

# **FISHERIES AND AQUATIC RESOURCES ACT**

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2 of 1996,  
4 of 2000,  
4 of 2004,  
22 of 2006,  
35 of 2013,  
2 of 2015,  
2 of 2016;  
11 of 2017.

**AN ACT** to provide for the management, regulation, conservation and development of Fisheries and Aquatic Resources in Sri Lanka; to give effect to Sri Lanka's obligations under certain International and Regional Fisheries Agreements; to repeal the Fisheries Ordinance, the Chank Fisheries Act, the Pearl Fisheries Ordinance and the Whaling Ordinance; and to provide for matters connected there with or incidental thereto.

[Am by s 2 of Act 35 of 2013.]

[Date of Commencement: *11th January, 1996*]

#### 1. Short title.

This Act may be cited as the Fisheries and Aquatic Resources Act.

## PART I

### ADMINISTRATION

#### 2. Appointment of Director-General and other officers.

(1) There shall be appointed—

(a) a person, by name or by office, to be or to act as the Director-General of Fisheries and Aquatic Resources (hereinafter referred to as the “Director-General”);

(b) one or more persons, by name or office, to be or to act as Director of Fisheries and Aquatic Resources; and

(c) such other officers as may from time to time be required for the purposes of this Act.

[S 2(1) subs by s 2(1) of Act 4 of 2000.]

(2) The Director-General shall be responsible for the administration and giving effect to the provisions of this Act.

[S 2(2) subs by s 2(1) of Act 4 of 2000.]

(3) Any person appointed under subsection (1) to be or to act as a Director of Fisheries and Aquatic Resources may, subject to the control of the Director-General, exercise all or any of the powers conferred upon the Director-General by or under this Act.

[S 2(3) subs by s 2(1) of Act 4 of 2000.]

(4) All officers appointed under this section shall on deemed to be public servants within the meaning of the Penal Code.

(5) All officers (not below the rank of Preventive Sergeant) appointed under this section shall be deemed to be peace officers within the meaning and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.

### **3. Establishment of Fisheries and Aquatic Resources Advisory Council.**

(1) There shall be a Fisheries and Aquatic Resources Advisory Council (hereinafter referred to as the "Council") which shall consist of—

(a) the Secretary to the Ministry of the Minister appointed under Article 44 of the Constitution to whom the subject of Fisheries and Aquatic Resources has been assigned, who shall be the Chairman of the Council;

(b) the Director-General;

[S 3(1)(b) subs by s 3(1) of Act 35 of 2013.]

(c) the Secretary to the Ministry of the Minister of the Board of Ministers of every province to whom the subject of fisheries has been assigned;

[S 3(1)(c) subs by s 3(1) of Act 35 of 2013.]

(d) the Chairman of the Council of the National Institute of Fisheries and Nautical Engineering, established under the National Institute of Fisheries and Nautical Engineering Act, No. 36 of 1999;

[S 3(1)(d) subs by s 3(1) of Act 35 of 2013.]

(e) the Director of Planning and Monitoring of the Ministry of Fisheries, who shall be the Secretary of the Council;

[S 3(1)(e) subs by s 3(1) of Act 35 of 2013.]

(f) the Chairman of the National Aquatic Resources Research and Development Agency;

(g) the Chairman of the Ceylon Fisheries Corporation established under the State Industrial Corporations Act;

(h) the Chairman of the Ceylon Fishery Harbours Corporation established under the State Industrial Corporations Act;

(i) the Secretary to the Ministry of the Minister to whom the subject of Environment is assigned, or his nominee;

[S 3(1)(i) subs by s 3(2) of Act 35 of 2013.]

(j) the Director-General of the Coast Conservation and Coastal Resource Management Department, established under Coast Conservation and Coastal Resource Management Act, No. 57 of 1981;

[S 3(1)(j) subs by s 3(2) of Act 35 of 2013.]

(ja) the Chairman of the National Aquaculture Development Authority of Sri Lanka established under the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998;

[S 3(1)(ja) ins by s 3(3) of Act 35 of 2013.]

(jb) the Director-General (Technical) of the Ministry of Fisheries;

[S 3(1)(jb) ins by s 3(3) of Act 35 of 2013.]

(jc) the Director-General of the Department of Coast Guard, established under the Department of Coast Guard Act, No. 41 of 2009;

[S 3(1)(jc) ins by s 3(3) of Act 35 of 2013.]

(jd) the Conservator-General of Forests, appointed under the Forest Conservation Ordinance (Chapter 451);

[S 3(1)(jd) ins by s 3(3) of Act 35 of 2013.]

(je) the Commissioner-General of Agrarian Development, appointed under the Agrarian Development Act, No. 46 of 2000;

[S 3(1)(je) ins by s 3(3) of Act 35 of 2013.]

(jf) the Secretary to the Ministry of the Minister to whom the subject of Irrigation has been assigned, or his nominee;

[S 3(1)(jf) ins by s 3(3) of Act 35 of 2013.]

(jg) the Secretary to the Ministry of the Minister to whom the subject of Wild Life Conservation has been assigned, or his nominee;

[S 3(1)(jg) ins by s 3(3) of Act 35 of 2013.]

(jh) the Secretary to the Ministry of the Minister to whom the subject of River Basins has been assigned, or his nominee;

[S 3(1)(jh) ins by s 3(3) of Act 35 of 2013.]

(ji) the Secretary to the Ministry of the Minister to whom the subject of Land has been assigned, or his nominee;

[S 3(1)(ji) ins by s 3(3) of Act 35 of 2013.]

(jj) the Secretary to the Ministry of the Minister to whom the subject of Tourism has been assigned, or his nominee;

[S 3(1)(jj) ins by s 3(3) of Act 35 of 2013.]

(jk) the President of the All Ceylon Madel Owners Fisheries Co-operative Society Limited, registered under the Co-operative Societies Law, No. 5 of 1972;

[S 3(1)(jk) ins by s 3(3) of Act 35 of 2013.]

(jl) the Chairman of National Fisheries Federation;

[S 3(1)(jl) ins by s 3(3) of Act 35 of 2013.]

(jm) two persons engaged in fishing, nominated by the National Fisheries Federation of Fisheries Organisations;

[S 3(1)(jm) ins by s 3(3) of Act 35 of 2013.]

(jn) two persons engaged in fishing nominated by the Multi Day Fishing Boat Owners Association;”.

[S 3(1)(jn) ins by s 3(3) of Act 35 of 2013.]

(k) the Chairman of the Sri Lanka National Federation of Fisheries Co-operative Societies Ltd;

(l) two persons engaged in fishing nominated by the Sri Lanka National Federation of Fisheries Co-operative Societies Ltd.;

(m) the President of the Fishery Products Exporters Association;

(n) the Chairman of the Association of Live Ornamental Fish Exporters of Sri Lanka;

(o) two representatives of women engaged in fishing;

(p) six other members appointed by the Minister hereinafter referred to as “appointed members” from among persons who shall have special knowledge and experience in matters relating to the fisheries industry or other scientific disciplines.

(2) The Council may invite such other persons as it may think fit to attend its meetings as observers.

(3) A person shall be disqualified from being appointed or continuing as an appointed member of the Council—

(a) if he is, or becomes, a Member of Parliament; or

(b) if he is not, or ceases to be, a citizen of Sri Lanka.

(4) Every appointed member of the Council shall, unless he vacates office earlier or is removed from office by the Minister under subsection (5), hold office for a period of three years and shall be eligible for reappointment.

(5) The Minister may remove from office any appointed member of the Council without assigning any reason therefor.

(6) In the event of the vacation of office of any appointed member, or his removal from office under the provisions of subsection (5), the Minister shall appoint another person to hold such office for the unexpired period of the term of office of his predecessor.

(7) If any appointed member is temporarily unable to discharge the duties of his office due to ill-health or absence from Sri Lanka or for any other cause, the Minister shall appoint some other person to act in his place.

(8) Subject to the provisions of this Act, the Council shall make rules regulating the procedure in regard to its meetings and the transaction of business at such meetings.

(9) No act or proceeding of the Council shall be invalid by reason only of the existence of a vacancy in the Council, or any defect in the appointment of a member of the Council.

#### **4. Functions and responsibilities of the Council.**

Subject to the provisions of this Act, the functions and responsibilities of the Council shall be—

(a) to advise the Minister on all matters relating to the management, regulation, conservation and development of fisheries and aquatic resources in Sri Lanka waters;

(b) to consider, and advise the Minister on, such other matters as the Minister may refer to the Council for advice; and

(c) to advise the Director on all such matters relating to the administration of this Act, as he may refer to the Council for advice.

#### **5. Fisheries management and development plan.**

The Secretary to the Ministry of the Minister shall, in consultation with the Council, cause to be prepared from time to time a plan for the management, regulation, conservation and development of in fisheries and aquatic resources in Sri Lanka.

### **PART II**

#### **LICENSING OF FISHING OPERATIONS IN SRI LANKA WATERS**

[Subs by s 4 of Act 35 of 2013.]

#### **6. Licensing of fishing operations.**

(1) No person shall engage in, or cause any other person to engage in, any prescribed fishing operation in Sri Lanka Waters except under the authority, and otherwise than to accordance with the terms and conditions, of a licence issued by the Director.

(2) The Director may in writing delegate the power of issuing licences to a Licensing Officer appointed under this section and for this purpose there may be appointed one or more Licensing Officers for each Administrative District.

(3) No officer below the rank of Fisheries Inspector shall be appointed to be a Licensing Officer.

#### **7. Application for a licence.**

(1) Every application for a licence under section 6 shall be made in the prescribed form to the Licensing Officer of the Administrative District in which the fishing operation is to be carried out and shall be accompanied by the prescribed fee.

(2) If there is no Licensing Officer appointed for the Administrative District in which the proposed fishing operation is to be carried out such application may be made to the Director.

(3) On receipt of an application under subsection (1) or (2), the Licensing Officer or the Director as the case may be, shall either grant a licence or, for reasons to be recorded by him, refuse a licence.

#### **8. Form and direction of the receipt.**

Every licence granted under this Part shall—

(a) be in such form as may be prescribed;

(b) unless it is cancelled earlier, be in force for a period of one year from the date of grant of the licence;

(c) be subject to such terms and conditions as may be prescribed with regard to the fishing operation for which the licence is granted.

#### **9. Reserved of licence.**

(1) A licence granted under this Part shall be able on application made to the Licensing Officer of the Administrative District not less than thirty days before the expiry of the licence.

(2) If there is no Licensing Officer appointed for the Administrative District in which the fishing operation authorised by the licence is carried on the application for the renewal of the licence shall be made to the Director.



(3) The Licensing Officer or the Director, as the case may be, shall renew the licence if he is satisfied that—

(a) the licensee has observed the terms and condition of such licence;

(b) there is no threat to the sustainability of fish or other aquatic resources as a result of renewing the licence; and

(c) the licensee has paid the prescribed fee for the renewal of the licence.

#### **10. Cancellation of licensed.**

Director or the Licensing officer as the case may be shall cancel a licence granted by him under this Part if he is satisfied that the licensee;

(a) has contravened any of the provision of this Act, or any regulation made thereunder or any terms and condition of such licence; or

#### **11. Director to communicate decision to applicant together with reasons.**

(1) Where the Director or the Licensing Officer, as the case may be, refuses to grant or renew a licence or cancels a licence he shall communicate such decision and the reasons therefor to the applicant or the licensee as the case may be, by registered post.

(2) Any such decision shall be deemed to have been communicated to an applicant or licensee as the case may be, after the expiry of a period of thirty days reckoned from the date of dispatch of such communication by registered post to the usual place of business or residence at such applicant or licensee, as the case may be.

#### **12. Appeals.**

(1) The applicant or the licensee, as the case may be, who is aggrieved by a decision communicated to him under section 11, may appeal against such decision to the Secretary of the Ministry of the Minister, in writing, within thirty days from the date on which the decision is communicated to him.

(2) The Secretary may either—

(a) allow the appeal and direct the Director or the Licensing Officer, as the case may be, to grant, renew, or revoke the cancellation of the licence; or

(b) disallow the appeal.

(3) The Director or the Licensing Officer, as the case may be, shall comply with any direction issued to him under subsection (2) by the Secretary.

(4) When an application for a licence or the renewal of a licence is refused under any of the preceding provisions of this Act, the Director or the Licensing Officer, as the case may be, shall refund to the applicant or the licensee, as the case may be, the fee accompanying such application,

(5) The decision of the Secretary under this section shall be final and conclusive.

#### **13. Grantor of licensee.**

(1) No licence granted under this Part shall be transferable except with the sanction of the Director or the Licensing Officer as the case may be, granting the licence, and shall be endorsed upon such licence.

(2) No person whose licence has been cancelled under section 10 shall be entitled to have a licence transferred in his name.

#### **13A. Furnishing of particulars of licences.**

The Director shall furnish particulars of all licences granted, renewed, cancelled or transferred under the provisions of this Part in respect of boats owned by persons residing in any province to the Secretary of the Ministry of the Board of Ministers of that Province in charge of the subject of Fisheries.

**14. Provisions of this Part not to apply to foreign fishing boat.**

The provisions of this Part shall not apply to any foreign fishing boat used for fishing operations in Sri Lanka Waters under the provisions of the Regulation of Fishing Boats Act, No. 59 of 1979.

**PART II A**

**LICENSING OF FISHING OPERATIONS  
IN THE HIGH SEAS**

[Part IIA ins by s 5 of Act 35 of 2013.]

**14A. Licensing of fishing operations in the high seas.**

No person shall engage in any prescribed fishing operations in the High Seas, except under the authority, and otherwise than in accordance with the terms and conditions, of a licence granted by the Director-General.

[S 14A ins by s 5 of Act 35 of 2013.]

**14B. Application for a licence.**

(1) Every application for a licence under section 14A shall be made in the prescribed form to the Director-General, and shall be accompanied by the declaration referred to in subsection (2) and the prescribed fee.

(2) —

(a) An application under subsection (1) shall be accompanied by a declaration, on oath, signed by the applicant stating whether he has, or has not, been issued with a licence or a permit by another State to fish in the High Seas.

(b) If the applicant declares that he has been issued with a licence or a permit by another State to fish in the High Seas, he shall also declare—

(i) the name of the State which has issued such licence or permit, and the date on which it was issued;

(ii) in case such licence or permit has been subsequently suspended, the date on which it was suspended, and the period for which it was suspended; and

(iii) in case such licence or permit has been subsequently cancelled, the date on which it was cancelled.

(3) On receipt of an application under subsection (1) the Director-General shall, subject to the provisions of subsection (4), either grant a licence or for reasons to be recorded by him, refuse to grant a licence.

(4) The Director-General shall refuse to grant a licence under subsection (3) if—

(a) the local fishing boat in respect of which the application has been made is not constructed in accordance with the specifications prescribed by regulations made under this Act;

(b) such boat is not registered under this Act;

(c) such boat is not marked in accordance with uniform and internationally recognisable vessel marking systems;

- (d) the fishing gear carried on such boat is not marked in accordance with uniform and internationally recognisable gear marking systems enabling identification of the owner of the gear;
- (e) such boat is not equipped with a vessel monitoring system and communication equipment, which enables the Director-General and his staff to communicate effectively with such boat and to exercise control over the activities of such boat;
- (f) such boat is not equipped with the safety equipment prescribed by regulations made under this Act;
- (g) the applicant has been authorised to use such boat for fishing in the High Seas by a licence or a permit issued by another State—
- (i) such licence or permit has been suspended for a period; and
- (ii) the period of suspension is still in force; or
- (iii) such licence or permit has been cancelled; and
- (iv) a period of three years has not elapsed since such cancellation.

[S 14B ins by s 5 of Act 35 of 2013.]

#### **14C. Form and duration of licence.**

Every licence granted under this Part shall—

- (a) be in such form as may be prescribed;
- (b) unless suspended or cancelled earlier, be in force for a period of one calendar year from the date of grant of such licence;
- (c) be subject to such terms and conditions as may be prescribed with regard to the fishing operations authorised by such licence, including conditions relating to the provision of information by the holder of the licence regarding the area of operations of the local fishing boat to which the licence applies, and the retained catch, the discarded catch and landings of such boat in relation to each fishing trip.

[S 14C ins by s 5 of Act 35 of 2013.]

#### **14D. Register of licences.**

(1) The Director-General shall cause to be maintained a register of all licences granted under this Part of the Act. Such register may also be maintained in electronic form.

(2) A copy or extract purporting to be certified under the hand of the Director-General to be a true copy of, or extract from, any register maintained under subsection (1) shall be admissible in evidence without proof of the signature or appointment of the Director-General, and shall be prima facie evidence of the contents of such register for all purposes, and in all proceedings, civil or criminal.

[S 14D ins by s 5 of Act 35 of 2013.]

#### **14E. Licence to be carried on board.**

The holder of a licence granted under this Part shall cause such licence to be carried at all times on the local fishing boat to which the licence applies, and shall produce such licence for inspection when required to do so by a duly authorised officer.

[S 14E ins by s 5 of Act 35 of 2013.]

#### **14F. Prohibition on fishing in foreign waters.**

The holder of a licence granted under this Part shall not use, or cause to be used, the local fishing boat to which the licence applies for fishing operations in waters within the national jurisdiction of another State, unless authorised to do so in accordance with the laws of that State.

[S 14F ins by s 5 of Act 35 of 2013.]

**14G. Licensee to comply with conservation and management measures.**

The holder of a licence granted under this Part, authorising the use of a local fishing boat for fishing operations in the High Seas shall not use such boat, or cause such boat to be used, in contravention of regulations, made by the Minister under section 61(t), implementing conservation and management measures adopted—

- (a) under the United Nations Convention on the Law of the Sea of December 10, 1982;
- (b) by the Indian Ocean Tuna Commission;
- (c) under the Fish Stocks Agreement 1995; and
- (d) under the Food and Agriculture Organisation (FAO) of the United Nations Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing 2009, and which are binding on Sri Lanka.

[S 14G ins by s 5 of Act 35 of 2013.]

**14H. Renewal of licence.**

(1) The holder of a licence granted under this Part may apply to the Director-General for a renewal of the licence, not less than thirty days before the expiry of the licence.

(2) The Director-General shall renew the licence if he is satisfied that—

- (a) the local fishing boat to which the licence applies continues to comply with the conditions referred to in section 14B(4);
- (b) the holder of the licence has observed the terms and conditions of such licence;
- (c) the holder of the licence has paid the prescribed fee for the renewal of the licence; and
- (d) the renewal of the licence will not undermine the effectiveness of the conservation and management measures referred to in section 14G, and implemented by regulations made under section 61.

[S 14H ins by s 5 of Act 35 of 2013.]

**14I. Suspension of a licence.**

The Director-General shall, after giving the holder of a licence an opportunity of being heard, suspend a licence granted under this Part, if he is satisfied that such holder is being investigated for the contravention of section 14F or section 14G. Any such suspension shall be effective until the conclusion of the investigation.

[S 14I ins by s 5 of Act 35 of 2013.]

**14J. Cancellation of a licence.**

The Director-General shall cancel a licence granted under this Part, if he is satisfied that—

- (a) the holder of the licence has been convicted of an offence under this Act;
- (b) the holder of the licence has contravened any provision of this Act or any regulation made thereunder or any term or condition of such licence;

- (c) the holder of the licence has used the local fishing boat to which the licence applies for unauthorised fishing in waters within the national jurisdiction of another State, or for unauthorised or illegal activities in waters within the national jurisdiction of another State or in the High Seas;
- (d) the fishing boat to which the licence applies has ceased to be a local fishing boat; and
- (e) the registration of the fishing boat has been cancelled.

[S 14J ins by s 5 of Act 35 of 2013.]

**14K. Director-General to communicate the decision together with reasons.**

Where the Director-General refuses to grant or renew a licence or suspends or cancels a licence, he shall communicate such decision and the reasons therefor to the applicant or to the licensee, as the case may be.

[S 14K ins by s 5 of Act 35 of 2013.]

**14L. Appeals.**

(1) The applicant or the licensee, as the case may be, who is aggrieved by a decision communicated to him under section 14K, may appeal against such decision to the Secretary of the Ministry of the Minister in writing, within thirty days from the date on which the decision is communicated to him.

(2) —

(a) The Secretary shall refer every appeal made to him under subsection (1) to the Appeals Advisory Committee for its recommendations on such appeal.

(b) The Appeals Advisory Committee shall consist of three persons appointed by the Secretary from amongst persons who have knowledge and experience in the management and conservation of fisheries and aquatic resources.

(c) The Appeals Advisory Committee shall make its recommendations on an appeal referred to it under paragraph (a) after having heard both parties, within fourteen days of such reference.

(3) The Secretary shall determine an appeal made to him under subsection (1) taking into consideration the recommendations of the Appeals Advisory Committee, and may either—

(a) allow the appeal and direct the Director-General to grant or renew the licence or to revoke the suspension or cancellation of the licence; or

(b) disallow the appeal for reasons assigned.

(4) The Director-General shall comply with any direction issued to him under subsection (3) by the Secretary.

(5) When an application for a licence or the renewal of a licence is refused, the Director-General shall refund to the applicant or the licensee, as the case may be, the fee accompanying such application.

(6) The decision of the Secretary under this section shall be final and conclusive.

[S 14L ins by s 5 of Act 35 of 2013.]

**14M. Transfer of licences.**

(1) A licence granted under this Part shall not be transferred except with the consent of the Director-General and any such transfer shall be endorsed upon such licence. In the event of a transfer, the registration of the fishing boat shall be transferred in the transferee's name.

(2) A person whose licence has been cancelled under section 14J shall not be entitled to have a licence transferred in his name.

[S 14M ins by s 5 of Act 35 of 2013.]

#### **14N. Educational programmes for fishers.**

The Director-General shall, subject to the availability of resources, conduct long term educational and training programmes, to educate the fishers on the regulations made under this Act and on the guidelines issued by the Indian Ocean Tuna Commission; and to create awareness among fishers about the measures taken by the Government to conserve fish stocks and to minimise pollution.

[S 14N ins by s 5 of Act 35 of 2013.]

### **PART III**

#### **REGISTRATION OF LOCAL FISHING BOATS**

#### **15. Registration of local fishing boat.**

(1) The Director shall cause to be maintained a register of local fishing boat.

(2) Every owner of a local fishing boat used for the purpose of taking fish in Sri Lanka Waters or the High Seas shall apply to the Director for registration of such boat and of the name of such owner.

[S 15(2) am by s 6 of Act 35 of 2013.]

(3) Every application for registration under subsection (2) shall be made in the prescribed form and shall be accompanied by the prescribed fee.

(4) On receipt of an application under subsection (2) the Director may call upon the applicant to furnish such other documents or information as he may specify to prove that the applicant is the owner of the fishing boat to respect of which the application is made.

(5) The Director shall, having considered such application and the documents and information if any, furnished under subsection (4), register the local fishing boat in respect of which the application is made and the name of such owner, or for reasons to be recorded by him, refuse to register the local fishing boat and the name of the owner thereof.

(6) The person whose name appears as the owner in the register of local fishing boats shall, for the purpose of this Act, be deemed to be the owner of such boat.

(7) The Director shall pay to the Provincial Fund of each Province at the end of each year such percentage as may be prescribed of the fees received during that year for the registration of prescribed types of the local fishing boats owned by persons residing in that province.

(8) The Director shall furnish particulars of registration under this section, of boats owned by persons residing in each Province to the Secretary of the Ministry of the Minister of the Board of Ministers of that Province in charge of the subject of Fisheries.

#### **16. Change of possession to be reported to the Director.**

(1) Every change of ownership of a registered local fishing boat shall be reported by the new owner or possessor of such boat within thirty days of such change, to the Director who shall, on payment of the prescribed fee, register the name of the new owner of such boat in the register of local fishing boats.

(2) The breaking up or loss of a registered local fishing boat shall be reported to the Director by the owner or possessor of such boat within sixty days of such breaking up or loss.

(3) Where any change of ownership of a local fishing boat is not reported within thirty days as required under the preceding provisions of this section, the new owner or possessor as the case may be, shall be guilty of an offence under this Act.

#### **16A. Cancellation or suspension of registration of fishing boats and the licence for fishing operations.**

The Director-General may, where he has reasonable grounds to believe that any person is engaged in carrying out unlawful fishing operations in waters within the jurisdiction of another State, and the fishing boat used for such operations is a local fishing boat registered under section 15, he may, after affording such person or the owner, as the case may be, an opportunity of being heard—

(a) cancel or suspend for such period as may be determined by him, the registration of such boat as a local fishing boat under section 15; and

(b) cancel or suspend any licence issued in respect of that fishing boat, under section 6 or section 14A, as the case may be, authorising the licensee to engage in any prescribed fishing operations in Sri Lanka waters or the High Seas, as the case may be.

[S 16A ins by s 7 of Act 35 of 2013.]

#### **16B. Cancellation on information by owner.**

Where the owner of a registered fishing boat requests the Director-General, in writing, to cancel the registration of a fishing boat which is registered in his name, as he does not intend to use such fishing boat for the purpose of fishing in Sri Lanka waters or the High Seas after a specified date, the Director-General shall after satisfying himself on the fact that such fishing boat will not be used for the purpose of fishing in Sri Lanka waters or the High Seas, cancel the registration of such fishing boat. Such cancellation shall be effective from the date as is specified by him. He shall also inform the owner of the fact of cancellation in writing.

[S 16B ins by s 7 of Act 35 of 2013.]

#### **17. Registration of instruments mortgage.**

(1) Every instrument creating a mortgage of a local fishing boat (hereinafter referred to as an “instrument of mortgage”) shall be presented to the Director.

(2) Each instrument of mortgage shall, in the order in which it is presented, be registered by the Director in the register of local fishing boats.

#### **18. Priority of Instruments of mortgage.**

When there are more instruments of mortgage than one registered in respect of the same local fishing boat, such instruments shall be entitled to priority one over the other according to the date on which such instrument is registered and not according to the date of execution:

Provided that, fraud or collusion in securing the prior registration of any instrument of mortgage shall defeat the priority of the person claiming thereunder.

#### **19. Registered mortgage of local fishing boat to subsist.**

Notwithstanding anything in any other law, where an instrument of mortgage of a local fishing boat is registered under section 17, any sale or other disposition of the local fishing boat by or against the mortgagor shall not, so long as the mortgage continues in force, extinguish or be deemed to extinguish, the mortgage of that local fishing boat which shall remain subject to the mortgage in the hands of the transferee or other person in whose favour such disposition is effected.

#### **20. Entry of discharge of mortgage.**

Where a registered mortgage of a local fishing boat is discharged, the Director shall on the production of the instrument of mortgage with the certificate of discharge of the mortgage endorsed thereon duly signed and attested and the receipt issued by the mortgagee in respect of the amount

received, make an entry in the register of local fishing boats to the effect that the mortgage has been discharged.

#### **21. Mortgage not effected by bankruptcy.**

A registered mortgage of a local fishing boat shall not be effected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the local fishing boat in his possession, order or disposition or was the reputed owner thereof, and the mortgage shall be preferred to the right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

#### **22. Transfer of mortgages and registration.**

(1) A registered mortgage of a local fishing boat may be transferred to any person and the instrument effecting the transfer (hereinafter referred to as the "instrument of transfer") shall be in the prescribed form. Every instrument of transfer shall be presented to the Director for registration.

(2) Every instrument of transfer of a mortgage shall be registered by the Director in the register of local fishing boats.

(3) The person to whom such mortgage has been transferred shall enjoy the same priority as was enjoyed by the transferor provided the transfer is duly registered in the register of local fishing boats.

#### **23. Transmission of interest mortgage on bankruptcy.**

(1) Where the interest in a mortgage of a local fishing boat is transmitted by bankruptcy, death, or any other lawful means, not being a transfer under section 22, the person to whom the interest is transmitted shall—

(a) make a declaration to the Director stating his name, address and the manner in which the interest in the mortgage has been transmitted to him; and

(b) produce to the satisfaction of the Director evidence of the transmission of the interest in the mortgage of the local fishing boat.

(2) The Director shall, on receipt of the declaration and on production of the evidence referred to in subsection (1), enter in the register of local fishing boats in which the mortgage is registered, the name and address of the person to whom the interest has been transmitted, as mortgagee of the local fishing boat.

(3) The person to whom the interest of a mortgage is transmitted by bankruptcy, death or by any other lawful means, not being a transfer under section 22, shall enjoy the same priority as was enjoyed by such mortgagee.

#### **24. Searches and copies.**

All registers and documents kept under this Act may be searched and examined by any person claiming to be interested therein or by his Attorney-at-law or agent duly authorised in writing, and certified copies of, or extracts from, any such register or document may be obtained from the Director on payment of the prescribed fee.

#### **25. Evidence.**

A copy or extract purporting to be certified under the hand of the Director to be a true copy of, or extract from, any register or document kept pursuant to this Part shall be admissible in evidence without proof of the signature or appointment of the Director, and shall be *prima facie* evidence of the contents of such register or document for all purposes and in all proceedings, civil or criminal.

#### **26. Other written not to apply.**



The provisions of any written law, other than this Act, requiring the registration under that law of any instrument creating the mortgage of movable property shall not apply to an Instrument of mortgage registered under this Act.

## **PART IV**

### **PROTECTION OF FISH AND OTHER AQUATIC RESOURCES**

#### **27. Prohibition against the use or possession of poisonous or explosive substances.**

(1) No person shall—

(a) use or attempt to use any poisonous, explosive or stupefying substance (including dynamite) or other noxious or harmful mater or substance in Sri Lanka Waters for the purpose of poisoning, killing, stunning or disabling any fish or other aquatic resources;

[S 27(1)(a) am by s 2(1)(a) of Act 4 of 2004.]

(b) carry, or have in his possession any poisonous, explosive or stupefying substance (including dynamite) or other noxious or harmful material (not being a fishing net) or any substance for any purpose referred to in paragraph (a).

[S 27(1)(b) subs by s 2(1)(b) of Act 4 of 2004.]

(2) No person shall land, sell, buy, receive, possess or transport any fish or other aquatic resources knowing of having reasonable cause to believe that such fish or other aquatic resources have been taken by the use of any poisonous, explosive or stupefying substance (including dynamite) or other noxious or harmful material or substance.

[S 27(2) am by s 2(2) of Act 4 of 2004.]

(3) No person shall place, deposit, dump or cause the escape of, poisonous, explosive or stupefying substance (including dynamite) or other noxious or harmful material or substance in Sri Lanka Waters.

[S 27(3) am by s 2(2) of Act 4 of 2004.]

#### **28. Prohibited fishing gear water engage method.**

No person shall use or possess, or have on board any local fishing boat, any prohibited fishing gear or engage many any prohibited fishing method in any area of Sri Lanka Waters or the High Seas.

[S 28 am by s 8 of Act 35 of 2013.]

#### **28A. Prohibition of fishing operations utilising bottom trawl nets.**

(1) —

(a) No person shall engage in or cause any other person to be engaged in fishing operations utilising bottom trawl nets, including nets with or without two wings or using vertical poles at the two free ends of the net, to be towed by motorised or mechanised fishing boats.

(b) No person shall use, possess, import, transport, purchase or sell any bottom trawl net, to be towed by a motorised or mechanised fishing boat for the purpose of carrying out fishing operations in Sri Lanka Waters.

(2) No license shall be issued by the Director-General under Part II of this Act for fishing operations carried out by bottom trawl nets to be towed by a motorised or mechanised fishing boat in Sri Lanka Waters.

(3) Any license, issued under this Act for fishing operations carried out utilising bottom trawl nets towed by motorised or mechanised fishing boats in Sri Lanka Waters, shall not be renewed:

Provided that, a license already issued for the use of bottom trawl nets and which is still in force on the day preceding the date of commencement of this Act, shall notwithstanding anything to the contrary in this Act, continue to be valid for the purpose and in respect of which the license has been issued, for the period specified therein.

[S 28A ins by s 2 of Act 11 of 2017.]

## 29. Catching and possession of prohibited fish.

No person shall catch, land, transport, sell buy, receive or have in his possession, such species of prohibited fish, or other aquatic resources as may be prescribed.

### 29A. Presumption.

In any prosecution for an offence referred to in section 27 it shall be presumed, unless the contrary is proved, that such poisonous, explosive or stupefying substance (including dynamite) or other noxious or harmful material or substance was used, carried or possessed for any of the purposes referred to in section 27.

[S 29A ins by s 3 of Act 4 of 2004.]

### 30. Prohibition or regulation of export and import of fishing.

(1) The Minister may in consultation with the Minister in charge of the subject of Trade, by Order published in *Gazette*, and having regard to the need to protect the aquatic resources of Sri Lanka, prohibit or regulate the export from, or import into, Sri Lanka of any species of fish including live fish or any eggs, roe or spawn or any products prepared from such fish, eggs, roe or spawn at other aquatic resources for such period of time as may be specified in the Order.

(2) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

### 31. Fisheries Management Areas<sup>1</sup>.

(1) The fishers of any area may request the Director-General, in writing, to designate a specified area of Sri Lanka waters or both such waters and the land adjacent thereto, as a Fisheries Management Area for the purposes of this Act.

(2) The Director-General may—

(a) of his own motion, or

(b) on a request made to him in writing under subsection (1),

recommend to the Minister that a specified area of Sri Lanka waters or both such waters and the land adjacent thereto, be designated as a Fisheries Management Area:

Provided that, the Director-General shall make such a recommendation only upon satisfying himself after such inquiries and investigations as are reasonable in the circumstances, that there are threats to the sustainability of fish and other aquatic resources in any area.

(3) Upon receipt of the recommendation under subsection (2), the Minister may, by Order published in the *Gazette*, designate the area referred to in the recommendation as a Fisheries Management Area for the purposes of this Act.

[S 31 subs by s 9 of Act 35 of 2013.]

### 31A. Fisheries Management Coordinating Committee.

(1) There shall be a Fisheries Management Coordinating Committee (hereinafter referred to as the "Coordinating Committee") for every Fisheries Management Area designated by an Order made under section 31, appointed by the Director-General.

(2) The Coordinating Committee shall be constituted by the Director-General from among the following taking into consideration the matter to be determined by such Coordinating Committee—

(a) the officer in charge of the District Fisheries Office and two other officers from that office;

(b) —

(i) not more than four persons elected from among members of the fisheries committee formed for that Fisheries Management Area; or

(ii) where there are two or more fisheries committees in that Fisheries Management Area, not more than twelve persons elected by the members of all the fisheries committees in that Fisheries Management Area:

Provided however, that there shall be an equal number of members from each of such fisheries committees;

(iii) all members of existing Fisheries Management Authorities;

(c) the District Secretary of the Administrative District within which the Fisheries Management Area is situated;

(d) the Divisional Secretary of the Administrative District within which the Fisheries Management Area is situated;

(e) the Chairman of the Pradeshiya Sabha constituted for the Pradeshiya Sabha area within which the Fisheries Management Area is situated;

(f) the Mayor of the Municipal Council constituted for the Municipality within the limits of which the Fisheries Management Area is situated or the Chairman of the Urban Council for the Urban Council area within the limits of which the Fisheries Management Area is situated;

(g) an officer of the Urban Development Authority established under the Urban Development Authority Law, No. 41 of 1978, nominated by the Chairman of that Authority;

(h) the Provincial Director of Fisheries of the Province within which the Fisheries Management Area is situated;

(i) an officer of the Department of Coast Conservation and Coastal Resource Management established under the Coast Conservation and Coastal Resource Management Act, No. 57 of 1981 nominated by the Director-General of Coast Conservation and Coastal Resource Management;

(j) an officer of the National Aquatic Resources Research and Development Agency established under the National Aquatic Resources Research and Development Agency Act, No. 54 of 1981 nominated by the Chairman of the Governing Board of that Agency;

(k) an officer of the National Aquaculture Development Authority established under the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998, nominated by the Chairman of the Board of Directors of that Authority;

(l) an officer of the Central Environmental Authority established under National Environmental Act, No. 47 of 1980, nominated by the Chairman of that Authority;

(m) an officer of the Department of Wild Life Conservation established under the Fauna and Flora Protection Ordinance nominated by the Director-General of Wild Life Conservation;

(n) an officer of the Department of Forest Conservation, established under Forest Conservation Ordinance nominated by the Conservator-General of Forest:

- (o) an officer of the Marine Environment Protection Authority established under Marine Pollution Prevention Act, No. 35 of 2008, nominated by the Chairman of that Authority;
  - (p) an officer of the Ministry of Land nominated by the Secretary to the Ministry of the Minister to whom the subject of land has been assigned;
  - (q) an officer of the Sri Lanka Tourism Development Authority established by the Tourism Act, No. 38 of 2005, nominated by the Chairman of that Authority;
  - (r) an officer of the Department of Police nominated by the Deputy Inspector General of Police for the Province within which the Fisheries Management Area is situated;
  - (s) an officer of the Department of Coast Guard established by the Department of Coast Guard Act, No. 41 of 2009, nominated by the Director-General of that Department; and
  - (t) an officer of the Sri Lanka Navy nominated by the Commander of the Navy for the province within which that Fisheries Management Area is situated.
- (3) The Director-General shall appoint from among the officials referred to in paragraph (a) of subsection (2) a Secretary or a Convener of the Coordinating Committee. The Secretary or the Convener shall convene all meetings of the Coordinating Committee constituted for a Fisheries Management Area.
- (4) The Coordinating Committee constituted for a Fisheries Management Area shall meet at least once in every month, or in the case of an emergency.
- (5) The Director-General or his nominee shall preside at all meetings of a Coordinating Committee. In the absence of the Director-General or his nominee from a meeting of a Coordinating Committee, the members present may elect, from among themselves, a Chairman for that meeting.
- (6) The Director-General may appoint other persons, including representatives of Divisional Coordinating Committees, representatives of associations representing other commercial activities conducted within the limits of the Fisheries Management Area, representatives of the fisher women's groups and representatives of non-governmental organisations involved in natural resources management and the welfare of fishers, within the limits of the Fisheries Management Area, to be members of the Coordinating Committee.

[S 31A ins by s 10 of Act 35 of 2013.]

### **31B. Fisheries Development and Management Plans.**

- (1) It shall be the duty of a Coordinating Committee constituted for a Fisheries Management Area, to submit to the Director-General a Fisheries Development and Management Plan in respect of the Fisheries Management Area, within a period of one year from the date of the Order under section 31(3) designating such area as a Fisheries Management Area.
- (2) A Fisheries Development and Management Plan prepared by a Coordinating Committee shall include any or all of the following proposals—
- (a) proposals for the division of the Fisheries Management Area into zones for particular uses;
  - (b) proposals for the prohibition or regulation of the use of particular types of fishing gear or equipment for the taking of fish and aquatic resources in the Fisheries Management Area;
  - (c) proposals for the prohibition or regulation of the use of particular methods for taking of fish or aquatic resources in the Fisheries Management Area;
  - (d) proposals for the prohibition of the taking of particular species of fish or aquatic resources in the Fisheries Management Area;

- (e) proposals for the declaration of closed seasons for fishing in particular parts of that Fisheries Management Area or for particular species of fish in that Fisheries Management Area;
  - (f) proposals for regulating the times at which fish or aquatic resources may be taken in the Fisheries Management Area;
  - (g) proposals for the preservation of locations of scenic beauty or of cultural or ecological significance in the Fisheries Management Area;
  - (h) proposals for the improvement of the sustainability of fish and other aquatic resources in the Fisheries Management Area;
  - (i) proposals to address research, postharvest and marketing and development aspects related to the Fisheries Management Area;
  - (j) proposals for monitoring, compliance and surveillance; and
  - (k) proposals for consultation and review.
- (3) The Director-General having regard to the purposes of this Act, shall within sixty days of a Fisheries Development and Management Plan being submitted by a Coordinating Committee, make modifications if any, to the plan and submit the plan to the Minister for his approval.
- (4) The Minister shall approve a plan submitted under subsection (3), within sixty days of it being submitted to him and shall cause the plan to be published in the *Gazette*. The plan shall be operative from the date of its publication in the *Gazette* or from such later date as may be specified therein.
- (5) The Minister shall give effect to the provisions of the plan by making appropriate regulations under section 61 and by the publication of appropriate notices under section 34.

[S 31B ins by s 10 of Act 35 of 2013.]

### **32. Fisheries Committees.**

- (1) Registered fishermen residing or engaged in fishing in each fisheries management area or part thereof, or migrant fishermen may form themselves into a fisheries committee.
- (2) The functions of a fisheries committee shall include—
- (a) ...

[S 32(2)(a) rep by s 11 of Act 35 of 2013.]

- (b) assisting its members to obtain boats, gear, and equipment to be used in fishing operations;
  - (c) carrying out social infrastructure and welfare activities with a view to improving the living standards of the fishing community of that area; and
  - (d) engaging in such other activities as are approved by the Director as beneficial to the fishing community of the area.
- (3) The Director may, on application by any fisheries committee, register such fisheries committee and shall publish in the *Gazette* a notification of such registration.
- (4) From and after the date of registration of a fisheries committee under subsection (3) such committee shall be a body corporate with perpetual succession and a common seal and may sue and be sued by the name by which it is registered.
- (5) Regulations may be made in respect of the election of office bearers of such committee and the procedure for the transaction of business by such committee and the audit of such accounts by the Director or an officer authorised by him in that behalf.

(6) The Director may cancel the registration of any fisheries committee if he is satisfied, after holding such inquiry as he may deem fit, that the fisheries committee has been inactive or has failed to conduct itself in the interests of its members.

(7) The Director shall, where he cancels the registration of a fisheries committee, appoint a person to be liquidator of that fisheries committee who shall have the power to—

(a) take possession of the books, documents and assets of the fisheries committee;

(b) sell the property of the fisheries committee;

(c) decide any question of priority among the creditors of the fisheries committee;

(d) compromise any claim by or against the fisheries committee with the prior approval of the Director; and

(e) arrange for the distribution of the assets of the fisheries committee in the prescribed manner.

(8) In the liquidation of any fisheries committee, its funds are applied first to the cost of liquidation and then to the discharge of its liabilities, any surplus remaining after the closure of the liquidation shall be credited to the Consolidation fund.

### **33. Register of fishermen.**

(1) Every fisheries committee shall, in the prescribed manner and form, prepare, revise and maintain a register of fishermen residing or engaged in fishing, within the area of authority of such committee:

Provided, however, that the first register of fishermen residing or engaged in fishing within the area of authority of such committee shall be prepared and certified by the Director.

(2) Regulations may be made in respect of the procedure to be followed in the preparation and revision of the register referred to in subsection (1). Such regulations shall provide—

(a) for any person who claims to be entitled to have his name entered in such register and whose name is not entered therein to apply to the fisheries committee to have his name entered in such register;

(b) for any person whose name is entered in such register and who objects to the name of any other person appearing therein to apply to the fisheries committee to have that name removed from such register;

(c) the procedure to be followed by the fisheries committee in the determination of such applications; and

(d) for appeals to the Director from the determinations of a fisheries committee on any claims or objections made to such committee.

### **34. Minister to declare closed or open season for fishing.**

(1) The Minister may, by notice published in the *Gazette* declare a closed season or an open season—

(a) for fishing in such areas and times as may be specified in the notice; and

(b) for taking, in such areas of such species of fish, as may be specified in the notice.

(2) Every notice referred to in subsection (1) shall be published in Sinhala, Tamil and English in three or more national newspapers and shall be displayed in a conspicuous place or places in the area or areas in respect of which the closed or open season for fishing or the taking of specified species of fish has been declared.

(3) No person shall, during a closed season declared under subsection (1)—

(a) fish to the area or areas specified in the notice; or

(b) take, in such area or areas, any species of fish specified in the notice.

### **35. Use of fishing boats for research or scientific purposes.**

(1) The Director may give written permission authorising any local fishing boat to be used for research operations, experimental fishing or scientific investigations relating to fish and aquatic resources in Sri Lanka Waters.

(2) The Director may in giving permission under subsection (1), attach such conditions as he may think fit regarding the conduct of such research operations, experimental fishing or scientific investigations.

(3) Nothing in section 6 shall apply in respect of any local fishing boat operating under the authority of, and in accordance with, the written permission of the Director given under subsection (1).

(4) Nothing in section 31 or 34 shall apply to any person operating any local fishing boat under the authority given under subsection (1), or to any person operating any foreign boat under the authority of, and in accordance with the written permission of the Director given under subsection (1) of section 12 of the Fisheries (Regulation of Foreign fishing Boats) Act, No. 59 of 1979.

## **PART V**

### **CONSERVATION**

#### **36. Declaration of fisheries reserves.**

The Minister may, in consultation with the Minister in charge of the subject of Conservation of Wildlife, by Order published in the *Gazette*, declare any area of Sri Lanka Waters or any land adjacent thereto or both such waters and land to be a fisheries reserve, where he considers that special measures are necessary.

(a) to afford special protection to the aquatic resources to danger of extinction in such waters or land and to protect and preserve the natural breeding grounds and habitat of fish and aquatic resources with particular regard to coral growth and aquatic ecosystems;

(b) to promote regeneration of aquatic life in areas where such life has been depleted;

(c) to protect the aquatic medium;

(d) to promote scientific study and research in respect of such area; or.

(e) to preserve and enhance the natural beauty of such area.

#### **37. Acts prohibited in fisheries reserves.**

No person shall, except upon a permit obtained from the Director or any person authorised by the Director in that behalf in the prescribed form and on payment of the prescribed fee—

(a) engage in any fishing operation in such reserve;

(b) mine, collect or otherwise gather or process coral, or any other aquatic resources, dredge, or extract sand or gravel, discharge or deposit waste or any other polluting matter or in any other way disturb, interfere with or destroy, fish or other aquatic resources or their natural breeding grounds or habitat in such reserve; or

(c) construct or erect any building or other structure on or over any land or waters within such reserve.

**PART VI**  
**AQUACULTURE**

**38. Leasing of State lands.**

Subject to the provisions of the Crown Lands Ordinance there shall be leased, such portions of, State land or the Sri Lanka Waters as the Minister may consider necessary in the interest of the national economy, for the purpose of aquaculture.

**39. Licensing of aquaculture operations.**

(1) No person shall set up, operate or engage in any aquaculture operation except under the authority of a licence issued by the Director-General for that purpose.

(2) The Director-General shall have the power to delegate in writing to any Licensing Officer appointed under section 40, his authority under subsection (1) to issue licences in respect of aquaculture operations.

[S 39 subs by s 2 of Act 22 of 2006.]

**40. Appointment of Licensing Officers.**

(1) The Director-General shall appoint in respect of each Administrative District, one or more persons as Licensing Officers, from among persons who are nominated for that purpose under section 14A of the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998, by the Director-General of the Authority.

(2) An officer appointed as a Licensing Officer under subsection (1) shall perform such duties as may be delegated to such officer in writing by the Director-General under subsection (2) of section 39. The Licensing Officer shall in the performance of his duties, be subject to the general direction and supervision of the Director-General.

[S 40 subs by s 2 of Act 22 of 2006.]

**41. Application for licence and the processing of such application.**

(1) Every application for the issue of a licence under section 39 shall be made in the prescribed form to the appropriate Licensing Officer appointed for the Administrative District within which the aquaculture operation is proposed to be set-up, operated or engaged in.

(2) Every application submitted under subsection (1) shall contain complete and accurate information of all required particulars and be accompanied by the prescribed fee.

(3) The Licensing Officer may, having considered the information and particulars contained in an application submitted under subsection (1), and where the applicant has fulfilled the requirements as prescribed pertaining to suitability to be issued with a licence under section 39, issue such licence to the applicant.

(4) An application found to contain false, misleading or incorrect information or particulars shall be rejected.

[S 41 subs by s 2 of Act 22 of 2006.]

**42. Form and duration of a licence.**

A licence issued under section 41, shall—

(a) be in such form as the Director-General may determine in consultation with the Authority;

(b) be subject to such terms and conditions as specified in the licence;

(c) become operative from such date as shall be specified in the licence; and



(d) unless earlier revoked, be in force for the period as specified in the licence.

[S 42 subs by s 2 of Act 22 of 2006.]

#### **43. Renewal of a licence.**

(1) A licence issued under section 41 may be renewed upon an application being submitted for that purpose in the prescribed form to the appropriate Licensing Officer, accompanied by the prescribed renewal fee, not less than thirty days prior to the date of expiration of the licence previously issued.

(2) The Licensing Officer may renew a licence on receipt of an application under subsection (1), where—

(a) the licensee has not violated or done anything in contravention of the terms and conditions of the licence issued;

(b) the licensee has not contravened any provisions of this Act or any regulations made thereunder;

(c) the licensee has not contravened any provisions of the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made thereunder; or

(d) the continuation of the aquaculture operation concerned will not have any adverse impact on the environment.

(3) The provisions of section 42 shall apply in respect of a licence issued on renewal under this section.

[S 43 subs by s 2 of Act 22 of 2006.]

#### **43A. Suspension of a licence.**

(1) A licence issued under section 41 may be suspended by the Director-General, where—

(a) it becomes necessary in order to implement any aquaculture conservation or management measures adopted in consequence of a determination made by the Authority;

(b) the licensee has been charged for the commission of an offence under this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made under those Acts; or

(c) the licensee has contravened any provisions of this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made under those Acts, and the severity of such contravention does not warrant a cancellation of the licence.

(2) Where a licence is suspended under paragraph (a) of subsection (1), the licensee shall be entitled to a pro rata refund of the fee paid by him for the issue of the licence.

[S 43A ins by s 3 of Act 22 of 2006.]

#### **43B. Cancellation of a licence.**

(1) A licence issued under section 41 shall be cancelled by the Director-General, where—

(a) it is found that the licence had been obtained by providing false, misleading or inaccurate information;

(b) the licensee has been convicted of an offence under this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998;

(c) the licensee has been convicted for an offence relating to any fishing or aquaculture activity under any written law;

(d) the licensee has contravened any provision of this Act or the National Aquaculture development Authority of Sri Lanka Act, No. 53 of 1998 or any regulation made under those Acts;

(e) the licensee has acted in contravention or in violation of any terms or conditions subject to which such licence was issued; or

(f) the continuation of the aquaculture operation would have an adverse impact on the environment.

(2) Where a licence issued is suspended or cancelled as the case may be under section 43A or this section, it shall be the duty of the Director-General to forthwith inform the licensee of such suspension or cancellation, by a written communication sent under registered post to the address given by the licensee.

[S 43B ins by s 3 of Act 22 of 2006.]

#### **43C. Reasons to be communicated.**

Where an application for the issue or renewal of a licence under section 41 or section 43, as the case may be, has been refused, the reasons for such refusal shall be recorded by the Licensing Officer to whom such application for the issue or the renewal was made. It shall be the duty of such Licensing Officer to inform the person making such application, by a written communication sent under registered post to the address appearing in the application, of the reasons for such refusal.

[S 43C ins by s 3 of Act 22 of 2006.]

#### **43D. Appeals.**

(1) Any person aggrieved by a decision refusing the issue or renewal, as the case may be, of a licence or the suspension or cancellation of a licence issued, may, within thirty days of the date of receipt of the written communication informing such person, of the refusal or the suspension or cancellation, as the case may be, appeal against such decision to the Secretary to the Ministry of the Minister.

(2) The decision on any appeal submitted under subsection (1) shall be made within sixty days of the receipt of such appeal and the person making such appeal shall be informed of the decision made on it, forthwith.

(3) Where the Secretary to the Ministry of the Minister considers it appropriate, he may hold such inquiry as deem necessary in the circumstances of the case, prior to arriving at any decision on any appeal made to him under subsection (1).

(4) The decision of the Secretary to the Ministry of the Minister on any appeal made under this section, shall be final.

[S 43D ins by s 3 of Act 22 of 2006.]

#### **43E. Complaints against Licensing Officer.**

(1) Any person who is dissatisfied with the actions of a Licensing Officer may forward a complaint in writing to the Director-General and it shall be the duty of the Director-General to take all such action as is appropriate to inquire into such complaint and recommend to the Authority the steps that may be taken in regard to the same.

(2) Notwithstanding the provisions of subsection (1), the Director-General shall have the power after inquiring into any complaint made against a Licensing Officer and where it appears to be appropriate in the circumstances, to remove such Officer from the post of Licensing Officer.

[S 43E ins by s 3 of Act 22 of 2006.]

#### **43F. Crediting of fees collected to the Authority.**

It shall be the duty of the Director-General to credit monthly to the Fund of the Authority, all sums collected as fees for the issue and renewal of any licences under section 41 and section 43, as the case may be.

[S 43F ins by s 3 of Act 22 of 2006.]

## **PART VIII**

### **SETTLEMENT OF DISPUTES**

[Subs by s 4 of Act 22 of 2006.]

#### **44. Settlement of fishing disputes.**

- (1) When any fishing dispute arises or is apprehended, such dispute may be referred by the Director to an Authorised Officer for inquiry.
- (2) When a fishing dispute is referred to an Authorised Officer under subsection (1) he shall summon the parties to the dispute and endeavour to settle the dispute by conciliation.
- (3) If the Authorised Officer succeeds in settling a fishing dispute, a memorandum setting out the terms of settlement shall be drawn up by him and shall be signed by the parties to the dispute or by their representatives such terms of settlement shall be binding on the parties to the dispute.
- (4) If the Authorised Officer fails to effect a settlement, he shall proceed to hear the parties to the dispute and their witnesses and shall determine such dispute.
- (5) Any person who is affected by a fishing dispute or by any matter relating to connected with or arising from such dispute, which is the subject matter of an inquiry before as Authorised Officer shall be entitled to be present at such inquiry and to make oral or documentary representations relating to such dispute.
- (6) It shall be the duty of the Authorised Officer to prepare a report containing his findings upon the matters inquired into and such recommendations as he may consider necessary in regard to those matters and the rights restrictions or prohibitions which should be conferred or imposed pertaining to the taking of fish in the waters relating to which the dispute arose or is apprehended or any other related matter. Such report shall be read out at the conclusion of the inquiry. The parties to the dispute and any other person who is affected by such report shall be entitled to obtain a copy of such report on payment of the prescribed fee.
- (7) The Authorised Officer shall endeavour to conclude the proceedings taken under this section within a period of one month from the date on which the dispute is referred to him where he takes a longer period for such proceedings he shall record the reason therefor.
- (8) The Minister may make regulations providing for the procedure to be followed at an inquiry held under this section.
- (9) Any person who is affected by any fishing dispute into which an inquiry is held under this section, or by any matter relating to, connected with or arising from that dispute may, before the expiration of a period of one month from the date of the report in relation to that dispute, make representations in writing to the Minister on any matter dealt with in the report.
- (10) The Minister after considering the report prepared under subsection (8) in respect of any fishing dispute and any representations made to him under subsection (9) with reference to that report, may—
  - (a) make order canceling the registration of any fishing net or fishing gear and the owner thereof registering in place of such fishing net or fishing gear and the owner thereof any other fishing net or fishing gear and the owner thereof;

(b) make regulations regarding the subject matter of that dispute or any matter relating thereto or connected therewith or arising therefrom, including regulations for the purpose of—

(i) prohibiting, restricting or regulating the tabbing of fish in any specified part of Sri Lanka Waters by persons not belonging to any specified group or section of persons specified fishing boats, fishing gear and methods; or

(ii) Nothing in the preceding provisions of this section shall be deemed or construed to authorise the reference thereunder of any dispute in relation to the subject matter of which any civil action or other civil proceeding is pending before any court of competent jurisdiction.

#### **45. Interim Orders in respect of fishing disputes.**

(1) Where the Minister apprehends that any fishing dispute which has been referred for inquiry and report Under section 44 is likely to result in a breach of the peace, he may by Order published in the *Gazette*, make all such provisions in respect of the matters referred to in paragraphs (b)(i) and (ii) of subsection (10) of that section as he may deem necessary to prevent such breach of the peace.

(2) Any Order made by the Minister under subsection (1) in respect of any fishing dispute shall come into force on the date of its publication in the *Gazette* and shall cease to be in force on the date of the coming into force of regulations, if any, made by the Minister under section 44 (10) in respect of that dispute.

#### **45A. Aquaculture disputes.**

(1) Where any dispute arises or is apprehended relating to an aquaculture operation, such dispute shall be referred by the Director-General for inquiry and settlement to an authorised officer nominated for that purpose. An authorised Officer may in the conduct of an inquiry be assisted by any Licensing Officer.

(2) The provisions of the section 44 and section 45 shall *mutatis mutandis*, apply to and in respect of the conduct and settlement of a dispute referred to in subsection (1).

[S 45A ins by s 5 of Act 22 of 2006.]

#### **46. Powers of authorised officers.**

(1) The Director shall authorise such number of officers not below the rank of Fisheries Inspector, as may be necessary to implement the provisions of this Act, who shall be known as “authorised officers”.

(2) An authorised officer authorised under subsection (1) shall be deemed to be a peace officer within the meaning of the Code of Criminal Procedure Act, No.15 of 1979.

(3) An authorised officer shall, for the purpose of ascertaining whether the provisions of this Act or any regulation made thereunder are being complied with, have the power—

(a) to stop, go on board and search any fishing boat in Sri Lanka Waters or any local fishing boat engaged in fishing operations in the high seas, and examine such boat, the crew thereof, the fishing gear and other equipment carried therein and any fish or other aquatic resources found on board such boat;

(b) to stop and search any vehicle transporting any fish or other aquatic resources; or

(c) to examine and take copies of any licence, permit, book, certificate or other document required to be obtained or maintained by or under this Act.

(4) An authorised officer, where he has reason to believe that an offence under this Act has been committed, may, with or without a warrant—

- (a) enter and search at all reasonable hours of the day, any premises in which he has reason to believe such offence has been committed;
- (b) enter and search at all reasonable hours of the day any premises in which fish or other aquatic resource, taken in contravention of the provisions of this Act or any regulation made thereunder are being stored or kept;
- (c) take samples of any fish or other aquatic resources found in any premises searched under paragraph (a) or paragraph (b);
- (d) arrest any person found in any such premises, who he has reason to believe, has committed an offence under this Act or any regulation made thereunder;
- (e) seize any boat, engine, fishing net or other fishing gear or equipment, or any vehicle or thing which he has reason to believe, has been used in or in connection with, the commission of an offence under this Act or any regulation made thereunder;
- (f) seize any fish or other aquatic resources or stores or cargo which he has reason to believe have been taken in the commission of such offence, or have been landed, sold, bought, received, or possessed to contravention of this Act or any regulation made thereunder; or
- (g) seize any poisonous, explosive or stupefying substance or other noxious or harmful material or substance which he has reason to believe has been used, or is possessed, in contravention of this Act.

(5) Where a fishing boat or other thing is seized under subsection (4), the authorised officer by whom the boat or other thing is seized shall, as soon as possible produce that boat or other thing before a Magistrate's Court of competent Jurisdiction and the Court shall make such order as it may deem fit relating to the detention or custody of the boat or other thing, pending the conclusion of any proceedings instituted in respect of that boat or other thing:

Provided that, where any fish or other aquatic resources seized under subsection (4) are subject to speedy decay, an authorised officer may sell such fish or other aquatic resources and shall deposit the proceeds of such sale in the Magistrate's Court.

(6) Every person arrested under subsection (4) shall be informed of the reason for his arrest, and shall be produced before a court of competent jurisdiction within twenty-four hours of such arrest, exclusive of the time necessary for the journey from the place of arrest to that court.

#### **46A. Granting of bail.**

No bail shall be allowed by a Magistrate to any person who is accused of an offence under paragraph (a) or (b) of subsection (1) or subsection (3) of section 27 of this Act:

Provided however, the High Court of the Province established under Article 154P of the Constitution may, for exceptional circumstances shown to the satisfaction of the Court, allow bail to such person who is accused of an offence under paragraphs (a) or (b) of subsection (1) or subsection (3) of section 27 of this Act.

[S 46A ins by s 4 of Act 4 of 2004.]

#### **47. Power of.**

(1) Where default is made by any person in the payment of any sum due to the Government on any agreement entered into between the Government and such person in respect of a fishing boat, engine, fishing net or other fishing gear, or equipment, the Director may in writing empower any authorised officer to seize and remove such fishing boat, engine, fishing net or other fishing gear or equipment.

(2) An authorised officer, for the purpose of seizing any fishing boat, engine, fishing net or other fishing gear or equipment under subsection (1) may enter and search any premises or place in which he has reason to believe such fishing boat, engine, fishing net or other fishing gear or equipment is kept.

(3) Nothing in this section shall be deemed to prejudice the Government from recovering any sum due to the Government on any agreement referred to in subsection (1) in accordance with the provisions of any other law for the time taking in force.

#### **48. Authorised section.**

(1) An authorised officer when acting under the provisions of this Act, shall declare his office and produce such identification as may be reasonable sufficient to show last he is an authorised officer for the purpose of this Act.

(2) It shall not be an offence for any person to refuse to comply with a request, demand or order made by an authorised officer if such authorised officer fails to declare his office and produce such identification as may be reasonably sufficient to show that he is an authorised officer for the purpose of this Act.

### **PART IX**

#### **OFFENCES AND PENALTIES**

#### **49. Offences.**

(1) Any person who contravenes or fails to comply with the provisions of sections 15, 16, 17 or 22 or any Order made under section 30 of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding twenty five thousand rupees.

[S 49(1) subs by s 12(1) of Act 35 of 2013; am by s 2(1) of Act 2 of 2016.]

(1A) Any person who contravenes or fails to comply with the provisions of section 14E of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees.

[S 49(1A) ins by s 2(2) of Act 2 of 2016.]

(2) Any person who contravenes or fails to comply with the provisions of sections 6, 28, 34 or 35 of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding twenty five thousand rupees.

[S 49(2) subs by s 12(1) of Act 35 of 2013.]

(2A) Any person who contravenes or fails to comply with the provisions of sections 14A or 14F of this Act shall commit an offence and shall on conviction after summary trial before a Magistrate be liable to an imprisonment for a term not exceeding two years or to a fine not less than the amounts specified in Column II of the Schedule hereto which shall be determined by taking into consideration the length of the fishing boat specified in corresponding entry in the Column I of the Schedule—

#### **SCHEDULE**

Column I	Column II
Length of a boat	Fines
10.3 to less than 15 meters	Rupees 1.5 Million
15 to less than 24 meters	Rupees 5 Million

24 to less than 45 meters	Rupees 75 Million
45 to 75 meters	Rupees 120 Million
more than 75 meters	Rupees 150 Million

[S 49(2A) subs by s 2 of Act 2 of 2015.]

(2AA) Any person who contravenes or fails to comply with the provisions of section 28A of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to an imprisonment for a term not exceeding two years or to a fine not less than fifty thousand rupees.

[S. 49(2AA) ins by s 3 of Act 11 of 2017.]

(2B) Any person who contravenes or fails to comply with the provisions of section 29 of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding fifty thousand rupees.

[S 49(2B) ins by s 12(2) of Act 35 of 2013.]

(3) Any person who contravenes the provisions of paragraph (a) of subsection (1) or subsection (3) of section 27 of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not less than three years and not exceeding five years or to a fine not less than one hundred thousand rupees and on a second or subsequent conviction to imprisonment of either description for a term not less than five years and not exceeding seven years or to a fine not less than five hundred thousand rupees.

[S 49(3) subs by s 5 of Act 4 of 2004.]

(3A) Any person who contravenes the provisions of paragraph (b) of subsection (1) or subsection (2) of section 27 of this Act, shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not less than one year and not exceeding three years or to a fine not less than fifty thousand rupees and on a second or subsequent conviction to imprisonment of either description for a term not less than three years and not exceeding five years or to a fine not less than one hundred thousand rupees.

[S 49(3A) ins by s 5 of Act 4 of 2004.]

(4) Any person who—

(a) fails or refuses to stop any fishing boat in Sri Lanka Waters or beyond the limits of Sri Lanka Waters, or any vehicle transporting fish or other aquatic resources, when required to do so by an authorised officer;

(b) fails to appear before an authorised officer when summoned to do so under subsection (2) of section 44 or being a party to a settlement entered under subsection (3) of section 44 fails to comply with the terms of such settlement;

(c) does not allow the search and examination of such boat, the crew thereof, the fishing gear and other equipment carried therein and any fish or other aquatic resources found on board such boat or vehicle transporting fish or other aquatic resources, by an authorised;

(d) refuses to be searched by, obstructs or resists, or escapes or attempts to escape from the custody of, an authorised officer acting in pursuance of the powers conferred on him by section 46,

shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding twenty five thousand rupees.

[S 49(4) am by s 12(3) of Act 35 of 2013.]

(5) Any person who contravenes a regulation made under this Act other than a regulation made under section 61(t) shall be guilty of an offence under this Act and shall, on conviction after summary trial before a Magistrate be liable to a fine not exceeding twenty five thousand rupees:

Provided that in the case of a conviction for an offence involving the contravention of a regulation prohibiting—

- (a) purse seine net fishing;
- (b) the purchase, sale, transport or possession of a spiny lobster carrying external eggs or of a slipper lobster with external eggs; or
- (c) the removal of the eggs of a spiny lobster or of a slipper lobster, the fine shall be a fine not exceeding fifty thousand rupees.

[S 49(5) subs by s 12(4) of Act 35 of 2013.]

(6) Any person who contravenes any regulation made under section 61(t) of this Act shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one million rupees.

[S 49(6) ins by s 12(5) of Act 35 of 2013.]

(7) Any person who contravenes any regulation made under section 61(1)(t) of this Act beyond the limits of Sri Lanka Waters shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to an imprisonment for a term not exceeding two years or to a fine not less than the amounts specified in Column II of the Schedule hereto based on the length of the fishing boat specified in corresponding entry in the Column I of the Schedule or to a fine not less than five times the value of relevant fish catch or whichever is higher.

#### SCHEDULE

Column I	Column II
Length of a fishing boat	finest
More than 10.3 and less than 15 meters	Rupees 1.0 Million
More than 15 and less than 24.0 meters	Rupees 1.5 Million
More than 24.0 and less than 45.0 meters	Rupees 25 Million
More than 45.0 and less than 75.0 meters	Rupees 50 Million
More than 75.0 meters	Rupees 100 Million

[S 49(7) ins by s 2(3) of Act 2 of 2016.]

(8) Any person who contravenes any regulation made under section 61(1)(u) of this Act shall be liable to a fine of not less than five times of the value of relevant fish catch.

For the purposes of this section “relevant fish catch” means quantity of fish catch at the time of the offence, valued by a panel of members appointed under section 52E of this Act.



[S 49(8) ins by s 2(3) of Act 2 of 2016.]

#### **49A. Offences relating to aquaculture operations.**

Every person who—

- (a) carries on any aquaculture operation without a valid licence;
- (b) being a licensee discharges, dumps, deposits, releases or permits the discharging, dumping, depositing or releasing of any poisonous, noxious or harmful material or substance or waste water to any inland waters or to any land in such a manner as will affect the environmental quality of that land;
- (c) being a licensee does any act which would have adverse effect on the environment;
- (d) carries on any aquaculture operation and refuses when lawfully required by a Licensing Officer to give information or gives information which is false, incorrect or misleading in any material respect;
- (e) uses abusive or threatening language or makes insulting gestures or behaves in a threatening manner towards a Licensing Officer who is carrying out his duties or exercising his powers under this Act;
- (f) assaults or obstructs a Licensing Officer in the performance of his duties under this Act;
- (g) fails, refuses or neglects to immediately and fully comply with every lawful instruction or direction given by a Licensing Officer;
- (h) impersonates or falsely represent himself to be a Licensing Officer; or
- (i) interferes in any way with a Licensing Officer in the performance of his duties, shall be guilty of an offence under this Act, and shall on conviction after a summary trial before a Magistrate be liable to imprisonment of either description for a term not less than eighteen months and not exceeding thirty six months or to a fine not less than twenty five thousand rupees and not exceeding one hundred thousand rupees, or to both such fine and imprisonment.

[S 49A subs by s 6 of Act 22 of 2006.]

#### **50. Offences by bodies of persons.**

Where an offence under this Act is committed by a body of persons, then—

- (a) if that body is a body corporate, every person who at the time of the commission of the offence was the director, secretary or other similar officer of that body; or
- (b) if that body is not a body corporate, every person who at the time of the commission of the offence was a member or partner of that body,

shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of that offence.

#### **51. Forfeiture.**

(1) Where any person is convicted of an offence under this Act—

- (a) any fishing boat, engine, fishing net or other fishing gear or equipment or any vehicle or thing used in, or in connection with, the commission of such offence; or

- (b) any fish or other aquatic resources caught or taken in the commission of such offence or the proceeds of sale of such fish or other aquatic resources deposited in court under section 46,

shall, by virtue of such conviction, be forfeited to the State.

(2) Any fishing boat, engine fishing net or other fishing gear or equipment or any vehicle or thing, or fish or other aquatic resources, or proceeds of sale of any fish or other aquatic resources deposited in court under section 46, forfeited to the State by reason of the operation of subsection (1) shall vest absolutely in the State. Such vesting shall take effect—

(a) where no appeal is preferred against the conviction by virtue of which the forfeiture has taken place upon the expiration of the period within which an appeal may be preferred to the Court of Appeal or to a High Court established under Article 154P of the Constitution against the conviction; or

(b) where an appeal has been preferred to the Court of Appeal or to a High Court established under Article 154P of the Constitution against such conviction or an appeal has been preferred to the Supreme Court against the decision of the Court of Appeal or High Court as the case may be, upon the determination of such appeal confirming or upholding the conviction.

(3) The Director or any person authorised by him shall thereafter take possession of any fishing boat, engine fishing net or other fishing gear, or equipment, or any vehicle or thing, or fish or other aquatic resources vested in the State under subsection (2), and may sell or otherwise dispose of the same.

(4) Any proceeds realised by selling any fishing boat, engine, fishing net or other fishing gear, or equipment, or any vehicle or thing or fish or other aquatic resources under subsection (3) shall be credited by the Director to the Fisheries Reward Fund.

(5) Any proceeds of the sale of fish or other aquatic resources vested in the State under subsection (2) shall be transferred by the Magistrate to the Fisheries Reward.

## **52. Compounding of offences.**

(1) Where any offence, not being an offence under section 27 has been committed in contravention of any of the provisions of this Act, the Director may, in the case of a first offender, having regard to the circumstances in which the offence was committed and with the approval of the Minister, compound such offence for a sum of money equal to not less than one fifth of the maximum fine that could be imposed for such offence, and order the release of any fishing boat, engine, fishing net or other fishing gear or equipment, or any vehicle or thing, or fish or other aquatic resources seized under section 46(4), in respect of which no order of detention has been made by a Magistrate under section 46(5), on payment of a sum of money not exceeding the estimated value of such fishing boat, engine fishing net or other fishing gear, or equipment, or vehicle or thing, or fish or other aquatic resources.

(2) The compounding of any offence under subsection (1) shall be notified in writing under the signature of both parties to the Magistrate's Court, where. Proceeding in connection with the commission of the offence is pending and shall have the effect of an acquittal.

## **52A. Magistrate's Court to have jurisdiction notwithstanding the provisions of the Code of Criminal Procedure Act.**

Notwithstanding anything to the contrary contained in section 11 and section 14 of the Code of Criminal Procedure Act, No. 15 of 1979, the Magistrate's Court shall have the jurisdiction to try offences specified in this Act, and to impose any fine as provided for such offences in this Act.

[S 52A ins by s 3 of Act 2 of 2015.]

## **52B. Imposition of a penalty.**

(1) Where the Director-General has sufficient evidence to believe that any person being a licensee has acted in contravention of the provisions of sections 14A, 14E, 14F or 14G of this Act or any regulation made under sections 61(1)(t) or 61(1)(u) of this Act, he may on the recommendation of the panel appointed under section 52E of

this Act, and in the case of a first offender, having regard to the circumstances in which the offence was committed and if it is appropriate to impose a penalty cause a notice to be served in the prescribed form on such person, requiring him to appear within one month of the date of the receipt of such notice and show cause why a penalty should not be imposed on him.

(2) Where the person on whom the notice is served admits that he acted in contravention of the provisions of sections 14A, 14E, 14F or 14G of this Act or any regulation made under sections 61(1)(t) or 61(1)(u) of this Act within one month of the date of receipt of such notice, the Director-General shall impose on that person a monetary penalty not exceeding one third of the maximum fine that could be imposed under this Act to which such person would be liable if convicted by a court.

(3)—

(a) Where the person on whom the notice is served, appears within one month of the date of receipt of such notice and states that he has a cause to show against the imposition of the penalty, the Director-General may proceed forthwith to hear and decide the matter in the manner prescribed.

(b) Where the Director-General is not satisfied with reasons given he may after assigning reasons therefor, impose the penalty specified in subsection (2) of this section.

(4) Where the Director-General imposes a monetary penalty on any person under this section for any contravention of the provisions of sections 14A, 14E, 14F or 14G of this Act or any regulation made under sections 61(1)(t) or 61(1)(u) of this Act he shall cause a notice in the prescribed form to be served on such person.

(5) Any person aggrieved by the decision of the Director-General, may appeal to the Secretary of the Ministry of the Minister to whom the subject of Fisheries and Aquatic Resources Development (hereinafter referred to as "the Secretary") is assigned, within thirty days from the date of receipt of such decision made under subsection (3).

(6) The secretary shall make a decision on any such appeal taking into consideration the decision of the Director-General and the circumstances in which the offence was committed, and may either—

(a) allow, alter or vary the appeal and direct the Director-General to act accordingly; or

(b) disallow the appeal for reasons stated.

(7) The Director-General shall comply with any direction issued to him by the Secretary within fourteen days from such direction and shall communicate the direction of the Secretary to the person aggrieved by his decision.

(8) Every notice under this section shall be sent under registered post, and if sent under registered post or exhibited in the last known place of abode, it shall be deemed to have been served on that person.

(9) Notwithstanding anything contained in this Act, no suit or prosecution shall lie in any court regarding the same offence, where the alleged offender has admitted the commission of such offence and paid such penalty.

[S 52B ins by s 3 of Act 2 of 2016.]

## **52C. Right of Appeal.**

**Any person aggrieved by the decision of the Secretary may prefer an appeal to the Court of Appeal within thirty days from the date of communication of such decision, on question of law.**

[S 52C ins by s 3 of Act 2 of 2016.]

#### **52D. Presumption.**

**Any person engaged in fishing operations fails to link with the Fisheries Monitoring Centre or fails to operate vessel monitoring system during such fishing operation for a period of one hour then it is presumed until the contrary is proved that he has violated the provisions of sections 14A, 14E, 14F or 14G of this Act or any regulation made under sections 61(1)(t) or 61(1)(u) of this Act.**

[S 52D ins by s 3 of Act 2 of 2016.]

#### **52E. Appointment of panel of experts.**

(1) There shall be appointed by the Director-General in consultation with the Secretary a panel of experts consisting of three persons who have the knowledge and experience in the fields of marine engineering, law and accountancy.

(2) It shall be the function of such panel of experts to make recommendations to the Director-General on circumstances under which he shall impose a monetary penalty on any person.

(3) The Minister shall pay such monetary remuneration as he shall determine in consultation with the Minister to whom the subject of Finance is assigned to members of the panel.

[S 52E ins by s 3 of Act 2 of 2016.]

#### **53. Release of detained boats.**

(1) Where a Magistrate has ordered the detention of a fishing boat or other thing under section 48(5), the owner or the person from whose possession such boat or other thing was seized may apply to the Magistrate for the release of such boat or other thing on the provision of a bond or other security acceptable to the court.

(2) The Magistrate to whom an application is made under subsection (1) may order the release of the boat or other thing on the execution by a person approved by the magistrate of a bond or on the provision of other security acceptable to court in an amount not less than the aggregate of the value of the fishing boat including all fishing gear, equipment stores and carrying the value of the fish or other aquatic resources on board at the time of seizure other than the value of any fish or other aquatic resources which had been sold and the proceeds of which had been deposited in court in accordance with the proviso to section 44(5).

(3) The amount specified in a bond shall be recoverable in full by the Magistrate as a fine imposed by court in the event of a violation of the terms and conditions of the bond.

#### **54. Presumption as to the Institute of the.**

(1) For the purposes of this Act, it shall be presumed until the contrary is proved that where any fish is found at any time in any fishing boat at any place for Sri Lanka or in Sri Lanka Waters, such fish was taken—

(i) by the owner of that boat, if he is to the boat at the time or if no person is found to the boat at that time; or

(ii) by the person for the time being in the boat and in charge thereof, if the owner is not to the boat at that time.

(2) In any prosecution for a contravention of any of the provisions of section 27 in respect of any fish, it shall be presumed until the contrary is proved, that such fish was taken in Sri Lanka water.

#### **55. —**

(1) Where any poisonous, explosive or stupefying substance or other noxious or harmful material or substance, which can be used for the purpose of poisoning killing or stupefying fish is found in the possession or control of any person in the neighborhood of any area of Sri Lanka Waters, shortly

after such substance or material is proved, to have used such substance or material for the purpose aforesaid.

(2) where any poisonous explosive or stupefying substance or other noxious or harmful material or substance which can be used for the purpose of poisoning, killing of stupefying fish, if found in the possession or control of any person in a fishing boat in Sri Lanka waters, that person shall be presumed until the contrary is proved to have attempted to use such substance or material for the purpose aforesaid.

**56. —**

Where any fishing net or other fishing gear or equipment the use of which, in any specified part of Sri Lanka Waters is prohibited by any regulations made under this Act is found in the possession of any person within the distance of half a mile from such waters, then for the purpose of any prosecution for a contravention of the regulation that person shall be presumed until the contrary is proved to have used such net or other setting gear or equipment in such Waters.

**57. Jurisdiction over offences committed at sea.**

Where any offence this Act is committed by any person within or outside Sri Lanka waters, the Magistrate's Court having jurisdiction—

- (a) over that part of the coast nearest to the place at which the offence was committed; or
  - (b) over the place at which the person comes ashore after the commission of the offence,
- shall have jurisdiction to try the offence.

**57A. Fifty per centum of fines imposed to be credited to the Authority.**

Notwithstanding anything to the contrary in any other law, fifty *per centum* of every fine imposed by a court for the commission of an offence under section 49 of this Act, shall be credited to the Fund of the Authority.

[S 57A ins by s 7 of Act 22 of 2006.]

**PART X**

**GENERAL**

**58. Administration of provided council authorities.**

It shall be the duty of the Director to ensure that, in the administration of the provisions of this Act, the Secretary of the Ministry of the Minister of the Board of Ministers or every province in charge of the subject of Fisheries is consulted on matters affecting fishing operations within such province.

**58A. Licensing Officers required to produce proof of identification.**

- (1) A Licensing Officer in the performance of his duties under this Act, shall be required to declare his office and produce such identification as may reasonably be sufficient to prove that he has been appointed as a Licensing Officer for the purposes of this Act.
- (2) The refusal by any person to comply with a request, demand or order made by a Licensing Officer shall not be an offence under this Act, if such Officer fails to declare his office or produce such identification as may reasonably be sufficient to prove that he has been appointed as a Licensing Officer under this Act.

[S 58A ins by s 8 of Act 22 of 2006.]

**59. Reward Fund.**

- (1) There shall be a fund which shall be called the Fisheries Reward Fund (hereinafter referred to as "the Reward Fund").

- (2) The Director shall be responsible for the administration of the Reward Fund.
- (3) There shall be credited to the Reward Fund all proceeds realised of sales under section 51 (4).
- (4) The Director may from time to time pay out of the Reward Fund, a reward—
  - (a) to any officer appointed under section 2;
  - (b) to any authorised officer; or
  - (c) to any informer,of such sum of money as he may deem fit provided, however, that such sum shall not exceed the maximum prescribed by regulations made under this Act.
- (5) The accounts of the Reward Fund shall be audited annually by the Auditor-General in accordance with Article 154 of the Constitution.

#### **60. Imposition of cess on the import of fish or fish products.**

- (1) There shall be charged, levied and recovered a cess on any fish or fish products imported to Sri Lanka in addition to any duty imposed under any other written law at such rate as may be determined from time to time by Parliament by resolution.

For the purpose of this section “fish products” means edible or non-edible products processed from fish and other aquatic resources and includes fresh, frozen, or canned products, fish oil, fish meal and fertiliser.

- (2) The cess shall be collected by the Director-General of Customs and credited to the Consolidated Fund.
- (3) This section shall apply as though it formed part of the Customs Ordinance and the provisions of that Ordinance shall apply accordingly.

#### **61. Regulations.**

- (1) The Minister may make regulations for and in respect of all or any of the following matters—
  - (a) all matters stated or required in this Act to be prescribed or for which regulations are authorised or required to be made under this Act;
  - (b) the reservation of specified areas of Sri Lanka Waters for different types of fisheries or methods of fishing;
  - (c) the construction of all types of fishing boats;
  - (d) the type, size and manner of marking of registered fishing boats;
  - (e) the periodic inspection of fishing boats and the issue of certificates of seaworthiness and the fees payable for such inspection;
  - (f) the minimum standards of navigation to be observed, and the safety equipment required to be kept, by the owners of local fishing boats operating in Sri Lanka Waters;
  - (g) the minimum manning standards to be observed by the owners of local fishing boats;
  - (h) the registration of fishing nets or other specified fishing gear or equipment used in Sri Lanka Waters or in any part of such waters, and of the owners thereof, the officers by whom they shall be registered, the fees payable for such registration, and the marking of registered fishing gear or equipment;
  - (i) the protection of the aquatic medium;

(j) the prohibition of the use of any specified equipment, device, method or substance for the purpose of, or in connection with, the taking of fish and other aquatic resources, and the regulation of the time and the manner of the taking of fish and other aquatic resources;

(k) the regulation of the exercise of the powers contracted by section 46;

(kk) the implementation of the provisions of a Development and Management Plan approved by the Minister and published in the *Gazette* under section 31B(4);

[S 61(1)(kk) ins by s 13(1) of Act 35 of 2013.]

(l) the taking and landing of fish and other aquatic resources and the control and management of landing areas;

(m) the regulation of the bending and distribution of fish and other aquatic resources and the maintenance of quality of fish products and other aquatic resources;

(n) the prohibition, regulation or control of the erection and use of fishing stakes, fish kraals, fishing gear, stake nets and other such appliances for the taking of fish;

(o) the management, regulation and protection of fisheries reserves;

(p) the licensing of establishments for the processing of fish and other aquatic resources and the conditions to be attached to such licences;

[S 61(1)(q) rep by s 9 of Act 22 of 2006.]

(r) the management of inland fisheries;

(s) the collection of statistics and the provision of information by persons who are engaged in fishing, marketing or processing of fish and aquaculture enterprises;

(sa) the criteria to be adopted in the selection of skippers of local fishing boats for training;

[S 61(1)(sa) ins by s 13(2) of Act 35 of 2013.]

(sb) the formulation of a scheme for the issue of certificates of competence to skippers of local fishing boats and the syllabus to be followed for the training of skippers of local fishing boats;

[S 61(1)(sb) ins by s 13(2) of Act 35 of 2013.]

(sc) the protection of fish breeding ecosystems;

[S 61(1)(sc) ins by s 13(2) of Act 35 of 2013.]

(sd) the prevention of the disposal of industrial and domestic waste in Sri Lanka waters, and the prevention of the filling of Sri Lanka Waters, in a manner detrimental to fish and aquatic resources in such waters;

[S 61(1)(sd) ins by s 13(2) of Act 35 of 2013.]

(se) the registration of boats used for recreational fishing and the issue of licences for recreational fishing;

[S 61(1)(se) ins by s 13(2) of Act 35 of 2013.]

(sf) the prohibition and regulation of the import, manufacture and sale of fishing gear, equipment and engines used for fishing operations;

[S 61(1)(sf) ins by s 13(2) of Act 35 of 2013.]

(sg) the technical instruments for monitoring and surveillance required to be installed and maintained in local fishing boats;

[S 61(1)(sg) ins by s 13(2) of Act 35 of 2013.]

(sh) the transponders required to be fixed in local fishing boats with fitted board engines;

[S 61(1)(sh) ins by s 13(2) of Act 35 of 2013.]

(si) the establishment of the National Fisheries Federation and Fisheries Organizations at District and village levels;

[S 61(1)(si) ins by s 13(2) of Act 35 of 2013; am by s 4(1) of Act 2 of 2016.]

(t) implementing conservation and management measures adopted—

(i) under the United Nations Convention on the Law of the Sea of 10 December, 1982;

(ii) by the Indian Ocean Tuna Commission;

(iii) under the Fish Stocks Agreement 1995;

(iv) under the Food and Agriculture Organization (FAO) of the United Nations Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing 2009; and

[S 61(1)(t) ins by s 13(2) of Act 35 of 2013; am by s 4(2) of Act 2 of 2016.]

(u) the regulation of export and import of fish and fishery products.

[S 61(1)(u) ins by s 4(3) of Act 2 of 2016.]

(2) Every regulation made by the Minister under subsection (1) shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of its disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation be deemed to be rescinded under subsection (3) shall be published in the *Gazette*.

## **62. Education of actions.**

(1) No action shall lie against any officer appointed under section 2 or any officer authorised under section 46, for any damages in any civil court for any act done in good faith in pursuance or supposed pursuance of any provision of this Act.

(2) No prosecution against any officer appointed under section 2 or an officer authorised under section 46 in respect of any act done by him in pursuance or supposed pursuance of any provision of this Act shall be entertained by any court unless such action is instituted within six months of the date of the act complained of.

## **63. Repealed.**

The Fisheries Ordinance, the Chank fisheries Act, the Pearl fisheries Ordinance and the Whaling Ordinance are hereby repealed.

## **64. Savings.**

Notwithstanding the repeal of the fisheries Ordinance—



(a) all regulations made Under that Ordinance and in force on the day preceding the date of commencement of this act shall in so far as they are not inconsistent with the provisions of this, or any regulation made thereunder continue in force in like manner as if they were made under this Act, and may be amended, varied or rescinded by regulations made under this Act;

(b) all actions, prosecutions, proceedings or references of fishing disputes under that Ordinance, pending or incomplete on the date of commencement of this Act may be carried on and completed after the date of commencement of this Act as if the provisions of the Fisheries Ordinance were not repealed;

(c) all moneys lying to the credit of the Fisheries Reward Fund established under section 36 of that Ordinance on the day preceding the date of Commencement of this act shall stand transferred to the Fisheries Reward Fund established under section 59 of this Act;

(d) every instrument of mortgage and every instrument of transfer registered under that Ordinance and subsisting on the day preceding the date of commencement of this Act shall be deemed to be instruments registered under this Act;

(e) all permits and licences issued or registrations made under that Ordinance and in force on the day preceding the date of commencement of this Act, shall be deemed to be permits or licenses or registrations issued or made under this Act.

#### **65. Sinhala to prevail in case of inconsistency text.**

In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

#### **66. Interpretation.**

In this Act unless the context otherwise requires—

“Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing 2009” means the Agreement to prevent, deter and eliminate Illegal, Unreported and Unregulated (IUU) fishing through the implementation of effective port state measures, and thereby to ensure the long term conservation and sustainable use of living marine resources and marine ecosystems, signed in Rome on November 22, 2009;

[Ins by s 14(1) of Act 35 of 2013.]

“aquaculture” means the cultivation, propagation or farming of fish or other living aquatic resources, and includes cultivation, propagation or farming from eggs, spawn, spat or seed, or by rearing fish or aquatic plants or aquatic resources lawfully taken from the wild or lawfully imported into the country or by other similar process;”

[Subs by s 10(1) of Act 22 of 2006.]

. . .

[“aquaculture enterprises” rep by s 10(2) of Act 22 of 2006.]

“aquatic medium” means any medium in which fish and other aquatic resources are found;

“aquaculture operation” means the conduct of aquaculture in any area, enclosure, pond, impoundment, premises or structure set up or used for the cultivation of aquatic plants or organisms including fish for commercial purposes and includes any bed or raft or other structure used for the cultivation of pearl oyster and other shellfish;

[Ins by s 10(3) of Act 22 of 2006.]

“aquatic resources” means living aquatic organisms and includes any seaweed, phytoplankton or other aquatic flora and non-living substances found in an aquatic medium;

“Authority” means the National Aquaculture Development Authority of Sri Lanka established by the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998;

[Ins by s 10(4) of Act 22 of 2006.]

“authorised officer” means any officer authorised by the Director under section 46 (1) and includes any officer of the Army, Air Force or Police not below the rank of Sergeant and any officer of the Navy not below the rank of Petty Officer;

“bottom trawl net” means a towing net having a cone shaped body and a bag or cod end (madiya) connected to the apex with or without two wings connected to the other end and towed by motorised or mechanised fishing boats;

[Ins by s 4 of Act 11 of 2017.]

“Conservation and management measures” means the measures taken to conserve or manage one or more species of living marine resources;

[Ins by s 14(2) of Act 35 of 2013.]

“exclusive economic zone” means the area declared to be the exclusive economic zone of Sri Lanka by proclamation made under section 5 of the Maritime Zones Law, No. 22 of 1976;

“export” means to take out of the limits of Sri Lanka to sea or to a foreign country;

“fish” means any water dwelling aquatic or marine animal, alive or not, and includes their eggs, spawn, spat and juvenile stages, and any of their parts, and includes all organisms belonging to sedentary species;

[Subs by s 10(5) of Act 22 of 2006.]

“fishing boat” means any vessel which in for the time being employed for the purpose of taking of fish and includes its propulsion unit and fishing gear and other equipment;

“fishing dispute” means any dispute between two or more persons or groups of persons engaged in fishing in regard to the right to fish, or to the time, manner or location of fishing in any part of Sri Lanka Waters and includes a dispute regarding the use of water or land for aquaculture purposes;

“fishing operation” means catching, taking, killing, collecting, or culturing fish by any method and includes an attempt to catch, take, kill, collect or culture fish;

“Fish Stocks Agreement 1995” means the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of December 10, 1982, relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, signed in New York on December 04, 1995;

[Ins by s 14(3) of Act 35 of 2013.]

“foreign fishing boat” means any fishing boat other than a local fishing boat;

“High Seas” means the waters beyond Sri Lanka waters or beyond the waters within the national jurisdiction of any other State;

[Ins by s 14(4) of Act 35 of 2013.]

“import” means to bring into Sri Lanka, by sea or by air, from any place outside or beyond the limits of Sri Lanka;

“Indian Ocean Tuna Commission” means the Indian Ocean Tuna Commission established by the Agreement for the establishment of the Indian Ocean Tuna Commission, adopted by the Council of the United Nations Food and Agriculture Organisation (FAO) in Rome on November 25, 1993;

[Ins by s 14(5) of Act 35 of 2013.]

“inland waters” means any public rivers, lakes, estuaries, lagoons, streams, tanks, pools, channels and any other public areas of fresh or brackish water in Sri Lanka;

“local fishing boat” means any fishing boat—

(a) wholly owned by the Government of Sri Lanka or any public corporation established by or under any law of Sri Lanka;

(b) wholly owned by one or more persons who are citizens of Sri Lanka; or

(c) wholly owned by any company, society or other association of persons, Incorporated or established under the law of Sri Lanka, a majority of the voting shares of which are held by—

“Minister” means the Minister appointed under Article 44 of the constitution to be in charge of the subject of Fisheries, and Aquatic Resources;

“National Aquatic Resources Research and Development Agency” means the National Aquatic Resources Research and Development Agency established by the National Aquatic Resources Research and Development Agency Act, No. 54 of 1981;

“pearl bank” means such area as may from time to time be prescribed by regulation and includes the bed of such pearl bank;

“pearl oyster” means a pearl bearing oyster of any description, and includes the mollusc commonly called the “window pane oyster” or the “Tam-palakam pearl oyster” and scientifically known as *Pinctada maxima*, as well as any other pearl producing mollusc which may be introduced, or laid down, off the coasts of Sri Lanka, or in the days or inland waters of Sri Lanka;

“prescribed” means prescribed by regulations made under this Act;

“sale” with its grammatical variations and cognate expressions, means any transfer of the possession of fish by one person to another in the ordinary course of trade or business for cash or deferred payment or for other valuable consideration;

“sedentary species” means any marine or aquatic organisms which, at the harvestable state, are immobile on or under the bed of the sea or water, or unable to move except in constant physical contact with subsoil or bed of the sea or water, as the case may be;

[Ins by s 10(6) of Act 22 of 2006.]

“Sri Lanka Waters” means—

(a) the area declared to be the territorial sea of Sri Lanka by proclamation made under section 2 of the Maritime Zones Law, No. 22 of 1976;

(b) the area declared to be the contiguous zone of Sri Lanka by proclamation made under section 4 of the Maritime Zones Law, No. 22 of 1976;

(c) the area declared to be the exclusive economic zone of Sri Lanka by proclamation made under section 5 of the Maritime Zones Law, No. 22 of 1976;

(d) the area declared to be the historic waters of Sri Lanka by proclamation made under Section 9 of the Maritime Zones Law, No. 22 of 1976; and

(e) all public bays, rivers, lakes, lagoons, estuaries, streams, tanks, pools, channels, and all other public inland or internal waters;

“United Nations Convention on the Law of the Sea of December 10, 1982” means the Convention on the Law of the Sea signed in Montego Bay, Jamaica on December 10, 1982.

[Ins by s 14(6) of Act 35 of 2013.]

**67. Application of this Acts.**

The Provisions of this Act shall be in addition is and not of derogation of the provisions of the Fauna and flora protection Ordinance and the Forest Ordinance or of any regulation or rule made under such Ordinances relating to the taking of fish or to the carries of taking fish in Sri Lanka Waters.