

LAWS OF DOMINICA

FISHERIES ACT

CHAPTER 61:60

**Act
11 of 1987**

Current Authorised Pages
Pages Authorised
(inclusive) by L.R.O.
1-24 1/1991

**Note
on
Subsidiary Legislation**

The Fisheries Rules (S.R.O. 10/1939) (contained in Vol. V of the 1961 Ed. (page 239) and preserved by section 40 of the Act) have been omitted.

CHAPTER 61:60**FISHERIES ACT****ARRANGEMENT OF SECTIONS****PART I****PRELIMINARY**

SECTION

1. Short title.
2. Interpretation.

PART II**FISHERIES MANAGEMENT AND DEVELOPMENT**

3. Promotion of fisheries.
4. Fisheries management and development plan.
5. Fisheries Advisory Committee.
6. Regional cooperation in fisheries management.
7. Fisheries access agreements.
8. Foreign fishing licences.
9. Stowage of fishing gear.
10. Observation of laws.
11. Local fishing licences.
12. Validity of fishing licences.
13. Conditions of fishing licences.
14. Fees, royalties and other charges.
15. Cancellation or suspension of fishing licences.
16. Notices.
17. Fish processing establishments.
18. Local fisheries management areas.
19. By-Laws.

PART III**MARINE RESERVES AND CONSERVATION MEASURES**

20. Fishing priority areas.
21. Leasing of land for aquaculture.
22. Marine reserves.

SECTION

23. Fisheries research.
24. Prohibited fishing methods.
25. Possession of prohibited fishing gear.

PART IV
ENFORCEMENT

26. Designation of authorised officers.
27. Powers of authorised officers.
28. Sale of perishable goods seized.
29. Immunity of authorised officers.
30. Assaulting or obstructing authorised officers.
31. Liability of master.
32. Court's power of forfeiture.
33. Presumptions.
34. Onus of Proof.
35. Disposal of vessel, etc., forfeited.
36. Jurisdiction.
37. Minister's power to compound offences.

PART V
GENERAL

38. Regulations.
 39. Exemptions.
 40. Savings.
-

CHAPTER 61:60

FISHERIES ACT

AN ACT to make provision for the promotion and regulation of fishing in the fishery waters of Dominica and for matters incidental thereto and connected therewith. ^{11 of 1987.}

[2nd July 1987]

Commencement.

PART I

PRELIMINARY

1. This Act may be cited as the –

Short title.

FISHERIES ACT.

2. In this Act –

Interpretation.

“access agreement” means an agreement 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 26;

“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 any shellfish, turtle, mollusc, crustacean, coral, sponge, echinoderm, its young and its eggs;

“fish aggregating device” means any man-made or partly man-made floating or submerged device, whether anchored or not, 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 Assistant Fisheries Officer and any other officer appointed under section 3 (2);

“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 or economic characteristics;

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

Ch.1:11.

“fishery waters” means the waters of the exclusive economic zone, territorial sea and internal waters as defined in the Territorial Sea, Contiguous Zone, Exclusive Economic and Fishery Zone Act and any other waters over which Dominica claims fisheries jurisdiction;

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

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

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

“licence” means a licence issued under this Act;

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

“local fishing vessel” means any fishing vessel –

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

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

(c) wholly owned by any company, society or other association of persons incorporated or established under the laws of Dominica of which at least fifty-one per cent of the voting shares are held by citizens of Dominica;

“locally based foreign fishing vessel” means any foreign fishing vessel based in Dominica which lands all its catch in Dominica;

“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 responsible for Fisheries;

“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 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 fishing operations.

PART II

FISHERIES MANAGEMENT AND DEVELOPMENT

3. (1) The Minister shall take such measures as he thinks fit under this Act to promote the management and development of fisheries, so as to ensure the optimum utilisation of the fisheries resources in the fishery waters for the benefit of Dominica. Promotion of fisheries.

(2) The Minister may provide for the appointment of –

- (a) a Chief Fisheries Officer; and
- (b) such other Fisheries Officers, Assistant Fisheries Officers and other officers as may be necessary to give effect to this Act.

4. (1) The Chief Fisheries Officer shall prepare and keep under review a plan for the management and development of fisheries in the fishery waters. Fisheries management and development plan.

- (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) The fishery plan and each review thereof shall be submitted to the Minister for approval.

Fisheries
Advisory
Committee.

5. (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.

Regional
cooperation in
Fisheries
Management.

6. (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 harmonisation of systems for the collecting of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (b) the harmonisation 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 harmonised 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) where appropriate, the establishment of a regional register of fishing vessels;
- (g) such other co-operative measures as appropriate including measures for promoting the welfare of fishermen and the 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 –

- (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 a valid regional fishing licence 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 negative resolution of the House.

7. (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 these states or associations.

Fisheries access agreements.

(2) The fishing rights allocated under 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 and section 8 the term “state” shall include any regional organisation to which the power to negotiate access agreements has been delegated by the member countries.

Foreign fishing
licences.

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

(2) Subsection (1) shall not apply to any foreign fishing vessel used purely for the purpose of sports fishing.

(3) 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).

(4) 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.

(5) Subject to subsection (6), 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 Dominica is a party.

(6) Subsection (5) shall not apply to a licence issued in respect of –

(a) test fishing operations; or

(b) a locally based foreign fishing vessel.

(7) Where a fishing vessel is used in contravention of subsection (1) or of any condition of the foreign fishing licence the master, owner or charterer of that vessel is each liable to a fine of five hundred thousand dollars, and in default of payment thereof to imprisonment for five years.

Stowage of
fishing gear.

9. (1) 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 by Regulations, while within fishery waters.

(2) For the purposes of this section and the Regulations prescribing the manner of stowage, the term “fishing gear” includes any net, line, hook, float, pole, rope, trap, boat or helicopter that may be used in the act of fishing.

(3) Where the fishing gear of any foreign fishing vessel referred to under subsection (1), is not stowed or secured in the manner prescribed by Regulations made under section 38 (1)(j) while such vessel is within the fishery waters, the master, owner and charterer of that vessel is each liable on summary conviction to a fine of two hundred and fifty thousand dollars and in default of payment thereof to imprisonment for twelve months.

10. 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. Observation of laws.

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

(2) Subsection (1) shall not apply to any local fishing vessel used purely for the purpose of sport fishing or fisheries research operations.

(3) An application for a local fishing licence shall be made in the prescribed form to the Minister.

(4) Subject to subsection (5), the Minister may issue a local fishing licence in the prescribed form.

(5) No application for a local fishing licence shall be refused except on any of the following grounds:

- (a) that it is necessary to do so in order to give effect to any licensing programme specified in the fisheries plan;
- (b) that the Chief Fisheries Officer has reason to believe that the applicant will not comply with the conditions of the licence;
- (c) 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 38 relating to the safety of the vessel; or

(d) such other grounds as are specified in this Act or any such Regulations made under this Act.

(6) Where a local fishing vessel is used in contravention of subsection (1), or of any condition of the local fishing licence, the master, owner and charterer of that vessel is each liable on summary conviction to a fine of ten thousand dollars and in default of payment thereof to imprisonment for twelve months.

Validity of
fishing licences.

12. (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 licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically terminate.

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

(4) No licence shall be transferable.

Conditions of
fishing licences.

13. (1) Every fishing licence shall be in the prescribed form and shall be subject –

(a) to such general conditions as may be prescribed;

(b) to such general conditions as may be specified under subsection (2); and

(c) to such special conditions as may be specified under subsection (3).

(2) The Minister may, by Order, specify general conditions additional to those prescribed to which all fishing licences 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 Minister may attach to any fishing licence such special conditions as he may think fit, which may include an increase of the fee payable for issue of the licence.

(4) The Minister may from time to time, where he 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 varies any special conditions attached to any fishing licence he shall notify the licence holder of the variations as soon as practicable.

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

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

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

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

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

(4) Where a fishing licence has been suspended or cancelled on the ground specified in subsection (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 request.

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

(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 considers appropriate.

Fish processing establishments.

17. (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 –

(a) operates or allows to be operated any fish processing establishment except under a licence granted under this section; or

(b) operates or allows to be operated any fish processing establishment in contravention of any condition of a licence granted under this section,

is liable on summary conviction to a fine of five thousand dollars and in default of payment thereof to imprisonment for twelve months.

(3) In this section “fish processing establishment” means 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 Dominica.

Local fisheries management areas.

18. (1) The Minister may by Notice published in the *Gazette* –

(a) designate an area as a local fisheries management area;

(b) designate any local authority, fishermen’s co-operative 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 considers it practicable, provide to any Local Fisheries Management Authority, such assistance as may be reasonably necessary for the performance of its functions.

By-laws.

19. (1) A Local Fisheries Management Authority designated under section 18 (1)(b) may make By-laws, not inconsistent with this Act or any Regulations made under this Act, regulating the conduct of fishing operations in the designated area.

(2) By-laws made under subsection (1) shall be approved by the Minister and published in the *Gazette* before they come into effect.

(3) By-laws made under subsection (1) may provide that a breach of any by-law constitutes an offence and may provide for penalties on summary conviction by way of fine of one thousand dollars, and in default of payment thereof, imprisonment for six months.

PART III

MARINE RESERVES AND CONSERVATION MEASURES

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

Fishing priority areas.

21. (1) The Minister may lease any land including areas of the foreshore and sea-bed for the purposes of aquaculture, if he is satisfied after such enquiry as he may consider 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 38 relating to the leasing of land for aquaculture.

Leasing of land for aquaculture.

(2) The provisions of the State Lands Act shall apply, *mutatis mutandis*, to the leasing of lands including foreshore and sea-bed for the purposes of aquaculture under this section.

Ch. 53:01.

(3) Notwithstanding any provisions of the State Lands Act 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 38, the use of such land including foreshore or sea-bed by members of the public.

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

Marine reserves.

(a) to afford special protection to the flora and fauna of such areas and to protect and preserve the natural breeding ground and habitats of aquatic life, with particular regard to flora/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; or
- (d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve,

is liable on summary conviction to a fine of five thousand dollars and, in default of payment thereof, to imprisonment for twelve months.

(3) The Minister, or any person authorised by him 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).

Fisheries
research.

23. (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 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 thinks 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).

is liable on summary conviction to a fine of one thousand dollars and, in default of payment thereof, to imprisonment for six months.

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

24. (1) Any person who –

Prohibited fishing methods.

(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 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 paragraph (a),

is liable on summary conviction to a fine of one thousand dollars and, in default of payment thereof, to imprisonment for six months.

(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, is liable on summary conviction, to a fine of one thousand dollars and, in default of payment thereof, to imprisonment for six months.

(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 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 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.

25. Where in fishery or area within the fishery waters any person uses for fishing or has on board any fishing vessel in circumstances which indicate an intention to use for fishing therein –

Possession of prohibited fishing gear.

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

that person is liable on summary conviction to a fine of one thousand dollars and, in default of payment thereof, to imprisonment for six months.

PART IV ENFORCEMENT

Designation of
authorised
officers.

26. The Minister may designate from time to time by Notice published in the *Gazette* such persons as he thinks 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 purpose of this Act.

Powers of
authorised
officers.

27. (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 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 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 has reason to believe that the offence has been committed or where he 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;
- (c) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he 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 which he has reason to believe has been caught in the commission of the offence, or is being possessed in contravention of this Act;
- (e) seize any explosive or poison which he has reason to believe has been used or is being possessed in contravention of this Act.

(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.

(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 recognised 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 by this section shall on demand produce such means of identification as may be necessary to show that he is an authorised officer for the purpose of this Act.

Sale of perishable goods seized.

28. (1) Any fish or other articles of a perishable nature seized under this Act may, at the discretion of the Chief Fisheries Officer, be sold and the proceeds of the 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 may dispose of them in such other manner as he thinks fit.

Immunity of authorised officers.

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

Assaulting or obstructing authorised officers.

30. Any person who obstructs, assaults or threatens with violence an authorised officer in the exercise of the powers conferred on him under this Act is liable on summary conviction to a fine of five thousand dollars or to imprisonment for two years.

Liability of master.

31. 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 is also guilty of the offence.

Court's power of forfeiture.

32. Where any person is convicted of an offence against this Act or Regulations made thereunder, 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, fishing gear, net or other fishing appliance, used in the commission of the offence be forfeited;

(b) shall order that any fish caught in the commission of such offence or the proceeds of sale of such fish and any explosive, poison or other noxious substance used in the commission of such offence be forfeited.

Presumptions.

33. (1) Until the contrary is proved, all fish found on board any fishing vessel which has been used in the commission of an offence against this Act or Regulations made thereunder shall be presumed to have been caught in the commission of that offence.

(2) Where in any legal proceedings instituted under this Act or Regulations made thereunder 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.

34. 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. Onus of proof.

35. 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. Disposal of vessel, etc., forfeited.

36. 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 Dominica, or by any person on board any local fishing vessel, shall be triable in any court of Dominica as if the offence had been committed in any place in Dominica within the local limits of the jurisdiction of that court. Jurisdiction.

37. (1) Subject to subsection (4) and the powers of the Director of Public Prosecutions under the Constitution, the Minister may where he is satisfied that any person has committed an offence against this Act or any Regulations made under this Act compound the offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence. Minister's power to compound offences.

(2) On compounding an offence under this section the Minister may order the release of any article seized under section 27 or the proceeds of sale of such article under section 28 on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

(3) No offence shall be compounded under this section unless the person who has committed the offence has expressed his willingness in writing 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 Regulations made under this Act, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this section.

(6) The powers conferred on the Minister by subsection (1) may be exercised by the Chief Fisheries Officer in respect of a local fishing vessel.

(7) This section does not apply to any offence against section 24 or section 30 of this Act.

PART V GENERAL

Regulations.

38. (1) The Minister may make Regulations generally for the management and development of fisheries in the fishery waters, and in particular, but without limiting the generality of the foregoing, may make Regulations for all or any of the following purposes:

- (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 utilisation 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) control and licensing sport fishing in the fishery waters;
 - (g) regulating the use of scuba 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 any particular method for storing or securing fishing gear;
 - (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 20, 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;
 - (ii) the taking of coral and shells;
 - (iii) the setting of fishing fences;
 - (iv) the taking of aquarium fish;
 - (v) aquaculture development and operations;

- (q) prescribing measures for the protection of turtles, lobsters and conches;
- (r) providing 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) prescribing any other matter which is required or authorised to be prescribed.

(2) The Minister may by Regulations 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 thousand dollars and in default of payment thereof imprisonment for a term of twelve months.

Exemptions.

39. 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.

Savings.
Cap. 79.
(1961 Ed.).

40. Any Rules made under the Fisheries Ordinance (repealed by this Act) shall, except in so far as they are inconsistent with this Act, or revoked by Regulations made under this Act, continue to have effect as though made or issued under this Act.
