

# REPRINT

## **FISHERIES ACT (CAP. 38)**

**As in force at: 1 March 1996**

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**AN ACT TO MAKE PROVISION FOR THE PROMOTION AND REGULATION OF FISHING AND FISHERIES INDUSTRIES IN SOLOMON ISLANDS.**

## **FISHERIES ACT (CAP. 38)**

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# FISHERIES ACT (Cap. 38)

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## PART I PRELIMINARY

### 1 Short title

This Act may be cited as the *Fisheries Act*.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“authorised officer”** means any fisheries officer, any police officer, any officer as defined in the *Customs and Excise Act*, the master of any Government vessel, and any other public officer declared by the Minister by notice to be an authorised officer for the purposes of this Act;

**“fish”** means any aquatic animal, whether piscine or not, and includes shell-fish, crustaceans, sponge, holothurian (beche-de-mer), crocodile and turtle, and the young and eggs thereof;

**“fisheries officer”** means a fisheries officer or assistant fisheries officer appointed pursuant to section 3, and includes the Principal Fisheries Officer;

**“fishery limits”** means the fishery limits of Solomon Islands extending to two hundred nautical miles from the baselines from which the territorial sea adjacent to Solomon Islands is measured;

\* Vide section 4 of the *Fishery Limits Act* (Cap. 96).

**“fishing”** means fishing for or catching, or taking, or killing fish by any method;

**“fishing vessel”** means any vessel used commercially for fishing but does not include canoe;

**“fish processing establishment”** means any land, jetty, premises,

vessel or other place on or in which fish are processed but does not include any place in which fish are processed exclusively for sale by retail to the public or for consumption on the premises, or any fishing vessel on which fish which has been caught off such fishing vessel is only gutted, salted, iced, chilled or frozen for the purpose of preserving such fish;

**“fish product”** means any product of fish processing;

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

**“licensing officer”** means a licensing officer appointed pursuant to section 5, and includes the Principal Licensing Officer;

**“local fishing vessel”** means any fishing vessel:

- (a) owned by one or more persons domiciled and resident in Solomon Islands; or
- (b) owned by any company or fishermen’s co-operative society incorporated under the laws of Solomon Islands, and having its principal place of business in Solomon Islands and does not include any vessel registered in any country outside Solomon Islands;

**“operate”**, in relation to a fishing vessel, means to be the master or owner or charterer of the fishing vessel, and, in relation to a fish processing establishment, means to own or be in charge of the fish processing establishment, and where the fish processing establishment is a vessel, means to be the master or owner or charterer thereof;

**“Principal Fisheries Officer”** means the Principal Fisheries Officer appointed pursuant to section 3;

**“Principal Licensing Officer”** means the Principal Licensing Officer appointed pursuant to section 5;

**“processing”**, in relation to fish, includes preserving or preparing fish or producing any substance or article from fish by any method.

## **PART II                    FISHERIES ADMINISTRATION**

### **3                    Appointment of Principal Fisheries Officer and other fisheries officers**

(1) There may be appointed:

- (a) a Principal Fisheries Officer; and
- (b) such other fisheries officers and assistant fisheries officers as may be necessary to give effect to this Act,

and any such appointment shall, if the appointment is to an office in the public service, be made pursuant to the *Constitution*, but otherwise may be made by the Minister.

(2) The Principal Fisheries Officer shall:

- (a) promote the development of fishing and fisheries in Solomon Islands; and
- (b) endeavour to ensure that the fisheries resources of Solomon Islands are exploited to what appears to him to be the maximum reasonable extent consistent with sound fisheries resources management.

### **4                    Fisheries Advisory Committee**

The Minister may by order establish a Fisheries Advisory Committee and prescribe or provide for its constitution, functions and duties.

## **PART IV                    LICENSING OF LOCAL FISHING VESSELS**

### **5                    Appointment of Principal Licensing Officer and other licensing officers**

There may be appointed:

- (a) a Principal Licensing Officer; and
- (b) such other licensing officers as may be necessary to give effect to this Act,

and any such appointment shall, if the appointment is to an office in the public service, be made pursuant to the Constitution, but otherwise may be made by the Minister.

## **6 Fishing vessel licences**

- (1) A licensing officer may, upon written application in the prescribed form and upon payment of the prescribed fee, grant a licence in the prescribed form in respect of any local fishing vessel:

Provided that no licence shall be granted to any local fishing vessel which is a vessel to which section 18(1) of the *Shipping Act* applies unless there is subsisting a valid and unexpired safety certificate issued in respect of that fishing vessel under section 13 of that Act, or, if no such certificate is required, unless the vessel meets any safety standards prescribed under section 28 of that Act in respect of the appropriate class of vessel.

- (2) It shall be a condition of every licence granted under this section that there shall be marked and kept marked on the fishing vessel in respect of which the licence is granted such letters and numbers of identification as may be assigned to that vessel by the licensing officer, in such manner as he may specify or as may be prescribed.
- (3) The validity of a licence granted under this section shall not extend beyond one year from the date of issue thereof, except where the licensing officer or, in the case of foreign fishing vessels, the licensing officer with the prior approval of the Minister, may in writing otherwise authorise.
- (4) Any person who operates or causes or allows to be operated any local fishing vessel within the fishery limits except under a valid licence granted under this section in respect of that fishing vessel and in accordance with the conditions of such licence shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment.

## **PART III            FOREIGN FISHING VESSELS**

### **7            Entry and fishing by foreign fishing vessels in the fishery limits**

- (1) No foreign fishing vessel shall:
  - (a) enter within the fishery limits except for a purpose recognised by international law;
  - (b) fish or attempt to fish within the fishery limits;
  - (c) load, unload or tranship any fish within the fishery limits; or
  - (d) load or unload any fuel or supplies within the fishery limits,unless authorised to do so under a permit granted under this section.
- (2) A licensing officer may, with the approval of the Minister, grant a permit in the prescribed form in respect of any foreign fishing vessel, authorising such vessel to do such of the things described in subsection (1) as may be provided for in the permit.
- (3) Any permit granted by a licensing officer under this section shall be subject to:
  - (a) such conditions as may be prescribed, and such further conditions as may be endorsed upon the permit by the licensing officer; and
  - (b) the payment of such fees and royalties as may be determined by the Principal Licensing Officer with the approval of the Minister.
- (4) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within the fishery limits shall, while the vessel is within those limits, be stowed in such manner as may be prescribed.
- (5) Where any foreign fishing vessel contravenes any of the provisions of this section, the master, owner and charterer, if any, of such vessel shall each be guilty of an offence and liable:



- (a) in the case of a contravention under subsection (1), to a fine of two hundred and fifty thousand dollars; and
  - (b) in the case of a contravention under subsection (4), to a fine of twenty-five thousand dollars.
- (6) Where any foreign fishing vessel contravenes any of the conditions of a permit granted under this section, the master, owner and charterer, if any, of such vessel shall each be guilty of an offence and liable to a fine of twenty-five thousand dollars.

## **PART V                    PROHIBITED FISHING METHODS**

### **8                    Fishing with explosives, poison and other noxious substances**

- (1) Any person who:
- (a) permits to be used, uses or attempts to use any explosive, or any poison or other noxious substance, for the purpose of killing, stunning, disabling or catching fish or in any way rendering fish more easily caught; or
  - (b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances which raise a reasonable presumption that such explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes,
- shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment.
- (2) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse, receives or is found in possession of such fish, shall be guilty of an offence and liable:
- (a) where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended for the purpose of sale, trade, or profit, to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment; or

- (b) where no such presumption arises, to a fine of fifty dollars or to imprisonment for two months, or to both such fine and such imprisonment.
- (3) In this section “poison or other noxious substance” does not include any vegetable poison indigenous to the Solomon Islands.

## **PART VI FISH PROCESSING ESTABLISHMENTS**

### **9 Fish processing establishments**

- (1) The Principal Licensing Officer may on payment of the prescribed fee grant to any person a licence in the prescribed form to operate a fish processing establishment.
- (2) Any licence granted under this section shall be subject to such conditions as may from time to time be prescribed, or as may be endorsed on the licence.
- (3) Any person who operates or causes or allows to be operated any fish processing establishment except under a valid licence granted under this section in respect of that fish processing establishment and in accordance with the conditions of such licence shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment.

## **PART VII POWERS OF AUTHORISED OFFICERS**

### **10 Power to stop, board, search, etc., fishing vessels**

For purposes of ascertaining whether there is or has been any contravention of the provisions of this Act any authorised officer may:

- (a) at all reasonable hours enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house;
- (b) stop, board and search:
  - (i) any fishing vessel within the fishery limits; or

- (ii) any local fishing vessel, outside the fishery limits;
- (c) stop and search any vehicle transporting, or reasonably suspected of transporting, fish or fish products;
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been, or may be, exercised and take samples of any fish, or fish products, found therein;
- (e) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or other authority is required under this Act.

**11 Power of an authorised officer where he reasonably believes an offence committed**

- (1) Where he has reasonable grounds for believing that an offence against the provisions of this Act has been committed, any authorised officer without a warrant, may:
  - (a) following hot pursuit as recognised by international law and commenced within the fishery limits, stop, board and search outside the fishery limits any foreign fishing vessel which he believes has been used in the commission of that offence within the fishery limits or in relation to which he believes such offence has been committed and bring such vessel and all persons and things on board such vessel within the fishery limits;
  - (b) within the fishery limits:
    - (i) arrest any person whom he believes has committed such offence and, if the authorised officer making such arrest is not a police officer, he shall without unnecessary delay make over such person to a police officer or, in the absence of a police officer, shall take such person to the nearest police station;
    - (ii) in the case of an offence against sections 7(1), 8(1) or 15, seize any vessel (together with its equipment, stores

and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;

- (iii) seize any fishing gear, instruments or appliances which he believes have been used in the commission of such offence;
  - (iv) seize any fish which he believes have been taken or fish products produced in the commission of such offence; and
  - (v) seize any explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in contravention of section 8.
- (2) After any vessel has been stopped under the provisions of this section any authorised officer may exercise concerning the vessel or in relation to any fish or fish products therein any of the powers conferred by paragraph (d) of section 10.
- (3) A written receipt shall be given for anything seized under subsection (1) by the authorised officer concerned to the person from whom the seizure is made.

## **12 Obstruction, etc. of authorised officers**

Any person who:

- (a) wilfully obstructs any authorised officer in the exercise of any of his powers under this Act; or
- (b) fails to comply with any lawful requirement imposed or to answer any lawful enquiry made by any authorised officer under this Act,

shall be guilty of an offence and liable to a fine of two hundred dollars or to imprisonment for six months, or to both such fine and such imprisonment, and if the obstruction or non-compliance takes place on board or alongside a fishing vessel, the master of the fishing vessel shall be guilty of a like offence and liable to a like penalty.

**13      Authorised officers to declare office, etc.**

Any authorised officer acting in the exercise of his powers under this Act shall, on demand, produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorised officer for the purposes of this Act.

**14      Non-liability of authorised officers**

No authorised officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

**PART VIII OFFENCES AND LEGAL PROCEEDINGS**

**15      Throwing overboard or destroying incriminating evidence**

Any person who, being on board any vessel being pursued or about to be boarded by any authorised officer, throws over-board or destroys any fish, fishing gear, explosive, poison, noxious substance or any other thing whatsoever, with intent to avoid the seizure of such fish, fishing gear, explosive, poison, noxious substance or thing, or the detection of any offence against this Act, shall be guilty of an offence and liable to a fine of four hundred dollars or to imprisonment for one year, or to both such fine and such imprisonment.

**16      Cancellation and suspension of licences and permits**

- (1) Where any condition of any licence or permit is contravened the Principal Licensing Officer may cancel the licence or permit, or suspend such licence or permit for such period as he may think fit.
- (2) Any person aggrieved by the refusal of any licensing officer to issue any licence granted under this Act, or by the cancellation or suspension of any licence or permit granted under this Act, may appeal against such refusal, cancellation or suspension to the Minister, whose decision shall be final.

**17      Forfeiture of gear, fish and vessels**

Where any person is convicted of an offence against this Act the court may, in addition to any other penalty it may impose, order that

any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish or fish product, and any fishing gear, instruments or appliances and, in the case of any offence under section 7(1), 8(1) or section 15, any vessel (together with its equipment, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Government, and if so forfeited shall be disposed of in such manner as the Minister of Finance may direct.

## **18        Presumption**

All fish found on board any fishing vessel used in the commission of an offence against the provisions of this Act or in respect of which any such offence has been committed, shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

## **19        Jurisdiction of the courts**

Any offence against any of the provisions of this Act committed within the fishery limits may be dealt with, and judicial proceedings taken, as if the offence had been committed in any place in Solomon Islands.

## **20        Disposal of seized goods**

- (1) Any fish, fish product or other article of a perishable nature seized or taken under the provisions of this Act may on the direction of the Principal Fisheries Officer be sold and the net proceeds of the sale held pending the outcome of any prosecution brought under this Act, and if no such prosecution is brought such proceeds shall be paid to the owner of the fish, fish product or other article sold.
- (2) Any fishing vessel, fishing gear, instrument or appliance seized under section 11 which is not ordered to be forfeited under section 17 shall be returned to its owner.
- (3) Where any fishing vessel, fishing gear, instrument or appliance, fish or fish product has been seized under section 11, the court may order its release, on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person:

- (a) delivering such property to the court upon the order of the court, without any impairment of its value; or
- (b) paying the monetary value of such property in accordance with an order or judgment of the court.

## **PART IX            GENERAL**

### **21            Compulsory acquisition of land**

Whenever it appears to the Minister that any land is required for the purpose of developing fisheries or fisheries industries in Solomon Islands he may make a declaration to that effect and that purpose shall be deemed to be a public purpose and the provision of Division 2 of Part V of the Land and Titles Act (relating to the compulsory acquisition of land), with the exception of section 76(2) thereof, shall apply in relation thereto.

### **22            Fishing for scientific purposes**

The Minister may, in writing, authorise any fishing vessel to fish within the fishery limits for the purpose of scientific investigation, and may for this purpose exempt such fishing vessel from all or any of the provisions of this Act and, in making such exemption, may impose such conditions as he may think fit.

### **23            Power to make regulations**

The Minister may make such regulations as may seem to him expedient for carrying into effect any of the purposes or provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may prescribe or provide for all or any of the following purposes:

- (a) the training of fishermen;
- (b) the registration and licensing of fishermen and their fishing gear, including fixed nets, stakes and weirs, and the registration of fishing vessels;
- (c) conditions and procedures to be observed by foreign fishing vessels while within the fishery limits;

- (d) the conservation and protection of fish or any particular species of fish;
- (e) the establishment of closed seasons for any area of Solomon Islands therein specified;
- (f) the placing of a limit on the amount, size or weight of fish or any species of fish which may be caught or traded;
- (g) the designation of prohibited fishing areas for all fish or certain species of fish or methods of fishing;
- (h) the prohibition of certain types of fishing gear or methods of fishing;
- (i) in relation to fishing nets, minimum mesh sizes;
- (j) the organisation and regulation of sport fishing;
- (k) regulating the cultivation of sea-weed and other aquatic plants;
- (l) the licensing of fish farms and the regulation of importation of live fish;
- (m) the organisation and regulation of marketing, distribution and export from Solomon Islands of fish or fish products;
- (n) controlling the handling, landing and transportation of fish or fish products;
- (o) methods and procedures to be adopted in relation to fish storage and processing;
- (p) substances and materials to be used in fish processing;
- (q) the inspection of fish processing establishments and fish products;
- (r) minimum standards in relation to the quality of fish or fish products;
- (s) methods of analysis of fish and fish products;



- (t) the grant of exemption to any class of vessels or fish processing establishments from all or any of the provisions of this Act; and
- (u) anything required to be prescribed by this Act.

## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 38 of the Revised Edition of the Laws of Solomon Islands.

### 2

#### LIST OF LEGISLATION

##### ***Fisheries Act (Cap. 38)***

<i>Constituent legislation:</i>	13 of 1972 (Commenced 1 January 1973)
	9 of 1977
	LN 46A of 1978
	LN 88 of 1978

##### ***Repealed by Fisheries Act 1998 (No. 6 of 1998)***

Assent date	10 July 1998
Gazetted	13 October 1998
Commenced	1 October 1998

### 3

#### LIST OF AMENDMENTS