

- (2) No person shall carry or have in his possession or control any explosives, poison or other noxious substance or apparatus fitted for or capable of utilizing current, with the intention of using such explosive, poison or other noxious substance or apparatus for carrying out any of the prohibited acts referred to in the preceding sub-section.
- (3) Any explosive, poison or other noxious substance or apparatus found on board any vessel shall be presumed, unless the contrary is proved, to be intended for such use.
- (4) Any person who acts in contravention of provisions of this section shall be punishable (with imprisonment which may extend upto one year) or a fine upto a maximum of _____ or both.

Section 34- Possession of Prohibited Gear. etc.

Any person who uses for fishing or possess or has on board any fishing vessel:-

- a) any fishing net, the mesh size of which is less than the minimum mesh size for the type of net prescribed in any regulation made under this Act; or
- b) any other net fishing gear or fishing appliance prohibited under any regulations made under this Act; shall be punishable with a fine upto a maximum of _____

Section 35- _____

Any person who lands, sells, receives or is found in possession of any fish, knowing or having reasonable cause to believe them to have been taken in contravention of the provisions of the preceding section shall be liable to a fine not exceeding _____

Section 36-

Prohibition of Importation or Exportation of Fish or Fishery/Aquatic Products.

No person shall import or export any fish or fishery/aquatic product, whether adult or young, fry or fish eggs, for propagation or for any other purpose, without a permit obtained for the purpose and payment of inspection and other fees.

PART IX ENFORCEMENT

Section 37- Powers of Authorized Officers to stop, board and inspect, etc.

For the purpose of ensuring compliance with the provisions of this Act, any authorized officer may:-

- a) stop and board any fishing vessel within the fisheries waters, other than a foreign fishing vessel outside such waters and make any examination and enquiry concerning that vessel, its equipment, fishing gear, crew or fish carried on board that vessel;
- b) stop and inspect within the fisheries waters any vessel or vehicle transporting fish;
- c) require to be produced and examine any fishing gear or fishing appliance whether at sea or on land;
- d) examine any fishing stakes;
- e) require to be produced, examine and take copies of any licence, permit, certificate or other document required under this Act or any regulations made thereunder.

Section 38-Powers of Hot Pursuit, Entry, Seizure and Arrest

- (1) Any authorized officer, where he has reasonable ground to believe that an offence has been committed against the provisions of this Act or any regulation made thereunder, may:-
 - a) stop, board and search any foreign fishing vessel outside the fisheries waters, where he has reason to believe that the offence was committed by such vessel and pursuit to the vessel was commenced, within the fisheries waters and bring such vessel and its crew within those waters; Provided that:
 - i) where the vessel is pursued into waters falling within the Territorial sea (or Exclusive Economic zone) of another State, the pursuit and exercise of enforcement powers is

permitted by the terms of any treaty in force, regional or sub-regional arrangements.

- b) enter any premises not used exclusively as a dwelling house, in which he has reason to believe that an offence has been committed, or fish taken in contravention of such provision are being stored and search such premises;
 - c) take samples of any fish found in any vessel or vehicle inspected or any premises searched under the provisions of this Act;
 - d) arrest any person whom he has reason to believe has committed such offence;
 - e) seize any vessel (including its fishing gear, furniture, appurtenances, stores and cargo), vehicle, fishing gear or fishing appliance which he has reason to believe has been used in the commission of such offence, or in relation to which the offence has been committed;
 - f) seize any fish which he has reason to believe have been caught in the commission of such offence or are possessed in contravention of Section 35;
 - g) seize any explosive, poison or other noxious substance or apparatus which he has reason to believe have been used or possessed in contravention of Section 33.
- (2) A written receipt shall be given for any article or thing seized under sub-section (1) and the grounds for such seizure shall be stated in such receipt.
- (3) Any person arrested under the provision of this section shall be produced before a Court within twenty-four hours of the arrest if made on land or within twenty-four hours of the arrested person being brought ashore where the arrest has been made at sea.
- (4) Any vessel seized under sub-section (1) and the crew thereof shall be taken to the nearest or most convenient port and dealt with in accordance with the provisions of this Act.

Section 39-Fish and other perishable Articles seized may be sold

Any fish or other articles of a perishable nature seized under the provisions of Section 38 may, with the approval of the Director General be sold, and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

Section 40-Obstruction of Authorized Officers

Any person who:

- a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Act; or
- b) fails to comply with any lawful order or request made by any authorized officer for information connected with any investigation or enquiry under this Act; shall be punishable in accordance with the provision of this Act.

Section 41-Identification of Authorized Officers

- (1) An authorized officer whilst exercising any of his powers or duties under this Act, shall, on demand, produce to any person who may be directly concerned, such identification papers or written authorisation as may be reasonably sufficient to establish his identity.
- (2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any authorized officer, if such officer refuses or fails on demand being made by such person to produce the requisite identification papers or written authorisation.

Section 42-Non-liability of Authorized Officers

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

PART X OFFENCES, PENALTIES AND LEGAL PROCEEDINGS

Section 43-Offences against the Act or Regulations

- (1) Any person who fails to comply with the provisions of this

Act or any regulations or rules made thereunder or acts in contravention thereof shall be liable to be punished under this Act.

- (2) If no specific penalty has been provided for the particular offence, the person convicted of such offence shall be liable to a fine not exceeding _____ [or to a term of imprisonment which may extend upto a period of _____ or to both.]

Section 44-Wilful Damage to Fishing Vessels, etc

Any person who causes damage to any fishing vessel, fishing stakes, fishing gear, net or other fishing appliance in the ownership or possession of another person, either wilfully or through gross negligence, shall be liable to a fine not exceeding _____ [or to imprisonment for a term not exceeding a period of _____ or to both.]

Section 45-Destroying Incriminating Evidence

Any person who destroys or abandons any fish, fishing gear, net or other fishing appliance, explosive, poison or other noxious substance or any other object or thing with intent to avoid their seizure or the detection of an offence against this Act or any regulations made thereunder, shall be liable to a fine not exceeding _____ [or to imprisonment for a term which may extend upto _____ or to both.]

Section 46-Master liable for Offence committed on his Vessel

When an offence against this Act or any regulations made thereunder has been committed by any person on board a fishing vessel, the master of such vessel shall also be liable for such offence.

Section 47-Companies and partnerships

Where any offence against this Act or any regulations made thereunder has been committed by a company or by any member of a partnership, firm or business, every Director or Principal Officer of that Company directly connected with the activity or any other member of the partnership on the person concerned with the management of such firm or business shall be liable for such offence unless he proves to the satisfaction of the Court:

- a) that he used the diligence to secure compliance with this Act; or
- b) that such offence was committed without his knowledge, consent or connivance.

Section 48-Compounding of offences

The Director General may, at any stage of the proceeding, compound any offence against this Act or any regulations made thereunder for a sum of money not less than one-fourth of the maximum fine provided for such offence.

Section 49-Forfeiture of Vessels. etc.

- (1) Any vessel, fishing gear, net or other fishing appliance, fish or the proceeds of sale of fish, explosive, poison or other noxious substance or other article or thing seized under the provisions of this Act shall be held pending the outcome of the prosecution in a Court of law.

Provided, however, that the Court may order the release of any fishing vessel, fishing gear, net or other fishing appliance so seized upon furnishing of a bond or other security to the satisfaction of the Court by any person claiming such property.

- (2) If the owner of the property cannot be found and by reason thereof a prosecution cannot be launched, the property seized shall be held for a period of one month at the end of which it shall be deemed forfeited unless a claim is received to such property within the aforesaid period.
- (3) Upon receipt of such claim the Director General shall refer the matter to the competent Court for adjudication and the property shall be held pending the conclusion of such proceeding.

Provided however that the Court shall have power to order the release of the property upon furnishing a bond or other security by the person claiming such property.

Section 50-Power of Court to Order Forfeiture

Where any person is convicted of an offence against this Act or any

regulations made thereunder, or where the Court, on referral of any claim under Section 49, finds that such an offence has been committed, the Court, in addition to any other penalty that may be imposed:-

- a) may order that any fishing vessel (including its fishing gear, furniture, appurtenances, stores and all cargo), fishing gear, net, or other fishing appliance used in the commission of such offence be forfeited and that any licence or permit issued under this Act or any regulations made thereunder be suspended for such period of time as the Court may think fit, or be cancelled; and
- b) shall order that any fish caught in the commission of such offence or the proceeds of sale of any such fish, any explosive, poison or other noxious substance used in the commission of such offence, any fishing net or other fishing gear or fishing appliance possessed or carried on board any fishing vessel in contravention of Section 33 be forfeited; and
- c) shall order, in the case of any offence against Section 34 that any fishing gear, net or other fishing appliance carried on board the offending vessel, be forfeited.

Section 51-Second or Subsequent Offence

In the case of any second or subsequent offence against this Act or any regulation made thereunder:-

- i) the maximum penalty to be imposed may extend upto twice the limit of the fine [or imprisonment] as prescribed for that offence under the Act; and
- ii) where the offence relates to a violation of Sections 33 and 34 of the Act, the Court shall order, the forfeiture of the offending vessel (including its fishing gear, furniture, appurtenances, stores and all cargo) unless it considers that circumstances do not so justify.

Section 52-Disposal of things declared Forfeited

Any vessel (including its fishing gear, furniture, appurtenances, stores and all cargo), fishing gear, net or other fishing appliance, explosive, poison or other noxious substance, and any fish or the proceeds of sale of fish deemed or ordered forfeited under 49, 50 or 51 shall be disposed of in such manner as the Director General may think fit.

Section 53-Return of seized Vessel, etc. if no Forfeiture Ordered

Where the proceedings in respect of an offence have resulted in an acquittal or where the seized fishing vessel or goods or any proceeds realized from a sale thereof are not ordered to be forfeited, the vessel or the goods shall be returned and the proceeds shall be paid to the owner or to the person from whom the fishing vessel or goods were taken; Provided that in the case of conviction where a fine has been imposed the vessel or the goods may be detained until the fine is paid, or be sold in satisfaction of or towards realisation of the fine.

Section 54-Presumption and Proof of Cause of death, etc. of Fish

- (1) All fish found on board any fishing vessel which has been used in the commission of an offence against this Act or any regulations made thereunder shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.
- (2) In any prosecution where the cause of death, stunning, disabling or other injury to any fish is in question, a certificate signed by the Director General or such other officer authorized on his behalf shall be prima facie evidence in any Court as to the cause of such death, stunning, disabling or other injury.

Section 55-Jurisdiction of the Courts

Any offence against the provisions of this Act or the regulations made thereunder committed within the fisheries waters by any person, or any such offence committed outside such waters by any citizen of or person ordinarily resident in _____ or by any person on board any local fishing vessel, shall be triable in a Court having territorial jurisdiction at the place where the person accused of the offence is apprehended or the place where he is brought ashore if the arrest has been made at sea.

PART XI CIVIL LIABILITY

Section 56-_____

- (1) Where by reason of any Act or omission prohibited under this law, damage is caused to any person or property or the

natural resources within the fisheries waters or the territory of _____, the owner or the operator of the vessel, device or any other structure causing such damage shall be liable, except as otherwise provided under this Act.

- (2) Without prejudice to the generality of the provision of sub-section (1) such liability shall cause:-
 - a) for any damage caused to a person, vessel, gear, facility or other structure used in any activities connected with the exercise of the rights of _____ in the fisheries waters, including fishing and related activities, policing and surveillance, environmental protection and shipping;
 - b) for any damage caused in the fisheries waters or in the territory of _____ by contamination resulting from such act of omission and the consequent expenditure incurred on measures taken for clearing the environment of the contaminant and the effects of the contamination.

Section 57- _____

No action to enforce a claim in respect of a liability incurred under section 56 shall be entertained by any court in _____ unless action is commenced not later than one year after the claim arose.

Section 58-Special Defences

A person against whom an action is brought for damages under section 56 shall not incur any liability under that section if he proves that the damage caused:-

- a) was due wholly to an act or omission of another person, not being the servant or agent of the owner; or
- b) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Section 59-Jurisdiction

Any action under the provisions of Section 56 shall be maintainable in a Court having territorial jurisdiction at the place where the defendant or its agent is ordinarily resident or at the place where the offender or the offending vessel is brought to port.

PART XII PROCESSING AND MARKETING

Section 60-Marketing Regulation Schemes

- (1) The Minister may, by regulation formulate schemes for marketing of fish and establishment of fish markets in a specified area or areas with a view to maintenance of supply and distribution of fish in an equitable and orderly manner.
- (2) Such schemes may include provisions for regulating the landing of fish in the notified area, the auctioning or other sale of fish and registration of dealers.

Section 61-Processing Establishments

- (1) The Director General may upon application being made in the prescribed form issue to any person a Licence to operate a fish processing establishment.
- (2) The owner or operator who operates or causes to operate any such establishment otherwise than under and in accordance with the conditions of a valid licence shall be punishable under this Act.
- (3) The provisions of this section unless otherwise specified by notification by the Government (Minister) shall not apply to any fish processing establishment where fish is preserved solely by means of smoking or drying by traditional means.

Section 62-Control and Regulation of Fish Processing Establishments

The Minister, in consultation with the appropriate bodies or authorities responsible for public health may issue directions concerning the location, construction and operation of fish processing establishments and may require the inspection of the establishment and fish products. Any such directions may relate also to establishing quality standard methods of analysis and testing for fish and fish products.

Section 63-Processor's Carrier Permit

The Director General may upon application made for the purpose issue a transport permit in respect of a vessel owned or operated by

any person engaged in the processing of fish and used exclusively to transport fish to the shore processing facility specified in the permit.

PART XIII GENERAL PROVISION

Section 64-Power to make Regulations

- (1) The Government (Minister) may make regulations for the carrying out of or giving effect to the purposes and provisions of this Act.
- (2) Every regulation made under this Act 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 notification.
- (3) Every such regulation shall be laid before the Parliament/ Legislature.

Section 65-Power to frame Rules

The Government (Minister) may make rules for the administration of the provision of the Act and the regulations made thereunder.

Such rules shall be published in the official Gazette.

Section 66-Licence and Permit Registers

Registers showing particulars of the licences and permits issued under the Act shall be maintained and kept at such place or places as the Director General shall specify.

Section 67-Environment Protection

Where, under the laws governing environmental protection for the time being in force, any application is made for a licence to emit, discharge or deposit wastes into any fish bearing waters, the Director General shall be consulted as to the possible effect of such emission, discharge or deposit on fish and other aquatic living resources before any such licence is granted.

Section 68-Fishing for Research, Experimental, Scientific and Sporting purposes

The Director General may, by order, exempt any person or vessel

from all or any of the provisions of this Act or any regulations made thereunder for the purposes of fisheries research, experimentation, scientific investigations for the proper management and development of fisheries resources or sport, within the fisheries waters, subject to such conditions as the Minister, may think fit to impose.

Section 69-Protection of Fishermen

- (1) No dory, flat or other boat whatever shall set out from any vessel engaged in deep-sea or bank fishing or be launched with hooks and lines, trawls or other similar appliances, or with intent that the same shall be used in so fishing, or with intent that the same shall be used in so fishing, or for the purpose of examining trawls, set lines or other similar appliances for fishing, unless there is placed in such boat, to be retained therein during absence from such vessel, a mariner's compass, nor unless there is placed in such boat at least two quarts of drinking water and two pounds of solid food for each man of the crew of such boat.
- (2) The owner of such vessel shall supply the vessel at the commencement of its voyage with as many serviceable mariner's compasses as it carries boats, in addition to the vessel's compass and also with the necessary utensils for holding water and with a serviceable fog-horn or trumpet.
- (3) The Coast Guard shall not grant a clearance to such vessel or allow it to go to sea unless the master thereof has a certificate from an officer authorized by the Minister to give such certificates that the vessel is properly equipped with a mariner's compass and suitable utensils for holding water for such boat carried by the vessel and with a serviceable fog-horn or trumpet.

Section 70-Offences by Authorised Officers

Any officer employed in connection with the enforcement of this Act or any regulation made thereunder who aids, abets or connives at any violation of this Act or of any regulations made thereunder, is liable upon summary conviction to imprisonment which may extend upto a period of six months or to a fine upto a maximum of _____ or both.

Section 71-Operation of Radio Communication facilities on Board Fishing Vessels

The Radio Control Office shall, upon application, issue a permit and