
Republic of Sierra Leone

**DRAFT FISHERIES AND AQUACULTURE BILL
2011**

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The Fisheries and Aquaculture Bill, 2011

Short title Being an Act to make better provisions for the management, development, protection, conservation and sustainable use of the fisheries of Sierra Leone; to provide for the development of aquaculture; and for other related matters.

Commencement []]

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I - PRELIMINARY

Interpretation **1.** In this Act, unless the context otherwise requires:

“access agreement or arrangement” means any agreement or arrangement entered into pursuant to section 45;

“Act” includes regulations made thereunder;

“agent” means any person or unit appointed by the Director to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 49;

“aircraft” means any craft capable of self-sustained movement through the atmosphere and includes helicopters and unmanned or remotely operated airborne devices;

“aquaculture” means cultivation, propagation or farming of fish, aquatic vegetation, or other living aquatic resources whether from eggs, spawn, spat or seed or by rearing fish lawfully taken from the wild or lawfully imported into Sierra Leone, or by other similar process;

“aquaculture licence” means a licence to engage in commercial aquaculture;

“artisanal fisheries” means small scale traditional fisheries that may be carried out for subsistence or commercial purposes in which the owner is directly involved in the day-to-day running of the enterprise and relatively small amounts of capital are used;

“artisanal fishing vessel” means any local fishing vessel, canoe or un-decked vessel with a length overall of not more than 10 meters, which is motorised or not motorised by an outboard or inboard engine not exceeding 25 horsepower, or powered by sails or paddles, but does not include decked or undecked semi-industrial fishing vessels or vessels used for recreational fishing;

“authorized officer” means any person appointed as such under section 110;

“authorization” means any authorization issued pursuant to section 75;

“automatic location communicator” means a device approved by the Director which is placed on a fishing vessel and is designed to transmit, whether independently or in conjunction with another device or devices, information or data concerning position, fishing and such other activities of the vessel as may

be required and includes a mobile transceiver unit;

“beach seine” means a seine operated from land, which is generally used in shallow waters, near the shore; the bottom and surface act as natural barriers which prevent the fish from escaping from the area enclosed by the net;

“buy” includes:

barter or attempt to barter;

- a) purchase or attempt to purchase;
- b) receive on account or consignment;
- c) receive in order to send, forward or deliver for sale;
- d) broker a sale;
- e) purchase or barter for future goods or for any consideration of value; and
- f) purchase or barter as an agent for another person, and

"buyer" has a corresponding meaning;

“bycatch” means fish which are harvested in a fishery but which:

- a) are not the species of fish that are directly targeted or appear to be directly targeted;
- b) belong to a species identified as bycatch in an applicable licence or fisheries management plan;
- c) belong to any species not identified in an applicable licence or fisheries management plan except for the species falling within paragraph (a);
- d) include discards;
- e) do not include fish which are released alive,

and includes any fish that are taken or killed by means other than fishing operations, such as, *inter alia*, collision with vessels, ghost fishing and destruction of corals;

“canoe” means any planked, dugout or fabricated vessel which is propelled by means of sails, oars, paddles, poles, an outboard engine or a combination of any of them;

“carrier vessel” means a vessel that carries fish that have been harvested by another vessel but does not engage in fishing itself;

“closed season” means any period declared pursuant to section 21 during which fishing is prohibited;

“commercial aquaculture” includes any aquaculture operation resulting or intending or appearing to result in the sale or trade of any fish which is a product of such aquaculture operation, including semi-commercial aquaculture but excluding any small scale aquaculture operation with the primary objective of providing food for subsistence locally;

“commercial fishing” means any fishing resulting or intending or appearing to result in the sale or trade of any fish which may be taken, caught or harvested during the fishing operations, excluding recreational fishing;

“consignment” means a quantity of fish or fish products destined for one or more customers within or outside the country and conveyed by any means of transport;

“Director” means the Director of Fisheries and Marine Resources appointed as such under section 6;

“discards” means fish that have been harvested using a fishing vessel and are returned to the sea during the same fishing trip, but does not include species that are required to be returned or post-harvest waste or apply to recreational fisheries;

“document” means a document in any form whether or not it is signed or initialled or otherwise authenticated by its maker, and includes:

- a) any writing, printing or other information contained on any material;
- b) any information recorded or stored by means of any tape-recorder, computer, or other device (including any network or the internet), and any material subsequently derived from information so recorded or stored;
- c) any label, marking, or other writing that identifies or describes anything of which it forms a part, or to which it is attached by any means;
- d) any book, chart, map, plan, graph or drawing; and
- e) any photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;

“driftnet” includes gillnet or other net which is more than 2.5 kilometres in length the purpose of which is to be used for fishing, but does not include driftnets used for artisanal fisheries;

“driftnet fishing activities” include fishing with the use of a driftnet and any fishing related activities including transporting, transshipping and processing any driftnet catch, and provision of food, fuel and other supplies for vessels used or outfitted for driftnet fishing;

“export” in relation to fish or fish products means to:

- a) send or take out of Sierra Leone;
- b) attempt to send or take out of Sierra Leone;
- c) receive on account or consignment for the purposes of (a) or (b); or
- d) carry or transport anything for the purposes of (a) or (b), when associated with any buying or selling, or intended buying or selling of the fish or fish products;

“export facility” means any building or vessel or area in which food is handled, prepared and stored for export purposes, including the surroundings under the control of the same management;

“farming” in relation to any fish, means the breeding, cultivating and rearing of any such fish or the cultivating of any such vegetation, as the case may be;

“fish” means any marine or aquatic animal or plant, living or not, and any of their parts and includes any shell, coral, reptile and marine mammal but excludes aquatic birds;

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

“fish processing” means any process that adds value to or preserves the fish and includes the cutting up, dismembering, cleaning, sorting loining, freezing, canning, salting and preserving of fish;

“fish processing establishment” means any place other than a licensed fishing vessel where fish are canned, dried, gutted, salted, iced, chilled, frozen, smoked or otherwise processed or stored but does not include a restaurant, eating place, hotel, or place where fish is prepared for immediate retail sale or consumption;

“fishery” or “fisheries” means:

- a) one or more stocks of fish, or parts thereof, which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; or
- b) any fishing for such stocks;

“fisheries management plan” means a plan made pursuant to Section 14;

“fishery waters” means all waters over which Sierra Leone exercises or claims jurisdiction or sovereign rights and the bed and subsoil underlying such waters, and includes all maritime zones declared pursuant to the Maritime Zones (Establishment) Act, 1996, internal waters, riverine systems and any other waters, including intertidal, inland and riverine, over which Sierra Leone exercises jurisdiction and any maritime waters, areas or zones that may be claimed from time to time;

“fishing” means:

- a) searching for or taking fish;
- b) the attempted searching for or taking of fish;
- c) engaging in any activity which can reasonably be expected to result in the locating or taking of fish;
- d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;
- e) any operation at sea in support of or in preparation for any activity in relation to a fishing vessel described in Paragraphs (a), (b), (c) or (d);
- f) any use of an aircraft which is related to any activity described in Paragraphs (a), (b), (c) or (d), except for flights in emergencies involving the health or safety of a crew member of the safety of a vessel, but does not include aquaculture or the transportation of fish;

“fishing gear” means any equipment, implement, structure, construction, installation or other article that can be used in the act of fishing, whether or not it is used in connection with a vessel, including any fishing net, line, float, buoy, trap, hook, cork, basket, winch, boat or aircraft;

“fishing ground” means an area or locality in any water body where fishing activity is conducted;

“fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;

“fishing trip” means a period of time commencing with the departure of a fishing vessel from port until such time as all or any of the fish caught since such departure are unloaded from the vessel, either ashore or onto another vessel;

“fishing vessel” means any vessel used for, equipped to be used for, or of a type

that is normally used for, fishing or fishing related activities other than canoes used exclusively for the transportation of items not directly or indirectly related to any activity falling within the scope of this Act;

“fixed fishing gear” means fishing gear deposited on or attached directly or indirectly to the sea bed, and includes fish traps, fishing stakes and anchored gill nets;

“flag State” in relation to a vessel that is not a Sierra Leone vessel means the State in which the vessel is registered, providing it is registered in only one State;

“foreign fishing vessel” means any fishing vessel other than a Sierra Leone fishing vessel and includes any support vessel, notwithstanding that the vessel may be registered and/or licensed or required to be registered or licensed in Sierra Leone pursuant to this Act and/or under the Sierra Leone Maritime Act;

“fund” means the “Fisheries and Aquaculture Management and Development Fund” established pursuant to section 12;

“genetic resource” includes germplasm of plants, animals or other organisms containing useful characters of actual or potential value;

“gill net” or entangling net means type of gear the fish are gilled, entangled or enmeshed in the netting, which may be either single (gillnets) or triple (trammel nets);

“Government” means the Government of Sierra Leone unless the context otherwise indicates;

“high seas” means the waters beyond areas under the jurisdiction of any State including the territorial sea, exclusive economic zone or other zone of national jurisdiction;

“import” means the bringing into the country of any fish or fish product and aquatic flora from any place outside Sierra Leone;

“industrial fishing” means any large-scale fishing or fishing related activities using an industrial fishing vessel;

“industrial fishing vessel” means a decked fishing vessel with a length overall of 20 meters or greater and an inboard engine;

“Inshore Exclusion Zone” (IEZ) is that area of the fishery waters declared pursuant to section 18;

“inspector” means any person designated as such under section 123;

“international agreement” includes any treaty or other legally binding instrument, including bilateral, multilateral regional agreements or arrangements;

“international conservation and management measures” means measures to conserve or manage fish that are adopted and applied by an organization or arrangement to which the Government is party and is required to apply, or are publicly notified to be international conservation and management measures by the Director;

“juvenile” in relation to any species of fish means a young fish or animal that has not reached sexual maturity;

“landing” means bringing any fish or fish product to the harbour, port or beach from within or outside the fishery waters and offloading it to such place for the first time after it was caught;

“licence” means any licence issued under this Act;

“licensed fishing vessel” means a fishing vessel specified in a valid fishing licence or authorization;

“licensing officer” means the Director and any other licensing officer designated in writing as such by the Director in accordance with section 8;

“licensing period” means the period of time during which any licence or authorization issued in accordance with this Act is valid;

“marine protected area” means a protected marine intertidal or subtidal area within the fishery waters together with its overlying water and associated flora, fauna, historical and cultural features, which has been designated as such pursuant to section 19;

“marine resources” means all marine and aquatic organisms including fish, plants, vertebrate and invertebrate animals, monerans, protists (including seaweeds), fungi and viruses, and also includes guano and anything naturally derived from or produced by such organisms;

“master” in relation to any vessel, means the person for the time being in command or apparently in charge of that fishing vessel;

“Minister” means the Minister responsible for fisheries, and “Ministry” shall have a corresponding meaning;

“mesh” means the opening or space in a net enclosed by threads of the net or, in the case of a wire net, by the stands of wire;

“motorised fishing vessel” means any fishing vessel which is, at relevant times, constructed or adapted for the purpose of fishing and outfitted or equipped with one or more motors for the purpose of moving through the water;

“observer” means any person or category of persons appointed as observers in accordance with section 123 of this Act;

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

“organized criminal group” means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the 2000 United Nations Convention against Transnational Organized Crime, in order to obtain, directly or indirectly, a financial or other material benefit;

“owner” in relation to a fishing vessel, means any person exercising or discharging or claiming the right of accepting the obligation to exercise or discharge any of the powers or duties of any owner whether on his own behalf or on behalf of another and includes a person who is the owner jointly with any other person or persons and any manager, director or secretary of any body corporate or company but excludes a person acting solely in the capacity of an agent pursuant to this Act;

“person” means any natural person or business enterprise and includes a corporation, partnership, cooperative, association, and any foreign government, its subdivisions or agents;

“Permanent Secretary” means a person in the Ministry appointed as such under the relevant laws and procedures of Sierra Leone;

“poison” means any natural or synthetic chemical or other substance used to kill, stun or render fish to be more easily taken;

“port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;

“pollution” means the introduction, directly or indirectly, of substances or energy into the marine or aquatic environment which results or is likely to result in deleterious or otherwise harmful effects or impacts on fisheries resources and their habitat, marine environmental quality and fishing related activities;

“processing”, in relation to fish, includes the work of cutting up, dismembering, separating parts of, cleaning, filleting, sorting, packing, loining, icing, freezing, salting, smoking, drying, cooking, canning, pickling or otherwise preserving or preparing fish, and “processed” has a corresponding meaning;

“public notice” means notification to the general public of Sierra Leone through media normally used for public announcements at national or local level, as appropriate, including broadcast and print media with a significant relevant target audience, and “public notification” and “publicly notify” shall have the same meaning;

“recreational fishing” means non-commercial fishing by an individual for leisure or relaxation;

“regional fishery body” includes any body with an advisory or management mandate or both;

“riverine system” means a natural drainage system comprising rivers and their tributaries which originate from the sources and terminate at their estuaries, and includes any lagoon, lake, impoundment, dam or weir;

“sell” includes:

- a) any method of disposition for consideration, including cash, of anything which has value or which can be exchanged for cash, and barter;
 - b) disposition to an agent for sale on consignment;
 - c) offering or attempting to sell, or receiving or having in possession for sale, or displaying for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or displayed for sale; and
 - d) disposition by way of raffle, lottery or other game of chance,
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and “sale” and “sold” have a corresponding meaning;

“semi- industrial fishing vessel” includes:

- a) a “decked semi-industrial fishing vessel” with a length overall of not less than 10 meters and not more than 20 meters and that is decked, less than 50 GRT and powered by an inboard engine; and
- b) an “undecked semi-industrial fishing vessel” with a length overall of not less than 10 meters and not more than 20 meters, less than 50 GRT and powered by engines of at least 40 horsepower;

“Sierra Leone fishing vessel” means a fishing vessel that holds a valid and applicable registration issued pursuant to the Merchant Shipping Act, 2003, or qualifies for an exemption pursuant to section 14 of that Act, and does not hold any other registration;

“support vessel” means any vessel carrying out operations in connection with and support of a fishing vessel including transport, supply or fishing;

“surveillance” means checking and ensuring compliance with control measures imposed under this Act in fishing and related activity;

“test fishing” means fishing operations undertaken pursuant to an authorization over a limited period of time for non-commercial purposes;

“transhipment” means transferring any fish or fish products to or from any vessel, whether or not the fish or fish products have first been taken on board the vessel from which the fish has passed, excluding situations where the transferral takes place to a smaller vessel for purposes of landing at port;

“vehicle” means any car, truck, van, bus, trailer or other powered land conveyance;

“vessel” means any boat, ship or other water going craft and includes fishing vessels; and

“vessel monitoring system” or “VMS” includes a satellite-based tracking device to monitor the position and activities of fishing vessels.

PART II - RIGHTS, JURISDICTION, APPLICATION AND PRINCIPLES

Sovereign rights
and jurisdiction
of Sierra Leone

2. (1) Sierra Leone exercises full sovereign rights and jurisdiction over fisheries resources in accordance with the Maritime Zones (Establishment) Act, 1996 and such other maritime zones or areas that may be claimed from time to time, and full sovereignty and jurisdiction over fisheries in all public waters within its territory, including to the outer limit of the territorial sea, notwithstanding any right, including ownership or occupation, that any person may possess in relation to the water, seabed, riverbed or subsoil.

(2) In accordance with subsection (1), the exclusive rights of management and control over such fisheries resources are vested in Sierra Leone.

(3) Ownership of all information required to be reported, notified or otherwise given pursuant to this Act, including all information generated by an automatic location communicator or similar device that is part of a vessel

monitoring system, is vested in the Government.

Application of Act

- 3.** (1) This Act, unless the contrary intention appears, applies to all:
- a) areas over which Sierra Leone exercises jurisdiction or sovereign rights;
 - b) fishing and fishing related activities, utilisation of fish and genetic material derived from them and any other activity or matter falling within the scope of this Act;
 - c) persons, vessels, vehicles, aircraft, export facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act;
 - d) persons (including non citizens), and vessels (including foreign fishing vessels) in and in relation to:
 - (i) the fishery waters; and
 - (ii) areas beyond national jurisdiction:
 - 1. following hot pursuit initiated in the fishery waters and conducted in accordance with international law; or
 - 2. as required pursuant to this Act or international conservation and management measures, or permitted by international law or any international agreement; and
 - e) all Sierra Leone fishing vessels and all persons on them or dealing with or having any relevant relationship to them or persons on them, in and in relation to any areas within or beyond national jurisdiction in so far as it is not in conflict with the jurisdiction of another State.
- (2) This Act has extraterritorial application according to its provisions and tenor.

Application of principles for sustainable fisheries management

- 4.** In the application of this Act, the following principles shall be given effect:
- a) conservation of fisheries resources and habitat;
 - b) sustainable use, economic viability and ecological balance of Sierra Leone fisheries resources and habitat, consistent with principles in the national fisheries policy;
 - c) recognition that governments, resource users and others with an interest in the fisheries share responsibility for the sustainable use and economic viability of the fisheries;
 - d) promotion, to the extent practicable, of an understanding of and broad and accountable participation in the conservation, management and development of fisheries resources;
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- e) ensuring that management measures are based on the best scientific evidence available to maintain or restore stocks at levels capable of producing sustainable yield, as qualified by relevant environmental and economic factors including fishing patterns, the interdependence of stocks and generally recommended international standards;
 - f) application of the precautionary approach to the management and development of the fisheries at no less standard than set out in any international agreement;
 - g) ensuring the effective application of the ecosystem approach to fisheries;
 - h) protection of biodiversity in the marine environment;
 - i) implementation and enforcement of conservation and management measures through effective monitoring, control and surveillance;
 - j) collection and, as appropriate sharing, in a timely manner complete and accurate data and information concerning fishing activities and fisheries;
 - k) promotion of sustainable aquaculture in appropriate zones as a viable option to contribute to food security and wealth generation;
 - l) minimization of wastes, bycatch, discards, catch by lost or abandoned gear, pollution originating from fishing vessels and promotion of development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
 - m) prevention or elimination of over-fishing and excess capacity and managing levels of fishing efforts so they do not exceed levels commensurate with sustainable use of fishery resources;
 - n) effective implementation of international agreements and relevant international law; and
 - o) ensuring effective cooperation with coastal States, fishing States and entities and competent organisations and arrangements.

PART III – ADMINISTRATION AND FINANCE

Responsibilities of the Minister	<p>5. The Minister shall be responsible for policy formulation and ensuring the execution by officials in the Ministry and other relevant persons of such functions as may be associated with the implementation of and compliance with this Act.</p>
Appointment of Director of Fisheries and Marine Resources	<p>6. A Director of Fisheries and Marine Resources ("the Director") shall be appointed from within the Public Service in accordance with such criteria as may be determined but which shall include professional skills, knowledge and experience in matters relating to the management of fisheries and marine resources.</p>
Functions of Director	<p>7. (1) The Director, taking into account the principles and provisions of this Act, and subject to the policy guidance of the Minister, shall be responsible for the conservation, management, development, research and sustainable use of fish and fisheries, and the administration of the Ministry of Fisheries and Marine Resources.</p> <p>(2) Without prejudice to the generality of subsection (1), the Director shall be responsible for all technical matters falling within the scope of this Act, as well as related matters and activities including:</p> <ul style="list-style-type: none"> a) coordination with other Ministries, Departments or Agencies of the Government of Sierra Leone; b) the assessment of fish stocks; c) the collection and, as appropriate, dissemination of information, data and statistics; d) the monitoring, control and surveillance of fishing and fishing related activities; e) the preparation and monitoring of fisheries management plans and their submission for approval; f) the management, regulation and control of fishing, aquaculture and fishing related activities; g) setting and adopting minimum standards for safety and quality assurance for fish and fish products; h) regulating all relevant aquaculture practices in collaboration with other relevant Government organs, agencies and institutions; i) the issuance, variation, renewal, suspension and revocation of permits, licences and authorizations required under this Act, and any other task relevant to his/her functions pursuant to this Act; j) the collection of fees in respect of permits, licences and registration of fishing vessels required pursuant to this Act; k) the taking of such measures as he/she may consider appropriate for the protection of fish and fisheries from adverse effects of pollution and siltation and measures taken to eliminate or control pollution and siltation;

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- l) holding consultations with stakeholders as he/she deems appropriate, including for purposes of developing and formulating policy recommendations to the Minister;
 - m) using his best endeavours to ensure that all local councils and associations of local fishing communities and bodies with an interest in fisheries management are consulted and kept informed of management of fisheries under this Act and any other applicable laws related to the management of fisheries;
 - n) the making of such reports as he/she shall consider appropriate or as the Minister may require; and
 - o) any other matter as may be required for the administration of this Act.

(3) In the performance of his functions under this Act, the Director shall be subject to the general directions of the Minister as provided in relevant legislation of Sierra Leone and shall make such reports and hold such consultations with the Minister as the Minister may require from time to time.

Director as Chief Licensing Officer

8. (1) The Director shall be the Chief Licensing Officer under this Act.

(2) The Director may appoint in writing Licensing Officers in accordance with this Act, and such appointment shall be effective upon publication of the name of each licensing officer in the *Gazette*.

Delegation of powers

9. The Director may delegate, in writing, the exercise of any or all powers and functions conferred upon him by this Act, except this power of delegation and as may be otherwise provided, to the Deputy Director or such other fisheries officers as he may think fit.

Conflict of interest

10. (1) Where any person is appointed or employed to perform functions or duties that fall within the scope of this Act, he/she and any member of his/her immediate family shall, where any such person has an interest of a financial or fiduciary nature or otherwise that conflicts with such functions or duties:

- a) promptly disclose in writing the nature of such interest as provided in subsection (2); and
- b) not exercise any functions under this Act in respect of that matter.

(2) Where any such person referred to in subsection (1) is:

- a) the Director, he/she shall declare his/her interest to the Minister;
- b) any other person, he/she shall declare his/her interest to the Director.

(3) Where a disclosure is made pursuant to subsection (2), the Minister or the Director as the case may be, shall appoint another officer to exercise functions in respect of that matter.

(4) For the purposes of this section, a person has an interest in a matter if he/she:

- a) may derive a financial benefit from the matter;
- b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter;
- c) may have a financial interest in a person to whom the matter relates;
- d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates;
- e) may be interested in the matter because this Act so provides; or
- f) is otherwise directly or indirectly interested in the matter.

(5) A person who contravenes this section commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Scientific and
Technical
Committee and
other committees

11. (1) The Minister shall establish, in consultation with the Director, a Scientific and Technical Committee (the “Committee”), which shall be comprised of seven members.

(2) The Committee shall advise the Minister on the management, biological, social, economic and technical aspects of marine resources, fisheries and aquaculture, with a view to providing the basis for fisheries and aquaculture management decisions.

(3) The Minister shall, in consultation with the Director, appoint persons to the Committee having knowledge, skills and experience in the disciplines referred to in subsection (2).

(4) The appointment shall be for a term of two years and may be renewable for one further term only.

(5) The Minister shall, in consultation with the Director, appoint the Chair of the Scientific and Technical Committee.

(6) A member of the Committee may be removed by the Minister in consultation with the Director where such member:

- a) is absent, except with the written consent of the Chair in respect of a member or the Deputy Chair, or the Minister in respect of the Chair, from three consecutive regular meetings of the Committee;
 - b) is found to have a conflict of interest in contravention of section 10;
 - c) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his
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creditors or makes an assignment of his remuneration for their benefit;

- d) is or has been convicted for an offence:
- (i) under this Act;
 - (ii) under any other law of Sierra Leone punishable by a term of imprisonment for one year or longer and, as a result of the conviction, is sentenced to imprisonment;
 - (iii) in connection with the promotion, formation or management of a company; or
 - (iv) involving false statements, fraudulent use or destruction of property, falsification of records, carrying on business fraudulently or any crime involving dishonesty, whether within or outside Sierra Leone;
- e) discloses information which is confidential as provided pursuant to this Act; or
- f) otherwise becomes incapable of performing his/her duties.

(7) The Scientific and Technical Committee, with the approval of the Director, may, for the purpose of elaborating any matter under consideration:

- a) invite persons to attend a meeting; and
- b) receive or hear submissions or information from any persons.

(8) The Director, in consultation with the Minister, may co-opt any person to serve on the Committee for a limited period of time or for specified duties where the expertise of such persons is not represented on the Committee or where it is required by a specified project or initiative.

(9) The Committee shall meet at least quarterly or when summoned by the Director in consultation with the Minister as needed.

(10) The Director shall be the Chairman of the Committee and the Deputy Director shall be the Secretary of the Committee.

(11) The Director shall, as appropriate, incorporate the advice of the Committee into any fisheries management plan described in section 14 and otherwise incorporate such advice into management decisions.

(12) The Minister may establish such other committees on the recommendation of the Director at the local or national level which may be composed of fishers or other persons actively involved in the fisheries of Sierra Leone to advise him/her on matters relating to the development and management of such fisheries and the welfare of fishers, and the Director shall nominate the members of such committees for approval by the Minister.

(13) Reasonable allowances or expenses shall be paid to members attending meetings of any committee established under this section with the approval of the Minister of Finance.

12. (1) A Fisheries and Aquaculture Management and Development Fund

Establishment of fund

(the Fund) is hereby established in accordance with section 111 of the Constitution of Sierra Leone and section 7 (c)(i) of the Sierra Leone Government Budgeting and Accountability Act, 2005.

(2) The purpose of the Fund shall be to support the management and development of fisheries and aquaculture for the benefit of the people of Sierra Leone in accordance with the principles and objectives of this Act, including the following activities:

- a) promotion of public education, training, human resource development, awareness, research, data collection and information systems in relation to activities and programmes falling within the scope of this Act;
- b) the development of shared fisheries management at community level, including the facilitation of environmental impact assessments;
- c) monitoring, control, surveillance of activities falling within the scope of this Act, and compliance with this Act;
- d) promotion of fish products, their safety and compliance with international production and safety standards;
- e) promotion of aquaculture activities and the restocking of natural water bodies;
- f) enabling Sierra Leone membership and participation in regional fishery bodies relevant to Sierra Leone; and
- g) such other activities prescribed by the Minister to support the principles and objectives of this Act.

(3) The revenues for the Fund shall consist of:

- a) such amounts as may be provided by Government, domestic and external grants and other source consistent with the requirements of the Government Budget and Accountability Act, 2005: and
- b) twenty-five percent of the total annual amount of fees collected pursuant to this Act, including fees for licences and authorizations.

(4) The deposit of revenues for the Fund shall be made in accordance with the requirements for the Consolidated Fund in section 8 of the Government Budget and Accountability Act 2005 which shall apply *mutatis mutandis* to the Fund. The Minister shall have the responsibility for the administration of the Fund, but such administration shall be subject to review by the Minister responsible for finance and the Auditor-General pursuant to the Budget and accountability Act 2005.

(5) No payment shall be made out of the Fund except in the manner provided by law, in particular applying *mutatis mutandis* the applicable provisions of the Government Budgeting and Accountability Act, 2005.

(6) The Fund shall be administered by the Minister in consultation with the Permanent Secretary and Director in accordance with generally recognized accounting practice approved by the Auditor-General and section 3(1) and 3(2)(h) of the Government Budgeting and Accountability Act 2005, and for purposes of administration within the Ministry the Minister shall have for purposes of such administration, *mutatis mutandis*, the relevant authorities of the Minister responsible for finance as provided in such Act.

(7) The Minister shall cause to be prepared and monitored for each financial year a budget, including a statement of revenues and expenditures, a report on activities supported from the fund and the proposed revenues and expenditures for the succeeding year.

(8) The Accountant-General shall be the chief accounting officer for the Fund and *mutatis mutandis* discharge duties in respect of the Fund as required under the Government Budgeting and Accountability Act 2005.

(9) Each budget shall be submitted to the Accountant-General for review and approval and may be submitted at designated times to such oversight committee as the Minister, in consultation with the Minister responsible for finance, may establish.

PART IV - FISHERIES CONSERVATION, MANAGEMENT, DEVELOPMENT AND SUSTAINABLE USE

Objectives

13. The Director shall take the following objectives into account in developing plans, policies and strategies for fisheries conservation, management, development and sustainable use:

- a) establishing of priorities for the utilization of the fisheries resources which will provide the greatest overall benefits to the people of Sierra Leone;
 - b) ensuring the proper conservation of the fishery resources through the prevention of overfishing and taking of a precautionary approach towards harvesting when data about the fishery resources are lacking;
 - c) basing management practices on sound management principles and the best scientific information available, to be gained through national and international research programmes;
 - d) minimizing, to the extent practicable, fishing gear conflicts among users;
 - e) developing of the fisheries sector, and in so doing giving preference to the needs of Sierra Leone fisheries over those of foreign fisheries;
 - f) ensuring that traditional practices which are consistent with responsible fisheries are maintained and the needs and interests of local fishing communities are protected; and
 - g) identifying and implementing fisheries conservation measures.
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14. (1) The Director shall be responsible for planning for the conservation, management, development and sustainable use of all fish and fisheries within the fishery waters.

(2) The Minister may, on the recommendation of the Director, by notice published in the *Gazette*, authorize a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery:

- a) is important to the national interest; and
- b) requires conservation, management and development measures for effective sustainable use of the fisheries resources.

(3) The Director shall:

- a) prepare, keep under review and be responsible for the implementation of plans for the conservation management, development and sustainable use (“fisheries management plans”) of each designated fishery in the fishery waters;
- b) prepare, keep under review and be responsible for the implementation of fisheries management plans for other fisheries in the fishery waters as may be practicable, with the objective of developing additional plans on an annual basis; and
- c) determine the priority for the preparation of fisheries management plans, taking into account the advice of any committee established and carrying out functions under this Act and of other relevant stakeholders.

(4) Each fisheries management plan shall take the following into consideration:

- a) identify the fishery resource and its characteristics, including its economic and social value and interrelationship with other species in the ecosystem;
- b) assess the present state of exploitation of the fishery resource and potential average annual yields;
- c) specify the objectives to be achieved in the management and development of the fishery;
- d) take into account the best information on all relevant biological, social, economic and other applicable factors, determine the maximum sustainable yield;
- e) apply the principles set out in section 4 and the objectives for fisheries management set out in section 13;
- f) determine the amount of the fishery resources to be made available to licensed fishing vessels;

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- g) where there is insufficient information and advice to set a total allowable catch or other management measures, identify a plan for determining such information and take appropriate conservation and management measures, taking into account the advice of any committee established and performing its functions under section 11.
 - h) specify the measures, if any, to be taken to promote the development of Sierra Leone fisheries;
 - i) determine the amount of the fishery resource, if any, to be made available to licensed fishing vessels;
 - j) specify management measures in accordance with the principles and objectives of this Act;
 - k) specify the research necessary to enhance management of the fisheries;
 - l) specify the information and other data required to be given or reported for effective management and development; and
 - m) take into account any relevant traditional fishing rights, methods or principles.

(5) The Director shall, during the preparation of each fisheries management plan, consult as required and appropriate with any committee which may be established and performing its functions under this Act and stakeholders that may be affected by the plan.

(6) The Director shall consult wherever practicable with the appropriate fisheries management authorities of other States in the region, and in particular with those sharing the same or interrelated stocks, with a view to ensuring the harmonization of their respective fisheries management plans and fisheries management in general.

(7) Each fisheries management plan or review shall come into force upon the written approval of the Minister.

(8) Any person who engages in fishing or fishing related activities in the fishery waters or who processes or sells fish taken from the fishing waters shall supply such information in respect of such activities as the Director may require in accordance with a fisheries management plan.

(9) A person who fails to supply information required under subsection (8) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment in respect of artisanal fishing not exceeding six months, and in respect of all other activities not exceeding two years or to both.

Protection and promotion of artisanal and semi- industrial fisheries

15. The Director, in the implementation of this Act, may take such action as he/she deems necessary, based on sound technical advice, to protect and promote artisanal and semi-industrial fisheries, including:

- a) providing assistance in the establishment and development of
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	<p>fishing, fish processing or marketing co-operative societies;</p> <p>b) establishing areas reserved for artisanal or semi-industrial fishing;</p> <p>c) giving priority to artisanal or semi-industrial fisheries in the allocation of fishing licences, rights or quotas; and</p> <p>d) taking such other action as he/she deems necessary for the protection and promotion of such fisheries.</p>
<p>Shared responsibility for fisheries management</p>	<p>16. (1) The Director may make arrangements with Local Councils, competent fishers' organizations and such other stakeholders' organisations that may be recognized for their fisheries management skills and knowledge, for the development of shared responsibility for the management of artisanal fisheries and Marine Protected Areas.</p> <p>(2) Such arrangements may be established in fishery management plans established in accordance with section 14, or by a shared management agreement which includes the following to the greatest extent possible:</p> <p>a) a statement of objectives of the agreement;</p> <p>b) a description of the area covered by the agreement;</p> <p>c) a description of the management activities to be undertaken;</p> <p>d) rules governing the access to and use of the area by other fishers;</p> <p>e) rules governing the requirements for information and data;</p> <p>f) rules governing the enforcement of the agreed activities;</p> <p>g) the duration of the agreement;</p> <p>h) provision for monitoring the agreement;</p> <p>i) provision for revision of the agreement; and</p> <p>j) provision for the settlement of disputes.</p>
<p>International consultations on fisheries management</p>	<p>17. (1) The Minister may consult, as appropriate, with foreign governments and regional fishery bodies, with a view to:</p> <p>a) ensuring the closest practicable harmonization, compatibility or co-ordination of their respective fisheries management, development, conservation and sustainable use plans and regulations;</p> <p>b) ensuring harmonization in the collection of data statistics and the information, and the carrying out of surveys and procedures for assessing the state of the fisheries resources in the region;</p> <p>c) providing, as appropriate, for the formulation of regional plans for fisheries conservation, management, development and sustainable use, for the allocation of fishing effort and catch among States</p>

sharing the same stocks, and for taking regional or joint conservation and management measures;

- d) establishing, on a bilateral or regional level as appropriate, arrangements regarding fishing rights with other States in accordance with the provisions of the relevant plans for fisheries conservation, management, development and sustainable use; and
- e) combating illegal, unreported and unregulated fishing, including through the establishment of information exchange systems.

(2) Consultations under this section may be undertaken either directly with the Governments or persons concerned, or through existing appropriate regional or sub-regional organizations or international agencies.

PART V - CONSERVATION MEASURES

Inshore Exclusion
Zone

18. (1) The Inshore Exclusion Zone (“IEZ”) consists of all waters seaward of the low-water line along the coast of Sierra Leone to the line connecting the coordinates of latitude and longitude as marked in the chart in the First Schedule.

(2) The IEZ shall be reserved for artisanal fishing vessels, undecked semi-industrial fishing vessels and recreational fishing vessels.

(3) No industrial fishing vessel, decked semi-industrial fishing vessel or canoe operating with a canoe support vessel shall engage in fishing in the IEZ, either by direct or indirect means.

(4) No industrial fishing vessel, decked semi-industrial fishing vessel or canoe operating with a canoe support vessel shall, except for purposes of proceeding directly to port, navigate in the IEZ.

(5) The coordinates in the First Schedule may be amended by Regulation.

(6) A person who contravenes subsection (3) or (4) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

(7) Notwithstanding the provisions of subsection (5), where an industrial fishing vessel, decked semi-industrial fishing vessel or canoe operating with a canoe support vessel that is partly or wholly within, or has gear partly or wholly within the IEZ and any person on board or associated with such vessel or canoe damages, destroys, interferes with or unnecessarily endangers the fishing gear that is not owned, used by or associated with the fishing vessel or canoe, the owner, operator and master of such vessel commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding four years or to both, and shall compensate the owner or apparent owner of the fishing gear for any damage caused, in addition to other fines and penalties described in this Act.

Marine Protected
Areas

19. (1) The Minister may, in consultation with the Scientific and Technical Committee and by Notice in the *Gazette*, declare any area of the fishery

waters to be a Marine Protected Area, and shall, as part of such declaration, identify its components including the following:

- a) area;
- b) boundaries;
- c) purpose;
- d) objective;
- e) a mandate for total or partial regulation;
- f) management measures;
- g) decision-making responsibilities;
- h) procedures for the coordination of stakeholders;
- i) procedures for conflict resolution;
- j) procedures for monitoring and review; and
- k) fines and penalties.

(2) The management measures in each declaration made under subsection (1)(f) shall, upon publication in the *Gazette*, have the status of Regulations.

(3) A person who contravenes management measures adopted pursuant to this section commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Closed areas

20. (1) The Director may, in accordance with the best scientific advice and such other relevant information as may be available, declare closed areas, including their duration, for fishing in specified areas of the fishery waters.

(2) Each declaration of a closed area made in accordance with subsection (1) shall be in writing and effective upon public notification.

(3) A person who engages in fishing in a closed area declared in accordance with this section commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Closed seasons

21. (1) The Director may, in accordance with the best scientific advice and such other relevant information as may be available, declare closed seasons, including their duration, for fishing in all areas or specified areas of the fishery waters.

(2) Each declaration of a closed season made in accordance with subsection (1) shall be in writing and effective upon public notification.

(3) A person who engages in fishing during a closed season declared in accordance with this section commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Prohibited fishing gear and methods

22. (1) No person shall use, permit to be used or attempt to use or carry on board a vessel:

- a) fishing gear that has not been authorized by a valid and applicable licence issued pursuant to this Act for the purpose of fishing unless otherwise provided in this Act;

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- b) a trawl net or other net the mesh of which is less in stretched diagonal length than the prescribed mesh size;
 - c) the method of pair trawling for the purpose of fishing;
 - d) monofilament net for the purpose of fishing;
 - e) more than one net at a time for the purpose of fishing with trawl net;
 - f) attachments to any trawl net except as may be prescribed;
 - g) a gill net, whether drifting or set, in any river or body of water forming part of the riverine system if the mesh of the net is less than forty- five millimeters in stretched diagonal length;
 - h) a seine net the mesh of which is less than forty-five millimetres in stretched diagonal length;
 - i) a beach seine net for the purpose of fishing;
 - j) a seine net in any body forming part of the riverine system;
 - k) firearms, lights or other electrical devices for the purpose of fishing, including stunning, disabling, catching or killing fish, or in any way rendering fish to be caught more easily; or
 - l) such other gear as may be prescribed or prohibited in a fisheries management plan.

(2) Unless otherwise prescribed, no person shall use for fishing, from an industrial fishing vessel, any net or combination of nets the mesh of which is less than:

- a) sixty millimetres in stretched diagonal length for the meshes forming the cod-end of the net for demersal trawl nets;
- b) forty-five millimetres in stretched diagonal length for the meshes in the cod-end for catching shrimp and other shellfish;
- c) forty-five millimetres in stretched diagonal length for seine nets; and
- d) in the case of a trawl net, where the sides of the net are less than the mesh of the cod-end.

(3) No person shall use on an industrial fishing vessel a bottom trawl in coastal waters of less than fifteen meters depth.

(4) No person shall, for the purpose of fishing, set any net across any river from bank to bank so as to form a barrier.

(5) No person shall:

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- a) permit to be used, use or attempt 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) carry or have in his/her possession or control any explosive, electric shock device, poison or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in subparagraph (a).

(6) Any explosive, electric shock device, poison or other noxious substance found on board any fishing vessel shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in paragraph (a) of subsection (4).

(7) A person who contravenes subsections (1), (2), (3), (4) or (5) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

(8) In any proceedings for any offence under subsection (4), a certificate as to the cause and manner of death or injury of any fish, signed by the Director or any person authorized by him in writing shall be *prima facie* evidence of the facts averred in it until the contrary is proved.

Damage,
destruction to and
interference with
fishing gear,
vessel, person
prohibited

23. (1) No person shall, using a vessel, wilfully, negligently, unintentionally or otherwise damage, destroy, interfere with, endanger, injure or cause loss of life in respect of:

- a) any fishing gear that he/she does not own or use or that is not associated with such vessel;
- b) any other vessel and/or persons thereon; or
- c) any persons on any other vessel or otherwise in the fishery waters.

(2) Where a vessel becomes entangled with fixed fishing gear or other object referred to in subsection (1), the master shall:

- a) undertake to minimize any damage caused by the gear;
- b) where practicable return the gear to the sea and log the position; and
- c) make a full report of the incident and steps taken by him/her to the Director at the earliest opportunity.

(3) Where events referred to in subsection (1) or (2) occur, the master shall immediately:

- a) undertake to minimize any damage caused;
- b) where any person has been injured or harmed in any way:

- (i) rescue such person from the sea;

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- (ii) administer all possible first aid or medical treatment; and
 - (iii) steam directly to shore and seek further medical treatment;

- c) where there has been a death of a person, recover the body and bring it directly to port; and
- d) promptly make a full report of the incident and steps taken by him/her to the Director.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both and in addition that person shall fully compensate the owner or apparent owner of the fishing gear for any damage caused and for lost fishing time, any injured person compensation for medical expenses, injury and as appropriate loss of expectation of life, and the estate of any person who died as a consequence of the action full compensation for loss of life unless there is sufficient proof that:

- a) in the case of fishing gear, that the person who owned or used the fishing gear at the relevant time did not hold a valid and applicable licence required pursuant to this Act; or
- b) the damage, destruction, interference or endangerment took place in an area where the person(s) or vessel(s) that caused such consequences were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance with the requirements pursuant to this Act.

(5) Each person making a claim for compensation pursuant to subsection (4) shall do so as soon as possible and in any case within a reasonable time after the damage, destruction, interference or endangerment took place, and shall produce all available evidence.

Manufacture, importation, use and sale of fishing nets, use of unauthorized contrivance

24. (1) The Director shall specify in writing the nature and type of fishing nets to be manufactured, imported into, and used for fishing in the fishery waters in accordance with this Act.

- (2) Except as otherwise provided in subsection (3), no person shall:
 - a) import into, manufacture, sell in Sierra Leone or use for fishing in the fishery waters any fishing net or netting the mesh of which is less than 45 millimetres in stretched diagonal length; or
 - b) use any unauthorized combination of nets or other unauthorized contrivance as fishing gear.

(3) The Director may, for the purpose of fisheries research approve in writing the importation, manufacture or use of such net or netting, subject to such conditions as he deems fit.

(4) Each specification or approval made in accordance with subsection (3) shall be in writing and effective upon public notification.

	<p>(5) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding two years or to both.</p>
Possession of prohibited fishing gear	<p>25. (1) Except as otherwise may be provided in this Act, a person shall not, without permission in writing from the Director, possess or control fishing gear which is prohibited for use in the fishery waters.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition the gear shall be forfeited.</p>
Leaving or abandoning objects in the sea prohibited	<p>26. (1) No person shall dump gear, moorings and other objects in the sea or leave unnecessarily or abandon such objects in the sea or on the seabed if they may adversely affect fish or other marine organisms including by continuing to enmesh, trap or otherwise catch fish, impede harvesting operations, damage harvesting gear or endanger vessels.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition such person shall be responsible for the full cost of clearing and/or removing the relevant objects.</p>
Driftnet fishing activities prohibited	<p>27. (1) No person shall use an industrial or semi-industrial fishing vessel for, or assist in any way with, driftnet fishing activities in the fishery waters.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both., and in addition the catch, fishing gear or other apparatus used in the commission of the offence and the vessel may be forfeited and the fishing licence may be cancelled or suspended for such period as the Director thinks fit.</p>
Use of canoe support vessels prohibited	<p>28. (1) No person shall, using a canoe, support or facilitate fishing or fishing related activities not permitted under this Act, interact in any way with any unlicensed fishing vessel or otherwise circumvent or attempt to circumvent any requirements of this Act.</p> <p>(2) No person shall, being aboard an unlicensed fishing vessel, interact in any way with any person using a canoe.</p> <p>(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition all fish, the canoe and fishing vessel shall be forfeited.</p>
Declaration of endangered species of fish	<p>29. (1) The Minister may, by Notice in the <i>Gazette</i>, declare any species of fish to be endangered or threatened with extinction, and shall, to the extent possible, include those species relevant to Sierra Leone that have been declared endangered or threatened under any international agreement or instrument to which Sierra Leone is party.</p>

(2) Unless otherwise provided by the Minister, no person shall engage in fishing for, catch, possess, transport, process, buy or sell any species of fish declared endangered or threatened with extinction pursuant to subsection (1).

(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Prohibitions and requirements for gravid lobsters or other gravid crustacea

30. (1) No person shall knowingly take gravid lobsters or any other gravid crustacean during fishing and where any such gravid lobsters or crustacea are taken either intentionally or unintentionally they shall be immediately returned to the fishery waters.

(2) All young lobsters or crustacea that may be caught during fishing as by-catch shall be immediately returned to the fishery waters, or otherwise be dealt with in such manner as may be prescribed.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited and the fishing licence may be cancelled or suspended for such period as the Director thinks fit.

Prohibitions and requirements for marine mammals

31. (1) Subject to subsection (3), no person shall engage in fishing for marine mammals in the fishery waters.

(2) Any marine mammal caught either intentionally or unintentionally shall be released immediately and returned to the waters from which it was taken with the least possible injury.

(3) The Director may give written authorization to fish for marine mammals in a limited manner for research purposes.

(4) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Prohibitions and requirements for sea turtles, rays and sharks

32. (1) No person shall engage in fishing for sea turtles or juvenile rays in the fishery waters.

(2) No person shall engage in targeted fishing for sharks in the fishery waters.

(3) Any sea turtle, or juvenile ray caught either intentionally or unintentionally shall be released immediately and returned to the fishery waters with the least possible injury and shall not be harmed, destroyed, killed or kept for any reason.

(4) Where a shark is caught:

- a) no person, including the owner, operator or master of a fishing vessel, shall possess on board shark fins without the fins being naturally attached to the corresponding carcass(es) by at least some portion of uncut skin;

b) notwithstanding subsection (1), sharks may be dressed or processed, at sea by removal of the head and viscera, but no person shall remove the fins or backbone or halve, quarter, or otherwise further reduce the carcass.

(5) No person shall buy, sell or otherwise trade in shark fins unless the requirements of subsection (4) have been fully met as shown in reports by authorized officers, inspectors, observers and/or fishery dock observers and certified as such by the Director and endorsed by the Minister, and such purchase, sale or trade in shark fins shall be in accordance with any limitations or conditions that the Director, endorsed by the Minister, may require.

(6) The Director may require fishing vessels to install turtle excluder devices in its fishing gear as a condition of licence.

(7) The Director may give written authorization to fish for sea turtles, juvenile rays or sharks in a strictly limited manner exclusively for the purposes of research, and only on the advice and recommendation of a recognized scientific institution or committee concerning the conditions for taking such species.

(8) A person who contravenes subsection (1), (2), (3), (4) or (5) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition all fish on board the relevant vessel shall be forfeited.

Pollution of the fishery waters

33. (1) No person shall prepare for the introduction of, attempt to introduce or introduce into the fishery waters, directly, indirectly, deliberately or accidentally, any deleterious substance, including substances which may have toxic, hazardous or other harmful properties or effects in relation to fish or the marine environment, and which may adversely affect the habitat or health of the fish.

(2) A person who contravenes subsection (1) is guilty of an offence and shall be liable on conviction to fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition shall be liable for full compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat and fishery resources to their previous state.

Fisheries impact assessments

34. (1) Any person or Government Ministry or other agency that plans to conduct any activity other than fishing, which is likely to have an adverse impact on fish and their habitat, shall inform the Director of such plans and consult with him/her prior to the commencement of the planned activity with a view to ensuring the conservation and protection of such resources.

(2) The Director may make or require reports and recommendations by the agency responsible for environmental protection in Sierra Leone and those conducting the planned activity regarding the likely impact of such activity on the fishery resources, including their habitat, and possible means of preventing or minimising adverse impact.

(3) Any report or recommendation prepared in accordance with subsection (2) shall be taken into account by the relevant person, Government Department and/or other agency in the planning of the activity and in the

development of means of preventing or minimising any adverse impacts.

(4) Where a person proceeds with activities described in subsection (1) without first informing the Director or, where the Director has required reports and recommendations pursuant to subsection (2), or proceeds without making such reports or recommendations or acts in a manner inconsistent with any such report or recommendation, such person commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both. In addition, such person shall be liable for full compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.

Import and
release of live
fish

35. (1) No person shall import into Sierra Leone any live fish without the written approval of the Director and in accordance with such procedures as may be prescribed.

(2) No person shall release into the fishery waters any live fish imported into Sierra Leone except with the written approval of the Director.

(3) The Director shall not approve any release of live fish unless the fish has been kept under observation and control for such period and on such terms and conditions as he/she thinks fit.

(4) Where the Director is satisfied that any fish which has been imported into Sierra Leone is unsuitable for the purpose of release he may order the fish to be forfeited and destroyed.

(5) The importer and exporter of any fish destroyed under subsection (4) shall not be entitled to compensation.

(6) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Export of live
fish

36. (1) No person shall export from Sierra Leone any live fish except in accordance with such procedures as the Director may require in writing and publicly notify or as may be prescribed.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Possession and
trade in fish, fish
product or other
marine resources
prohibited

37. (1) No person who has clear cause to believe that a fish, fish product or other fisheries resources have been obtained in contravention of this Act shall buy, sell, possess or otherwise trade in such fish, fish products, or other fisheries resources.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition all fish or fish products shall be forfeited.

Prohibited
activities relating
to fish or fish

38. (1) No person shall, within Sierra Leone or in the fishery waters, on their own account or any other capacity:

products taken
contrary to the
laws of another
State

- a) cause or permit a person acting on his or her behalf; or
- b) use or permit a vessel to engage in fishing or related activity,

to take, import, export, tranship, land, transport, sell, receive, acquire or buy any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of another State or of international conservation and management measures.

(2) This section does not apply to fish taken on the high seas contrary to the law of another State where Sierra Leone does not recognise the jurisdiction of that State over those fish.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Sale, export of
adulterated or
contaminated
fish, or fish
products
prohibited

39. (1) Any person who sells or exports fish or fish products intended for human consumption shall comply with all applicable food quality, health and sanitation requirements and shall not sell or export such fish or fish products which:

- a) are adulterated;
- b) are contaminated with or contains a poisonous or harmful substance or pathogenic micro-organisms;
- c) have not met applicable inspection standards; or
- d) are otherwise injurious to human health.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition any fish or fish products involved in the transaction and those owned or controlled by such person shall be forfeited.

Interference with
inspected fish
prohibited

40. (1) No person shall, except with the written permission of the Director:

- a) remove, alter or interfere with a trade description, seal, stamp or other mark applied to fish, a container of fish or a container system unit containing fish that has been inspected by an authorized officer;
- b) add to, remove from or otherwise change the composition of any consignment of fish that has been certified as inspected by an authorized officer; or
- c) unseal or leave unsealed any boxes that have been inspected by an authorized officer.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition any fish or fish products shall be forfeited.

**PART VI - COMPLIANCE WITH ACT, LICENCES, AUTHORIZATIONS
AND REQUIREMENTS FOR FISHING VESSELS ENTERING,
NAVIGATING OR EXITING THE FISHERY WATERS**

Unlicensed
activities
prohibited

- 41.** (1) No person shall, except under the authority of and in accordance with a valid and applicable licence or authorization issued pursuant to this Act:
- a) on his/her own account or in any other capacity, engage in any activity;
 - b) cause or permit a person acting on their behalf to engage in any activity; or
 - c) use or permit a vessel to engage in fishing or a related activity,

of a kind or type, or at a time, or in a place or manner, for which a licence or authorization is required under this Act.

(2) For the purposes of this Act, where a vessel is used in the commission of an offence, the owner, operator, master and charterer shall each be deemed to have committed the offence.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Foreign fishing
vessels

- 42.** Where a foreign fishing vessel:
- a) enters the fishery waters except for a purpose recognised by international law or relevant law of Sierra Leone, or
 - b) is used for fishing or fishing related activities in the fisheries waters, except pursuant to the requirements of this Act,

the operator and master each commit an offence and shall each be liable on conviction to a fine described in the Second Schedule.

Stowage of
fishing gear

- 43.** (1) The operator and master of a:
- a) semi-industrial or industrial fishing vessel in any place in the fishery waters; or
 - b) Sierra Leone fishing vessel:
 - (i) navigating through an area under the jurisdiction of another State where it does not have a licence to fish; or
 - (ii) at all times when navigating in an area of the high seas to which international conservation and management measures apply where it has not been authorized to fish in that area pursuant to this Act,

shall ensure that all fishing gear on board is at all times stowed or secured in such

a manner that it is not readily available for fishing unless the vessel is authorized to engage in fishing in that area of the high seas in accordance with an international agreement, international conservation and management measures or authorization of another State recognized by Sierra Leone as applicable to the relevant area.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Transshipment at sea prohibited

44. (1) Except as otherwise provided pursuant to this Act, no person shall engage in transshipment activities at sea.

(2) A person who contravenes subsection (1), including the operator of a vessel used for transshipment, commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

PART VII - REQUIREMENTS FOR FOREIGN FISHING VESSELS OR VESSELS FISHING UNDER CHARTER ARRANGEMENTS

Fisheries access

45. (1) The Minister may, on behalf of the Government of Sierra Leone and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, and taking into account the advice of the Director, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities.

(2) Fisheries access may be granted, and licences or authorizations may be issued in accordance with subsection (1) pursuant to:

a) such international agreement, fisheries partnership agreement, joint venture or other written agreement or arrangement setting out the terms and conditions of fisheries access as are required pursuant to this Act and additional terms and conditions as may be recommended by the Director, with

- (i) States or regional economic integration organisations;
- (ii) any fishing association or similar body;
- (iii) a publicly incorporated company; or
- (iv) such other persons or bodies as the Minister considers appropriate; and/or

b) an access right granted by the Minister, taking into account the provisions of subsections (1) and (2) and in consultation with the Director, in accordance with such conditions as he may require and as may be prescribed, including the:

- (i) maximum number of such rights to be granted for a given period of time;
 - (ii) maximum period of time during which such right can be held;
 - (iii) fishery or fisheries to which rights-based access applies;
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- (iv) qualifications of applicants for such rights;
 - (v) procedures for application for such rights;
 - (vi) criteria for the grant of such rights;
 - (vii) conditions for the use of such rights;
 - (viii) transferability of such rights; and
 - (ix) conditions for the cancellation or revocation of such rights; or

c) a determination by the Minister, on the recommendation of the Director, that each vessel meets the requirements under this Act for licence issuance, including the standards for licence approval in section 76 and such other requirements that may be prescribed or required by national policy or by notice in the *Gazette* and:

- (i) the vessel, its operator, master and beneficial owner have not engaged in or were not reasonably suspected to have engaged in illegal, unreported or unregulated fishing in any place during the five-year period prior to application for the license; and
- (ii) the Minister determines there are clear benefits to Sierra Leone for issuing such a licence.

(3) Fisheries access granted pursuant to subsection (2) shall be subject to the terms and conditions in this Act and such other conditions as may be required by the Minister on the advice of the Director.

(4) The Director shall, in respect of each proposed arrangement, right and licence for fisheries access determine:

- a) the estimated value of the fisheries to the other party; and
- b) the designated area, an access fee and other required benefits to Sierra Leone, except that such fee or benefits shall not include development assistance or benefits that are unrelated to the value of the fisheries access.

(5) Fisheries access shall be permitted solely for purposes of fishing or fishing related activities in the exclusive economic zone or at a designated port.

(6) No licence or other authorization for fishing or fishing related activities shall be issued to a foreign fishing vessel unless fisheries access has been granted in accordance with this Act.

Fisheries access requirements

46. In addition to any other terms or conditions for fisheries access that may be prescribed or required, each agreement, arrangement, right, licence and authorization for fisheries access shall require:

- a) the operator to comply with all laws of Sierra Leone;
- b) the operator to hold, in respect of the vessel, a valid and applicable licence or authorization from the State in which it is registered to carry out fishing or fishing related activities in the fisheries waters;

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- c) the operator to hold, in respect of the vessel, a valid and applicable license for fishing or fishing related activities issued in Sierra Leone;
 - d) that the vessel is included on a list of authorized vessels maintained by any competent regional fishery body to which Sierra Leone is a party or a cooperating non-party in accordance with the rules of such organization(s);
 - e) that the vessel is not included on a list of illegal, unreported or unregulated vessels maintained by any competent regional fishery body to which Sierra Leone is a party or a cooperating non-party in accordance with the rules of such organization(s), and that that access shall automatically terminate should the vessel be included on such a list;
 - f) the other party to take all measures required to ensure compliance with the requirements for fisheries access and otherwise pursuant to this Act, including by posting a performance bond in accordance with section 51 if required;
 - g) where fisheries access is agreed with a corporation, association or other body acting on behalf of its members or other persons, it shall be liable for the undischarged liabilities of its members or other persons arising out of any operations under the agreement and the agreement itself, including fees;
 - h) that any trade-related undertakings are consistent with the rules of the World Trade Organization;
 - i) the flag States of the vessels to fully comply with their duties and responsibilities as flag States under international law and standards as reflected in international fisheries instruments;
 - j) fees, levies and other charges to be fully paid at the required time, and all other undertakings are discharged within a stated time, or access will automatically terminate should this not be done; and
 - k) such other requirements that may be made in accordance with the principles and objectives of this Act and as appropriate to implement any international obligation or undertaking of Sierra Leone.

Fisheries access
review

47. (1) Fisheries access shall, if agreed for more than one year, be subject to annual renewal based on a review which shall assess, *inter alia*:

- a) the compliance by the other party with the laws of Sierra Leone and the terms of the access agreement, arrangement, right, licence or authorization;
 - b) the realized benefits to Sierra Leone under the access agreement or arrangement for the preceding year;
 - c) the estimated value of the continuing fisheries access provided; and
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- d) such other matters as may be prescribed or required by the Minister in accordance with this Act.

(2) Fisheries access may be terminated or suspended at any time by the Minister on the advice of the Director, according to its terms or upon material non-compliance by the other party with this Act or any other requirement for fisheries access, and the other party shall be given reasonable notice of such termination or suspension to ensure the prompt termination of fishing or fishing related activities.

(3) Fisheries access may be suspended or otherwise limited by the Minister on the advice of the Director that continued fishing at current levels would pose a risk to the fish stocks based on a precautionary approach, or on such other ground for suspension or limitation as may be specified in this Act.

(4) Suspension of fisheries access or fishing in accordance with subsection (2) or (3) may be for such time or until such conditions are met as the Minister may require.

Requirements for joint venture and charter agreements, rights and vessel licensing for foreign fishing vessels

48. (1) No agreement governing joint ventures, or the chartering of any foreign fishing vessel for fishing or fishing related activities within or beyond the fishery waters, whether or not it involves changing the registration of the vessel, shall be valid unless and until it is approved by the Minister on the advice of the Director.

(2) A joint venture or charter agreement may be approved only where the following requirements are fully met:

- a) a charter agreement vests operational control of the foreign fishing vessel in a Sierra Leone citizen, resident or registered company;
- b) the joint venture or charter agreement provides clearly identifiable benefits with no adverse effects to Sierra Leone, its fisheries or its marine environment, including:
 - (i) development of the Sierra Leone fishing industry;
 - (ii) training of Sierra Leone citizens;
 - (iii) foreign exchange earnings for Sierra Leone;
 - (iv) investment in Sierra Leone;
 - (v) landing and domestic distribution activities; and
 - (vi) development of export activities;
- c) establishment of a company under the Companies Act, 2009 with specified ownership, control and equity by Sierra Leone citizens;
- d) the joint venture, charter agreement, right or vessel approved under this Act, is in full compliance with all applicable laws of Sierra Leone;
- e) full and complete evidence is submitted, as the Minister may require, that all financial obligations of the foreign fishing vessel will be met promptly and effectively, including payment of all fees and any applicable fine, penalty or other determination which

may result from the vessel's activities; and

- f) in respect of a charter agreement, that the flag State is responsible for exercising full and effective control over the vessel when it is in areas beyond the national jurisdiction of Sierra Leone.

(3) Unless a company is otherwise established under a joint venture or charter agreement, where the operator of the foreign fishing vessel is a company incorporated outside Sierra Leone and doing business in Sierra Leone, it shall establish a place of business in Sierra Leone that includes the requirements for significant benefit to Sierra Leone under subsection (2)(b) and shall comply with the requirements of Part XVIII of the Companies Act, 2009;

(4) Any vessel fishing under an approved charter agreement shall be subject to all requirements of this Act in respect of foreign fishing vessels, including licensing and compliance agreements.

Agents or companies to be designated for purposes of legal process, information

49. (1) The operator of each foreign fishing vessel licensed pursuant to section 45 (2) shall designate an agent in accordance with the terms of such agreement authorised to accept on behalf of the company service of process and any notices required to be served on the company and to provide such information as may be required under this Act with respect to the vessel and its activities, operator, master and crew members.

(2) Notwithstanding subsection (1), where a company has been established under the Companies Act, 2009 for purposes of obtaining a licence for fishing or fishing related activities under this Act, such company shall designate in writing to the Director promptly upon its incorporation:

- a) the full address of the registered or principal office of the company and their principal place of business in Sierra Leone;
- b) the present name and any former forename or surname, address and occupation of the person authorised to manage the company in Sierra Leone;
- c) a list of the directors of the company, containing such particulars with respect to the directors as are by this Act required to be contained with respect to directors in the register of the directors of a company; and
- d) the names and addresses of one or more persons continuously resident in Sierra Leone authorised to accept on behalf of the company service of process and any notices required to be served on the company and to provide such information as may be required under this Act with respect to the vessel and its activities, operator, master and crew members,

and in the event of any alteration being made in the instrument or in the address or in the directors or managers or in the names or addresses of such persons, the company shall promptly deliver to the Director a notice of the alteration.

(3) Each agent designated pursuant to subsections (1) and (2) shall:

- a) be continuously resident in Sierra Leone;
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- b) have no record of conviction;
 - c) have no record of association with illegal, unreported or unregulated fishing activities;
 - d) where relevant carry out duties as required pursuant to the Companies Act and other laws in Sierra Leone relating to agents;
 - e) provide such information as may be required pursuant to this Act in relation to the relevant foreign fishing vessel, subject to the rules of confidentiality in this Act;
 - f) receive and respond to legal process with respect to the vessel and its activities, operator, master and crew members;
 - g) comply with all laws of Sierra Leone;
 - h) not exceed his/her authority as an agent; or
 - i) not engage in any activity that constitutes or is likely to constitute a conflict of interest with his/her duties and responsibilities as an agent under this Act and the laws of Sierra Leone.

(4) The operator of each foreign fishing vessel required to designate an agent pursuant to subsection (1) or (2) shall ensure that the agent:

- a) has full legal authority and is sufficiently informed at all times in order to carry out his/her responsibilities pursuant to this Act including the requirements in subsection (3);
- b) complies with all requirements in subsection (3).

(5) No licence shall be issued to a foreign fishing vessel unless an agent has been designated in accordance with this section.

(6) Where any operator does not comply with subsection (4):

- a) the applicable licence(s) shall be suspended for such period as the Director, in consultation with the Minister, thinks fit but not less than one month; or
- b) the licence(s) may be revoked; and

he/she shall fully disclose information regarding the agreement between the operator and the agent in addition to the requirements of section 68 of this Act.

(7) A person who contravenes the requirements set out in subsections (1), (2), (3) or (4) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Preference for
Sierra Leone
products

50. The holder of a licence issued for purposes of fisheries access pursuant to this Part shall, in the conduct of all relevant activities, give preference to:

- a) materials and products made in Sierra Leone;
 - b) service agencies located in Sierra Leone and owned by:
 - (i) Sierra Leone citizens;
 - (ii) companies or partnerships incorporated or registered in Sierra Leone; and
 - (iii) Public corporations.
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Performance
bond

51. (1) The Minister may require either as a precondition of issuing a licence to any fishing vessel other than a Sierra Leone fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.

(2) Such performance bonds shall serve as a financial assurance for the fulfilment of all obligations arising out of the licence and this Act, including potential costs relating to rescue, recovery of other costs and fines, penalties and/or compensation for violations against this Act. Such performance bonds shall be drawn upon in such manner as may be prescribed.

(3) The amount of financial assurance provided under this section shall be determined in consultation with the Permanent Secretary and the Director and having regard to any applicable fishery management plan and the value of the relevant fishery.

(4) The forms of financial assurance acceptable under this section may be any or a combination of the following:

- (i) surety bond;
- (ii) trust fund with pay-in period;
- (iii) insurance policy;
- (iv) cash deposit;
- (v) annuities.

(5) Where a licence-holder is obligated to provide a financial assurance under this section and fails to do so, The Director shall:

- a) cause to be served, on the licence-holder a notice of demand; and
- b) cause a note of the service of the notice to be registered in a Magistrate's Court.

(6) If by the end of the period specified in the notice of demand under subsection (5) the financial assurance required from the licence-holder under this section:

- a) has been provided, the notice shall thereupon cease to have effect, and the Director shall cause the registry endorsement to be cancelled;
- b) has not been provided, the applicable licence shall be liable to cancellation by the Minister.

Force majeure or
distress

52. A foreign fishing vessel may be permitted entry into port for reasons of *force majeure* or distress exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

PART VIII DEVELOPMENT AND REGULATION OF AQUACULTURE

Aquaculture
activities

53. (1) No person shall engage in commercial aquaculture activities except in accordance with this Act.

requirements

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Aquaculture
development plan

54. (1) The Director shall, in consultation with the Scientific and Technical Committee, prepare an aquaculture development plan for the Minister's approval with the objective of promoting the sustainable development of aquaculture in Sierra Leone in accordance with the principles and objectives of this Act.

(2) The aquaculture development plan shall have a duration of at least three years and shall be renewed, modified or replaced at the end of each three year period.

(3) The aquaculture development plan shall include:

- a) a statement of the objectives and priorities of the plan and a strategy for achieving those objectives;
- b) performance indicators to monitor the extent to which the objectives of the plan are being attained;
- c) a strategy for monitoring progress at least on an annual basis, and as appropriate an evaluation of the implementation of the aquaculture plan that preceded it;
- d) a description or identification of any area of water which is suitable for aquaculture and the type of aquaculture for which the area is suitable;
- e) a description of suitable methods for undertaking any type of aquaculture;
- f) identification of suitable or unsuitable species of fish for aquaculture;
- g) requirements or standards for water quality, aquaculture waste, escapement, environmental impact assessments and the introduction, transfer and release of fish for purposes related to aquaculture; and
- h) any other matter concerning aquaculture which the Minister or Director considers appropriate.

(4) The first aquaculture development plan shall be prepared and submitted to the Minister for approval as soon as reasonably possible within six months from the date on which this Act enters into force.

Collaboration
with Local
Councils

55. The Director shall, in collaboration with Local Councils and other relevant bodies, ensure that:

- a) aquaculture development is ecologically sustainable and allows rational use of the resource shared by aquaculture and other activities; and

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- b) the livelihood, culture and traditions of local communities and their access to fishing grounds are not affected by aquaculture development.

Prohibited to deprive community of traditional access to fisheries

56. (1) No person shall, by carrying out aquaculture activities, deprive a local community of its traditional access to fishing grounds without good cause.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition shall restore to the local community its traditional access.

Local Council's responsibility to monitor non-commercial aquaculture activities

57. (1) Local Councils shall, based on the advice of the Ministry, monitor aquaculture and mariculture practices and operations in areas under their respective jurisdictions other than commercial aquaculture operations regulated pursuant to this Act.

(2) Where any person or any Local Council has cause to believe that any fish in and/or fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, he/she or such Local Council shall notify the Director.

(3) The Director shall, if he is satisfied that the fish and/or fish products subject to notification under subsection (2) are so infected, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and/or fish products in the said waters or the taking of such other measures as the Director may specify in the notice.

(4) Every person who receives a notice under subsection (3) shall comply with its requirements at his/her own expense, and in default of such compliance, the local authority may enter the relevant facility and take or cause to be taken such measures as may be necessary for complying with the requirements of the notice and any expenses incurred shall be recoverable as a civil debt from the person so notified.

(5) A person who does not comply with the requirements in the Director's notice received pursuant to subsection (3) commits an offence and shall be liable on conviction described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition shall be responsible for costs directly associated with the resulting damage.

Permission of Director and approval by Minister required

58. (1) No person shall, without written permission granted by the Director with the endorsement of the Minister:

- a) introduce or cause to be introduced into Sierra Leone or the fishery waters any species of fish or any genetically modified fish;
- b) transfer any eggs, fingerlings or seed of exotic or genetically modified species or such adult species of fish from one aquaculture facility in Sierra Leone to another or from any location in Sierra Leone to another;

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- c) import or export live fish for the purpose of aquaculture; or
 - d) release into the fishery waters any fish except for indigenous wild fish caught in Sierra Leone;

(2) Permission for any activity in subsection (1) may be granted subject to such conditions the Director, with the written endorsement of the Minister, considers appropriate.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

59. (1) The Director may inspect or cause to be inspected any fish before or after they are imported for the purpose of aquaculture and inspect or cause to be inspected any fish produced by aquaculture operations that are destined for export.

(2) The Director may seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.

Aquaculture
waste

60. (1) Each person engaged in commercial aquaculture in Sierra Leone shall ensure that aquaculture waste:

- a) does not cause an unsightly or offensive condition at the licence area; and
- b) is secured or treated in a manner designed to prevent it being blown, washed or swept off the area used by such person for aquaculture.

(2) Where any person fails or apparently fails to fulfil the conditions set out in subsection (1), the Director, in consultation with relevant environmental protection authorities, may notify such person in writing of the requirement to take measures to restore the applicable area to such standard as the Director may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area.

(3) Each person who is notified by the Director pursuant to subsection (2) shall promptly fulfil the requirements set out in the notification.

(4) A person who contravenes subsection (1) and (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition shall be responsible for compensation for the costs of restoring the applicable area as required pursuant to subsection (2).

Escapement

61. (1) Each person engaged in commercial aquaculture in Sierra Leone shall take appropriate measures to prevent and/or minimise the risk of the escape of aquaculture stock into the wild.

(2) Where there has been an escape of hatchery reared aquaculture stock or damage to a farming structure, equipment or facility that may lead to the escape of hatchery reared aquaculture stock, the operator of the relevant

aquaculture facility shall take immediate measures to minimise the damage and to repair any damage caused to the extent possible;

(3) Each person engaged in commercial aquaculture in Sierra Leone shall, within 12 hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which he/she exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the Director of the escape or damage, including the following:

- a) the species of fish affected;
- b) the date (or an estimate of the date) on which the escape or damage took place;
- c) the number and biomass (or an estimate of the number and biomass) of the fish that have escaped; and
- d) the age or developmental stage of the fish at the time of their escape; and details of the circumstances in which the escape or damage took place,

and, within 7 days after becoming aware of such escape or damage, notify the Director in writing of the action taken to deal with it.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Use of drug,
chemical etc
restricted

62. (1) No person shall use in a commercial aquaculture facility any drug, pharmaceutical, antibiotic or other chemical for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Information etc.
on wild,
genetically
modified species

63. The Director shall have the authority to collect information and data on wild and genetically modified species for the purpose of assessing the impact of aquaculture.

Interfering with
aquaculture
facility prohibited

64. (1) No person shall, without a valid and applicable aquaculture license:

- a) interfere with or harvest the product of an aquaculture facility without the written authority of the licensee;
- b) place any object in the water, or promote or undertake any activity in a manner so as to obstruct an aquaculture operation being carried out by another person;
- c) destroy, damage, displace or alter the position of any equipment lawfully deployed in connection with an aquaculture licence; or

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- d) without lawful excuse cause the release of any product of an aquaculture facility.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition shall fully compensate the relevant licensee for any damage which is the direct result of his/her contravention.

Transboundary
aquaculture
ecosystems

65. Subject to applicable regional and international law, the Minister shall initiate dialogue with other riparian States to ensure that governments and aquaculture farmers are obliged to protect transboundary aquatic ecosystems from:

- a) escapement of aquaculture species into shared water bodies;
- b) waste from aquaculture activities;
- c) diseases that are likely to become or have reached epidemic proportions; and
- d) effluent that might affect transboundary aquatic ecosystems.

PART IX - INFORMATION, DATA AND RECORDS

Information, data
and records

66. (1) The Director may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as he/she may specify, or as may be prescribed:

- a) any information and data, including information relating to fishing, fisheries, aquaculture, landing, research, storage, food safety, processing, buying, selling, exports and other related transactions;
- b) accounts, records, returns, documents; and
- c) other information in relation to activities falling within the scope of this Act additional to that specified under this Act.

(2) The following categories of persons shall keep such accounts, records, documents, and furnish such returns, data and other information, in accordance with the requirements under this Act:

- a) holders of licences or authorizations issued under this Act;
 - b) owners, operators, legal representatives, and masters of vessels licensed or authorized under this Act;
 - c) owners and persons in charge of any premises where fish or fish products are received, bought, stored, transported, processed, sold, or otherwise disposed of;
 - d) persons who engage in the receiving, buying, selling, transporting, processing, storage, export, import or disposal of fish or fish products;
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- e) persons who engage in commercial aquaculture activities;
 - f) persons engaged in recreational fishing;
 - g) persons engaged in fishing otherwise than for the purpose of sale of the fish caught, including research; and
 - h) such other persons who may be required to do so by the Director pursuant to this Act.

(3) The Director may, for purposes of verification of accounts, records, documents, returns, or information required to be kept, furnished or communicated in any manner or form under subsection (1) or (2):

- a) audit or inspect any accounts, records, returns or other information or place where such information may be kept;
- b) audit or inspect any vessel, processing plant or other facility operating under the scope of this Act; and
- c) require from any person further information, clarification or explanation regarding any accounts, returns or information kept, furnished or communicated under this section in accordance with such time limits as may be specified or prescribed.

(4) A person who:

- a) is required pursuant to subsections (1), (2) and/or (3) to keep, furnish, provide or communicate any accounts, records, returns or other data or information and does not do so as lawfully requested or required; or
- b) does not facilitate, assist or comply with the requirements for an audit or inspection undertaken pursuant to subsection (3),

commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and any licence issued pursuant to this Act which is held by such person shall be revoked.

Ownership of information

67. Ownership of all information required to be reported, notified or otherwise given to the Government and all information generated by automatic location communicators or similar device that is part of a vessel monitoring system under this Act is vested in the Government.

Information in partnership agreements between vessel agents and vessel owners

68. (1) True copies of all agreements setting out the terms of partnership, association or other contractual obligations of agents to vessel owners shall be deposited in their full and unabridged form with the Ministry upon the application in respect of a foreign fishing vessel for any licence or authorization under this Act.

(2) In cases where the agreement contains information of a significantly sensitive commercial nature, such information may be concealed provided that it is declared, certified and legally notarized as such.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

(4) Any person who, not being party to the partnership, association or other contractual obligation referred to in subsection (1), divulges information of a confidential nature or conceals information which is not of a significantly sensitive commercial nature, commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Information on the labels of containers, etc. containing fish harvested in the fishery waters

69. (1) The labels of any container or packaging materials containing fish harvested in the fishery waters shall clearly designate:

- a) that the fish were harvested in the fishery waters, irrespective of the flag State of the vessel or nationality of any person involved in the production of such fish, and shall not indicate in any way that such fish is the product of any State other than Sierra Leone;
- b) the name of the fishing vessel that harvested the fish;
- c) the name of the company that is the owner or operator of the fishing vessel; and
- d) such other information that may be prescribed.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Information to be true, complete and correct

70. (1) Any information given, furnished or maintained or required to be given, furnished or maintained under this Act shall be true, complete and accurate and no such information shall be false, misleading or inaccurate.

(2) A person who keeps, furnishes or communicates any accounts, records, returns or information by or under this Act, and gives, furnishes, or maintains information which is false, misleading or inaccurate in contravention of subsection (1) in any material respect, commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and any relevant licence issued pursuant to this Act which is held by such person may be revoked.

Confidential information

71. (1) No person carrying out duties or responsibilities under this Act, including the Minister, Permanent Secretary and Director shall, unless authorized or otherwise provided or directed in accordance with this Act, reveal information or other data of a confidential nature or designated as confidential in accordance with this Act, acquired by virtue of their said authority, duties and responsibilities to any person not having such authority or carrying out such duties and responsibilities.

(2) The Minister in consultation with the Director may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirements.

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- (3) The Director may authorise in writing any person to:
- a) receive or access confidential information;
 - b) access or restrict access to such premises holding confidential information as he/she may designate.
- (4) Notwithstanding subsection (2), the following information shall be confidential unless the Minister in consultation with the Director otherwise directs:
- a) any information or data of a commercial nature provided in records, returns, or other documents required under this Act;
 - b) any information or data supplied by a vessel monitoring system or part thereof in accordance with this Act;
 - c) such raw data from scientific research as may be designated by the Minister in consultation with the Director; and
 - d) such other information or data as may be required by the Minister consultation with the Director.
- (5) Information may be disclosed to the extent:
- a) that disclosure is authorized or required under this Act or any other law;
 - b) that the person providing the information authorized its disclosure;
 - c) necessary to enable the Director to publish statistical information relating to the fisheries sector;
 - d) necessary for enforcement of Sierra Leone laws by other Ministries and agencies of the Government of Sierra Leone;
 - e) necessary to discharge regional or international obligations or to promote regional and international cooperation or coordination in monitoring, control and surveillance of relevant activities; and
 - f) necessary to enable advice to be given to the Minister.
- (6) The Minister in consultation with the Director may authorise the release of any information:
- a) relating to the real-time or other position of any vessel, upon request, to the responsible authority for purposes including surveillance, search and rescue and other emergency;
 - b) for purposes he/she deems would be supportive of the objectives and enforcement of this Act, including reasonable transparency in decision-making; or
 - c) designated as confidential for such purposes as the Minister may
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approve or as may be prescribed.

(7) Any information designated as confidential shall maintain such classification for a period of five years from the time of such designation, and at the expiry of five years, the Minister in consultation with the Director may extend such classification for a further period of up to five years or more as they may deem necessary for purposes relating to the objectives and enforcement of this Act.

(8) A person who does not comply with the requirements of subsection (1), except where disclosure is authorized pursuant to subsection (3), (5) or (6) commits an offence and shall be liable on conviction to a fine described in the Second Schedule.

Registers of
licences and
authorizations

72. (1) The Director shall establish and maintain a national register of licences and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Minister.

(2) The register established under subsection (1) shall include:

- a) information on applications for licences and authorizations under this Act;
- b) information on each licence and authorization issued, renewed, suspended and/or cancelled under this Act, including the activity, date and duration;
- c) information on each licensed or authorized person;
- d) information on the relevant vessel, facility, and/or licensed or authorized activity;
- e) any record of non-compliance with the licence or authorization;
- f) any record of action taken as a result of non-compliance;
- g) the requirements of any relevant international conservation and management measures of an organization of which Sierra Leone is a member or cooperating non-member; and
- h) such other information that may be prescribed or required by the Director.

(3) The register established under subsection (1) shall contain information relating to fishing vessels licensed or authorized for fishing or fishing related activities:

- a) within areas under national jurisdiction; and
- b) in areas beyond national jurisdiction.

(4) The Director shall, in respect of information contained in the register in accordance with subsection (2), provide access to such information on request by directly interested Government bodies of Sierra Leone, regional fishery bodies including regional fisheries management organizations, international organizations and foreign States or entities, taking into account any applicable

laws regarding the confidentiality or release of such information.

(5) The Director shall ensure that the information on each license and authorization in the database is sufficient for purposes of fisheries management and monitoring, control and surveillance, and to implement the international and regional agreements to which Sierra Leone is party or cooperating non-party.

(6) The Director shall ensure that, as appropriate, information is released from the database and communicated to other States and regional and international organizations in a timely manner to ensure the discharge of the regional and international obligations of Sierra Leone including as a flag State and as a member of regional fisheries management organizations.

(7) Registration of a licence or authorization in the national register shall not be considered a licence or authorization for the purposes of this Act.

(8) A person may, upon payment of such fee as may be prescribed, access any non-confidential information from the register.

Information on legal and administrative action taken in respect of violations of the Act

73. The Director shall maintain and make publicly available a record of the outcome of any legal or administrative action taken in respect of any violation against this Act that results in a judgment or administrative determination.

PART X - LICENSES, AUTHORIZATIONS AND REGISTRATION REQUIREMENTS AND PROCEDURES

Division 1 General requirements

Licences and authorizations required

74. (1) A valid and applicable licence issued in accordance with Section 76 shall be required for:

- a) using an industrial fishing vessel for fishing or fishing related activities in the fishery waters;
 - b) using a semi-industrial fishing vessel for fishing or related activities in the fishery waters;
 - c) using any vessel for recreational fishing in the fishery waters;
 - d) operating a fish processing establishment;
 - e) commercial aquaculture;
 - f) the building and sale of semi-industrial fishing vessels; and
 - g) such other activity or activities within the scope of this Act for which a licence or authorization may be required by the management measures in an applicable Fisheries Management Plan adopted in accordance with the requirements in this Act, or as may be prescribed from time to time.
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(2) A valid and applicable written authorization issued in accordance with section 76 shall be required for:

- a) using a Sierra Leone fishing vessel in areas beyond national jurisdiction;
- b) each transshipment, including the transfer of fish from a fishing vessel to a carrier vessel or a shore based facility for the purpose of export;
- c) using any vessel for marine scientific research or test fishing;
- d) using any foreign fishing vessel to enter a port in Sierra Leone; and
- e) deployment and maintenance of any fish aggregating device in the fishery waters.

Grant, renewal and issuance of licences and authorizations

75. (1) The Director may approve the grant or renewal of licences or authorizations for any purpose specified in section 74 after all inspections, verifications and other pre-licensing requirements under this Act have been discharged and each licence or authorization shall be issued or renewed upon the written endorsement of the Minister.

(2) A licence or authorization shall not have legal force or effect unless it has been approved and endorsed as required in subsection (1).

(3) The Director shall, in approving or renewing a licence under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.

(4) The Director shall promptly issue such licences or authorizations when all required conditions under this Act have been met and the Minister has endorsed such licence or authorization.

(5) Where the Director declines to approve, issue or renew a licence or authorization, he/she shall state in writing reasons for the decision, and promptly transmit them to the applicant.

Standards for approval, renewal and issuance of licences and authorizations

76. (1) In approving or renewing licences and authorizations pursuant to this Act, and in setting the level of any performance bond required pursuant to section 51, the Director shall take into account the extent to which the relevant fishing vessel, including its operator or other relevant person, as appropriate, has:

- a) the ability to comply with or has complied with this Act, relevant laws of Sierra Leone and any applicable licensing terms and conditions or Fisheries Management Plan and such other standards as may be required in writing by the Director;
- b) complied, and has the ability to further comply with other applicable regional and international obligations of Sierra Leone;

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- c) complied with all applicable vessel registration requirements;
 - d) complied with all applicable requirements for prelicensing inspections and related procedures, including as appropriate the full payment of costs for inspections;
 - e) provided all required data and information;
 - f) in the case of an operator or person, complied with applicable laws of other States and international conservation and management measures;
 - g) where the applicant has been convicted of any offence under this Act or any other law relevant to the activity for which application was made, the requirements of the judgement have been fully met; and
 - h) complied with other relevant laws of Sierra Leone including any applicable requirements of the Merchant Shipping Act, 2003 and the Companies Act, 2009.

(2) In approving or renewing licences and authorizations in respect of any fishing vessel other than a Sierra Leone fishing vessel pursuant to this Act, and in setting the level of any performance bond required pursuant to section 51, the Director shall take into account the ability of the relevant flag State to ensure compliance by its fishing vessels with the laws of Sierra Leone.

(3) An industrial fishing licence shall not be issued or have legal force or effect unless the relevant vessel submits to inspection at the port of Freetown or such other port as may be required by the Director, at the expense of such vessel, and it is established in writing by an inspector, or in the case of a port outside Sierra Leone a person duly authorized by the relevant government agency to carry out the duties of an inspector, that all required licence conditions have been met, including that all gear on board is authorized pursuant to the licence.

(4) A fish processing licence shall not be issued or have legal force or effect unless the Director is satisfied that the fish processing establishment or any other operation complies with all such safety and sanitary standards as this Act, other laws of Sierra Leone and conditions as the Minister by notice in the *Gazette* may require.

Requirements for denial of licences and authorizations

- 77.** (1) A licence or authorization shall not be approved, endorsed, issued or renewed where:
- a) the relevant vessel is not intended for use as a fishing vessel;
 - b) the relevant vessel does not hold a valid and applicable registration, or holds more than one registration;
 - c) the relevant vessel is not a Sierra Leone vessel and does not have a valid and applicable authorization or licence from its flag State to fish in areas beyond national jurisdiction;
 - d) the issuance of a licence would be contrary to any applicable fisheries management plan or an aquaculture development plan;
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- e) the applicant for a commercial aquaculture licence has not undertaken an environmental impact assessment as required in respect of an aquaculture licence, or that such an assessment concludes that a licence should not be approved, endorsed, issued or renewed;
 - f) the species of fish that the applicant for a commercial aquaculture licence proposes to farm, the method of aquaculture that the applicant proposes to employ or the proposed site for aquaculture do not meet standards or requirements that may be prescribed or publicly notified for aquaculture;
 - g) within the previous six years, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act or any international agreement and has not complied with a judgment or administrative determination unless there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported and unregulated fishing;
 - h) the applicant, vessel, or associated person has been charged with an offence pursuant to this Act more than three times and has:
 - (i) not submitted to judicial or administrative procedures; or,
 - (ii) has submitted to judicial or administrative procedures but has not fully complied with the final decision or determination;
 - i) the issuance of the licence or authorization would be inconsistent with an international agreement to which Sierra Leone is party;
 - j) the operator of the fishing vessel has not provided a performance bond if so required pursuant to section 51;
 - k) the activity is likely to threaten the sustainability of a fishery resource;
 - l) in the case of a foreign fishing vessel, an agent has not been appointed; or
 - m) a vessel has been included on a list of illegal, unreported and unregulated fishing vessels established and maintained by a competent regional fishery body in accordance with its rules and procedures.

(2) A licence or authorization shall not be approved, issued or renewed for any fishing vessel if that vessel was previously licensed or authorized by a foreign State for fishing within or in areas beyond national jurisdiction and was convicted of a violation under national law or undermined the effectiveness of international conservation and management measures, and, as a consequence:

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- a) the foreign State suspended such licence or authorization because of illegal, unreported or unregulated fishing activities by the vessel, and the suspension has not expired; or
 - b) the foreign State within the last three years preceding the application for a licence under this Act withdrew such licence or authorization for illegal, unreported or unregulated fishing activities.

(3) The restriction in subsection (2) does not apply if the ownership of the vessel has changed since the vessel undermined international conservation and management measures, and the new owner has provided sufficient evidence to the Director demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in the vessel.

(4) For the purpose of subsection (1)(e) the term 'associated' shall include situations where the same legal or beneficial owner, or agent is shared.

Application for
the grant or
renewal of
licences or
authorizations

78. (1) Except where otherwise prescribed, an application for a licence or authorization under this Act shall:

- a) contain such information as may be required in this Act or in writing by the Director or as may be prescribed;
- b) be in such form as may be prescribed or such other form as may be approved by the Director;
- c) in the case of industrial fishing vessels, be accompanied by an International Tonnage Certificate showing the gross tonnage issued under the International Tonnage Rules;
- d) be accompanied by a fishing plan which shall specify for each month of the full period of validity of a licence or authorization, a fishing plan including the:
 - (i) fishing gear to be used;
 - (ii) species to be targeted for fishing, and expected quantity;
 - (iii) species that will constitute bycatch and expected quantity; and
 - (iv) area in which fishing or fishing will take place; and
- e) be made in accordance with such procedures and other requirements as may be approved by the Director.

(2) A non-refundable application fee as may be prescribed shall be payable and shall accompany every application for a licence or authorization required pursuant to this Act or the renewal of such licence or authorization.

(3) Where:

- a) the Director considers that an application has been made for an inappropriate class of licence;

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- b) there is insufficient evidence or information accompanying the application upon which to make a recommendation regarding the application;
 - c) the information accompanying the application appears to be false, misleading or inaccurate; or
 - d) upon such other grounds as may be approved by the Minister,

the Director shall return the application to the applicant with details of her/his reasons for returning the application, and the applicant may submit a revised application with such additional evidence or information as may be appropriate.

(4) If the information on an application is found to be false, misleading or inaccurate the Director may decline to grant the licence or authorization, or if such information is discovered to be false, misleading or inaccurate after the grant of the licence or authorization, the Director may suspend or cancel the licence or authorization.

Terms and conditions of licences and authorizations

- 79.** (1) A licence or authorization granted under this Act:
- a) shall be subject to the terms and conditions, requirements and endorsements as are provided in this Act or as may be otherwise prescribed or required by the Director by Public Notice from time to time;
 - b) subject to subsection (2), shall enter into force on the date specified in it; and
 - c) unless sooner revoked or suspended in accordance with this Act, remains in force until the date on which it expires in accordance with the period approved by the Director from time to time for the class of licence or authorization to which it belongs.
- (2) No licence or authorization shall be issued unless:
- a) the approved fee and other required charges have been paid at the required time; and
 - b) where applicable:
 - (i) a performance bond has been issued as required pursuant to section 51 and notified to the Director; and
 - (ii) any access fee and/or other charges or levies payable under any relevant access agreement or arrangement, right or licence have been paid.
- (3) The holder of a licence or authorization issued pursuant to this Act shall:
- a) comply with this Act, the laws of Sierra Leone, any applicable access agreement, fisheries management plan, and international conservation and management measures;
 - b) comply with all relevant provisions of national law relating to
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navigational standards and the safety of vessels at sea; and

- c) not engage in fishing or fishing related activities, operate a fish processing establishment or engage in semi-commercial or commercial aquaculture except as stated in the licence or authorization.

(4) The holder of a licence or authorization in respect of a fishing vessel shall ensure that the licence or authorization, or a certified copy thereof is carried on board any relevant vessel at all times during the period of validity and the master shall upon request, produce it to an authorized officer or inspector or other person authorized under this Act to inspect it, provided that the Director may authorise a true copy of a licence to be temporarily carried in circumstances where it has not been reasonably practical for the original to be placed on board a vessel.

(5) The holder of a licence or authorization issued pursuant to this Act, other than for a fishing vessel, shall display the licence or authorization or a certified copy thereof in the registered business office, and produce it upon request to an authorized officer or inspector or other person authorized under this Act to inspect it.

(6) A person who contravenes subsection (3), (4) or (5) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Preference for employment of citizens of Sierra Leone

80. (1) Where commercial employment is foreseen in relation to the activity for which the licence or authorization is sought, it shall be a condition of the licence or authorization that citizens of Sierra Leone possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance with the national labour laws.

(2) A licensee shall not:

- a) import unskilled labour; or
b) in any case use child labour,

for the carrying out of any of its operations undertaken under the terms of the applicable licence or authorization.

(3) Where the applicant for a licence or authorization is partly or wholly a foreign citizen or company, or where an applicable fisheries access agreement, arrangement, right, licence or authorization has been entered into pursuant to section 45, such applicant shall be required, to the extent possible and in such manner as the Director may in consultation with the Minister approve, to contribute to the training and employment of Sierra Leone citizens taking into account the requirements of safety and the need to maintain acceptable standards of efficiency in the conduct of the operations.

(4) A person who contravenes subsection (2) or who does not fulfil requirements made by the Director under subsection (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule.

Period of validity of licences and

81. A licence or authorization issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one year and may be

authorizations renewable, subject to fisheries management decisions taken in accordance with this Act and the terms and conditions set out in the licence or authorization.

Fees, charges or levies **82.** (1) A licence or authorization granted under this Act shall be subject to payment of:

- a) such licence fee prescribed for that class of licence as may be prescribed; and
- b) such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the Director by public notice.

(2) The Director may, as a component of the licence or authorization fee for any fishing vessels, charge for the costs relating to observers described in section 129 of this Act, and shall deposit such component into a designated account in the Fund established in section 12 and use such component solely for the purposes of the observer programme set out in section 122 and to pay the observer costs identified in section 128.

(3) The Director may charge licence holders for the costs of services, including inspection services, in accordance with such policy and at such levels as the Minister may establish by Public Notice.

(4) Unless otherwise prescribed or required, the amounts payable pursuant to subsections (2) and (3) shall be paid as a condition of the issuance of a licence and no licence shall be issued unless they have been paid in full.

Suspension or cancellation of licence or authorization **83.** (1) The Director may, by written notice to the holder of a licence or authorization or that person's agent, suspend or cancel any licence or authorization issued pursuant to this Act for any of the following reasons:

- a) there has been a contravention of the licence or authorization, this Act, an applicable international agreement and/or international conservation and management measures in respect of which the licence or authorization was given, and:

- (i) any applicable law or international agreement provides for such suspension or cancellation;
- (ii) the relevant person or persons involved in such contravention has/have not submitted to the legal or administrative process, or complied with the requirements of an applicable fine, penalty or other determination; or
- (iii) the Director, having regard to the nature and seriousness of the contravention, considers it appropriate to suspend or cancel the licence or authorization;

- b) there has been a failure to maintain or comply with, or there has been any material change or change in circumstances affecting the eligibility criteria for the licence or authorization, in the:

- (i) registration of a company or a vessel;
 - (ii) ownership or beneficial ownership or control of a company or vessel since the time of licence approval;
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or
(iii) characteristics, identification markings, or gear of any licensed industrial fishing vessel;

- c) the licence or authorization holder has furnished information which is untrue, incomplete or misleading in connection with the licence application;
- d) where a licence or authorization may be transferred, this has been done without the written approval of the Director and endorsement by the Minister;
- e) any fees, charges or levies required to be paid after the issuance of the licence or authorization have not been paid as required;
- f) it is necessary to do so to implement conservation and management measures under this Act, in accordance with its objective and principles;
- g) in the case of a commercial aquaculture licence, the licence holder fails to establish the aquaculture operation within the time specified by the Director; or
- h) such other reasons as may be prescribed or provided in relevant laws of Sierra Leone.

(2) The Director shall suspend or cancel a licence or authorization in accordance with such procedures as may be prescribed, where:

- a) this Act, a fisheries management plan, aquaculture development plan or any international agreement so requires; and
- b) such suspension or cancellation is endorsed by the Minister.

(3) Where a licence or authorization has been suspended or cancelled in accordance with subsection (2), the Director shall notify the applicant of the reasons.

(4) There shall be no refund of fees paid in respect of a licence or authorization suspended or cancelled under this Act.

(5) No person shall engage in any activity for which the relevant licence or authorization was issued after a notice of suspension or cancellation given pursuant to subsection (3) has been received by the holder.

(6) A person who contravenes subsection (5) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Termination of licences and authorizations

84. (1) A licence or authorization issued pursuant to this Act shall automatically terminate:

- a) upon the expiration of the period for which it was valid;
 - b) where the vessel changes the country of registration, becomes
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registered in more than one country or is de-registered; or

- c) where the master, owner or charterer of the fishing vessel to which the licence or authorization relates is convicted of an offence under this Act and a decision to terminate the licence or authorization has been taken by the relevant judicial or administrative proceedings.

(2) There shall be no refund for a licence or authorization terminated pursuant to this Act.

(3) No person shall engage in any activity for which the relevant licence or authorization was issued after it has automatically terminated in accordance with conditions specified under subsection (1) (a), (b) or (c).

(4) A person who contravenes subsection (3) commits an offence and shall be liable on conviction to a fine to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Transfer of licences and authorizations

- 85.** (1) Any licence or authorization issued pursuant to this Act shall be:
- a) issued to a specific fishing vessel or activity; and
 - b) personal to the holder of that licence.

(2) Notwithstanding subsection (1), a licence issued to an industrial fishing vessel may be transferred to another industrial fishing vessel with the same characteristics and under the same agency with written authorization by the Director and endorsement by the Minister.

Right of appeal

86. An applicant for a licence who is aggrieved by a decision not to grant or renew any licence or authorization under this Act may appeal to the Minister within thirty days of receiving notification of such decision, and may further appeal to the High Court within thirty days of receiving notification of the Minister's decision.

Division 2

Fishing, transshipment and fish aggregating devices

Conditions for fishing for industrial or semi-industrial fishing vessels

- 87.** (1) Fishing licences issued for industrial or semi-industrial fishing vessels for fishing or fishing related activities shall include the following conditions:
- a) the fishing vessel shall clearly display at all times such markings as may be prescribed and shall not change such markings without written permission from the Director;
 - b) the fishing vessel shall at all times fly the flag of the State of which it is national;
 - c) the operator shall hold a valid registration in respect of the fishing vessel as may be required by the flag State or entity for that type of vessel and issued by such flag State or entity;
 - d) the operator shall hold only one valid registration in respect of the fishing vessel and shall not at the same time hold more than one
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such registration;

- e) the operator shall comply at all times with such requirements for trawling gear as may be prescribed;
- f) the operator shall not carry on board the fishing vessel any fishing gear that has not been approved for fishing activities pursuant to the fishing licence or authorization;
- g) the operator shall not carry firearms aboard unless authorized by the Director;
- h) unless otherwise authorized by the Director, the operator shall ensure that at least 45% of the crew members on board each fishing vessel are citizens of Sierra Leone;
- i) the operator shall comply with all relevant provisions of national law relating to navigational standards and the safety of vessels at sea;
- j) the operator shall comply with any direction given by the Director for inspection of the vessel prior to departing from the fishery waters; and
- k) such other conditions that are required pursuant to this Act, or that may be required by Public Notice by the Minister or may be prescribed.

(2) A person who contravenes any condition in subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Conditions for industrial fishing vessels

88. (1) In addition to the conditions specified in section 87, licences issued to industrial fishing vessels for fishing or fishing related activities shall be subject to the following conditions:

- a) the operator shall maintain fishing and navigational logbooks at all times in the English language with such information and in the format as may be prescribed or required by the Director;
 - b) the operator shall install, maintain and operate, in accordance with the requirements of this Act, an automatic location communicator or such other equipment integral to a vessel monitoring system as the Director may require;
 - c) the operator shall carry on board an observer designated by the Director and comply with all requirements relating to observers set out in this Act;
 - d) the operator shall report the vessel's position, catch and such other information that may be required by the Director to the every 24 hours while in the fishery waters;
 - e) the operator shall continually monitor the international distress
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and call frequency and the international safety and calling frequency;

- f) the operator shall ensure that a recent and up-to-date copy of the International Code of Signals be carried on board and accessible at all times;
- g) the operator shall ensure that a recent and up-to-date set of charts showing the fishery waters is carried on board at all times;
- h) the operator shall not at any time, except for purposes of steaming directly into port with all gear stowed, cause or allow the fishing vessel to enter, be present in, engage in fishing for or take or carry on board or possess fish taken from the Inshore Exclusion Zone;
- i) the operator shall not at any time cause or allow the fishing vessel to engage in fishing for or take or carry on board or possess fish taken from a closed area or from any Marine Protected Area declared pursuant to this Act where such fish are protected;
- j) the operator shall retain no more than 30 % of the bycatch, or such other amount as maybe prescribed and the remaining portion of the bycatch shall be landed as required pursuant to subparagraph (k);
- k) except where transshipment has been authorized, all catch, or such portion, shall be landed for sale in the local market at such places as may be designated in the licence or directed in writing by the Director, and unless otherwise prescribed shall include the following landing obligations for each designated class of vessel in respect of the total fish catch for each fishing trip:
 - (i) fish trawlers: 40%
 - (ii) shrimp trawlers: 70% of the bycatch
5% of the shrimp
- l) no person shall use a Sierra Leone fishing vessel, being an industrial fishing vessel, except with a valid and applicable authorization issued pursuant to an application made in accordance with such form as may be prescribed, for fishing or fishing related activities:
 - (i) on the high seas;
 - (ii) in areas under the national jurisdiction of any other State except in accordance with the laws of that State;
or
 - (iii) that do not comply with an applicable international agreement or undermine the effectiveness of international conservation and management measures;
- m) no person shall use a Sierra Leone fishing vessel, being an industrial fishing vessel, during the period of validity of the licence:
 - (i) for fishing or fishing related activities on the high seas

or fishing related activities in areas subject to international conservation and management measures unless the licence or authorization has been endorsed to authorise such fishing;

- (ii) in areas of national jurisdiction of other States except in accordance with a licence or authorization and the laws of that State; or
- (iii) to engage in any activity on the high seas or in areas of national jurisdiction of other States which does not comply with an applicable international agreement or undermines the effectiveness of international conservation and management measures in an area to which such measures apply;

- n) unless the Director otherwise directs in writing or unless the master of the fishing vessel is able to communicate effectively in English, the operator shall ensure that the fishing vessel has on board at all times while in the fishery waters a person who is able to communicate effectively in English and in the language of the master; and
- o) such other conditions that may be required by Public Notice by the Minister or prescribed in accordance with this Act.

(2) A person who contravenes any condition in subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Reporting requirements for industrial fishing vessels

89. (1) In addition to the conditions described in sections 87 and 88, the operator of each industrial fishing vessel shall make such reports as may be prescribed or required by the Director as a condition of licence or authorization, which shall include:

- a) maintaining a fishing log for each fishing trip in the area to which the relevant licence applies in the English language or other language approved by the Director, which shall include:
 - (i) the gear type used;
 - (ii) the noon position of the vessel and, where applicable, the set position of the fishing gear and soak time or the number of hooks and the sea surface temperature;
 - (iii) the total number of hauls per day, aggregate time for each haul and total number of days fished per fishing trip;
 - (iv) the species of fish taken and the size and quantity of each species by weight or number as may be specified in the relevant reporting form;
 - (v) the species of fish returned from the vessel to the sea, the reason for the discard, the quantity of each species by weight or number; and
 - (vi) such other information as may be prescribed or as the Director may require.

- b) reporting information as may be prescribed or required approved
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by the Director relating to the position of, and the catch on board, the vessel and such other information that may be required by this Act or the Director at the following times:

- (i) at least 24 hours prior to the estimated time of entry into and departure from the fishery waters;
 - (ii) each day while the vessel is in the fishery waters;
 - (iii) at least 24 hours prior to the estimated time of entry or departure from port; and
 - (iv) upon entry into or departure from a closed area or Marine Protected Area.
- c) ensuring that any information or data which may be required to be transmitted by radio communication, a transponder, automatic location communicator or other component of a vessel monitoring system is transmitted continuously, accurately and effectively to the designated receiver;
- d) providing such daily information as and in the form the Director may require to give effect to its duty under international agreements and law; and
- e) certifying that all information provided pursuant to subparagraphs (a), (b), (c) and (d) is true, complete and correct.

(2) A person who contravenes any condition in subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Conditions for semi-industrial fishing vessels

90. (1) In addition to the conditions described in section 87, licences issued to semi-industrial fishing vessels for fishing or related activities shall be subject to the following conditions:

- a) no person shall use a semi-industrial fishing vessel during the period of validity of the licence:
 - (i) for fishing or fishing related activities in areas under the national jurisdiction of other States unless the licence or authorization has been endorsed to authorise such fishing or fishing related activities; or
 - (ii) in areas of national jurisdiction of any other State except in accordance with laws of that State;
- b) Every semi-industrial fishing vessel shall be marked with a registration number and such other identification markings as may be prescribed or required in writing by the Director.
- c) On receipt of an application for registration of a semi-industrial fishing vessel made under this Act, the Director shall, as soon as practicable, cause the vessel to which the application refers to be inspected and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the Director shall assign identification markings to the vessel and on payment by the applicant of the prescribed registration fee, issue to the owner of the vessel a certificate of registration.

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- d) Except where transshipment has been authorized, all catch, or such portion as may be prescribed or required by the Director, shall be landed for sale in the local market at such places as may be designated in the licence or directed in writing by the Director, and shall include the following landing obligations for each designated class of vessel in respect of the total fish catch for each fishing trip, unless otherwise prescribed:

- (i) undecked semi-industrial fishing vessels: 100%;
and
- (ii) decked semi-industrial fishing vessels: 50%.

- e) No person using an undecked semi-industrial fishing vessel shall carry gear that exceeds such amount and dimensions as may be prescribed.

(2) A person who contravenes any condition in subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Reporting requirements for semi-industrial fishing vessels

91. (1) In addition to the conditions described in sections 90, the operator of each semi-industrial fishing vessel shall make such reports as may be prescribed or required by the Director, monthly or at such earlier time as may be required by the Director, as a condition of licence or authorization, which shall include:

- a) maintaining a fishing log for each fishing trip in the area to which the relevant licence applies, in the English language or other language approved by the Director, which shall include:
 - (i) the date of fishing;
 - (ii) the gear type used;
 - (iii) the species of fish taken and the size and quantity of each species by weight or number as may be prescribed or the Director may require; and
 - (iv) the species of fish returned from the vessel to the sea, the reason for the discard, the quantity of each species by weight or number;
- b) the place of landing or transshipment;
- c) such other information as may be prescribed or as the Director may require; and
- d) certifying that information provided pursuant to subparagraphs (a), (b) and (c) is true, complete and correct.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Conditions for recreational fishing vessels

92. (1) Licences issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions:

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- a) on receipt of an application for registration of a recreational fishing vessel made in accordance with such form as may be prescribed, the Director, shall as soon as practicable, cause the vessel to which the application refers to be inspected and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration;
 - b) no person shall use a recreational fishing vessel for fishing in the fishery waters unless a valid and applicable registration has been issued under the authority of the Director, and the registration number is prominently displayed on such vessel in such manner and format as may be required by the Director; and
 - c) such other requirements as may be prescribed or required by the Director.

(2) A person who contravenes any condition in subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Registration of
artisanal vessels

93. (1) The owner of each artisanal fishing vessel shall apply for a registration number in such form as may be prescribed.

(2) No person shall use an artisanal fishing vessel for fishing in the fishery waters without:

- a) a valid and applicable registration number; and
- b) displaying such registration number in accordance with the requirements in such form as may be prescribed.

(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Requirements for
transshipment

94. (1) The operator of any vessel intending to take on board any fish by transshipment or any other means, shall:

- a) only tranship:
 - (i) at the port of Freetown or such other port in Sierra Leone that may be designated by the Director;
 - (ii) at the time and date authorized for transshipment; and pursuant to a valid and applicable authorization issued pursuant to this Act and on such terms and conditions that may be required by the Director; and
- b) notify the Director of such intention not less than 72 hours prior to the intended transshipment.

(2) Notification given under subsection (1) shall include:

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- a) the vessel's name, radio call sign and fishing licence number where applicable;
 - b) full details of any catch on board the vessel;
 - c) the intended place, date and time of the transshipment;
 - d) the intended species and quantity of fish to be transhipped; and
 - e) the intended date and arrival time in Freetown in order that supervisory arrangements can be made.

(3) Not less than 72 hours prior to transshipment, the operator shall apply to the Director for a transshipment or loading authorization as the case may be in accordance with the conditions and in such form as may be prescribed and prior to the issuance of such authorization shall pay the required fee.

(4) The transshipment or loading authorization shall specify when and where transshipment or loading shall take place and shall be subject to such conditions as the Director may endorse.

(5) The operator of a fishing vessel shall:

- a) not tranship at sea under any circumstances unless authorized by the Director;
- b) only tranship at the time and port or other place authorized by the Director for transshipment;
- c) cause the fish being loaded to be accurately weighed and recorded by species on board the vessel, and furnish the Director with daily copies of these records; and
- d) during the transshipment operation give every assistance to any authorized officer, inspector or other person designated by the Ministry in the performance of his/her duties, including verification of the species and weight of the fish and determining when the transshipment operation has been completed.

(6) During transshipment in the fishery waters the operator of each fishing vessel shall comply with all applicable laws of Sierra Leone relating to protection of the marine environment.

(7) Upon completion of the transshipment operation, the operator of each fishing vessel shall submit to the Director within 72 hours of the transshipment or before departing the fishery waters, whichever is earlier, a full transshipment report on each transshipment completed in the fishery waters on such form as may be prescribed and such other form or information which may be prescribed or otherwise required by the Director.

(8) A person who contravenes subsection (1), (2), (3), (4), (5), (6) or (7) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Deployment and **95.** (1) No person shall deploy or maintain a fish aggregating device in

maintenance of a fish aggregating device

the fishery waters except with the authorization by the Director and in accordance with such conditions as he/she may specify or as are otherwise specified in this Act.

(2) In granting permission under subsection (1), the conditions which the Director may specify include the following:

- a) the method of use of the fish aggregating device;
- b) its location;
- c) the times during which it may be used; and
- d) the markings or colourings to be adopted.

(3) No fish aggregating device shall be placed in such a way as to hinder or block marine traffic or be a hazard to navigation at sea.

(4) The permission of the Director under this Act shall be in writing and may be in electronic form whether as a condition or licence or otherwise.

(5) Unless otherwise provided under this Act or specified by the Director, permission to place a fish aggregating device shall not confer any exclusive right to fish in the vicinity of the device.

(6) The master of any vessel placing a fish aggregating device shall notify the Director within 24 hours of such placement and of the nature and location of the device.

(7) A person who contravenes subsection (1), (3) or (6) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Designated fish aggregating device

96. (1) The Director may, by notice published in the *Gazette*, declare any fish aggregating device to be a designated fish aggregating device for the purposes of this Act.

(2) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Director and in accordance with such conditions as he/she may specify.

(3) The Minister may, by Public Notice, declare that any class of persons who are Sierra Leone nationals may fish within a specified radius of a designated fish aggregating device or a class of designated fish aggregating devices.

(4) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Markings, equipment for fish aggregating devices

97. (1) No person, being the operator of a fishing vessel or any other person in apparent control of a fish aggregating device deploys a fish aggregating device unless it:

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- a) is clearly marked with the name of the owner and of the vessel from which such a device was placed; and
 - b) is equipped with a radar reflector and such lights as shall be clearly visible at night from a distance of one nautical mile,

and has such other equipment or markings as the Director may from time to time require.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Disposal of unauthorized fish aggregating devices

98. (1) No person shall use or dispose of a fish aggregating device in a manner other than in accordance with this Act or as may be required by the Director.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Division 3 Fish processing and marketing

Conditions for fish processing licence

99. (1) Each licence to operate a fish processing establishment shall be subject to the following conditions in addition to any other conditions required pursuant to this Act:

- a) the fish processed shall not exceed the total permitted for that operation, including such limits on species and quantity as the Director may set;
- b) the operator of the fish processing facility shall ensure that:
 - (i) all relevant health, hygienic and environmental laws and standards of Sierra Leone are implemented; and
 - (ii) no fish is accepted for processing that has been caught in illegal, unreported or unregulated fishing operations.
- c) any change in the information submitted in the application form shall be notified to the Director as soon as practicable and in any case not later than three working days from the date of change; and
- d) each licensee shall comply with the requirements of applicable laws in Sierra Leone relating to food safety.

(2) Each licence to engage in fish processing operations shall be posted in a conspicuous location and produced for inspection at the request of an authorized officer or inspector.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second

Schedule or to a term of imprisonment not exceeding five years or to both.

Period of validity, renewal, additional conditions and suspension of fish processing licence

100. (1) The period of validity of each fish processing licence shall not exceed ten years, and shall be subject to renewal on an annual basis.

(2) A fish processing licence may not be renewed where grounds for denial of a licence described in section 77 exist or where the licence has not complied with any applicable requirement under the laws of Sierra Leone, and shall not be renewed where the applicant has been convicted of any offence under this Act or any other law relevant to the operation of a fish processing operation and the requirements of the judgment have been fully met.

(3) Additional fees, terms and conditions may be amended or added during the period of validity.

(4) Notwithstanding any other provision of this Act, a fish processing licence may be suspended or terminated where there has been non-compliance with this Act, conditions of licence or any other law of Sierra Leone and the cause of such non-compliance has not been rectified and any fine, penalty, damages or determination made under the law have not been duly paid.

Inspectors to request information and keep records

101. (1) An inspector appointed under this Act shall request such information and keep such records in relation to fish processing operations as may be authorized under this Act or required by the Director.

(2) Information requested and records kept by an inspector in relation to fish marketing may include, *inter alia*, the following:

- a) name of the seller;
- b) name of the District or Province;
- c) name of the village the seller is from;
- d) species of fish being sold;
- e) number of fish being sold;
- f) type of product being sold;
- g) destination of the shipment;
- h) name of the buyer;
- i) date of sale;
- j) date of shipment;
- k) total weight of species being sold;
- l) price per kilogram;
- m) price of shipment;
- n) means of transportation;
- o) name of ship or plane;
- p) number of flight or voyage; and
- q) customs requirements.

(3) Any person to whom a request for information is made by an inspector shall promptly furnish such information.

(4) Each inspector shall, after inspection of a fish processing establishment, promptly provide the Director with a certificate of inspection.

(5) A person who contravenes this section commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Returns

102. (1) For purposes of fishery conservation and management, the Director may require data returns from the sellers or buyers of such species as he/she may designate during such period as he/she may specify, including information relating to the:

- a) quantity of fish bought or sold;
- b) name of the buyer or seller; and
- c) origin of species sold or bought.

(2) Any person to whom a request for data returns is made by the Director pursuant to subsection (1) shall promptly furnish such information.

(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Division 4 Aquaculture

Application for
an aquaculture
licence

103. (1) An application for an aquaculture licence shall be made to the Director in such form as may be prescribed or required by the Director and be accompanied by such documents and information as the Director may require, including proof that the applicant is legally entitled to use the land or other area designated as the proposed site.

(2) After receipt of an application pursuant to subsection (1), the Director shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Protection Act, 2000, and may, in consultation with the relevant Local Council, determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.

(3) If the applicant is required to undertake an environmental impact assessment in respect of any law, the application shall be accompanied by a copy of any environmental impact assessment report and the recommendations of any body responsible for reviewing the environmental impact assessment report.

(4) The applicant shall give notice of the application, at the applicant's expense, in such manner as may be prescribed and to such person or persons, including the public in general, as the Director may determine, and such notice shall invite all those to whom it is addressed to submit in writing to the Director, within thirty days from the date of the notice, any objections to or representations in connection with the application.

(5) If, before a licence is issued, there is any change in the particulars submitted under subsection (1) or, where an environmental assessment is required, any change in the information on which the environmental assessment is based, the applicant shall immediately communicate such change or changes in writing to the Director.

(6) A person who contravenes subsection (1), (4) or (5) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding one year or to both.

Standards for approval of aquaculture licence	<p>104. (1) When considering an application submitted pursuant to section 103, the Director may have regard to:</p> <ul style="list-style-type: none"> a) the technical and financial ability of the applicant to exercise the rights sought in the application in a satisfactory manner; b) the species of fish that the applicant proposes to farm and the method of aquaculture that the applicant proposes to employ; and c) any other matters applicable to the licence that, in the opinion of the Director, are relevant. <p>(2) Where more than one person applies for a licence covering all or part of the same site, preference in relation to that site shall be given to the applicant who, in the opinion of the Director in consultation with the relevant Local Council, is the best overall applicant based on the information contained in the applications.</p>
Inspection of proposed site	<p>105. (1) The Director may require an authorized officer to inspect any site proposed by a licence applicant for the establishment of an aquaculture facility to determine the suitability or otherwise of such site for use as an aquaculture facility.</p> <p>(2) The Director may require the relevant licence applicant to pay such fee for the inspection carried out pursuant to subsection (1) as may be prescribed.</p>
Conditions for aquaculture licences	<p>106. (1) The period of validity of each commercial aquaculture licence shall not exceed ten years, and shall be subject to renewal on an annual basis.</p> <p>(2) The Director may issue an aquaculture licence subject to any conditions he/she considers appropriate, including conditions relating to:</p> <ul style="list-style-type: none"> a) the siting, design, equipment and materials to be used in the construction of the aquaculture facility; b) the control of species of aquatic life that may be introduced into such facility; c) the promotion of sanitary conditions in the handling of fish and in the preparation and processing of fisheries and aquaculture products; d) preventing the escape of fish from an aquaculture facility; e) preventing and controlling the spread of diseases to fish; f) marketing of fish and fisheries products of an aquaculture facility; g) the disposal of dead fish or waste from an aquaculture facility operated by the licensee including relevant consents and notifications required; h) the control and monitoring of water quality in the aquaculture

area;

- i) the use of any chemicals or pharmaceuticals, drugs, antibiotics or other chemicals;
 - j) pollution in the proposed area of operation;
 - k) employment of a reasonable number of Sierra Leone citizens;
 - l) the composition of the feed which may be used;
 - m) the types of manures or fertilizers which may be used;
 - n) the use of hormones for controlling reproduction or promoting growth;
 - o) the disposal of dead or diseased aquaculture products, material or waste resulting from aquaculture;
 - p) the keeping of records;
 - q) compliance with conditions under other relevant legislation in Sierra Leone; and
 - r) such other conditions as may be required or prescribed.
- (3) The Director shall require as a condition of licence that:
- a) such licence for aquaculture automatically terminate if the facility is not developed within the period of time specified on the licence.
 - b) the cost of any destruction or damage during the licensing period that is caused by the negligence or malpractice of the licence holder, including the epidemic spread of diseases, shall be borne by the licence holder.

(4) A person who contravenes any condition issued under subsection (1) or (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Exclusive rights **107.** An aquaculture licence shall confer on the holder exclusive rights to harvest the products of the relevant aquaculture facility within the area specified in the licence.

Division 5 **Building and sale of semi-industrial fishing vessels**

Building and sale of semi-industrial fishing vessels **108.** (1) No person shall undertake in Sierra Leone the building of a semi-industrial fishing vessel unless he/she has been granted a license to do so under this Act.

(2) The design for the building of any semi-industrial fishing vessel shall be subject to the approval and supervision of the Director or such person or

persons as he may designate in writing who shall be officials of the Ministry.

(3) No person shall offer for sale or sell, whether within or outside Sierra Leone, any new semi-industrial fishing vessel built in Sierra Leone unless there has been issued in respect of that vessel a Certificate of Sea Worthiness in accordance with the laws of Sierra Leone.

(4) The Minister may, in consultation with any relevant authority, prescribe the standards and specifications for the design and construction of semi-industrial fishing vessels.

(5) A person who contravenes subsections (1) or (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition the court may order the forfeiture of the vessel in respect of which the offence was committed.

PART XI - MONITORING, CONTROL AND SURVEILLANCE

Division 1 Establishment of Unit

Establishment of
MCS Unit

109. (1) There shall be established in the Ministry a Monitoring, Control and Surveillance (MCS) Unit responsible for:

- a) monitoring, control, and surveillance, including enforcement, of all activities falling within the scope of this Act; and
- b) as appropriate any other legislation relating to activities falling within the scope of this Act.

(2) The MCS Unit shall, as appropriate, cooperate and coordinate with, and perform relevant functions within the framework of the Sierra Leone Joint Maritime Committee.

(3) The MCS Unit shall consist of personnel of the Ministry and the Director may from time to time request the services of personnel from other Ministries, Departments, Agencies or other competent bodies to assist the Unit in the performance of its functions.

(4) The Ministry of Justice shall assign a lawyer to support the MCS Unit.

Division 2 Appointment and powers of authorized officers

Appointment of
authorized
officers

110. (1) The Director may, with the approval of the Minister, appoint in writing as authorized officers:

- a) fisheries officers;
- b) any person or class of persons who are public officers appointed in accordance with the Constitution; and

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- c) for a specified period of time, any person or class of persons who are not Sierra Leone citizens but are appointed as authorized officers by their national State where such State is party to an applicable international agreement or arrangement with the objective of carrying out fisheries monitoring, control and surveillance operations jointly or cooperatively with the Government of Sierra Leone,

for the purpose of administering, monitoring and enforcing this Act and such other relevant laws and measures within and in areas beyond national jurisdiction that fall within the scope of this Act, any applicable international agreement and/or international conservation and management measure, and shall publicly notify such appointments in the *Gazette*.

(2) The Minister may limit the exercise of any powers and functions of any authorized officer to a specific area and/or period of time.

Authority and
general powers of
authorized
officers

111. (1) An authorized officer may do all such acts and things and give such directions as are reasonably necessary for the purposes of exercising any of his/her powers under this Act.

(2) An authorized officer may use such force as may be reasonably necessary to enable the exercise of his/her powers under this Act.

(3) An authorized officer bringing a vessel to a place in Sierra Leone in accordance with this Act, or in other circumstances where the need for assistance in enforcing this Act is immediate and overwhelming, may require any person to assist him or her, and that person shall be deemed to be an authorized officer for the purposes for and time during which he/she is required to act.

(4) Where an authorized officer is required to undertake duties in areas beyond national jurisdiction, unless provided otherwise in an international agreement or arrangement, the provisions of this Act are applicable as if the duties were performed within areas under national jurisdiction.

(5) Where an authorized officer has been appointed in accordance with section 110(1)(c) or is otherwise serving under the authority of another State where such State is party to an applicable international agreement or arrangement with the objective of carrying out fisheries monitoring, control and surveillance operations jointly or cooperatively with the Government of Sierra Leone, he/she shall make such reports to the Director as may be required pursuant to the terms of such international agreement or arrangement.

Identification of
authorized
officers

112. (1) An authorized officer in exercising any power conferred by this Act shall, upon request, identify himself /herself and produce evidence that he/she is an authorized officer.

(2) The production by any authorized officer of any identification document issued to him or her shall, until the contrary is proved, be sufficient authority for any such authorized officer to do anything which he/she is authorized by this Act to do.

Declaration of
boarding and
inspection

113. (1) Authorized officers, inspectors, observers and other personnel conducting boarding and inspection of fishing vessels shall certify their presence by signing such Declaration of Boarding and Inspection form as may be

prescribed or required by the Director and promptly providing it to the Director.

(2) Such Boarding and Inspection Form as may be prescribed or required by the Director shall be completed by an authorized officer or inspector who has participated in the boarding and inspection of a fishing vessel pursuant to this Act, other than a boarding and inspection in port, and such authorized officer or inspector shall promptly provide it to the Director.

Powers of hot pursuit

114. An authorized officer may, following hot pursuit outside the fisheries waters in accordance with international law and commenced within the fisheries waters, stop board and search outside the fisheries waters any vessel which he/she has reasonable grounds to believe has been used in the commission of an offence under this Act, exercise any powers conferred by this Act and bring such vessel and all persons and things aboard back into the fishery waters.

Powers of entry and search of authorized officers

115. (1) An authorized officer may, for purposes falling within the scope of this Act, without a warrant at any reasonable time:

- a) stop, enter, board, stay on board, examine and search any vessel, vehicle or aircraft, including:
 - (i) any Sierra Leone vessel outside the fisheries waters; and
 - (ii) any other vessel to which this Act or any international agreement applies;
- b) enter, examine and search any premises or place, other than premises used exclusively as a dwelling house, including premises that are part of or attached to a dwelling house which he/she reasonably suspects are used for activities falling within the scope of this Act:
 - (i) in or on which he/she has reason to suspect that evidence of an offence against this Act may be found; or
 - (ii) that it is necessary or expedient to enter or search to ascertain whether this Act is being or has been complied with;
- c) stop any person and examine any record, article, container, gear, apparatus, device, or fish in the possession of that person; and
- d) pass across any land,

and may examine and search any document, record, article, container, gear, equipment, apparatus, device, container, fish and contents of any kind found therein or thereon.

(2) An authorized officer may detain any person, vessel, vehicle, or aircraft, parcel, package, record, document, article, gear, equipment, apparatus, device, container, fish or thing for such period as is reasonably necessary to enable the authorized officer to carry out an examination or search under this section.

(3) An authorized officer may, in respect of premises used exclusively as a dwelling house, only conduct searches and seizures in accordance with this

section with a warrant issued by any court of competent jurisdiction and, the provisions of this section shall apply *mutatis mutandis*.

Power to take,
detain, remove
and secure
information and
evidence

116. (1) An authorized officer may, for purposes and activities falling within the scope of this Act:

- a) inspect, take, detain and secure samples, documents, logbooks or other information, or copies thereof, from any vessel, premises, facilities or other place, other than premises used exclusively as a dwelling house but including premises that are part of or attached to a dwelling house used for activities falling within the scope of this Act;
- b) make or take copies of any record, and for this purpose may take possession of and remove from the place where they are kept any such records, for such period of time as is reasonable in the circumstances;
- c) if necessary, require a person to reproduce, or assist the authorized officer to produce in a useable form, information recorded or stored in a document;
- d) require any person associated or apparently associated with a vessel premises, facilities or other place or activity falling within the scope of this Act, to provide such information as may be reasonably required for the monitoring or enforcement of this Act; and
- e) otherwise remove and secure any item that may reasonably be considered to be evidence of an offence against this Act.

(2) Where an authorized officer is questioning a person pursuant to subsection (1), he/she may, *inter alia*:

- a) require the person being questioned to provide answers including any explanation or information concerning any vessel or any place or thing or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, buying, trade, import, export or possession of any fish; and
- b) require that person or any other person to produce any permit, authority, approval, permission, licence, certificate or other document issued in relation to any vessel or person.

Power of arrest

117. (1) An authorized officer may, if he/she believes on reasonable grounds that a person is committing or has committed an offence against this Act, or if a person assaults him/her or any other authorized officer, inspector, observer, or fishery dock observer while exercising his/her powers or duties under this Act, or offers a bribe to an authorized officer, inspector, observer or fishery dock observer:

- a) order that person to forthwith cease and desist;
- b) request that person to supply to the authorized officer that person's name, date of birth, residential address and occupation

and may request that person to supply such verification of those details as it is reasonable in the circumstances to require that person to provide; and

c) arrest, without warrant, that person.

(2) If an authorized officer arrests a person under subsection (1) the authorized officer shall cause the person to be delivered into the custody of a member of the Sierra Leone Police Force as soon as practicable and that person shall thereafter be dealt with in accordance with the relevant law or laws, except that the duties relating to the laying and filing of an information shall be the duties of the arresting authorized officer and not a member of the Police Force.

Power to give direction

118. (1) An authorized officer may, if he/she believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any license, authorization, authority, approval, permission, registration or certificate issued or otherwise effected under this Act:

- a) take the vessel as soon as reasonably practicable to the nearest available port in Sierra Leone or such port as may be agreed between the master and the authorized officer; and
- b) remain in control of the vessel at such port for such period as is reasonably necessary for the purpose of the authorized officer exercising any other powers under this Act, until the authorized officer permits the master to depart from that place, provided that the period does not exceed seventy two (72) hours in total where there are no reasonable grounds to suspect contravention of this Act.

(2) After an authorized officer has given a direction under subsection (1), he/she may also give to the master or any other person on board the vessel any reasonable direction in respect of any activity, method, procedure, item, gear, document, fish, property or thing while the vessel is proceeding to or remains in port.

Seizure of vessels, etc.

119. (1) For the purposes of this section:

- a) a vessel's equipment, gear, furniture, appurtenances, stores, cargo and aircraft shall be deemed to form part of the vessel;
- b) aircraft operating independently of a vessel shall be subject to this section; and
- c) "Court" means the High Court.

(2) An authorized officer may seize:

- a) any vessel or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment or thing which the authorized officer believes on reasonable grounds is being or has been or is intended to be used in the commission of an offence against this Act;
 - b) any fish which the authorized officer believes on reasonable
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grounds are being, or have been taken, killed, transported, bought, sold or found in the possession of any person in contravention of this Act and any other fish with which such fish are intermixed;

- c) any article, record or thing which the authorized officer believes on reasonable grounds may be or contain evidence of an offence against this Act;
- d) retain any passport and seaman's book:
 - (i) of the master and crew of a vessel directed to return to and remain in port pursuant to this Act until the vessel is permitted to depart;
 - (ii) of any person arrested, until that person is brought before a court; or
 - (iii) pursuant to any order of the Court; and
- e) any other item which the authorized officer has reasonable grounds to believe :
 - (i) has been or is being used in the commission of an offence against this Act;
 - (ii) has been seized or forfeited under this Act; or
 - (iii) has been unlawfully removed from custody under this Act.

(3) Anything seized pursuant to subsection (1) shall be delivered into custody of the Director.

(4) A written notice shall be given to the person from whom any article or thing was seized or to any other person whom the authorized officer believes is the owner or person otherwise entitled to possession of the article or thing seized and the grounds for such seizure shall be stated in the receipt.

Removal of parts from seized vessels, etc.

120. (1) An authorized officer may remove any part from the vessel seized pursuant to this Act for the purpose of immobilizing that vessel.

(2) Any part or parts removed under subsection (1) shall be kept safely and returned to the vessel upon release.

(3) No person, otherwise than acting under the authority of the Director, shall:

- a) possess or arrange to obtain any part or parts removed under subsection (1);
- b) possess or arrange to obtain or make any replacement or substitute part or parts for those removed under subsection (1); or
- c) fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel immobilised pursuant to this Act.

(4) A person who contravenes subsection (3) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a

term of imprisonment not exceeding one year or to both.

Authority of authorized officer or inspector in relation to abandoned fishing vessels, fishing gear, fish or fish products

121. (1) Where an authorized officer has reason to believe that any fishing vessel, fishing gear, fish or fish product has been abandoned for the purpose of avoiding prosecution, he/she shall apply to the Court of applicable jurisdiction for an Order to dispose of the fishing vessel, fishing gear, fish or fish product.

(2) Where a fishing vessel or fishing gear or fish product is abandoned, and an authorized officer or inspector believes that any person is liable to be investigated, searched or arrested in connection with a commission of an offence under this Act, or that person has absconded to any place within or outside Sierra Leone, or has concealed himself or herself so that he/she cannot be searched, arrested or otherwise investigated, the authorized officer or inspector may cause investigation measures to be taken in relation to the area or premises and property previously in possession, occupation or under control of the suspect.

Division 3

Appointment and functions of, and duties to, inspectors, observers and fishery dock observers

Observer programmes

122. (1) An observer programme shall be established by the Director for the purpose of collecting, recording and reporting reliable and accurate information for scientific, management, and compliance purposes including:

- a) the species, quantity, size, age, and condition of fish taken;
- b) the methods by which, the areas in which, and the depths at which, fish are taken;
- c) the effects of fishing methods on fish, and the environment;
- d) all aspects of the operation of any vessel;
- e) processing, transportation, transshipment, storage, or disposal of any fish;
- f) monitoring the implementation of management measures and applicable international conservation and management measures; and
- g) any other matter that may assist the Director to obtain, analyse, or verify information for fisheries scientific, management, and compliance purposes.

(2) Observers may be deployed as may be directed by the Director in accordance with this Act, any applicable international agreement or arrangements, including an agreement or arrangement with the objective of carrying out fisheries monitoring, control and surveillance operations jointly or cooperatively with the Government of Sierra Leone, or any international conservation and management measures on any vessel used for fishing, transshipment, transportation and/or landing of fish within and beyond the fishery waters and such other uses as may fall within the scope of this Act.

Appointment of, and identification

123. (1) The Director may, in writing, appoint:

by inspectors,
observers and
fishery dock
observers

- a) inspectors for purposes of monitoring, compliance and management, including inspections of vessels, premises and facilities to gather information, monitor and report on the fulfilment of pre-licensing requirements and any obligations pursuant to this Act;
- b) observers for purposes of the observer programme established under section 122; and
- c) fishery dock observers for purposes of the observer programme who shall, in addition, gather information monitor and report on the fulfilment of landing obligations by licensed industrial and semi-industrial fishing vessels required pursuant to section 88 and 90,

in accordance with such standards and procedures as may be prescribed or approved by the Minister.

(2) An inspector, observer or fishery dock observer shall on request identify himself or herself and produce evidence that he/she is an inspector, observer or fishery dock observer.

(3) Fishery dock observers shall be assigned to such port, dock or landing place as the Director shall designate.

Application of
Act to observers
in areas beyond
national
jurisdiction

124. Any observer who performs duties in areas beyond national jurisdiction in accordance with this Act, any international agreement or international conservation and management measures shall, unless the contrary is provided, continue to be subject to all provisions of this Act, and all responsibilities and duties under this Act of operators, crew members or other relevant persons to such observer shall be fully applicable.

Requirements for
monitoring of
offloading by
fishery dock
observer

125. (1) The operator of any fishing vessel required as a condition of licence to land all or part of its catch in Sierra Leone pursuant to sections 88 (1) (k) and 90 (1) (d) shall cause such landings to take place only where a fishery dock observer is present to monitor such offloading and otherwise perform his/her functions pursuant to this Act.

(2) An operator who does not comply with any requirements given by the Director in accordance with subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule, and in addition the applicable licence shall be cancelled and no further licence shall be issued for at least one year from the time of the offence in respect of the vessel or operator.

Duties of
operators, etc, to
inspectors,
observers and
fishery dock
observers

126. (1) The operator and each crew member of any vessel, or licence holder in respect of any vessel on which an observer is placed or to which an inspector or fishery dock observer has been assigned, shall allow and assist the inspector, observer or fishery dock observer, in the performance of his/her official duties, to carry out his or her duties, including to:

- a) board such vessel at such time and place as the Director may require;
 - b) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications
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equipment;

- c) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records, and remove from the vessel such photographs or film as he/she may have taken or used on board the vessel;
- d) gather such other information relating to fisheries as may be required for purposes of carrying out the objectives of this Act; and
- e) allow observers to disembark at such time and place as the Director may require or in accordance with an applicable access agreement, provided it is in accordance with the safe operation of the vessel.

(2) The provisions of subsection (1) shall apply:

- a) when the vessel is at any place in the fisheries waters or such other place where fish taken from the fisheries waters is unloaded or transhipped as may be required in the applicable licence, access agreement or international conservation and management measures, or as may be otherwise authorized under any applicable access or other agreement, or in the applicable licence; and
- b) in the case of a Sierra Leone fishing vessel operating under an authorization to fish in the high seas in areas subject to international conservation and management measures, when the vessel is on the high seas in an area subject to such international conservation and management measures or otherwise in accordance with such measures or the applicable license or authorization.

(3) An operator and crew member of any vessel, or licence holder in respect of any vessel on which an observer is placed or an inspector or fishery dock observer is assigned in accordance with this Act who does not comply with subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both.

Conditions for
observers

127. (1) The operator and license holder in respect of any vessel on which an observer is placed shall:

- a) provide full board, accommodation and access to any cooking and toilet facilities and amenities at officer level or similar standard approved in writing by the Director and free of charge at all times;
 - b) provide a safe work area adjacent to the sample collection site, for sampling and storage of fish to be sampled, of 4.5 square meters, including the observer's sampling table and which permits the observer to stand upright and have a work area at least 0.9 m deep in the area front of the table and scale;
 - c) notify the observer at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to
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allow sampling the catch or observing the transfer;

- d) collect bycatch when requested by an observer;
- e) collect and carry baskets of fish when requested by an observer;
- f) allow an observer to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch;
- g) take measurements, including of decks, codends, and holding bins; and
- h) ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of any observer involved.

(2) An operator or licence holder of a vessel who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition the applicable licence or authorization may be suspended or cancelled.

Observer costs

128. (1) The costs of operating the observer programme shall consist of funds paid by:

- a) licence holders in respect of all or any vessels licensed or authorized pursuant to this Act as a specified component of the licence fee as provided in section 82, at such level and in such manner as the Director may require, in accordance with any relevant policy which may be adopted by the Minister or such level as may be prescribed;
- b) such other source as may be qualified to contribute to the Fund established in section 12.

(2) The costs referred to in subsection (1) shall include, *inter alia*-

- a) full insurance coverage;
- b) salary;
- c) allowances;
- d) equipment;
- e) training;
- f) all travel and associated expenses to and from the vessel to which the observer is assigned; and
- g) other costs associated with the management and administration of the observer programme at a level to be prescribed or approved in writing by the Minister.

(3) Where payment of such costs is not made at the required time, or within thirty days of such reasonable time as may be required by the Director, the relevant licence shall be cancelled.

Notice of intention to place observer

129. (1) Before placing any observer on a fishing vessel, the Director shall give the operator or licence holder or his/her agent reasonable notice of the requirement to take an observer on board at a specified time and place and to

remain on board for a specified period of time and to disembark at a specified place.

- (2) Upon receipt of a notice given under subsection (1), no person shall:
- a) cause or allow the vessel to which the notice relates to put to sea without taking on board the observer(s) at the time and place specified in such notice; or
 - b) otherwise refuse to take on board such observer(s).
- (3) The operator of a licensed vessel shall notify the Director:
- a) at the beginning of each licensing period of any port or ports in Sierra Leone where it intends to base operations for purposes of observer placement, and if placement is not possible at such port or ports the operator of the vessel shall be responsible to the Director or all and any extra costs incurred in observer placement; and
 - b) of the intended time of entry into and subsequent departure from port at such reasonable time prior to such entry as the Director may direct for the purpose of arranging observer deployment.
- (4) A person who does not give such notification as required in subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding three years or to both, and in addition the applicable licence may be suspended or cancelled.

Division 4

Protection and obstruction of authorized persons

Authorized persons

130. For the purposes of this Division, “authorized person” refers to any authorized officer, inspector, observer or fishery dock observer appointed pursuant to this Act.

Protection of authorized persons from liability

131. (1) The Ministry and officers, employees and other persons acting under the authority of the Ministry, including persons with delegated authority and any person assisting an authorized officer pursuant to section 111(3), who acts or omits to act while performing duties under this Act shall not be subject to any action, liability, claim or demand for any matter or thing done or omitted to be done in good faith (whether negligently or not) in the performance or purported performance of any function or duty, or exercise or purported exercise of any power under this Act, or any other applicable fisheries law.

- (2) Where a vessel is being brought to a place in Sierra Leone in accordance with this Act:
- a) where the master is required to remain in control the master shall be responsible for the safety of the vessel and each person on board the vessel until the vessel arrives at the designated place; and

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- b) no claim may be made against any authorized person in respect of any death, injury, loss or damage that occurs while the vessel is being brought to such place.

(3) The State shall not be held directly or indirectly liable for an act or omission of any authorized person or person assisting an authorized officer, unless such person would incur liability for the act or omission.

Insurance for authorized persons

132. The Ministry shall ensure full group insurance coverage for all authorized persons.

Obstruction, etc of authorized persons

133. (1) For the purposes of this section “fail” includes any effort which does not result in meeting the specified requirement.

(2) No person shall:

- a) being the operator or crew member of a vessel, fail or refuse to allow and assist any person identified as an authorized person:

- (i) safe boarding of a vessel;
- (ii) to have full access to and use of all facilities, gear and equipment on board which such authorized person may determine is necessary to carry out his/her duties, including full access to the bridge, fish and fish products on board, fishing gear and areas which may be used to hold, process, weigh or store fish; that are not of a specified size or dimension;
- (iii) to have full access to the vessel’s records including its logs, charts and documentation and other information relating to fishing, whether required to be carried and maintained under this Act or otherwise, for purposes of carrying out functions and exercising powers under this Act, including records inspection and copying;
- (iv) to have access to all navigational and communications equipment;
- (v) to take, measure, store on or remove from the vessel and retain such reasonable samples or whole specimens of any fish as may be required for scientific purposes;
- (vi) where any authorized person is forced by circumstances to stay on board the vessel for a prolonged period of time, provide him/her while on board the vessel with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator; and
- (vii) safe disembarkation from a vessel;

- b) fail or refuse to allow an audit, inspection, examination or search that is authorized by or under this Act to be made or impedes the same;

- c) in respect of any premises, facility, including those used for aquaculture, cold storage, export and processing, landing site or other place where person(s) engage in activities within the scope of this Act fail or refuse to facilitate by all reasonable means the
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entry into and inspection by an authorized person in accordance with this Act of:

- (i) the entire premises, facility, landing site or other place including storage areas; and
 - (ii) any fish or fish product, fishing gear, equipment or records;
- d) fail, refuse or neglect to immediately and fully comply with every lawful instructions or directions given by an authorized person;
- e) deny a request by an authorized person made in the course of exercising his or her duties and powers under this Act, including requesting access to records, documents, areas, gear and equipment including navigation and communication equipment and that equipment be turned on for his or her use;
- f) when lawfully required to state his/her name, date of birth and place of abode to an authorized person fail or refuse to do so or state a false name, date of birth or place of abode to the authorized person;
- g) when lawfully required by an authorized person to give information, give information which is false, incorrect or misleading in any material respect;
- h) resist lawful arrest for any act prohibited by this Act;
- i) aid, incite or encourage another person to assault, resist, intimidate or obstruct an authorized person who is carrying out his/her duties or exercising his/her powers under this Act, or any person lawfully acting under a authorized officer's instructions or in his/her aid;
- j) interfere with, delay or prevent by any means, the apprehension or arrest of another person having reasonable grounds to believe that such person has committed an act in contravention of this Act;
- k) fail or refuse to allow an authorized person to carry out all duties safely, or to take all reasonable measures to ensure the safety of an authorized person as appropriate in the performance of his/her duties;
- l) impersonate or falsely represent himself or herself to be an authorized officer, or to be a person lawfully acting under the Director's instructions or in his/her aid;
- m) impersonate or falsely represent himself or herself to be the master or an officer, or not to be the master or an officer, of a fishing vessel;
- n) fail to sail a seized vessel to a place in Sierra Leone designated by an authorized officer and fail to ensure the safety of all those on board;

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- o) bribe or attempt to bribe an authorized person;
 - p) interfere with an authorized person in the performance of his/her duties; or in any other way obstruct or hinder an authorized person in the exercise of his or her powers, duties or functions under this Act;
 - q) use abusive or threatening language or insulting gestures or behave in a threatening or insulting manner towards an authorized person who is carrying out his/her duties or exercising his/her powers under this Act, or towards any person lawfully acting under the authorized officer's instructions or in his/her aid; or
 - r) obstruct, resist, delay, refuse boarding to, intimidate, or kidnap an authorized person who is performing his/her duties or exercising his/her powers under this Act, or any person lawfully acting under a authorized officer's instructions or in his/her aid; or
 - s) breach any other duty to an authorized person as required under this Act.

(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding ten years or to both, and in addition the applicable licence may be suspended or cancelled.

Division 5 **Requirements for vessel monitoring systems**

Vessel
Monitoring
Systems

134. (1) The Director may establish and operate vessel monitoring systems for purposes of monitoring, control and surveillance, and managing the operations of fishing vessels under this Act.

(2) The Director may require the operator of any fishing vessel, as a condition of licence or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director, a mobile transceiver unit or other device or equipment that is an integral component of a vessel monitoring system at all times while the fishing vessel is in the fishery waters or, in respect of a Sierra Leone fishing vessel, in areas beyond national jurisdiction or such other area as may be prescribed or agreed in an international agreement or international conservation and management measures.

(3) The operator of each fishing vessel shall comply with all licence conditions and requirements imposed pursuant to subsection (2) and shall, where the mobile transceiver unit or other device or equipment ceases to operate immediately:

- a) notify the Director when the mobile transceiver unit or other device ceases to operate in accordance with such requirements; and
- b) cause the vessel to cease fishing except as otherwise authorized by the Director.

(4) Where the mobile transceiver unit or other device ceases to operate as required, the operator shall immediately notify the Director and submit to him/her a report of the vessel's name, call sign, position (expressed in latitude and longitudes to the minutes of arc) and the date and time of the report at intervals of four hours or such other period as the Director may notify the operator and:

- a) cause the vessel to cease fishing except as otherwise authorized by the Director; or
- b) cause the vessel to immediately return to the port of Freetown.

(5) The operator shall comply with such other conditions that may be prescribed and such additional conditions that may be required by the Director, including:

- a) the type of vessel monitoring system equipment to be used;
- b) installation procedures;
- c) operational requirements;
- d) information requirements;
- e) confidentiality; and
- f) reports.

(6) No person shall:

- a) without lawful excuse render inoperative or otherwise interfere with a mobile transceiver unit or other device installed pursuant to this Act so that it does not operate accurately or in accordance with any prescribed conditions;
- b) whether within, or in areas beyond, national jurisdiction, intentionally, recklessly or negligently destroy, damage, render inoperative or otherwise interfere with any part of a mobile transceiver unit or vessel monitoring system aboard a vessel licensed pursuant to this Act, or intentionally feed or input into that system information or data which is not officially required or is meaningless; or
- c) intentionally, recklessly or negligently divulge information or data obtained from a vessel monitoring system or a system of reporting or recording required or permitted under this Act, other than in the course of duty and to a person or persons entitled to receive that information or data.

(7) A person who contravenes subsection (3), (4), (5) or (6) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both, and in addition the applicable licence may be suspended or cancelled.

Division 6 **Requirements for use of ports**

Use of port
without
authorization
prohibited

135. (1) No semi-industrial or industrial fishing vessel shall use a port in Sierra Leone for landing, transshipping, packaging, or processing of fish or for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking, unless:

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- a) the port has been designated for use by semi-industrial and industrial fishing vessels;
 - b) the operator has given at least 24 hours advance notice or such other notice as may be prescribed or required by the Director;
 - c) the operator has provided to the Director such information as may be prescribed or he/she may require;
 - d) in the case of a foreign fishing vessel, a written authorization for the use of such port has been issued by the Director; and
 - e) where the Director has authorized entry of such vessel into port, the master of the vessel or, in the case of a foreign fishing vessel, the vessel's representative presents the authorization for entry into the port to an authorized officer or other competent officer upon the vessel's arrival at port.

(2) The operator, master and charterer of a vessel that contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Vessels may be prohibited from entering port

136. (1) Authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port has engaged in illegal, unreported and unregulated fishing or fishing related activities in support of illegal, unreported and unregulated fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a regional fisheries management organization, in which Sierra Leone is a member or cooperating non-member, in accordance with the rules and procedures of such organization and in conformity with international law.

(2) Notwithstanding subsection (1), authorization for such a vessel to enter a port may be given exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating illegal, unreported and unregulated fishing and fishing related activities in support of illegal, unreported and unregulated fishing.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Denial of the use of port to a foreign fishing vessel

137. (1) When an industrial or semi-industrial fishing vessel has entered one of its ports, the Director shall deny that vessel the use of the port for landing, transshipping, packaging or processing of fish that have not been previously landed or for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, where:

- a) the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
 - b) the vessel has not been granted a valid and applicable license to
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engage in fishing or fishing related activities required under this Act ;

- c) there is clear evidence that the fish on board was taken in contravention of applicable requirements of any coastal State in respect of areas under the national jurisdiction of that coastal State;
- d) the flag State of any foreign fishing vessel does not confirm within a reasonable period of time on the request of the Director that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization; or
- e) there are reasonable grounds to believe that the vessel was otherwise engaged in illegal, unreported or unregulated fishing or fishing related activities in support of illegal, unreported or unregulated fishing, unless the operator of the vessel can establish:
 - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
 - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not at the time of provisioning a vessel referred to in subparagraph (e);

(2) Notwithstanding subsection (1), a vessel shall not be denied the use of port services essential to the safety and health of the crew and the safety of the vessel, provided these needs are duly proven, or, where appropriate, for the scrapping of the vessel.

(3) The operator of a vessel that uses a port where such use has been denied pursuant to subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding ten years or to both.

Inspection of foreign fishing vessels in port

138. (1) In carrying out inspections of industrial or semi-industrial fishing vessels in port, authorized officers shall follow such procedures as may be prescribed or the Director may require to the extent possible, and:

- a) present to the master of the vessel an identification document prior to an inspection;
 - b) in case of appropriate arrangements with the flag State of a foreign fishing vessel, invite that State to participate in the inspection;
 - c) not interfere with the ability of the master of a foreign fishing vessel, in conformity with international law, to communicate with the authorities of the flag State;
 - d) make all possible efforts to:
 - (i) avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of authorized officers on board,
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- and to avoid action that would adversely affect the quality of the fish on board;
 - (ii) facilitate communication with the master or senior crew members of the vessel; and

e) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel.

(2) A report of the inspection shall promptly be provided to the Director in such form as may be prescribed or the Director may require.

PART XII - REQUIREMENTS FOR ARRESTED PERSONS AND SEIZED ITEMS

Arrest or detention and release of foreign fishing vessels, crew members

139. (1) In cases of arrest or detention of foreign fishing vessels for a contravention of this Act, the Director shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

(2) Any foreign fishing vessel and its crew arrested for the contravention of any provision of this Act that governs any act of fishing or fishing related activity shall be promptly released upon the posting of a reasonable bond or other security.

(3) In the absence of any agreement to the contrary with the State of which the vessel or its crew are nationals, penalties for violations of this Act in the Sierra Leone exclusive economic zone shall not include imprisonment or any other form of corporal punishment.

Prompt judicial or administrative proceedings for arrested persons

140. (1) A person arrested under this Act shall promptly be brought before the Court of applicable jurisdiction or be subject to administrative proceedings in accordance with this Act.

(2) Where a person is released without being charged or where prosecution is not instituted within thirty (30) days after a person is charged, all items seized shall be returned to the person.

(3) Where a person does not appear to answer a charge within ninety (90) days after her/his arrest, any item seized from that person shall be forfeited to the State.

Conditions for bail

141. If the master of a fishing vessel is granted bail for an offence under this Act, the court granting bail may, if it thinks it necessary or desirable in the circumstances of the case, impose a condition whereby, pending the conclusion of the case, the accused is prohibited access to the vessel or is allowed access only on conditions determined by the Court.

Delivery and notice for seized items

142. (1) Any seizure pursuant to this Act shall be delivered into custody of the Director.

(2) A written notice shall be given to the person from whom any article or item was seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.

Disposal of perishable items	<p>143. (1) Any fish or fish products seized by an authorized officer under this Act may, at the direction of the Director, be sold and the proceeds of the sale shall be held and dealt with pursuant to this Act.</p> <p>(2) Where, after making all reasonable efforts, the Director is unable to sell the fish or fish products referred to in subsection (1), or they are unfit for sale, he/she may dispose of them in such other manner as he/she thinks fit.</p> <p>(3) Where any fish or fish products are sold or otherwise disposed of pursuant to this section, the fisheries inspector shall:</p> <ul style="list-style-type: none"> a) give the person from whom such fish or perishable goods was seized a receipt stating the date on which the goods were sold or otherwise disposed of, the quantity of such goods and in the case of a sale the amount realized; and b) pay the proceeds of sale into Court. <p>(4) The proceeds of any such sale shall be dealt with by the Court according to law.</p>
Notice of detainment or seizure of property	<p>144. (1) Upon seizure of a vessel, vehicle, aircraft or other item, reasonable efforts shall be made to notify the owner or owners of the property seized or detained pursuant to this Act of the seizure or detention of that property. Such notice shall:</p> <ul style="list-style-type: none"> a) enumerate the reasons for the seizure and/or detention; b) describe the steps required for reclamation of the seized and/or detained property; and c) make the owner or owners aware of any deadlines and potential forfeiture of property pursuant to this Act.
Treatment of items detained or seized	<p>145. (1) If any vessel, vehicle, aircraft or item has been seized pursuant to this Act, and a person who has been properly charged with an offence in relation thereto fails to appear to answer the charge within ninety (90) days of the service or attempted service of notice pursuant to this Act, the Director may apply for the items to be forfeited to the State and the Court shall make such order as it shall deem fit.</p> <p>(2) If the lawful owner of a vessel, vehicle, aircraft or item seized pursuant to this Act cannot be traced within ninety (90) days of the service or attempted service of notice pursuant to this Act, the item shall be forfeited to the State.</p>
Release of seized goods	<p>146. (1) The Court may, on application, order the release of any fishing vessel, vehicle, aircraft or other item seized under this Act on receipt of such bond or other form of security as it may determine.</p> <p>(2) In determining the value of the bond or other form of security in respect of a foreign fishing vessel or a fishing vessel that is not a Sierra Leone fishing vessel, the Court shall have regard to the aggregate amount of the fair market value of the property to be released, an estimated total fine or other penalty</p>

provided for the offence or offences charged or likely to be charged and the costs the prosecution would be likely to recover if a conviction were entered and any damages and costs assessed as a consequence of the offence or offences charged or likely to be charged and may set the value at such aggregate amount.

(3) Notwithstanding the provisions of subsection (2), the amount determined by the Court under this Act shall not be less than the fair market value of the property to be released or the aggregate minimum fine or penalty for each offence charged, whichever is greater.

(4) Where any vessel, vehicle, aircraft or other item seized is released upon the lodging of a bond or other form of security under subsection (1), the Court shall in the order state separately the sums which are attributable to the property to be released, the total fine or fines and the likely costs.

(5) The release of any bond or other form of security under this Act shall be conditional upon:

- a) a finding by the Court that the vessel, vehicle, aircraft or other item has not been used in or connected with in the commission of an offence under this Act; or
- b) where the Court finds that the vessel, vehicle, aircraft or other item has been used in or connected with the commission of an offence under this Act:
 - (i) payment in full within 30 days of the judgment of the Court of any fine imposed by the Court and any costs ordered to be paid by the Court; and
 - (ii) where the Court so orders, delivery to the Court of the vessel, including its fishing gear, furniture, appurtenances, stores and cargo, and of any fish ordered to be forfeited without any impairment of their value, or payment of the monetary value thereof as determined by the Court.

(6) Nothing in subsection (1) shall require a Court to release any vessel, vehicle, aircraft or other item if it might be required as an exhibit in court proceedings or is reasonably required for any further investigations of offences against this Act.

Application of
bond, etc.

147. (1) Any bond, security or net proceeds of sale held in respect of any vessel, vehicle, aircraft or other item shall be applied as follows and in this order:

- a) the discharge of any forfeiture ordered under this Act; and
- b) the payment of all fines or penalties for offences under this Act or penalties imposed under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item.

Unlawful
removal of seized
goods

148. (1) No person shall remove a vessel, vehicle, aircraft or other item held under this Act and which is in the custody of the Government whether or not the person knew that the vessel, vehicle, aircraft or other item was held in the custody of the Government.

(2) Where any vessel, vehicle, aircraft or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government, the vessel, vehicle, aircraft or other item is liable to seizure anywhere at any time within the jurisdiction of Sierra Leone.

(3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Liability for loss, damage or deterioration of things in custody

149. The State shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other item while in the custody of the State pursuant to this Act, provided that the State took reasonable care given the circumstances.

PART XIII - EVIDENCE

Certificate evidence

150. (1) The Director or any person designated in writing by him may give a certificate stating that:

- a) a specified vessel was or was not on a specified date or dates a Sierra Leone fishing vessel or a foreign fishing vessel;
- b) a person was or was not on a specified date or dates the holder of any specified license, authorization or registration;
- c) a specified fishing vessel was not on a specified date or dates the subject to a specified license, authorization or registration;
- d) an appended document is a true copy of the license or certificate of registration for a specified vessel or person and that specified conditions were attached to such document;
- e) a particular location or area of water was on a specified date or dates within the Inshore Exclusion Zone, the fishery waters or a closed, limited, restricted or in any other way controlled area of the fishery waters, or an area of the fishery waters subject to specified conditions;
- f) an appended chart shows the boundaries on a specified date or dates of the fishery waters, Inshore Exclusion Zone, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
- g) a particular item or piece of equipment is fishing gear;
- h) the cause and manner of death of or injury to any fish;
- i) an appended document is a true copy of an approved charter agreement or an access agreement;
- j) a call sign, name, or number is that of or allotted to a particular vessel under any system of naming or numbering of vessels;
- k) an appended position or catch report was given for a specified

vessel;

- l) a specified fishing vessel is included on a list of illegal, unreported and unregulated fishing vessels or authorized fishing vessels established by a regional fisheries management organization or pursuant to an international agreement; or
- m) a certificate as to the condition of fish given under this Act was made in accordance with this Act and was made by the person who is signatory to the certificate.

Validity and
procedure for
certificate

151. (1) Unless the contrary is proved, a document purporting to be a certificate issued under section 150 shall be deemed to be such a certificate and to have been duly issued.

(2) Where a certificate issued under section 150 is served on a defendant seven or more days before its production in court in any proceedings under this Act, the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(3) Where a certificate issued under section 145 is served upon a defendant fourteen or more days before its production in court and the defendant does not, within seven days of the date of service, serve notice of objection in writing on the prosecutor, then the certificate shall, unless the Court finds the defendant is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.

(4) Where any objection is notified under subsection (3) the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(5) Any certificate issued under section 150 shall be titled "Certificate made under section 150, Fisheries and Aquaculture Act" and no such certificate may be used as conclusive proof of the facts averred therein unless it is served with a copy of sections 150 and 151 of this Act.

(6) Any omission from or mistake made in any certificate issued under section 150 shall not render it invalid unless the Court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced by it.

(7) Where in any proceedings a certificate made under section 150 is produced to the Court, the prosecution shall not be obliged to call the maker of the certificate and the Court shall, where material, rely on the facts therein unless the contrary is proved.

Certificate as to
the location of a
vessel

152. (1) Where in any proceedings under this Act the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offence charged, then a place or area stated in a certificate by an authorized officer shall be evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) An authorized officer shall in any certificate made under subsection (1) state:

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- a) his name, address, official position, country of appointment and provision under which he is appointed;
 - b) the name, if known, call sign of the fishing vessel concerned;
 - c) the date and time or period of time the vessel was in the place or area;
 - d) the place or area in which it is alleged the vessel was located;
 - e) the position fixing instruments used to fix the place or area stated in paragraph (d) and their accuracy within specified limits;
 - f) a declaration that he checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and
 - g) if a position fixing instrument which is not judicially noticed as notoriously accurate or a designated machine is used, a declaration that he checked the instrument as soon as possible after the time concerned against such instrument.

(3) Section 151 shall apply to a certificate given under this section as if it had been a certificate issued under section 150 and any reference therein to section 150 shall be read as a reference to this section.

(4) For the purposes of this section “authorized officer” shall include surveillance officers and those charged with similar responsibilities in other countries.

Electronic location device

153. (1) The readings of any mobile transceiver unit or other electronic location device integral to a vessel monitoring system shall be admissible as evidence and may be used as *prima facie* evidence unless the contrary is proved of the facts that they aver.

(2) The readings of such devices may be made from a printout or as observed from a visual display unit.

(3) Any electronic location device must be capable either wholly or partially in itself of producing the readings concerned and not merely be a receiver of information or data.

Photographic evidence

154. (1) If a photograph is taken of any fishing or fishing related activity and the date and time on and position from which the photograph is taken are simultaneously superimposed upon the photograph, it shall be *prima facie* evidence that the photograph was taken on the date, at the time and in the position so appearing.

(2) The provisions of this section shall apply only when:

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

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

(3) The provisions of this section do not affect the admissibility of photographic evidence in any way.

Presumptions

155. (1) All fish found on board any fishing vessel which has been used in the commission of an offence under this Act shall be presumed to have been caught during the commission of that offence, unless the contrary is proved.

(2) All fish found on board any fishing vessel in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port, as required pursuant to this Act, shall be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities, unless the contrary is proved.

(3) Where, in any legal proceedings under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place.

(4) The production of a written copy or extract of the entry certified by a fisheries inspector as a true copy of the accurate extract shall be *prima facie* evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft.

(5) Where in any legal proceedings relating to an offence under this Act:

- a) an authorized officer gives evidence of reasonable grounds to believe any fish to which the charge relates were taken in a specified area of the fishery waters; and
- b) the Court considers that, having regard to that evidence the grounds are reasonable,

all the fish shall be presumed to have been so taken, unless the contrary is proved.

(6) Where in any legal proceedings for an offence under this Act:

- a) an authorized officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken by the use of illegal gear; and
- b) the Court considers that, having regard to the evidence, the grounds are reasonable, all the fish shall be presumed to have been so taken, unless the contrary is proved.

(7) Where any information is given for a fishing vessel under this Act or an access agreement in relation to any fishing activity of a fishing vessel, it shall be presumed to have been given by the master, owner or charterer of the vessel concerned, unless it is proved it was not given or authorized to be given by any of

them.

(8) Any entry in writing or other mark in or on any log, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel shall be deemed to be that of the master, owner and charterer of the vessel, unless proven otherwise.

(9) Any position fixing instrument on board a vessel or aircraft used for the enforcement of this Act shall be presumed to be accurate.

(10) For the purposes of subsection (9), a position fixing instrument shall be deemed to be any device which indicates the location of a vessel, including but not limited to any global positioning system.

(11) The readings from any vessel monitoring, communications or navigation equipment required under this Act, either made from a printout or observed from a visual display unit, and which are capable either wholly or partly of producing the readings concerned and are not merely receivers of information or data, when checked for correct working and read by a competent operator, shall, unless the contrary is proved, be presumed to give accurate readings within the manufacturers specified limits.

(12) Unless the contrary is proved, any person who is found in possession of any illegal fishing gear, including explosives, poison or any device capable of producing an electric shock on or near the fishery waters shall be presumed to be undertaking an unlawful activity contrary to this Act.

Onus of proof

156. (1) Where, in proceedings under this Act, a person is charged with having committed an offence involving an act for which a license, authorization or other permission is required, the onus shall be on that person to prove that at the relevant time, the requisite license or authorization or other permission was held by that person.

(2) Where a person is charged with the contravention of section 42, the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognized by international law.

(3) Where a person is charged with the contravention of section 67, the onus shall be on that person to prove that the information given was true, complete and correct.

Interfering with evidence

157. (1) No person shall, being on board any vessel being pursued, about to be boarded or notified that it will be boarded by an authorized officer, whether in the fishery waters or beyond areas under national jurisdiction, who throws overboard or destroys any fish, equipment, document, explosive, noxious substance or other item with intent to avoid its seizure or the detection of any offence against this Act.

(2) No person shall destroy or abandon any fish, fishing gear, net or any other fishing appliance, electric shock device, explosive, poison or any other noxious substance, or any other thing with intent to avoid their seizure or the detection of an offence against this Act.

(3) No person shall remove from legal custody any vessel, fish, equipment or other item, or do any act or omission by which a vessel, fish,

equipment or other item held in legal custody may be so removed, whether or not she/he knew that the vessel, fish, equipment and other item was being held in custody.

(4) No person shall intentionally, recklessly or negligently destroy, damage, render inoperative or otherwise interfere with any premises or licensed aquaculture facility.

(5) A person who contravenes subsections (1), (2), (3) or (4) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

Tampering with item, etc that may be used in evidence of non-compliance with the Act

158. (1) No person shall tamper with any item, document or thing that may be used in evidence of non-compliance with this Act, including evidence relating to the catching, loading, landing, handling, transshipping, transporting, processing, possession, aquaculture and disposal of fish.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.

PART XIV - JURISDICTION, FORFEITURE LIABILITIES, SUMMARY PROCEEDINGS

Jurisdiction of the Court

159. (1) Any act or omission in contravention of any provision of this Act committed:

- a) by a person or vessel within the fishery waters;
- b) outside the fishery waters by any Sierra Leone citizen or vessel or person ordinarily resident in Sierra Leone;
- c) outside the fishery waters by any person or vessel in contravention of section 38; or
- d) by any person on board any Sierra Leone fishing vessel,

shall be dealt with in a court determined by the Chief Justice, but where a foreign fishing vessel is involved, the matter shall be dealt with by the High Court and the judicial proceedings shall be taken as if the act or omission had taken place within the jurisdiction of Sierra Leone.

(2) Where an authorized officer is exercising any powers conferred on him/her outside the fishery waters in accordance with this Act, any act or omission of any person in contravention of a provision of this Act shall be deemed to have been committed within the fishery waters.

(3) Notwithstanding any provision of any other act, an information or charge in respect of any offence against this Act may be laid at any time within one year of the commission of the offence.

Forfeiture

160. (1) Where a court convicts a person of an offence against this Act, or such other offences as may be prescribed for the purposes of this subsection, the Court may order the forfeiture of any of the following:

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- a) any fish, fish product, fishing vessel (including its gear, furniture, appurtenances, stores, cargo and aircraft) vehicle, aircraft, gear, equipment, explosive or noxious substance taken, used or otherwise involved in the commission of the offence;
 - b) where a fishing vessel, vehicle or aircraft was used in the commission of an offence, any fish on board such vessel, vehicle or aircraft at the time of the offence;
 - c) where a storage facility was used in the commission of the offence, any fish or fish products in the facility at the time of the offence; or
 - d) where any fish has been sold under section 139, the proceeds of the sale of the fish.

(2) Where a court convicts a person of an offence against this Act, or such other offences as may be prescribed for the purposes of this subsection, in the commission of which a foreign fishing vessel was used or was otherwise involved, the Court shall order the forfeiture of:

- a) the fishing vessel;
- b) any gear and other equipment that was on the vessel concerned at the time of the offence; and
- c) all fish or fish products on board the vessel at the time of the offence, or where the fish products have been sold, the proceeds of sale.

Disposition of
forfeited property

161. (1) Any vessel or other property or security forfeited under this Act becomes the property of the State.

(2) Any vessel or other property forfeited under this Act may be:

- a) retained;
- b) leased; or
- c) sold by the State by tender or by agreement approved by the Director and endorsed by the Minister,

provided that if such forfeited property is sold by the State, the owner or apparent owner prior to forfeiture shall be afforded a reasonable opportunity to bid on or purchase such property.

(3) The Director or any person acting on his or her behalf, shall not be liable in any way of any costs incurred or damages sustained as of a decision taken under subsection (2) .

Deprivation of
monetary benefits

162. (1) A Court that has convicted a person of an offence under this Act may summarily and without pleadings inquire into the pecuniary benefit acquired or saved by the person as a result of the commission of the offence and may, upon reliable expert evidence otherwise admissible in a court of law and in addition to

other penalty imposed, impose a fine equal to the Court's estimation of that pecuniary benefit, despite any maximum penalty elsewhere provided.

(2) The Court shall, in imposing a fine pursuant to subsection (1), report fully in writing on details of the expert evidence upon which its judgment was based.

Costs incurred by State

163. (1) The operator and charterer shall jointly and severally bear the cost or expenditure incurred by the Government, upon application by the Government and as determined by the Court upon conviction, in connection with:

- a) the seizure of a fishing vessel, vehicle or aircraft or other item for an offence against this Act, including any relevant costs of pursuit of a vessel, vehicle or aircraft;
- b) the prosecution for an offence in accordance with this Act; and
- c) the repatriation of the master or crew of any vessel seized under this Act.

(2) The amount of any costs or expenditure by the Court under subsection (1) may be recovered in the same manner as a fine and shall be imposed in addition to any fine or penalty that may be ordered by the Court.

(3) Nothing in subsection (1) shall be deemed to allow for the recovery of any cost or expenditure that has already been recovered pursuant to any other order made under this Act.

(4) If it intends to apply for pursuit costs in accordance with subsection (1), the Government shall, fourteen (14) days prior to a trial related to the offence, serve the defendant with written details of those costs.

Liability for non-payment of pecuniary penalties

164. (1) All pecuniary penalties not specifically designated as fines and all forfeitures incurred under or imposed pursuant to this Act, and the liability to forfeiture of any article seized under the authority thereof, and all rents, charges, expenses and duties and all other sums of money payable under this Act may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a court of competent jurisdiction in the name of the State as the nominal plaintiff; and all such proceedings shall be deemed to be civil proceedings.

Liability for loss or damage

165. (1) A person who commits an offence against this Act may, upon conviction, be liable for any loss or damage caused by the offence and the amount of the loss of such damage may be awarded by the court as restitution in addition to, and recovered in the same manner as a fine.

(2) The loss or any damage caused by the offence referred to in subsection (1) shall include, as may be applicable, any costs incurred in:

- a) detecting, apprehending, investigating or prosecuting the offence; and
- b) detaining or seizing any property, fish, article or thing in respect of that offence.

Civil liability of

166. (1) Except as further provided in this section, each officer of a

officers of companies	<p>partnership, corporation, firm, company or any other business enterprise engaged in activities governed by this Act shall be personally liable for any violation of or offence committed under this title by any member or employee.</p> <p>(2) It shall be a defense to liability under this section for the officer to prove that he or she used due diligence to secure compliance with this Act or that the violation or offence was committed without that officer's knowledge, consent, collusion or collaboration.</p>
Liability of operators	<p>167. In any proceedings under this Act, the act or omission of a crew member of a fishing vessel or in association with a fishing vessel shall be deemed to be that of the operator of the vessel, unless otherwise expressly provided.</p>
Continuing offences and repeat offenders	<p>168. Each day of a continuing offence shall be considered a separate offence.</p>
Banning order	<p>169. (1) Where a person has been convicted of an offence against this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from going on or remaining aboard any fishing vessel in the fishery waters.</p> <p>(2) Any person who contravenes an order made under subsection (1) or the master of a fishing vessel who has aboard a person he knows is banned under subsection (1), commits an offence and is liable on conviction to a fine described in the Second Schedule or to a term of imprisonment not exceeding five years or to both.</p>
Citizen suits and civil enforcement	<p>170. (1) A person harmed by a violation of any provision of this Act or the accompanying regulations may bring an action against any responsible person, except the Government and its employees, in a court of competent jurisdiction and in response the court may award civil damages and injunctive relief, as the Court deems appropriate.</p> <p>(2) A person may bring an action against the Government to compel it to comply with this Act, its accompanying regulations, and a court may grant appropriate injunctive relief.</p>
Injunctions	<p>171. A court of competent jurisdiction may issue an injunction to enforce any provision of this Act against any person including the Ministry.</p>
Deprivation of monetary benefits	<p>172. (1) A Court that has convicted a person of an offence under this Act may summarily and without pleadings inquire into the pecuniary benefit acquired or saved by the person as a result of the commission of the offence and may, upon reliable expert evidence otherwise admissible in a court of law and in addition to other penalty imposed, impose a fine equal to the court's estimation of that pecuniary benefit, despite any maximum penalty elsewhere provided.</p> <p>(2) The Court shall, in imposing a fine pursuant to subsection (1), report fully in writing on details of the expert evidence upon which its judgment was based.</p>

PART XV - SUMMARY ADMINISTRATIVE PROCEEDINGS

Decision to
proceed
administratively

173. (1) The Director may, after consultation with the Minister and the written consent of the Attorney General, proceed administratively against any person who has been charged with a contravention of this Act.

(2) The Director shall promptly notify the person charged that he or she may, within 24 hours of receiving such notification, choose to proceed administratively.

(3) Where the person charged chooses to proceed administratively, he or she shall notify the Director in writing that he or she:

- a) admits to having committed such violation; and
- b) consents to summary administrative proceedings after being fully informed about these proceedings.

(4) Upon notifying the Director of his or her choice under subsection (3), the person charged shall:

- a) not engage in any activity within the scope of this Act until the penalty has been paid in full; and
- b) be deemed to have consented to any seizure which took place in accordance with this Act in relation to the violation subject to the Summary Administrative Proceedings, and to have waived any right to a hearing in the judicial process.

(5) Upon receiving the notification given under subsection (3), the Director or his/her designee may handle this matter in accordance with this Part, in consultation with the Director of Public Prosecutions.

(6) Where the person fails to respond to the Director's written notice within 24 hours, the Director shall refer the matter to prosecution.

Summary
administrative
proceedings

174. (1) The Director may, where the person charged has fulfilled the conditions of section 173(3), dispose of such violation by causing a Compounding Agreement to be drawn up by the Attorney General to formalise the terms and conditions for the Director to accept on behalf of the Sierra Leone Government from such person an Administrative Penalty, the amount of which shall:

- a) not exceed the maximum fine or penalty prescribed under the Act, plus the fair market value of any fish caught illegally;
- b) not be less than the minimum level of fine calculated in conformity with the guidelines required pursuant to section 175; and
- c) where the person charged has committed the same or a similar offence in the past, an amount not less than the fine or determination previously set plus an additional ten per cent.

(2) The compounding of an offence under this section shall be valid on the payment of the fine or penalty and the notification in writing upon payment, under the signature of both parties, to the appropriate Court.

(3) Summary Administrative Proceedings shall be null and void if the full amount of the penalty as determined under subsection (1) is not paid within 3 working days of the notification of such penalty assessment to the person subject to the proceedings, and the matter shall immediately be referred to the Court.

(4) On payment of the penalty in full under this section, the Director may order the release of any article, items, fish or fish products seized under this Act or proceeds of sale of such items, fish or fish products on such conditions as he or she may determine.

(5) Where the person is unable to pay the determination in full, that person may enter into an agreement with the Director and Attorney General providing that the determination shall be paid in such instalments as may be agreed.

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

(7) The Director may order that any fishing gear or other appliance used for poaching connected with the vessel be confiscated, but shall not impose a term of imprisonment in compounding an offence.

(8) Any person aggrieved by a decision of the Director under this section may appeal to the High Court within thirty days of the Director's decision.

PART XVI - OFFENCES, FINES AND PENALTIES

Fines

175. (1) Unless otherwise provided in this Act, the maximum and minimum fines for contraventions of this Act set out in the Second Schedule shall be applied.

(2) In setting the fine or determination in judicial or administrative proceedings taken pursuant to this Act, such fine shall not be greater than the maximum level shown in Part A of the Second Schedule, nor, unless otherwise provided, less than the minimum level shown in Part B of the Second Schedule. They shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities.

(3) In particular, the relevant judicial or administrative proceeding shall take into account the following criteria:

- a) the seriousness of the offence, taking into consideration the:
 - (i) maximum level of fine;
 - (ii) minimum level of fine;
 - (iii) international and national best practices in relation to serious offences, including their definition in international fishery instruments;
 - (iv) degree of impact of the offence on the fishery resources, the environment and the economic and social well being of citizens of Sierra Leone;
 - (v) scope of the offence;
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- (vi) duration of the offence;
 - (vii) whether personal injury or loss of life was involved; and
 - (viii) associated offences, if multiple offences were committed;

b) the situation of the offender, taking into consideration:

- (i) the material and other benefits received as a result of commission of the offence;
- (ii) whether it is a first offence;
- (iii) whether multiple offences are involved;
- (iv) whether the offender was acting alone or associated with others in committing the offence;
- (v) the likelihood that the offender will repeat the offence; and
- (vi) the impact of the level of fine on the offender; and

c) an aggravated minimum fine or penalty shall be required for offences involving assault, obstruction or bribery of an authorized officer, inspector, observer or fishery dock observer or any fisheries officer, damage to gear or vessels, personal injury, loss of life, illegal fishing or damage to the environment.

d) the minimum fine in Part B of the Second Schedule or such greater amount as may be determined based on the above criteria shall be applied, unless exceptional mitigating circumstances, based on the above criteria and clear evidence, are proved beyond a reasonable doubt.

(4) Where an organized criminal group is involved in the contravention of this Act, the Court shall set the fine at a level of no less than ninety per cent of the maximum fine.

(5) All fines in the Second Schedule are maximum fines shown in United States dollars. The fines may be converted into Leones, at the discretion of the relevant Court or summary administrative proceeding, using the official international rate of exchange given by the Bank of Sierra Leone on the date the decision in the matter is handed down by the Court or a determination is made in summary administrative proceedings.

(6) The Second Schedule may be amended by Regulation.

Court may order forfeiture, etc.

176. In addition to any fine and term of imprisonment described in this Act and unless otherwise provided, the Court may order:

- a) a term of imprisonment not exceeding twelve months, and where a fine is not paid into court on the terms required may order such term of imprisonment in lieu of payment of the fine;
 - b) forfeiture of the fishing vessel, fish on board and/or fishing gear;
 - c) cancellation or suspension of the relevant licence or authorization;
 - d) compensation to be paid to the owner of any property damaged or
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destroyed as a direct result of the offence; and

- e) compensation for the cost of clearing any pollution of the fishery waters that may have been caused as a direct result of the offence or removing any objects that continue to cause such pollution.

Costs to be borne by owner, operator, charterer

177. (1) The owner, operator or charterer of a fishing vessel, fish processing establishment, aquaculture facility or other entity subject to legal or administrative proceedings under this Act shall bear any cost or expenditure incurred by the State, as determined by the Court in accordance with law upon conviction and by application of the State, in connection with:

- a) the seizure of a fishing vessel other than a Sierra Leone fishing vessel for an offence against this Act;
- b) the prosecution for an offence in accordance with this Act;
- c) the costs of imprisonment, taking into account the duty to promptly release crew members in accordance with section 170; and
- d) the repatriation of the master and crew of any vessel seized under this Act.

Default for non-payment of fines

178. In addition to any fine or penalty determined under this Act, the Court may order a default penalty for non-payment of fines or determinations, not to exceed one percent (1%) per day of the total amount of the fine or determination.

PART XVII – REGULATIONS

Regulations

179. (1) The Minister, with the advice of the Director and as appropriate in consultation with other Ministries, Departments and Agencies of Sierra Leone, may by regulation prescribe:

- a) any matter required or permitted to be prescribed pursuant to this Act; and
- b) generally all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objective and principles of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Minister may make regulations:

- a) on any matter for the conservation, management and sustainable use of the fisheries resource;
 - b) regarding licenses or authorization for any vessel or class or category of vessels to be used for fishing, fishing related activities or any other purpose pursuant to this Act;
 - c) prescribing the operation of, and conditions and procedures to be observed by any fishing vessel while in the fishery waters, having due regard to the requirements of any international agreement;
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- d) regarding the harvesting, loading, landing, handling, processing, transshipping, transporting, possession and disposal of fish;
 - e) regulating the catch and use of fish taken incidentally when fishing for a species for which a license has been issued and to reduce by-catch generally;
 - f) regarding the import, export, trade in, distribution and marketing of fish and fish products;
 - g) regarding the employment of persons on board fishing vessels;
 - h) regarding fees, fines, levies, penalties, and royalties;
 - i) regarding the appointment, powers and duties of authorized officers and observers;
 - j) prescribing the duties and procedures to be followed by the master and crew of any vessel in relating to authorized officers and observers;
 - k) regulating or prohibiting the use of any diving apparatus, spear guns or other similar devices for fishing or fishing related activities;
 - l) establishing standards and measures for the safety of fishers and fishing vessels;
 - m) regarding requirements for the qualifications and manning of fishing vessels;
 - n) regulating and controlling the operation of fish processing establishments, including quality control measures and inspection of such establishments;
 - o) setting standards for food security;
 - p) regulating and controlling aquaculture operations;
 - q) regarding the pollution of the fishery waters in cooperation with competent authorities;
 - r) relating to the dumping or discharging of anything which is or may be injurious to fish or their habitat or which may disturb or change the ecological balance in any area;
 - s) enabling those engaged in artisanal fisheries to participate in the shared management of fish landing sites and related fisheries;
 - t) implementing the requirements of any international agreement or international conservation and management measures;
 - u) that amend the Schedule to this Act and
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- v) such other matters that fall within the scope of this Act.

PART XVIII - REPEALS AND SAVINGS

Repeals and savings

- 180.** (1) The following enactments are repealed:
- a) The Fisheries (Management and Development) Act, 1994; and
 - b) The Fisheries (Management and Development) (Amendments) Act, 2007.

(2) Notwithstanding subsection (1), any rules, regulations, orders, notices and other instruments or directives issued under the repealed Acts and in existence upon the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation.

(3) Notwithstanding subsection (1), any valid licence, authorization or registration existing upon the commencement of this Act shall continue in force.

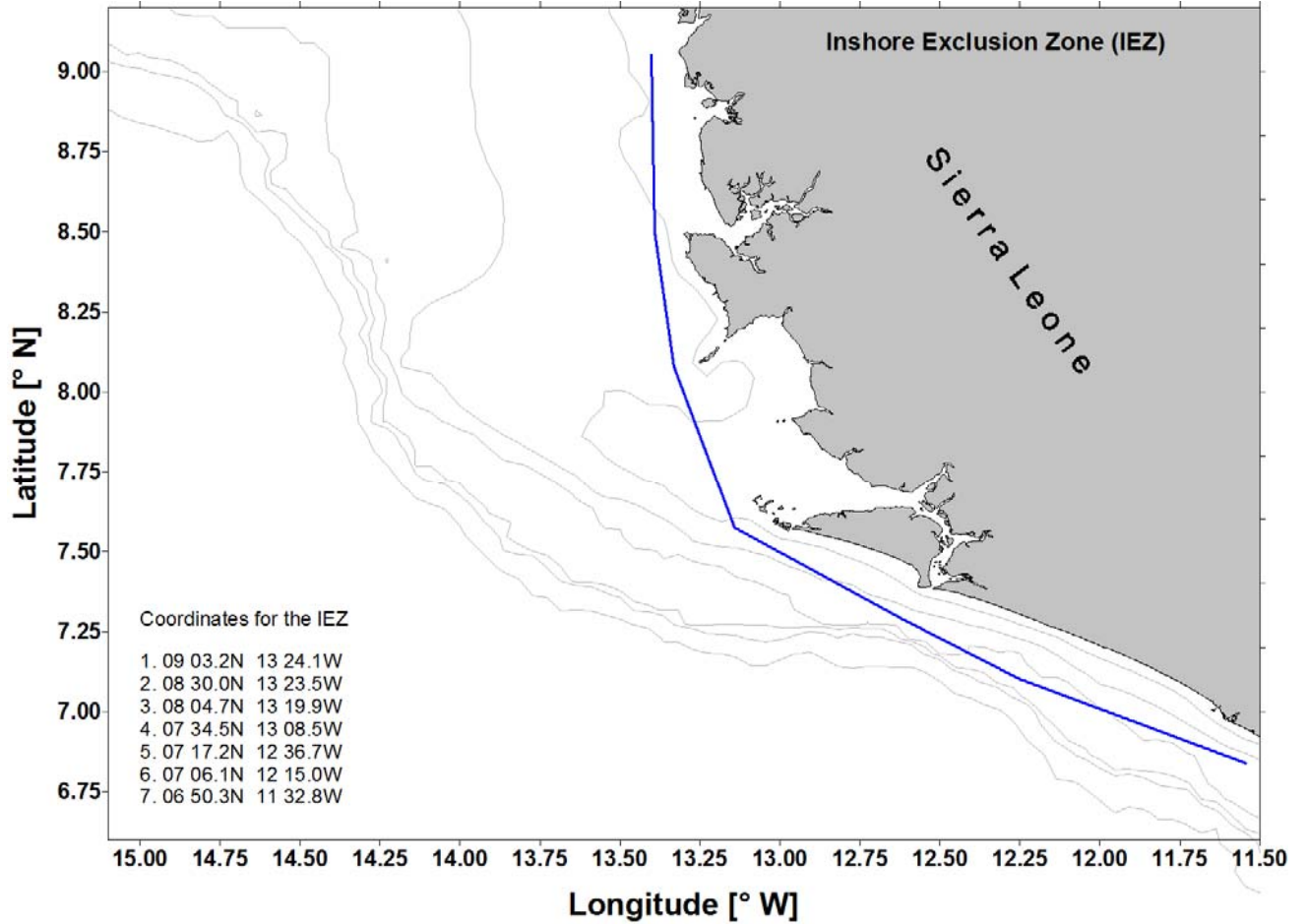
(4) All investigations, prosecutions and other legal proceedings instituted or commenced under the repealed Acts and which have not been concluded before the commencement of this Act, shall be continued and concluded in all respects as if the relevant Act had not been repealed.

Transition

181. Any person who holds a valid and applicable licence or authorization issued pursuant to the Fisheries Management and Development Act 1994 shall be deemed to have been issued a licence or authorization pursuant to this Act until such date as the period of validity expires or it is suspended, cancelled, terminated or revoked pursuant to this Act or under judicial or administrative proceedings taken under this Act.

**FIRST SCHEDULE
Section 18**

SIERRA LEONE INSHORE EXCLUSION ZONE



The coordinates of the outer boundary of the Inshore Exclusion Zone are:

- 9° 3.2'N 13° 24.1'W
- 8° 30.0'N 13° 23.5'W
- 8° 4.7'N 13° 19.9'W
- 7° 34.5'N 13° 8.5'W
- 7° 17.2'N 12° 36.7'W
- 7° 6.1'N 12° 0.0'W
- 6° 50.3'N 11° 32.8'W

SECOND SCHEDULE
Section 175

FINES

A. MAXIMUM FINES

OFFENCE		MAXIMUM FINE
Section and subsection including any part thereof	Title	US Dollars
10 (1)	Conflict of interest	250,000
14 (8)	Fisheries Management Plans a) In respect of artisanal fishing activities b) in respect of semi- industrial fishing activities c) in respect of industrial fishing activities	20,000 50,000 100,000
18 (3), (4), (6)	Inshore Exclusion Zone	1,00,000
19 (3)	Marine Protected Areas	500,000
20 (3)	Closed areas	500,000
21 (3)	Closed seasons	500,000
22 (1) – (5)	Prohibited fishing gear and methods	250,000
23 (1) – (3)	a) Damage, destruction to and interference with fishing gear, vessel, person prohibited in respect of any fishing gear b) in respect of any vessel c) in respect of any person	500,000 500,000 1,000,000
24 (2)	Manufacture, importation, use and sale of fishing nets, use of unauthorized contrivance	100,000
25 (1)	Possession of prohibited fishing gear	50,000
26 (1)	Leaving or abandoning objects in the sea prohibited	10,000
27 (1), (2)	Driftnet fishing activities prohibited	1,000,000

OFFENCE		MAXIMUM FINE
28 (1)	Use of canoe support vessels prohibited a) in respect of any canoe b) in respect of any fishing vessel	50,000 500,000
29 (2)	Declaration of endangered species of fish	250,000
30 (1), (2)	Prohibitions and requirements for gravid lobsters or other gravid crustacean	250,000
31 (1), (2)	Prohibitions and requirements for marine mammals	250,000
32 (1) - (5)	Prohibitions and requirements for sea turtles, rays and shark	250,000
33 (1)	Pollution of the fishery waters	1,000,000
34 (1), (2)	Fisheries impact assessments a) in respect of any person	250,000
35 (1), (2)	Import and release of live fish	250,000
36 (1)	Export of live fish	250,000
37 (1)	Possession and trade in fish, fish product or other marine resources prohibited	100,000
38 (1)	Prohibited activities relating to fish or fish products taken contrary to the laws of another State	250,000
39 (1)	Sale, export of adulterated or contaminated fish, or fish products prohibited	1,000,000
40 (1)	Interference with inspected fish prohibited	500,000
41 (1)	Unlicensed activities prohibited	1,000,000
42	Foreign fishing vessels	1,000,000
43 (1)	Stowage of fishing gear	500,000
44 (1)	Transshipment at sea prohibited	1,000,000

OFFENCE		MAXIMUM FINE
49 (1), (2), (3), (4)	Agents or companies to be designated for purposes of legal process, information	250,000
53(1)	Aquaculture activities requirements	500,000
56 (1)	Prohibited to deprive community of traditional access to fisheries	100,000
57(4)	Local Council's responsibility to monitor non-commercial aquaculture activities	100,000
58(1)	Permission of Director and approval by Minister required	250,000
60(1), (3)	Aquaculture waste	500,000
61 (1), (2), (3)	Escapement	10,000
62(1)	Use of drug, chemical etc. restricted	100,000
64(1)	Interfering with aquaculture facility prohibited	250,000
66(1), (2), (3)	Information, data and records	250,000
68(1), (4)	Information in partnership agreements between vessel agents and vessel owners	100,000
69(1)	Information on the labels of containers, etc. containing fish harvested in the fishery waters	250,000
70(1)	Information to be true, complete and correct	250,000
71(1)	Confidential information	250,000
79(3), (4), (5)	Terms and conditions of licences and authorizations	10,000
80 (2), (3)	Preference for employment of citizens of Sierra Leone	500,000
83(5)	Suspension or cancellation of licence or authorization	1,000,000
84(3)	Termination of licences and authorizations	500,000

OFFENCE		MAXIMUM FINE
87(1)	Conditions for fishing for industrial or semi-industrial fishing vessels	250,000
88(1)	Conditions for industrial fishing vessels	500,000
89(1)	Reporting requirements for industrial fishing vessels	100,000
90(1)	Conditions for semi-industrial fishing vessels	250,000
91 (1)	Reporting requirements for semi-industrial fishing vessels	50,000
92 (1)	Conditions for recreational fishing vessels	10,000
93 (2)	Registration of artisanal vessels	5,000
94 (1) – (7)	Requirements for transshipment	500,000
95 (1), (3), (6)	Deployment and maintenance of a fish aggregating device	10,000
96 (2)	Designated fish aggregating device	10,000
97 (1)	Markings, equipment for fish aggregating devices	10,000
98 (1)	Disposal of unauthorized fish aggregating devices	10,000
99 (1), (2), (3)	Conditions for fish processing licence a) in respect of subsections (2) and (2) b) in respect of subsection (3)	500,000 10,000
101 (3)	Inspectors to request information and keep records	250,000
102 (2)	Returns	250,000
103 (1), (4), (5)	Application for an aquaculture licence	10,000
106 (1), (2)	Conditions for aquaculture licences	500,000
108 (1), (3)	Building and sale of semi-industrial fishing vessels	100,000

OFFENCE		MAXIMUM FINE
120 (3)	Removal of parts from seized vessels, etc	100,000
125 (1)	Requirements for monitoring of offloading by fishery dock observer	250,000
126 (1)	Duties of operators, etc, to inspectors, observers and fishery dock observers	250,000
127 (1)	Conditions for observers	250,000
129 (2)	Notice of intention to place observer	250,000
1332)	Obstruction, etc. of authorized persons: in respect of subparagraphs (a) – (h); in respect of subparagraphs (g) – (s).	50,000 250,000
134 (3) – (6)	Vessel Monitoring Systems	500,000
135 (1)	Use of port without authorization prohibited	500,000
136 (1)	Vessels may be prohibited from entering port	500,000
137 (1)	Denial of the use of port to a foreign fishing vessel	1,000,000
138 (3)	Inspection of foreign fishing vessels in port	1,000,000
148 (1)	Unlawful removal of seized goods	250,000
157 (1) – (4)	Interfering with evidence	250,000
158 (1)	Tampering with item, etc. that may be used in evidence of non-compliance with the Act	250,000
169 (1)	Banning order	250,000

B. MINIMUM FINES

The minimum fines to be applied shall be, in respect of:

- (1) Industrial fishing or fishing related activities, 25% of the maximum fine;
- (2) Fish processing activities, 20% of the maximum fine;
- (3) Commercial aquaculture activities, 20% of the maximum fine; and
- (4) Semi-industrial fishing or fishing related activities, 15% of the maximum fine.