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FISHERIES ACT 1997

FISHERIES REGULATIONS 1998

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In Exercise of the powers conferred on it by section 42 of the Fisheries Act 1997 the Cabinet has made the following Regulations —

PART I — PRELIMINARY

SHORT TITLE

1. These Regulations may be cited as the Fisheries Regulations 1998.

INTERPRETATION

2. In these Regulations, unless the context otherwise requires —

"acceptable safety standards" in relation to a small boat, means any safety standards required from time to time by the Authority;

"the Act" means the Fisheries Act 1997;

"foreign boat licence" means a licence issued in respect of a foreign boat under regulation 24;

"game fishing licence" means a licence issued in respect of a boat used for game fishing under regulation 29;

"national boat licence" means a licence issued in respect of a national boat under regulation 26;

"research permit" means a research permit in respect of a boat used for research issued under regulation 32;

"VMS information" means information obtained from the Regional Vessel Monitoring System, including but not limited to position reports, sighting reports, catch reports, notification of intentions, and analyses of data received by the system;

"VMS registration" means registration on the VMS Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency.

PART II —REGISTRATION OF SMALL BOATS

GRANT OF REGISTRATION

3. (1) A small boat which is used for fishing, including game fishing, in fisheries waters shall be registered in accordance with this Part.

(2) The owner of a small boat may apply in Form 1 of Schedule 1 to register or renew the registration of the boat.

- (3) Where he is satisfied that —

(a) the boat the subject of an application under sub-regulation (2) meets acceptable safety standards; and

(b) the registration or renewal will not conflict with any scheme of priorities established for the registration of small boats; and

(c) it is in the national interest to register or renew the registration of the boat,

the Chief Executive Officer may, upon receiving payment of the fee set out in Column 2 of Schedule 2, register the boat and grant a certificate of registration in Form 2 of Schedule 1 to the owner of the boat, or renew the registration and certificate, as the case may be.

(4) The period of registration under this Part is as specified in Column 3 of Schedule 2.

where —

- (d) he considers that the boat is not fit for fishing or does not meet acceptable safety standards; or
- (e) the registration, renewal, transfer or continued registration, as the case may be, will conflict with any scheme of priorities established for the registration of small boats; or
- (f) he is satisfied that the registration of the boat would not be in the national interest.

(2) The owner of a boat refused registration, renewal or transfer of registration or the registration of which is cancelled under sub-regulation (1) may, within 21 days, appeal in writing to the Board and the Board may —

- (a) confirm; or
- (b) vary.

the refusal of the Chief Executive Officer.

(3) Before making a decision under sub-regulation (2), the Board shall afford the appellant a reasonable opportunity to be heard.

PART III —LICENSING OF FISHING BOATS AND FISHING ACTIVITIES

APPLICATION OF PART III

8. This Part does not apply to —

- (a) fishing, other than game fishing, carried out by use of a registered small boat; or
- (b) fishing carried out under and in accordance with a research permit granted under Part IV; or
- (c) fishing or a fishing activity carried out by or on behalf of the Republic or the Authority.

ACTIVITIES REQUIRING LICENCE

9. (1) Subject to sub-regulation (2) —

- (a) a foreign boat which is used for fishing or a fisheries activity in fisheries waters shall be licensed as a foreign boat under regulation 24; and
- (b) a national boat which is used in any waters for fishing, other than for sport or game fishing in fisheries waters, or a fisheries activity, shall be licensed as a national boat under regulation 26; and
- (c) a boat, including a registered small boat, which is used for reward or hire for the purpose of sport or game fishing in fisheries waters shall be licensed as a game fishing boat under regulation 29.

(2) Sub-regulation (1) does not apply to —

- (a) a support craft; or
- (b) a foreign boat licensed under a Regional Licensing Arrangement.

LICENCE APPLICATIONS

10. (1) In considering an application for a licence under this Part, the Chief Executive Officer shall take into consideration —

- (a) any relevant policy directions or guidelines of the Minister and the Authority; and
- (b) any relevant Fishery Strategy; and

- (c) any relevant declarations of total allowable catch or precautionary limit points; and
- (d) where the proposed operation entails possible adverse environmental effects, any proposals for the management of those effects; and
- (e) the commercial viability of the proposed operation (including, where necessary or applicable, an assessment of the financial resources of the applicant and analysis of projected cash flows); and
- (f) the financial and operational history of the applicant and any other person involved in the operation the subject of the application; and
- (g) whether the applicant and any other person involved in the operation the subject of the application have cooperated in and made contributions to the development of the fishing industry, fishery research, the identification of fishing resources, the enforcement of fisheries laws, the provision of catch data and the conservation and management of fishing resources; and
- (h) in relation to a boat the subject of the application, the ownership and registration history of the boat, the nature of any charter agreement, lease, mortgage or other financial arrangement in relation to the boat, the proposed base port of operation of the boat and the history of the good standing of the boat; and
- (i) in relation to a national boat the subject of an application for a national boat licence, details of the ownership of the boat or the use of land-based facilities in Nauru such as may qualify the boat to be classed as a national boat; and
- (j) in relation to an application for a game fishing licence, whether it is proposed that the operation will be associated with any national, sub-regional or regional tag-and-release or other similar conservation or scientific project; and
- (k) any proposals by the applicant and any other person involved in the proposed operation for future expansion or alteration of the nature of the proposed operation; and
- (l) in relation to an enterprise which is not wholly owned and controlled by Nauruan citizens, the level of citizen equity and the degree of control exercisable in law, by agreement or in practice by citizens in the enterprise, the proposed cost and profit sharing arrangements in the enterprise, and any proposals for variation in any of these; and
- (m) any proposed level of training and employment of Nauruan citizens in the proposed operation (including crew members on any boat involved in the proposed operation); and
- (n) any other similar matters.

(2) The Chief Executive Officer may refuse to grant a licence —

- (a) where he considers it necessary to do so in order to give effect to any licensing programme or limitation specified in a relevant Fishery Strategy or, in the case of a fishery not subject to a Fishery Strategy, or not previously exploited, where he believes that it would be detrimental to the proper management of the fishery to issue a licence; or
- (b) where the issue of the licence would conflict with any scheme of priorities established for the grant of licences; or
- (c) where he has reason to believe, in view of previous convictions for offences related to fisheries, that the applicant will not comply with the conditions of the licence; or
- (d) in relation to an application in respect of a boat, where the boat does not have a valid seagoing certificate or certificate of seaworthiness where required under the laws governing shipping, or is not in compliance with any prescribed or acceptable safety standards; or

- (e) in relation to an application for a national boat licence, where he is not satisfied as to the *bona fides* of the joint venture under which it is proposed the boat will operate or that the boat is sufficiently based in Nauru so to qualify as a national boat; or
- (f) in relation to an application for a foreign boat licence, where the boat does not have good standing, or its good standing is suspended, or it does not have VMS registration; or
- (g) on any other grounds specified by or under the Act or these Regulations.

ALLOCATION OF FISHING BOAT LICENCES

11. (1) Subject to the Act or these Regulations, fishing boat licences for each fishery shall be granted in the following descending order of priority:—

- (a) a national boat wholly owned by Nauruan citizens, the Republic or a statutory corporation of the Republic;
- (b) a national boat owned by or operated under a joint venture;
- (c) any other national boat;
- (d) a foreign boat owned or operated by a Nauruan enterprise which is not a joint venture;
- (e) any other foreign boat,

and in accordance with any priorities established by an international, regional or sub-regional agreement or arrangement to which the Republic is a party.

GRANT OF LICENCES

12. (1) A licence granted under this Part —

- (a) is subject to the conditions specified in it; and
- (b) provided the applicable fee has been paid, comes into force on a date specified in it or, if no date is specified, on the date on which it is granted; and
- (c) subject to this regulation, remains in force until the day on which it expires in accordance with regulation 13.

(2) A licence issued in contravention of any provision of the Act or these Regulations, any other law or any applicable agreement or arrangement, is void.

PERIOD OF LICENCE

13. The period of a licence issued under this Part is as specified in Column 3 of Schedule 2.

LICENCE FEES

14. (1) This section does not apply to foreign boat licences.

(2) The fees payable in respect of a licence are as specified in Column 2 of Schedule 2.

(3) A licence shall not come into force until and unless the applicable fee has been paid.

(4) There shall be no refund of any fee paid for the issue of a licence.

FOREIGN BOAT LICENCE FEES

15. (1) The fee for a foreign boat licence shall comprise —

- (a) an access fee, which shall be paid before the issue of the licence; and
- (b) a fishing fee.

(2) An access agreement shall make provision for the levels and method of payment of the access fees and fishing fees payable in respect of the foreign boats licensed under the access agreement.

(3) The fishing fee referred to in sub-regulation (1) may —

- (a) be calculated as a percentage of the actual value of catch, and paid as specified in the access agreement; or
- (b) be estimated and paid together with the payment of the access fee before the issue of the licence.

TRANSFER OF LICENCE

16. A licence issued under this Part shall not be transferred to another licensee or to be held in respect of another boat, premises or place.

LOST, DESTROYED OR DEFACED LICENCE

17. (1) Where a licence has been lost or destroyed, the licensee may make written application to the Chief Executive Officer for the issue of a duplicate licence.

(2) Where the Chief Executive Officer is satisfied that —

- (a) the licence has been lost or destroyed; and
- (b) no improper use has been made or is being made of the licence,

he shall, on payment of the duplicate licence fee set out in Column 2 of Schedule 2, issue a duplicate licence to the licensee.

(3) Where a licence has been defaced, the licensee shall, on returning the licence to the Chief Executive Officer and on payment of the duplicate fee set out in Column 2 of Schedule 2, be issued with a duplicate licence.

(4) A duplicate licence issued under this regulation has the same force and effect as the licence of which it is a duplicate.

CHANGE IN CIRCUMSTANCES OF OPERATION

18. (1) Where a licensee which is a corporate person proposes a change in its shareholding or beneficial ownership, it shall immediately notify the Chief Executive Officer in writing, giving details of the proposed change.

(2) Where the operator of a national boat proposes a change in the operations of the boat such that it may no longer qualify as a national boat, he shall immediately notify the Chief Executive Officer in writing, giving details of the proposed change.

(3) The Chief Executive Officer shall consider a notification under sub-regulation (1) or (2) and shall decide whether the proposed change is such that the licence should be cancelled or continued.

AUTOMATIC SUSPENSION OF LICENCE

19. (1) A licence which authorises fishing or a fisheries activity in contravention of a notice under section 11 of the Act is, to the extent that its terms contravene the notice, automatically suspended.

(2) Where the good standing or the VMS registration of a licensed boat is suspended, any licence in respect of the boat is automatically suspended until and unless the good standing or the VMS registration (as the case may be) of the boat is restored.

SUSPENSION OF LICENCE

20. (1) The Chief Executive Officer may suspend a licence, on such terms as he considers appropriate —

- (a) where a material misrepresentation, omission or misstatement of fact has been made in the application for the licence; or
- (b) where there has been consistent failure to report as required by these Regulations; or
- (c) where he has reasonable grounds to suspect that there has been a contravention of, or a failure to comply with, a term or condition of the licence, not being a ground to which he has previously exercised his powers under this regulation in relation to the licence; or
- (d) where any fee, charge or levy required in respect of the licence has not been paid; or
- (e) for a specified period, where he is satisfied that the suspension is necessary for the proper management or conduct of a fishery or a fishing activity; or
- (f) where the licensee has been charged with an offence involving dishonesty under any law and the charge has not yet been determined; or
- (g) in respect of a national boat which the Republic has proposed for licensing under a Regional Licensing Arrangement, where he has reasonable grounds to believe that the boat has been operated contrary to the conditions of the Regional Licensing Arrangement or the laws of any state in whose waters the Regional Licensing Arrangement entitles it to fish; or
- (h) on any other ground specified under the Act or these Regulations for the suspension of a licence.

(2) Before a licence is suspended, the Chief Executive Officer shall serve a notice on the licensee specifying the ground for suspension and —

- (a) where the licence is being suspended under sub-regulation (1)(b) or (c), allowing the holder not less than 14 days after the date of serving of the notice to remedy the contravention or the failure to comply or pay; or
- (b) where the licence is being suspended under sub-regulation (1)(d), (f), (g), (h) or (i), allowing the holder not less than 14 days after the date of service of the notice to make representations as to why the licence should not be suspended.

(3) Unless sooner revoked, the suspension of a licence under sub-regulation (1)—

- (a) takes effect on the expiry of the time allowed in the notice under sub-regulation (2); and
- (b) continues until the suspension is rescinded by the Chief Executive Officer or the licence expires or is cancelled.

(4) On the request of the licensee, the Chief Executive Officer shall allow him an opportunity to be heard and —

- (a) where he is satisfied that the ground for suspension does not apply or is not sufficiently serious as to merit suspension, may rescind the suspension; or

(b) where he is satisfied that the licensee is performing his obligations and complying with the Act and these Regulations, shall rescind the suspension.

(5) The Chief Executive Officer shall rescind a suspension —

(a) under sub-regulation (1)(e), if the suspension is no longer required for the proper management of the fishery; or

(b) under sub-regulation (1)(f), when the charge has been determined in favour of the licensee.

AUTOMATIC TERMINATION OF LICENCE

21. Where —

(a) any fee, charge or levy required in respect of a licence has not been paid; or

(b) the flag state registry or the ownership of a boat the subject of a licence changes; or

(c) the good standing or the VMS registration of a boat the subject of a licence is cancelled; or

(d) an approval under regulation 18 has not been sought in accordance with that regulation, or approval has not been given or conditions upon which the approval was given have not been complied with, and the change has occurred; or

(e) an operator of a national boat which the Republic has proposed for licensing under a Regional Licensing Arrangement has been convicted by any court of operating the boat contrary to the conditions of the Regional Licensing Arrangement or the laws of any state in whose waters the Regional Licensing Arrangement entitles it to fish,

the licence shall automatically terminate.

CANCELLATION OF LICENCE

22. (1) The Chief Executive Officer may cancel a licence —

(a) where he is satisfied that information required to be given or reported under the Act or these Regulations and any applicable access agreement is false, incomplete, incorrect or misleading; or

(b) where the licensee (or where the licensee is a corporate person, any of the principals of the licensee) is convicted of an offence against the Act or these Regulations, the Marine Resources Act 1978 (*repealed*), any other law concerning fisheries matters, or

(c) where the licensee (or where the licensee is a corporate person, any of the principals of the licensee) is convicted of an offence involving dishonesty under any law; or

(d) where the licensee becomes bankrupt, or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(e) where he is satisfied on reasonable grounds that the licensed activity is not being conducted in accordance with the requirements of the Act or these Regulations or any other relevant law, any applicable access agreement or other agreement, or that there has been a change in the circumstances of the licensee sufficient to justify cancellation of the licence; or

(f) on any ground given under these Regulations for the cancellation of a licence.

(2) For the purposes of sub-regulation (1); "principals" in respect of a corporate person includes the director, manager, secretary or other similar officer or any person purporting to act in such a capacity.

(3) Where the Chief Executive Officer proposes to cancel a licence under this regulation, he shall serve a notice on the licensee —

- (a) advising him of the intention to cancel the licence and of the reasons for the intended cancellation; and
- (b) allowing him, within 14 days from the date of service of the notice, to make written or oral representations as to why the licence should not be cancelled.

(4) Where the licensee does not make, within 14 days, representations under sub-regulation (3)(b) or a request to be heard under sub-regulation (4), the Chief Executive Officer may cancel the licence.

(5) Where representations have been made under sub-regulation (3)(b), the Chief Executive Officer shall consider them and decide whether or not to cancel the licence.

REPORT TO BOARD

23. (1) The Chief Executive Officer shall, not later than the 14th day of each month, furnish a report to the Board in respect of all licences issued, renewed, refused, suspended and cancelled during the previous month.

(2) A report under sub-regulation (1) shall include reasons for any refusal, suspension or cancellation of a licence included in it.

FOREIGN BOAT LICENCES

24. (1) No licence shall be issued in respect of a foreign boat except under and in accordance with an access agreement.

(2) An application for a foreign boat licence shall be made in Form 4 of Schedule 1 by or on behalf of the operator of the boat.

(3) A foreign boat licence —

- (a) shall be in Form 5 of Schedule 1; and
- (b) shall be issued for a specified species, sub-species, class or type of fish; and
- (c) may be issued for a specified area of fisheries waters; and
- (d) shall specify the fishing method permitted under the licence; and
- (e) may specify the type of equipment to be used for fishing; and
- (f) may specify a port or ports at which the boat may tranship, offload, refuel or reprovision; and
- (g) may specify such further conditions in relation to any fishing permitted under the licence, including catch limits, as are necessary or desirable; and
- (h) may specify a number of Nauruan citizens who are to be employed as crew aboard the boat during the licence period; and
- (i) shall require that an approved automatic location communicator be installed on the boat, maintained in good working order and kept operational at all times during the licence period and in accordance with the manufacturer's specifications and operating instructions and the standards laid down by the Regional Vessel Monitoring System; and
- (j) shall be endorsed in respect of any support aircraft and support craft.

(4) A foreign boat licence is subject to the conditions in regulation 27 and to such further conditions as are specified in it.

LEGAL REPRESENTATIVE

25. (1) The foreign party to an access agreement or the operator of a licensed foreign boat shall nominate a legal representative who is resident in Nauru and authorise him to act on behalf of the operator of the boat and to accept legal responsibility on behalf of the operator for any action, juridical or otherwise, taken in respect of the boat.

(2) Any communication, information, document, direction, request or response to or from the legal representative shall be deemed to have been sent to, or received from, the foreign party or operator or both, as the case may be.

NATIONAL BOAT LICENCES

26. (1) The operator of a national boat may apply for a national boat licence in Form 6 of Schedule 1.

(2) A national boat licence —

- (a) shall be in Form 7 of Schedule 1; and
- (b) shall be issued for a specified species, sub-species, class or type of fish; and
- (c) may be issued for a specified area of fisheries waters; and
- (d) shall specify the fishing method permitted under the licence; and
- (e) may specify the type of equipment to be used for fishing; and
- (f) may specify a port or ports at which the boat may tranship, offload, refuel or reprovision; and
- (g) may specify such further conditions in relation to any fishing permitted under the licence, including catch limits, as are necessary or desirable; and
- (h) may specify a number of Nauruan citizens who are to be employed as crew aboard the boat during the licence period; and
- (i) may require that an approved automatic location communicator be installed on the boat, maintained in good working order and kept operational at all times during the licence period and in accordance with the manufacturer's specifications and operating instructions and the standards laid down by the Regional Vessel Monitoring System; and
- (j) shall be endorsed in respect of any support aircraft and support craft.

(2) A national boat licence is subject to the conditions in regulation 27 and to such further conditions as are specified in it.

CONDITIONS OF FOREIGN AND NATIONAL BOAT LICENCES

27. (1) The operator of a boat licensed under this Part or under a Regional Licensing Arrangement shall recognise and agree to comply with all laws of the Republic, including and in particular the Act and these Regulations.

(2) The boat shall only be used for such fishing or fisheries activities and during such periods and in such places as are specified in the licence.

(3) The boat shall not be used for transshipment at sea except in the case of a small purseseiner which is specifically authorised to undertake observed transshipment by and in accordance with the conditions of its licence and any applicable access agreement.

(4) The boat shall at all times while in fisheries waters —

- (a) fly the flag of the state in which it is registered; and
- (b) display identification markings in accordance with Schedule 3; and

(c) display lights and shapes for the boat and activity in which it is engaged in compliance with the requirements of the International Regulations for Preventing Collisions at Sea.

(5) The boat shall carry the original of the licence, together with any endorsements, on board the boat at all times during the licence period and produce it to an officer upon request.

(6) The boat shall, unless the Chief Executive Officer otherwise directs in writing, carry a person who is able to communicate effectively in English and in the language of the master of the boat and that person may be the master.

(7) The master of a boat which takes fish shall complete daily in the English language, whether within fisheries waters or not, in a form approved by the Chief Executive Officer, a fishing logbook for each day of fishing which shall include the following information:—

- (a) the date and time;
- (b) the fishing effort of the boat;
- (c) the method of fishing used;
- (d) the area and position (to one minute of arc) at which fishing was undertaken;
- (e) the species of fish taken, and the quantity and condition of each species;
- (f) the species of fish taken and discarded, and the quantity and condition of each species;
- (g) any other information required by the Chief Executive Officer or as specified in the licence.

and shall certify by his signature that the information in the fishing logbook is true, complete and accurate.

(8) The operator shall provide to the Chief Executive Officer, in a form and by a means approved by him, information in Schedule 4 —

- (a) each Wednesday while the boat is in fisheries waters; and
- (b) immediately upon entry into and exit from fisheries waters; and
- (c) at least 24 hours before the estimated time of entry into the port of Nauru; and
- (d) at least 24 hours before any transshipment, offloading, refuelling or provisioning is proposed.

(9) The operator of a boat which takes fish shall provide to the Chief Executive Officer, in a form and by a means approved by him —

- (a) a trip completion report in accordance with Schedule 4, within 48 hours; and
- (b) a final trip report together with true copies of catch reports, landing slips or dock receipts, within 21 days in the case of a national boat, or 45 days in the case of a foreign boat,

of the completion of a fishing trip.

(10) The master shall maintain on board the boat, at all times whether within fisheries waters or not, a ship's log separate from the fishing logbook referred to in sub-regulation (7) and shall enter in that log a record of the date, time and nature of every instruction or direction normally recorded in a ship's log and every requirement communicated to the master by the Chief Executive Officer or an authorised officer.

(11) The master shall ensure the continuous monitoring of the international distress and calling frequency (HF) as determined from time to time by the International Telecommunications Union, and the international safety and calling frequency (channel 16, VHF FM).

(12) The boat shall carry on board the latest edition of the "International Code of Signals" published by the International Maritime Organization Marine Safety Committee, and the signals specified in that Code shall be used in every communication by radio, flag or light by a licensed boat in fisheries waters.

(13) The master shall adopt all reasonable measures to minimise catch of species other than those specified in the licence, including the use of equipment and techniques shown to be effective in minimising those catches.

(14) The provisions of the Act and these Regulations relating to observers shall be observed at all times and in all waters.

(15) Notwithstanding anything in these Regulations, the Chief Executive Officer may at any time during the licence period, require further and better information from the operator of a licensed boat regarding the operations of the boat.

CONDITIONS RELATING TO AUTOMATIC LOCATION COMMUNICATORS

28. (1) Where a licensed boat is required to carry an approved automatic location communicator on board, the operator shall ensure the following:—

(a) no person shall tamper or interfere with the approved automatic location communicator and the approved automatic location communicator is not altered, damaged or disabled;

(b) the approved automatic location communicator shall not be moved from the agreed installed position or removed without the prior permission of the Authority;

(c) only one approved automatic location communicator at a time may be carried on board the boat;

(d) the approved automatic location communicator shall be switched on and operational at all times when the boat is within fisheries waters;

(e) where the boat is outside fisheries waters and proposes to enter fisheries waters, the approved automatic location communicator shall be switched on and operating properly 12 hours before the estimated time of entry into fisheries waters or 50 nautical miles beyond the boundary of fisheries waters, whichever occurs sooner.

(2) Upon notification by the Authority that the boat's approved automatic location communicator has failed to report, reports containing the boat's name, call sign, position (expressed in latitude and longitude to minutes of arc) and date and time of the report shall be communicated to the Authority at intervals of 8 hours or such lesser period as is specified by the Authority, commencing from time of notification of the failure of the approved automatic location communicator, and not ceasing until the Authority has confirmed that the approved automatic location communicator is operational;

(3) Where it is not possible to make any one or more of the further position reports in accordance with sub-regulation (2) or where the Authority so directs, the master of the boat shall immediately stow all fishing gear and take the boat immediately to a port specified by the Authority, and as soon as possible report to the Authority that the boat is being or has been taken to that port with gear stowed.

GAME FISHING LICENCES

29. (1) The operator of a game fishing boat may apply for a game fishing licence in Form 8 of Schedule 1.

(2) A game fishing licence —

- (a) shall be in Form 9; and
- (b) may be issued for a specified type, class or species of fishstock; and
- (c) may be issued for a specified area of fisheries waters; and
- (d) may specify the kind of fishing permitted under the licence.

(3) A game fishing licence is subject to the conditions in regulation 30 and to such further conditions as are specified in it.

CONDITIONS OF GAME FISHING LICENCES

30. (1) The boat the subject of the licence shall be seaworthy and shall comply with any safety standards for shipping which are applicable from time to time under the laws of the Republic.

(2) While being used for reward or hire for game or sport fishing, the boat shall only be used for such fishing and during such periods and in such places as are specified in the licence.

(3) The boat shall at all times while in fisheries waters —

- (a) display identification markings in accordance with Schedule 3; and
- (b) where it is registered under any law, including the law of another state, related to registration of shipping, fly the flag of the state in which it is registered; and
- (c) display lights and shapes for the boat and activity in which it is engaged in compliance with the requirements of the International Regulations for Preventing Collisions at Sea.

(4) The operator shall promptly provide the Chief Executive Officer with any information in respect of the fishing operations of the boat that he may require from time to time.

PART IV — FISHING RESEARCH**RESEARCH PLANS**

31. (1) A person who intends to use a boat, including a small boat, in fisheries waters for a research project involving fishing trials, investigations or research, other than a research project carried out by or on behalf of the Republic or the Authority, may propose a research plan to the Board.

(2) A research plan may relate to one or more of the following:—

- (a) proposing proper resource utilisation and management guidelines;
- (b) determining the biological and species composition, abundance, population size and distribution of a fisheries resource, and related matters;
- (c) testing the commercial viability of a new fishing method or a new fisheries resource or fishing in previously unexploited waters;
- (d) establishing the viability or otherwise of a fishery or a fishing method;

(e) any other marine scientific research conducted for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind.

RESEARCH PERMITS

32. (1) Where the Board is satisfied —

- (a) as to the *bona fides* of the research plan and of the proposer of the plan; and
- (b) that the conduct of the research project is in accordance with the objects of the Authority and the provisions of Part XIII Regulation 3 of the United Nations Convention on the Law of the Sea and will be of benefit to the Republic,

it may authorise the Chief Executive Officer to issue a research permit in Form 10 of Schedule 1 in respect of the boat, and the Chief Executive Officer shall, upon payment of the fee specified in Column 2 of Schedule 2, issue a research permit accordingly.

(2) A research permit shall be valid for the period specified in it, but in any case shall not exceed one year, and shall specify —

- (a) the area of fisheries waters in which the boat may operate; and
- (b) the fishing method and sampling strategy to be used; and
- (c) the species of fish targeted for research, the maximum quantities of the fish to be taken and the manner of disposal of any fish taken; and
- (d) the time within which the research project report, including all raw data, shall be presented to the Authority; and
- (e) such further terms and conditions as the Board or the Chief Executive Officer thinks appropriate.

(3) A research permit is not transferable or renewable.

CONDITIONS OF RESEARCH PERMIT

33. A research permit shall be subject to the following conditions:—

- (a) the research project shall be conducted in accordance with the provisions of Part XIII, Regulation 3 of the United Nations Convention on the Law of the Sea;
- (b) scientific observers and any other personnel designated by the Chief Executive Officer shall be allowed on board the boat and shall be allowed to participate fully in the research project both on board the boat and elsewhere;
- (c) copies of all data and information generated by the research project shall be submitted to the Authority at the end or, upon request, during the course of, the research or survey operations;
- (d) all results and conclusions of the research project shall be submitted to the Authority as soon as practicable following the completion of the project and in any case no later than the time specified for the submission of the research project report under sub-regulation (4)(d);
- (e) no results of the research or survey operations shall be published or otherwise made internationally available without the prior consent of the Authority.

PART V — EVIDENCE BY CERTIFICATE

EVIDENCE BY CHIEF EXECUTIVE OFFICER

34. (1) For the purposes of section 31 of the Act, the Chief Executive Officer may give a certificate as to one or more of the following matters:—

- (a) a specified boat was or was not on a specified date or dates a national boat or a foreign boat;
- (b) there was or was not on a specified date or dates a licence or certificate of registration issued in respect of a specified boat;
- (c) a specified person was or was not on a specified date or dates the holder of a specified licence, permit, certificate of registration or other authorisation;
- (d) an appended document is a true copy of the licence, permit, certificate of registration or other authorisation in respect of a specified boat, premises or person and that specified conditions were those of a licence, permit, certificate of registration or other authorisation issued in respect of a specified boat, premises or person;
- (e) a call sign, name or number is that of a particular boat or has been allotted under any system of naming, numbering or otherwise identifying boats to a particular boat;
- (f) a particular location or area of water was on a specified date or dates within fisheries waters, or was within a closed, limited, restricted or in any other way controlled area of fisheries waters, or an area of fisheries waters subject to specified conditions;
- (g) an appended chart shows the boundaries on a specified date or dates of fisheries waters, the territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
- (h) an appended document is a true copy of a certificate of an access agreement or an international, regional or sub-regional agreement or arrangement;
- (i) an appended statement received from the Director of the South Pacific Forum Fisheries Agency shows that a specified boat does or does not have good standing;
- (j) an appended statement received from the Director of the South Pacific Forum Fisheries Agency shows that a specified boat does or does not have VMS registration;
- (k) a particular position report, catch report or other report, a copy of which is appended, was given in respect of a specified boat.

(2) In proceedings for an offence against section 22 or 25 of the Act, or against regulation 40 or 41, the Chief Executive Officer, or a person authorised by him in writing, may give a certificate as to the cause and manner of death of or injury to any fish.

EVIDENCE REGARDING BOATS

35. (1) For the purposes of section 31 of the Act, an authorised officer or observer may give a certificate that a specified boat was or was not, at a specified date and time or during a specified period of time, in a particular place or area, and in the certificate shall state —

- (a) his name, address, official position, country of appointment and the provision under which he is appointed; and
- (b) the name and, if known, call sign of the boat concerned; and
- (c) the date and time or period of time the boat was in the place or area; and
- (d) the place or area in which it is alleged the boat was located; and
- (e) the instrument or method used to fix the place or area stated in paragraph (d).

(2) Where an instrument used to fix a place or area under sub-regulation (1) is not part of the Regional Vessel Monitoring System, the person giving the certificate under that sub-regulation shall also state —

- (a) the accuracy of the instrument within specified limits; and
- (b) that he checked the instrument a reasonable time before and after it was used to fix the position and it appeared to be working correctly; and

(c) where the instrument used is not judicially recognised as notoriously accurate, a declaration that he checked the instrument as soon as possible after the time concerned against an instrument which is judicially recognised as notoriously accurate.

(3) Where the position, course, speed or other similar matter concerning a boat under sub-regulation (1) is determined by the use of the Regional Vessel Monitoring System, the authorised officer or observer who is giving the certificate shall also state —

(a) that he is competent to read and interpret the printout or visual display unit of the machine used to ascertain information from the Regional Vessel Monitoring System; and

(b) the date and time the information was obtained or ascertained from the machine; and

(c) the name and call sign of the boat on which the approved automatic location communicator is or was located as known to him or as ascertained from any official register, record or other document; and

(d) a declaration that there appeared to be no malfunction in the machine used to obtain or ascertain the information from the Regional Vessel Monitoring System.

(4) All information or data obtained or ascertained by the use of an approved automatic location communicator on board a boat shall be presumed, unless the contrary is proved, to —

(a) come from the boat identified as the boat on which the approved automatic location communicator is installed; and

(b) be accurately transmitted or transferred; and

(c) be given by the operator of the boat;

and evidence may be given of information and data obtained or ascertained from the approved automatic location communicator whether from a printout or visual display unit.

(5) The presumption in sub-regulation (4) shall apply whether or not the information was stored before or after any transmission or transfer.

PHOTOGRAPHIC EVIDENCE

36. (1) Where a photograph is taken of any fishing or fisheries activity and simultaneously the date and time on which and the position from which the photograph is taken are superimposed upon the photograph, then it shall be presumed unless the contrary is proved that the photograph was taken on that date and time and from that position.

(2) The presumption in sub-regulation (1) shall arise only if —

(a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and

(b) the instruments which provide the date, time and position are judicially recognised as being notoriously accurate or were checked as soon as possible after the taking of the photograph against such instruments.

(3) An authorised officer or observer who takes a photograph of the kind described in sub-regulation (1) may give a certificate, appending the photograph, stating —

(a) his name, address, official position, country of appointment and provision under which he is appointed; and

(b) the name and call sign, if known, of any boat appearing in the photograph; and

(c) the names of the camera, watch or clock or other instruments supplying the date and time and the position fixing instrument and a declaration that he checked those

instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with sub-regulation (2)(b) and that they all appeared to be working correctly; and

- (d) the matters set out in sub-regulation (2)(a); and
- (e) the accuracy of the fixing instrument used within specified limits; and
- (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

PART VI — MISCELLANEOUS

REGISTERS OF LICENCES

37. The Authority shall keep registers in Form 11 of Schedule 1 of all licences issued or granted under this Act.

OFFENCES REGARDING LICENCES

38. A person who —

- (a) without lawful authority, alters or defaces any licence issued under the Act or these Regulations; or
- (b) falsely represents himself to be a person lawfully licensed under these Regulations,

is guilty of an offence and is liable to a penalty —

- (a) in a case involving a foreign boat licence, not exceeding \$50,000; or
- (b) in a case involving the use of a national boat licence, not exceeding \$10,000; or
- (c) in any other case, not exceeding \$1,000.

INTERFERING WITH EVIDENCE

39. (1) A person who, being on board any boat being pursued, about to be boarded or notified that it will be boarded by an authorised officer, throws overboard or destroys any fish, fishing equipment, explosive, poison, noxious substance, chart, log, document or other thing with intent to avoid its seizure or the detection of an offence against the Act or these Regulations is guilty of an offence.

(2) A person who removes from custody any boat, fish, equipment or other item held in custody under the Act or these Regulations, or does any act or omission by which a boat, fish, equipment or other item held in custody under the Act or these Regulations may be removed from custody, is guilty of an offence.

(3) Sub-regulation (2) applies whether or not the person accused of the offence knew that the boat, fish, equipment or other item was being held in custody.

(4) Where an approved automatic location communicator is required to be fitted to a boat and is so fitted, a person who, whether in Nauru, in fisheries waters or on the high seas —

- (a) intentionally, recklessly or negligently destroys, damages, renders inoperative or otherwise interferes with any part of the automatic location communicator; or
- (b) intentionally feeds or inputs into the automatic location communicator information or data which is not officially required or is meaningless; or
- (c) knowingly switches off the approved automatic location communicator at any time that the boat on which it is installed is at sea; or

is guilty of an offence.

(5) A person who knowingly interferes with or alters any radio or other electronic transmission, including a transmission to or from an automatic location communicator, made or given as required or permitted under the Act or these Regulations is guilty of an offence.

(6) A person who intentionally, recklessly or negligently divulges information obtained from a vessel monitoring system or any other system of reporting or recording required or permitted under the Act or these Regulations, other than in the course of duty and to a person or persons entitled to receive that information in the course of duty, is guilty of an offence.

(7) A person who is guilty of an offence under this regulation is liable to a penalty —

- (a) in a case involving the use of a foreign boat, not exceeding \$50,000; or
- (b) in a case involving the use of a national boat, not exceeding \$10,000; or
- (c) in the case of a crew member of a foreign or a national boat, not exceeding \$5,000; or
- (d) in any other case, not exceeding \$1,000.

ASSOCIATION WITH DRIFTNET FISHING

40. (1) No person shall engage or assist in driftnet fishing in fisheries waters.

(2) No Nauruan citizen shall engage or assist in driftnet fishing in any waters.

(3) A person who contravenes sub-regulation (1) or (2) is guilty of an offence and is liable to a penalty not exceeding \$5,000.

(4) A person who, anywhere in fisheries waters or in the country, tranships, offloads or imports, or permits the transshipment, offloading or import of, any fish or fish product which he knows or reasonably suspects has been taken with the use of a driftnet is guilty of an offence and is liable to a penalty not exceeding \$5,000.

EXPLOSIVES AND POISON

41. (1) A 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 possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using the substance for any of the purposes referred to in paragraph (a);

is guilty of an offence and is liable to a penalty not exceeding \$5,000.

(2) Any explosive, poison or other noxious substance found on board any boat shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in sub-regulation (1)(a).

(3) A person who lands, sells, receives or possesses any fish taken by a means which contravenes sub-regulation (1)(a), and who knows or has reasonable cause to believe them to have been so taken, is guilty of an offence and is liable —

- (a) where the person proves that the landing, receipt or possession was not for the purpose of sale, trade or profit, to a fine not exceeding \$500 or imprisonment for a term not exceeding one year, or both; or

(b) in any other case, to a fine not exceeding \$1,000 or imprisonment for a term not exceeding two years, or both.

FISH AGGREGATING DEVICES

42. (1) No person shall place a fish aggregating device in fisheries waters except with the permission in writing of the Chief Executive Officer and in accordance with such conditions as he specifies.

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

(3) No person shall use a boat, other than a small boat, to fish within a radius of two nautical miles from a designated fish aggregating device except with the permission of the Chief Executive Officer and in accordance with such conditions as he may specify.

(4) A fish aggregating device placed in fisheries waters otherwise than in accordance with permission given under sub-regulation (1) may be used or disposed of as the Chief Executive Officer directs.

(5) A person who contravenes sub-regulation (1) or (3) is guilty of an offence and is liable to a penalty not exceeding \$500.

IMPORTATION OF LIVE FISH

43. (1) A person who, without the permission in writing of the Chief Executive Officer subject to such conditions as the Chief Executive Officer sees fit —

(a) imports or attempts to import any live fish into Nauru; or

(b) introduces into any part of fisheries waters any live fish which is not indigenous to the fisheries waters of Nauru,

is guilty of an offence and is liable to a penalty not exceeding \$5,000.

(2) Where the Chief Executive Officer is satisfied that there has been a contravention of sub-regulation (1), he may cause the fish to be seized and destroyed or otherwise disposed of, and for this purpose, may require any person in possession of the fish, or any owner or occupant of land where the fish is located, to surrender the fish for destruction or disposal.

(3) A person who fails to comply with any requirement under sub-regulation (2) is guilty of an offence and liable to a penalty not exceeding \$5,000.

SALE OF FISH

44. (1) The Minister may from time to time, by notice in the Gazette, declare —

(a) the price or range of prices for which; and

(b) the method, whether by piece, weight or other form of measurement, by which; and

(c) the place or premises at or in which,

fish or any class, type, species or sub-species of fish may be sold.

(2) Before making a declaration under sub-regulation (1), the Minister —

(a) shall consult with the Board; and

(b) may consult with any other person or body whom he considers appropriate.

(3) A person who sells fish in breach of a notice under sub-regulation (1) is guilty of an offence and is liable to a penalty not exceeding \$1,000.

PROVISION OF INFORMATION

45. (1) A person engaged in fishing or a fisheries activity in fisheries waters or in respect of fish taken from fisheries waters shall provide to the Chief Executive Officer such information relating to fishing or the fisheries activity, including information relating to fishing time and effort, landings, processing, sales, purchases, exports and other related transactions, in such form as the Chief Executive Officer may require, or as is provided under these Regulations.

(2) A person is not excused from providing information under the Act or these Regulations on the ground that the information might tend to incriminate him, but the information is not admissible in evidence against him in any proceedings other than proceedings in respect of —

- (a) providing false information in the return; or
- (b) a refusal or failure to provide information as required by the Act or these Regulations.

(3) Any information required to be recorded, or to be notified, communicated or reported under the Act or these Regulations shall be true, complete and correct.

(4) Any change in circumstances which has the effect of rendering any such information referred to in sub-regulation (1) false, incomplete or misleading shall be notified immediately to the appropriate person, authority or body.

(5) A person who —

- (a) knowingly makes a statement that is false or incorrect in any material particular in relation to an application for the purposes of the Act or these Regulations; or
- (b) knowingly furnishes a false or incorrect statement in relation to any fish taken, bought, sold, processed, exported or otherwise dealt with by the person or by an agent or employee of the person; or
- (c) knowingly makes or causes to be made any entry or writing that is false in any material particular, in any book, log, record, return, declaration or statement required by the Act or these Regulations to be kept, made or given; or
- (d) refuses or knowingly fails to provide any information, particulars, report or return required by the Act or these Regulations,

is guilty of an offence and is liable to a penalty not exceeding \$50,000.

SCHEDULES**SCHEDULE 1****FORMS**

Form 1	-	Application for Small Boat Registration
Form 2	-	Small Boat Registration Certificate
Form 3		Register of Small Boats
Form 4	-	Application for Foreign Boat Fishing Licence
Form 5	-	Foreign Boat Fishing Licence
Form 6	-	Application for National Boat Fishing Licence
Form 7	-	National Boat Fishing Licence
Form 8	-	Application for Game Fishing Licence
Form 9	-	Game Fishing Licence
Form 10		Research Permit
Form 11	-	Register of Licences

FORM 1
REPUBLIC OF NAURU



Fisheries Act 1997

APPLICATION FOR SMALL BOAT REGISTRATION
(Fisheries Regulations 1998 — Regulation 3)

An application for Small Boat Registration must be made by the owner of a small boat (less than 10 metres in length) which is used for fishing in fisheries waters.

DETAILS OF APPLICANT

Name of owner:

Address:

BOAT DETAILS

Make

Hull type (e.g. aluminium, wooden, etc)

Colour and other distinguishing marks

Horsepower and make of engine

Length overall

Main use

Previously registered ? (check (✓) one) Yes No

If yes, whereabouts of last Registration Certificate

DECLARATION BY APPLICANT

I declare that the above information is true, complete and correct. I understand I am required to report immediately to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority any changes to the information given on this form and any change of ownership of the boat and I further understand that failure to do so may render me liable to prosecution.

Applicant's signature

Date

Print full name

This application is to be forwarded to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority at the address below and is to be accompanied by the prescribed fee.

Chief Executive Officer
Nauru Fisheries & Marine Resources Authority
Aiwo District
Republic of Nauru

Telephone: (674) 444 3733
(674) 444 3739
Fax: (674) 444 3812

FORM 2
REPUBLIC OF NAURU



Fisheries Act 1997

SMALL BOAT REGISTRATION CERTIFICATE
(Fisheries Regulations 1998 — Regulation 3)

Registration number:

Date of issue:

This small boat is registered to fish in the fisheries waters of the Republic of Nauru in accordance with the Fisheries Act 1997 and the terms and conditions set out below.

BOAT DETAILS

Make:

Hull type:

Colour and other distinguishing marks:

Horsepower and make of engine:

Length overall:

Safety equipment to be carried:

PARTICULARS OF OWNER

Name:

Address:

PERIOD OF VALIDITY

From to inclusive.

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES

Date

FORM 4
REPUBLIC OF NAURU



Fisheries Act 1997

APPLICATION FOR A FOREIGN BOAT FISHING LICENCE

(Fisheries Regulations 1998 — Regulation 24)

An application for a Foreign Boat Licence must be made by or on behalf of the operator of a foreign boat which is used for fishing or a fisheries activity in the fisheries waters of the Republic of Nauru.

Name of Applicant Current Licence Number (if any)

Address
 Tel:
 Fax: Vessel Type
 Telex Year Built

Name of Vessel <input type="text"/>	Size of Vessel (specify) <input type="text"/> GRT (Other <input type="text"/>)	
Country Registration Number <input type="text"/>	International Radio Call Sign <input type="text"/>	Number of Citizen Crew <input type="text"/>
Regional Register Number <input type="text"/>	Fishing Methods <input type="text"/>	Area of Operation <input type="text"/>
VMS Registration Number <input type="text"/>	Target Species <input type="text"/>	ALC* Inmarsat C Mobile No. (IMN) <input type="text"/>
Desired Effective Date <input type="text"/>		

*ALC must be of a type approved under Nauru Fisheries & Marine Resources Authority Regulations.

Alternate Vessel Contact Details

Inmarsat A No.	<input type="text"/>
Inmarsat B No.	<input type="text"/>
Inmarsat M No.	<input type="text"/>
Mobile Phone No.	<input type="text"/>
Telex No.	<input type="text"/>

(Provide as attachment to this application documentary evidence regarding the above information which may assist the Authority in determining whether to grant a licence, such as boat survey certificates, gear specifications, past involvement with the development and management of Nauru's fishing resources etc.)

.....see over

REMITTANCE OF LICENCE FEE

Amount of Licence Fee:

Name of Bank:

Address of Bank

Remittance Reference No.

I declare that the above information is true, complete and correct. I understand I am required to report immediately to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority any changes to the information given on this form and I further understand that failure to do so may render me liable to prosecution.

Applicant's Signature
(Operator or applicant on his behalf)

Date

This application is to be forwarded to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority, at the address shown below

Chief Executive Officer
Nauru Fisheries & Marine Resources Authority
Aiwo District
Republic of Nauru

Telephone: (674) 444 3733
(674) 444 3739
Fax: (674) 444 3812

FORM 5
REPUBLIC OF NAURU



The Fisheries Act 1997
FOREIGN BOAT FISHING LICENCE
(Fisheries Regulations 1998 - Regulation 24)

Name of Licence Holder

Licence Number

Address _____

Vessel Type
Year Built

Licence Expiry date (dd/mm/yyyy) __ / __ / ____

The Licence Holder and the Vessel named below are hereby licensed in accordance with the Fisheries Act 1998 to fish in accordance with the terms and conditions set out in this licence and prescribed from time to time in the Fisheries Regulations 1998.

Name of Vessel <input type="text"/>	Size of Vessel (specify) <input type="text"/>	GRT (Other <input type="text"/>)
Country Registration Number <input type="text"/>	International Radio Call Sign <input type="text"/>	
Regional Register Number <input type="text"/>	Authorised Fishing Methods <input type="text"/>	
VMS Registration Number <input type="text"/>	Authorised Target Species <input type="text"/>	

Registration number and make of helicopter if any to be carried on vessel:

Registration Number Make

Registration number, make and name and address of operator of any aircraft used in association with fishing activities:

Registration Number Make

Name _____

Address _____

For and on behalf of the Licensing Country

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES AUTHORITY

Date

SELECTED CONDITIONS OF FOREIGN BOAT FISHING LICENCE

The operator of the boat shall recognise and agree to comply with all laws of the Republic, including and in particular the Fisheries Act 1997 and Regulations made under it.

The boat shall only be used for such fishing or fisheries activities and during such periods and in such places as are specified in the licence.

The boat shall not be used for transshipment at sea.

The boat shall carry the original of the licence on board the boat at all times during the licence period and produce it to an officer upon request.

The boat shall, unless the Chief Executive Officer otherwise directs in writing, carry a person who is able to communicate effectively in English and in the language of the master of the boat and that person may be the master.

The master of a boat which takes fish shall complete daily in the English language, whether within fisheries waters or not, in a form approved by the Chief Executive Officer, a fishing logbook for each day of fishing which shall include the following information:—

- (a) the date and time;
- (b) the fishing effort of the boat;
- (c) the method of fishing used;
- (d) the area and position (to one minute of arc) at which fishing was undertaken;
- (e) the species of fish taken, and the quantity and condition of each species;
- (f) the species of fish taken and discarded, and the quantity and condition of each species;
- (g) any other information required by the Chief Executive Officer or as specified in the licence,

and shall certify by his signature that the information in the fishing logbook is true, complete and accurate.

The operator of a national boat which takes fish shall provide to the Chief Executive Officer, in a form and by a means approved by him —

- (a) a preliminary trip report, in accordance with Schedule 4 within 48 hours; and
- (b) a final trip report, together with true copies of catch reports, landing slips or dock receipts, within 21 days,

of the completion of a fishing trip.

The operator shall provide to the Chief Executive Officer, in a form and by a means approved by him, information in Schedule 4 of the Fisheries Regulations 1998—

- (a) each Wednesday while the boat is in fisheries waters; and
- (b) within a reasonable time of entry into and exit from fisheries waters; and
- (c) within a reasonable time before the estimated time of entry into the port of Nauru; and
- (d) within a reasonable time before any transshipment, offloading, refuelling or provisioning is proposed.

The master shall maintain on board the boat, at all times whether within fisheries waters or not, a ship's log separate from the fishing logbook referred to above and shall enter in that log a record of the date, time and nature of every instruction or direction normally recorded in a ship's log and every requirement communicated to the master by the Chief Executive Officer or an authorised officer.

The master shall adopt all reasonable measures to minimise catch of species other than those specified in the licence, including the use of equipment and techniques shown to be effective in minimising those catches.

The provisions of the Fisheries Act 1997 and Regulations made under it relating to observers shall be observed at all times and in all waters.

FAILURE TO COMPLY WITH THESE AND ALL OTHER TERMS AND CONDITIONS OF THE LICENCE, THE FISHERIES ACT AND REGULATIONS MADE UNDER IT MAY, IN ADDITION TO ANY JUDICIAL PENALTIES THAT MAY BE INCURRED, RESULT IN THE SUSPENSION OR LOSS OF THIS LICENCE, EITHER TEMPORARILY OR PERMANENTLY.

THIS LICENCE IS NOT TRANSFERABLE

FORM 7
REPUBLIC OF NAURU



The Fisheries Act 1997

NATIONAL BOAT FISHING LICENCE
(Fisheries Regulations 1998 — Regulation 26)

Name of Licence Holder

Licence Number

Address _____

Vessel Type
Year Built

Licence Expiry date (dd/mm/yyyy) __/__/__

The Licence Holder and the Vessel named below are hereby licensed in accordance with the Fisheries Act 1997 to fish in accordance with the terms and conditions set out in this licence and prescribed from time to time in the Fisheries Regulations 1998.

Name of Vessel	Size of Vessel (specify)	GRT (Other _____)
<input type="text"/>	<input type="text"/>	
Country Registration Number	International Radio Call Sign	
<input type="text"/>	<input type="text"/>	
Regional Register Number	Authorised Fishing Methods	
<input type="text"/>	<input type="text"/>	
VMS Registration Number	Authorised Target Species	
<input type="text"/>	<input type="text"/>	

Registration number and make of helicopter if any to be carried on vessel:

Registration Number Make

Registration number, make and name and address of operator of any aircraft used in association with fishing activities:

Registration Number Make

Name _____

Address _____

For and on behalf of the Licensing Country

Vessels ALC* Inmarsat C Mobile Number (IMN)

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES AUTHORITY

Date

.....see over

Particulars of joint venture:
(where applicable)

Use of Nauruan land-based
facilities:
(if any)

Details of handling and
destination of catch:

(Provide as attachment to this application documentary evidence regarding the above information which may assist the Authority in determining whether the boat is a national boat and whether to grant a licence, such as boat survey certificates, gear specifications, marketing arrangements, cash flow projections, further details regarding boat ownership and operations, etc.)

REMITTANCE OF LICENCE FEE

Amount of Licence Fee:

Name of Bank:

Address of Bank

Remittance Reference No.

I declare that the above information is true, complete and correct. I understand I am required to report immediately to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority any changes to the information given on this form and I further understand that failure to do so may render me liable to prosecution.

Applicant's Signature

(Operator or applicant on his behalf)

Date

This application is to be forwarded to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority, at the address shown below

Chief Executive Officer
Nauru Fisheries & Marine Resources Authority
Aiwo District
Republic of Nauru

Telephone: (674) 444 3733
(674) 444 3739
Fax: (674) 444 3812

SELECTED CONDITIONS OF FOREIGN BOAT FISHING LICENCE

The operator of the boat shall recognise and agree to comply with all laws of the Republic, including and in particular the Fisheries Act 1997 and Regulations made under it.

The boat shall only be used for such fishing or fisheries activities and during such periods and in such places as are specified in the licence.

The boat shall not be used for transshipment at sea.

The boat shall carry the original of the licence on board the boat at all times during the licence period and produce it to an officer upon request.

The boat shall, unless the Chief Executive Officer otherwise directs in writing, carry a person who is able to communicate effectively in English and in the language of the master of the boat and that person may be the master.

The master of a boat which takes fish shall complete daily in the English language, whether within fisheries waters or not, in a form approved by the Chief Executive Officer, a fishing logbook for each day of fishing which shall include the following information:—

- (a) the date and time;
- (b) the fishing effort of the boat;
- (c) the method of fishing used;
- (d) the area and position (to one minute of arc) at which fishing was undertaken;
- (e) the species of fish taken, and the quantity and condition of each species;
- (f) the species of fish taken and discarded, and the quantity and condition of each species;
- (g) any other information required by the Chief Executive Officer or as specified in the licence,

and shall certify by his signature that the information in the fishing logbook is true, complete and accurate.

The operator of a national boat which takes fish shall provide to the Chief Executive Officer, in a form and by a means approved by him —

- (a) a preliminary trip report, in accordance with Schedule 4 within 48 hours; and
- (b) a final trip report, together with true copies of catch reports, landing slips or dock receipts, within 21 days,

of the completion of a fishing trip.

The operator shall provide to the Chief Executive Officer, in a form and by a means approved by him, information in Schedule 4 of the Fisheries Regulations 1998—

- (a) each Wednesday while the boat is in fisheries waters; and
- (b) within a reasonable time of entry into and exit from fisheries waters; and
- (c) within a reasonable time before the estimated time of entry into the port of Nauru; and
- (d) within a reasonable time before any transshipment, offloading, refuelling or provisioning is proposed.

The master shall maintain on board the boat, at all times whether within fisheries waters or not, a ship's log separate from the fishing logbook referred to above and shall enter in that log a record of the date, time and nature of every instruction or direction normally recorded in a ship's log and every requirement communicated to the master by the Chief Executive Officer or an authorised officer.

The master shall adopt all reasonable measures to minimise catch of species other than those specified in the licence, including the use of equipment and techniques shown to be effective in minimising those catches.

The provisions of the Fisheries Act 1997 and Regulations made under it relating to observers shall be observed at all times and in all waters.

FAILURE TO COMPLY WITH THESE AND ALL OTHER TERMS AND CONDITIONS OF THE LICENCE, THE FISHERIES ACT AND REGULATIONS MADE UNDER IT MAY, IN ADDITION TO ANY JUDICIAL PENALTIES THAT MAY BE INCURRED, RESULT IN THE SUSPENSION OR LOSS OF THIS LICENCE, EITHER TEMPORARILY OR PERMANENTLY.

THIS LICENCE IS NOT TRANSFERABLE

FORM 8
REPUBLIC OF NAURU



Fisheries Act 1997

APPLICATION FOR A GAME FISHING LICENCE

(Fisheries Regulations 1998— Regulation 29)

An application for a Game Fishing Licence must be made in respect of a boat (including a Small Boat) which is used for reward or hire for game or sport fishing in the fisheries waters of the Republic of Nauru.

PARTICULARS OF BOAT

Name: Type: Built of:

Length (LOA): Gross tonnage (or engine power of Small Boat):

Port of Registry: International Radio Call Sign:
(if registered) *(if any):*

Country or Small Boat Registration No.: Regional Register No.:
(if applicable)

PARTICULARS OF OWNER AND OPERATOR

Registered Owner: Address:

Operator *(if different from Owner)*: Address:

PARTICULARS OF OPERATION

Specified Fishstock(s): Area of operation:

Fishing Method:
(give details)

(Provide as attachment to this application documentary evidence regarding the above information which may assist the Authority in determining whether to grant a licence, such as boat survey certificates, gear specifications, participation in resource conservation projects, etc.)

.....see over

Application Fee: \$.....

I declare that the above information is true, complete and correct. I understand I am required to report immediately to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority any changes to the information given on this form and I further understand that failure to do so may render me liable to prosecution.

Applicant's Signature
(Operator or applicant on his behalf)

Date

Name:	<input type="text"/>	Tel:	<input type="text"/>
Address:	<input type="text"/>	Fax:	<input type="text"/>
		Telex:	<input type="text"/>

This application is to be forwarded to the Chief Executive Officer, Nauru Fisheries & Marine Resources Authority, at the address shown below

Chief Executive Officer	Telephone: (674) 444 3733
Nauru Fisheries & Marine Resources Authority	(674) 444 3739
Aiwo District	Fax: (674) 444 3812
Republic of Nauru	

FORM 9
REPUBLIC OF NAURU



The Fisheries Act 1997

GAME FISHING LICENCE

(Fisheries Regulations 1998 — Regulation 29)

Licence Number

Date of issue

This boat is licensed as shown to be used for game or sport fishing for reward or hire in the fisheries waters of the Republic of Nauru in accordance with the Fisheries Act 1997 and the terms and conditions set out below.

PARTICULARS OF BOAT

Name: Type:

Length (LOA): Gross tonnage (or engine power of Small Boat):

Port or Place of Registry International Radio Call Sign (if any):

Country or Small Boat Registration No: Regional Register No. (if applicable)

PARTICULARS OF OWNER AND OPERATOR

Registered Owner: Address:

Operator (if different from Owner): Address:

PARTICULARS OF OPERATION

Specified Fishstock(s): Area of operation:

Fishing Method:

PERIOD OF VALIDITY

From to inclusive.

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES AUTHORITY

Date

.....see over

SELECTED CONDITIONS OF GAME FISHING LICENCE

The operator of the boat shall recognise and agree to comply with all laws of the Republic, including and in particular the Fisheries Act 1997 and Regulations made under it.

The boat the subject of the licence shall be seaworthy and shall comply with any safety standards for shipping which are applicable from time to time under the laws of the Republic.

While being used for reward or hire for game or sport fishing, the boat shall only be used for such fishing and during such periods and in such places as are specified in the licence.

The boat shall at all times while in fisheries waters —

- (a) display identification markings in accordance with Schedule 3; and
- (b) where it is registered under any law, including the law of another state, related to registration of shipping, fly the flag of the state in which it is registered; and
- (c) display lights and shapes for the boat and activity in which it is engaged in compliance with the requirements of the International Regulations for Preventing Collisions at Sea.

FAILURE TO COMPLY WITH THESE AND ALL OTHER TERMS AND CONDITIONS OF THE LICENCE, THE FISHERIES ACT 1997 AND REGULATIONS MADE UNDER IT MAY, IN ADDITION TO ANY JUDICIAL PENALTIES THAT MAY BE INCURRED, RESULT IN THE SUSPENSION OR LOSS OF THIS LICENCE, EITHER TEMPORARILY OR PERMANENTLY.

THIS LICENCE IS NOT TRANSFERABLE

FORM 10
REPUBLIC OF NAURU



Fisheries Act 1997

RESEARCH PERMIT

(Fisheries Regulations 1998 - Regulation 32)

The holder of this Research Permit may engage in research activities in the fisheries waters of the Republic of Nauru in accordance with the Fisheries Act 1997 and the terms and conditions set out below.

PARTICULARS OF PERMIT HOLDER

Name:

Address:

PARTICULARS OF BOAT

Name: Type:

Length (LOA): Gross tonnage:

Port of Registry: International Radio Call Sign:

Country Registration No: Regional Register No.

Support craft: Support aircraft:
(number, type, function,) (Make & Registration No.)

REGISTERED OWNER

Name:

Address:

MASTER

Name:

Address:

PERIOD OF VALIDITY

From to inclusive.

.....see over

CONDITIONS OF RESEARCH

Targeted fishstock Area of operation

Maximum quantity Fishing method

Manner of disposal Sampling strategy

Other Conditions:

Research Project Report to be submitted to the Nauru Fisheries & Marine Resources Authority by:.....

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES AUTHORITY

Date

CONDITIONS OF RESEARCH PERMIT

- (a) The research project shall be conducted in accordance with the provisions of Part XIII, Regulation 3 of the United Nations Convention on the Law of the Sea;
- (b) Scientific observers and any other personnel designated by the Chief Executive Officer shall be allowed on board the boat and shall be allowed to participate fully in the research project both on board the boat and elsewhere;
- (c) Copies of all data and information generated by the research project shall be submitted to the Nauru Fisheries and Marine Resources Authority at the end or, upon request, during the course of, the research or survey operations;
- (d) The results and conclusions of the research project shall be submitted to the Authority as soon as practicable following the completion of the project and in any case no later than the time specified above for the submission of the exploratory report;
- (e) No results of the research or survey operations shall be published or otherwise made internationally available without the prior consent of the Authority.

THIS RESEARCH PERMIT IS NOT TRANSFERABLE OR RENEWABLE

CONDITIONS OF RESEARCH

Targeted fishstock	<input type="text"/>	Area of operation	<input type="text"/>
Maximum quantity	<input type="text"/>	Fishing method	<input type="text"/>
Manner of disposal	<input type="text"/>	Sampling strategy	<input type="text"/>
Other Conditions:	<input type="text"/>		

Research Project Report to be submitted to the Nauru Fisheries & Marine Resources Authority by:.....

Chief Executive Officer
NAURU FISHERIES & MARINE RESOURCES AUTHORITY

Date

CONDITIONS OF RESEARCH PERMIT

- (a) The research project shall be conducted in accordance with the provisions of Part XIII, Regulation 3 of the United Nations Convention on the Law of the Sea;
- (b) Scientific observers and any other personnel designated by the Chief Executive Officer shall be allowed on board the boat and shall be allowed to participate fully in the research project both on board the boat and elsewhere;
- (c) Copies of all data and information generated by the research project shall be submitted to the Nauru Fisheries and Marine Resources Authority at the end or, upon request, during the course of, the research or survey operations;
- (d) The results and conclusions of the research project shall be submitted to the Authority as soon as practicable following the completion of the project and in any case no later than the time specified above for the submission of the exploratory report;
- (e) No results of the research or survey operations shall be published or otherwise made internationally available without the prior consent of the Authority.

THIS RESEARCH PERMIT IS NOT TRANSFERABLE OR RENEWABLE

Fisheries Regulations 1998

SCHEDULE 2

PERIOD AND FEES OF LICENCES

Regulation 3, 13, 14, 32

Class of Licence, etc	Fee	Period of Licence or Permit
1. Small boat registration	(a) canoe or boat, non-powered — \$25 (b) canoe or boat, powered — \$50	one year
2. Transfer of registration certificate	\$10	
3. Foreign boat fishing licence:	(a) access fee according to access agreement (b) fishing fee according to access agreement	according to access agreement
4. National boat fishing licence	(a) where overall length does not exceed 15 m. — \$250 (b) where overall length exceeds 15 m. — \$500	one year
5. Game fishing licence	\$300	one year
6. Research Permit	\$200	as specified, but not exceeding one year
7. Issue of duplicate licence, permit or certificate	\$20	

SCHEDULE 3

Regulation 27

MARKINGS OF FISHING BOATS.

- (1) A licensed boat, other than a registered small boat, shall have displayed —
- (a) its name or identification and port of registry in Roman letters; and
 - (b) its markings, which shall be its International Telecommunications Union Radio Call Sign, or, where the boat does not have such a sign, the characters allocated by the International Telecommunications Union to the flag state of the boat, followed by a hyphen, followed by the licence or registration number assigned by the flag state to the boat.

(2) The markings referred to in sub-regulation (1) shall be displayed —

- (a) on the boat's side or superstructure, port and starboard, as high as possible above the waterline and in no case extending below the waterline, avoiding the flare of the bow and stern, and clear of any flow from scuppers or overboard discharges; and
- (b) athwartships on the deck with the tops of the numbers and letters towards the bow; and
- (c) where the markings on the deck are obscured by an awning or other temporary cover, on that awning or cover; and
- (d) so that they are not obscured by fishing equipment, whether stowed or in use.

(4) The markings referred to in sub-regulation (1) shall be —

- (a) painted directly onto the hull, superstructure or deck, as the case may be; and
- (b) white on a black background or black on a white background; and
- (c) in block letters and numbers throughout; and
- (d) maintained in good condition at all times.

(5) The sizes of boat markings referred to in sub-regulation (1) shall be as follows:—

- (a) for marks on the hull or superstructure, according to the following table:—

<u>Length of Vessel Overall (in Metres)</u>	<u>Height of Letters and Numbers (in Metres)</u>
25 and over	1.0
20 but less than 25	0.8
15 but less than 20	0.6
12 but less than 15	0.4
5 but less than 12	0.3
Less than 5	0.1;

Fisheries Regulations 1998

- (b) for marks on the deck, not less than one metre for all boats of overall length of five metres or more;
- (c) the length of the hyphen shall be half the height of the letters and numbers;
- (d) the width of the stroke for all letters and numbers, and the hyphen, shall be one-sixth of the height;
- (e) the space between all letters and numbers shall be not less than one-sixth or greater than one-quarter the height;
- (f) the space between adjacent letters having sloping sides shall be not less than one-tenth or greater than one-eighth the height;
- (g) the background shall extend to provide a border around the markings of not less than one-sixth the height of the letters and numbers.

SCHEDULE 4

Regulation 27

REPORT FORMS.

(1) Weekly Reports

- (a) report type (WEEK)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)
- (i) catch on board by weight by type
- (j) intended action

as: WEEK / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO / LA 1111 / LO 11111 / SJ www YF xxx BE yyy OTH zzz / INTENDED ACTION

(2) Zone Entry and Exit

- (a) report type (ZENT for entry and ZEXT for exit)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)
- (i) catch on board by weight by type
- (j) intended action

as: ZENT (or ZEXT) / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO / LA 1111 / LO 11111 / SJ www YF xxx BE yyy OTH zzz / INTENDED ACTION

(3) Closed Area Entry and Exit

- (a) report type (CAENT for entry and CAEXT for exit)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)

Fisheries Regulations 1998

- (i) catch on board by weight by type
- (j) intended action

as: CAENT (or CAEXT) / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO / LA 1111 / LO 11111 / SJ www YF xxx BE yyy OTH zzz / INTENDED ACTION

(4) Notice of Intended Transhipment at Sea

- (a) report type (SEATRANS)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)
- (i) catch on board by weight by type
- (j) estimated point of transhipment
- (k) estimated time of arrival at rendezvous for transhipment (GMT)
- (l) name of boats involved in transhipment

as: SEATRANS / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO / LA 1111 / LO 11111 / SJ www YF xxx BE yyy OTH zzz / LA LO / ETA / NAMES

(5) Notice of Port Entry or Transhipment/Offloading or Refuelling/Provisioning

- (a) report type (PENT)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)
- (i) catch on board by weight by type
- (j) estimated time of entry into port or arrival at rendezvous for transhipment (other than transhipment by foreign boat) (GMT)
- (k) port name or boat to which transhipping (for transhipment other than transhipment by foreign boat)
- (l) intended action

as: PENT / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO / LA 1111 / LO 11111 / SJ www YF xxx BE yyy OTH zzz / ETA / PORT NAME / INTENDED ACTION

(6) Transhipment Report

- (a) report type (TRANS)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) position (to one minute of arc)
- (i) catch transferred by weight by type
- (j) name of carrier/shore establishment
- (k) destination of catch

as: TRANS / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO /
LA 1111 / LO 1111 / SJ www YF xxx BE yyy OTH zzz / CARRIER NAME /
DESTINATION OF CATCH

(7) Trip Completion Report

- (a) report type (COMP)
- (b) trip begin date
- (c) date and time (GMT)
- (d) international call sign
- (e) licence number
- (f) vessel name
- (g) Regional Register number
- (h) trip completion date
- (i) place of discharge of catch
- (j) catch discharged by weight by type

as: COMP / TBD / ddmmyy / TIME / CALL SIGN / LICNO / VESSEL NAME / R.REGNO /
TCD / PORT NAME / SJ www YF xxx BE yyy OTH zzz



REPUBLIC OF NAURU
GOVERNMENT GAZETTE
PUBLISHED BY AUTHORITY

No. 4.

20th January 1999

Nauru

G.N.No. 18/1999

FISHERIES ACT 1997
(No. 18 of 1997)

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45. Application of other acts and instruments



(No. 18 of 1997)

AN ACT

To make provision for the management, development, protection and conservation of the fisheries and living marine resources of Nauru, and in particular —

(a) to exercise the sovereign rights of the Republic to explore, exploit, conserve and manage those resources within the fisheries waters of Nauru in accordance with the relevant rules of international law; and

(b) to utilise, manage, develop, protect and conserve those resources in such a way as to conserve and replenish them as a sustainable asset for future generations, and to achieve economic growth, improved social standards, improved nutritional standards, human resource development, increased employment and a sound ecological balance; and

(c) to pursue effective strategies for managing the fisheries and marine resources of Nauru, including the registration of fishing boats and the licensing of fishing and fishing activities; and

(d) to repeal the Marine Resources Act 1978;

and for related purposes.

(Certified: 13/6/97)

Be it enacted by the Parliament of Nauru as follows:

PART I — PRELIMINARY

SHORT TITLE AND COMMENCEMENT

1. This Act may be cited as the Fisheries Act 1997 and shall come into force on a date to be notified by the Minister in the Gazette.

INTERPRETATION

2. In this Act, unless the context otherwise requires —

"access agreement" means an agreement entered into by the Republic, whether bilaterally or multilaterally, with another state or the fishing association or other similar body of another state, permitting access to fisheries waters or a part of fisheries waters by fishing boats of that state for the purpose of fishing;

"aircraft" means a craft capable of self-sustained movement through the atmosphere;

"approved automatic location communicator" means an automatic location communicator of a type for the time being approved by the South Pacific Forum Fisheries Agency member countries for use with the Regional Vessel Monitoring System;

"aquaculture" means the cultivation, propagation or farming of fish, whether from eggs, spawn, spat or seed, or by rearing fish lawfully taken from the wild or lawfully imported, or any other similar process;

"authorised officer" means —

- (a) a police officer; or
- (b) a person authorised under section 14; or
- (c) a surveillance officer; or
- (d) any other person who is authorised by the Minister in accordance with section 14(2) to exercise such powers or perform such duties for such times under this Act as are specified;

"Authority" means the Nauru Fisheries and Marine Resources Authority established by the Nauru Fisheries and Marine Resources Authority Act 1997;

"automatic location communicator" means a machine or a system of machines which when installed on a boat is wholly or partially capable in itself of determining the boat's position, course, speed or any of these and similar matters, and of transmitting this information by means of a vessel monitoring system to persons not on or in sight of the boat;

"based in Nauru", in relation to a boat, means exclusive or predominant use by the boat of land-based facilities in Nauru, and the use may include —

- (a) location of the boat's home port in Nauru;
- (b) offloading all or most of its catch in Nauru;
- (c) tranships all or most of the fish taken in fisheries waters in the port of Nauru;
- (d) obtaining or storing all or most of its supplies in Nauru;

"Board" means the Board of Directors of the Authority;

"boat" means a canoe, dinghy, launch, vessel, ship, hovercraft, or other floating or submarine craft;

"Chief Executive Officer" means the Chief Executive Officer of the Authority;

"crew member" means a person who is engaged or employed in any capacity on board a boat and in the business of the boat, other than —

- (a) the master; or
- (b) a pilot; or
- (c) a person temporarily employed on board the boat while it is at a port;

"document", in relation to a boat, includes any ship's charts, logbooks, certificate of registry or registration, licence, permit, official paper, article of agreement and other documents or records, including electronically stored records, which are used in the operation of the boat or for the purpose of fishing by the boat, or which relate to the boat and to the crew or to any person on board the boat;

"driftnet" means a gillnet or other net or a combination of nets which is more than one kilometre in length, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water, and which is not used or intended to be used while attached to a point of land or to the seabed, irrespective of whether the net is used or intended to be used while attached to a boat;

"driftnet fishing" means any fishing involving the use of a driftnet;

"fish" means any aquatic plant or animal, alive or dead, whether piscine or not, the eggs and all juvenile stages and any of the parts of the plant or animal, and any fish product;

"fish aggregating device" means a man-made or partially man-made floating or semi-submerged device, whether anchored or not, intended to aggregate fish, and includes any natural floating object on which a device has been placed to facilitate its location;

"fisheries activity" means —

- (a) on-shore storing, buying, selling or processing fish from the time they are first landed; or
- (b) refuelling or supplying fishing boats whether on land or at sea, selling or supplying fishing equipment or performing other activities in support of fishing; or
- (c) aquaculture; or
- (d) exporting fish from Nauru; or
- (e) engaging in the business of providing agency, consultancy or other similar services for and in relation to fishing or a fisheries activity;

"fisheries waters" means the internal waters, the territorial sea, the exclusive economic zone and any other waters over which the Republic claims jurisdiction;

"fishery" means one or more stocks of fish or any fishing operations based on those stocks which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, economic, recreational and other relevant characteristics;

"Fishery Strategy" means a strategy for the management and development of a fishery drawn up under Section 10;

"fishing" means —

- (a) searching for, catching, taking or harvesting fish; or
- (b) attempting to search for, catch, take or harvest fish; or
- (c) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish; or
- (d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons; or
- (e) any operation at sea directly in support of or in preparation for any activity described in this definition; or
- (f) the use of any other vehicle, air or sea borne, in relation to any activity described in this definition except for emergencies involving the health and safety of the crew or the safety of a boat; or
- (g) storing, transshipping, processing or transporting fish taken from fisheries waters up to the time they are first landed;

"fishing boat" means a boat which is used for, equipped to be used for or of a type that is normally used for fishing;

"fishing equipment" means any equipment, implement or other thing that can be used in the act of fishing, including any net, rope, line, float, trap, hook, winch, aircraft or support craft carried on board a boat;

"fishing trip" means a period which —

(a) starts with the departure of a boat from port to transit to a fishing area or to transit to another port to complete offloading; and

(b) ends when the boat enters port to offload part or all of its catch, either ashore or to another boat;

"foreign boat" means a fishing boat other than a small boat or a national boat;

"good standing" means the original status granted to boats applying for inclusion on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency;

"import" means to bring into Nauru or any part of fisheries waters;

"joint venture" means an enterprise of which —

(a) at least 51% of the shares are held by one or more citizens of Nauru, or the Republic, or a statutory corporation of the Republic; and

(b) the management and control exercisable in law or by agreement between the shareholders, or by agreement between the enterprise and a third party, or in practice, adequately reflect the majority Nauruan shareholding; and

(c) the arrangements for contribution towards costs and expenses and for distribution of profits, dividends and other payments adequately reflect the majority Nauruan shareholding;

"licence" includes a permit, authority or other form of authorisation issued under this Act;

"licensed boat" means a fishing boat licensed under this Act, or deemed to be licensed by section 12(2);

"licensee" means a person to whom a licence is issued, whether in respect of the person or a boat, premises or place;

"machine" includes an electric or electronic device and a satellite;

"master", in relation to a boat, the fishing operations of a boat, an aircraft or other vehicle, means the person having lawful command or charge, or for the time being in charge, of the boat, fishing operations, aircraft or vehicle, but does not include a pilot;

"national boat" means a fishing boat, other than a small boat, which —

(a) is wholly owned by one or more Nauruan citizens, the Republic, a statutory corporation of the Republic or a Nauruan corporation; or

(b) is operating under a joint venture; or

(c) is based in Nauru;

"Nauruan corporation" has the meaning given to it by the Corporation Act 1972;

"net" means a fabric of rope, cord, twine or other material knotted or woven into meshes and designed to take fish;

"observer" means any person authorised in writing by the Minister under section 13 to perform scientific, compliance, monitoring and other similar observation duties on board a fishing boat in accordance with this Act;

"officer" means a person appointed as an officer in the service of the Authority;

"operator" means the owner, charterer, master and any other person who is in charge of, responsible for the operations of, directs or controls a boat, but does not include a pilot;

"owner" means a person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his own behalf or on behalf of another, and, in relation to a corporation which is

an owner, means a person who is the owner jointly with one or more other persons and the manager, director and secretary, or other similar officer or any person purporting to act in such a capacity, of the corporation;

"process", in relation to fish, means the producing of any substance or article from fish by any method and includes the work of cutting up, dismembering, separating parts of, cleaning, sorting, packing, loining, freezing, canning, salting and preserving of fish;

"Regional Licensing Arrangement" means —

(a) the Treaty on Fisheries between the Governments of certain Pacific Island States and the United States of America signed in Port Moresby on 2nd April 1987, and any renewal or extension of the Treaty; or

(b) the Federated States of Micronesia Arrangement for Regional Fisheries Access done at Honiara on 30th November 1994; or

(c) any similar treaty or arrangement to which the Republic is a party, which makes provision for an international, regional or sub-regional system of fishing boat licences;

"Regional Vessel Monitoring System" means the vessel monitoring system accepted for use in the region by the South Pacific Forum Fisheries Agency member countries, or any other substituted vessel monitoring system accepted for use by the Republic;

"small boat" means a boat which —

(a) does not exceed 10 metres in length; and

(b) is used or intended to be used solely in coastal or internal waters, but does not include a support craft;

"support craft" means a dinghy, tender or other craft not exceeding 10 metres in length which is used in conjunction with a fishing boat in support of fishing by the boat;

"surveillance officer" means an officer of a boat or aircraft which is being used for the enforcement of this Act, whether or not the boat or aircraft is registered in Nauru and whether or not the officer is a Nauruan citizen;

"take", in relation to fish, means take, catch, capture or harvest fish;

"total allowable catch", in relation to an area of waters, means the amount of fish that will produce from those waters the maximum sustainable yield, as qualified by any relevant economic or environmental factors, fishing patterns, the interdependence of stocks of fish and any generally accepted or recommended international, regional or sub-regional standards, reference points and accepted conservation and management approaches;

tranship" means to transfer any or all of the fish on board a boat to another boat, either directly or by offloading the fish to the shore and immediately onto another boat;

"vessel monitoring system" means a system of machines which is capable wholly or partially in itself of processing, transmitting and disseminating information obtained by use of an automatic location communicator.

APPLICATION

3. (1) In and in relation to fisheries waters, this Act applies, unless the context otherwise requires, to all persons, whether or not they are Nauruan citizens, and to all boats, including foreign boats.

(2) In and in relation to any waters other than fisheries waters, this Act applies, unless the context otherwise requires —

(a) to all fishing boats registered in Nauru and all national boats, and to all persons on them, or dealing with or having any relevant relationship to them or persons on them; and

(b) following hot pursuit conducted in accordance with international law and commenced within fisheries waters, or as required or permitted by international law or any convention, treaty or agreement to which Nauru is a party, to all persons and all boats.

(3) This Act has extraterritorial application according to its tenor.

PART II — FISHERIES MANAGEMENT

MANAGEMENT PRINCIPLES

4. (1) Subject to this Act and to any policy directions of the Minister, the utilisation, management, development, conservation and protection of all fish in fisheries waters is the responsibility of the Authority.

(2) The Minister, the Authority, and any other person exercising powers and performing functions under this Act shall have regard to —

(a) the principle that Nauru's fisheries and marine resources shall be managed, developed, conserved and protected as a sustainable asset for future generations; and

(b) the sustainable utilisation of the fisheries and marine resources of Nauru to achieve economic growth, improved social standards, improved nutritional standards, human resource development, increased employment and a sound ecological balance; and

(c) the need to follow and adopt internationally recognised and accepted conservation and management measures to fisheries and marine resources, in accordance with the applicable rules and principles of international law; and

(d) the need to apply the precautionary approach to the management and conservation of fisheries resources taking account of the best scientific information available, but not so that the absence of adequate scientific information may be used as a reason for postponing or failing to take conservation and management measures; and

(e) any principles of maximum sustainable yields, allowable levels of fishing, precautionary reference points or total allowable catch which may be supported or adopted by the Republic from time to time; and

(f) the dependence of the people of Nauru on the fish and marine resources of fisheries waters for their food and livelihood; and

(g) the need to avoid adverse impacts on the marine environment, to preserve biodiversity, to maintain the integrity of marine ecosystems and to minimise the risk of long-term or irreversible effects of fishing operations; and

(h) any relevant international obligations or bilateral or multilateral agreements of the Republic, or applicable rules of international law, relating to the exercise of jurisdiction of the Republic in fisheries waters; and

(i) any fisheries and marine resources policy of the Republic; and

(j) any Fishery Strategy drawn up in accordance with this Act.

FOREIGN FISHING AND FISHERIES PRINCIPLES

5. In exercising powers under and in relation to this Act in respect of fishing in fisheries waters, or fisheries activities, by a foreign person or a foreign boat, the Minister, the Authority or the Chief Executive Officer, as the case may be, shall have regard to —

- (a) whether the state to which that person or boat belongs has cooperated with the Republic in, and made substantial contributions to, the development of Nauru's fishing industry, fishery research and the identification and management of fishing resources; and
- (b) any rights of a reciprocal nature granted to Nauruan citizens or boats by that state; and
- (c) whether that state, its fishing associations and its fishing boats have cooperated with the Republic in the enforcement of fishing laws, the undertaking of flag state responsibility and the conservation and management of fishing resources, including the provision of information for those purposes; and
- (d) whether, and to what extent, the fishing boats of that state have traditionally engaged in such fishing; and
- (e) the good standing or otherwise of any foreign boat involved; and
- (f) any relevant international, regional or sub-regional obligations of the Republic, or applicable rules of international law, relating to the exercise of jurisdiction of the Republic over any part of fisheries waters.

AGREEMENTS AND ARRANGEMENTS

6. The Republic may enter into conventions, treaties, agreements or arrangements which provide for —

- (a) the terms and conditions of access to fisheries waters by foreign fishing boats and licensing procedures in respect of foreign boats; and
- (b) the administration of any multilateral arrangement or agreement, including the designation of a state, a competent regional fisheries agency or an official of that state or agency as Administrator of the arrangement or agreement, and the powers and duties of the Administrator, including the issue of fishing licences under the arrangement or agreement; and
- (c) the taking of joint, reciprocal or harmonised surveillance and enforcement measures in respect of foreign boats; and
- (d) the sharing or apportionment of any penalties imposed by a court, whether within Nauru or elsewhere, as a result of the enforcement measures referred to in paragraph (c); and
- (e) any similar matters associated with fishing carried out in or near fisheries waters by foreign boats.

PROVISION OF INFORMATION

7. (1) The Chief Executive Officer shall make such arrangements and take such measures as may be appropriate to enable him to provide information to and exchange information with other states and organisations concerning fisheries management strategies.

(2) The information that may be provided to and exchanged with international, regional or sub-regional organisations may include information about —

- (a) catch and effort statistics in respect of fishing operations in fisheries waters; and
- (b) relevant biological and statistical data; and
- (c) relevant laws of Nauru; and
- (d) actions with respect to decisions taken and mutually agreed upon between the Republic and the organisation.

(3) The information that may be provided to and exchanged with states with which the Republic has reached agreement concerning cooperation in fisheries surveillance, monitoring and enforcement may include information about —

- (a) the location and movement of foreign fishing boats; and
- (b) foreign boat licensing; and
- (c) fisheries surveillance and law enforcement activities; and
- (d) evidentiary material; and
- (e) such other information as appears to him to be necessary or desirable to assist those states to enforce their fisheries laws and to deter breaches of those laws.

(4) Where he has reason to believe that a foreign fishing boat has engaged in activities that undermine any internationally, regionally or sub-regionally accepted conservation and management measures with regard to fisheries and marine resources, or that breach the fisheries management laws of another state, the Chief Executive Officer shall—

- (a) provide to the appropriate authorities of the flag state of the boat such information, including evidentiary material, relating to those activities, as may be necessary to assist the flag state in identifying the boat; and
- (b) when the boat is voluntarily in the port of Nauru, promptly notify the appropriate authorities of the flag state of the boat accordingly; and
- (c) take such measures as appear to him to be necessary or desirable in order to secure compliance by the boat with those fisheries conservation and management measures or laws or in order to enable another state to enforce its fisheries laws in respect of the boat.

ACCESS AGREEMENTS

8. (1) The Republic may enter into an access agreement with another state or with the fishing association or a similar body of another state, to provide for the licensing of foreign boats under this Act.

(2) The state or the fishing association or other similar body of the state entering into an access agreement shall undertake in the terms of the agreement to —

- (a) recognise the Republic's sovereignty and exclusive fisheries management authority over its fisheries waters and the resources of those waters; and
- (b) recognise and agree to comply with the laws of the Republic, including and in particular this Act; and
- (c) take all measures to ensure compliance by the boats of that state with the terms and conditions of the access agreement and the laws of the Republic, in particular the laws relating to fishing and fisheries waters, either by acknowledging the Republic's right to enforce its laws, or by assuming responsibility for the enforcement of those laws.

(3) The undertakings in subsection (2) are in addition to and not in derogation of any other undertakings that may be made in the agreement.

(4) An access agreement shall also include provisions as to the obligations of any operator of a boat covered by the agreement to implement, or to recognise the implementation of, minimum terms and conditions and other agreed conditions of fishing access as may be agreed from time to time between the Republic and one or more other states, or between states in accordance with any applicable rules of international law.

(5) An access agreement may include a requirement that all or any of the boats licensed under the agreement shall be fitted with an approved automatic location communicator.

(6) Every access agreement negotiated by or on behalf of the Republic shall secure substantial agreement with the requirements of this section.

(7) A provision of an access agreement that is inconsistent with this or any other Act is, to the extent of that inconsistency, void.

LIMITS OF CATCH AND LICENCES

9. (1) The Minister may, on the advice of the Authority, and subject to any regional or sub-regional criteria with respect to total allowable catch as agreed to by the Republic, from time to time determine the total allowable catch in respect of fisheries waters or a specified part of fisheries waters.

(2) The Minister may, on the advice of the Authority, from time to time determine the maximum numbers of licences that may be issued in respect of a fishery or a fisheries activity.

(3) A determination under subsection (1) or (2) may be made irrespective of whether any Fisheries Strategy has been drawn up under section 10.

FISHERY STRATEGIES

10. (1) The Authority may, and where the Minister requires it to, shall draw up a Fishery Strategy in respect of any fishery.

(2) A Fishery Strategy shall —

- (a) identify the fishery and its characteristics, including its current state of exploitation; and
- (b) specify the objectives to be achieved in the management of the fishery; and
- (c) identify any possible adverse environmental effects of fishing operations in the fishery, together with proposals for the management of those effects; and
- (d) specify the management and development strategies to be adopted for the fishery; and
- (e) ascertain precautionary reference points for the fishery, in accordance with internationally accepted principles, which can be used to trigger pre-agreed conservation and management action in relation to the fishery; and
- (f) specify the limitations, if any, to be applied to the issue of licences in respect of the fishery; and
- (g) specify, in international units appropriate to the type of fishing, and in accordance with any relevant international, regional or sub-regional agreement, the amount of fishing, if any, to be allocated to foreign fishing boats; and
- (h) specify the statistical and other data required to be given or reported for effective management and development of the fishery.

(3) The Authority shall, during the preparation of a Fishery Strategy, consult as appropriate with —

- (a) other government departments, branches and agencies, and any non-governmental bodies or organisations affected by the Strategy; and

(b) where appropriate and practicable, the fisheries management authorities of other states in the region, with a view to ensuring the harmonisation of their respective fisheries management and development plans and strategies.

(4) A Fishery Strategy drawn up under this section shall take account of any applicable declaration of total allowable catch made under section 9.

(5) The Authority shall keep a Fishery Strategy under review and shall revise it as necessary.

FISHING PROHIBITIONS

11. (1) The Minister may, by notice in the Gazette, prohibit fishing or a fisheries activity by any one or more of the following:—

- (a) by species, sub-species, class or type of fish;
- (b) by size, weight or dimensions of fish or of parts of fish;
- (c) by age or growth stage of fish;
- (d) by limits set on catches, fishing efforts, the number of persons who may engage in the fishing or fisheries activity or any other related matters;
- (e) in a specified area of water or at a specified place;
- (f) by class or type of boat;
- (g) by fishing method;
- (h) by the use, carrying on board a boat or possession of a class, type, size or quantity of fishing equipment, navigational or safety equipment or equipment used in connection with a fisheries activity;
- (i) by the failure to use, carry on board a boat or possess a class, type, size or quantity of fishing equipment, navigational or safety equipment or equipment used in connection with a fisheries activity;
- (j) by class, type, category or manner of conduct of a fisheries activity;
- (k) by time, date or season; or by period, or indefinitely;
- (l) by class or category of persons.

(2) A notice under this section may provide for exemptions from the prohibition in the notice.

(3) An exemption under subsection (2) shall not exceed three months.

LICENSING OF FISHING AND FISHERIES ACTIVITIES

12. (1) The Chief Executive Officer may, in accordance with this Act, register boats and grant certificates of registration, permits, licences and other authorisations to engage in or to use a boat for fishing or a fisheries activity in accordance with this Act, and may renew those registrations, certificates, permits, licences and authorisations from time to time.

(2) Where the terms of a Regional Licensing Arrangement permit a foreign boat licensed in accordance with its terms to fish in fisheries waters, or a part of fisheries waters, the boat shall be deemed to be licensed under this Act according to the terms of the Arrangement and the licence.

PART III — MONITORING AND ENFORCEMENT**OBSERVERS**

13. (1) The Minister may, by notice in the Gazette, appoint a person as an observer.

(2) An observer shall be allowed and assisted to board and remain on board a licensed boat at any time, for scientific, compliance, monitoring and other similar observation functions.

(3) While on board a boat in accordance with subsection (2), an observer —

(a) shall be provided at no charge with reasonable food, accommodation and medical care equivalent to that provided for officers of the boat; and

(b) shall be provided with a suitable work area including a table and sufficient lighting to carry out his work; and

(c) shall have full access to the bridge, fishing equipment and fish on board and areas which may be used to hold, process, weigh and store fish; and

(d) shall have full access to the boat's documents for the purposes of inspection and copying; and

(e) shall have reasonable access to navigation equipment and charts and shall be provided upon request with the accurate position of the boat in latitude and longitude; and

(f) shall have messages on his behalf promptly sent and received by means of the communications equipment aboard the boat; and

(g) may take and remove from the boat samples and relevant information; and

(h) may take photographs of the fishing operations and any associated operations, including fish, fishing equipment and charts and records, and may remove from the boat any photographs or film that he may have taken or used on board the boat; and

(i) shall be allowed and assisted to carry out all duties safely; and

(j) shall be embarked and disembarked at times and places as agreed between the observer and the master.

(4) Where the boat on which the observer is placed is a foreign boat, the observer shall be provided with —

(a) full travel costs to and from the points of embarkation and disembarkation; and

(b) salary; and

(c) full insurance cover in respect of loss of life, medical expenses or personal injury.

AUTHORISED OFFICERS

14. (1) The Minister may, by notice in the Gazette, appoint an officer of the Authority as an authorised officer.

(2) The Minister may, by notice in the Gazette, appoint a person to exercise such powers or perform such duties of an authorised officer under this Act as are specified in the notice.

IDENTIFICATION OF AUTHORISED OFFICERS AND OBSERVERS

15. An observer or an authorised officer, when exercising any of the powers conferred by this Act, shall on request produce identification to show that he is an observer or an authorised officer, as the case may be, under this Act.

OFFENCES AS COGNISABLE OFFENCES

16. For the purposes of section 10 of the Criminal Procedure Act 1972, an offence under this Act is a cognisable offence.

POWERS OF AUTHORISED OFFICERS

17. (1) For the purposes of enforcing this Act, an authorised officer may, without a warrant —

- (a) stop any foreign fishing boat or small boat in fisheries waters and any national boat in or beyond fisheries waters; and
- (b) require the master of the boat to stop fishing and take the fishing equipment of the boat back on board; and
- (c) require the master to facilitate the boarding of the boat by all appropriate means; and
- (d) board the boat and take with him such other persons as he may require to assist him in the exercise of his powers; and
- (e) muster the crew of the boat; and
- (f) require to be produced, examine and take copies of any document on board the boat which is required under this Act or relates to the boat, to fishing by the boat, to the crew or to any person on board the boat; and
- (g) require the master to appear and give an explanation concerning the boat, fishing by the boat, any crew member or any person on board the boat and any document referred to in paragraph (f); and
- (h) while on board, make any search, examination or enquiry which he considers necessary to find out whether any provision of this Act has been contravened; and
- (i) make an entry dated and signed by him in a boat's log; and
- (j) take or require the master to take the boat to any place in Nauru or in fisheries waters for the purpose of carrying out any search, examination or enquiry; and
- (k) following hot pursuit carried out in accordance with international law and commenced within fisheries waters, stop, board and search outside fisheries waters any foreign fishing boat which he has reasonable grounds to believe has been used in the commission of an offence against this Act and bring the boat and all persons and things on board the boat within fisheries waters; and
- (l) stop, enter and search any vehicle or aircraft which he has reasonable grounds to believe is being used or is involved in the commission of an offence against this Act; and
- (m) take samples of any fish found in a boat, vehicle or aircraft searched under this section; and
- (n) give such directions to the master and a crew member of any boat, or the driver or pilot of a vehicle or aircraft stopped, boarded or searched as may be necessary or reasonably expedient for any purpose under this Act or to provide for the compliance by the boat, the vehicle, the aircraft, the master or crew member or the driver or pilot with the conditions of a licence; and

(o) arrest any person whom he has reasonable grounds to believe has committed an offence under this Act.

(2) Where, following the commission of an offence under this Act by a foreign boat, the boat is pursued beyond the limits of fisheries waters in circumstances and to the extent recognised by international law, the powers conferred on an authorised officer under this Act are exercisable beyond the limits of national jurisdiction in accordance with international law.

(3) An authorised officer who has reasonable grounds to believe that an offence under this Act has been or is being committed, may, without a warrant, seize —

(a) any boat (together with its catch on board, fishing equipment, other equipment, stores and cargo), vehicle or aircraft which he has reasonable grounds to believe has been or is being used in the commission of an offence under this Act or which he knows has been forfeited in accordance with any provision of this Act; and

(b) any fish which he has reasonable grounds to believe have been taken in the commission of the offence or which are possessed in contravention of this Act; and

(c) any equipment which he has reasonable grounds to believe has been or is being used in the commission of an offence under this Act; and

(d) any explosive, poison or noxious substance which he has reasonable grounds to believe has been or is being used or is possessed or controlled in contravention of this Act; and

(e) any documents required to be maintained by this Act or in accordance with the conditions of any licence or which he has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence under this Act; and

(f) any thing which he has reasonable grounds to believe may be used as evidence in any proceedings under this Act.

(4) An authorised officer has such other powers as are prescribed for the purposes of enforcing this Act.

(5) In exercising powers under this Act, an authorised officer may use such force as is reasonably necessary.

SEIZURE OF BOATS, VEHICLES AND AIRCRAFT

18. (1) Where a boat is seized under section 17, the authorised officer may bring the boat, or require the master who was in charge of the boat immediately before it was seized, to bring the boat to a place which he specifies in Nauru or in fisheries waters, and the boat may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under section.

(2) Where the master brings the boat to the specified place, he shall be responsible for the safety of the crew, boat, himself and any other person on board the boat.

(3) Where the master fails or refuses to take the boat to the specified place, an authorised officer may take charge of the boat for the purpose of bringing it to the specified place.

(4) Where a boat is brought to a specified place by an authorised officer under subsection (3), no claim whatever may be made against any authorised officer, the Authority or the Republic in respect of any death, injury, loss or damage occurring while the boat is being brought to the specified place.

(5) Where a vehicle or aircraft is seized under section 17, the driver or pilot shall take the vehicle or aircraft to a place in Nauru which the authorised officer specifies as being the nearest or most convenient place for the holding of the vehicle or aircraft, and the vehicle or aircraft may be detained pending the outcome of any proceedings under the Act or its release under section 21.

(6) In bringing the vehicle or aircraft to the specified place, the driver or pilot shall be responsible for the safety of the vehicle or aircraft, its passengers, crew and any other person on board the vehicle or aircraft.

(7) Where the driver or pilot fails or refuses to take the vehicle or aircraft to the specified place, an authorised officer may take charge of the vehicle or aircraft for the purpose of bringing it to the specified place.

(8) Where a vehicle or aircraft is brought to a specified place by an authorised officer under subsection (7), no claim whatever may be made against any authorised officer, the Authority or the Republic in respect of any death, injury, loss or damage occurring while the vehicle or aircraft is being brought to the specified place.

IMMOBILISATION OF BOAT, VEHICLE OR AIRCRAFT

19. (1) Having regard to the safety of the boat, vehicle or aircraft, an authorised officer may take steps to immobilise any boat, vehicle or aircraft seized, taken or detained in custody under the Act.

(2) The steps referred to in subsection (1) include removing any part from the boat, vehicle or aircraft, for the purpose of preventing its taking by any person prior to its release under section 21 or by the Court.

(3) A part removed under subsection (2) shall be kept safely and returned to the boat, vehicle or aircraft immediately upon its lawful release from custody.

DISPOSAL OF SEIZED FISH AND OTHER THINGS

20. (1) Where any fish or other thing of a perishable nature is seized under section 17, the Chief Executive Officer may —

- (a) return the fish or other thing to the person from whom it was seized on receiving security that, in his opinion, represents its equivalent value; or
- (b) sell the fish or other thing at reasonable market value; or
- (c) where he is unable to sell the fish or other thing at reasonable market value, or where the fish or other thing is unfit for sale, dispose of it in such other manner as he thinks fit.

(2) Where any equipment is seized under section 17, the Chief Executive Officer may return the equipment to the person from whom it was seized on receiving security that, in his opinion, represents its market value.

(3) Where Court proceedings relating to any fish or thing referred to in subsection (1) or equipment referred to in subsection (2) are instituted, the Chief Executive Officer shall pay into Court any security or proceeds of sale obtained under subsection (1) or (2), as the case may be, pending an order by the Court in respect of the forfeiture or otherwise of the security or proceeds.

(4) Where no proceedings are instituted in relation to any fish or thing referred to in subsection (1) or equipment referred to in subsection (2), the Chief Executive Officer shall release the security or proceeds to the person from whom the fish or other thing was seized.

SECURITY FOR RELEASE OF A SEIZED BOAT

21. (1) Where a boat is detained or seized under this Act and a complaint is made or a charge is laid in respect of the offence for which the boat has been detained or seized, the operator or the legal representative of the boat may, at any time before the determination of the matter to which the complaint or charge relates, apply to the Court by which the complaint or charge is due to be determined for the release of the boat on the provision of security in accordance with this section.

(2) Upon receipt of an application under subsection (1), the Court may, and in the case of a foreign boat, shall, unless the boat or any fishing equipment, fish or other property on board the boat is required as an exhibit in court proceedings or is reasonably required for any further investigation of an offence under this Act, order —

(a) the payment into Court of security in the total of the value of the boat, the maximum fine or fines provided for the offences charged or likely to be charged, and the costs likely to be recovered by the prosecution if a conviction is entered; and

(b) upon receipt of the security referred to in paragraph (a), the release of the boat or property.

(3) Notwithstanding subsection (2), the Court may, where it is satisfied that there are special circumstances to justify it doing so, order that the security shall be in a specified amount that is less than the amount required by that subsection.

(4) In this section "boat" includes all equipment on board or used by the boat and also includes all fish that has been seized from the boat under this Act and is held on board the boat while it is detained in custody.

PART IV — OFFENCES**BREACH OF FISHING PROHIBITIONS**

22. (1) A person who, whether on his own account, or as partner, agent or employee of another person, or as operator or crew member of a boat, engages in fishing or a fisheries activity in contravention of a notice under section 11, is guilty of an offence and is liable to a penalty —

(a) in a case involving the use of a foreign boat, not exceeding \$500,000; or

(b) in a case involving the use of a national boat, not exceeding \$100,000; or

(c) in the case of a crew member of a foreign or a national boat, not exceeding \$25,000; or

(d) in any other case, not exceeding \$10,000.

(2) A person who, in any area of waters or at any place, has any fish in his possession or under his control in a boat at a time when the taking of the fish in that area or at that place is prohibited by a notice under section 11, is guilty of an offence and is liable to a penalty —

(a) in a case involving the use of a foreign boat, not exceeding \$500,000; or

(b) in a case involving the use of a national boat, not exceeding \$100,000; or

(c) in the case of a crew member of a foreign or a national boat, not exceeding \$25,000; or

(d) in any other case, not exceeding \$10,000.

(3) It is a defence to a prosecution for an offence under subsection (2) if the person charged satisfies the court —

- (a) that the fish was not taken in the area of waters referred to in that subsection; or
- (b) that the taking of the fish was not in contravention of this Act.

(4) A person who lands, sells, receives or has in his possession any fish which he knows or has reasonable cause to believe were taken in contravention of a notice under section 11 is guilty of an offence and is liable —

- (a) where the person proves that the landing, receipt or possession was not for the purpose of sale, trade or profit, to a fine not exceeding \$1,000 or imprisonment for a term not exceeding one year, or both; or
- (b) in any other case, to a fine not exceeding \$5,000 or imprisonment for a term not exceeding two years, or both.

(5) A person who carries, has in his possession or control or has on board any boat, in circumstances which indicate an intention to use for fishing in fisheries waters, any fishing equipment which is prohibited from use for fishing by a notice under section 11 is guilty of an offence and is liable to a penalty not exceeding \$5,000.

(6) It is a defence to a prosecution for an offence under subsection (5) if the person charged satisfies the Court that the equipment was not intended for use for fishing.

(7) For the purposes of the prosecution of a person for an offence against this section, where a person is charged for an act or omission done by a partner, agent or employee, the act or omission shall be deemed to have also been done by the person charged for the offence.

(8) Section 24 (Mistake of Fact) of the Criminal Code is not a defence to a prosecution for an offence under this section.

FISHING WITHOUT OR IN BREACH OF A LICENCE

23. (1) A person who —

- (a) on his own account, or as the partner, agent or employee of another person; or
- (b) as operator or crew member of a boat,

engages in or uses a boat for fishing or a fisheries activity, of a kind of type, or at a time, or in a place or manner, for which a licence is required under this Act, except under, and in accordance with the conditions of, a licence granted under this Act, is guilty of an offence and is liable —

- (a) in a case involving the use of a foreign boat, not exceeding \$500,000; or
- (b) in a case involving the use of a national boat, not exceeding \$100,000; or
- (c) in the case of a crew member of a foreign or a national boat, not exceeding \$25,000; or
- (d) in any other case, not exceeding \$10,000.

(2) For the purposes of the prosecution of a person for an offence against this section, where a person is charged for an act or omission done by a partner, agent or employee, the act or omission shall be deemed to have also been done by the person charged for the offence.

(3) Section 24 (Mistake of Fact) of the Criminal Code is not a defence to a prosecution for an offence under this section.

FOREIGN BOATS IN FISHERIES WATERS

24. (1) A person who, whether on his own account, or as operator or crew member, causes or permits a foreign boat to enter, be in or be used for fishing or related activities in fisheries waters —

- (a) except for a purpose recognised by international law; or
- (b) unless it is authorised to do so by a licence granted under this Act,

is guilty of an offence and is liable to a penalty —

- (a) in the case of a corporation, not exceeding \$500,000; or
- (b) in the case of a crew member, not exceeding \$25,000; or
- (c) in the case of any other natural person, not exceeding \$250,000.

(2) All fishing equipment on board a foreign boat in any place in fisheries waters where it is not licensed to fish under this Act shall be stowed and secured —

- (a) so that it is not readily available or accessible for use for fishing; or
- (b) in the prescribed manner.

(3) A person who —

- (a) on his own account, or as the partner, agent or employee of another person, causes or permits; or
- (b) as operator or crew member of a boat, causes or permits; or
- (c) causes or permits a person acting on his behalf to cause or permit,

a contravention of subsection (2) is guilty of an offence and is liable to a penalty —

- (a) in the case of a corporation, not exceeding \$50,000; or
- (b) in the case of a crew member, not exceeding \$2,000; or
- (c) in the case of any other natural person, not exceeding \$25,000.

(4) For the purposes of the prosecution of a person for an offence against this section, where a person is charged for an act or omission done by a partner, agent or employee, the act or omission shall be deemed to have also been done by the person charged for the offence.

(5) Section 24 (Mistake of Fact) of the Criminal Code is not a defence to a prosecution for an offence under this section.

DRIFTNET FISHING

25. (1) No boat shall be used for or assist in driftnet fishing in fisheries waters.

(2) No national boat shall be used for or assist in driftnet fishing in any waters.

(3) No foreign boat shall have a driftnet aboard while in fisheries waters.

(4) Where a boat is used in contravention of subsection (1), (2) or (3), the master, owner, charterer and crew members of the boat are each guilty of an offence and are liable to a penalty —

- (a) in a case involving the use of a foreign boat, not exceeding \$500,000; or
- (b) in a case involving the use of a national boat, not exceeding \$100,000; or

(c) in the case of a crew member of a foreign or a national boat, not exceeding \$50,000; or

(d) in any other case, not exceeding \$10,000.

IMPORT OF ILLEGALLY TAKEN FISH

26. (1) Subject to subsection (3), a person who, in Nauru or in fisheries waters —

(a) on his own account, or as the partner, agent or employee of another person, lands, imports, exports, transports, sells, receives, acquires or purchases; or

(b) uses a boat, to land, import, export, transport, sell, receive, acquire or purchase,

any fish taken, possessed, transported or sold contrary to the law of another state is guilty of an offence and is liable to a penalty —

(a) in a case involving the use of a foreign boat, not exceeding \$500,000; or

(b) in a case involving the use of a national boat, not exceeding \$100,000; or

(c) in the case of a crew member of a foreign or a national boat, not exceeding \$25,000; or

(d) in any other case, not exceeding \$10,000.

(2) This section does not apply to fish taken on the high seas contrary to the law of another state where the Republic does not recognise the right of that state to make laws in respect of those fish.

(3) It is a defence to a prosecution for an offence under this section if the person charged satisfies the Court that he did not know and had no reasonable cause to believe that the fish had been taken, possessed, transported or sold contrary to the law of another state.

(4) Section 24 of the Criminal Code is not a defence to a prosecution for an offence under this section.

(5) Where there is in existence an agreement with another state to this effect, the penalty provided by subsection (2), or any portion of it according to the terms of the agreement, shall, after all costs and expenses incurred by the Republic and the Authority have been deducted, be remitted to that state according to the terms of the agreement.

OBSTRUCTION OF AUTHORISED OFFICERS OR OBSERVERS

27. (1) The master and each crew member of any boat, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with every instruction or direction given by an authorised officer and shall facilitate safe boarding, entry and inspection of the boat, vehicle or aircraft and any fishing equipment, equipment, records, documents and fish.

(2) The master and each crew member of any boat, the driver of any vehicle and the pilot and crew of any aircraft shall take all measures to ensure the safety of an authorised officer or observer in the performance of his duties.

(3) A person who contravenes subsection (1) or (2), or who —

(a) assaults, obstructs, resists, delays, refuses boarding or entry to, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer or observer in the performance of his duties; or

(b) incites or encourages any other person to assault, resist or obstruct an authorised officer or an observer while carrying out his powers or duties, or a person lawfully acting under the authorised officer's orders or in his aid; or

(c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards an authorised officer or observer while in the execution of his powers of duties, or a person lawfully acting under an authorised officer's orders or in his aid; or

(d) fails to comply with the lawful requirements of an authorised officer or observer; or

(e) furnishes to an authorised officer or an observer any particulars which, to his knowledge are false or misleading in any material respect; or

(f) personates or falsely represents himself to be an authorised officer or an observer, or who falsely represents himself to be a person lawfully acting under an authorised officer's orders or in his aid; or

(g) in any other way obstructs or hinders an authorised officer or observer in the exercise of his powers, duties or functions under this Act,

is guilty of an offence and is liable to a penalty —

(a) not exceeding \$500,000; or

(b) where the offence involves use or threat of use of a dangerous weapon, or violence or threat of violence, not exceeding \$1,000,000.

(4) In this section, "obstruct" means to prevent an authorised officer, or a person acting under his orders or in his aid, or an observer, from exercising any of the powers conferred on that person by this Act.

PART V — DEALING WITH OFFENCES

LIABILITY OF MASTER AND OTHERS

28. Where the owner or charterer of a foreign boat who is charged with an offence against section 22(1) or (2), 23, 24 or 26 is neither resident nor physically present in Nauru at the time when the boat was first arrested or at any time after the arrest —

(a) the master of the boat; or

(b) any employee, agent or representative of the owner or charterer who may be resident or physically present in Nauru at any time after the arrest,

shall be deemed to be the owner or charterer, as the case may be, and may be charged, prosecuted, convicted and sentenced as appropriate.

OFFENCES TRIABLE IN THE DISTRICT COURT

29. (1) Notwithstanding any other law relating to the jurisdiction and powers of the District Court, a person charged with an offence under this Act shall be tried by the District Court.

(2) The limitation imposed by section 7(c) of the Criminal Procedure Act 1972 upon sentences that may be passed by the District Court shall not apply to the imposition by the District Court of a sentence for an offence under this Act.

JURISDICTION OF THE COURT

30. (1) An act or omission in contravention of a provision of this Act which is committed —

(a) by any person within fisheries waters; or

(b) outside fisheries waters by any Nauruan citizen or any person ordinarily resident in Nauru; or

(c) by any person on board a national boat,

shall be dealt with and judicial proceedings taken as if the act or omission had taken place in Nauru.

(2) Where this Act entitles an authorised officer or an observer to exercise a power or perform a function outside fisheries waters, any act or omission of any person outside fisheries waters in relation to the authorised officer or observer, which if committed within fisheries waters would be an offence against this Act, shall be deemed to have been committed within fisheries waters.

(3) Where a law or a condition of a licence specifically or incidentally requires the reporting of a fact while a boat is on the high seas, proceedings may be taken in respect of a failure to report the fact as if the failure had occurred within fisheries waters.

EVIDENCE BY CERTIFICATE

31. (1) In any proceedings for an offence under this Act —

- (a) the Chief Executive Officer or a person authorised by him in writing; and
- (b) an authorised officer or an observer;

may give a certificate as to such matters, in such form and containing such particulars, as are prescribed.

(2) A certificate given under this section —

- (a) shall be signed by the person who made it; and
- (b) shall contain a declaration by the person who made it that the matters stated in the certificate are true to the best of his knowledge and belief and that he made the certificate knowing that, if it were tendered in evidence, he would be liable to prosecution if he wilfully stated in it anything which he knew to be false or did not believe to be true.

(3) Unless the contrary is proved, a document purporting to be a certificate given under this section shall be deemed to be such a certificate and to have been duly made.

(4) Where a certificate made under this section is served upon an accused person at least fourteen days before its production in court and the accused person does not, within seven days of the date of service, serve notice of objection in writing upon the prosecutor, then the certificate shall, unless the court finds the accused is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.

(5) Where an objection is notified under subsection (4), the certificate shall, unless the contrary is proved, be sufficient evidence of the facts stated in it.

(6) Any omission from or mistake made in any certificate given under this section does not render it inadmissible in evidence unless the Court considers that the omission or mistake is material to any issue in the proceedings concerned, or that the accused is unduly prejudiced by it.

(7) Notwithstanding that other matters may be contained in it, a certificate given under this section is validly made in relation to the matters which by this Act are permitted to be stated in it.

(8) Where in any proceedings a certificate made under this section is produced to the Court, the prosecution shall not be obliged to call the maker of the certificate and the

Court shall, where material, rely on the facts contained in the certificate unless the contrary is proved.

(9) The provisions of this section apply to a certificate given under this section notwithstanding anything to the contrary in the Criminal Procedure Act, 1972.

PRESUMPTIONS

32. (1) For the purposes of any proceedings under this Act, the act or omission of a crew member of a boat while aboard that boat or engaged in any fishing related to or in association with that boat shall be deemed to be also that of the operator of the boat.

(2) For the purposes of the prosecution of a person for an offence under this Act, where a person is charged for an act or omission done by an employee or other agent, the act or omission shall be deemed to have also been done by the person charged for the offence.

(3) Any entry in writing or other mark in or on any log, chart or other document required to be maintained under this Act or used to record the activities of a boat shall be deemed to be that of the operator of the boat.

(4) Where any information is given in respect of a boat under this Act or an applicable access agreement in relation to any fishing by a foreign boat, it shall be presumed, unless the contrary is proved, to have been given by the operator of the boat, whether it is given by post, telex, telephone, facsimile, radio transmission or other method of communication.

~~(5) All fish found on board any fishing boat or in, or on, any vehicle or aircraft used or involved in the commission of an offence under this Act shall be presumed, unless the contrary is proved, to have been caught unlawfully and is liable to forfeiture.~~

FORFEITURE OF BOAT AND OTHER PROPERTY

33. (1) Where a Court convicts a person of an offence under this Act, the Court may, in order, in addition to any pecuniary penalty or award under section 34, the forfeiture of any one or more of the following: —

- (a) any fish, boat, fishing equipment, explosive or noxious substance taken, used or otherwise involved in the commission of the offence;
- (b) where a boat was used in the commission of the offence, any fish on board the boat at the time of the offence, or where any fish referred to in paragraphs (a) or (b) has been sold under section 20, the proceeds of the sale of the fish.

(2) Where a Court convicts a person of an offence against section 22(1) or (2), 23, 24 or 26 or such other offences as may be prescribed for the purposes of this subsection, in the commission of which a foreign boat was used or otherwise involved, the Court shall, unless it finds that there are exceptional reasons for not doing so, order the forfeiture of:

- (a) the boat; and
- (b) any fishing equipment that was on the boat at the time of the offence; and
- (c) fish on board the boat at the time of the offence, or, where the fish has been sold under section 20, the proceeds of the sale of the fish.

(3) Any boat, fish, fishing equipment or other thing forfeited by order of a Court under this Act becomes the property of the Authority.

COMPENSATION FOR LOSS OR DAMAGE

34. A person who commits an offence under this Act is, on conviction, in addition to the penalty for the offence, liable for any loss or damage caused by the offence, and the amount of such loss or damage may be—
- (a) awarded by the court in fixing the penalty; and
 - (b) recovered in the same manner as a pecuniary penalty.

COSTS IN FISHERIES PROSECUTIONS

35. In respect of an offence charged under this Act and notwithstanding the provisions of any other law to the contrary, the court may award such costs and expenses incurred in relation to the prosecution of such charges as may appear to be proper.

CANCELLATION OF LICENCE

36. (1) When a person is convicted of an offence under this Act the Court may, in addition to any other penalty or order—
- (a) the cancellation of any licence issued to that person; and
 - (b) the forfeiture of any fees paid for the licence;
 - (c) that the person be disqualified from the day of conviction from holding a licence for a period not exceeding three years.

(2) When a person is convicted of an offence under this Act in the commission of which a licensed boat was used or otherwise involved, the Court may, in addition to any other penalty or order, the cancellation of the licence in respect of the boat and the forfeiture of any fees paid in respect of the licence.

- (3) Where a person who has been duly served a summons to answer a charge of a contravention of, or failure to comply with, a term or condition of a licence fails to appear in answer to the summons, the Court shall, unless it considers that there are exceptional reasons for not doing so, order the cancellation of the licence and the forfeiture of any fees paid in respect of the licence.

BOATS AND OTHER THINGS DETAINED OR SEIZED

37. (1) Where a boat or other thing has been detained or seized under section 17 and a person who has been properly charged with an offence in relation to it fails to appear to answer the charge within ninety days of the detention or seizure, the Chief Executive Officer may apply to the Court for the boat or thing to be forfeited and the Court shall make such order as it considers just.

(2) Where the Court fails or refuses to make an order for forfeiture under subsection (1) the Chief Executive Officer may appeal to the Supreme Court, the decision of which shall be final.

- (3) Subject to subsection (4) and section 21, where a boat or other thing is detained or seized under section 17 and no person is arrested, the boat or thing shall be returned to the owner or the person having possession, care or control of it at the time of detention or seizure.

- (4) Where the lawful owner of a boat or other thing detained or seized under section 17 cannot be traced within thirty days, it shall be forfeit and be disposed of as the Chief Executive Officer in his discretion considers fit.

(5) Where a boat or other thing has been detained or seized under section 17 and the Court does not order its forfeiture, it, or any proceeds realised from its disposal, shall be returned to the owner or the person having the possession, care or control of it at the time of the detention or seizure.

(6) Where the owner of a boat or other thing or the person having the possession, care or control of it at the time of its detention or seizure is convicted of an offence under this Act and a fine is imposed —

- (a) the boat or thing may be detained until all fines, orders for costs and penalties imposed under this Act have been paid; or
- (b) where payment under paragraph (a) has not been made within the time allowed, the boat or thing may be sold in satisfaction of the fine and the balance of the proceeds returned in accordance with section 38 after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale; or
- (c) any proceeds realised from its disposal under section 21 may be applied in payment of the fine, order for costs and costs of sale.

PART VI — MISCELLANEOUS

APPLICATION OF BOND, SECURITY AND PROCEEDS OF SALE

38. (1) Any bond, security or net proceeds of sale held in respect of any boat, vehicle or aircraft or other thing sold under this Act shall be applied in the following descending order —

- (a) the discharge of any forfeiture ordered under section 33;
- (b) the payment of all fines for offences against this Act or penalties imposed under this Act arising out of the use of or in connection with the boat, vehicle, aircraft or other item;
- (c) the discharge of all orders for costs in proceedings under this Act arising out of the use of or in connection with the boat, vehicle, aircraft or other thing;
- (d) its return as provided in section 37.

FEEs, FORFEITED PROPERTY AND PROCEEDS OF SALE

39. (1) Any fee, charge or expense payable under this Act shall be payable to and form part of the funds of the Authority.

(2) Any —

- (a) security, proceeds of sale or other moneys paid into Court under this Act and ordered forfeited by the Court; and
- (b) proceeds of sale of a boat, vehicle, aircraft, fish or other thing remaining after the satisfaction of payments under section 38; and
- (c) fine or other pecuniary penalty ordered by a Court for an offence under this Act, other than an award of damages under section 34,

are revenue of the Authority and shall, after deducting any costs incurred in relation to the prosecution of the case, be paid into and form part of the funds of the Authority.

(3) At the expiry of the time limited for appeal and if no appeal is lodged, any boat, vehicle, aircraft or other thing ordered to be forfeited under this Act becomes the property of the Authority and may be disposed of as the Board directs.

(4) Any fee, charge or expense payable under this Act and not paid is a debt due to the Authority and may be recovered in the District Court.

LIABILITY FOR LOSS, DAMAGE OR DETERIORATION OF ITEMS IN CUSTODY

40. No claim shall lie against the Republic or the Authority —

- (a) for any failure to comply with any provision of this Act; or
- (b) for any loss, damage to or deterioration in the condition of any boat, vehicle, aircraft or other thing while it is held in custody under this Act, or
- (c) in respect of any disposal, release or destruction under section 20.

IMMUNITY OF PERSONS ACTING IN PURSUANCE OF POWERS

41. An authorised officer, an observer, or a person lawfully acting under an authorised officer's orders or in his aid shall not be subject to any civil or criminal liability in respect of any act or omission done in pursuance or intended pursuance of any power or function conferred on him by or under this Act, whether on the ground of want of jurisdiction, mistake of law or fact, or on any other ground, unless the act or omission was done in bad faith without reasonable cause.

REGULATIONS

42. (1) The Cabinet may make regulations prescribing matters which by this Act are required or permitted to be prescribed, or which it considers are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and in particular prescribing matters providing for and in relation to —

- (a) the means of determining the total allowable catch either generally or in respect of an individual fishery, the maximum sustainable yield of fish, precautionary reference points, fishing quotas, fishery areas, licence priorities and quotas and related matters, and determining those matters; and
- (b) the grant, conditions, suspension and cancellation of licences, permits and other authorisations to engage in or use a boat for fishing or a fisheries activity; and
- (c) the registration and marking of boats used for fishing and fishing equipment; and
- (d) regulating the conduct of fishing and fisheries activities; and
- (e) regulating, controlling and managing research, surveys, study and education regarding fish, fisheries resources and the marine environment; and
- (f) the identification of officers authorised to perform duties under this Act; and
- (g) the monitoring and surveillance of fishing and fishing activities and the gathering, storing and use of information regarding boats, fishing and fisheries activities, including its use as evidence in proceedings under this Act; and
- (h) the seizure, custody, dealing with and disposal of any boat, fish or other thing under this Act; and
- (i) service in actions, the giving of evidence in proceedings, presumptions which may arise in or in relation to proceedings, and any other procedural matters, in any proceedings under this Act; and
- (j) the sale or disposal of unclaimed fishing equipment found in any waters; and
- (k) the furnishing of returns containing information in relation to fishing, fisheries activities; and
- (l) any fees, charges, taxes, royalties, bonds or securities payable in respect of any matter under this Act; and

(m) prescribing penalties of fines not exceeding \$100,000 for offences against the regulations; or offences against any provision of the Act for which no penalty is provided.

(2) Regulations made under this Act —

(a) may make different provisions in relation to different areas of fisheries waters, different species of fish or different fishing methods; and

(b) may empower such authorities or persons as are specified in the Regulations to make orders or notices or to give instructions, authorisations and permissions for any of the purposes for which the Regulations are authorised by this Act to be made, and may contain such incidental and supplementary provisions as are necessary or expedient.

PART VII — REPEAL, SAVINGS AND TRANSITIONAL

REPEAL OF THE MARINE RESOURCES ACT 1978

43. The Marine Resources Act 1978 is repealed.

SAVING OF EXISTING LICENCES AND AGREEMENTS

44. (1) All licences granted under the Marine Resources Act 1978 (*repealed*) which were valid and in force immediately before the coming into operation of this Act shall continue, on that coming into operation, to have full force and effect for the term for which they were granted or made or until they sooner expire or are revoked according to law as if the Marine Resources Act 1978 (*repealed*) had not been repealed.

(2) Any access agreement made under or in relation to the Marine Resources Act 1978 (*repealed*) which is substantially at variance with the provisions of this Act shall nevertheless continue in full force and effect until the earliest possible date of its renegotiation or renewal according to its terms, at which time it shall be renegotiated so as to ensure compliance with the provisions of this Act.

APPLICATION OF OTHER ACTS AND INSTRUMENTS

45. Where —

- (a) any Act or subordinate enactment other than this Act; or
- (b) any document or instrument wherever made or executed,

contains a reference, express or implied, to the Marine Resources Act 1978 (*repealed*) or to a provision of that Act, that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to this Act or the corresponding provision of it.

(2) Where any document, agreement or instrument wherever made or executed contains a reference, express or implied, to the exclusive fisheries zone established by section 3 of the Marine Resources Act 1978 (*repealed*), that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to the exclusive economic zone.