

CHAPTER 391

FISHERIES

ARRANGEMENT OF SECTIONS

SECTION

Citation

1. Short title.
2. Interpretation.

PART I

Fisheries Management and Development

3. Administration of fisheries.
4. Fisheries management and development schemes.
5. Fisheries Advisory Committee.
6. Regional co-operation in fisheries.
7. Fisheries access agreements.
8. Foreign fishing vessel licences.
9. Stowage of fishing gear.
10. Sport fishing.
11. Local fishing vessel licences.
12. Commercial fishermen's licences.
13. Validity of fishing licences.
14. Conditions of fishing licences.

SECTION

15. Fees, royalties and other charges.
16. Cancellation or suspension of fishing licences.
17. Notice.
18. Local fishing vessels to be registered.
19. Register of fishing vessels.
20. Cancellation of certificate of registration.
21. Change of ownership to be notified.
22. Local fishing vessel not to be used for fishing unless registered.
23. Appeals.
24. Construction and alteration of fishing vessels.
25. Persons engaged in fish processing, marketing or distribution to supply information.
26. Fisheries related research.
27. Controls over sale of fish taken in course of fisheries related research and survey operations.
28. Approved local research institutions.
29. Prohibited fishing methods.
30. Possession of prohibited fishing gear.

PART II

Safety of Commercial Fishing Vessels and Accidents at Sea

31. Certificate of inspection for local fishing vessels.
32. Reporting and enquiry into fishing vessel accidents.
33. Assistance to be rendered in case of collision.

SECTION

PART III

Enforcement

34. Powers of authorized officers.
35. Sale of perishable goods seized.
36. Immunity of authorized officers.
37. Assaulting authorized officers.
38. Master liable for offences committed on board his vessel.
39. Release of vessel etc. on bond.
40. Court's powers of forfeiture and cancellation and suspension of licences.
41. Presumptions.
42. Onus of proof.
43. Disposal of vessels etc. forfeited.
44. Offences triable as if committed within local jurisdiction.

PART IV

General

45. Services.
46. Regulations.
47. Savings.

SCHEDULE

CHAPTER 391
FISHERIES

An Act to provide for the management and development of fisheries in Barbados.

1993-6.
2000-8.

[1st October, 1993]

Commence-
ment.
1993/87.

Citation

1. This Act may be cited as the *Fisheries Act*. Short title.
2. For the purposes of this Act Interpreta-
tion.
 - "access agreement" means an agreement under section 7;
 - "aquaculture" includes mariculture;
 - "aquatic flora" includes seaweeds and other aquatic plants;
 - "authorised officer" means any fisheries, customs or police officer or any officer or soldier of the Barbados Defence Force serving as a member of the Barbados Coast Guard;
 - "based in Barbados", in relation to a foreign fishing vessel, means using a port in Barbados as its operational base;
 - "Chief Fisheries Officer" means the person appointed as Chief Fisheries Officer under section 3(1);
 - "commercial fishing" means fishing for the purpose of selling all or any of the fish caught; 2000-8.
 - "Exclusive Economic Zone" has the meaning ascribed by section 2 of the *Marine Boundaries and Jurisdiction Act*; Cap. 387.

"fish" means aquatic animal, whether piscine or not, and includes any shell fish, turtle, mollusc, crustacean, coral, sponge, echinoderm, its young and its eggs;

"fish-aggregating device" means any man-made or partly man-made floating or submerged device, whether anchored or not, used for aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;

"fisheries officer" means the Chief Fisheries Officer, Deputy Chief Fisheries Officer, Principal Fisheries Assistant, Senior Fisheries Assistant or Fisheries Assistant and any other officer designated by the Chief Fisheries Officer for the purposes of this Act;

"fisheries scheme" means a scheme for the management and development of a fishery prepared under section 4;

"fishery" means one or more stocks of fish or aquatic flora, or fishing operations based on such stocks, which may be treated as a unit for purposes of conservation and management and which is identified as such on the basis of geographical, scientific, technical, recreational and economic characteristics;

"fishing" means

- (a) catching, taking or harvesting fish or aquatic flora;
- (b) attempting to catch, take or harvest fish or aquatic flora; or
- (c) any operation at sea in connection with, or in preparation for, catching, taking or harvesting fish or aquatic flora, including placing, searching for or retrieving any fish aggregating device and searching for fish or flora;

"fishing licence" means a foreign fishing vessel licence, a local fishing vessel licence or a commercial fisherman's licence or a sport fishing licence;

"fishing vessel" means any vessel used or intended for use for fishing or related activities;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel;

"foreign fishing vessel licence" means a licence issued in respect of a foreign fishing vessel under section 8;

"licence" means a licence issued under this Act;

"local fishing vessel" means any commercial fishing vessel

- (a) wholly owned by the Government of Barbados;
- (b) wholly owned by one or more individuals who are citizens of Barbados or permanent residents of Barbados within the meaning of the *Immigration Act*;
- (c) wholly owned by a company, society or other association of persons incorporated or established under the laws of Barbados and having its principal place of business in Barbados, all the members of which are citizens of Barbados or permanent residents of Barbados within the meaning of the *Immigration Act* or all the shares or stock of which are beneficially owned by such citizens or permanent residents of Barbados or by a company, society or other association of persons described in this paragraph; or
- (d) certified in writing by the Minister as having such substantial economic connections with Barbados in relation to its ownership as to be deemed to be a local fishing vessel for the purpose of this Act,

Cap. 190.

but does not include any fishing vessel registered outside Barbados;

"local fishing vessel licence" means a licence issued in respect of a local fishing vessel under section 11;

"locally based foreign fishing vessel" means any foreign fishing vessel based in Barbados which lands all its catch in Barbados;

"master" means the person in charge of a fishing vessel at any time, and includes a fishing master, fleet commander or pilot in charge of such vessel;

"Minister" means the Minister responsible for Fisheries;

"prohibited fishing gear", in relation to any fishing in any area, means

- (a) any net, the mesh size of which is less than the prescribed minimum mesh size for that type of net, for that fishery in that area;
- (b) any trap or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear for that fishery in that area; or
- (c) any other net or fishing gear which is prohibited by regulations made under this Act for the fisheries in that area;

"regulations" means regulations made under this Act;

"related activities", in relation to fishing, means

- 2000-8.
- (a) trans-shipping fish or aquatic flora to or from any vessel in the waters of Barbados;
 - (b) storing, processing or transporting fish or aquatic flora taken from the waters of Barbados up to the time it is first landed;
 - (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations; or
 - (d) attempting or preparing to do any of the above;

"sport fishing" means fishing for the purposes of recreation, personal consumption or competition;

"sport fishing licence" means a licence issued under this Act with respect to sport fishing;

"test fishing operations" means any fishing operations, undertaken over a limited period of time with the approval of the Chief Fisheries Officer and under the authority of a licence issued under section 8, for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations;

"waters of Barbados" means the waters of the Exclusive Economic Zone, the territorial waters and internal waters of Barbados, as defined in the *Barbados Territorial Waters Act*, and any other waters over which Barbados has fisheries jurisdiction.

PART I

Fisheries Management and Development

3. (1) There shall be appointed a Chief Fisheries Officer and such Fisheries Officers, Fisheries Assistants and other officers as may be necessary to give effect to this Act. Administra-
tion of
fisheries.

(2) The Chief Fisheries Officer shall, except as otherwise provided in this Act, be responsible for the management and development of fisheries in Barbados and for the administration of this Act.

(3) The objective of fisheries management and development shall be to ensure the optimum utilization of the fisheries resources in the waters of Barbados for the benefit of the people of Barbados.

4. (1) The Chief Fisheries Officer shall develop and keep under review schemes for the management and development of fisheries in the waters of Barbados. Fisheries
management
and
development
schemes.

(2) Each fisheries scheme shall include

- (a) an identification of the fishery concerned and the assessment of the present state of its exploitation;
- (b) a statement of the objectives to be achieved in the management and development of the fishery;
- (c) the specification of any management and development measures to be taken and policies to be adopted with respect to the fishery;
- (d) an indication of the main requirements for statistical information on the fishery and the means to be used to obtain such information;
- (e) the specification, where appropriate, of any licensing programmes to be followed for the fishery, any limitations to be

applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels; and

- (f) such other matters as may be necessary to provide for the proper management and development of the fishery.

(3) In preparing and reviewing a fisheries scheme the Chief Fisheries Officer may consult with local fishermen, any fishing co-operative or association, or any other persons affected by the fishery scheme and with the Fisheries Advisory Committee appointed under section 5.

(4) Each fisheries scheme and each review thereof shall be submitted to the Minister for approval.

Fisheries
Advisory
Committee.

5. (1) The Minister shall by instrument in writing appoint a committee to be called the Fisheries Advisory Committee to advise him on

- (a) the development and management of fisheries;
- (b) joint venture investment in fisheries, access agreements or other agreements in respect of fisheries;
- (c) matters concerning or facilitating the harmonisation of fisheries legislation including the licensing requirements for foreign fishing vessels;
- (d) the co-ordination of the policies with regard to fisheries with other departments of Government;
- (e) any other matter specified in the Act or any regulations made under the Act.

Schedule.

(2) The *Schedule* has effect with respect to the Constitution of the Committee and other matters relating to the Committee.

Regional
co-operation
in fisheries.

6. (1) The Government of Barbados may enter into arrangements or agreements with other countries in the region or with any accredited regional organization, to provide for

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- (a) the harmonization of systems for the collecting of statistics with particular reference to shared stocks, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
 - (b) the harmonization of fisheries management and conservation measures with particular reference to shared stocks;
 - (c) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels, and the operation of joint licensing schemes in respect of specified fisheries;
 - (d) such other co-operative measures as may be appropriate.

7. (1) The Government of Barbados may

- (a) enter into agreements with other states on a bilateral, regional or sub-regional basis providing for the allocation of fishing rights in the waters of those states to local fishing vessels; and
- (b) enter into access agreements with other states on a bilateral, regional or sub-regional basis or with associations representing foreign fishing vessel owners or charterers, to provide for the allocation of fishing rights in the waters of Barbados to vessels from those states or associations.

Fisheries
access
agreements.

(2) The fishing rights allocated under subsection (1)(b) shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the appropriate fisheries scheme.

(3) Any agreement entered into under subsection (1)(b) shall include a provision establishing the responsibility of the foreign state or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in the waters of Barbados.

(4) For the purposes of this section and section 8, the term "state" includes any regional organization to which the power to negotiate access agreements has been delegated by the member states of that organization.

Foreign
fishing
vessel
licences.

8. (1) Subject to subsection (2), no foreign vessel shall be used for fishing or related activities in the waters of Barbados without a valid foreign fishing vessel licence issued under this section.

(2) Subsection (1) shall not apply to a foreign fishing vessel that is

(a) used solely for sport fishing or fisheries-related research or survey operations; or

(b) exempted from the requirement of holding a foreign fishing vessel licence under an applicable access agreement.

2000-8.

(3) An application for a foreign fishing licence may be made to the Minister in such form as may be approved by him.

(4) Subject to this Act and any regulations, the Minister may issue a foreign fishing vessel licence authorising a foreign fishing vessel to be used in the waters of Barbados for such fishing or related activities as may be specified in the licence.

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

(6) A licence may be issued in respect of

(a) a foreign fishing vessel used for test fishing operations;

(b) a locally based foreign fishing vessel; or

2000-8.

(c) any foreign fishing vessel, where in the opinion of the Minister, it is in the interest of Barbados to grant a licence,

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

(7) Where a foreign fishing vessel is used in contravention of subsection (1) or any condition of the foreign fishing vessel licence, the master, owner and charterer of that vessel are each guilty of an offence and liable on summary conviction to a fine not exceeding \$500 000.

9. (1) The fishing gear of any foreign fishing vessel that is not authorised under section 8, 10 or 26 to fish in the waters of Barbados shall be stowed in the prescribed manner while the vessel is within the waters of Barbados. Stowage of fishing gear.

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

(3) Where the provisions of subsection (1) or (2) are contravened in respect of a foreign fishing vessel, the master, owner and charterer of that vessel are each guilty of an offence and liable on summary conviction to a fine not exceeding \$500 000.

10. (1) No fishing vessel shall be used for sport fishing in the waters of Barbados without a valid licence issued under this section in respect of that vessel. Sport fishing.

(2) An application for a sport fishing licence may be made to the Chief Fisheries Officer in such form as may be approved by him. 2000-8.

(3) Subject to subsection (4), the Chief Fisheries Officer may issue a sport fishing licence in the prescribed form.

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

(a) an application has been made in accordance with subsection (2);

(b) the Chief Fisheries Officer is satisfied that the vessel has been properly registered or recorded under the *Shipping Act* and that the certificate of registration or record has not been suspended, or, where the vessel is required to be recorded, that the record is valid; and Cap. 296.

(c) all fees payable in respect of the licence have been paid.

(5) The Chief Fisheries Officer may at his discretion refuse to issue or renew a sport fishing licence in respect of any foreign fishing vessel.

(6) The Chief Fisheries Officer may refuse to issue or renew a sport fishing licence

(a) where authorised to do so under regulations made to give effect to any licensing programme specified in any applicable fisheries scheme; or

(b) on such other grounds as may be specified in this Act or the regulations.

(7) Subsection 4(b) shall not apply where the Chief Fisheries Officer is satisfied that a foreign fishing vessel will be engaged only in a specified sporting activity in the waters of Barbados.

(8) Where a fishing vessel is used in contravention of subsection (1) or of any condition of a sport fishing licence, the master, owner and charterer of that vessel are each guilty of an offence and liable on summary conviction to a fine not exceeding \$50 000 or to imprisonment for a term of 12 months or to both.

Local
fishing
vessel
licences.

11. (1) Subject to subsection (2), no local fishing vessel shall be used for fishing or related activities in the waters of Barbados without a valid licence issued under this section in respect of that vessel.

(2) Subsection (1) shall not apply to a local fishing vessel used solely for sport fishing or fisheries related research or survey operations.

2000-8.

(3) An application for a local fishing vessel licence may be made to the Chief Fisheries Officer in such form as may be approved by him.

(4) Subject to subsection (5), the Chief Fisheries Officer may issue a local fishing vessel licence in the prescribed form.

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

- (a) an application has been made in accordance with subsection (3);
- (b) the vessel has been registered in accordance with section 18 and such registration has not been cancelled or suspended under this Act;
- (c) there is in existence a valid certificate of inspection issued in respect of the vessel under section 31; and
- (d) any fees payable in respect of the licence have been paid.

(6) The Chief Fisheries Officer may refuse to issue a local fishing vessel licence in respect of any local fishing vessel

- (a) where authorised to do so under regulations to give effect to any licensing programme specified in any applicable fisheries scheme;
- (b) where the application is made in respect of a fishery that has not hitherto been exploited in Barbados and the Chief Fisheries Officer is satisfied that it would be contrary to the interest of the proper management of that fishery to issue the fishing vessel licence; or
- (c) on such other grounds as may be specified in this Act or in the regulations.

(7) The Chief Fisheries Officer may refuse to renew a local fishing vessel licence in respect of any local fishing vessel

- (a) where authorised under any regulations to give effect to a licensing programme specified in an applicable fisheries scheme; or
- (b) on such other grounds as may be specified in this Act or in the regulations.

(8) Where a local fishing vessel is used in contravention of subsection (1) or of any condition of the local fishing vessel licence, the master, owner and charterer of that vessel are each guilty of an offence and liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 12 months or to both.

Commercial fishermen's licence. 2000-8. **12.** (1) No person shall fish commercially in the waters of Barbados without a commercial fisherman's licence issued under this section.

2000-8. (2) An application for a commercial fisherman's licence may be made to the Chief Fisheries Officer in such form as may be approved by him.

2000-8. (3) Subject to subsection (4), the Chief Fisheries Officer may issue or renew a commercial fisherman's licence in such form as may be approved by him.

(4) No commercial fisherman's licence shall be issued or renewed in respect of any person unless

(a) an application has been made in accordance with subsection (2);

(b) the prescribed qualifications or conditions for holding such a licence have been satisfied; and

(c) any fees payable in respect of the licence have been paid.

(5) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 000 or to a term of 6 months imprisonment or to both.

Validity of fishing licences. 2000-8. **13.** (1) Unless cancelled or suspended under section 16, a fishing licence shall be valid for such period not exceeding 5 years as may be specified in the licence.

(2) Subsection (1) does not apply to foreign fishing licences.

(3) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the local fishing vessel licence shall automatically become invalid.

(4) The validity of a foreign fishing vessel licence shall not extend beyond that of any applicable access agreement.

(5) A fishing licence shall be valid only for the fishery specified in the licence.

(6) Except as may be otherwise specified in any regulations implementing a scheme requiring the limitation of effort in any specified fishery, no fishing licence shall be transferable without the written

permission of the Chief Fisheries Officer or, in the case of a foreign fishing vessel licence, the Minister.

14. (1) Every fishing licence shall be in the prescribed form and shall be subject Conditions of fishing licences.

- (a) to such general conditions as may be prescribed; and
- (b) to such special conditions as may be specified under subsection (3) by the Chief Fisheries Officer or in the case of a foreign fishing licence, the Minister, in respect of
 - (i) the proper management of fisheries,
 - (ii) the base of operations of the vessel, the landing of its catch, and
 - (iii) the information to be submitted in respect of the vessel's operations.

(2) The Chief Fisheries Officer, or in the case of a foreign fishing vessel licence, the Minister, where he is satisfied that it is expedient for the proper management of fisheries in the waters of Barbados, may vary any specified condition attached to any fishing licence.

(3) Where the Minister or the Chief Fisheries Officer varies any special condition attached to any fishing licence he shall notify the licence holder of such variation as soon as practicable.

15. There shall be payable

- (a) in respect of every fishing licence, certificate of registration and certificate of inspection such fees as may be prescribed; and
- (b) in respect of every foreign fishing vessel licence such royalties or other charges as may be set out in any applicable access agreement, or in the case of a locally based foreign fishing vessel in test fishing operations, such royalties or other charges as the Minister may determine.

Fees,
royalties and
other
charges.

Cancellation
or suspen-
sion of
fishing
licences.

16. (1) The Chief Fisheries Officer, or in the case of a foreign fishing vessel licence, the Minister, may cancel or suspend a fishing licence on any of the grounds set out in subsection (2).

(2) A fishing licence may be cancelled or suspended where the Minister or the Chief Fisheries Officer, as the case may be, is satisfied that

- (a) it is necessary to do so in order to allow for the proper management of a particular fishery;
- (b) following the inspection of a local fishing vessel, the certificate of inspection of the vessel has been cancelled under section 31;
- (c) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulation or of any condition of the licence or in breach of any applicable access agreement;
- (d) he is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under section 6;
- (e) for such other reasons as may be set out in this Act or any regulations.

(3) Where a fishing licence has been cancelled or suspended under subsection (1), notification of the cancellation or suspension shall be given to the person to whom the licence was issued.

(4) Where a fishing licence has been cancelled on the grounds specified in subsection (2)(a), a proportion of the fees paid for the fishing licence representing the unexpired period of that licence shall be reimbursed to the licensee at his request.

Notice.

17. Notification given under section 14(3) or 16(3) shall be in writing, except that in the case of a foreign fishing vessel, notification may be by telex, radio or such other form as the Minister considers appropriate.

18. (1) Every owner of a local fishing vessel shall, before such vessel is used for commercial fishing, register the vessel in accordance with this section. Local fishing vessels to be registered.

(2) An application for registration under subsection (1) shall be made to the Chief Fisheries Officer in such form as may be approved by him. 2000-8.

(3) Upon receipt of an application made under subsection (2), the Chief Fisheries Officer shall, if he is satisfied that

(a) the application is in the approved form; and 2000-8.

(b) there is in existence a valid certificate of inspection issued in respect of the vessel under section 31,

issue to the owner a certificate of registration in respect of the vessel.

(4) A certificate of registration shall contain the registration number assigned to the vessel, the name and address of the owner of the vessel, the specifications of the vessel, its engines, its home port or normal place of mooring, and such other particulars as may be prescribed. 2000-8.

(5) The owner of the vessel shall ensure that the registration number assigned to the vessel is marked on the vessel in such manner as may be prescribed.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and liable on summary conviction to a fine of \$500.

(7) A certificate of registration shall be valid until cancelled under this Act.

19. (1) The Chief Fisheries Officer shall keep a register of every local fishing vessel in respect of which there is in existence a valid certificate of registration. Register of fishing vessels.

(2) The Chief Fisheries Officer shall keep a register of every foreign fishing vessel, including locally based foreign fishing vessels,

(a) to which foreign fishing vessel licences have been issued; or

(b) which are engaged in commercial fishing but exempted from holding foreign fishing vessel licences under applicable access agreements.

(3) The contents of a valid certificate of registration of local fishing vessels shall be *prima facie* evidence of the facts contained therein in all proceedings under this Act.

Cancellation
of certificate
of registra-
tion.

20. Where a local fishing vessel is no longer engaged in fishing, the Chief Fisheries Officer shall cancel the certificate of registration of that vessel according to the provisions set out in the regulations.

Change of
ownership
to be
notified.

21. (1) On the sale or other change of ownership of a local fishing vessel, the previous owner of such fishing vessel shall within 14 days of such sale or other change of ownership notify the Chief Fisheries Officer in writing of the change of ownership giving the name and address of the new owner.

(2) On receipt of a valid notification under subsection (1), the Chief Fisheries Officer shall cancel the original certificate of registration of the vessel and may, on application under section 18, issue to the new owner of the local fishing vessel a new certificate of registration.

(3) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of \$500.

Local
fishing
vessel
not to be
used for
fishing
unless
registered.

22. (1) No local fishing vessel shall be used for fishing or related activities in the waters of Barbados unless there is in existence a valid certificate of registration issued in respect of that fishing vessel in accordance with this Part.

(2) Where a local fishing vessel is used in contravention of subsection (1), the master, owner and charterer of that vessel are each guilty of an offence and liable on summary conviction to a fine of \$5 000.

Appeals.

23. (1) A person aggrieved by a decision of the Chief Fisheries Officer

- (a) not to issue or renew a fishing licence under section 11 or 12;
- (b) not to issue a certificate of registration under section 18;
- (c) to cancel or suspend a fishing licence under section 16;
- (d) to cancel a certificate of registration under section 20; or
- (e) to cancel a certificate of inspection under section 31;

may, within 21 days of the receipt of notification of that decision, appeal against it to a Judge in Chambers.

(2) Any person aggrieved by the Chief Fisheries Officer attaching or varying special conditions to a fishing licence under section 14 may, within 21 days of the receipt of notification of that decision, appeal against it to the Minister, whose decision shall be final.

24. (1) Any person intending to

- (a) construct a local fishing vessel;
- (b) alter a registered local fishing vessel, so that the particulars of that vessel do not correspond to those on the certificate of registration of that vessel; or
- (c) convert an existing vessel into a fishing vessel to be used for commercial fishing,

Construction and alteration of fishing vessels.

2000-8.

shall apply to the Chief Fisheries Officer for permission to construct, alter or convert the vessel. 2000-8.

(2) Within 21 days of the receipt of an application under subsection (1), the Chief Fisheries Office shall, where 2000-8.

- (a) all the information required under subsection (1) has been submitted;
- (b) he is satisfied that the design, mode and material of construction and equipment of the fishing vessel to be constructed, altered or converted are such as to allow the vessel once completed to comply with the prescribed

standards relating to seaworthiness, safety equipment and sanitary conditions for a vessel of that category or class; and

- (c) he is satisfied that the construction, alteration or conversion of a fishing vessel would not be contrary to any regulations made to give effect to any scheme for managing any particular fishery,

give permission in writing for the construction, alteration or conversion of the fishing vessel.

(3) The owner of a local fishing vessel shall notify the Chief Fisheries Officer of the completion of construction, alteration or conversion of the vessel and thereafter the Chief Fisheries Officer shall direct that the vessel be inspected under section 31 and, where a certificate of inspection is issued, shall register the vessel or record the alteration or conversion, as the case may be.

2000-8.

(4) A person who constructs, alters or converts a fishing vessel without obtaining the permission of the Chief Fisheries Officer is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

(5) This section does not apply to vessels that are less than 6 metres in length.

Persons engaged in fish processing, marketing or distribution to supply information.

25. (1) Any person engaged in the processing, marketing or distribution of fish or aquatic flora shall keep such records, and supply such information regarding the amount and species of fish received, processed, marketed or distributed by him, in such form and at such times as the Chief Fisheries Officer may require.

(2) Any person who without lawful cause refuses to submit records or supply information as required under subsection (1), or who knowingly supplies false information, is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 000.

(3) In this section "processing" means filleting, canning, drying, gutting, salting, smoking, icing, chilling, freezing or otherwise processing fish or aquatic flora for sale in or outside Barbados.

26. (1) Subject to subsection (2), no person shall undertake fisheries-related research or survey operations in the waters of Barbados except with the prior written permission of the Minister. Fisheries related research.

(2) Subsection (1) does not apply to fisheries-related research or survey operations undertaken

(a) in the waters of Barbados by an approved local research institution within the meaning of section 28;

(b) in the exclusive economic zone of Barbados by an international organisation or agency of which Barbados is a member under and in accordance with a detailed international project to which the Government of Barbados has given its formal approval.

(3) An application to undertake fisheries related research or survey operations in the waters of Barbados shall be made to the Minister in the prescribed form and shall be supported by a detailed plan of the research or survey operations to be undertaken.

(4) The Minister may on the advice of the Chief Fisheries Officer grant permission for any vessel, organisation or person to undertake fisheries related research and survey operations in the waters of Barbados and may exempt such vessel, organisation or person from any provisions of this Act or the regulations relating to fisheries conservation.

(5) Any permission or exemption granted under this section shall

(a) be in writing, and

(b) be subject to the following conditions

- (i) such scientific observers or other personnel as the Minister may designate shall be allowed on board the research or survey vessel and shall be allowed to participate fully in the research or survey project both on board the vessel and on shore;
- (ii) copies of any raw data generated by the research or survey operations shall be submitted to the Chief Fisheries Officer at the end of the operations or during the course of such operations as the Chief Fisheries Officer may require;
- (iii) the results and conclusions of the research or survey operations shall be submitted to the Chief Fisheries Officer as soon as practicable following the completion of the operations and in any case no later than the time specified for the submissions of the results and conclusions in the written permission given by the Minister;

(iv) copies of any publications arising out of the research or survey operations shall be submitted to the Chief Fisheries Officer.

(6) The Minister may on the advice of the Chief Fisheries Officer attach such other conditions to any permission granted under subsection (1) as he considers necessary.

(7) Where any of the conditions referred to in subsection (5) or (6) have been breached or permission cancelled, no further permission for fisheries related research or survey operations shall be granted to the person concerned until such time as the corrective action has been taken to the satisfaction of the Minister.

(8) Any person or organisation that undertakes or assists in any fisheries research in the waters of Barbados

(a) without permission under subsection (1); or

(b) in contravention of any condition or conditions attached to the permission under subsection (4)

is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 000.

Controls
over sale of
fish taken in
course of
fisheries
related
research and
survey
operations.

27. (1) No fish taken in the course of fisheries related research or survey operations shall be sold except with the prior authorisation of the Chief Fisheries Officer and in accordance with such conditions as he may impose.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 000.

Approved
local
research
institution.

28. (1) The Minister may designate in writing, any local scientific or academic institution as an approved local research institution for the purposes of section 26(2).

(2) It shall be a condition of the designation of an institution under subsection (1), that the institution shall

- (a) submit to the Chief Fisheries Officer, at least once a year, a list of research projects undertaken during the previous year together with a summary of the results and conclusions of any such projects completed during that period;
- (b) give the Chief Fisheries Officer access to the result of any completed research project and any data generated by or during the course of the project;
- (c) submit to the Chief Fisheries Officer, at least once a year a list, of research projects to be undertaken in the coming year;
- (d) submit to the Chief Fisheries Officer such other information regarding research projects as he may require; and
- (e) comply with such other conditions as the Chief Fisheries Officer may require in relation to the proper management of fisheries, and the observance of the international obligations of Barbados.

29. (1) Any person who

- (a) permits to be used or uses any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or
- (b) carries or has in his possession or control or is found in any vessel carrying any explosive, poison or other noxious substance in circumstances indicating any intention of using such explosive, poison or other noxious substances for any of the purposes referred to in paragraph (a),

Prohibited
fishing
methods.

is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 000 and to forfeiture of the vessel, gear and catch.

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

(3) Any person who lands, sells, receives, or is found in possession of any fish taken in contravention of subsection (1)(a) knowing or

having reasonable cause to believe them to have been so taken, is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 000 and to forfeiture of the vessel, gear and catch.

(4) Any boat or any tackle or component thereof and any dynamite or any other explosive substance or any poison, lime or any noxious material which the person so arrested shall be in possession of or use for any purpose in contravention of this Part may be seized by the person making the arrest and shall be forfeited.

(5) For the purposes of this section, a certificate as to the cause and manner of death or injury of any fish signed by the Director of Analytical Services or, in the case of the alleged use of explosives, by the Director of Analytical Services or the Chief Fisheries Officer or such other person as he may designate in writing, shall be accepted as *prima facie* evidence in a court without proof of the signature of the person purporting to have signed the certificate.

(6) For the purposes of subsection (5), the defendant to proceedings brought under this section is entitled to 14 days notice in writing of the prosecution's intention to produce the certificate in evidence.

Possession
of prohib-
ited fishing
gear.

30. (1) Subject to subsection (2), any person who, in the waters of Barbados,

- (a) uses any prohibited fishing gear; or
- (b) has any prohibited fishing gear in his possession on board any fishing vessel in circumstances that indicate an intention to use it for fishing,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$50 000 and to forfeiture of vessel, gear and catch.

(2) Any fishing gear on board a fishing vessel in the waters of Barbados, that is stowed in the prescribed manner is deemed not to be intended for use for fishing.

PART II

Safety of Commercial Fishing Vessels and Accidents at Sea

31. (1) No person shall put to sea any local fishing vessel unless there is in existence a valid certificate of inspection issued in respect of that local fishing vessel in accordance with this Part.

Certificate of inspection of local fishing vessels.

(2) Application for inspection of a local fishing vessel shall be made to the Chief Fisheries Officer.

(3) On receipt of an application under this section, the Chief Fisheries Officer or a fisheries officer or other qualified person designated by him in writing as an inspector shall inspect the local fishing vessel for the purpose of ascertaining that such fishing vessel complies with prescribed standards.

(4) Where following an inspection pursuant to subsection (3) the Chief Fisheries Officer is satisfied that the fishing vessel complies with the prescribed standards, he shall issue a certificate of inspection in the prescribed form in respect of that fishing vessel.

(5) The owner of the fishing vessel shall ensure that the certificate of inspection is carried at all times on board the fishing vessel in respect of which it has been issued, and that it is displayed in a conspicuous position in the wheelhouse or cockpit of the vessel.

(6) Unless cancelled or suspended under subsection (9), a certificate of inspection issued under this section shall be valid for a period of one year from the date of issue.

(7) The Chief Fisheries Officer, any fisheries officer designated by him in writing as an inspector or any officer or soldier of the Barbados Defence Force serving as a member of the Barbados Coast Guard may at any time without warrant stop and board any local fishing vessel for the purpose of satisfying himself that

(a) there is in existence a valid certificate of inspection in respect of that vessel; and

s.32

2000-8. (b) the vessel and its equipment are being maintained in accordance with the prescribed standards.

(8) The Chief Fisheries Officer or any fisheries officer designated by him in writing as an inspector may at any time inspect without notice any local fishing vessel for the purpose of satisfying himself that

(a) there is in existence a valid certificate of inspection in respect of that vessel; and

(b) the vessel and its equipment are being maintained in accordance with the prescribed standards.

2000-8. (9) Where following an inspection pursuant to subsection (7) or (8) the Chief Fisheries Officer is satisfied that the fishing vessel or its equipment is not being maintained in accordance with the prescribed standards, he may cancel or suspend the fishing licence in respect of that fishing vessel.

(10) For the purposes of this section, the expression "prescribed standards" in relation to a local fishing vessel means minimum standards prescribed in respect of seaworthiness, safety equipment and sanitary or other condition for vessels of that category or class.

(11) Any person who contravenes subsection (1) or (5) is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 000.

Reporting
and enquiry
into fishing
vessel
accidents.

32. (1) Whenever

(a) any fishing vessel is lost, abandoned, stranded or materially damaged at sea; or

(b) any fishing vessel causes loss or material damage to any other fishing vessel at sea; or

(c) by reason of any injury happening on board any fishing vessel at sea, loss of life ensues, the master of the fishing vessel involved shall report the events to the Chief Fisheries Officer as soon as possible.

(2) It shall be lawful for the magistrate of the district in or nearest to which is the place of mooring of such fishing vessel or in any other case, the magistrate of the district nearest to where the fishing vessel is found, to make enquiry respecting such loss, abandonment, stranding, damage or casualty.

(3) The magistrate shall for that purpose have the power to

- (a) summon such persons as he thinks fit to appear before him and examine those persons;
- (b) administer oaths or in lieu thereof, require every person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination.

(4) Any person who refuses to attend as a witness when summoned or who refuses to make any answer or to make or subscribe any declaration required of him under this section shall be liable on summary conviction to a fine not exceeding \$5 000.

(5) The magistrate making an investigation under subsection (2) may enquire into any charge of incompetency, negligence or misconduct, arising in the course of investigation against any member of the crew of a fishing vessel, as well as into any charge of a wrongful act of default on their part causing any such loss, abandonment, stranding, damage or casualty.

(6) The magistrate, if satisfied that any member of the crew of a fishing vessel has been guilty of incompetency, negligence, misconduct or a wrongful act or default, may suspend the fishing licence of such member of the crew for such time as he may think fit and may also impose a penalty not exceeding \$5 000 or imprisonment for 6 months or both.

33. (1) In every case of collision between fishing vessels it shall be the duty of the master of each fishing vessel, if and so far as he can do so without danger to his own crew, to render to the other vessel and its crew such assistance as may be practicable and may be necessary to save them from any danger caused by the collision.

Assistance to be rendered in case of collision.

(2) Where the master of a fishing vessel fails to comply with subsection (1) and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default.

(3) Where the master of a fishing vessel fails without reasonable cause to comply with this section, he is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 000.

PART III

Enforcement

Powers of
authorised
officers.

34. (1) For the purposes of enforcing this Act any authorised officer may, without warrant

- (a) stop, board and search any foreign fishing vessel in the waters of Barbados and any local fishing vessel in or outside the waters of Barbados;
- (b) require to be produced, examine and take copies of any licence or other document required under this Act; and
- (c) require to be produced and examine any fishing net or other fishing gear on board a fishing vessel whether at sea or on land.

(2) Where any authorised officer has reasonable grounds to believe that an offence has been committed under this Act, he may, without a warrant

- (a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reasonable grounds to believe that the offence has been committed or where the fish or aquatic flora illegally taken are being stored;
- (b) stop and search any vehicle in which he has reasonable grounds to believe that fish or aquatic flora illegally taken are being transported;
- (c) take samples of any fish or aquatic flora found in any fishing vessel, vehicle or premises searched under this section;

- (d) seize any vessel (together with its stores and cargo), vehicle, fishing gear, net or other fishing appliance which he has reasonable grounds to believe has been used in the commission of the offence or in respect of which the offence has been committed;
- (e) seize any fish or aquatic flora which he has reasonable grounds to believe has been caught in the commission of the offence or is being possessed, imported or exported in contravention of this Act;
- (f) seize any explosive or poison which he has reasonable grounds to believe is being possessed in contravention of this Act;
- (g) arrest or detain any person whom he has reasonable grounds to believe is involved in the commission of an offence against this Act.

(3) Any fishing vessel seized under subsection (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other form of security in accordance with the provision of section 39.

(4) Where, an offence under this Act is committed by any foreign fishing vessel, and that vessel is pursued beyond the limits of the waters of Barbados, the powers conferred on an authorised officer under this section are exercisable beyond the limits of the waters of Barbados in the circumstances and to the extent recognised by international law.

(5) An authorised officer in exercising any of the powers conferred on him by this section shall produce such means of identification as may be necessary to show that he is an authorised officer for the purposes of this Act.

35. (1) An authorised officer may, to avoid spoilage or decay of any fish, aquatic flora or other articles of a perishable nature seized under this Act, sell that fish, aquatic flora or other articles of a perishable nature in such manner as the Chief Fisheries Officer may direct.

Sale of
perishable
goods seized.

(2) All money resulting from the sale of fish, aquatic flora, or other articles of a perishable nature under subsection (1) shall be paid into the Consolidated Fund.

(3) An authorised officer who sells fish, aquatic flora or other articles of a perishable nature under subsection (1) shall give to the person from whom he seized the fish, aquatic flora or other articles of a perishable nature a receipt bearing the officer's signature and containing

(a) the date of the sale;

(b) the quantity of the fish, aquatic flora or other articles of a perishable nature sold; and

(c) the amount realised by the sale.

(4) Where a court dismisses a charge for an offence in respect of which the fish, aquatic flora or other article of a perishable nature was seized and sold, it shall order compensation not exceeding the net amount realised by the sale, to be paid to the person from whom the fish, aquatic flora or other article of a perishable nature was seized.

(5) Compensation payable under subsection (4) shall be charged on, and paid out of, the Consolidated Fund.

Immunity of
authorised
officers.

36. No action shall be brought against any authorised officer in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under this Act.

Assaulting
authorised
officers.

37. Any person who obstructs, assaults, threatens with violence, bribes or otherwise interferes with an authorised officer in the exercise of the powers conferred on him under this Act, or attempts to prevent him from executing his duties, is guilty of an offence and liable on summary conviction to a fine not exceeding \$5 000 or to imprisonment for a term of 12 months or to both.

Master liable
for offences
committed
on board his
vessel.

38. Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master of that vessel shall also be guilty of the offence.

39. The court may, on application therefor, order the release of any fishing vessel (together with its stores, cargo, and gear), vehicle, fish or aquatic flora, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming such property.

Release of vessel etc. on bond.

40. Where any person is convicted of an offence under this Act, the court, in addition to any other penalty imposed

Court's powers of forfeiture and cancellation and suspension of licences.

- (a) may order that any fishing vessel (together with its stores and cargo) and any vehicle, fishing gear, net or other fishing appliances, used in the commission of the offence be forfeited;
- (b) shall order that any fish or aquatic flora caught in the commission of such offence or the proceeds of sale of such fish or aquatic flora and any explosive, poison or other noxious substance possessed for use in the commission of such offence be forfeited;
- (c) may order that any fishing licence issued under this Act be cancelled or suspended and that no new fishing licence be issued to the person convicted of the offence for such period of time as the court may specify.

41. (1) Until the contrary is proved, all fish or aquatic flora found on board any fishing vessel which has been used in the commission of an offence under this Act is presumed to have been caught in the commission of that offence.

Presumptions.

(2) Where in any legal proceedings under this Act relating to the seizure of a foreign fishing vessel by an authorised officer on board any government or other enforcement vessel, the location in which an event is alleged to have taken place is in issue, the location stated in a certified copy of the relevant entry in the logbook or other official record maintained by the officer in charge of the government or other enforcement vessel is presumed to be the location in which such event took place, until the contrary is proved.

Onus of
proof.

42. Where in any proceedings under this Act, the defendant is charged with having committed an offence in respect of which a licence, authority or the permission of any person is required for the doing of any act, the onus shall be on the defendant to prove that at the time to which the charge related, the requisite licence, authority or permission was duly held.

Disposal of
vessel etc.
forfeited.

43. Any fishing vessel (together with its stores and cargo), and any vehicle, fishing gear, net or other fishing appliance, explosive or poison ordered to be forfeited under this Act shall be sold or otherwise disposed of in such manner as the Chief Fisheries Officer may direct.

Offences
triable as if
committed
in respect of
foreign
fishing
vessels.

44. An offence under this Act or the regulations, committed within the waters of Barbados by any person, or any such offence committed outside such waters by any person on board any local fishing vessel, is triable in any court of Barbados as if such offence had been committed in any place in Barbados within the local limits of the jurisdiction of such court.

PART IV

General

Services.

45. The Chief Fisheries Officer may provide services for the proper operation of local fishing vessels, fishing ports and mooring places and other sectors of the fishing industry, including in particular the lifting and drawing up of fishing vessels, at such rates as may be prescribed.

Regulations.

46. The Minister may make regulations generally for the management and development of fisheries in the waters of Barbados and in particular, for any of the following

- (a) prescribing mesh sizes, gear standards, closed seasons and closed areas;
- (b) prohibiting methods of fishing or types of fishing gear and prescribing the minimum sizes of fish that may be caught and retained;

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- (c) prescribing schemes for limiting effort in all or any specified fisheries;
 - (d) where appropriate, setting maximum allowable catches for all or any specified fisheries;
 - (e) prescribing the fees to be paid under this Act;
 - (f) regulating the catching and utilization of fish taken incidentally when fishing for a species for which a licence has been issued;
 - (g) providing for the registration and licensing of fishing gear and other fishing appliances;
 - (h) requiring the organisers of sport fishing tournaments to provide statistical information on catches taken during the course of the tournaments, and providing for the licensing of sport fishing clubs;
 - (i) regulating the use of underwater breathing apparatus;
 - (j) regulating or prohibiting the use of spear guns or other similar devices;
 - (k) regulating the export of fish, aquatic flora or fish products;
 - (l) regulating the landing, marketing and distributing of fish or aquatic flora including
 - (i) the control, management and regulation of any undertaking established by the Government for the marketing and distribution to the public of any fish, aquatic flora or fish products; and
 - (ii) the control, management and regulation of the premises and adjacent waters at which such undertaking is conducted;
 - (m) regulating the manner in which fishing gear is to be stowed on board fishing vessels;
 - (n) providing for the implementation of any agreement or arrangement entered into under section 6 or 7;

s.47

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- Cap. 392
- (o) regulating the use of fish-aggregating devices and fishing around such devices;
 - (p) regulating
 - (i) the taking, injuring or destroying of coral and shells outside any restricted area designated under the *Marine Areas (Preservation and Enhancement) Act*;
 - (ii) the setting of fishing fence;
 - (iii) the taking of ornamental fish;
 - (iv) aquaculture operations;
 - (q) prescribing measures for the protection of turtles, lobsters, conchs, sea-eggs and any other species;
 - (r) prescribing minimum standards and other measures for the safety of local fishing vessels and fishermen;
 - (s) providing for the particulars to be recorded in the register of fishing vessels;
 - (t) prescribing standards for the construction or alteration of local fishing vessels;
 - 2000-8. (u) regulating fishing associations;
 - 2000-8. (v) regulating the procedure in respect of licensing and registration;
 - 2000-8. (w) prescribing any other matter that is by this Act required or authorised to be prescribed;
 - 2000-8. (x) generally for giving full effect to the provisions of this Act and for the due administration thereof.

Savings.
Cap. 262.

47. Any regulations, orders and notices made under the *Fishing Industry Act*, and any licences, permits and other authorisations issued thereunder, shall, except in so far as they are inconsistent with this Act, continue to have effect as though made or issued under this Act.

SCHEDULE

(Section 5)

1. The Fisheries Advisory Committee consists of
 - (a) the Chief Fisheries Officer or his nominee *ex officio*;
 - (b) a biologist who specialises in fisheries;
 - (c) a representative of the Ministry of the Environment; 2000-8.
 - (d) four other persons engaged in the fishing industry who are recommended by the Chief Fisheries Officer;
 - (e) a representative of the Markets Division; and 2000-8.
 - (f) a representative of the registered fishing associations. 2000-8.
2. The Minister shall appoint one of the members of the Committee to be the Chairman and one member to be the Deputy Chairman respectively.
3. (1) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Committee.

(2) At any meeting of the Committee, in the absence or inability to act of both the Chairman and the Deputy Chairman, the members of the Committee present shall elect one of their members to preside at that meeting.
4. A majority of the members of the Committee present at a meeting constitutes a quorum.
5. Decisions of the Committee shall be by a majority of votes of the members present and constituting a quorum, but where in any case the voting is equal, the Chairman or other person presiding at the meeting shall have, in addition to an original vote, a second vote.
6. Members of the Committee, other than *ex officio* members, hold office for a period of 3 years from the date of appointment to the Committee and are eligible for re-appointment on the expiration of the 3-year period.
7. (1) The Minister may, by notice in writing published in the *Official Gazette*, revoke the appointment of any member other than an *ex officio* member.

(2) A member may resign his appointment by notice in writing to the Minister.

8. (1) The Committee shall meet at such times as are necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Committee determines.

(2) The Chairman may at any time summon a meeting of the Committee, and shall summon a meeting within 7 days

(a) of a request for that purpose addressed to him by at least 3 members of the Committee; or

(b) of a direction to that effect addressed to him by the Minister.

9. Minutes in proper form of each meeting of the Committee shall be kept by the Secretary or such person as the Committee appoints for the purpose, and shall be confirmed by the Chairman or the Deputy Chairman, as the case may be, as soon as practicable thereafter at a subsequent meeting.

10. (1) The Committee may invite the head of any government department or his representative or such other person as it may think fit to attend any meeting of the Committee.

(2) A person referred to in sub-paragraph (1) shall not vote at a meeting of the Committee.