidies and any other economic incentives on the sustainability of fisheries resources, and the achievement of fishery management objectives.

Revision of
subsidies

57. (1) The Board shall review all subsidies and economic incentives (hereinafter "the said subsidies") to determine whether they contribute to the goals and objectives outlined in the fishery management plans;

(2) Subject to the findings at subsection (1) the Minister may revise the said subsidies and introduce new subsidies as is necessary in order to prevent excessive fishing and promote the sustainability of marine living resources, taking into account the needs of artisanal fisheries.

Offence for abuse
of subsidies

58. A person who gives false or misleading information in order to qualify for a subsidy or economic incentive for which that person would not otherwise have qualified, commits an offence and is liable to payment of the fine set out in Schedule I.

PART IX REGISTRATION OF LOCAL FISHERS

Application

59. This Part shall apply only to local fishers engaged in commercial fishing.

Register of local
fishers

60. (1) The Director shall establish and maintain a Register of Local Fishers which shall include:

- (a) the names, residential and postal addresses, telephone number and email address of all fishers;
- (b) the name and identity mark of any vessel on which each fisher conducts his fishing operations; and
- (c) such other information as the Director may require.

(2) Subject to subsection (3), every fisher shall apply to the

Director to be registered as a fisher on the prescribed form.

(3) A person who wishes to become a local fisher shall apply for a temporary identity card in order to enable him to meet the requirement under subsection (5)(e).

(4) Each fisher shall notify the Director of any changes in the information set out in the application form for the identity card within fourteen days of such change.

(5) To be registered as a local fisher, a person must:

- (a) be at least 16 years;
- (b) not have been convicted within the last two years of any offence under this Act;
- (c) not have used a fishing vessel in the commission of an offence under any law of Trinidad and Tobago governing conservation of the aquatic environment and fisheries resources, immigration, customs, trafficking of drugs or firearms, ammunition, trafficking of persons, the sale of fuel, pollution or trade, within two years prior to the date of his application;
- (d) present evidence of certified training in personal survival, vessel operation and general safety in fishing operations; and
- (e) have at least six months practical experience on a vessel.

Fisher Identity
card

61. (1) The Director upon receiving an application for a fisher identity card on the prescribed form and payment of the prescribed fee shall cause to be issued to every fisher registered under this section an identity card attesting to that fact. Such identity card shall be produced for inspection whenever reasonably required by an authorised officer.

(2) An identity card issued to a fisher under subsection (1) shall be on the prescribed form and may indicate the type of fishing practised.

(3) The Director may issue a new identity card where:

- (a) it is necessary to update information; and
- (b) an identity card has been lost, stolen or severely damaged.

(4) A fisher is required to keep his identity card on his person when engaged in fishing or any related activity.

(5) Subject to subsection 60(3) no person shall fish in the fishery waters without being registered under this Act and without his

identity card.

(6) A person who engages in fishing without being registered under this Part commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(7) If upon request by an authorized officer a registered fisher does not produce his identity card he shall do so within 24 hours failing which he commits an offence and is liable to payment of the fine set out in Schedule I.

Validity of fisher
identity card

62. A fisher identity card shall be valid for a period of three years.

Suspension and
cancellation of
registration

63. (1) Where a registered fisher has committed an offence under this Act, the Director may:

- (a) in the case of a first offence, allow the fisher to retain his identity card;
- (b) in the case of a second offence, suspend the registration of the fisher for a period not exceeding six months;
- (c) in the case of three or more offences, cancel the registration of the fisher.

(2) Where a registered fisher has used a fishing vessel in the commission of an offence under the laws governing conservation of the aquatic environment and fisheries resources, immigration, customs, trafficking of drugs or firearms, ammunition, trafficking of persons, the sale of fuel, pollution or trade and has been convicted of such an offence, the Director shall suspend the registration of the fisherman for such a period of time as the Director considers reasonable or cancel the registration.

(3) Where a registered fisher fails to provide notification of any change in information within the period specified in section 60(4) the Director may suspend the registration of the fisherman for such a period of time as the Director considers reasonable.

(4) The Director shall give a fisher whose registration has been suspended or cancelled under this section, written notification of the suspension or cancellation and provide reasons.

(4) A fisher whose registration has been suspended or cancelled under this section may appeal the decision to the Board.

PART X

RECORD OF LOCAL FISHING VESSELS

Record of Local
Fishing Vessels

64. (1) The Director shall establish and maintain a Record of all local fishing vessels registered under the Shipping Act or licensed under the Motor Launches Act.

(2) The Record of Local Fishing Vessels shall contain the following particulars:

- (a) the name of the local fishing vessel;
- (b) the identity mark allotted to the local fishing vessel under the Shipping Act or Motor Launches Act;
- (c) any international radio call sign which is held by the vessel;
- (d) the name, address and other contact information of the owner or owners and operator;
- (e) the type, registered length and width, material of construction, tonnage, colour, power of main engines, fish hold capacity, fuel tank capacity, catch storage methods, and other distinguishing features of the vessel;
- (f) the type of fishing, whether commercial or recreational;
- (g) any specific fishing gear types, and gear specifications which the vessel is designed to use;
- (h) picture of vessel;
- (i) the identity mark of fishing gear and engines;
- (j) the place of mooring or beach at which the vessel is to be stationed;
- (k) any other details that the Director may deem fit.

(3) In respect of a local fishing vessel used for recreational fishing the Record of Local Fishing Vessels shall contain the particulars referred to in paragraphs (a) to (h) and (j) in subsection (2).

Application to be
entered on the
Record of Local
Fishing Vessels

65. (1) A person who owns a local fishing vessel or who is desirous of operating such vessel in the fishery waters or the High Seas, whether for commercial gain or recreational purposes, shall apply to the Director to have his vessel entered on the Record of Local Fishing Vessels.

(2) A person who uses a local fishing vessel, in the fishery waters or on the High Seas, that is not entered on the Record of Local

Fishing Vessels commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) An application under subsection (1) shall be made on the prescribed form and shall be accompanied by a copy of the Certificate of Registry issued under the Shipping Act or licence issued under the Motor Launches Act.

(4) The Director shall issue to the owner of a local fishing vessel a Certificate of Record evidencing that the vessel has been entered on the Record of Local Fishing Vessels:

- (a) upon receipt of the application made by the owner in the manner required in subsection (3) and verification of the particulars provided by the applicant; and
- (b) an inspection has been conducted under section 66 and the Director is satisfied that the vessel is fit for the purpose of fishing.

Inspection of
local fishing
vessels

66. (1) The Director may, at any time and without notice, inspect any local fishing vessel for the purpose of determining whether the vessel is fit for the purpose of fishing.

(2) Where on an inspection, the Director is satisfied that the local fishing vessel is not fit for the purpose of fishing, he shall suspend the Certificate of Record and require the owner of the vessel:

- (a) to effect such changes or improvements as the Director may determine, in order to make the vessel fit for the purpose of fishing; and
- (b) to complete the changes or improvements within such period as the Director considers reasonable.

(3) Where the owner issued with a Certificate of Record is required under subsection (2) to effect changes or improvements and he complies with the requirements within the stipulated period, the Director shall terminate the suspension and restore the Certificate of Record.

Identity mark of
fishing gears and
engines

67. (1) Fishing gears and engines shall be registered and marked in such a manner that the markings would identify the owner of the fishing gears and engines.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) This section shall not apply to local fishing vessels used

for recreational fishing.

Tampering with Certificate of Record or mark on fishing gears and engines

68. Any person who tampers with:

- (a) a Certificate of Record issued by the Director under section 65(4); or
- (b) an identity mark placed on a fishing gear or engine after it has been entered on the Record of Local Fishing Vessels

commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

Changes to the Record of Local Fishing Vessels

69. (1) The owner of a local fishing vessel shall notify the Director of every change in the particulars required under section 64(2) (d) and (i) within seven days of such change.

(2) An owner who contravenes subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

(3) Where the Director is notified of a change in the particulars of the vessel contained in the Record of Local Fishing Vessels he shall cause the Record of Local Fishing Vessels to be amended accordingly.

(4) The contents of the Record of Local Fishing Vessels shall be *prima facie* evidence of the facts contained therein in any proceedings under this Act.

Grounds for refusal to grant a Certificate of Record

70. (1) The Director may refuse to grant a Certificate of Record if:

- (a) the fishing gear and equipment is not in a good state of repair;
- (b) upon inspection, the Director is satisfied that the vessel is not fit for the purpose of fishing;
- (c) the vessel is not registered under the Shipping Act or licenced under the Motor Launches Act; or
- (d) the owner fails to effect any change or improvements required.

(2) Where the Director refuses to grant a Certificate of Record he shall provide the applicant with written notice of his decision and provide reasons.

Suspension or cancellation of Certificate of Record

71. (1) The Director may suspend or cancel a Certificate of Record if he is satisfied that:

- (a) the grant of the Certificate of Record was based on false or erroneous information, or;

- (b) since the issue of the Certificate of Registry under the Shipping Act or licence under the Motor Launches Act:
 - (i) the vessel has been altered, resulting in a change in length, size, engine power or other particulars regarding the vessel recorded under section 64(2);
 - (ii) the particulars of fishing gear or engines recorded under section 64(2) have been altered;
 - (iii) the name of the vessel has been changed or the vessel has been transferred to another owner without the authorization of the Government agency with responsibility for maritime services;
 - (iv) the vessel is no longer used for the purposes of fishing;
- (c) the vessel has been substantially damaged, destroyed or abandoned; or
- (d) the Certificate of Record or the identity mark placed on the fishing vessel, fishing gears or engines has been tampered with.

(2) Where a Certificate of Record is suspended or cancelled under this section, the Director shall give the owner of the fishing vessel written notification of the suspension or cancellation and provide reasons.

PART XI LICENSING OF LOCAL FISHING VESSELS

Requirement for a local fishing vessel licence

72. (1) No local fishing vessel shall be used for fishing in the fishery waters, whether for commercial gain or recreation, unless:

- (a) the vessel has been entered on the Record of Local Fishing Vessels and a local fishing vessel licence has been issued under section 73(3); or
- (b) a temporary local fishing vessel licence has been issued under section 73(2).

(2) A person who directs fishing operations using a local fishing vessel without a fishing licence commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) An owner who authorises the use of a local fishing vessel without a fishing licence commits an offence and is liable on summary

conviction to payment of the fine or term of imprisonment set out in Schedule II.

Application for a local fishing vessel licence and issue of temporary local fishing vessel licence

73. (1) An application for a local fishing vessel licence shall be made by the owner of the fishing vessel to the Director on the prescribed form.

(2) Pending the consideration of an application made under subsection (1) the Director may issue to the applicant a temporary local fishing vessel licence.

(3) The Director, upon receiving an application under this section and upon payment of the prescribed fee, may issue the applicant with a local fishing vessel licence in respect of the vessel to which the application refers.

(4) In granting a local fishing vessel licence the Director shall consider the applicant's historical participation in the fishery.

(5) The Director may refuse to grant a local fishing vessel licence on any of the following grounds, that:

- (a) it is necessary to do so in order to give effect to any licensing programme or other management measure specified in a relevant management plan;
- (b) the applicant has breached a condition of a local fishing vessel licence previously issued to him and, taking into consideration the nature and gravity of the breach, the Director reasonably believes that the applicant will not comply with the conditions of the licence;
- (c) the local fishing vessel in respect of which the application is made:
 - (i) does not have a valid Certificate of Record issued under this Act; or
 - (ii) is not in compliance with any other requirements specified in this Act; or
- (d) the vessel is not a local fishing vessel within the meaning of this Act.

Where the Director refuses to grant a local fishing licence he shall provide the applicant with written notice of his decision and provide reasons.

(6) The licence holder shall notify the Director of any change in the information set out in the application form for the licence as soon as is reasonably practicable, and in any case, not later than seven days

after the change;

(7) A licence-holder who contravenes subsection (7) commits an offence and is liable to payment of the fine set out in Schedule I.

Maintaining records of local fishing vessel licences

74. The Director shall maintain records, updated at regular intervals, on all local fishing vessel licences, including any conditions specified for such licences under section 76.

Failure to carry on board a local fishing vessel licence

75. (1) A local fishing vessel licence shall be carried on board the vessel at all times and made available to any authorised officer upon request.

(2) If upon request by an authorized officer the fisher does not produce the local fishing vessel licence he shall do so within 24 hours failing which he commits an offence and is liable to payment of the fine as set out in Schedule I.

Fishing conditions attached to local fishing vessel licences

76. (1) The Director may impose specific conditions as he deems fit on the grant of the licence, defining the type of fishing which shall be allowed, including but not limited to the following:

- (a) the fisheries in which the vessel is licensed to participate;
- (b) the fishing areas in which the vessel may operate;
- (c) the fishing times at which the vessel may operate;
- (d) the fishing operations, methods and gears that the fishing vessel may use;
- (e) the maximum weight of fish catch that the vessel may take over the period of the licence, for each specified fish species or in aggregate;
- (f) the maximum weight of fish catch that may be taken per day; and
- (g) the placement and use of fish aggregating devices.

(2) The fishing conditions imposed on the licence shall be clearly specified therein.

(3) A person who directs fishing operations using a local fishing vessel in contravention of any condition of the licence commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

General conditions attached to local

77. Without prejudice to any conditions that may be attached to a licence under section 76, or any other provision of the Act, a licence issued in respect of a local fishing vessel shall be subject to the following general

fishing vessel
licences

conditions:

- (a) where a fishing vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically terminate;
- (b) no licence shall be transferable;
- (c) the fishing vessel to which the licence relates shall be marked in accordance with the Shipping Act or Motor Launches Act;
- (d) the master and every member of the crew shall cooperate with any authorised officer in compiling catch and fishing effort data or in taking of samples on behalf of the Director for statistical or scientific purposes;
- (e) the master shall complete and submit fishing logbooks to the Director at the intervals specified in the local fishing vessel licence;
- (f) the master shall hand over all data collected or samples taken to an authorised officer on request and in accordance with procedures prescribed by the Director;
- (g) while in the fishery waters allow an independent observer on board and to remain on board the fishing vessel on the terms specified in section 117 ;
- (h) if the fishing vessel is fishing in the fishery waters of a country other than Trinidad and Tobago, the master of that fishing vessel shall comply with the laws of that other country; and
- (i) the master and every member of the crew shall comply with the requirements of the Act; and
- (j) any other condition the Director considers necessary.

Variation of
conditions

78. (1) Where the Director is of the opinion that it is expedient for the proper management of fisheries in the fishery waters, he may vary any general or special conditions attached to a local fishing vessel licence.

(2) Where the Director varies any general or special conditions attached to a local fishing vessel licence, he shall give written notification to the licence-holder of the variation as soon as practicable.

Validity of local
fishing vessel
licence

79. A local fishing vessel licence shall be valid, unless suspended or cancelled under section 80, for a period to be specified in the licence and subject to arrangements adopted under a specific management plan.

Suspension or

80. (1) The Director may suspend or cancel any licence that was

cancellation of
local fishing
vessel licence

issued in respect of any fishing vessel where he is satisfied that:

- (a) it is necessary to do so in order to provide for the proper management and development of any particular fishery in accordance with the terms of any fisheries management plan prepared under Part V;
- (b) the grant of the local fishing vessel licence was based on false or erroneous information;
- (c) the Certificate of Record has been suspended or cancelled;
- (d) the fishing vessel has been used in the commission of an offence under any law of Trinidad and Tobago governing fisheries, conservation of the aquatic environment, customs, immigration, trafficking of drugs or firearms, ammunition, trafficking of persons, sale of fuel, pollution or trade;
- (e) the fishing vessel has been used in contravention of any condition of its licence, or of this Act or any criminal law; or
- (f) he is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under Part XV.

(2) The onus of proving that subsection (1)(b) does not apply to his vessel is on the owner.

(3) Where any local fishing vessel licence has been suspended or cancelled for the reason set out in subsection (1)(a), a proportion of any fees paid for the licence representing the unexpired period shall be reimbursed.

(4) In the case of a suspension under subsection (1)(b) the licence-holder shall provide the information requested by the Director, within such period as the Director may determine.

(5) Where a local fishing vessel licence is suspended or cancelled under this section, the Director shall give the licence-holder written notification of the suspension or cancellation and provide reasons.

PART XII
LICENSING OF COMMERCIAL FISHING WITHOUT A FISHING VESSEL

Requirement for a licence for commercial fishing without a vessel

81. (1) No person shall conduct a non-vessel commercial fishing operation in the fishery waters unless that person has first obtained a non-vessel commercial fishing licence.

(2) Any person who fishes in contravention of subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Application for a non-vessel commercial fishing licence

82. (1) An application for a non-vessel commercial fishing licence shall be made to the Director on the prescribed form.

(2) The Director, upon receiving an application under this section and upon payment of the prescribed fee, may issue the applicant with a non-vessel commercial fishing licence.

(3) In granting a non-vessel commercial fishing licence the Director shall consider the applicant's historical participation in the fishery.

(4) The Director may refuse to grant a non-vessel commercial fishing licence on any of the following grounds, that:

- (a) it is necessary to do so in order to give effect to any licensing programme or other management measure specified in a relevant management plan; or
- (b) the applicant has breached a condition of a non-vessel commercial fishing licence previously issued to him and, taking into consideration the nature and gravity of the breach, the Director reasonably believes that the applicant will not comply with the conditions of the licence;

(5) Where the Director refuses to grant a non-vessel commercial fishing licence he shall provide the applicant with written notice of his decision and provide reasons.

Maintaining records of non-vessel commercial fishing licences
Failure to make available a non-vessel commercial fishing licence

83. The Director shall maintain records, updated at regular intervals, on all non-vessel commercial fishing licences, including any conditions specified for such licences under sections 85 and 86;

84. (1) A non-vessel commercial fishing licence shall be made available by the licence-holder to any authorised officer upon request.

(2) Any person who contravenes subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Fishing conditions attached to non-vessel commercial fishing licences

85. (1) The Director may impose specific conditions as he deems fit on the grant of a non-vessel commercial fishing licence, specifying the type of fishing which shall be allowed, including, but not limited to, the following:

- (a) the fisheries in which the licence-holder may participate;
- (b) the fishing areas in which the licence-holder may operate;
- (c) the fishing times at which the licence-holder may operate;
- (d) the fishing operations, methods and gears that the licence-holder may use;
- (e) the maximum weight of fish catch that the licence-holder may take over the period of the licence, for each specified fish species or in aggregate; and
- (f) the maximum weight of fish catch that may be taken per day.

(2) The fishing conditions imposed on the licence shall be clearly specified therein.

(3) A person who conducts non-vessel commercial fishing operations in contravention of any condition of the licence commits an offence and is liable to payment of the fine set out in Schedule I.

General conditions attached to non-vessel commercial fishing licences.

86. (1) Without prejudice to any conditions that may be attached to a licence under section 85 or any other provision of the Act, issuance of a non-vessel commercial fishing licence shall be subject to the following general conditions:

- (a) any change in the information set out in the application form for the licence shall be notified to the Director by the licence-holder as soon as is reasonably practicable, and in any case, not later than seven days after the change;
- (b) no licence shall be transferable;
- (c) the licence-holder and any other persons who are jointly engaged in his fishing operations shall:
 - (i) comply with any direction given in good faith by an authorised officer;
 - (ii) cooperate with any authorised officer in compiling catch data or in taking of samples on behalf of the Director for statistical or scientific purposes; and
- d) any other condition the Director considers necessary.

(2) In relation to subsection (1)(c)(ii), the authorised officer shall, upon request, provide proof of identification, and proof that the data or samples are required for a study approved by the Director.

Variation in conditions

87. (1) The Director may vary any general or special conditions attached to a non-vessel commercial fishing licence where he is of the opinion that such variation is expedient for the proper management of fisheries in the fishery waters.

(2) Where the Director varies any general or special conditions attached to a non-vessel commercial fishing licence, he shall give written notification to the licence-holder of the variation as soon as practicable.

Validity of non-vessel commercial fishing licence

88. A non-vessel commercial fishing licence shall be valid, unless suspended or cancelled under section 89, for a period to be specified in the licence, and subject to arrangements adopted under a specific management plan.

Suspension or cancellation of non-vessel commercial fishing licence

89. (1) The Director may suspend or cancel a non-vessel commercial fishing licence issued under this Part where:

- (a) The grant of the non-vessel commercial fishing licence was based on false or erroneous information;
- (b) The licence-holder is in breach of any of the conditions set out in sections 85 and 86; or
- (c) Where the Director is satisfied that it is necessary to do so in order to provide for the proper management and development of any particular fishery in accordance with the terms of any fisheries management plan prepared under Part V.

(2) Where any non-vessel commercial fishing licence has been suspended or cancelled for the reason set out in subsection (1)(c), a proportion of any fees paid for the licence representing the unexpired period shall be reimbursed.

(3) Where a non-vessel commercial fishing licence has been suspended the Director may require the licence-holder to provide an undertaking not to commit any further breaches of the conditions of the licence.

(4) Where a non-vessel commercial fishing licence is cancelled or suspended under this section, the Director shall give the licence-holder written notification of the suspension or cancellation and provide reasons.

PART XIII
LICENSING OF LOCAL FISHING VESSELS FOR
FISHING ON THE HIGH SEAS

Requirement for
a High Seas
fishing licence

90. (1) No local fishing vessel shall be used for fishing on the High Seas unless the vessel has been entered on the Record of Local Fishing Vessels and a High Seas fishing licence has been issued under section 91(2).

(2) A person who directs fishing operations using a local fishing vessel without a High Seas fishing licence commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) An owner who authorises the use of a local fishing vessel without a High Seas fishing licence commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

Application for,
and grant of, a
High Seas fishing
licence

91. (1) An application for a High Seas fishing licence shall be made by the owner of the fishing vessel to the Minister on the prescribed form.

(2) The Minister, upon receiving an application under this section and upon payment of the prescribed fee, may issue a High Seas fishing licence in respect of the vessel to which the application refers.

(3) The Minister shall consider the following matters in determining whether or not to grant a High Seas fishing licence:

- (a) the advice of the Board;
- (b) whether the applicant has breached a condition of a High Seas fishing licence previously issued to him and, taking into consideration the nature and gravity of the breach, the Minister reasonably believes that the applicant will not comply with the conditions of the licence;
- (c) the applicant's historical participation in the fishery; and
- (d) any other relevant matter.

(4) Subject to the provisions of subsection (3), the Minister shall not issue a High Seas fishing licence in respect of any local fishing vessel if that vessel was previously authorised to be used for fishing on the High Seas by a foreign State, and the foreign State either:

- (a) suspended such authorization and the suspension has not

expired; or

- (b) withdrew such authorization within the three years preceding the application for a licence

because the vessel undermined the effectiveness of international conservation and management measures.

(5) Subsection (4) shall not apply if –

- (a) the ownership of the vessel has changed since the suspension or withdrawal of the authorization by the foreign State and the new owner has provided sufficient evidence to the Minister that the previous owner or master has no legal, beneficial or financial interest in the vessel; or
- (b) the Minister is satisfied that issuance of a High Seas fishing licence would not subvert the purposes of relevant Conventions and Agreements.

(6) Where the Minister refuses to grant a High Seas fishing licence he shall provide the applicant with written notice of his decision and provide reasons.

(7) The licence holder shall notify the Minister of any change in the information set out in the application form for the licence as soon as is reasonably practicable, and in any case, not later than seven days after the change;

(8) A licence-holder who contravenes subsection (7) commits an offence and is liable to payment of the fine set out in Schedule I.

Maintaining of records of High Seas fishing licences

92. (1) The Director shall, in collaboration with the agency with responsibility for maritime affairs, maintain a record of fishing vessels of Trinidad and Tobago in respect of which High Seas fishing licences have been issued.

(2) The record shall include all information submitted in the application form, in addition to any historical information on the non-compliance of the vessel with any conservation or management measures adopted by Trinidad and Tobago.

(3) The Director shall, consistent with Trinidad and Tobago's obligations under relevant Conventions and Agreements, make available information contained in the record of vessels maintained under subsection (1).

Failure to carry on board a High

93. (1) A High Seas fishing licence shall be carried on board the

Seas fishing licence

vessel at all times while engaged in fishing on the High Seas.

(2) A person who contravenes subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Fees for High Seas fishing licence

94. (1) The Minister shall by Order, published in the *Gazette*, fix the fees payable in respect of a High Seas fishing licence.

(2) In determining the fees payable under subsection (1), the Minister shall have regard to the fisheries management costs of Trinidad and Tobago in fulfilling its obligations under relevant Conventions and Agreements.

Conditions attached to High Seas fishing licences

95. (1) Every High Seas fishing licence shall be subject to the general conditions of section 77.

(2) The Minister may attach such other conditions to each High Seas fishing licence as are necessary and appropriate to carry out the obligations of Trinidad and Tobago under relevant Conventions and Agreements, including the following:

- (a) any of the fishing-related conditions described in section 76(1);
- (b) a requirement that the vessel shall not engage in any activities which undermine the effectiveness of any sub-regional, regional or international conservation and management measures;
- (c) a requirement that the vessel carry observers, local or foreign, on board during fishing operations on the High Seas;
- (d) a requirement that additional monitoring equipment be carried;
- (e) measures to be taken to avoid catching non-target species;
- (f) requirements for recording and timely reporting of vessel position, catch of target and non target species, fishing effort and other relevant fisheries data, including the use of vessel monitoring systems;
- (g) requirements for the completion and submission of fishing logbooks to the Director at the intervals specified in the High Seas fishing licence;
- (h) requirements for verifying the catch of target and non-target species;
- (i) requirements for the stowage of gear; and

(j) any other condition the Minister considers necessary.

(3) A person who directs fishing operations using a local fishing vessel in contravention of any condition or restriction contained in the High Seas fishing licence commits an offence and is liable to payment of the fine set out in Schedule I.

(4) An owner who authorises the use of a local fishing vessel in contravention of any condition or restriction contained in the High Seas fishing licence commits an offence and is liable to payment of the fine set out in Schedule I.

Variation in conditions

96. (1) The Minister may vary any conditions attached to a High Seas fishing licence where the Minister is satisfied that this is necessary to ensure compliance by Trinidad and Tobago with its obligations under relevant Conventions and Agreements.

(2) Where the Minister varies any conditions attached to a High Seas fishing licence, he shall give written notification to the licence-holder of the variation and provide reasons as soon as is reasonably practicable.

Validity of High Seas fishing licence

97. A High Seas fishing licence shall be valid, unless suspended or cancelled under section 98 for such period as may be determined by the Minister by Order.

Suspension or cancellation of High Seas fishing licence

98. (1) The Minister may suspend or cancel a High Seas fishing licence where the Minister is satisfied that:

- (a) the grant of the High Seas fishing licence was based on false or erroneous information;
- (b) the Certificate of Record has been suspended or cancelled;
- (c) the fishing vessel has been used in the commission of an offence under any law of Trinidad and Tobago governing fisheries, conservation of the aquatic environment, customs, immigration, trafficking of drugs or firearms, ammunition, trafficking of persons, sale of fuel, pollution or trade;
- (d) the vessel in respect of which the licence was granted has been used in contravention of this Act or in breach of any conditions or restrictions in the licence;
- (e) the vessel in respect of which the licence was granted has engaged in activities undermining the effectiveness of international conservation and management measures adopted by Trinidad and Tobago; or
- (f) it is necessary to ensure compliance by Trinidad and Tobago

with its obligations under relevant Conventions and Agreements.

(2) Where a licence is suspended or cancelled the Minister shall, within a reasonable period of time, give the licence-holder written notification of the suspension or cancellation and provide reasons therefor.

(3) Where a licence is cancelled no new licence shall be issued unless the licence-holder demonstrates that the reasons for cancellation no longer apply.

(4) Where a licence is suspended the licence shall not be reactivated unless the licence-holder demonstrates that the reasons for suspension no longer apply.

PART XIV RECREATIONAL FISHING LICENCE

Application

99. This Part does not apply to persons wishing to participate in a recreational fishing tournament on board a foreign fishing vessel.

Recreational
fishing licence

100. (1) Any person wishing to engage in recreational fishing in the fishery waters of Trinidad and Tobago shall obtain a recreational fishing licence, in the prescribed form, issued by the Director.

(2) A person who contravenes subsection (1) or contravenes a condition of a recreational fishing licence commits an offence and is liable to payment of the fine set out in Schedule I.

PART XV FOREIGN ACCESS TO THE EXCLUSIVE ECONOMIC ZONE

Agreements and
arrangements
with a foreign
State for access

101. An access agreement concluded between Trinidad and Tobago and a foreign State or an international organization to fish in the exclusive economic zone shall include a provision requiring the owner of any fishing vessel, nominated to fish by the foreign State or international organization, to obtain a foreign fishing vessel licence in accordance with Part XVI of this Act.

Licences for
foreign vessels

102. Subject to any fisheries management plan the Minister may grant a foreign fishing vessel licence to any owner of a foreign fishing vessel, including owners nominated under section 101, to fish in the exclusive economic zone.

Compliance with

103. Licences issued under Part XVI shall include a provision

laws relating to fishing in the fishery waters

requiring the licence-holder, or anyone acting on his behalf, to comply with the laws relating to fishing in the fishery waters.

PART XVI LICENSING OF FOREIGN FISHING VESSELS

Application for foreign fishing vessel licence

104. (1) Except as provided in subsection (2), no foreign fishing vessel shall be used for fishing in the fishery waters;

(2) A foreign fishing vessel may be used for fishing in the exclusive economic zone provided that a foreign fishing vessel licence has been issued under subsection 7.

(3) A master and members of the crew carrying out fishing operations in contravention of subsection (1) commit an offence and are liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(4) A master and members of the crew carrying out fishing operations in contravention of subsection (2) commit an offence and are liable on summary conviction to payment of the fine set out in Schedule II.

(5) An owner who authorises the use of a foreign fishing vessel in contravention of subsection (1) commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(6) An application for a foreign fishing vessel licence shall be made by the owner of the fishing vessel to the Minister on the prescribed form.

(7) The Minister, upon receiving an application under this section, and upon payment of the required fee, may issue the applicant with a foreign fishing vessel licence in respect of the vessel to which the application refers.

(8) In deciding an application made under this section, the Minister shall take into account the following:

- (a) the state of the particular fishery to which the application relates
- (b) the management plan or plans governing the particular fishery and/or the particular area applied for, and,
- (c) the advice of the Board.

(9) Where the Minister refuses to grant a foreign fishing vessel licence he shall provide the applicant with written notice of his decision and provide reasons.

(10) The licence holder shall notify the Minister of any change in the information set out in the application form for the licence as soon as is reasonably practicable, and in any case, not later than seven days after the change.

(11) A licence-holder who contravenes subsection (10) commits an offence and is liable on summary conviction to payment of the fine set out in Schedule II.

Maintaining records of foreign fishing vessel licences

105. The Minister shall maintain records, updated at regular intervals, on all foreign fishing vessel licences, including any conditions specified in such licences under sections (108), (109) and (110).

Fees payable for foreign fishing vessel licence

106. The Minister shall by Order, published in the *Gazette*, fix the fees payable in respect of a foreign fishing vessel licence.

Failure to carry on board a foreign fishing vessel licence

107. (1) A foreign fishing vessel licence shall be carried on board the vessel at all times and made available to any authorised officer upon request.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to payment of the fine set out in Schedule II.

Fishing conditions attached to a foreign fishing vessel licence

108. The Minister may impose specific conditions as he deems fit on the grant of a foreign fishing vessel licence defining the type of fishing which shall be allowed.

General conditions of foreign fishing vessel licence

109. A foreign fishing vessel licence shall not be construed as relieving the owner, master or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, conservation, the environment, health and safety, trade or related matters.

Additional conditions of foreign fishing vessel licence

110. The Minister may after consultation with the Director, attach to a foreign fishing vessel licence additional conditions relating to:

- (a) the amount of catch to be marketed in Trinidad and Tobago;
- (b) the periodic preparation and submission of reports on fishing in the exclusive economic zone;
- (c) the placement of observers on board the foreign fishing vessel;
- (d) the transshipment of fish from or onto the foreign fishing

vessel; and

- (e) the amount of catch that may be removed from Trinidad and Tobago without being landed at any designated port of Trinidad and Tobago.

Fishing in breach of conditions

111. A master and members of the crew of a foreign fishing vessel carrying out fishing in the exclusive economic zone in contravention of the conditions attached to the foreign fishing vessel licence commit an offence and are liable on summary conviction to payment of the fine set out in Schedule II.

Conditions on the marking of foreign fishing vessels

112. While in the fishery waters, the master of the vessel shall at all times:

- (a) fly the flag of the State of which the vessel has nationality ;
- (b) display the vessel's international radio call sign; and
- (c) display the number assigned to the vessel in its licence.

in a manner that is clearly visible from the sea and air.

Validity of foreign fishing vessel licence

113. The duration of a foreign fishing vessel licence issued under Part XVI shall not extend beyond the expiration of the agreement.

Cancellation of a foreign fishing vessel licence

114. (1) The Minister may cancel a foreign fishing vessel licence where the Minister is satisfied that:

- (a) the grant of the foreign fishing vessel licence was based on false or erroneous information;
- (b) the vessel in respect of which the licence was granted has been used in contravention of this Act or in breach of any conditions or restrictions in the licence;
- (c) the vessel in respect of which the licence was granted has engaged in activities undermining the effectiveness of international conservation and management measures adopted by Trinidad and Tobago; or
- (d) it is necessary to ensure compliance by Trinidad and Tobago with its obligations under relevant Conventions and Agreements.

(2) Where a licence is cancelled the Minister shall, within a reasonable period of time, give the licence-holder written notification of the cancellation and provide reasons therefor.

115. (1) While in the fishery waters, the master of the vessel shall cause to be prepared at such times as the Director may require, a written report setting out information on the fishing operations of the vessel in the exclusive economic zone.

(2) Each report shall be made in such form and for such period as the Director may require, and shall be delivered to the Director within fifteen days following the close of the period to which the report applies.

(3) The master of the vessel shall maintain a fishing logbook on a daily basis, in a form specified by the Director for the purpose of recording the fishing operations of the vessel while within the exclusive economic zone, including but not limited to maintaining a record of catches.

(4) The master of the vessel shall upon request by the Director:

- a) provide the original logbook for inspection;
- b) transmit a copy of the log book within forty eight hours of the receipt of the request;
- c) provide any other specified documents relating to catches or to the composition of those catches made by the vessel in the exclusive economic zone,

to the Director or to any person or organization so designated by him.

4) The log book maintained under paragraph (4) shall be retained by the master of the vessel for a period of at least twelve months following the end of the voyage to which the log book pertains.

(6) The Director may demand that the master of the vessel cause radio reports to be made:

- (a) immediately upon entry of the vessel into the fishery waters;
- (b) on such day as specified by the Director during the period that the vessel is in the fishery waters;
- (c) at least four hours prior to the departure of the vessel from the fishery waters; and
- (d) at any other times as the Director may specify.

(7) Each report made under subsection (6) shall contain details of:

(a) the vessel's international call sign or the number assigned to the vessel in its licence;

(b) the position of the vessel at the time of reporting;

(c) the total catch, by species, on board the vessel at the time of reporting; and

(d) such other matters relating to fishing operations as the Director may require.

(8) The Director may require that the licence-holder install and operate on the vessel, such Vessel Monitoring System equipment that is from time to time adopted by Trinidad and Tobago for the automated monitoring of the fishing activities.

Access to local
ports

116. (1) The owner or master of the vessel or his authorised local representative shall notify the Director, or such other person or organization as the Director may designate, of the estimated time of entry of the vessel into any port in Trinidad and Tobago at least twenty four hours before the vessel's entry, except that a shorter period of notice may be allowed if the master of the vessel satisfactorily proves that the vessel was in distress or had a medical emergency.

(2) The advanced notice provided under subsection (1) shall include:

(a) the name of the vessel;

(b) the foreign fishing licence number of the vessel, where licensed as a foreign fishing vessel by Trinidad and Tobago;

(c) the High Seas fishing licence number provided by the State of nationality of the vessel where such has been issued; and

(d) details of the fishing activities conducted since the vessel's last landing or transshipment, and the quantities of fish on board.

Provisions to place observers on board foreign fishing vessels

117. The master of the vessel shall, while in the fishery waters, allow an independent observer appointed by the Director, to board and remain on board the vessel, and shall:

- (a) allow the observer full access to all equipment, records, documents and to any fish on board the vessel;
- (b) allow the observer to conduct tests, make observations, maintain records and to take and remove any samples reasonably required to monitor the vessel's activities in the exclusive economic zone;
- (c) provide without charge, meals and accommodation equivalent to that provided for officers of the vessel; and
- (d) proceed to such port or place as the Director may reasonably require to allow the observer to board or disembark from the vessel.

Appointment of local representative

118. (1) The owner of a foreign fishing vessel licensed to fish in the exclusive economic zone shall appoint a local representative in Trinidad and Tobago who shall act as the agent of the owner of the foreign fishing vessel.

(2) The owner of a foreign fishing vessel shall notify the Director, on the prescribed form, of the name, address and other particulars of the local representative appointed under subsection (1).

(3) Any notices or documents required to be served on the owner of a foreign fishing vessel may be served on the local representative.

(4) Where legal proceedings are instituted under this Act, against the owner of a foreign fishing vessel, who may be absent from Trinidad and Tobago, the local representative shall represent such owner in the proceedings.

Application for Certificate of Exemption from requirement for a foreign fishing vessel licence

119. (1) An owner or master of a foreign fishing vessel who wishes to engage in fishing for the purpose of participating in a recreational fishing tournament shall apply to the Minister for a Certificate of Exemption on the prescribed form.

(2) A person who uses a foreign fishing vessel for the purpose of participating in a recreational fishing tournament without a Certificate of Exemption issued under section 122 commits an offence and is liable on summary conviction to payment of the fine set out in Schedule II.

(3) The provisions of section 104 shall not apply to an owner or master of a foreign fishing vessel in respect of which a Certificate of Exemption has been granted under subsection (1).

Maintaining records of Certificates of Exemption

120. The Director shall maintain records, updated at regular intervals, on all Certificates of Exemption.

Failure to carry on board a Certificate of Exemption

121. (1) The Certificate of Exemption shall be carried on board the foreign fishing vessel, and shall be tendered for inspection at the request of any authorised officer.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to payment of the fine set out in Schedule II.

Conditions attached to a Certificate of Exemption

122. The Minister may issue a Certificate of Exemption to a foreign fishing vessel subject to the conditions he considers necessary.

Validity of a Certificate of Exemption

123. The Certificate of Exemption shall be valid for the duration of the recreational fishing tournament, unless it is cancelled under section 124.

Cancellation of Certificate of Exemption

124. The Minister may cancel a Certificate of Exemption where the Minister is satisfied that:

- (a) the grant of the Certificate of Exemption was based on false or erroneous information;
- (b) the vessel in respect of which the Certificate of Exemption was granted has been used in contravention of this Act or in breach of any conditions or restrictions in the licence;
- (c) the vessel in respect of which the Certificate of Exemption was granted has engaged in activities undermining the effectiveness of international conservation and management measures adopted by Trinidad and Tobago; or
- (d) it is necessary to ensure compliance by Trinidad and Tobago with its obligations under relevant Conventions and Agreements.

(9) Where a Certificate of Exemption is cancelled the Minister shall, within a reasonable period of time, give the certificate-holder written notification of the cancellation and provide reasons therefor.

Stowage of gear

125. (1) The fishing gear of any foreign fishing vessel shall be stowed in the manner prescribed at all times while the vessel is in the

fishery waters except when the vessel is engaged in fishing in a location in which it is authorised to fish and the fishing activity is conducted in accordance with the terms and conditions of this Act.

(2) The master and members of the crew using a foreign fishing vessel in contravention of this section commit an offence and are liable on summary conviction to payment of the fine set out in Schedule II.

PART XVII

FISHERY MONITORING AND SCIENTIFIC RESEARCH

Promotion of scientific monitoring and research

126. The Director shall, take necessary measures to promote and facilitate the development and conduct of fisheries-related scientific monitoring and research in the fishery waters in accordance with the provisions of this Part.

Collection of data

127. (1) The Director shall cause to be collected and updated, fisheries data in sufficient detail, to allow sound statistical analysis in accordance with international standards and guidelines.

(2) The data collected under subsection (1) shall include catch and fishing effort data and biological, ecological, oceanographic, social, economic and any other data needed to support stock assessment and the ecosystem approach to fisheries management.

Verification of data

128. Collected data shall be verified by the use of systems appropriate to each fishery, which may include:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations; and
- (c) sampling at designated fish landing sites or transshipment ports.

Research priorities

129. Research priorities shall be determined by the Director, in consultation with the Board, taking into account the needs identified in fisheries management plans and considering any parallel research efforts by other national, regional and international agencies or programmes.

Collaboration

130. In respect of fish stocks that are shared with neighbouring states, or at a regional level, collaborative technical and research programmes shall be developed, as far as is practicable, to improve understanding of the biology, environment and status the fishery.

Sharing of data

131. In respect of fish stocks that are covered by sub-regional or regional fisheries management organizations or arrangements, the Director shall compile fishery-related and other supporting scientific data as required in any internationally agreed formats and provide them in a timely manner to the organization or arrangement.

Confidentiality of data

132. In the dissemination of data under section 131 the Director, or any officer under his charge, shall comply with any applicable confidentiality requirements.

Application for a fishery research permit

133. (1) An application for a fishery research permit shall be made, by any person who intends to undertake scientific research relating to fisheries or fishery-related resources in the fishery waters, to the Director on the prescribed form;

(2) Pursuant to subsection (1) an applicant for a fishery research permit shall prepare and submit a scientific research proposal to the Director.

(3) A scientific research proposal shall where applicable contain a full description of:

- (a) the scope, objectives and duration of the project;
- (b) the methodologies and scientific equipment to be used in the project;
- (c) the specifications of research vessels and fishing gears to be used in the project;
- (d) the precise geographical area of the fishery waters in which the project is to be conducted;
- (e) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as the case may be;
- (f) the name of the sponsoring institution, its head and the person in charge of the project; and
- (g) the extent to which it is considered that Trinidad and Tobago should be able to participate or to be represented in the project.

(4) Without prejudice to the requirements of subsections (2) and (3), the Director may require an applicant under this section to furnish him with such further information as he may request.

(5) No fishery research permit shall be granted under subsection 6 unless the person to whom the permit relates makes a written

undertaking on the prescribed form.

(6) The Director, upon receiving an application and a scientific research proposal under this section and upon payment of the prescribed fee, may grant a fishery research permit to the applicant.

(7) Where the Director refuses to grant a fishery research permit he shall provide the applicant with written notice of his decision and provide reasons.

(8) The permit holder shall notify the Director of any change in the information set out in the application form for the permit as soon as is reasonably practicable, and in any case, not later than seven days after the change.

(9) The permit holder shall notify the Director, in writing, of any proposed change to the research proposal and request the approval of the Director

(10) A permit-holder who contravenes subsections (8) and (9) commits an offence and is liable to payment of the fine set out in Schedule I.

Maintaining records of fishery research permits

134. The Director shall maintain records, updated at regular intervals, on all fishery research permits.

Failure to make available a fishery research permit

135. (1) Any fisheries research permit shall be carried by the permit-holder at all times and made available to any authorised officer upon request.

(2) A person who contravenes subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Conditions attached to a fishery research permit

136. (1) The Director may attach to a fishery research permit granted under this Part such conditions as he deems fit, including the duty of the permit-holder to:

- (a) ensure the right of the Government of Trinidad and Tobago, if it so desires, to participate or be represented in the scientific research project;
- (b) provide the Director, at his request, with preliminary reports, as soon as practicable;
- (c) provide the Director with the final report, including results, conclusions and recommendations, within an agreed time frame after the completion of the research;
- (d) undertake to provide access for the Director, at his request, to all data and samples derived from the scientific research project and likewise to furnish him with data which may be copies and

samples which may be divided without detriment to their scientific value;

- (e) transfer technology and fisheries research techniques and methodology to facilitate human resource development and capacity-building;
- (f) provide the Director, at his request, with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation; and
- (g) remove, unless otherwise agreed, the scientific research equipment upon the completion of the research.

(2) The Director may, for reason to be stated by him in writing, exempt any person from any condition attached to that person's permit.

(3) A person who contravenes any condition of a fishery research permit commits an offence and is liable to payment of the fine set out in Schedule I.

Validity of fishery research permit

137. (1) A fishery research permit shall be valid for the duration of the fishery research project as stated in the research proposal required under section 133 (2), unless suspended or cancelled under section 138.

(2) The Director may grant an extension to the fishery research permit, on the application of the permit-holder, as he deems necessary.

Suspension or cancellation of a fishery research permit

138. (1) The Director may suspend or cancel the fishery research permit issued under section 133(6), if:

- (a) he considers that the scientific research to which the permit relates is not being conducted in accordance with the information provided in the research proposal on the basis of which the permit was granted; or
- (b) the permit-holder fails to comply with or breaches any condition of the permit.

(2) The Director shall, before suspending a fishery research permit granted under section 133(6), give the permit-holder written notification, of not less than fourteen days, of his intentions and the reasons thereof and shall afford the permit-holder an opportunity to make representations to him.

PART XVIII DESIGNATED LANDING SITES

Designation of
landing sites

139. (1) The Minister shall designate landings sites, including existing privately-owned landing sites, for the purpose of landing and sale of fish catches from fishing vessels.

(2) A person who uses any location other than a site designated under subsection (1) for the landing and sale of fish catches from fishing vessels commits an offence and is liable to payment of the fine set out in Schedule I.

(3) In designating landing sites, the Minister shall consult with:

- (a) the Director;
- (b) the Board;
- (c) any Local Fisheries Management Authorities;
- (d) Ministries or agencies with responsibility for the environment, public health and ports and harbours; and
- (e) any other relevant agency.

Maintenance of
designated
landing sites

140. The Minister shall cause designated landing sites, other than privately-owned designated landing sites, to be so maintained as to provide:

- (a) adequate onshore and offshore infrastructure, which may include locker rooms, net and boat repair sheds, engine storage, market facilities, slipways and jetties;
- (b) adequate servicing facilities for vessels, vendors and buyers;
- (c) adequate freshwater supplies and storage and sanitation arrangements; and
- (d) waste disposal systems, including for the disposal of fishing gear.

Inspection of
designated
landing sites

141. The Minister shall cause the facilities at designated landing sites to be inspected at anytime, but at least once every month.

PART XIX TRANSSHIPMENT

Requirement for a transshipment licence

142. (1) No fishing vessel shall be used to transship fish or fish-products without a transshipment licence issued by the Minister under section 143(2).

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to payment of the fine set out in Schedule II.

Application for a transshipment licence

143. (1) An application for a transshipment licence shall be made by the owner of the fishing vessel to the Minister on the prescribed form.

(2) The Minister may, upon receipt of an application made under subsection (1) and payment of the prescribed fee, grant a transshipment licence.

(3) The Minister may refuse to grant a transshipment licence on any of the following grounds:

- (a) the grant will conflict with any licensing programme or other management measure specified in a relevant management plan;
- (b) the fishing vessel, in respect of which the application is made, has been used in a manner which contravenes any provision of this Act;
- (c) the vessel has been used in breach of conditions of a previously issued transshipment licence and taking into consideration the nature and gravity of the breach, the Minister reasonably believes that the conditions of the licence will not be complied with; or
- (d) the fishing vessel, in respect of which the application is made, has been used to undermine the effectiveness of conservation and management measures adopted by a regional or sub-regional fisheries management organization.

(4) Where the Minister refuses to grant a transshipment licence he shall provide the applicant with written notice of his decision and provide reasons.

(5) The licence holder shall notify the Minister of any change in the information set out in the application form for the licence as soon as is reasonably practicable, and in any case, not later than seven days after the change;

(6) A licence-holder who contravenes subsection (5) commits

an offence and is liable to payment of the fine set out in Schedule I.

Maintaining records of transshipment licences

144. The Director shall maintain records, updated at regular intervals, on all transshipment licences including any conditions specified in such licences.

Failure to carry on board a transshipment licence

145. (1) Any transshipment licence shall be carried on board the vessel at all times and made available to any authorised officer upon request.

(2) A person who contravenes subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Conditions of transshipment licence

146. (1) The Minister may impose conditions or restrictions as he deems fit to the grant of a transshipment licence, including:

- (a) the ports or sites at which the transshipment of fish or fish-products shall occur;
- (b) the provision of required information as set out in the Regulations;
- (c) the provision of access to the vessel and records by the Fisheries Division.

(2) Any owner, master or crew who uses a vessel to transship fish or fish products in contravention of the conditions of the transshipment licence commits an offence and is liable to payment of the fine set out in Schedule I.

Validity of a transshipment licence

147. A transshipment licence shall be valid for the period specified in the licence, unless suspended or cancelled under section 148.

Suspension or cancellation of transshipment licence

148. (1) The Minister may suspend or cancel any transshipment licence that was issued in respect of any fishing vessel where he is satisfied that:

- (a) the grant of the transshipment licence was based on false or erroneous information;
- (b) a court of law has found that the fishing vessel has been used in the contravention of the laws of Trinidad and Tobago;
- (c) the master or crew of the fishing vessel has breached the conditions of the transshipment licence;
- (d) the fishing vessel has been used in contravention of any conditions of its licence, or of this Act;
- (e) any regional and international arrangement or agreement entered into under Part XV requires him to suspend or cancel

the transshipment licence; and

- (f) the fishing vessel has been identified by a regional or international fisheries management organization as being involved in illegal, unreported and unregulated fishing.

(2) Where a transshipment licence has been suspended or cancelled for the reason set out in subsection (1)(e), a portion of any fees paid for the licence representing the unexpired period shall be reimbursed.

(3) In the case of a suspension under subsection (1)(a) the licence-holder shall provide the information requested by the Minister, within such period as the Minister may determine.

(4) Where a transshipment licence is suspended or cancelled under this section, the Minister shall give the licence-holder written notification of the suspension or cancellation and provide reasons.

Appointment of local representative

149. (1) The owner of a foreign fishing vessel licensed to transship fish and fish products shall appoint a local representative in Trinidad and Tobago who shall act as the agent of the owner of the foreign fishing vessel.

(2) The owner of a foreign fishing vessel licenced to tranship fish and fish products shall notify the Minister, on the prescribed form, of the name, address and other particulars of the local representative appointed under subsection (1).

(3) Any notices or documents required to be served on the owner of a foreign fishing vessel licenced to tranship fish and fish products may be served on the local representative.

(4) Where legal proceedings are instituted under this Act, against the owner of a foreign fishing vessel, who may be absent from Trinidad and Tobago, the local representative shall represent such owner in the proceedings.

Identification of designated ports for the transshipment of fish and fish-products

150. (1) The Minister may, in consultation with the Minister with responsibility for customs and excise, identify designated ports for the transshipment of fish and fish-products.

(2) No person shall transship fish and fish- products at any port or site that is not a designated transshipment port.

(3) Any person who contravenes subsection (2) commits an offence and is liable to payment of the fine set out in Schedule I.

Inspection of designated ports for the transhipment of

151. The Minister shall cause the operations at designated ports for the transshipment of fish and fish-products to be inspected at anytime, but at least once every month.

PART XX SURVEILLANCE, ENFORCEMENT AND PROSECUTION

Authorisation of
officers

152. (1) The Minister may authorize such officers as he considers necessary to carry out the functions and exercise the powers assigned to them under this Part including:

- (a) the Director;
- (b) the Director-THA;
- (c) any Fisheries Officer;
- (d) any member of the Trinidad and Tobago Coast Guard;
- (e) any member of the Police Service;
- (f) any Customs and Excise Officer;
- (g) the Director of Maritime Services;
- (h) any Officer of the Maritime Services Division; or
- (i) any other suitably qualified or trained person.

(2) An authorised officer shall carry on his person an identity card with his photograph, issued by the Minister after consultation with the Minister of National Security, which shall include the following information:

- (a) The name of the issuing authority or authorities;
- (b) The full name of the holder of the identity card;
- (c) The date of the photograph;
- (d) The signature of the holder, and
- (e) A statement that the holder is authorised to carry out his functions in accordance with this Act.

(3) Subsection (2) shall not apply to authorised officers who are members of the Trinidad and Tobago Coast Guard, the Police Service and Customs and Excise Division.

(4) An authorised officer, in exercising any powers or performing any duty under this Act, shall on demand, produce his identity

card issued under subsection (2).

Monitoring and surveillance duties

153. An authorised officer shall be responsible for the monitoring and surveillance of fishing and fishing operations in the fishery waters to ensure compliance with the provisions of this Act.

Power to stop, board etc.

154. An authorised officer may without a warrant:

- (a) stop, board and search any fishing vessel in the fishery waters whether or not such vessel is licensed under this Act;
- (b) stop and search any vehicle transporting, or reasonably suspected of transporting fish, or fish products;
- (c) enter any premises other than those used exclusively as a dwelling house, or fishing vessel or vehicle and take samples of any fish products therein;
- (d) require any person to produce his licence, permit or other document required under this Act; and
- (e) inspect any fishing gear or other fishing equipment, whether on sea or on land.

Powers of entry, seizure etc.

155. (1) In furtherance of section 155, the authorised officer may:

- (a) detain any person whom he has reasonable grounds to believe has committed an offence and, if the authorized officer is not a precepted officer, he shall forthwith deliver the person to a police officer.
- (b) seize and detain any vessel, equipment, stores, cargo and catch that he believes has been used in the commission of an offence and take such vessel and its crew to the nearest or most convenient port or landing site pending the institution of legal proceedings under this Act or their release on bond or other form of security in accordance with this Part;
- (c) seize any fish, fish products or fishing gear that he believes have been taken, produced or used in contravention of this Act;
- (d) seize any SCUBA, explosive, poison, or other noxious substance which he has reason to believe has been used or is being possessed in contravention of this Act

(8) The authorised officer shall provide a written receipt in respect of anything seized under subsection (1) to the person from whom the items were seized.

(9) A receipt issued under subsection (8), and a duplicate or

copy thereof, shall be signed by the authorised officer and the person from whom the items were seized;

(10) Where a foreign fishing vessel is suspected of committing an offence under this Act and the vessel is pursued beyond the limits of the fishery waters, the powers conferred on an authorised officer under this section may be exercisable beyond the limits of the fishery waters to the extent recognised by relevant Conventions and Agreements.

(11) In the event of any arrest and detention of a foreign fishing vessel or any person on board the vessel, the Director shall notify that fact and the penalty subsequently imposed, to the flag state of the vessel.

Disposal of fish and other perishables

156. Any fish or perishable item seized by an authorised officer may be disposed of at the discretion of the Court.

Forfeiture

157. (1) Where a person is convicted of an offence under this Act the court may, in addition to any other penalty it may impose, order that the following be forfeited to the state:

- (a) fish caught or fish product produced;
- (b) fishing vessel;
- (c) fishing gear and equipment; and
- (d) vehicle used for transporting fish or fish product.

(8) Any fishing gear or instrument, or vessel or vehicle which is not ordered to be forfeited under subsection (1) shall be returned to the owner promptly.

Burden of proof

158. Where the Court finds that a fishing vessel was used in the commission of an offence under this Act, unless the contrary is proven, all fish found on board the fishing vessel shall be presumed to have been caught in the commission of that offence.

Confiscation of fishing vessel, gear and catch

159. Where an offence is committed:

- (a) by the owner, master or operator of any fishing vessel fishing in the fishery waters without a license; or,
- (b) by the use of any fishing vessel operating in contravention of the conditions of a fishing license; or
- (c) by the use of a fishing vessel in contravention of any law governing conservation of the aquatic environment and fisheries resources, immigration, customs, trafficking of drugs or firearms, ammunition, trafficking of persons, sale of fuel,

pollution or trade;

the fishing vessel, its gear and its catch may be confiscated and disposed of at the discretion of the Director.

Immunity from suit

160. An authorised officer shall not be held liable in respect of anything done by him or omitted to be done by him in good faith in the execution or purported execution of his duties under the Act.

Obstructing an authorised officer

161. (1) Any person who wilfully obstructs, resists, assaults, or threatens with violence an authorised officer in the performance of his duties under this Act commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

Fixed penalty notice

162. (1) Where an authorised officer has reason to believe that a person has committed an offence under Schedule I the authorised officer may issue a fixed penalty notice, on the prescribed form, charging the person with the commission of the particular offence and requiring him:

(a) to pay the fixed penalty listed in the Schedule; or

(b) to appear

(i) at the Court;

(ii) on the day; and

(iii) at the hour,

(2) A fixed penalty notice shall be served by an authorised officer.

(3) A fixed penalty notice shall be served in person or where a person cannot be found in order to be served with a fixed penalty notice –

(a) within forty-eight hours of its issue; and

(b) after reasonable attempts have been made to locate him, the fixed penalty notice shall be served by posting it up in a conspicuous place on the fishing vessel owned by him or from which he operates.

(4) A person who serves a fixed penalty notice under this section shall cause a duplicate of the fixed penalty notice to be sent to the Clerk of the Peace in the district in which the offence is alleged to have been committed.

(5) A fixed penalty notice that is served under this section shall be deemed to be a complaint within the meaning of section 33 of the Summary Courts Act.

(6) Notwithstanding any written law to the contrary, a fixed penalty notice is, from the expiration of the time specified in it for the payment of the fixed penalty, deemed to be a summons issued in accordance with section 42 and served in accordance with section 43, respectively, of the Summary Courts Act.

Particulars to be specified in fixed penalty notice

163. A fixed penalty notice shall –

- (a) bear the name, office and signature of the person who issues it;
- (b) be directed to the person whom the authorized officer has reason to believe has committed an offence listed in Schedule I;
- (c) specify the alleged offence;
- (d) specify such particulars of the offence as are required for proceedings under the Summary Courts Act;
- (e) specify the amount of the fixed penalty;
- (f) specify the time within which the fixed penalty may be paid;
- (g) identify the Clerk of the Peace to whom, and the address at or to which the fixed penalty may be paid or remitted;
- (h) specify the address of the Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time, and the time of such appearance;
- (i) specify the date, time and place of its service; and
- (j) contain a statutory declaration which –
 - (i) shall state that the person who pays the fixed penalty acknowledges the offence specified in the notice ; and
 - (ii) shall be duly completed and signed by the person in the notice.

Payment of fixed penalties

164. (1) Where a fixed penalty notice is served under section 163, the person on whom it is served may, subject to subsection (2), pay the fixed penalty in accordance with the notice.

(2) Payment of a fixed penalty shall be made to the Clerk of the Peace having jurisdiction in the district in which the offence is alleged to have been committed.

(3) Payment of a fixed penalty shall be accompanied by the

fixed penalty notice and the fixed penalty notice shall be duly completed by the person on who it is served in the manner prescribed.

(4) Where a fixed penalty is duly paid in accordance with a fixed penalty notice, no person shall then be liable to be convicted of the offence in respect of which the notice was given.

(5) A fixed penalty shall be dealt within the same manner as payment of a fine imposed for an offence under the Summary Courts Act.

(6) Where a fixed penalty is not paid within twenty-eight days of the issue of the notice, proceedings in respect of the offence specified in the notice shall proceed in the manner prescribed by the Summary Courts Act.

Surveillance
Unit

165. (1) In furtherance of this Part, the Minister and the Secretary shall cause a Monitoring and Surveillance Unit each to be established in the Ministry with responsibility for Fisheries and in the Tobago House of Assembly.

(2) The Monitoring and Surveillance Units shall be comprised of authorized officers and other suitably qualified and trained staff appointed by the Minister and the Secretary on such terms and conditions as they see fit.

(3) The Minister and the Secretary may delegate to the Director of Fisheries and the Director-THA respectively the power to appoint persons to the Monitoring and Surveillance Units.

PART XXI SECURITY AND PROTECTION

Consultation with
other agencies

166. The Minister shall hold consultations with other agencies or Ministries whose activities are likely to impact the fisheries and fisheries-related resources and the interest of fisherfolk.

Interfering with
or disturbing
fishing

167. (1) No person shall:

- (a) remove, haul, take away, empty or cast adrift any fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment belonging to some other person without the consent of that other person;
- (b) destroy, damage, displace or alter the position of any fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment, or any buoy, float or other marker connected to it;

(c) remove fish from the fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment belonging to another person without the consent of that other person;

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to payment of the fine or term of imprisonment set out in Schedule II.

(3) For the purposes of this section, an authorised officer shall have the authority to demand that any fish pot, trap, gear, tackle or other fishing equipment, and any catch, be produced for examination.

(4) Any fish in a fishing net, fish pot or trap shall be deemed to be the private property of the owner of such fishing net, fish pot or trap.

PART XXII GENERAL PROVISIONS

Use of and operations at public facilities provided for the fishing industry

168. (1) The Director shall establish rules and guidelines for the use of and operations at public facilities provided for the fishing industry, including the setting of fees.

(2) Any persons operating in contravention of rules and guidelines set out under subsection (1) commits an offence and is liable to payment of the fine set out in Schedule I.

Fines

169. The fines payable in respect of offences committed under this Act are set out in Schedules I and II.

Provision of false information

170. Any person who knowingly or recklessly provides false information required under this Act commits an offence and is liable to payment of the fine set out in Schedule I.

Appeals

171. (1) Any person who is aggrieved by a decision taken in respect of an application made by him under this Act, may appeal to the Board within 21 days of the receipt of the written notification of the decision.

(2) The Board shall determine an appeal made under subsection (1) within 60 days of its receipt.

Declaration of Marine Protected Areas

172. The Minister may by Order declare any portion of the fishery waters as a protected area.

Regulations

173. (1) The Minister may make Regulations to give effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations in respect of:

- (a) the application for and grant of licences, permits, identity cards, Certificates of Record and Certificates of Exemption;
- (b) any fees payable in respect of an application made under this Act;
- (c) the management of any particular fishery;
- (d) the recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other fisheries data;
- (e) regulating recreational fishing in the fishery waters;
- (f) the designation of fish landing sites and identification of designated ports for the transshipment of fish and fish products;
- (g) the use of and operations at public facilities provided for the fishing industry;
- (h) regulating the transit of foreign fishing vessels through the fishery waters, including the manner in which fishing gear is to be stowed;
- (i) prescribing measures for the conservation of fish habitats, protection of marine mammals and any threatened or endangered species, including turtles, lobsters and conch;
- (j) prescribing measures for the approval, use and management of fish attraction devices and introduction of new fishing technologies;
- (k) regulating or prohibiting the entry of any person or class of vessel into any fishing area, or protected areas declared as such under section 171, and prescribing any activities which may be taken in that area; and
- (l) specifying the information required of fishing vessels, including catch and effort statistics and vessel position reports.

Act No. 24 of
1986 amended

174. The Archipelagic Waters and Exclusive Economic Zone Act is amended:

- (a) in section 2 by deleting the definitions of “fishing craft” and “foreign ship” and inserting the definitions of “craft” and “suspect craft” as follows:

“craft” means a vessel, aircraft, hovercraft or other craft of whatever size and however propelled.

“suspect craft” means any craft used for commercial or private purposes in respect of which there are reasonable grounds to believe that it is engaged in any activity contrary to the laws of the Republic of Trinidad and Tobago, and includes a craft without nationality and a craft assimilated to another craft without nationality.

(b) in Part III

(i) by repealing sections 23, 25, 26, 27, 29, 30(1), 32(f) to (p);

(ii) by repealing section 21 and substituting the following:

21. (1) Trinidad and Tobago shall ensure, through proper conservation and management, that the living resources in the exclusive economic zone are not endangered by over-exploitation and may:

- (a) determine the allowable catch within the exclusive economic zone;
- (b) determine the proportion of the allowable catch to be harvested by citizens of Trinidad and Tobago in the exclusive economic zone;
- (c) prescribe on the basis of agreements or other arrangements with any State, international organization or person, permission to harvest the remaining portion of the allowable catch in the exclusive economic zone.

(2) No foreign fishing craft nor the master and members of the crew of a foreign fishing craft may engage in fishing in the exclusive economic zone without a licence issued by the Minister to whom responsibility for fisheries is assigned.

(iii) by repealing section 28 and substituting the following:

28. (1) The persons referred to in subsection (3) are empowered to conduct monitoring and surveillance activities in relation to the living and non-living resources and to any related structures, installations or equipment in the exclusive economic zone, the territorial sea and the archipelagic waters.

(2) Without prejudice to the generality of subsection (1) the persons identified in subsection (3) may:

- (a) stop and board, seize and detain any suspect craft;
- (b) seize any illicit cargo or equipment found on board the suspect craft;
- (c) arrest the master and crew of any suspect craft; and
- (d) carry out any other activities directly or indirectly related to the exploration, exploitation, conservation and management of the living and non-living resources in the exclusive economic zone, the territorial sea and the archipelagic waters and may institute such criminal proceedings against the master and crew as may be necessary to ensure compliance with the laws of the Republic of Trinidad and Tobago.

- (3) The persons to whom subsection (1) applies are –
- (a) members of the Trinidad and Tobago Coast Guard;
 - (b) members of the Police Service;
 - (c) Fisheries Officers of the Ministry responsible for fisheries;
 - (d) Customs Officers;
 - (e) the Director of the agency with responsibility for Maritime Services; and
 - (f) any other person authorised in writing by the Minister.

(iv) by repealing section 31 and substituting the following:

31. A suspect craft which is seized and detained and the master and crew of which are arrested under section 28 shall be promptly released upon the posting of the prescribed bond in the sum of one hundred thousand dollars or other surety.

Repeal of
Chapter 67:51

175. (1) Subject to subsection (2), the Fisheries Act is hereby repealed.

(2) All Regulations made under the Fisheries Act shall remain in force.

Conclusion

Passed in the House of Representatives this _____ day of _____, 2011.

Clerk of the House.

I confirm the above.

Speaker.

Passed in the Senate this

day of _____, 2011.

Clerk of the Senate.

I confirm the above.

President of the Senate.

SCHEDULE I

[Section 169]

FINES PAYABLE FOR FIXED PENALTY OFFENCES AGAINST THIS ACT

The fines to be imposed in respect of fixed penalty offences committed in contravention of the Act or these Regulations shall be as given below.

<u>Section (s)</u>	<u>Offence</u>	<u>Penalty (Fine)</u>
PART VI		
51 (3)	Undermining the effectiveness of a management measure in respect of fishing gear	\$5,000
PART VIII		
57	Provision of false or misleading information in order to qualify for a subsidy or economic incentive	\$5,000
PART IX		
61(6)	Fishing without being registered as a fisher	\$2,000
61(7)	Failure of a registered fisher to produce identity card within 24 hours of request by an authorised officer	\$1,000
PART X		
67(2)	Failure to register fishing gear or engines	\$5,000
68(2)	Failure to notify of changes in particulars contained on the Record of Local Fishing Vessels	\$2,000
PART XI		
72(83)	Failure to notify of any changes in the information set out in an application form for a local fishing vessel licence	\$2,000
75(2)	Failure to carry on board a valid local fishing vessel licence	\$2,000
76(3)	Contravention of a condition of a local fishing vessel licence	\$5,000
PART XII		
81(2)	Conduct of non-vessel commercial fishing operation without a valid non-vessel commercial fishing licence	\$2,000
84(2)	Failure to make available a non-vessel commercial fishing licence to authorized officer	\$2,000
85(3)	Contravention of a condition of a non-vessel commercial fishing licence	\$2,000
PART XIII		

<u>Section (s)</u>	<u>Offence</u>	<u>Penalty (Fine)</u>
91(8)	Failure to notify of any changes in the information set out in an application form for a High Seas fishing licence	\$2,000
93(2)	Failure to carry on board a High Seas fishing licence while engaged in fishing on the High Seas	\$2,000
95(3),(4)	Contravention of a condition of a High Seas fishing licence	\$10,000
PART XIV		
100(2)	Engaging in recreational fishing without a recreational fishing licence	\$2,000
	Contravention of a condition of a recreational fishing licence	\$2,000
PART XVII		
133(10)	Failure to notify of any changes in the information set out in an application form for a fishery research permit or proposed change in the research project.	\$5,000
135(2)	Failure to make available a fishery research permit upon request by an authorized officer	\$2,000
136(3)	Contravention of a condition of a fishery research permit	\$5,000
PART XVIII		
139(2)	Landing and sale of fish catches from fishing vessels at locations other than a designated landing site	\$5,000
PART XIX		
143(6)	Failure to notify of any changes in the information set out in an application form for a transshipment licence	TT\$25,000 (local) US\$12,000 (foreign)
145(2)	Failure to carry on board a transshipment licence	TT\$25,000 (local) TT\$12,000 (foreign)
146(2)	Contravention of a condition of a transshipment licence	TT\$40,000 (local) US\$20,000(foreign)
150(3)	Transshipment of fish or fish products at a port or site that is not a designated transshipment port	TT\$40,000 (local) US\$20,000 (foreign)
PART XXII		
168(2)	Non-compliance with established rules and guidelines for the use of and operations at public facilities provided for the fishing industry	\$1,000
170	Knowingly or recklessly providing false information required under the Act	\$2,000

SCHEDULE II

[Section 169]

FINES PAYABLE FOR OTHER OFFENCES AGAINST THIS ACT

The maximum fines to be imposed in respect of other offences committed in contravention of the Act or these Regulations shall be as given below.

Section (s)	Offence	Penalty	
		Fine	Term of imprisonment
PART VII			
55(2),(3)	Unauthorized use of any self-contained underwater breathing apparatus, diving equipment, explosive, poison, or other noxious substance for fishing	\$20,000	Six (6) months
54(3),(4)	Landing, selling or receiving any fish taken with the unauthorized use of any self-contained underwater breathing apparatus, diving equipment, explosive, poison, or other noxious substance	\$20,000	Six (6) months
PART X			
65(2)	Use of a local fishing vessel in the fishery waters or High Seas without being entered on the Record of Local Fishing Vessels	\$20,000	Three (3) months
68(a)	Tampering with a Certificate of Record	\$12,000	Three (3) months
68(b)	Tampering with identity mark on fishing gear or engines	\$20,000	Six (6) months
PART XI			
72(2)	Directing operations of a local fishing vessel without a valid local fishing vessel licence	\$20,000	Six (6) months
71(3)	Authorizing the use of a local fishing vessel without a valid local fishing vessel licence.	\$20,000	Six (6) months
PART XIII			
90(2)	Directing operations of a local fishing vessel on the High Seas without a valid High Seas fishing licence	\$30,000	Six (6) months
90(3)	Authorizing the use of a local fishing vessel without a valid High Seas fishing vessel licence.	\$30,000	Six (6) months
PART XVI			

Section (s)	Offence	Penalty	
		Fine	Term of imprisonment
104(3)	Carrying out fishing operations using a foreign fishing vessel in the fishery waters without a valid foreign fishing vessel licence	\$300,000	Twelve (12) months
104(4)	Carrying out fishing operations using a foreign fishing vessel in the exclusive economic zone without a valid foreign fishing licence	\$150,000	
104(5)	Authorizing the use of a foreign fishing vessel in the fishery waters without a valid foreign fishing licence	\$300,000	Twelve (12) months
104(11)	Failure to notify of any changes in the information set out in an application form for a foreign fishing vessel licence	\$25,000	
107(2)	Failure to carry on board a foreign fishing vessel licence	\$25,000	
111	Contravention of a condition of a foreign fishing vessel licence	\$150,000	
119(2)	Participation in a recreational fishing tournament without a valid Certificate of Exemption	\$25,000	
121 (2)	Failure to carry on board a Certificate of Exemption	\$10,000	
125(2)	Failure of a foreign fishing vessel to stow fishing gear in the prescribed manner while traversing an unauthorized fishing area	\$150,000	
PART XIX			
142(2)	Transshipment of fish and fish products without a transshipment licence	TT\$50,000 (local) US\$25,000 (foreign)	
PART XX			
161(1)	Wilful obstruction, resistance, assault or threat with violence to an authorized officer in the performance of his duties under this Act.	\$50,000	Six (6) months
PART XXI			
167(1)(a)	remove, haul, take away, empty or cast adrift any fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment belonging to some other person without the consent of that other person	\$20,000	Six (6) months
167(1)(b)	destroy, damage, displace or alter the position of any fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment, or any buoy, float or other marker connected to it	\$20,000	Six (6) months

<u>Section (s)</u>	<u>Offence</u>	<u>Penalty</u>	
		<u>Fine</u>	<u>Term of imprisonment</u>
167(1)(c)	remove fish from the fishing net, fish pot or trap, gear, tackle, fish-aggregating device or other fishing equipment belonging to another person without the consent of that other person	\$20,000	Six (6) months