

VIRGIN ISLANDS
FISHERIES ACT, 1997
ARRANGEMENT OF SECTIONS

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No. 4 of 1997

Fisheries
Act, 1997

Virgin
Islands

I Assent
David Mackilligin, CMG
Governor
8th September, 1997

VIRGIN ISLANDS

No. 4 of 1997

An Act to revise the Fisheries Ordinance (Cap. 84) and to make provision for the promotion, management and conservation of fisheries and fisheries resources and other matters connected therewith.

[Gazetted 25th September, 1997]

ENACTED by the Legislature of the Virgin Islands as follows:

PRELIMINARY

Short title and
commence
ment.

1. This Act may be cited as the Fisheries Act, 1997 and shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Interpreta-
tion.

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

"authorised officer" means a fisheries officer, customs officer, or police officer, and any other person or category of persons designated as an authorised officer under section 12;

"Chairman" means the Chairman of the Committee;

"Committee" means the Fisheries Advisory Committee established under section 3;

"Court" means a Magistrate's Court;

"fish" means any aquatic animal, whether piscine or not and includes any shellfish, turtle, mollusc, crustacean, coral, sponge, echinoderm, its young and its eggs;

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

"fish processing establishment" means any land, premises or other place on or in which fish are canned, dried, smoked, gutted, salted, iced, chilled, frozen or otherwise processed for sale by wholesale or retail in or outside the Virgin Islands, but does not include gritting, icing, chilling or freezing on board a vessel;

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

"fisheries officer" means the Chief Conservation and Fisheries Officer, Fisheries Officer, Assistant Fisheries Officer, Fisheries Surveillance Officer, Fisheries Extension Officer or Fisheries Inspector;

"fisheries management plan" means the plan for the management and development of fisheries prepared in accordance with section 10;

"fishery waters" means the waters of the fisheries zone contiguous to the territorial sea of the Virgin Islands established by Proclamation made by the Governor on 9th March, 1977, and any other waters over which the Virgin Islands, by enactment, Proclamation or any other form claims fisheries jurisdiction;

"fishing" means fishing or searching for or catching, taking, disabling, killing or destroying fish by any method or placing any fish aggregating device;

"foreign fishing licence" means a licence issued in respect of foreign fishing vessel under Part III;

"foreign fishing vessel" means a fishing vessel other than a local fishing vessel;

"local fishing licence" means a licence issued in respect of a local fishing vessel under section 21;

"local fishing vessel" means a fishing vessel wholly owned

(a) by the Government of the Virgin Islands or by any public corporation established by or under any enactment;

(b) by one or more persons who are belongers of the Virgin Islands; or

(c) by any company, partnership, society or other association or persons incorporated or established in accordance with the laws of the Virgin Islands of which at least fifty-one per cent of the voting shares are held by belongers of the Virgin Islands;

"locally based foreign fishing vessel" means a foreign fishing vessel based in the Virgin Islands which lands all its fish catch in the Virgin Islands;

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

"Minister" means the minister responsible for the administration of this Act;

"protected area" means an area declared by the Minister to be a protected area under section 13;

"protected species" means any fish declared by the Minister to be protected species under section 14;

"related activities," in relation to fishing, means

(a) trans-shipping fish to or from a fishing vessel;

(b) storing, processing or transporting fish taken from the fishery waters up to the time it is landed;

(c) refuelling or supplying other things to a fishing vessel or performing other activities in support of fishing operations; or

(d) attempting or preparing to do any of the things mentioned in paragraphs (a) to (c);

"test fishing operations" means any fishing operations undertaken over a limited period of time with the approval of the Chief Conservation and Fisheries Officer for the purpose of testing the feasibility of fishing operations; and

"vessel" includes a local fishing vessel and foreign fishing vessel.

PART I

ADMINISTRATION

3. There is hereby established a committee to be known as the Fisheries Advisory Committee.

Establish, ment of Fisheries Advisory Committee.

4. (1) The Committee shall comprise

Composition of the Committee.

- (a) a Chairman to be appointed by the Minister;
- (b) three representatives of the Fishermen Association, nominated by the Association;
- (c) one representative of the Hotel and Commerce Association, nominated by the Association;
- (d) one person with marine scientific knowledge, appointed by the Minister; and
- (e) the Chief Conservation and Fisheries Officer.

(2) The Members of the Committee shall be appointed, by instrument under the hand and seal of the Minister.

(3) The Minister shall appoint a public officer from the Ministry of Natural Resources and Labour to be the Secretary of the Committee.

(4) The functions of the Secretary shall be such as the Committee may determine.

5. The functions of the Committee are

Functions of the Committee.

- (a) to advise the Minister on matters of policy relating to the development and management of fisheries as a viable industry in the Virgin Islands;
- (b) to consider and advise the Minister on the plan for the management and development of fisheries in the fishery waters and on review of the plan;
- (c) to consider and review guidelines on the setting up of fish processing establishments and the general rules of hygiene to be adhered to by such establishments;
- (d) to consider and advise the Minister on any proposals of access agreements, joint venture investment in

fisheries and development projects in the fisheries sector;

- (e) to co-ordinate the activities of fishing industries and establishments with a view to ensuring the better administration of the fisheries sector;
- (f) to advise the Minister on any Initiative for the regional harmonisation of fisheries regimes, including any regional licensing scheme for foreign fishing vessels;
- (g) to consider and review guidelines and advise the Minister on matters of conservation of the living marine resources;
- (h) to advise the Minister on the co-ordination of the policies and activities of Government ministries and departments with respect to any of the matters referred to in paragraphs (a) to (g); and
- (i) to advise the Minister on any matter that he may refer to the Committee.

Meetings of the Committee.

6. (1) The Committee shall meet at least once in every three months at such place and time as the Chairman may determine.

(2) At every meeting of the Committee the Chairman shall preside, and In his absence the members present shall elect one of their numbers to preside.

(3) The Chairman may at any time, and shall, at the written request of at least four members, convene a special meeting of the Committee.

(4) The quorum at every meeting of the Committee shall be four.

(5) The Committee shall take its decisions by a majority vote of the members present and where there is an equality of votes the Chairman shall have a casting vote.

(6) In the conduct of its meetings the Committee shall adopt its own rules of procedure.

Tenure of office.

7. (1) Every member of the Committee shall hold office for a period not exceeding two years from the date of his appointment and shall be eligible for re-appointment.

(2) A member of the Committee may, by writing under his hand addressed to the Minister, resign his office.

(3) A member ceases to be a member of the Committee if

- (a) he resigns;
- (b) he is adjudged a bankrupt and has not been discharged;
- (c) he is of unsound mind or is certified by a medical practitioner to be so ill as not to be able to properly discharge his functions under this Act;
- (d) he, without good reason acceptable to the Chairman (in the case of a member) or the Minister (in the case of the Chairman), fails to attend three consecutive meetings of the Committee;
- (e) he, being a nominee of an Association under section 4 (1) (c) or (d), ceases to be a member of such Association; or
- (i) the Minister, for any good reason (to be stated by him in writing), removes such member.

(4) Where a member of the Committee ceases to be a member under this section before the expiration of his term, the Minister may appoint another person to replace such member for the unexpired period of that member's tenure.

(5) Where the member of the Committee who ceases to be a member is a nominee of an Association under section 4 (1) (c) or (d), the Minister shall request the Association concerned to nominate another representative to be appointed by the Minister.

8. (1) The Committee may, in the performance of its functions,

- (a) co-opt any person with a special skill into the Committee for the purpose of that person assisting the Committee in dealing with a specific subject; and
- (b) delegate any of its functions to a sub-committee of the Committee.

(2) A person co-opted under subsection (1) (a) shall not have a voting right or exercise any of the powers of a member of the Committee.

Power of the Committee to co-opt and delegate.

(3) The delegation of functions under subsection (1) (b) shall not prevent the Committee from performing those functions.

Keeping of records.

9. (1) The Committee shall, in the performance of its functions, prepare and keep a record of its proceedings.

(2) The Committee shall, within three months of the end of each financial year, prepare and submit a report to the Minister on the performance of its functions for the preceding year and the Minister shall lay the report before the Legislative Council.

Powers and duties of Chief Conservation and Fisheries Officer.

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

(2) The plan referred to under subsection (1) shall

- (a) identify each fishery and assess the present state of its exploitation;
- (b) specify the objectives to be achieved in the management of each fishery;
- (c) specify the management and development measures to be taken; and
- (d) specify the licensing programmes to be followed for each fishery, the limitations, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels.

(3) In the preparation and review of the plan, the Chief Conservation and Fisheries Officer shall consult with the Committee and any individual, institution or fishermen's association concerned in fisheries matters.

(4) The Chief Conservation and Fisheries Officer shall submit for the approval of the Minister a plan prepared under this section and every review of such plan.

(5) Unless otherwise specifically provided in this Act or any Regulations made thereunder, the Chief Conservation and Fisheries Officer may delegate any of his functions or powers to a fisheries officer and the performance of such functions or exercise of such powers by a fisheries officer shall have effect as if the functions or powers were performed or exercised by the Chief Conservation and Fisheries Officer.

11. The Minister shall take such measures as he thinks necessary under this Act to promote the management and development of fisheries, so as to ensure the optimum utilisation of the fisheries resources in the fishery waters for the benefit of the Virgin Islands.

Power of Minister to promote fisheries management and development.

12. (1) The Minister may, by Notice published in the *Gazette*, designate such person or class of persons as he considers fit to be an authorised officer for the purposes of this Act or any Regulations made thereunder.

Designating authorised officers.

(2) A person or class of persons designated as an authorised officer shall perform such functions and exercise such powers as are provided in this Act.

13. (1) The Minister may, by Order published in the *Gazette*,

Power to declare fishing priority area and protected area.

- (a) declare any area of the fishery waters to be a fishing priority area where he considers that special measures are necessary to ensure that authorised fishing within the area is not impeded or otherwise interfered with; and
- (b) declare any area of the fishery waters together with any area of land up to high watermark adjacent to the fishery waters to be a protected area.

(2) An Order made under subsection (1) (b) may

- (a) prohibit the fishing within the protected area of any fish, otherwise than under the authority, and in accordance with the terms and conditions, of a licence issued under this Act; or
- (b) identify a specified area of the protected area to be used as a shelter for such purpose as the Minister may specify in the Order.

(3) Where a person is found within a protected area in possession of fish the fishing of which within that area is prohibited by an Order made under this section he shall be presumed, until the contrary is proved, to have taken the fish within that protected area.

14. (1) The Minister may, by Order published in the *Gazette*, declare any type of fish as a protected species.

Power to declare fish as protected species.

(2) An Order made under subsection (1) may

- (a) prohibit indefinitely the fishing in the fishery waters of any protected species;
- (b) prohibit, within such period as may be specified in the Order, the fishing in the fishery waters of any protected species; or
- (c) restrict the fishing of any protected species within such area of the fishery waters as may be specified in the Order.

Local fisheries management.

15. (1) The Minister may, by Order published in the *Gazette*, designate

- (a) any area of the fishery waters, including any area of land up to high water mark adjacent to the fishery waters, as a local fisheries management area;
- (b) any local authority, fishermen's co-operative or fishermen's association or other appropriate body representing fishermen as the Local Fisheries Management Authority for the local fisheries management area designated under paragraph (a).

(2) Where there is no appropriate body representing fishermen in a local fisheries management area, the Minister may, by such means as he considers fit, promote the formation of such a body.

(3) The Chief Conservation and Fisheries Officer shall, to the extent he deems it practicable, provide to any Local Fisheries Management Authority such assistance as may be reasonably necessary for the performance of its functions.

Making by-laws.

16. (1) A Local Fisheries Management Authority designated under section 15 (1) (b) may, after consultations with the Chief Conservation and Fisheries Officer, make by-laws regulating the conduct of fishing operations in a designated local fisheries management area.

(2) Where a Local Fisheries Management Authority makes by-laws under subsection (1), it shall submit the by-laws to the Minister who shall, on the advice of the Chief Conservation and Fisheries Officer, approve the by-laws and cause them to be published in the *Gazette*.

PART II

REGISTRATION AND LICENSING OF LOCAL FISHING VESSELS

(a) Registration of local fishing vessels

17. (1) A person who owns a local fishing vessel or is desirous of putting a local fishing vessel into the fishery waters shall, before using the vessel for fishing or related activities in the fishery waters, apply for a certificate of registration in respect of the local fishing vessel.

Application for certificate of registration.

(2) An application for a certificate of registration shall be made to the Chief Conservation and Fisheries Officer in such form and containing such information as may be prescribed.

(3) Upon receipt of an application made under this section, the Chief Conservation and Fisheries Officer shall, as soon as practicable, inspect the local fishing vessel to which the application relates and, if he is satisfied that the vessel is seaworthy and fit for the purpose of fishing, recommend to the Minister for the applicant to be granted a certificate of registration.

(4) Upon receipt of a recommendation under subsection (3), the Minister may issue to the applicant a certificate of registration in which shall be recorded such particulars as the Minister may prescribe.

18. (1) The Chief Conservation and Fisheries Officer shall keep a register of local fishing vessels which shall be divided into such parts and contain such particulars of every local fishing vessel as he may determine.

Register of local fishing vessels.

(2) Without prejudice to subsection (1), the Chief Conservation and Fisheries Officer shall record in the register of local fishing vessels the place, mooring or beach in which a registered local fishing vessel is to be stationed.

(3) Where a person intends to change the place, mooring or beach at which his local fishing vessel is stationed, he shall so notify the Chief Conservation and Fisheries Officer who shall make the necessary change in the register of local fishing vessels, unless, for good reasons to be stated by him in writing, he considers the change undesirable.

(4) The contents of the register of local fishing vessels shall be *prima facie* evidence of the facts contained in the

register in any proceedings under this Act or any Regulations made thereunder.

Change of ownership of local fishing vessel.

19. (1) On the sale or change of ownership of a local fishing vessel, in respect of which a certificate of registration is in existence, the vendor and purchaser of the fishing vessel shall, within seven days of the sale or change of ownership, notify the Chief Conservation and Fisheries Officer of the change of ownership (stating the name and address of the new owner) and return to the Chief Conservation and Fisheries Officer, the certificate of registration issued for the fishing vessel, for cancellation by the Minister.

(2) The Minister shall cause the new owner of the local fishing vessel to apply for a certificate of registration in respect of the vessel in accordance with section 17 and shall, without payment of a fee, issue to the new owner of the vessel a new certificate of registration.

Inspection of local fishing vessel.

20. (1) The Chief Conservation and Fisheries Officer may at any time inspect, without notice, any local fishing vessel for the purpose of satisfying himself that the vessel is being maintained in a seaworthy condition.

(2) Where on an inspection pursuant to subsection (1), the Chief Conservation and Fisheries Officer is satisfied that the local fishing vessel is not seaworthy or is unfit for the purpose of fishing, he shall so notify the Minister who shall suspend the certificate of registration of the vessel and require the owner or other person to whom the certificate of registration in respect of the vessel was issued

(a) to effect such changes or improvements to the vessel to make it seaworthy or fit for the purpose of fishing as the Chief Conservation and Fisheries Officer may determine; and

(b) to complete the changes or improvements to the vessel within such period as the Minister may consider sufficient.

(3) Where the owner, or other person issued with a certificate of registration in respect, of a local fishing vessel required under subsection(2) to effect changes or improvements to the vessel complies with the requirements within the stipulated period, the Minister shall terminate the suspension and restore the certificate of registration of the vessel.

(4) The Minister shall cancel the certificate of registration in respect of a local fishing vessel if the person

required to effect changes or improvements under subsection (2) fails to do so within the stipulated period, or if the period is extended, within the extended period.

(5) The Minister may, upon a written application made to him by a person required to effect changes or improvements to a local fishing vessel, extend once the period stipulated for the completion of the changes or improvements.

(b) Licensing of local fishing vessels

21. (1) Notwithstanding the existence of a certificate of registration in respect of a local fishing vessel, no person shall use a local fishing vessel for fishing or related activities in the fishery waters unless he applies for and obtains a local fishing licence in respect of the vessel.

Application
for local
fishing
licence.

(2) An application for a local fishing licence shall be made in the prescribed form to the Chief Conservation and Fisheries Officer who shall make a recommendation in respect of the application to the Minister.

(3) Subject to subsection (4), the Minister upon receiving a recommendation under subsection (2), may issue an applicant with a local fishing licence.

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

- (a) that it is necessary to do so in order to give effect to any licensing programme specified in the fisheries plan;
- (b) that the Chief Conservation and Fisheries Officer has a reason to believe that the applicant will not comply with the conditions of the licence;
- (c) that the local fishing vessel in respect of which the application is made
 - (i) does not have a certificate of registration under this Act;
 - (ii) does not have a certificate of inspection where so required under the laws governing merchant shipping; or
 - (iii) is not in compliance with Regulations prescribed under section 79 relating to the safety of the vessel; or

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

Conditions attached to a local fishing licence.

22. (1) A local fishing licence shall be in such form as the Minister may prescribe.

(2) The Minister shall, after consultation with the Chief Conservation and Fisheries Officer, attach such general or special conditions to a local fishing licence or any category of such licence as he deems fit, including conditions relating to

- (a) fishing within a specified area;
- (b) compliance with open and closed fishing seasons;
- (c) the use of the proper mesh size of net;
- (d) fishing a specified type and size of fish species;
- (e) compliance with prohibited fishing methods;
- (f) the amount of catch per day and the area of landing;
- (g) the duty to keep the beach and any landing site clean and to report any suspected offence under this Act or any Regulations made thereunder;
- (h) the stowage of fishing gear;
- (i) the non-transferability of a local fishing licence without lawful permission; and
- (j) the keeping of log-books.

(3) Where the Minister, after consultation with the Chief Conservation and Fisheries Officer is of the opinion that it is expedient for the proper management of fisheries in the fishery waters, he may vary any general or special conditions attached to a local fishing licence.

(4) Where the Minister varies any general or special conditions attached to a local fishing licence, he shall notify the licence holder of the variation as soon as practicable.

Fees.

23. (1) There shall be payable in respect of a local fishing licence such fees as may be prescribed and such royalties or other charges as the Minister may determine.

(2) For the purposes of subsection (1), different fees, royalties or other charges may be fixed for different categories of local fishing vessels.

24. (1) The Minister may, after consultation with the Chief Conservation and Fisheries Officer, cancel or suspend a local fishing licence on any of the grounds set out in subsection (2).

Cancellation
or suspension
of local
fishing
licence.

(2) Subject to subsection (1) a local fishing licence may be cancelled or suspended if the Minister is of the opinion that

- (a) it is necessary to do so in order to allow for the proper management of any particular fishery;
- (b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any Regulations made thereunder, or of any condition of the licence or in breach of any applicable access agreement; or
- (c) he is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under section 32.

(3) Where a local fishing licence is suspended for any reason stated in subsection (2) b), the Minister shall inform the holder of the licence the reason for the suspension and require him, within such period as the Minister, after consultation with the Chief Conservation and Fisheries Officer, may determine, to comply with this Act or any Regulations made thereunder or any condition of the licence or rectify or make an undertaking in respect of any breach.

(4) Where a local fishing licence is cancelled or suspended under this section, the Minister shall notify the fact of the cancellation or suspension to the holder of the licence.

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

25. (1) Subject to subsection (2), any notification given under section 22(4) or 24(4) shall be in writing.

Notifications
and exemp-
tions.

(2) In the case of a foreign fishing vessel, a notification referred to in sub-section (1) may be in writing or by telex, radio or such other form as the Chief Conservation and Fisheries Officer deems appropriate.

Period of validity of local fishing licence.

26. (1) A local fishing licence issued in respect of a local fishing vessel shall be valid for a period not exceeding twelve months from the date of its issue and may, upon application, be renewed.

(2) Upon the coming into force of this Act,

Caps. 84 and 204.

(a) all existing licences in respect of fishing boats registered under the repealed Fisheries Ordinance, or the General Revenue Ordinance, 1934 shall continue in force until the dates of their expiry; and

Cap. 204.

(b) no local fishing vessel or foreign fishing vessel shall be licensed under the General Revenue Ordinance, 1934.

PART III

REGISTRATION AND LICENSING OF FOREIGN FISHING VESSELS

Application of sections 17 to 24 and section 26.

27. Subject to this Part, the provisions of sections 17 to 24 and section 26 shall apply *mutatis mutandis* to the registration of a foreign fishing vessel and the application for a foreign fishing licence, and the references in those sections to "local fishing vessel" and "local fishing licence" shall, for the purposes of this Part, be construed as references to "foreign fishing vessel" and "foreign fishing licence" respectively.

Application to regional organisations.

28. (1) An application for a foreign fishing licence may be made by any person to a regional organisation authorised to issue foreign fishing licences in respect of the Virgin Islands under section 32.

(2) No foreign fishing licence shall be issued in respect of a foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer is a member, or with the owner or charterer, an agreement entered into under section 33 to which the Government of the Virgin Islands is a party.

(3) Subsection (2) shall not apply to a licence issued in respect of

(a) test fishing operations;

(b) a locally based foreign fishing vessel.

Additional Conditions.

29. Subject to section 32 (2) (c), the Minister may, after consultation with the Chief Conservation and Fisheries

Officer, attach to a foreign fishing licence additional conditions relating to

- (a) the amount of catch to be marketed in the Virgin Islands;
- (b) the periodical preparation and submission of reports on fishing or related activities in the fishery waters;
- (c) the placement of observers on board the foreign fishing vessel;
- (d) the trans-shipment of fish from or onto the foreign fishing vessel; and
- (e) the amount of catch that may be removed from the Virgin Islands.

30. The owner, charterer or master of a foreign fishing vessel that is prohibited by this Act from fishing within the fishery waters shall, while the vessel is in the fishery waters, stow the fishing gear of the vessel in such manner as may be prescribed.

Stowage of fishing gear.

31. (1) The owner or charterer of a vessel that is not a locally based foreign fishing vessel, but in respect of which a foreign fishing licence exists shall appoint a local representative in the Virgin Islands.

Appointment of local representative.

(2) The local representative appointed under subsection (1) shall act as the agent of the owner or charterer of the foreign fishing vessel and

- (a) any notices or documents required to be served on the owner or charterer may be served on him; and
- (b) he shall, where legal proceedings are instituted under this Act or any Regulations made thereunder against the owner or charterer who is absent from the Virgin Islands, represent such owner or charterer in the proceedings.

(3) Where a local representative is appointed under subsection (1), the owner or charterer of the foreign fishing vessel shall notify that fact to the Chief Conservation and Fisheries Officer who shall make a record of the fact in such manner as he considers fit.

(4) Any record of a local representative made under subsection (3) shall be open for inspection by any person during official working hours.

PART IV

REGIONAL ARRANGEMENTS AND ACCESS AGREEMENTS

Regional
arrangements.
UK S.I. No.
2145 of 1976.

32. (1) The Minister may, subject to section 19 of the Virgin Islands Constitution Order 1976, enter into arrangements with other countries in the region or with any competent regional organisation, providing for

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

(2) For the purpose of giving effect to any arrangement entered into under this section, the Minister may, by Order published in the *Gazette*,

- (a) authorise any competent regional organisation designated in the Order to issue foreign fishing licences in respect of foreign fishing vessels within the limits set out in the Order;

- (b) recognise any foreign fishing vessels holding valid regional fishing licences issued by a competent regional organisation designated in the Order; and
- (c) prescribe the conditions to be observed by foreign fishing vessels in respect of which foreign fishing licences have been issued under paragraph (a) while fishing or navigating in the fishery waters.

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

33. (1) The Minister may, subject to section 19 of the Virgin Islands Constitution Order 1976, enter into access agreements with other States and with any association or body representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to the owners or charterers of fishing vessels from those states or the association or body.

Access
agreements.
UK S.I. No.
2145 of 1976.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed those allowed in the appropriate category of foreign fishing vessels under the fisheries management plan.

(3) Any agreement entered into under this section shall include a provision establishing the responsibility of the State, association or body to take necessary measures to ensure compliance by owners or charterers of foreign fishing vessels with

- (a) the terms and conditions of the agreement; and
- (b) the laws relating to fishing in the fishery waters.

(4) Where the Minister intends to enter into an access agreement with another State, he shall

- (a) do so on the basis of reciprocity taking into account the interests and requirements of the Virgin Islands;
- (b) adopt necessary measures to prevent or minimise economic dislocation of local fishermen and industries engaged in fishing in the fishery waters.

Matters to be considered in regional arrangements and access agreements.

34. In any regional arrangement or access agreement entered into pursuant to this Part, the Minister may take into account matters relating to

- (a) the licensing of fishermen, fishing vessels and equipment and the payment of fees and other forms of remuneration;
- (b) the determination of fish species which may be caught, and the fixing of quotas of catch, whether in relation to particular stocks or groups of stocks or catch per fishing vessel over a period of time;
- (c) the regulation of fishing seasons and areas of fishing, the types, sizes and amount of fishing gear, and the types, sizes and number of fishing vessels that may be used;
- (d) the fixing of the age and size of fish that may be caught;
- (e) the specification of information required of fishing vessels, including catch and effort statistics and vessel position reports;
- (f) the requirement of the conduct of specified fisheries research programmes and regulation of the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;
- (g) the placing of local observers or trainees on board the fishing vessels;
- (h) the landing of all or any part of the catch by fishing vessels in such area of the Virgin Islands as the Minister may designate;
- (i) the terms and conditions relating to joint fisheries ventures or other co-operative arrangements;
- (j) the requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the Virgin Islands' capability of undertaking fisheries research; and
- (k) the enhancement of enforcement procedures with respect to fishing or related activities in the fishery waters.

PART V

CONSERVATION MEASURES

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

Marine reserves.

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

(2) The Minister may, after consultation with the Chief Conservation and Fisheries Officer, give written permission to any person to do any of the things prohibited under section 50 (1) where the doing of such things may be required for the proper management of the marine reserve or for any of the purposes referred to in subsection (1).

36. (1) The Chief Conservation and Fisheries Officer shall, taking into account the best scientific evidence available to him, ensure through proper conservation and management measures that the maintenance of the living resources of the fishery waters is not endangered by over-exploitation.

Conservation and management measures.

(2) Any conservation and management measures taken under subsection (1) may also be designed to maintain or restore populations of harvested fish species at levels which can produce the maximum sustainable yield, taking into account

- (a) the economic needs of the fishing communities of the Virgin Islands;
- (b) the special requirements of the Virgin Islands; and
- (c) the patterns and interdependence of fish stocks and any generally recommended international minimum standards.

(3) The Chief Conservation and Fisheries Officer shall take into consideration the effects of the conservation and management measures taken by him on fish species associated with or dependent upon harvested fish species with a view to maintaining or restoring populations of such associated or dependent fish species above levels at which their reproduction may become seriously threatened.

Exchanging scientific Information and keeping data.

37. (1) The Minister may enter into an agreement with other States, regional organisations or other bodies concerned in fisheries activities to exchange scientific information, catch and fishing effort statistics and other data relevant to the conservation of fish stocks.

(2) The Chief Conservation and Fisheries Officer shall collect and keep data relating to fishery or any fishing or related activities in the fishery waters and the conservation measures taken in accordance with the provisions of this Act or any Regulations made thereunder.

(3) Subject to subsection (4), any data collected and kept under subsection (2) shall be open for inspection during official working hours and any person may make copies of the data upon payment of the prescribed fee.

(4) The Chief Conservation and Fisheries Officer may classify in such manner as he considers fit, and restrict the inspection of, any data collected and kept under this section.

Conserving shared fisheries species.

38. (1) Where the same fish stock or fish stocks of associated species occur within the fishery waters of the Virgin Islands and those of another State, the Minister may enter into an agreement with that State to adopt measures that are necessary to co-ordinate and ensure the conservation and development of such fish stocks.

(2) Where the same fish stock or fish stocks of associated species occur within the fishery waters and in an area beyond and adjacent to the fishery waters, the Minister may enter into an agreement with any State fishing for such fish stocks in the adjacent area to adopt measures necessary for the conservation of the stocks in the adjacent area.

Protecting marine environment from pollution.

39. (1) The Minister may, having regard to any other enactment relating to the prevention or control of marine pollution, take such measures as he considers necessary

- (a) to prevent, reduce and control pollution of the fishery waters and the marine environment generally from any source; and

- (b) to ensure that activities in the fishery waters are so conducted as not to cause damage or adversely affect the living resources of the fishery waters or the waters of the other States.

(2) The measures taken under subsection (1) shall include but not limited to those designed to minimize, to the extent possible,

- (a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;
- (b) pollution from fishing vessels and preventing intentional and unintentional discharges of waste;
- (c) pollution from installations, devices and other technologies which may be used in the exploration and exploitation of the living resources of the fishery waters and the marine environment generally; and
- (d) the intentional or accidental introduction of species, alien or new, to a particular part of the fishery waters or marine environment generally, which may cause significant and harmful changes to the living resources of the fishery waters or marine environment.

40. The Minister may, for the purpose of keeping the fishery waters pollution-free and promoting sound conservation and management measures, enter into an arrangement or agreement with other States, regional organisations or other bodies concerned in fisheries activities to co-operate

Co-operation
with other
states and
regional
organisations.

- (a) in undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment;
- (b) in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards, practices and procedures for the prevention, reduction and control of pollution of the marine environment; and
- (c) in eliminating the effect of pollution and preventing or minimizing damage to the fishery waters and the marine environment generally.

PART VI

MARINE SCIENTIFIC RESEARCH

Promotion of marine scientific research.

41. The Minister shall, in consultation with the Chief Conservation and Fisheries Officer, take necessary measures to promote and facilitate the development and conduct of marine scientific research in the fishery waters in accordance with the provisions of this Part.

Application for a marine scientific research permit.

42. (1) A person who intends to undertake marine scientific research in the fishery waters shall prepare and submit a marine scientific research proposal to the Chief Conservation and Fisheries Officer.

(2) A marine scientific research proposal shall contain a full description of

- (a) the nature and objectives of the project;
- (b) the method and means to be used, including the name, tonnage, type and class of vessels and scientific equipment;
- (c) the precise geographical area of the fishery waters in which the project is to be conducted;
- (d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as the case may be;
- (e) the name of the sponsoring institution, its director (by whatever name called), and the person in charge of the project; and
- (f) the extent to which it is considered that the Virgin Islands should be able to participate or to be represented in the project.

(3) Without prejudice to the requirements of subsection (2), the Chief Conservation and Fisheries Officer may require an applicant under this section to furnish him with such further information as he may request.

(4) Upon the receipt of a marine scientific research proposal under subsection (1), the Chief Conservation and Fisheries Officer shall study the proposal and, if satisfied that the requirements of this section have been satisfied, he shall forward the proposal to the Minister.

(5) The Minister, upon receiving a marine scientific research proposal, may, subject to section 43, grant a permit to the applicant.

43. (1) No permit in respect of a marine scientific research shall be granted under section 42 unless the person to whom the permit relates makes a written undertaking in the prescribed form that the marine scientific research in the fishery waters shall

Duties and powers.

- (a) be conducted exclusively for peaceful purposes;
- (b) be conducted with appropriate scientific methods and means;
- (c) not interfere with other legitimate uses of the fishery waters, and the rights of licence and other permit holders under this Act shall be respected; and
- (d) be conducted in such manner as not to interfere with the conservation and management of the fishery waters and the living resources therein, and the marine environment generally.

(2) The Minister may refuse to grant a permit under this section, or withdraw the permit after it has been granted, if he considers that the marine scientific research to which the permit relates

- (a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;
- (b) involves drilling into the continental shelf of the Virgin Islands, or the use of any prohibited method of fishing referred to in section 50; or
- (c) contains, in its proposal, information which is inaccurate.

44. (1) The Minister may attach to a permit granted under this Part such conditions as he deems fit, including the duty of the permit holder to

Conditions attached to a permit.

- (a) ensure the right of the Government of the Virgin Islands, if it so desires, to participate or be represented in the marine scientific research project;
- (b) provide the Chief Conservation and Fisheries Officer, at his request, with preliminary reports, as soon as

practicable, and with the final results and conclusions after the completion of the research;

- (c) undertake to provide access for the Chief Conservation and Fisheries Officer, at his request, to all data and samples derived from the marine scientific research project and likewise to furnish him with data which may be copies and samples which may be divided without detriment to their scientific value;
- (d) provide the Chief Conservation and Fisheries Officer, at his request, with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;
- (e) inform the Minister forthwith of any major change in the research programme; and
- (f) remove, unless otherwise agreed, the scientific research equipment upon the completion of the research.

(2) The Minister may, for any good reason to be stated by him in writing, exempt any person from any condition attached to that person's permit.

Power to suspend a permit.

45. (1) The Minister may suspend a permit in respect of marine scientific research activities in progress in the fishery waters if

- (a) the research activities are not being conducted in accordance with the information provided in the proposal submitted under section 42 upon which the permit was granted; or
- (b) the permit holder fails to comply with or breaches any condition of the permit.

(2) The Minister shall, before suspending a permit under subsection (1), give notice of not less than fourteen days to the permit holder stating his intentions and the reason therefor and affording the permit holder an opportunity to make representations to him.

Transfer of marine technology.

46. The Minister may, in consultation with the Chief Conservation and Fisheries Officer, promote the development and transfer of technology either alone or in co-operation with other States or regional organisations as it relates to

- (a) fisheries and marine resources generally;

- (b) the exploration, exploitation, conservation and management of the fishery waters and marine resources, and the protection and preservation of the marine environment;
- (c) the acquisition, evaluation and dissemination of fisheries and marine technological knowledge;
- (d) the establishment of necessary technological infrastructure designed to facilitate the transfer of marine technology; and
- (e) human resource development through training and other educational programmes.

PART VII

AQUACULTURE

47. (1) No person shall operate an aquaculture establishment for any purpose, unless he applies for and obtains a licence in accordance with this Part.

Application
for aquacul-
ture licence.

(2) An application under subsection (1) shall be submitted to and be in such form as the Chief Conservation and Fisheries Officer may determine and shall contain such information as he may require.

48. (1) Where the Chief Conservation and Fisheries Officer receives an application to operate an aquaculture establishment, he shall, if satisfied that the requirements for such an establishment as prescribed in this Part or any Regulations made under this Act have been met, make a recommendation in respect of the application to the Minister.

Issuing of
aquaculture
licence

(2) Upon receipt of a recommendation under subsection (1), the Minister may issue the applicant with a licence after payment of the prescribed fee.

(3) The Chief Conservation and Fisheries Officer shall, before making recommendation under subsection (1), ensure that the area identified for the aquaculture establishment is suitable for that purpose and shall not prejudice the rights of the members of the public.

(4) The Minister may, after consultation with the Chief Conservation and Fisheries Officer, attach such conditions to a licence issued under this section as he may determine.

(5) A licence issued under this section shall be valid for a period not exceeding twelve months and it may be renewed on application.

(6) The Minister may, for any good reason to be stated by him in writing, suspend or revoke a licence issued under this section.

(7) Before exercising the powers conferred under subsection (6), the Minister shall give notice of not less than seven days to the licence holder stating his intentions and the reasons therefor and affording the licence holder an opportunity to make representations to him.

Existing
aquaculture
establish-
ments.

49. Any person who, prior to the coming into force of this Act, is operating an aquaculture establishment shall, within six months after the coming into force of this Act, comply with the requirements of this Part.

PART VIII

PROHIBITED FISHING METHODS

Prohibited
fishing
methods.

50. (1) Subject to section 35 (2), no person shall use any spear gun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance for fishing in the fishery waters.

(2) Any spear gun, self-contained breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance found on board a fishing vessel shall, unless the contrary is proved, be presumed to be intended for fishing in the fishery waters.

(3) No person shall land or knowingly sell or receive any fish taken in contravention of subsection (1).

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

(5) In any proceedings brought under this section, the defendant is entitled to at least fourteen days' written notice of the prosecution's intention to adduce a certificate referred to in subsection (4).

PART IX

FISH PROCESSING ESTABLISHMENTS

51. (1) A person who intends to operate a fish processing establishment shall submit an application to the Chief Conservation and Fisheries Officer in such form as may be prescribed.

Application for a fish processing establishment licence.

(2) The Chief Conservation and Fisheries Officer, upon receipt of an application under subsection (1),

- (a) may require the applicant to provide additional information in respect of his application; and
- (b) shall make a recommendation in respect of the application to the Minister.

(3) Upon receipt of a recommendation under subsection (2) (b), the Minister may grant to an applicant a licence to operate a fish processing establishment on payment of such fee and subject to such conditions as may be prescribed.

(4) A licence granted under this section shall be valid for a period not exceeding twelve months and may, upon application, be renewed.

52. A person who is granted a licence under section 51 shall, in carrying out fish processing activities, comply with the provisions of this Act or any Regulations made thereunder and any other enactment on public health and food hygiene.

Compliance with this Act and other enactments.

53. (1) The Minister may suspend or revoke a licence under section 51 if

Power to suspend or revoke a licence.

- (a) the licence holder breaches or fails to comply with any condition attached to the licence;
- (b) he has reasonable cause to believe that the fish processing establishment in respect of which the licence exists is being operated in a manner inconsistent with the purpose for which the licence was issued; or
- (c) the licence holder does anything contrary to any public health or food hygiene provision contained in this Act or any Regulations made thereunder or in any other enactment.

(2) Before exercising the powers conferred under subsection (1), the Minister shall give a notice of not less than fourteen days to the licence holder stating his intention and the reasons therefor and affording the licence holder an opportunity to make representations to him.

PART X

ENFORCEMENT AND LEGAL PROCEEDINGS

Power of
authorised
officers.

54. (1) For the purpose of enforcing the provisions of this Act or any Regulations made thereunder, an authorised officer may, without warrant.

- (a) stop, board and search any vessel in the fishery waters, whether or not such vessel is licensed under this Act;
- (b) stop and search any vehicle which he has reasonable cause to believe is involved in the commission of an offence under this Act or any Regulations made thereunder;
- (c) require to be produced, examine and take copies of, any licence, permit or other document required under this Act;
- (d) require to be produced and examine any fishing net or other fishing gear, whether in the fishery waters or on land;
- (e) enter and search any premises, other than premises used exclusively as a dwelling, in which he has reason to believe that an offence has been committed or where he has reason to believe that fish illegally taken is being stored or kept;
- (f) take samples of any fish found in any vessel, vehicle or premises searched under this section;
- (g) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he has reason to believe has been used in the commission of an offence;
- (h) seize any fish which he has reason to believe has been caught in the commission of an offence, or is being possessed in contravention of this Act or any Regulations made thereunder;

(i) seize any spear gun, self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance which he has reason to believe has been used or is being possessed in contravention of this Act.

(2) An authorised officer may, without warrant and whether on board a vessel or otherwise, arrest and detain any person whom he has reason to believe has committed or attempted to commit an offence under this Act or any Regulations made thereunder.

(3) A person arrested under subsection (2) shall, as soon as possible, be delivered to a police officer to be dealt with in accordance with this Act.

(4) A vessel seized under subsection (1) shall be taken to the nearest or most convenient port and retained pending the institution of any legal proceedings under this Act or its release on bond or other form of security in accordance with this Part.

(5) Where a foreign fishing vessel is suspected of committing an offence under this Act and the vessel is pursued beyond the limits of the fishery waters, the powers conferred on an authorised officer under this section may be exercisable beyond the limits of the fishery waters to the extent recognised by international law.

(6) In the event of any arrest or detention of a foreign fishing vessel or any person on board the vessel, the Chief Conservation and Fisheries Officer shall notify that fact and any penalty subsequently imposed to the flag state of the vessel.

55. (1) The Minister shall devise a form of identification to be carried by authorised officers in the execution of their duties under this Act.

Identifica-
tion of
authorised
officers.

(2) An authorised officer, in exercising any of the powers or performing any duty under this Act, shall on demand produce his identification showing that he is an authorised officer for the purposes of the Act.

56. Any Order, Regulation or by-laws made under this Act may provide that a breach of or non-compliance with any provision of the Order, Regulations or by-laws shall constitute an offence and may provide for penalties on summary conviction by way of a fine not exceeding one thousand dollars.

Offences and
penalties in
Orders,
Regulations
and by-laws.

Offences relating to certificate of registration and licences.

57. Where a local fishing vessel or foreign fishing vessel is used in the fishery waters in contravention of section 17 or 21, the master, owner and charterer of the vessel concerned each commits an offence and,

- (a) in the case of a local fishing vessel, is liable on summary conviction to a fine not exceeding fifty thousand dollars; and
- (b) in the case of a foreign fishing vessel, is liable on summary conviction to a fine not exceeding five hundred thousand dollars.

Non-compliance with section 19.

58. Where, on the sale or change of ownership of a vessel, the vessel is used in the fishery waters without the vendor and purchaser of the vessel giving notice as required under section 19, the vendor and purchaser of the vessel each commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Offences under sections 42, 48, 51 and 73.

59. (1) A person commits an offence if

- (a) he undertakes marine scientific research without a permit granted under section 42 (5);
- (b) he operates an aquaculture establishment without a licence issued under section 48 (1);
- (c) he operates a fish processing establishment without a licence granted under section 51 (2) (b);
- (d) he carries out test fishing operations without a licence granted under section 73.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(3) Where a person who, at the time of coming into force of this Act is operating an aquaculture establishment, fails to comply with section 49, he commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Failure to comply with conditions.

60. (1) A person who fails to comply with a condition attached to a licence or permit issued or granted pursuant to section 22, 29, 44, 48, 51 or 73 commits an offence and is, notwithstanding any suspension, cancellation or revocation of the licence or permit, liable on summary conviction to a fine not exceeding twenty thousand dollars.

(2) For purposes of subsection (1), where the offence committed is in respect of a local fishing vessel or foreign fishing vessel, the master, owner and charterer shall each be deemed to have committed the offence and liable accordingly.

61. (1) A person commits an offence if, after the suspension of

Contravening suspension.

- (a) a certificate of registration under section 20,
- (b) a local fishing licence or foreign fishing licence under section 24,
- (c) a permit in respect of marine scientific research under section 45,
- (d) a licence in respect of an aquaculture establishment under section 48, or
- (e) a licence in respect of a fish processing establishment under section 53,

he does anything in contravention of the suspension.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

62. Where the fishing gear of a foreign fishing vessel that is prohibited from fishing within the fishery waters is not stowed in accordance with section 30, the master, owner and charterer of the vessel each commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

Failure to stow away fishing gear.

63. Subject to section 35 (2),

Using prohibited method of fishing.

- (a) a person who uses any spear gun self-contained underwater breathing apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance in contravention of section 50 (1), or
- (b) lands or knowingly sells or receives any fish in contravention of section 50 (3),

commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

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

Using wrong fishing gear for fishing.

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

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

Obstructing an authorised officer.

65. (1) Any person who obstructs, resists, assaults or threatens with violence an authorised officer in the exercise of the powers conferred on him under this Act commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(2) Notwithstanding any law to the contrary and without prejudice to any cause of action that may be available to an authorised officer, the Court may, where the authorised officer is assaulted and sustains Injury as a result, order the offender to pay to the authorised officer a sum not exceeding ten thousand dollars as compensation.

Liability of master for offence committed on board his vessel.

66. Where an offence under this Act is committed by any person on board a vessel, the master of the vessel also commits the offence and may be proceeded against for the offence.

Release of vessel, etc. on bond.

67. (1) The court may, upon an application made to it, order the release of a vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming the property.

(2) Where a person is convicted of an offence under this Act, the Court, in addition to any other penalty imposed on the person,

- (a) may order that any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance, used in the commission of the offence be forfeited to the Crown: and
- (b) shall order that any fish caught in the commission of the offence or the proceeds of sale of the fish, and any spear gun, self-contained underwater breathing

apparatus (SCUBA) diving equipment, explosive, poison or other noxious substance used in the commission of the offence be forfeited to the Crown.

(3) Anything that is ordered to be forfeited under subsection (2) shall be disposed of in such manner as the Minister may direct.

68. (1) Until the contrary is proved, any fish found on board a vessel which is used in the commission of an offence under this Act shall be presumed to have been caught in the commission of the offence.

Presump-
tions.

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

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

Onus of
proof.

70. Any offence under this Act, or any Regulations made thereunder, within the fishery waters by any person, or any such offence committed outside the fishery waters by any believer of, or person ordinarily resident in, the Virgin Islands or by any person on board a vessel, shall be triable in the court in the Virgin Islands as if the offence had been committed in a place in the Virgin Islands within the local limits of the jurisdiction of the Court.

Offences tri-
able as if
committed
within local
jurisdiction.

71. (1) An attempt to commit an offence under this Act or any Regulations made thereunder shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

General
offences and
penalties.

(2) A person who aids, abets, counsels or procures an offence under this Act or any Regulations made thereunder or conspires to commit such offence commits the offence so aided, abetted, counselled or procured or conspired to be committed.

(3) A person who

- (a) contravenes, or fails to comply with, a requirement of any provision of this Act or any Regulations made thereunder in respect of which no offence is specifically provided commits an offence; and
- (b) commits an offence pursuant to paragraph (a) for which no penalty is specifically provided is liable on summary conviction to a fine not exceeding one thousand dollars.

Power to compound offence.

72. (1) Subject to sub-section (4), the Chief Conservation and Fisheries Officer may, where he is satisfied that a person has committed an offence under this Act or any Regulations made thereunder, compound the offence by accepting on behalf of the Government from the person a sum of money of not less than one half of the maximum fine specified for that offence.

(2) On compounding an offence under this section the Chief Conservation and Fisheries Officer may order the release of any article seized under section 54 or the proceeds of sale of such article under section 75 on such conditions, including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

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

(4) The compounding of an offence under this section shall be notified in writing under the signature of the offender and the Chief Conservation and Fisheries Officer to the Court.

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

(6) This section does not apply to an offence under section 63 or 65.

PART XI

GENERAL PROVISIONS

73. (1) The Minister, after consultation with the Chief Conservation and Fisheries Officer, may

Test fishing operations licence.

- (a) upon an application made to him in the prescribed form, issue an applicant, without payment of a fee, a

licence to conduct test fishing operations in the fishery waters; and

(b) attach to the licence such conditions as he may determine.

(2) A licence issued under subsection (1) shall be for a period not exceeding six months and it may be renewed upon application.

74. No licence or permit issued under this Act shall relieve any foreign fishing vessel or its master or crew of any obligation, requirement or prohibition imposed by law concerning navigation, customs, immigration and other matters.

Obligations, etc. under other laws.

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

Sale of fish and perishable goods seized.

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

76. An authorised officer shall, in the exercise of the powers conferred on him under this Act or any Regulations made thereunder, have the powers of a police officer.

Authorised officers to have police powers.

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

Immunity of authorised officers.

78. Any person who is aggrieved by a decision taken pursuant to a provision of this Act or any Regulations made thereunder may appeal to the High Court whose decision shall be final.

Appeals.

79. (1) The Minister may make Regulations for the better carrying into effect of the provisions of this Act.

Regulations.

(2) In particular and without prejudice to the generality of subsection (1), the Minister may make Regulations

(a) providing for the form of licences, permits and certificates of registration to be issued under this Act;

- (b) providing for the licensing, regulation and management of any particular fishery;
- (c) prescribing fisheries management and conservation measures, including mesh sizes, gear standards, minimum fish species sizes, closed and open seasons, closed areas, additional prohibited methods of fishing or fishing gear and schemes for limiting entry into all or any specified fisheries;
- (d) regulating the catching and utilization of fish taken incidentally when fishing for a fish species for which a licence has been issued;
- (e) organising and regulating sport and pleasure fishing in the fishery waters;
- (f) regulating the landing, marketing and distribution of fish;
- (g) regulating the transiting of foreign fishing vessels through the fishery waters, including the manner in which fishing gear is to be stowed;
- (h) providing for rewards to be paid to persons giving information on operations of foreign fishing vessels leading to a conviction or compounding of an offence under this Act;
- (i) providing for the implementation of any arrangement or agreement entered into under this Act;
- (j) regulating or prohibiting the entry into any fishing priority area or protected area declared as such under this Act of any class of vessel and prescribing any activities which may not be undertaken in that area;
- (k) regulating
 - (i) the management and protection of marine reserves and fishing priority areas;
 - (ii) the taking of corals and shells;
 - (iii) the setting of fishing fences;
 - (iv) the taking of aquarium fish;
 - (v) aquaculture development;
 - (vi) aquaculture operations;

- (l) prescribing measures for the protection of turtles, lobsters and conch;
- (m) providing for the control and prohibition of the import and export of fish;
- (n) prescribing standards and other measures for the safety of local fishing vessels and fishermen;
- (o) establishing general criteria and guidelines in ascertaining the nature and implications of marine scientific research;
- (p) prescribing the fees payable under this Act;
- (q) providing for the regulation of the sale of any fish or fish product to the public and for the inspection, grading, packing and storage of fish or fish product intended for human consumption, whether within or outside the Virgin Islands;
- (r) providing standards of hygiene to be adopted in fish processing establishments;
- (s) establishing rules for the handling, transportation and storage of fish and fish products;
- (t) attaching additional conditions to licences or permits issued under this Act.
- (u) providing for the keeping of a regional register of vessels concerned in fisheries as may be required under any regional arrangement or agreement;
- (v) prescribing safety measures to be adopted in the operation of fish processing establishments and other industries concerned in fisheries;
- (w) providing for the protection and preservation of fish habitats;
- (x) prescribing any other matter which may be prescribed under this Act.

80. (1) The Fisheries Ordinance, 1979 is repealed.

(2) Notwithstanding subsection (1), any Rule or Order made, or any Notice issued, under the Fisheries Ordinance, 1979 shall, until revoked, continue to be in force to the extent that such Rule, Order or Notice is not inconsistent with the provisions of this Act.

Repeal, saving and amendment.

Act No. 8 of
1992.

(3) The Commercial Recreational Vessels Licensing Act, 1992 is amended in the Schedule by deleting the word "Fishing," In paragraph D. thereof.

Passed by the Legislative Council this 22nd day of
August, 1997.

REUBEN VANTERPOOL,
Speaker.

HUGH A. HODGE,
Clerk of the Legislative Council.