



INTRODUCTION FILE

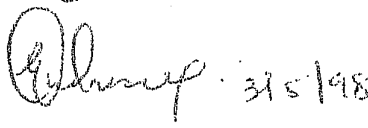
THE FISHERIES BILL 1998
(NAME OF BILL)

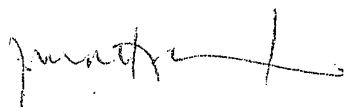
CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)

FROM: Attorney General's Chambers (1998)
3/5/98

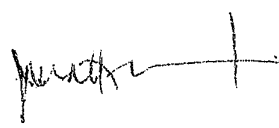
TO: Minister
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)


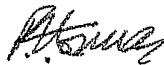
TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)


TO: Clerk to National Parliament
(for certificate by Speaker)
 3/5/98

TO: Attorney General's Chambers
(for printing)


TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed.....05/05/98.. Act No. 6/98...)

TO: Attorney General's Chambers
(for checking before Assent)


TO: Governor-General
(for Assent)




THE FISHERIES ACT 1998
(NO. 6 OF 1998)





THE FISHERIES ACT 1998
(NO. 6 OF 1998)

Passed by the National Parliament this fifth day of May 1998.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.

A handwritten signature in black ink, appearing to read 'Elizabeth Andresen'.

Elizabeth Andresen
Acting Clerk to National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this tenth day of July 1998.

A handwritten signature in black ink, appearing to read 'Paul J. Tovua'.

Paul J. Tovua
Acting Governor-General

AN ACT To Revise the Laws relating to Fisheries and to make provision for the proper management and development of Fisheries in Solomon Islands; and to repeal the Fisheries Act, 1972.

ENACTED by the National Parliament of Solomon Islands.

THE FISHERIES ACT 1998

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SCHEDULE

PART I
PRELIMINARY

1. (1) This Act may be cited as the Fisheries Act, 1998, and shall subject to subsection (2), come into operation on such date as the Minister may appoint by notice published in the Gazette.

Short title and commencement.

(2) Section 6 shall come into operation on such other date as the Minister may appoint by notice published in the Gazette.

2. In this Act, unless the context otherwise requires -
“access agreement” means an agreement entered into under section 15;

Interpretation

“administrator” means a Pacific Island State, a competent regional fisheries agency, or an official of such Pacific Island State or competent regional fisheries agency designated to administer a regional access agreement entered into under section 15;

“aquatic organism” means an aquatic plant or animal whether living or dead, and includes an amphibious animal;

“authorised officer” means a fisheries officer, a police officer, and includes any other public officer or provincial government officer or a person declared under section 36 to be an authorised officer for the purposes of this Act;

“automatic locations communicator” means a Forum Fisheries Agency approved device placed on a fishing vessel that transmits either in conjunction with

another device or devices or independently
information relating to the position, fishing and such
other activities of the vessel as may be required
under this Act;

“canoe” means any craft which is less than twenty feet in
length and moved by one or more paddles;

“commercial fishing” means fishing for the purpose of selling
all or some of the fish caught;

“commercial sport fishing operation” means the operation for
hire or other profit of a vessel for sport fishing;

“Council” means the Fisheries Advisory Council established
under section 5;

“customary fishing rights holder” in respect of any area with
in Solomon Islands waters means such person or
persons as may be authorised under customary law to
give on behalf of the owners of customary fishing
rights permission to fish;

“Director” means the Director of Fisheries appointed
pursuant to section 36;

“driftnet” means a gillnet or other net or a combination of
nets which is more than 2.5 kilometres in length the
purpose of which is to enmesh, entrap or entangle
fish by drifting on the surface of or in the water;

“driftnet fishing activities” means -

(a) catching, taking or harvesting fish
with the use of a driftnet;

(b) attempting to catch, take or harvest fish with the use of a driftnet;

(c) engaging in any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish with the use of a driftnet, including searching for and locating fish to be taken by that method;

(d) any operations at sea in support of, or in preparation for any activity described in this definition, including operations of placing, searching for or recovering fish with aggregating devices or associated electronic equipment such as radio beacons;

(e) aircraft use, relating to the activities described in this definition, except for flights in emergencies involving the health or safety of crew members or safety of a vessel;

(f) transporting, transshipping and processing any driftnet catch, and co-operation in the provision of food, fuel and other supplies for vessels equipped for or engaged in driftnet fishing;

“fish” includes any aquatic animal, whether piscine or not and the eggs thereof and includes shell fish;

“fishing” means -

(a) searching for, catching, taking or harvesting fish;

(b) attempting to search for, catch, take or harvest fish;

(c) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting fish;

(d) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(e) any operations at sea directly in support of, or in preparation for any activity described in this definition; or

(f) aircraft use, relating to the activities described in this definition except for flights in emergencies involving the health or safety of crew members or the safety of the vessel;

“fishery” means one or more stocks of fish or other aquatic organisms or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management;

“fish aggregating device” means a man-made floating device intended for the purpose of aggregating fish, and includes a natural floating object on which a device has been placed to facilitate its location;

“fishing gear” means any equipment, implement or other thing that may be used in the act of fishing, and includes diving gear, fishing net, rope, pole, line, float, hook, boom, power block or winch, boat, dinghy, helicopter or aeroplane that may be used;

“fishing licence” means any licence issued under section 14 or 16;

“fisheries management area” in respect of reef or inshore fisheries means an area that can be treated as a unit for purposes of conservation and management, and may encompass areas, including reef area subject to customary fishing rights, extending beyond the waters of a single province;

“fisheries officer” means a fisheries officer not below the rank of assistant fisheries officer appointed under the provisions of this Act or by Provincial Ordinance;

“fish processing establishment” means any land, jetty, premises, vessel or other place on or in which fish or other aquatic organisms are processed but does not include any place in which fish or other aquatic organisms are processed exclusively for sale by retail to the public or for consumption.

on the premises, or any fishing vessel on which fish or other aquatic organisms which have been caught from such fishing vessels are only gutted, salted, iced, chilled or frozen for the purpose of preserving such fish or other aquatic organisms;

“fish product” means a product of fish processing;

“fishing vessel” means any boat, ship or other craft which is used for, equipped to be used for, or of a type used for commercial fishing;

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

“Fund” means the Fisheries Management and Development Fund established under section 6;

“licensing officer” means a fisheries officer to whom the power to issue licences under this Act has been delegated by the Minister or the Director under section 60, and includes the Principal Licensing Officer;

“local company” means a company incorporated under the laws of Solomon Islands and having its principal place of business in Solomon Islands;

“local fishing vessel” means a fishing vessel -

(a) wholly owned by the Government of Solomon Islands or by a public corporation or statutory body by or under the laws of Solomon Islands;

(b) wholly owned by one or more natural persons who are citizens of Solomon Islands; or

(c) wholly owned by a local company, but does not include any fishing vessel registered in a country outside Solomon Islands;

“locally based foreign fishing vessel” means a foreign fishing vessel which is based in Solomon Islands and lands all its catch in Solomon Islands and operate under a joint venture

arrangement in Solomon Islands which is approved by the Government of Solomon Islands or under arrangements whereby the operator of the vessel is participating in shore based development;

“Minister” means the Minister for the time being assigned responsibility for the administration of fisheries;

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

“operator” means any person who is in charge of, responsible for the operations of, directs or controls a fishing vessel, including the owner, charterer and master;

“Pacific Island State” means a party to the South Pacific Forum Fisheries Agency Convention 1979;

“Pacific Island State Officer” means any officer authorised under a Treaty to which Solomon Islands is a party to enforce Solomon Islands fisheries laws;

“processing” in relation to fish or other aquatic organism, includes preserving or preparing fish or other aquatic organisms by any method;

“provincial waters” means waters within the area of each province as defined in section 3 of the Provincial Government Act 1997;

Act No. 7 of 1997.

“regional access agreement” means an agreement between a number of Pacific Island States, including Solomon Islands, and a state other than a Pacific Island State providing for fishing by vessels of that State within Solomon Islands waters or agreement between a number of Pacific Island States including Solomon Islands providing for fishing by vessels of those States in Solomon Islands waters;

“regional fishing licence” means a regional fishing licence issued in respect of a foreign fishing vessel by an administrator under a regional access agreement;

“related activities” in relation to fishing means -

(a) transshipping fish or other aquatic organisms to or from any vessel;

(b) storing, processing or transporting fish or other aquatic organisms taken from Solomon Islands waters;

(c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations; or

(d) attempting or preparing to do any of the above activities;

“Solomon Islands waters” means waters within the fishery limits of Solomon Islands and the exclusive economic zone, territorial sea, archipelagic waters and internal waters as defined in the Delimitation of Marine Waters Act 1978;

Act No. 32 of 1978.

“sport fishing” means fishing for the purpose of recreation or competition;

“test fishing operations” means fishing operations approved as such by the Minister under section 18; and

“vessel monitoring system” means the system employed by the Pacific Island States and co-ordinated by the Forum Fisheries Agency to monitor the position and activities of fishing vessels for the purposes of the effective management of fisheries.

PART II

FISHERIES ADMINISTRATION, MANAGEMENT, CONSERVATION AND REGULATION OF FISHING

3. (1) For the purposes of this Act the Minister shall exercise in relation to fisheries such powers and functions as provided under this Act.

Management and development of fisheries.

(2) The objective of fisheries management and development in Solomon Islands shall be to ensure the long-term conservation and the sustainable utilisation of the fishery resources of Solomon Islands for the benefit of the people of Solomon Islands.

Fisheries conservation and management principles.

4. In exercising his powers under this Act, the Minister shall have regard to -

(a) the principle that Solomon Islands fisheries resources shall be managed, developed and conserved so as to ensure through proper conservation and management measures that the maintenance of those resources are not endangered by over-exploitation and are utilised at a level that shall ensure their optimum sustainable yield;

(b) the principle that the marine biodiversity, coastal and aquatic environments of Solomon Islands shall be protected and managed in a sustainable manner;

(c) the application of the precautionary approach to the conservation, management and exploitation of fisheries resources in order to protect the fisheries resources and preserve the marine environment;

(d) the sustainable utilisation of Solomon Islands fisheries resources so as to achieve economic growth, human resource development, employment creation and a sound ecological balance, consistent with its national development objectives;

(e) principle of sustainable yields, and allowable catch which may be supported or adopted nationally or internationally from time to time;

(f) any relevant international obligations or bilateral or multilateral agreements which Solomon Islands is a party to, or applicable rules of international law, relating to the exercise of jurisdiction by Solomon Islands within its waters;

(g) any customary rights of customary rights holders over or in relation to any area within Solomon Islands waters; and

(h) any fisheries management and development plans made in accordance with this Act.

5. (1) There is hereby established a Fisheries Advisory Council which shall advise the Minister on such matters relating to the conservation, protection and development of fisheries in Solomon Islands and such other matters as the Minister may from time to time require.

Fisheries Advisory Council and functions.

(2) The provisions of the Schedule shall have effect with respect to the constitution and operation of the Council or otherwise in relation thereto.

(3) Without prejudice to the generality of subsection (1), the Council shall advise the Minister on the following matters -

(a) fisheries management and development plans prepared under section 7;

(b) proposals for fisheries development and research projects to be funded under the Fisheries Management and Development Fund provided for under section 6; and

(c) such other matters as may be referred to it by the Minister or any Provincial Executive.

6. (1) There is hereby established a Fisheries Management and Development Fund for the management and development of fisheries in Solomon Islands which shall be deemed a Special Fund in terms of section 100(2) of the Constitution.

Fisheries Management and Development Fund.

(2) There shall be paid into the Fund -

(a) fifty per cent of the revenue derived from foreign fishing vessel licence fees and other charges in respect of foreign fishing vessels provided for under section 25;

(b) fifty per cent of the revenue derived from penalties for offences against this Act, or from compounding of offences under this Act;

(c) such moneys as may be appropriated to the Fund by Parliament; and

(d) such moneys as may be donated to the Fund by any person, country or organisation.

(3) Moneys may be expended from the Fund for all or any of the following purposes -

(a) projects for the development of small-scale commercial fisheries in provincial waters;

(b) research into the impact of bait fishing and other large-scale commercial and subsistence fisheries in provincial waters; and

(c) assistance to provincial governments in the preparation and implementation of fisheries management and development plans under section 7.

(4) Expenditure from the Fund shall be approved by the Minister on the recommendation of the Council.

Fisheries management and development plans.

7. (1) The Director shall prepare and keep under review a management and development plan, in accordance with this section, of fisheries in Solomon Islands waters (outside the jurisdiction of provincial waters) including fisheries of highly migratory species.

(2) Each provincial government shall prepare and keep under review a plan for the management and development of fisheries in its provincial waters other than fisheries of highly migratory species.

(3) Where fisheries or fisheries management areas are shared by two or more provinces, the relevant provincial governments shall consult with each other regarding the management and development of the fisheries or fisheries management areas.

(4) Where fisheries or fisheries management areas extend beyond the waters of a single province but are not shared with another province, the province concerned shall consult with the Director regarding the management and development of the fisheries or fisheries management areas concerned.

(5) Where the Director or relevant provincial government is of the opinion that the situation with respect to a single fishery or fishery management area is such as to require special consideration, in respect of fisheries management or development including specification of specific licensing programmes or limitations of catch or effort, special provisions may be made for such fishery or fishery management area within the framework of a plan under subsection (1) or (2) or as a supplement to that plan.

(6) The Director shall, where practicable, provide such assistance to provincial governments in the preparation and review of fisheries management and development plans under this section as the provincial governments may require.

(7) A provincial government shall, in preparing any fisheries management and development plan under subsection (2) consult with the Director where the interests of commercial fisheries outside provincial waters are likely to be affected by the implementation of the plan.

(8) Any fisheries management and development plan or modification thereof prepared under this section may, and in the case of a plan prepared under subsection (1) or a plan which has been the subject of consultation under subsection (6) or (7) shall, be referred to the Council for its consideration.

(9) Subject to subsection (3) any fisheries management and development plan or modification thereof prepared under subsection (8) shall be referred together with the advice of the Council to the relevant provincial government for its approval and adoption.

(10) Subject to subsection (3), any fisheries management and development plan or modification thereof prepared under subsection (2) shall be referred together with the advice of the Council to the Minister for approval and adoption.

(11) Where following consultations under subsections (6) and (7) and consideration by the Council, the relevant provincial government and the Director are unable to agree on the contents of the fisheries management and development plan in question and either the provincial government or the Director considers that the matter is likely to have a significant effect on essential interests of the provincial government concerned or on the commercial fisheries of Solomon Islands, the matter shall be referred to the Minister for decision.

Contents etc. of fisheries management and development plans.

8. (1) A fisheries management and development plan shall *inter-alia* -

- (a) identify the fishery and its characteristics, including its current state of exploitation;
- (b) specify the objectives to be achieved in the management of the fishery;
- (c) specify the management and development strategies to be adopted for the fishery, and the limitations, if any, to be applied to the issue of licences in respect of the fishery;
- (d) identify any possible adverse environmental effects of the operation of fishing activities in the fishery, together with proposals for the management of those effects;
- (e) specify the information and other data required to be given or reported for effective management and development; and
- (f) take into account any relevant traditional fishing methods or principles.

(2) The Director shall, during the preparation of a fisheries management and development plan, consult as appropriate with -

- (a) other government departments and agencies, including provincial governments, area councils, bodies and authorities, affected by the plan;

(b) any customary groups or private organisations or similar bodies affected by the plan; and

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

9. Subject to sections 3 and 7, each provincial government shall be responsible for the proper management and development of the reef, inshore and freshwater fisheries within its provincial waters.

Responsibilities of provincial governments.

10. (1) Subject to the provisions of the Provincial Government Act each Provincial Assembly may make Ordinances not inconsistent with this Act or any regulations made under this Act, for the regulation of fisheries within its provincial waters.

Power of Provincial Assemblies to make Ordinances.

Act No. 7 of 1997.

(2) The Provincial Executive of a province may appoint by notice published in the Gazette an authorised officer for the purposes of enforcing the provisions of this Act in that province.

(3) Ordinances made under this section may provide for any or all of the following -

(a) measures for the development of fisheries in provincial waters and the approval of fisheries development projects;

(b) the registration or recording of customary fishing rights, their boundaries and the persons or groups of persons entitled under those rights;

(c) open or closed seasons for fishing for all or any species of fish or other aquatic organisms in all or any areas of provincial waters based on scientific advice;

(d) the closure of areas in which fishing for all or any species of fish or other aquatic organisms may be prohibited;

(e) prescribing the minimum mesh sizes for nets employed, and minimum species sizes for all or any species of fish or other aquatic organisms caught and retained or collected in all or any fisheries management areas in provincial waters;

(f) prescribing the number of fishing vessels, the types of fishing gear employed in any fishery or fishery management area in provincial waters;

(g) prohibiting specified methods of fishing that are harmful to fisheries and the environment, or the use of specified types of fishing gear in provincial waters;

(h) the establishment and protection of marine reserves;

(i) regulating and prohibiting the destruction of mangroves;

(j) subject to subsection (4), authorising the use of specified natural poisons indigenous to Solomon Islands for fishing in any specified area or areas of provincial waters; or

(k) prescribing penalties for offences against any Ordinance or by-law made under this section, not exceeding two thousand dollars for an offence against any Ordinance and one thousand dollars for an offence against a by-law.

(4) No authorisation shall be given under subsection (3) (j) unless the Provincial Assembly has determined that the use of the natural poison to be authorised is a customary practice in the area in which such poison is intended to be used and that the continued use of such poison will not significantly impair the ecology of such area.

(5) Any Ordinance adopted under this section shall be notified forthwith to the Minister responsible for provincial government and shall not come into force until it has been approved by that Minister in consultation with the Minister responsible for fisheries.

11. (1) The precautionary approach shall be applied to the conservation, management and exploitation of the fisheries resources in order to protect the fisheries resources and preserve the marine environment.

Application of the precautionary approach.

(2) The Minister may make regulations for the implementation of the precautionary approach to fisheries management.

12. (1) Commercial fishing in waters subject to customary fishing rights may be carried out subject to such rights.

Customary fishing rights.

(2) Any person fishing in waters subject to customary fishing rights with or from a fishing vessel which is required to be licensed under section 14 or 16, shall be presumed, until the contrary is proved, to be fishing commercially.

(3) When it is proved that customary fishing rights have been breached the court may order compensation to be paid to the customary fishing rights holders.

(4) Any person who fails to comply with an order made under subsection (3) shall be guilty of an offence and be liable to pay in addition to compensation ordered under subsection (3) a further fine not exceeding five hundred dollars or imprisonment of six months.

13. (1) The Director shall, in consultation with the Council, draw up Licensing Guidelines for endorsement by the Minister, in relation to -

Licensing Guidelines.

(a) the fisheries for which commercial fishing licences may be issued;

(b) the methods of fishing, types and quantity of equipment, including use of vessel monitoring systems, that may be used in relation to each fishery;

(c) the sustainable yields, allowable levels of fishing and total allowable catches in respect of any fishery;

(d) quotas of the numbers and kinds of licences that may be issued, overall and to any operator, in relation to specified fisheries, methods of fishing, related activities and similar matters;

(e) the economic viability of various kinds of fishing operations and related activities, both current and proposed, and the effects of that viability on the setting of quotas;

(f) priorities to be observed in the granting of all or any class of licence;

(g) the persons or classes of persons who may apply for commercial fishing or related activities; and

(h) any other matters relating to the granting of licences for fishing or a related activity.

(2) In preparing the Licensing Guidelines, the Director shall have regard to any fisheries management and development plan made in accordance with section 7.

(3) The Licensing Guidelines made under this section, and any amendments to or revisions thereof -

(a) shall comprise the primary statement of national policy in respect of the licensing of fishing and related activities;

(b) may contain directives and prohibitions, consistent with the provisions of this Act, which shall be observed by all persons and bodies responsible for the administration of this Act; and

(c) shall come into effect upon receiving endorsement by the Minister.

14. (1) No local fishing vessel shall be used for commercial fishing or related activities in Solomon Islands waters without a valid licence issued under this section in respect of that vessel.

(2) Subject to any regulations made under section 59, subsection (1) shall not apply to a canoe -

(a) powered solely by paddle or sail; or

(b) owned by a customary fishing rights holder or a person or persons customarily entitled to fish in waters subject to customary fishing rights.

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

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

(5) An application for a local fishing licence may be refused on any of the following grounds -

(a) that it would be detrimental to the proper management and conservation of the fisheries and other aquatic organisms of Solomon Islands to grant the licence, taking into account the contents of any applicable fisheries management and development plan;

(b) that the Director has reason to believe that the applicant may not comply with the conditions of the licence; or

(c) such other grounds as may be specified in this Act or any regulations made under this Act.

(6) No licence shall be issued in respect of a local fishing vessel which is a vessel to which section 57 of the Shipping Act, 1998 applies unless that vessel has a valid safety certificate issued under section 64 of that Act, or, if no such certificate is required, unless the vessel complies with any safety standards prescribed under section 59 of this Act.

Act No. 5 of 1998.

(7) No licence issued under this section in respect of any local fishing vessel shall be valid for fishing in any provincial waters unless the licence has been endorsed in the prescribed manner by the relevant provincial government:

Provided that where a licence has been issued to a local fishing vessel in respect of bait fishing operations on established bait grounds under a written agreement with customary fishing rights holders, endorsement of the licence shall not be unreasonably refused or delayed by the provincial government concerned.

(8) Where a local fishing vessel is used in contravention of subsection (1), the master, operator, owner and charterer shall each be liable to a fine not exceeding two thousand dollars.

(9) Where a local fishing vessel in respect of which a licence has been issued under this section is used in contravention of any condition of that licence, or is used for fishing in provincial waters without the endorsement of the relevant provincial government under subsection (7) or contrary to the terms of that endorsement, the master, operator, owner and charterer shall each be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand dollars.

Access agree-
ments.

15. (1) The Minister may with the approval of the Cabinet -

(a) enter into agreements with other States on a bilateral or regional basis providing for the allocation of fishing rights in the waters of those States to Solomon Islands fishing vessels; and

(b) enter into agreements with other States and with associations representing foreign fishing vessel owners or charterers, on a bilateral or regional basis, providing for the allocation of fishing rights in Solomon Islands waters to vessels from those States or associations.

(2) Any agreement entered into under subsection (1) (b) shall include a provision establishing the responsibility of the foreign State or association to take all necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in Solomon Islands waters.

(3) For the purposes of this section and section 16 the term "State" shall include any regional organisation to which the power to negotiate access agreements has been delegated by the member countries of that regional organisation.

16. (1) Subject to subsection (2), no foreign fishing vessel shall be used for fishing or related activities in Solomon Islands waters without -

(a) a valid foreign vessel licence under this section; or

(b) a regional fishing licence issued in accordance with an arrangement or agreement entered into under section 15.

(2) Subsection (1) shall not apply to any foreign fishing vessel used solely for fisheries research or survey operations.

(3) Any foreign vessel fishing by means of fishing gear other than a hand line or rod and line shall be deemed not to be fishing for sport.

(4) An application for a foreign fishing vessel licence shall be made in the prescribed form to the Director.

(5) An application for a regional fishing licence shall be made, in the prescribed form, to the competent regional agency authorised to issue regional fishing licences under section 21.

(6) Subject to subsection (7) the Director may issue a foreign fishing vessel licence in respect of any foreign fishing vessel authorising that vessel to be used in such areas of Solomon Islands waters for such fishing or related activities as may be prescribed in the licence.

(7) Subject to subsection (8), no foreign fishing vessel licence shall be issued in respect of any foreign fishing vessel unless there is in force with the Government of the flag State of the vessel or with an association of which the owner or charterer is a member, an access agreement to which the Government of Solomon Islands is a party.

(8) A licence may be issued in respect of -

(a) a foreign fishing vessel for test fishing operations; or

(b) a locally based foreign fishing vessel, notwithstanding the absence of an access agreement otherwise required under subsection (7).

(9) No licence issued under this section in respect of any foreign fishing vessel shall be valid for fishing in any provincial waters unless the licence has been endorsed in the prescribed manner by the relevant provincial government.

(10) In issuing a licence under this section the Director shall take into account Solomon Islands obligations under bilateral or multilateral treaties relating to fisheries.

(11) Where a foreign fishing vessel is used in contravention of subsection (1), the master, owner or charterer shall each be guilty of an offence and shall each be liable to a fine not exceeding one million dollars.

(12) Where a foreign fishing vessel is in breach of any conditions of its licence or has contravened the provisions of subsection (9) the operator shall on conviction be liable to a fine not exceeding one million dollars and such foreign fishing vessel shall have its licence revoked.

17. No licence issued under this Act shall relieve any foreign fishing vessel or its owner, charterer, master or crew of any obligation or requirement imposed by laws of Solomon Islands concerning navigation, customs, immigration, health or other matters.

Licence not to relieve vessel, master or crew of obligations under other laws.

18. (1) The Minister may, by notice published in the Gazette, approve as test fishing operations, any fishing operations carried out by foreign fishing vessels in Solomon Islands for a limited period of time for the purpose of testing the feasibility of commercial fishing operations with the view to the establishment of locally based fishery operations.

Test fishing operations

(2) Where the test fishing operations are to be carried out wholly, or in part in provincial waters the Minister shall consult with the provincial government or governments concerned prior to approving such operations under this section.

(3) Any approval given by the Minister under this section shall not relieve the operator of the vessel from the licensing requirements of section 16.

(4) Any fish caught during the course of approved test fishing operations shall be disposed of in accordance with the conditions of the fishing licence.

19. (1) The Minister may, on the submission of a satisfactory research or survey plan in consultation with the Director, authorise any vessel or person to undertake fisheries research or survey operations in Solomon Islands waters.

Fisheries research and survey operations.

(2) No authorisation shall be granted in respect of fisheries research or survey operations to be carried out in provincial waters without the agreement of the relevant provincial government.

(3) The Minister shall in writing set out such conditions as he deems fit in respect of any authorisation granted under subsection (1).

(4) Any person who undertakes or assists in any fisheries research or survey fishing operations in Solomon Islands waters -

(a) without authorisation under subsection (1);
or

(b) in contravention of any condition or conditions attached to the authorisation under subsection (3),

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two thousand dollars or sentenced to imprisonment for a period not exceeding six months.

20. (1) All fishing gear on board a foreign fishing vessel in Solomon Islands waters shall be stowed in such a manner that it is not readily available for use for fishing.

Stowage of fishing gear by foreign fishing vessels.

(2) Subsection (1) shall not apply -

(a) to a foreign fishing vessel that is in an area of Solomon Islands waters in which it is licensed to fish in accordance with a fishing licence issued under section 16 or a regional fishing licence, or in which it is authorised to undertake fisheries research or survey operations under section 19, or commercial sport fishing operations under section 23; or

(b) to handlines on board a foreign vessel used solely for sport fishing:

Provided, however, that the provisions of this subsection shall apply in the case of foreign fishing vessels transiting in a closed area.

(3) Where a foreign fishing vessel contravenes subsection (1), the master, owner and charterer shall each be guilty of an offence and shall each be liable to a fine not exceeding five hundred thousand dollars.

Power to enter into regional agreements.

21. (1) The Minister may with the approval of the Cabinet enter into arrangements or agreements with Pacific Island States or any distant water fishing nation or with any competent regional fisheries agency, providing agreements for -

(a) the harmonisation of licensing procedures and conditions in respect of foreign fishing vessels and the maintenance of a regional register of foreign fishing vessels;

(b) the designation of an administrator in respect of any regional access agreement, the issuance by the administrator of regional fishing licences under any regional access agreement and the conditions under which such regional fishing licences may be issued by the administrator;

(c) the taking of joint or harmonised enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region; or

(d) the establishment of regional fisheries organisations or arrangements for the conservation and management of highly migratory species and associated species.

(2) For the purpose of giving effect to any arrangement or agreement entered into under this section, the Minister may by order -

(a) exempt any foreign fishing vessel holding a valid regional fishing licence from any provisions of this Act or any regulations made under this Act as may be inconsistent with the requirements imposed under any regional access agreement or which impose requirements also imposed by such regional access agreement;

(b) prescribe the conditions to be observed by operators of foreign fishing vessels exempted under paragraph (a) while fishing or navigating in Solomon Islands waters;

(c) provide that where any foreign fishing vessel is used in contravention of any of the conditions prescribed under paragraph (b), the master, owner and charterer shall each be guilty of an offence and provide for a penalty of a fine not exceeding one million dollars for such offence; and

(d) provide that on conviction of the master, owner or charterer for an offence against an order made under this subsection, the court may also order the forfeiture to the Government of the fishing vessel and any fish, fishing gear, cargo and stores found therein or thereon.

(3) Any order made under subsection (2) shall be subject to negative resolution of Parliament.

22. (1) No foreign vessel shall be used for sport fishing in waters subject to customary fishing rights without the agreement of the customary fishing rights holder.

Sport fishing by foreign vessels.

(2) Any person who contravenes subsection (1) shall be liable to a fine not exceeding one hundred thousand dollars.

23. (1) Subject to subsection (2) the Minister may in consultation with the Director on the submission of a satisfactory proposal, in writing, authorise any foreign fishing vessel to undertake commercial sport fishing operations in Solomon Islands waters for such period of time as he may specify in the authorisation.

Commercial sport fishing by foreign vessels.

(2) No authorisation shall be granted in respect of commercial sport fishing operations to be carried out in provincial waters without the agreement of the relevant provincial government.

(3) The Minister may prescribe such conditions as he deems fit to any authorisation granted under subsection (1).

(4) Any person who undertakes or assists in any commercial sport fishing operations in Solomon Islands waters without the authorisation of the Minister or in contravention of any condition or conditions attached to the authorisation shall be guilty of an

offence and shall be liable to a fine not exceeding one hundred thousand dollars.

Fishing licences.

24. (1) Every fishing licence shall be in the prescribed form and shall be subject to such general conditions as may be prescribed and to special conditions as may be specified under subsection (2).

(2) The Director, with the approval of the Minister, may prescribe in any fishing vessel licence such special conditions as he may think fit, including conditions relating to -

- (a) the type and method of fishing or related activity authorised;
- (b) the areas within which such fishing or related activities are authorised; and
- (c) the target species and amount of fish authorised to be taken including any restriction on by-catch.

(4) The Director, with the approval of the Minister, may, from time to time, where he is satisfied that it is expedient for the proper management of fisheries, vary any special conditions prescribed in any fishing licence.

(5) Where the Director varies any special conditions prescribed in any fishing licence he shall notify the licence holder of such variation as soon as practicable.

Fees.

25. (1) Subject to subsections (2) and (3), there shall be payable -

- (a) in respect of every fishing licence, every endorsement of a fishing licence under section 16 and every authorisation issued under section 23, such fees as may be prescribed by the Minister; and
- (b) in the case of foreign fishing vessel licences such other charges as may be provided for in any access agreement or as the Minister may otherwise determine.

(2) No fee shall be payable for a fishing licence or endorsement of a licence under section 14 (7) issued or made in respect of a canoe operating solely within the waters of a single province.

(3) Where a licence has been issued to a local fishing vessel in respect of baitfishing operations on established bait grounds under a written agreement with customary fishing rights holders, no fee shall be payable in respect of the endorsement of the licence by the provincial government concerned other than costs incurred in respect of such endorsement.

(4) Subsection (2) shall not restrict the powers of a Provincial Assembly under section 10 to make Ordinances for the licensing of canoes operating within the waters of the province and for the payment of a fee for any such licence.

26. (1) A licence issued under this Act, unless earlier cancelled or suspended in accordance with section 27, shall be valid for such period not exceeding twelve months as may be specified in the licence.

Validity of
licences.

(2) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, that licence shall automatically terminate.

(3) The validity of a licence issued to a foreign fishing vessel shall not extend beyond the validity of any applicable access agreement and charter agreement.

(4) No licence issued under this Act shall be transferred, sold or disposed of in any way whatsoever except with the written approval of the Director and any transfer, sale or disposal of a licence without the Director's approval shall render such licence invalid.

27. (1) The Director may cancel or suspend a fishing licence on any of the following grounds -

Cancellation and
suspension of
licences.

(a) where the Director is satisfied that the vessel in respect of which the licence has been issued has been used in contravention of this Act or any other applicable law, any other condition of the licence or in breach of any applicable access agreement;

(b) where he is required to do so in accordance with the provisions of any agreement or arrangement entered into under section 15; or

(c) such other grounds as may be prescribed for purposes of fisheries management and conservation.

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

(3) Where a fishing licence has been cancelled or suspended on any of the grounds specified in subsection (1) (c), a proportion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at his request.

Notification of suspension or cancellation.

28. (1) Any notification given under section 24 (5) or section 27 (2) shall be in writing except as otherwise specified in subsection (2).

(2) In the case of a foreign fishing vessel, a notification referred to in subsection (1) may be in writing or by telex, radio or such other form as the Director deems appropriate.

Appeals.

29. Any person aggrieved by -

(a) the refusal of the Director to issue or renew a licence under this Act other than a licence issued in respect of a foreign fishing vessel under any powers delegated to the Director under section 60; or

(b) the cancellation or suspension of a licence under this Act,

may within thirty days of the receipt of notification of that decision appeal to the Minister.

Fishing with explosives, etc.

30. (1) Subject to any Provincial Ordinance made under section 10 (3), any 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 which raise a reasonable presumption that such explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes,

shall be guilty of an offence and liable to a fine not exceeding one thousand dollars.

(2) Any explosive, poison or other noxious substance found on board any fishing vessel or a canoe shall be presumed, unless the contrary is proved, to be intended for the purpose referred to in subsection (1).

(3) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse receives or is found in possession of such fish, shall be guilty of an offence and liable to a fine of one thousand dollars or twelve months imprisonment.

(4) Where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended for the purpose of sale, trade, or profit, such person is liable to a fine not exceeding one thousand dollars or twelve months imprisonment.

(5) For the purposes of this section, a certificate as to the cause and manner of death or injury of any person signed by the Chief Medical Officer or such other person as may be in charge of medical services in any province, or in the case of the alleged use of explosives, by the Director or by any person authorised by him in writing, shall be accepted as prima facie evidence in a court without proof of the signature of the person appearing to have signed the certificate or his official capacity.

(6) The defendant to proceedings brought under this section is entitled to fourteen days' notice in writing of the prosecution's intention to introduce a certificate under subsection (4) as evidence in any court proceedings.

31. (1) No person shall set up or operate any aquaculture operations without the written permission of the Director and in accordance with such conditions as he may specify.

Aquaculture operations.

(2) Conditions specified by the Director under the preceding subsection may relate to the location of the aquaculture facilities and the operation of those facilities, the prevention of the spread of communicable fish diseases, the inspection of aquaculture sites and the provision of statistical information.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dollars.

Import and export
of live fish, etc.

32. (1) No person shall import or export any live fish into or from Solomon Islands without the written permission of the Director.

(2) The Director may, before granting any permission under this section require that an assessment be carried out at the expense of the person seeking to import or export the live fish -

(a) in the case of imports, of the possible effects of the release of such fish into the wild;

(b) in the case of exports, of the potential impact of the harvesting and export of the fish on the fishery resources of Solomon Islands;

(c) on any matter which the Director thinks appropriate.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding five hundred thousand dollars.

Driftnet fishing.

33. (1) Any person who within Solomon Islands waters engages or attempts to engage in any driftnet fishing activities shall be liable on conviction to a fine not exceeding two million dollars.

(2) Where any foreign or local fishing vessel within Solomon Islands waters engages or attempts to engage in any driftnet fishing activities, the operator, master, owner or charterer, if any, of such vessel shall be liable on conviction to a fine not exceeding two million dollars.

(3) No foreign or local fishing vessel which engages in any driftnet fishing activities may tranship, land or process the fish or have access to ports and port serving facilities.

(4) It is an offence for any fishing vessel to possess drift-nets while licensed to fish in Solomon Islands waters. Any fishing vessel in possession of driftnets shall be liable to a fine of five hundred thousand dollars.

34. (1) The Principal Licensing Officer may on payment of the prescribed fee grant to any person a licence in the prescribed form to operate a fish processing establishment.

Fish processing establishments.

(2) The Principal Licensing Officer may on granting a licence under this section prescribe any conditions as he deems appropriate and such conditions shall be endorsed on the licence.

(3) Any person who operates or causes or allows to be operated any fish processing establishment without a valid licence granted under this section shall be guilty of an offence and liable to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for twelve months, or to both such fine and imprisonment.

35. (1) Any person engaged in fishing, fish processing, fish marketing or the export of fish or fish products shall keep such records and supply such information relating to such fishing, in such form as the Director may require.

Records.

(2) Any person who, without lawful cause, refuses to keep records or supply information as required under subsection (1) or who knowingly supplies false information shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars.

PART III ENFORCEMENT

36. (1) There shall be appointed a Director of Fisheries, a Principal Licensing Officer and such licensing officers, fisheries officers and other officers for carrying out the purposes and provisions of this Act.

Appointment of authorised officers.

(2) For the purposes of this Act, a fisheries observer appointed by the Director shall be deemed to be an authorised officer.

(3) Any appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made in accordance with the Constitution but otherwise shall be made by the Minister.

(4) For the purposes of this Act any person appointed under this section shall be an authorised officer.

Powers of authorised officers

37. (1) For the purposes of ascertaining whether there is or has been any contravention of the provisions of this Act any authorised officer shall have power to -

(a) at all reasonable hours enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house;

(b) stop, board and search -

(i) any foreign fishing vessel, within Solomon Islands waters;

(ii) any local fishing vessel, inside or outside Solomon Islands waters; or

(iii) any canoe in Solomon Islands waters which an authorised officer reasonably believes is being used in the commission of an offence under this Act;

(c) stop and search any vehicle transporting, or reasonably suspected of transporting, fish or fish products;

(d) make such examination, inspection and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle. In the exercise of these powers, the authorised officer may take samples of any fish, or fish products, found therein;

(e) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or other authority is required under this Act and take copies of any such licence or other authority; and

(f) require any person to produce any log-book, record or other document required to be held by him under this Act or any regulations made under this Act, and take copies of such log-book, record or other document.

(2) A Pacific Island State Officer may, pursuant to any Treaty to which Solomon Islands is a party, exercise any of the powers described in subsection (1) (a), (b), (c), (d), (e) and (f), and where a Pacific Island State Officer exercises such a power, he is taken, for the purposes of this Act, to have exercised the power of an authorised officer.

38. (1) Where he has reasonable grounds for believing that an offence against the provisions of this Act has been committed, any authorised officer without a warrant, may -

Powers of authorised officers without a warrant.

(a) following hot pursuit as recognised by international law and commenced within the fishery limits, stop, board and search outside Solomon Islands waters any foreign fishing vessel which he believes has been used in the commission of that offence within Solomon Islands waters or in relation to which he believes such an offence has been committed and bring such vessel and all persons and things therein to a port within Solomon Islands waters;

(b) within Solomon Islands waters -

(i) arrest any person whom he believes has committed such an offence, and if the authorised officer making such arrest is not a police officer, he shall without unnecessary delay hand over such person to a police officer or in the absence of a police officer, shall take such person to the nearest police station;

(ii) in the case of an offence against section 16, 20, 22 or 30, seize any vessel (together with its fishing gear, stores and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;

- (iii) seize any fish which he believes have been taken or fish products produced in the commission of such offence; and
- (iv) seize any explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in contravention of section 30.

(2) After a vessel has been stopped under the provisions of subsection (1) (a) any authorised officer may exercise concerning it or in relation to any fish or fish products therein any of the powers conferred by paragraphs (d) and (e) of subsection (1) of section 37.

(3) A written receipt shall be given for anything seized under subsection (1) by the authorised officer concerned to the person from whom the seizure is made.

(4) Any vessel seized under this section and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other form of security under section 53.

Wilful obstruction,
etc.

39. Any person who wilfully obstructs, assaults or threatens with violence an authorised officer in the exercise of any of his powers shall be guilty of an offence and liable to a fine not exceeding two hundred thousand dollars or to imprisonment for twelve months, or to both such fine and such imprisonment.

Failure to comply
with lawful
requirements.

40. Subject to section 42, any person who fails to comply with any lawful enquiry made by any authorised officer under this Act, shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars.

Failure to stop or
facilitate boarding
of foreign fishing
vessel.

41. Subject to section 42, the master of any foreign fishing vessel within Solomon Islands waters or of any local fishing vessel inside or outside Solomon Islands waters which fails to stop as ordered or who fails to facilitate boarding of the vessel in accordance with this Act, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand dollars.

42. It shall be a defence to any prosecution under section 40 or 41 if it is proved that to have complied with the requirement or order would have placed the safety of the vessel or the lives of its crew in imminent danger.

Defence to prosecutions under section 40 or 41.

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

Authorised officers to declare identity.

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

Non-liability of authorised officers.

45. Any person who, being on board any vessel being pursued or about to be boarded by any authorised officer, throws overboard or destroys any fish, fishing gear, explosive, poison, noxious substance or any other thing whatsoever, with intent to avoid the seizure of such fish, fishing gear, explosive, poison, noxious substance or thing, or the detection of any offence under this Act, shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars.

Destroying of evidence

46. Where any person is convicted of an offence against this Act the Court may, in addition to any other penalty it may impose, order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish or fish product, and any fishing gear, and, in the case of an offence under section 16 (1), 20 (3), 30(1), 41 or 45, any vessel (together with its fishing gear, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be disposed of in such manner as the Minister of Finance may direct.

Power of forfeiture of fish, etc.

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

Presumption.

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

Jurisdiction of the Courts.

49. (1) Subject to subsection (3) the Minister may, where he is satisfied that any person has committed an offence against this Act, compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence.

(2) On compounding an offence under this section the Minister may order the release of any vessel or other article seized under section 38 or the proceeds of sale of any article under section 52 on such conditions including the payment of such additional sums of money not exceeding the value of the vessel or other article seized, as he may think fit.

(3) Where the person who has committed the offence is no longer within Solomon Islands, the Minister may send written notice of his intention to compound the offence to the legal address of the person outside Solomon Islands.

(4) No offence shall be compounded under this section unless the person who has committed the offence has expressed his willingness in the prescribed form that the offence be so dealt with, or in the case of a notification under subsection (3) if the person concerned notifies the Minister in writing that he does not wish the offence to be compounded, submits to the jurisdiction of the Courts of Solomon Islands and, where so required by the Court, files a satisfactory bond or other form of security in accordance with section 53.

(5) The compounding of an offence under this section shall be notified in writing to the appropriate Court under the signature of both parties, except that in the case of a compounding following a notification under subsection (3), the signature of the Minister alone will suffice.

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

(7) The powers conferred on the Minister by subsection (1) may be exercised by the Director in respect of an offence involving the use of a local fishing vessel or an offence committed by a citizen of Solomon Islands.

50. (1) The Minister, an authorised officer or a Pacific Island State officer may give evidence by way of certificate, including but not limited to, evidence that -

(a) a specified vessel was or was not on a specified date or dates, a vessel licensed under this Act;

(b) a specified person was or was not on a specified date or dates, the holder of any specified licence, authorisation or certificate of registration;

(c) an appended document is a true copy of the licence, authorisation or certificate of registration for a specified vessel or person;

(d) a particular location or area of water was on a specified date or dates within the fishery limits or within a closed, limited, restricted or in any other way a controlled area of Solomon Islands waters or an area of Solomon Islands waters subject to specified conditions;

(e) an appended chart shows the boundaries on a specified date or dates of Solomon Islands waters, closed or limited or zones delineated for any specified purpose;

(f) a particular item or piece of equipment is a fishing gear;

(g) the cause and manner of death or injury to any fish;

(h) an appended document is a true copy of an access agreement;

(i) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;

(j) a specified vessel has good standing on the Regional Register, as evidenced by an appended certificate to that effect from the Director of the South Pacific Forum Fisheries Agency;

(k) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel;

(l) the date and time or period of time that a vessel was in a place or area;

(m) the place or area at which a vessel was located;

(n) a person was fishing or a vessel was used for fishing; and

(o) that information appended is information received from an observer.

(2) A certificate given in evidence pursuant to subsection (1), is admissible and sufficient evidence of the facts referred to, unless the contrary is proven.

Service and validity of certificates.

51. (1) Where a certificate is to be produced in judicial proceedings a copy of every certificate shall be given to the person charged with every offence three days before the date of hearing.

(2) Where an owner, master, operator or charterer of a vessel is charged with an offence under this Act, and a certificate under section 50 cannot be served, then in that case, service is deemed to have been properly completed if a copy of the certificate is served upon the agents of the vessel.

(3) An omission from or mistake made in a certificate issued under section 50 does not render it invalid unless the Court considers the omission or mistake as material to any issue in the proceedings concerned, or the defendant is materially prejudiced.

(4) Where in any proceedings a certificate made under section 50 is produced to the Court, the prosecution is not obliged to call the maker of the certificate unless the Court otherwise directs.

Disposal of seized goods.

52. (1) Any fish, fish product or other article of a perishable nature seized or taken under the provisions of this Act may, on the direction of the Director, be sold and the net proceeds of the sale held pending the outcome of any prosecution brought under this Act,

and if no such prosecution is brought such proceeds shall be paid to the owner of the fish, fish product or other article sold.

(2) Any fishing vessel, fishing gear, fish or fish product seized under section 38, or the proceeds of sale of any fish or fish product or other article under this section, which is not ordered to be forfeited under section 46 shall be returned to its owner.

53. Where any fishing vessel, fishing gear, fish or fish product has been seized under section 38, the Court may order its release on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person -

Release of vessel
on bond, etc.

(a) delivering such property to the Court upon the order of the Court, without any impairment of its value; or

(b) paying the monetary value of such property in accordance with an order or judgment of the Court.

54. (1) No foreign fishing vessel shall be licensed to fish in Solomon Islands waters unless the flag State of the vessel takes measures to enforce this Act and the terms and conditions of the licences issued under this Act.

Duties of the flag
State.

(2) The measures to be taken by the flag State include -

(a) applying the terms and conditions of the licence;

(b) prohibiting fishing by vessels that are not licensed to fish in Solomon Islands waters;

(c) requiring vessels fishing in Solomon Islands waters to carry the licence at all times and to produce it on demand for inspection by an authorised officer;

(d) marking of fishing vessels and fishing gear for identification in accordance with the Food and Agriculture Organisation the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) recording of and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data;

(f) verifying the catch of target and non-target species through observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics; and

(g) monitoring, control and surveillance of fishing activities.

(3) The flag State shall ensure that the master and crew of its fishing vessels -

(a) accept and facilitate prompt and safe boarding by authorised officers;

(b) co-operate and assist in the inspection of the vessel;

(c) do not obstruct, intimidate or interfere with the performance by the authorised officers of their duties;

(d) permit the authorised officers to communicate with the authorities of the flag State;

(e) provide reasonable facilities, including, food and accommodation to the authorised officers; and

(f) facilitate safe disembarkation by the authorised officers.

(4) The flag State shall appoint an agent who shall be responsible for receiving and responding to any legal process.

Port state enforcement.

55. Any authorised officer may inspect the documents, fishing gear and catch, on board a foreign fishing vessel when such vessel is in port.

Illegal import of fish etc.

56. (1) Subject to subsection (3), a person who -

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

(b) causes or permits a person acting on his behalf, or uses a fishing vessel, to land, import, export, transport, sell, receive, acquire or purchase,

any fish taken, possessed, transported or sold contrary to the law of another State shall be guilty of an offence and shall be liable to a fine not exceeding one million dollars.

(2) This section does not apply to fish taken on the high seas contrary to the laws of another State where Solomon Islands does not recognise the jurisdiction of that State to extend to the high seas.

(3) Where there is an agreement with another State relating to an offence referred to in subsection (1) (b), the penalty provided by subsection (1), or any portion of it according to the terms of the agreement, shall, after all the costs and expenses have been deducted, be remitted to that State according to the terms of the agreement.

57. (1) No foreign fishing vessel shall be licensed unless the operator of the vessel installs, maintains and operates a registered automatic locations communicator in accordance with such specifications as prescribed by the Forum Fisheries Agency.

Vessel monitoring system.

(2) The operator of a foreign fishing vessel shall ensure that the automatic locations communicator is operational at all times while the vessel is in Solomon Islands waters.

(3) The operator of a foreign fishing vessel shall notify the Director of the breakdown of the automatic locations communicator. Where the automatic locations communicator has been reported to have broken down, the operator shall submit to the Director reports of the vessel's name, call sign, position (expressed in Latitude and Longitudes to minutes of arc), and the date and time of the report at intervals of eight hours commencing from the time of notification of the failure of the automatic locations communicator.

(4) Any person who intentionally, recklessly or negligently destroys, damages, renders inoperative or otherwise interferes with any part of the automatic locations communicator shall be guilty of an offence and liable to a fine not exceeding two hundred thousand dollars.

(5) Any person who intentionally, recklessly or negligently divulges information from the vessel monitoring system, to any person or persons not authorised to receive such information shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars.

PART IV GENERAL

Compulsory
acquisition of
land.

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

Cap. 93.

Minister's power
to make regula-
tions.

59. (1) The Minister may make regulations as may seem to him expedient for carrying into effect the provisions of this Act, and, without prejudice to the generality of the forgoing, such regulations may provide for all or any of the following purposes -

- (i) the training of fishermen;
- (ii) the licensing, regulation and management of any fishery and the conservation of particular species of fish or other aquatic organisms;
- (iii) extending the licensing requirements of section 14 to cover other canoes engaged in commercial fishing;
- (iv) prescribing fisheries management and conservation measures, including prescribed mesh sizes, gear standards, minimum and maximum species sizes, limitations on the amount of fish authorised to be caught by any vessel or person or from any fishery, closed season, closed areas, prohibited methods of fishing or fishing gear and schemes for limiting effort in all or any specified fisheries;
- (v) prohibiting or regulating fishing for whales and other species of marine mammals;

(vi) the registration and licensing of fishermen and their fishing gear, including fixed nets, stakes, and weirs, and the registration of fishing vessels;

(vii) conditions and procedures to be observed by foreign fishing vessels while within Solomon Islands waters;

(viii) regulating the transiting of foreign fishing vessels through Solomon Islands waters, and the manner in which fishing gear is to be stowed, by both licensed and unlicensed foreign fishing vessels;

(ix) prescribing procedures to be followed by the masters of foreign and local fishing vessels to facilitate boarding and inspection by authorised officers;

(x) rewards to be paid to any person providing information on the operations of foreign fishing vessels leading to a conviction or compounding of an offence under this Act;

(xi) the implementation of any agreement or arrangement entered into under section 15 or 21 or the licensing and control of fish aggregating devices and for rights to fish aggregated by such devices;

(xii) the organisation and regulation of sport fishing;

(xiii) standards and other measures for the safety of local fishing vessels and fishermen;

(xiv) regulating the cultivation of seaweed and other aquatic organisms;

(xv) the licensing of fish farms and the regulation of the importation of live fish;

(xvi) the organisation and regulation of the marketing, and distribution of fish, other aquatic organisms and fish products;

(xvii) controlling the handling, landing and transportation of fish, other aquatic organisms and fish products;

(xviii) prohibiting or regulating the export of specified species of fish, other aquatic organisms and fish, or other aquatic organism products and fish products;

(xix) methods and procedures to be adopted in relation to fish storage and processing;

(xx) substances and materials to be used in fish processing;

(xxi) the inspection of fish processing establishments and fish products;

(xxii) minimum standards in relation to the quality of fish or fish products;

(xxiii) methods of analysis of fish and fish products;

(xxiv) the grant of exemption to any class of vessels or fish processing establishments from all or any of the provisions of this Act;

(xxv) penalties for the contravention of any regulation made under this section, which may not exceed a fine of two hundred thousand dollars;

(xxvi) the implementation of the precautionary approach;

(xxvii) prescribing of fees for licences issued under this Act; and

(xxviii) any other matter authorised or required to be prescribed by this Act.

(2) Where, in the opinion of the Minister it would be appropriate to delay the promulgation of any regulations under this section until a meeting of the Council can be convened, the Minister may seek the advice of members of the Council through correspondence or other methods without convening a meeting of the Council.

60. (1) The Minister may, in writing, delegate any of the powers conferred on him under this Act, with the exception of the powers conferred by sections 58 and 59.

Powers of delegation.

(2) The Director may, in writing, delegate any of the powers conferred on him under this Act, with the exception of the powers conferred by sections 27 and 32.

61. (1) The Fisheries Act 1972, (hereinafter referred to as the "repealed Act") is hereby repealed.

Repeal and savings.
Act No. 13 of 1972.

(2) Notwithstanding such repeal from and after the date of coming into operation of this Act -

(a) any licence granted under the repealed Act shall continue to be valid on such terms and conditions of approval for the period stipulated therein; and

(b) all regulations and orders made under the repealed Act and in force at the date of commencement of this Act shall subject to such modifications and adaptations as may be necessary to bring them into conformity with this Act continue until such time as new regulations or orders are made under this Act.

SCHEDULE (Section 5(1))

THE FISHERIES ADVISORY COUNCIL

1. (1) The Council shall consist of not less than five nor more than seven members appointed by the Minister of whom one shall be appointed by the Minister to be the Chairman of the Council.

Appointment of members

(2) The members of the Council shall be selected by the Minister from among persons appearing to him to have ability and experience in matters relating to fisheries.

- Tenure of office. 2. A member of the Council shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, but such member shall be eligible for reappointment.
- Temporary appointments. 3. Subject to paragraph 1(2), the Minister may appoint any person to act temporarily in place of the Chairman or a member of the Council in the case of the absence or inability to act of the Chairman or such member, as the case may be.
- Resignation. 4. (1) Any member of the Council, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of the receipt by the Minister of such instrument, such member shall cease to be a member of the Council.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.
- Revocation of appointment. 5. The Minister may at any time revoke the appointment of the Chairman and of any member of the Council.
- Publication. 6. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the Gazette.
- Remuneration. 7. The Chairman and other members of the Council or committees may be paid such remuneration whether by way of honorarium, fees, and such other allowances as the Minister may determine.
- Appointment of committees. 8. The Council may in the discharge of its duties appoint committees comprising of members of the Council or non-members or both and may assign to them such functions as the Council may determine.
- Information. 9. The Council may invite any person to furnish or provide information, explanations, advice or express an opinion at any of its meetings.

Procedure and
meetings.

10. (1) The Council shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council may determine.

(2) The Chairman may at any time call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Council.

(3) The Chairman shall preside at all meetings of the Council at which he is present, and in his absence from any meeting the members present and constituting a quorum shall elect a Chairman from among their number to preside at that meeting.

(4) The quorum of the Council shall be three.

(5) The decisions of the Council shall be by a majority of votes and in addition to an original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting shall be kept.

(7) The validity of the proceedings of the Council shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

(8) Subject to the provisions of this Schedule, the Council may regulate its own proceedings.

11. (1) Any member of the Council who, otherwise than as such member, is directly or indirectly interested in a contract made or entered into, or proposed to be made or entered into, by the Council, or in the subject matter of any proceedings before the Council shall as soon as practicable after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Council.

Disclosure of
interest.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Council and the member -

(a) shall not take part after the disclosure in any deliberation or decision of the Council and relating to the contract or matter in question; and

(b) shall be disregarded for the purpose of forming a quorum of the Council for any such deliberation or decision.

Immunity from action.

12. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Council in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

Office of Chairman, etc. not public office

13. The office of Chairman or member of the Council shall not be a public office for the purpose of Chapter XIII of the Constitution of Solomon Islands.