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ST CHRISTOPHER AND NEVIS

CHAPTER 14.07

FISHERIES ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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FISHERIES ACT

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CHAPTER 14.07

FISHERIES ACT

AN ACT to provide for the licensing of local and foreign fishing vessels; to confer upon the Minister the power to enter into arrangements or agreements dealing with access or otherwise in regard to fishery matters; to provide for an institutional framework for the management, planning, development and conservation of fishery resources in Saint Christopher and Nevis; and to provide for related or incidental matters

PART I – PRELIMINARY

1. **Short title.**

This Act may be cited as the Fisheries Act.

2. **Interpretation.**

(1) In this Act, unless the context otherwise requires,

“access agreement” means an agreement referred to under section 7;

“aquaculture” includes mariculture;

“authorised officer” means any fisheries officer, any customs officer or police officer and any other person or category of persons designated as an authorised officer by the Minister under section 27;

“court” means a magistrate’s court;

“Chief Fisheries Officer” means the person appointed as Chief Fisheries Officer under section 3(2)(a);

“fish” means any aquatic animal, whether piscine or not and includes shellfish, turtles, mollusc, crustacean, coral, sponge, echinoderms, their young and their eggs;

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

“fisheries officer” means the Chief Fisheries Officer, Fisheries Officer, or Superintendent of Fisheries and such other officers appointed under section 3(2);

“fisheries plan” means the plan for the management and development of fisheries prepared under section 4;

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;

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“fishery waters” means the waters of the exclusive economic zone, territorial sea and internal waters as defined in any legislation dealing with demarcation of maritime areas and any other waters over which Saint Christopher and Nevis claims fisheries jurisdiction;

“fishing” means fishing for or catching or taking or killing fish by any method or placing any fish aggregating device and includes searching for fish;

“fishing licence” means a foreign fishing licence or a local fishing licence;

“fishing vessel” includes any vessel used for commercial fishing or related activities or sport fishing;

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

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

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

[Definition of “Local fishing Vessel” deleted by Act 2/1992]

“locally based foreign fishing vessel” means any foreign fishing vessel based in Saint Christopher and Nevis which lands all its catch in Saint Christopher and Nevis;

“master” means the person or persons having control of a fishing vessel at any given time, and includes a fishing master, fleet commander or pilot having control of such vessel;

“Minister” means the Minister to whom matters relating to fisheries have been assigned;

“related activities”, in relation to fishing, means

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

“test fishing operations” means any fishing operations undertaken over a limited period of time with the approval of the Chief Fisheries Officer for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations.

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- (2) A fishing vessel is a local fishing vessel if the vessel is
- (a) wholly owned by one or more persons who are citizens of Saint Christopher and Nevis;
 - (b) wholly owned by the Government or by a statutory corporation;
 - (c) wholly owned by a body corporate incorporated under the laws of Saint Christopher and Nevis, in which all the shares are held and all the voting rights held and controlled by persons who are citizens of Saint Christopher and Nevis; or
 - (d) wholly owned by an authorised body corporate.
[Inserted by Act 2/1992]

(3) The Minister may, by notice published in the Gazette, designate a body corporate as an authorised body corporate for the purpose of section 2(2)(d), if

- (a) it is established under and is subject to the laws of Saint Christopher and Nevis and has its principal place of business in Saint Christopher and Nevis;
- (b) at least two-thirds of its voting share capital is held and controlled by citizens of Saint Christopher and Nevis, or in the case of a body corporate not having share capital, not less than two-thirds of its members are citizens of Saint Christopher and Nevis;
- (c) the majority of the directors, the chairperson of the Board and the managing director are citizens of, and ordinarily resident in Saint Christopher and Nevis; and
- (d) he or she is satisfied that the body corporate is contributing, or is likely to contribute substantially to the economic development of the country and it is in the interest of the country that the body corporate be so designated.
[Inserted by Act 2/1992]

PART II – FISHERIES MANAGEMENT AND DEVELOPMENT

3. Promotion of fisheries.

(1) The Minister shall take such measures as he or she thinks fit under this Act to promote the management and development of fisheries, so as to ensure the optimum utilization of the fisheries resources in the fishery waters for the benefit of Saint Christopher and Nevis.

(2) There may be

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- (a) a Chief Fisheries Officer; and
- (b) such other Fisheries Officers and other officers as may be necessary to give effect to this Act
- (3) Until such time as the Chief Fisheries Officer is appointed for the fisheries Division of the Ministry of Agriculture, the Chief Agricultural Officer shall be deemed to be the Chief Fisheries Officer.

4. Fisheries management and development plan.

- (1) The Chief Fisheries Officer shall prepare and keep under review a plan for the management and development of fisheries in the fishery waters.
- (2) The fisheries plan shall
 - (a) identify each fishery and assess the present state of its exploitation;
 - (b) specify the objectives to be achieved in the management of each fishery;
 - (c) specify the management and development measures to be taken; and
 - (d) specify the licensing programmes to be followed for each fishery, the limitations, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels.
- (3) In the preparation and review of the fisheries plan the Chief Fisheries Officer shall consult with the local fishermen, local authorities, other persons affected by the fishery plan and with any Fishery Advisory Committee appointed under section 5.
- (4) The fishery plan and each review thereof shall be submitted to the Minister for approval.

5. Fisheries Advisory Committee.

- (1) The Minister may appoint a Fisheries Advisory Committee to advise on the management and development of fisheries.
- (2) Any Fisheries Advisory Committee appointed under this section shall include the Chief Fisheries Officer and such other persons as the Minister may consider capable of advising on the management and development of fisheries.

6. Regional cooperation in fisheries.

- (1) The Minister may enter into arrangements or agreements with other countries in the region or with any competent regional organisation, providing for
 - (a) the harmonization of systems for the collecting of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;

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- (b) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels;
- (c) schemes for the issuance of fishing licences in respect of foreign fishing vessels by a competent regional organisation on behalf of the Minister and the recognition of regional licences issued by such organisation, subject to such conditions as may be specified in the agreement or arrangement and to such additional conditions as the Minister may specify from time to time;
- (d) the taking of joint or harmonized enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region;
- (e) the establishment and operation of joint or regional fisheries management bodies where appropriate;
- (f) the establishment of a regional register of fishing vessels, where appropriate;
- (g) such other cooperative measures as appropriate including such measures for promoting the welfare of fishermen and matters relating to insurance of fishing vessels and gear.

(2) For the purpose of giving effect to any arrangement or agreement entered into under this section, the Minister may, by Order published in the Gazette, and thereafter obtain the approval of Parliament by way of a Resolution to

- (a) authorise any competent regional organisation designated in the Order to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the Order;
- (b) exempt from the requirements of section 8 any foreign fishing vessel or class of foreign fishing vessels holding valid regional fishing licences issued by a competent regional organisation designated in the Order; and
- (c) prescribe the conditions to be observed by foreign fishing vessels exempted under paragraph (b) while fishing or navigating in the fishery waters.

(3) Any Order made under subsection (2) shall be subject to a negative resolution of the National Assembly.

7. Fisheries access agreements.

(1) The Minister may enter into access agreements with other states and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those states or associations.

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(2) The fishing rights allocated under access agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the fisheries plan.

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

(4) For the purposes of this section, “association” means an organisation which, in the opinion of the Minister, is capable of ensuring compliance by its members with the terms and conditions of an access agreement and does not include any body corporate with limited liability which owns fishing vessels on its own account, whether directly or indirectly.

[Inserted by Act 2/1992]

(5) For the purposes of this section and section 8 the term “State” shall include any regional organisation which is empowered to negotiate access agreements in regard to fisheries development on behalf of the member States.

8. Foreign fishing licences.

(1) No foreign vessel of any State shall be used for fishing or related activities in the fishery waters without a valid foreign fishing licence issued under this section.

(2) An application for a foreign fishing licence shall be made, in the prescribed form, to the Minister or to a competent regional organisation authorised to issue fishing licences under section 6(2)(a).

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

(4) Subject to subsection (5), no foreign fishing licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag State of the vessel or with an association of which the owner or charterer is a member, an agreement entered into under section 7 to which the Government of Saint Christopher and Nevis is a party.

(5) Subsection (4) shall not apply to a licence issued in respect of:

- (a) test fishing operations; or
- (b) a locally based foreign fishing vessel.

(6) Where a fishing vessel is used in contravention of subsection (1) or of any condition of the foreign fishing licence the master, owner and charterer of that vessel each commits an offence and shall be liable, on summary conviction, to a fine not exceeding three hundred thousand dollars.

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9. Stowage of gear.

The fishing gear of any foreign fishing vessel which is prohibited by section 8 from fishing within the fishery waters, shall be stowed in such manner as may be prescribed while within the fishery waters.

10. Observation of laws.

No licence shall relieve any foreign fishing vessel or its master or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, health or other matters.

11. Registration of local fishing vessels.

(1) No local fishing vessel shall be used for fishing or related activities in the fishery waters without being registered under this section.

(2) An application for registration shall be made in the prescribed form to the Chief Fisheries Officer.

(3) Subject to subsection (4) of this section, the Chief Fisheries Officer may register a local fishing vessel in the prescribed form.

(4) No application for registration of a local fishing vessel shall be refused except on any of the following grounds, namely,

- (a) that the vessel in respect of which the application is made does not have a valid certificate of inspection where so required under the laws governing merchant shipping, or is not in compliance with regulations prescribed under section 40 relating to the safety of the vessel; or
- (b) such other grounds as are specified in this Act or any Regulations made under this Act.

(5) Where a local fishing vessel is used in contravention of any of the conditions of registration, the master, owner or charterer of that vessel as the case may be, commits an offence and shall each be liable, upon summary conviction, to a fine not exceeding two hundred dollars.

12. Validity of fishing licences.

(1) Unless earlier cancelled in accordance with section 15, a fishing licence shall be valid for a period of not more than twelve months.

(2) Where a vessel registered as a local fishing vessel becomes a foreign fishing vessel, such registration shall automatically terminate.

(3) The term of a foreign fishing licence shall not extend beyond the term of validity of the applicable access agreement.

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(4) No registration shall be transferable except with the written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

13. Conditions of fishing licence and registration.

(1) Every fishing licence and registration shall be in the prescribed form and shall be subject to such

- (a) general conditions as may be prescribed;
- (b) general conditions as may be specified under subsection (2); and
- (c) special conditions as may be specified under subsection (3).

(2) The Minister may, by Order published in the Gazette, specify general conditions additional to those prescribed to which all fishing licences, fishing registration or any category of fishing licences shall be subject including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes.

(3) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may attach to any fishing licence such special conditions as he or she may think fit.

(4) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may from time to time, where he or she is satisfied that it is expedient for the proper management of fisheries in the fishery waters, vary any special conditions attached to any fishing licence.

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

14. Fees, royalties, etc.

There shall be payable in respect of every foreign fishing licence such fees as may be prescribed and such royalties or other charges as the Minister may determine.

15. Cancellation or suspension of fishing licences.

(1) The Minister may cancel or suspend a foreign fishing licence on any of the grounds set out in subsection (2).

(2) A fishing licence may be cancelled or suspended where the Minister is satisfied that

- (a) It is necessary to do so in order to allow for the proper management of any particular fishery;
- (b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulations made thereunder, or of

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any condition of the licence or in breach of any applicable access agreement; or

- (c) he or she is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under section 6.

(3) Before the Minister cancels or suspends a fishing licence, the holder of such licence or a person representing him or her shall be entitled to be heard by the Minister whenever it is possible to do so.

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

(5) Where a fishing licence is suspended or cancelled on the grounds specified in section 15(2)(a), a proportion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at his or her request.

16. Notice.

(1) Any notification given under section 13(5) or 15(3) shall be in writing, except as otherwise specified in subsection (2).

(2) In the case of a foreign fishing vessel, a notification referred to in subsection (1) may be in writing or by telex, radio or such other form as the Minister deems appropriate.

17. Appeals.

Any person aggrieved by any decision of the Chief Fisheries Officer under section 11, may within twenty-one days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

18. Fish processing establishments.

(1) The Minister may grant to any person a licence to operate a fish processing establishment on payment of such fees and subject to such conditions as may be prescribed from time to time.

(2) Any person who operates or allows to be operated any fish processing establishment except under a licence granted under this section and in accordance with the conditions of such licence commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(3) In this section, “fish processing establishment” means any establishment on any land, premises or other place on or in which fish are canned, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale by wholesale in or outside Saint Christopher and Nevis.

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19. Local fisheries management areas.

- (1) The Minister may, by notice published in the *Gazette*,
 - (a) designate an area as a local fisheries management area;
 - (b) designate any fishermen's cooperative or fishermen's association or other appropriate body representing fishermen in the area as the Local Fisheries Management Authority for that area.
- (2) Where there is no appropriate body representing fishermen in the area, the Minister may promote the formation of such a body.
- (3) The Chief Fisheries Officer shall, to the extent he or she deems it practicable, provide to any Local Fisheries Management Authority, such assistance as may be reasonably necessary for the performance of its functions.

20. By-laws.

- (1) A Local Fisheries Management Authority established under section 19 may recommend by-laws to the Minister in regard to the conduct of fishing operations in the designated area.
- (2) Any by-laws so recommended under sub-section (1) may be approved by the Minister and published in the *Gazette*.
- (3) Such by-laws may provide that a breach of any by-law made under this section shall constitute an offence and may provide for penalties on summary convictions of a fine not exceeding one hundred dollars.

PART III – MARINE RESERVES AND CONSERVATION MEASURES

21. Fishing priority areas.

The Minister may, by Order published in the *Gazette*, declare any area of the fishery waters, to be a fishing priority area, where he or she considers that special measures are necessary to ensure that authorised fishing within the area is not impeded or otherwise interfered with.

22. Leasing of land for aquaculture.

- (1) The Governor-General, on the advice of the Minister, may lease any land including the areas of the foreshore and sea-bed for purposes of aquaculture, if he or she is satisfied after such enquiry as he or she may deem necessary that such lease will not substantially prejudice the rights of the members of the public thereto and such lease shall be in conformity with any regulations made under section 40 relating to the leasing of land for aquaculture.
- (2) The provisions of the Title by Registration Act, Cap. 10.19 shall apply, *mutatis mutandis*, to the leasing of lands including foreshore and sea-bed for purposes of aquaculture under this section.

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(3) Notwithstanding any provisions of the Title by Registration Act, Cap. 10.19 the Minister shall, by notice published in the Gazette give particulars of any lease granted under subsection (1) giving the boundaries of the area leased and the Minister may restrict and control by Regulations made under section 40, the use of such land including foreshore or sea-bed by members of the public.

23. Marine reserves.

(1) The Minister may, by Order published in the Gazette, declare any area of the fishery waters and, as appropriate, any adjacent or surrounding land, to be a marine reserve where he or she considers that special measures are necessary

- (a) to afford special protection to the flora and fauna of such areas and to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to flora and fauna in danger of extinction;
- (b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted;
- (c) to promote scientific study and research in respect of such areas; or
- (d) to preserve and enhance the natural beauty of such areas.

(2) Any person who, in any marine reserve, without permission granted under subsection (3),

- (a) fishes or attempts to fish;
- (b) takes or destroys any flora and fauna other than fish;
- (c) dredges, extracts sand or gravel, discharges or deposits waste or any other polluting matter, or in any way disturbs, alters or destroys the natural environment;
- (d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve;
- (e) commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(3) The Minister, or any person authorised by him or her in writing, may give written permission to do any of the things prohibited under this section where the doing of such things may be required for the proper management of the reserve or for any of the purposes referred to in subsection (1).

24. Fisheries research.

(1) The Minister may, on the submission of a fisheries research plan, approved by the Chief Fisheries Officer, grant permission for any vessel or person to undertake research into

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fisheries in the fishery waters and in doing so may exempt such vessel or person from any of the provisions of this Act.

(2) The Minister may attach such conditions as he or she deems fit to any permission granted under subsection (1).

(3) Any person who undertakes fisheries research in the fishery waters

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

(b) in contravention of any condition or conditions attached to the permission under subsection (2); commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(4) Any permission or exemption granted under this section shall be in writing.

25. Prohibited fishing methods.

(1) Any person who

(a) permits to be used, uses or attempts to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or

(b) carries or has in his or her possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph; commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

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

(3) Any person who lands, sells, receives or is found in possession of any fish taken in contravention of subsection (1)(a), knowing or having reasonable cause to believe them to have been so taken, commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(4) For the purposes of this section, a certificate as to the cause and manner of death or injury of any fish signed by the Chief Fisheries Officer or by any person authorised by him or her in writing shall be accepted as prima facie evidence in a court without proof of the signature of the person appearing to have signed the certificate or his or her official character.

(5) For the purposes of subsection (4), the defendant to proceedings brought under this section is entitled to fourteen days notice in writing of the prosecution's intention to adduce the said certificate.

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26. Possession of prohibited fishing gear.

Any person who within the fishery waters, uses for fishing or has on board any fishing vessel, in circumstances which indicate an intention to use for fishing in the fishery waters,

- (a) any net the mesh size of which does not conform to the prescribed minimum mesh size for that type of net;
- (b) any type or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear; or
- (c) any other net or fishing gear which is prohibited by the Act; commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

PART IV – ENFORCEMENT

27. Designation of authorised officers.

The Minister may designate, from time to time, by notice published in the *Gazette*, such persons as he or she deems fit, including members of the enforcement authority of any country or of any regional or sub-regional marine enforcement entity, to be authorised officers for the purposes of this Act.

28. Powers of authorised officers.

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

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

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

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

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- (c) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he or she has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed;
- (d) seize any fish found on board any fishing vessel that he or she has reason to believe has been used in the commission of such offence and any fish which he or she has reason to believe is being possessed in contravention of this Act;
[Substituted by Act 2/1992]
- (e) seize any explosive or poison found on board any fishing vessel that he or she has reason to believe has been used in the commission of such offence and any explosive or poison which he or she has reason to believe is being possessed in contravention of this Act.
[Substituted by Act 2/1992]

(3) Any vessel seized under subsection (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other form of security in accordance with the provisions of section 33.

(4) Where, following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of the fishery waters, the powers conferred on authorised officers under this section shall be exercisable beyond the limits of the fishery waters, in the circumstances and to the extent recognized by international law.

(5) After a vessel has been stopped under the provisions of this section any authorised officer may, concerning it or in relation to any fish or fish products therein, exercise any of the powers conferred by this section.

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

29. Sale of perishable goods seized.

(1) Any fish or other articles of a perishable nature seized under this Act may, at the direction of the Chief Fisheries Officer, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

(2) Where, after making all reasonable efforts, the Chief Fisheries Officer is unable to sell the fish or other articles referred to in subsection (1), or where such fish or other articles are unfit for sale, he or she may dispose of them in such other manner as he or she thinks fit.

30. Immunity of authorised officers.

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

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31. Assaulting etc. authorised officers.

Any person who obstructs, assaults or threatens with violence an authorised officer in the exercise of the powers conferred on him or her under this Act commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both.

32. Liability of master.

Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master of such vessel also commits the offence.

33. Release of vessel etc. on bond.

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

34. Court's powers of forfeiture

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

- (a) may order that any fishing vessel (together with its fishing gear, stores and cargo) and any vehicle, fishgear, net or other fishing appliance, used in the commission of the offence be forfeited;
- (b) shall order that any fish found on board any fishing vessel that has been used in the commission of such offence or the proceeds of sale of such fish, and any explosive, poison or other noxious substance found on board such vessel shall be forfeited.

[Substituted by Act 2/1992]

35. Presumption.

Where, in any legal proceedings instituted under this Act following the seizure of a foreign fishing vessel by an enforcement vessel, the place in which an event is alleged to have taken place is in issue, the place stated in a certified copy of the relevant entry in the logbook or other official record of the enforcement vessel as being the place in which the event took place shall be presumed, until the contrary is proved, to be the place in which such event took place.

[Amended by Act 2/1992]

36. Onus of proof.

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

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37. Disposal of vessel etc. forfeited

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

38. Jurisdiction.

Any offence against any of the provisions of this Act or any regulations made under this Act committed within the fishery waters by any person, or any such offence committed outside such waters by any citizen of, or person ordinarily resident in Saint Christopher and Nevis or by any person on board any local fishing vessel, shall be triable in any court of law as if such offence had been committed in any place in Saint Christopher and Nevis within the local limits of the jurisdiction of such court.

39. Minister's powers to compound offences.

(1) Subject to subsection (4), the Minister may, where he or she is satisfied that any person has committed an offence against this Act, or any Regulations made under this Act, compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence and such sum shall forthwith be paid into the Consolidated Fund.

(2) On compounding an offence under this section the Minister may confiscate any article seized under section 28 or the proceeds of sale of such article under section 29, or order the release of any such article on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he or she may think fit.

[Amended by Act 2/1992]

(3) No offence shall be compounded under this section unless the person who has committed the offence has expressed his or her willingness in a prescribed form that the offence be so dealt with.

(4) The compounding of an offence under this section shall be notified in writing under the signature of both parties to the appropriate Magistrate's court.

(5) In any proceedings brought against any person for an offence against this Act or any regulation made under this Act, it shall be a defence if such person proves that the offence with which he or she is charged has been compounded under this section.

(6) This section does not apply to any offence against section 25 or section 31 of this Act.

40. Regulations.

(1) The Minister may make regulations generally for the management and development of fisheries in the fishery waters.

(2) In particular, without limiting the generality of subsection (1), the Minister may make regulations for all or any of the following purposes:

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- (a) providing for the licensing, regulation and management of any particular fishery;
- (b) prescribing fisheries management and conservation measures including prescribed mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited methods of fishing or fishing gear and schemes for limiting entry into all or any specified fisheries;
- (c) prescribing the constitution, functions and duties of the Fisheries Advisory Committee appointed under section 5;
- (d) regulating the catching and utilization of fish taken incidentally when fishing for a species for which a licence has been issued;
- (e) providing for the registration and licensing of fishermen, fishing gear and other fishing appliances;
- (f) organising and regulating sport fishing in the fishery waters;
- (g) regulating the use of scuba gear and hookah gear;
- (h) regulating or prohibiting the use of spear guns or other similar device;
- (i) regulating the landing, marketing and distribution of fish;
- (j) regulating the transiting of foreign fishing vessels through the fishery waters, including the manner in which fishery gear is to be stowed;
- (k) making provision for rewards to be paid to any person providing information on the operations of foreign fishing vessels leading to a conviction or compounding of offence under this Act;
- (l) prescribing the form of foreign fishing licences which may take the form of a written licence or a telexed or cabled authorisation;
- (m) providing for the implementation of any agreement or arrangement entered into under section 6;
- (n) regulating or prohibiting the entry into any fishing priority area, established under section 21, of any class of vessel and prescribing any activities which may not be undertaken in that area;
- (o) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated by such devices;
- (p) regulating:
 - (i) the management and protection of marine reserves and fishing priority areas,

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- (ii) the taking of coral and shells,
- (iii) the setting of fishing fences,
- (iv) the taking of aquarium fish,
- (v) aquaculture development,
- (vi) the use of land leased for aquaculture;
- (q) prescribing measures for the protection of turtles, lobsters, and conches;
- (r) to provide for the control or prohibition of the import and export of fish;
- (s) prescribing standards and other measures for the safety of local fishing vessels and fishermen;
- (t) regulating or prohibiting the entry into any land leased for the purposes of aquaculture or into any waters superjacent to such land;
- (u) prescribing any other matter which is required or authorised to be prescribed.

(3) The Minister may, by Regulation, provide that the breach of any regulation made under this Act shall constitute an offence and may provide for penalties on summary conviction of a fine not exceeding five hundred dollars.

41. Exemptions.

The Minister may, by Order, exempt from the requirements of section 11, any type or class of fishing vessel, or any local fishing vessels under a size specified in the Order.

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FISHERIES REGULATIONS

PART I – PRELIMINARY

1. **Short title.**

These Regulations may be cited as the Fisheries Regulations.

2. **Fisheries Advisory Committee.**

The Minister may establish a Fisheries Advisory Committee for the purposes of the Act.

PART II – SAFETY EQUIPMENT

3. **Safety Equipment.**

(1) All safety equipment carried aboard shall bear the name of the vessel either engraved or written with indelible material.

(2) Every vessel shall carry on board

- (a) a bailer capable of removing water from a vessel;
- (b) a hand held compass or other compass approved by the Chief Fisheries Officer;
- (c) not less than one gallon of fresh drinking water stowed in a closed container for each person onboard the vessel;
- (d) one set of oars or one main sail or both;
- (e) a battery-operated water-proof flash light in good working condition;
- (f) non-perishable rations stowed in a water-proof container sufficient to sustain each person for at least five 5 days;
- (g) a small mirror capable of being used as a reflector;
- (h) at least two flares suitable for use at night;
- (i) at least two flares suitable for use in daylight;
- (j) a sea anchor of size and design appropriate to the vessel;
- (k) at least one life jacket for each person on board the vessel;

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PART III – FOREIGN FISHING LICENCES

4. Applications.

Every application for a foreign fishing licence shall be as prescribed under these Regulations and such application form may be obtained from the Chief Fisheries Officer.

5. Licence.

Every foreign fishing licence shall be issued under these Regulations.

6. Fees.

(1) The fee payable for the issue of a licence in respect of a foreign fishing vessel is the amount set out in Schedule 1 to these Regulations.

(2) No foreign fishing licence shall be issued unless the Minister is satisfied that any fees payable in respect of that licence have been paid and that adequate arrangements have been made for the payment of any royalties and other charges payable under section 14 of the Act.

7. Regional Register of good standing.

(1) In this regulation,

“regional register” means the register of fishing vessels established by the Organisation of East Caribbean States Fisheries Unit.

“good standing”, in relation to a foreign fishing vessel, means the original status granted to vessels when accepted for inclusion on the regional register in accordance with the criteria agreed upon by the member states of the Organisation of Eastern Caribbean States (OECS).

(2) No licence shall be issued in respect of a foreign fishing vessel unless that vessel is registered on a regional register and the vessel for which the licence is sought has good standing on the register.

8. Grounds for refusal of a Licence.

No licence in respect of a foreign fishing vessel may be issued or renewed unless:

- (a) an application has been made in accordance with regulation 4 and is true and correct;
- (b) any information requested by the Minister or Chief Fisheries Officer and relevant to the proposed fishing operation has been provided in the manner requested;
- (c) the fee prescribed under regulation 6 has been paid; and
- (d) conditions stipulated on the licence have not been violated.

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9. Local Representative.

No licence shall be issued in respect of a foreign fishing vessel unless a local representative is appointed who is authorised to act on behalf of the master, owner, or charterer of that vessel and who is able to accept legal responsibility on behalf of the owner, master, charterer for any action juridical or otherwise.

10. Stowage of Gear.

(1) The following is the prescribed manner in which fishing gear shall be stowed for the purpose of section 9 of the Act.

(2) Any foreign fishing vessel that is not licensed under Part III or under any regional access agreement shall keep its fishing gear stowed in such a manner as not to be readily available for fishing.

(3) The following particular requirements shall apply to the specified categories of vessels:

- (a) in the case of purse seiners,
 - (i) the boom shall be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations;
 - (ii) the helicopter, if any, shall be tied down;
 - (iii) launches shall be secured;
- (b) in the case of trawlers, all nets, trawlboards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and either stowed below deck or securely lashed to some part of the superstructure of the vessel.

(4) For the purpose of this regulation and of section 9 of the Act, the term “fishing gear” includes any net, hook, float, pole, rope, trap, boat or helicopter that may be used in the act of fishing.

(5) Where the fishing gear of a foreign vessel which is prohibited by section 8 of the Act from fishing within the fishery waters is not stowed in a manner prescribed above while within the fishing waters, the master, owner and charterer of that vessel commits an offence and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars.

PART IV – LOCAL FISHING LICENCE AND BOAT REGISTRATION

11. Form of Registration/Licence and Application.

Every licence in respect of a local fishing vessel and every application for such licence shall be issued on application made to the Chief Fisheries Officer on the prescribed form.

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12. Fees.

The fees payable on application for or renewal of a licence in respect of a local fishing vessel, is the amount set out in Schedule 2 to these Regulation.

13. Grounds for Refusal of a Licence.

No licence may be issued or renewed unless

- (a) an application is made in accordance with regulation 11 and is true and correct in every respect;
- (b) any information requested by the Minister or Chief Fisheries Officer and relevant to the proposed fishing operation has been provided in the manner requested;
- (c) the fee prescribed in regulation 12 has been paid;
- (d) conditions stipulated on the licence have not been violated.

PART V – FISH PROCESSING ESTABLISHMENT LICENCE

14. Applications.

Every licence to operate a fish processing establishment and every application for such a license shall be issued on application made to the Chief Fisheries Officer on the prescribed form.

15. Issue of Licences.

No licence to operate a fish processing establishment shall be issued unless the Minister is satisfied that the establishment has been constructed and is being maintained in such a manner as to allow for its operation in accordance with any applicable standards set out by law.

16. Fees.

The fee payable for the issue or renewal of a licence to operate a fish processing establishment is the amount set out for establishment of that kind in Schedule 3 to these Regulations.

17. Licence Conditions.

Every licence to operate a fish processing establishment shall be subject to the following conditions:

- (a) the establishment shall be maintained and operated in a clean and sanitary manner;
- (b) accurate records shall be maintained relating to the operations carried out in the establishment, including records of the quantity, species and quality of fish

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received, processed, sold or exported, and all such records shall be open to inspection by any authorised officer.

PART VI – FISHERY CONSERVATION MEASURES

18. Lobster.

- (1) In this regulation,
 - (a) “lobster” includes the whole or any part of a lobster.
 - (b) “under-sized” means less than 9.5 cm (3.75ins) in carapace (back) length measured from immediately behind the rostral horns to the rear edge of the telson or carapace.
- (2) No person shall harm, take, have in his or her possession, sell or purchase
 - (a) any lobster carrying eggs;
 - (b) any lobster which is undersized; or
 - (c) any lobster which is moulting.
- (3) No person shall capture any lobster other than by hand, loop, pot or trap.
- (4) No person shall have in his or her possession or sell any lobster that has been speared, hooked or otherwise impaled.
- (5) No person shall remove the eggs from a lobster, or have in his or her possession, sell or purchase a lobster from which the eggs have been removed.
- (6) The Minister may, by Notice published in the Gazette, declare the period 1st May to August 31st in any year, as a closed season.
- (7) No person shall fish for lobster during the period of a closed season for lobsters.
- (8) No person shall land from a fishing vessel any lobster that is not whole.

19. Turtles.

- (1) In this regulation,
 - (a) “turtle” includes the whole or any part of any turtle;
 - (b) “undersized” means a weight less than the weight specified below:
 - (i) Leatherback turtles (*Dermochelys coriacea*) 158.18kg (350 lbs)
 - (ii) Green Turtle (*Chelonia mydas*) 81.66kg (180 lbs)

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- (iii) Hawksbill turtle (*Eretmochelys imbricata*) 38.6kg (85lbs)
 - (iv) Loggerhead turtle (*Caretta caretta*) 72.59kg (160 lbs)
- (c) “fishery waters” includes the beach.
- (2) No person shall
 - (a) disturb, remove from the fishery waters, expose for sale, purchase or at any time have in his or her possession any turtle eggs;
 - (b) remove from the fishery waters, expose for sale, sell, purchase or at any time have in his or her possession any undersized turtle;
 - (c) interfere with any turtle nest, or any turtle that is nesting;
 - (d) set within three hundred yards of the shores of Saint. Christopher and Nevis any net or seine or any other device for the purpose of or with the intention of fishing for, catching or taking any turtle; and
 - (e) fish for, remove from the fishery waters, or at any time have in his or her possession, expose for sale, sell or purchase any turtle between the 28th day of February to the 1st day of October in every year, or as otherwise stated by the Minister by notice published in the *Gazette*.

20. Conch.

- (1) In this regulation, “immature conch” means
 - (a) a conch, the shell of which is smaller than eighteen centimeters in length; or
 - (b) a conch, the shell of which does not have a flared lip; or
 - (c) a conch with a total meat weight of less than two hundred and twenty-five grams (0.5 lbs) after removal of the digestive gland.
- (2) No person shall take, sell or purchase or have in his or her possession any “immature conch”.
- (3) The Minister may, by Notice published in the Gazette, declare any period or area or both as closed for conch fishing.
- (4) No person shall fish for conch during the period of a closed season for conch.
- (5) This regulation relates to the Queen Conch *Strombus gigas*.

21. Coral, Sponges, Marine Algae and Seastars.

No person shall take or collect or have in his or her possession any coral, sponge,

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marine algae or seastars from the fishery waters, or beach except with the written permission of the Chief Fisheries Officer in accordance with such conditions as he or she may specify.

22. Aquarium Fish.

No person shall import, sell or export any aquarium fish except with the written permission of the Chief Fisheries Officer and in accordance with such conditions as he or she may specify.

23. Fisheries Research.

This part of these Regulations shall not apply to fishing operations which are conducted solely for the purpose of fisheries research provided that permission has been granted in respect of such operations by the Chief Fisheries Officer under section 24 of the Act and that the operations are carried out in accordance with the conditions of such permission.

24. Restriction on use of Spear Guns.

No person shall use a spear gun (fish gun) for fishing in the waters of Saint Christopher and Nevis without first having obtained written permission from the Chief Fisheries Officer for the use of that type of fishing gear in the fishery waters in Saint Christopher and Nevis.

25. Minimum Mesh Size for Nets and Traps.

- (1) The minimum size of a seine shall not be less than one inch square.
- (2) The mesh size of a "ballyhoo net" shall not be less than one half of an inch square.
- (3) The mesh size for fish trap (fish pot) wire shall not be less than two inches.

26. Fishing (using Scuba or Hookah).

No one shall use SCUBA OR HOOKAH gear for fishing within the fishery waters of Saint. Christopher and Nevis unless special approval is given in writing by the Chief Fisheries Officer.

27. Marine Reserves.

All temporary visitors wishing to dive in the waters of the State shall be allowed to do so only through a locally licensed operator unless special approval is given in writing by the Chief Fisheries Officer.

28. Diving facilities.

- (1) A person shall be required to apply to the Chief Fisheries Officer for a license to operate a SCUBA or HOOKAH diving facility.
- (2) All operators shall be registered with the Chief Fisheries Officer.

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(3) All operators shall ensure that all diving associated equipment is properly maintained according to standard operating procedures.

29. Tank (Scuba) Filling Stations.

(1) A person shall possess some form of identification attesting to an acceptable level of SCUBA certification e.g (PADI) Professional Association of Diving Instructors or (NAUI) National Association of Underwater Instructors.

(2) No tank shall be accepted by a filling station unless the following conditions are met:

- (a) it possess a current internal inspection stamp;
- (b) it is filled for certified divers;
- (c) the tank is inspected and tested by a company legally registered to do so.

30. Moorings.

(1) All boats wishing to stay in a Marine Reserve or Dive site must use the moorings provided.

(2) Where there are no moorings, special permission must be given by the Chief Fisheries Officer for anchoring in accordance with such condition as he or she may specify.

31. Fish Aggregating Devices.

(1) No person shall place a fish aggregating device in the waters of Saint Christopher and Nevis except with the permission of the Chief Fisheries Officer and in accordance with such conditions as he or she may specify or which are otherwise specified in this Part.

(2) Permission to place a fish aggregating device shall not confer any exclusive right to fish in the vicinity of the device.

(3) The master of any vessel placing a fish aggregating device shall notify the Chief Fisheries Officer of the nature of the location of the device within one month or such other period as the Chief Fisheries Officer may specify.

32. Designated Fish Aggregating Device.

(1) The Chief Fisheries Officer may, by notice published in the *Gazette*, declare any fish aggregating device to be a designated fish aggregating device for the purpose of this regulation.

(2) No person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Chief Fisheries Officer and in accordance with such conditions as he or she may specify.

(3) The Chief Fisheries Officer may, by notice published in the *Gazette*, declare

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that any class of persons who are citizens of Saint Christopher and Nevis may fish within a radius of one nautical mile from a designated fish aggregating device or a class of designated fish aggregating devices.

33. Marking of Devices.

Any fish aggregating device placed in the Fishery waters of Saint Christopher and Nevis shall

- (a) be clearly marked with the name of the owner and of the vessel from which the device was placed;
- (b) bear a radar reflector and such other equipment or markings as the Chief Fisheries Officer may from time to time require.

34. Disposal of Unauthorised Devices.

Any fish aggregating device placed in the fishery waters of Saint Christopher and Nevis otherwise than in accordance with a permission given under regulation 31 or found in the Saint Christopher and Nevis waters without a marking or a piece of equipment required under regulation 33 may be used or disposed of in such a manner as the Chief Fisheries Officer may direct.

35. Fishing Priority Areas.

Vessels entering or leaving ports in Saint Christopher and Nevis should not make passage through Fishing Priority Areas or Marine Reserves unless special permission is given in writing by the Chief Fisheries Officer in accordance with such conditions as he or she may specify.

PART VII – MISCELLANEOUS PROVISION

36. Prohibition against Interfering with or Disturbing Fishing.

No person shall

- (a) remove, harm, take away, empty or cast adrift any fishing net, fish pot or trap, gear, tackle or other fishing equipment belonging to some other person without the consent of that other person;
- (b) place any object in the water, or promote or undertake any activities so as to obstruct a fishing operation of a fisherman unless authorised in writing by the Chief Fisheries Officer;
- (c) destroy, damage, displace, or alter the position of any fishing net, fish pot or trap, gear tackle, other fishing equipment or any buoy, float or other marker connected to it;

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- (d) remove fish from the fishing net, fish pot or trap, tackle or other fishing equipment belonging to another person without that other person's consent;
- (e) insert grass or other material into the meshes of fishing net, fish pot or trap or reduce the size of meshes; or
- (f) set or place any fish pot or trap without an identification mark issued or approved by the Chief Fisheries Officer.

37. Protection of Fishing in Fishing Priority Areas.

(1) No person shall build, construct or erect or cause to be built, constructed or erected any buildings, structure on, over or under any waters in any fishing priority area declared by the Minister under section 21 of the Act, which may constitute an obstruction, impediment or interference with fishing in that area.

(2) No person shall use any fishing priority area referred to in sub-regulation (1) for the anchorage of any yacht or vessel except in the event of a storm, hurricane or such other natural event as would render the yacht or vessel unseaworthy.

(3) Where a person uses such fishing priority area in the circumstances mentioned in sub-regulation (2) he or she shall immediately notify the Chief Fisheries Officer or such person designated by him or her, of such use; and the Chief Fisheries Officer, or such designated person may extend the time of such use on such terms conditions as he or she deems fit.

38. Pollution.

(1) No person, company, or their employees or agents shall put or cause to be put any poison, noxious substance or other pollutants into the fishery waters of Saint Christopher and Nevis.

(2) Any costs incurred for remedial action in respect of any pollution may, in addition to any fine imposed, be borne by the person or company found guilty of an offence under this regulation.

40. Offences and Penalties.

Any person contravening any of the provision of these Regulations commits an offence and shall be liable, on summary conviction, to a fine not exceeding five thousand dollars.

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SCHEDULE 1 TO THE REGULATIONS

(Regulation 6)

FEES FOR FOREIGN FISHING LICENCES

Size of Vessel (overall length)	Fee Payable per year
Less than 30 feet (9.68 metres)	1000 dollars
30 feet or more, up to 60 feet (19,36 metres)	2000 dollars
Over 60 feet	4000 dollars

SCHEDULE 2 TO THE REGULATIONS

(Regulation 12)

FEES FOR LOCAL FISHING VESSEL LICENCES

Size of vessel (overall length)	Fees payable per year
Less than 10 feet (3.23metres)	No fees
10 feet or more, up to 30 feet	25 dollars
30 feet or more, up to 60 feet (19.36 metres)	50 dollars
Over 60 feet	500 dollars

SCHEDULE 3 TO THE REGULATIONS

(Regulation 16)

FEES FOR FISH PROCESSING ESTABLISHMENT LICENCE

For fish processing establishment of any kind. \$500.00