

## CHAPTER 158

## FISHERIES

*Ordinances No 4 of 1941, 14 of 1943, 2 of 1945,  
20 of 1949, 8 of 1951, 16 of 1958, 34 of 1959,  
26 of 1964, 7 of 1966, 37 of 1966 Act No 34 of 1976,  
22 of 1977, Legal Notice No 87 of 1979  
Decree No. 46 of 1991.*

## AN ACT TO MAKE PROVISION FOR THE REGULATION OF FISHING

[1st January, 1942]

*Short title*

1. This Act may be cited as the Fisheries Act.

*Interpretation*

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

“cast net” means a round net, weighted at the periphery, which is used by being cast over fish in such a way that it sinks to the bottom;

“Fiji fisheries waters” means all waters appertaining to Fiji and includes all internal waters, archipelagic waters, territorial seas and all waters within the exclusive economic zone as these terms are defined in the Marine Spaces Act *(Cap 158A);*  
*(Inserted by 22 of 1977 s.2)*

“fish” means any aquatic animal whether piscine or not, and includes shellfish, sponges, holothurians (beche-de-mer), sea-urchins, crustaceans and turtles and their eggs;

“fisheries certification officer” means any fisheries officer appointed by the Permanent Secretary for Primary Industries for the purpose of certifying whether or not any fish has been taken by the use of explosive or chemical substances;  
*(Inserted by 46 of 1991)*

“Fisheries Officer” means an officer appointed by the Public Service Commission to supervise fishing within Fiji or any part thereof;

“fishing vessel” means any vessel or boat used for taking fish by way of trade or business;

“hand net” means a net fixed on a frame or on two poles, which can be moved in all directions by one person, the maximum width of which is not greater than 1.5 m [five feet];

“licencing officer” means any person appointed by the Minister to issue licences under this Act;

“taking fish” includes any method of catching fish;

“wading net” means a net fixed on a frame or on two poles which can be moved in all directions by two persons, the maximum width of which does not exceed 4.3 m [fourteen feet].

*(section amended by 26 of 1964, s.2,  
by 34 of 1976, s.3, 22 of 1977 s.2 and 87 of 1979)*

*Minister may appoint honorary fish wardens*

3. The Minister\* may appoint honorary fish wardens whose duties shall be the prevention and detection of offences under this Act and the enforcement of the provisions thereof.

*(Inserted by 34 of 1959, s2*

*Amended by 112 of 1970)*

*Application of Act to exclusive economic zone*

4. (1) Nothing in this Act shall be construed--
- (a) to require--
- (i) the master, owner, charterer, if any, or any crew member of a foreign fishing vessel to obtain a licence to take fish within the exclusive economic zone; or
- (ii) the registration of a foreign fishing vessel, for the purpose of fishing within the exclusive economic zone; or
- (b) to authorise the making of any regulation in derogation of the provisions of the Marine Spaces Act in relation to fishing; *(Cap. 158A.)*
- (c) to authorise the boarding, search, seizure, taking of possession or detention, under the provisions of this Act of any such foreign fishing vessel or of any equipment, fish, or persons on board the vessel in respect of any offence relating to fishing in the exclusive economic zone.

(2) Any offence against this Act that is committed within the exclusive economic zone shall be deemed to have been committed in Fiji.

(3) In this section the terms “exclusive economic zone”, “fish”, “fishing” and “foreign fishing vessel” have the meaning assigned to them by subsection (1) of section 2 of the Marine Spaces Act. *(Cap. 158A.)*

*(section inserted by 22 of 1977, s2)*

*Licence to take fish*

5.- (1) A licencing officer may in his discretion grant licences to take fish in Fiji fisheries waters.

*(Amended by 22 of 1977, s2)*

(2) Every licence granted under this Act shall terminate on the 31st December next after the day of issue. It shall be personal to the holder, shall not be transferable and shall be subject to such conditions as the licencing officer shall think fit to endorse thereon in accordance with this Act or any regulations made thereunder.

(3) No person shall take fish in Fiji fisheries waters by way of trade or business or as an employee of a person carrying on the trade or business of a fisherman unless such person is authorised by a licence to take fish:

Provided that:-

- (a) a person who takes fish with a line from the shore or with a spear shall not be required to obtain such a licence;

---

\* Delegated to Permanent Secretary for Agriculture and Fisheries by notification 11th November, 1965.

- (b) the Minister may by regulation exempt any person from the necessity of possessing such a licence;

*(Subsection substituted by 26 of 1964, s3 and amended by 22 of 1977, 52)*

(4) Subject to the provisions of subsection (2) of section 12 of the Marine Spaces Act, no licence to take fish in Fiji fisheries waters shall be granted to any person owning, operating or manning any fishing vessel registered elsewhere than Fiji without the prior approval of the Minister.

*(Cap. 158A.)*

*(Inserted by 22 1977, s2)*

*Registration of fishing vessel*

6.- (1) Every licenced fisherman owning or operating any fishing vessel shall register every such vessel with a licencing officer, and shall renew the registration annually in the prescribed manner.

*(Amended by 26 of 1964, s4)*

(2) Every vessel registered under the provisions of this Act shall bear such letter and number as may be given by a licencing officer. Such letter and number shall be plainly painted and maintained plainly painted on each side of the vessel, on the swell of the bow thereof, in white figures on a black ground or in black figures on a white ground. Such figures shall be at least 200 mm [eight inches] in height and 25 mm [one inch] in breadth of stroke.

*(Amended by 26 of 1964, s4 and 87 of 1979)*

(3) If any vessel registered under the provisions of this section is a sailing vessel, the letter and number required to be painted on the bow shall, in addition, be plainly painted and be kept plainly painted in black figures on each side of the sail thereof and such figures shall be at least 300 mm [twelve inches] in height, and 50 mm [two inches] in breadth of stroke.

*(Amended by 87 of 1979)*

(4) Any person owning or operating a fishing vessel who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

*(Inserted by 14 of 1 W3, s2)*

*Power of examination and detention*

7.- (1) Any licencing officer, police officer, customs officer, honorary fish warden and any other officer empowered in that behalf by the Minister, may, for the purpose of enforcing the provisions of this Act:-

- (a) require any person engaged in fishing to exhibit his licence, apparatus and catch;
- (b) go on board any vessel reasonably believed to be engaged in fishing and search and examine any fishing apparatus therein;
- (c) where there is reasonable suspicion that any offence has been committed, take the alleged offender, the vessel, apparatus and catch, without summons, warrant or other process, to the nearest police station or port. The vessel and apparatus may be detained pending trial of the offender and the catch may be sold and the proceeds of the sale detained pending such trial; and thereafter any vessel, apparatus or money so detained shall, unless forfeited under the provisions of subsection (7) of section 10, be returned to the person from whom the same was taken.

*(Amended by 14 of 1943, s3)*

(2) Any person who refuses to permit any officer or person mentioned in subsection (1) to board a vessel or obstructs or hinders him in the course of boarding a vessel or in the course of otherwise executing his duties shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months.

*(Inserted by 34 of 1959, s3)*

*Cancellation of licence to take fish*

8.- A licence to take fish may be cancelled by the court upon the conviction of the holder for any contravention of the terms of his licence or for any breach of the provisions of this Act or of the regulations made thereunder.

*Regulations*

9.- The Minister may make regulations:-

- (a) prohibiting any practices or methods, or employment of equipment or devices or materials, which are likely to be injurious to the maintenance and development of a stock of fish;
- (b) prescribing areas and seasons within which the taking of fish is prohibited or restricted, either entirely or with reference to a named species;
- (c) prescribing limits to the size and weight of fish of named species which may be taken;
- (d) prescribing limits to the size of nets or the mesh of nets which may be employed in taking fish either in Fiji fisheries waters or in any specified part thereof;
- (e) regulating the procedure relating to the issue of and cancellation of licences and the registration of fishing boats and prescribing the forms of applications and licences therefore and the conditions to be attached thereto;
- (f) prescribing the fees to be charged upon the issue of licences and the registration of fishing vessels which fees may differ as between British subjects and others;
- (g) regulating any other matter relating to the conservation, protection and maintenance of a stock of fish which may be deemed requisite.

*(Section amended by 7 of 1966, ~17. and 22 of 1977, s2)*

*Offences*

10. (1) Any person who, being required to be the holder of a licence, takes or attempts to take fish in Fiji fisheries waters or is in possession of fishing apparatus in such circumstances as to satisfy the court before which he is tried that he intended to use the apparatus for the purpose of taking or destroying fish without being licenced under this Act shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.

*(Amended by 2 of IWS, ~133, 22 of 1977 and 46 of 1991, s3)*

(2) Any person who:-

- (a) being the holder of a licence under this Act, fails to comply with any of the conditions of his licence; or
- (b) commits any offence against this Act for which no special penalty is provided; or
- (c) contravenes or fails to comply with the provisions of any regulation made hereunder,

shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.

*(Substituted by 14 of 1943, 54, amended by 2 of 1945, s133 and 46 of 1991, s3)*

(3) The master, owner and charterer, if any, of any fishing vessel registered elsewhere than in Fiji using such vessel for the purpose of taking fish within Fiji fisheries waters without the prior approval of the Minister or under the authority of a licence issued under the provisions of section

14 of the Marine Spaces Act shall be liable on conviction to a fine not exceeding one hundred thousand dollars.

*(Substituted by 22 of 1977, s2)*

(4) Any person who takes or destroys or attempts to take or destroy any fish by the use of dynamite, gelignite or other explosive substance, or who, being the holder of a licence under this Act, is found in possession of dynamite, gelignite or other explosive in such circumstances as to satisfy the court before which he is being tried that he intended to use the substance for the purpose of taking or destroying fish, or any person possessing, transporting or selling or exposing for sale or hawking fish which has been taken by the use of one of the aforesaid explosives, shall be liable for a first offence to imprisonment for six months and to a fine of one thousand dollars; for a second offence to imprisonment for twelve months and a fine of two thousand dollars, and if he is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of three years from the date of the second conviction; for a third and any subsequent offence to imprisonment for two years and to a fine of five thousand dollars, and if he is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of six years from the date of such conviction.

In all cases where dynamited fish is seized, it shall be confiscated and destroyed.

*(Amended by 2 of 1945, s133 and 46 of 1991, s3)*

(4A) Persons convicted of offences under subsection (4) shall be sentenced to a minimum of:

- (a) a fine of \$1000 in case of a first offence;
- (b) a fine of \$2000 in the case of a second offence;
- (c) a fine of \$5000 in the case of a third and subsequent offences.

*(Inserted by 46 of 1991, s3)*

(5) Any person, whether he be the salesman or the owner of illegally caught fish, who fails to supply on demand to any officer named in section 7, information regarding the source of his supply, shall be guilty of an offence against this Act.

(6) Any person who obscures the registration number of a vessel with intent to evade any of the provisions of this Act shall be guilty of an offence against this Act.

(7) The court may order the forfeiture to the Crown of any vessel, apparatus or catch or the

proceeds of sale on any catch detained under paragraph (c) of section 7, employed in the commission of, or derived from, any act proved to be an offence under this Act or any regulation thereunder:

Provided that in every case of a conviction under subsection (3) the fishing apparatus employed shall be forfeited to the Crown.

*(Substituted by 14 of 1943, s.6)*

(8) A certificate under the hand of a fisheries certification officer, Government veterinary officer or Government chemist stating that a fish has been killed by dynamite, gelignite or other explosive substance shall be *prima facie* evidence of that fact until the contrary be proved.

*(Inserted by 34 of 1959, 5.4)*

*(Amended by 46 of 1991. ~3)*

*Power to permit use of explosives*

11.- (1) The Minister may in his discretion issue to a Fisheries officer a permit authorising by a method specified in the permit and in accordance with any conditions which he may think fit to impose, the use of explosives for the taking of fish.

*(Amended by 46 of 1991, s4)*

(2) Where a permit has been issued under the provisions of subsection (1), the provisions of subsection (4) of section 10 shall not apply:-

- (a) in respect of the taking or attempted taking of fish by the holder of the permit or his servants where such taking or attempted taking is in accordance with the terms and conditions of his permit;
- (b) in respect of the destruction of fish by the holder of the permit or his servants where such destruction is in the course of and in consequence of the taking or attempted taking of fish in accordance with the terms and conditions of the permit;
- (c) in respect of the possession, transportation, selling, exposing for sale or hawking of fish by any person where such fish were taken by the holder of the permit or his servants in accordance with the terms and conditions of the permit;
- (d) in respect of the possession of explosives by the holder of the permit or his servants where such possession is for the purpose of taking fish in accordance with the terms and conditions of the permit.

(3) The Minister may at any time in his discretion cancel or modify a permit issued under this section.

*(Section inserted by 20 of 1949, s.2. Amended by 112 of 1970)*

#### *Rewards*

**12.-** The court may order to be paid out of any fine inflicted for any contravention of any of the provisions of subsection (4) of section 10, such reward as the court considers fit and proper to any person giving information which may have led to the conviction of the offender:

Provided that in no instance shall the reward exceed one-half of the fine imposed.

#### *Non-liability of Fisheries Officers*

**12A.-** No Fisheries Officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

*(Inserted by 46 of 1991, s5)*

#### *Protection of native customary rights*

**13.-** (1) Notwithstanding anything contained in the Rivers and Streams Act, it shall be an offence for any person to take fish on any reef or on any kai (cockle) or other shellfish bed in any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights unless he shall be a member of such mataqali, division or subdivision of the Fijian people who does not require a licence under section 5 to take such fish or shall first have obtained a permit to do so from the Commissioner of the Division in which such area is situated: *(Cap 136)*

Provided that--

- (a) such permits shall not be necessary in the case of persons taking fish (other than by way of trade or business or as the employee of a person carrying on the trade or business of a fisherman) with hook and line or with a spear or portable fish trap which can be handled by one person; and
- (b) any such permit may exclude fishing for particular species of fish, or may exclude fishing in any particular areas, or may exclude fishing by any particular methods, or may contain any combination of such exclusions.

(2) The grant of a permit shall be in the discretion of such Commissioner who shall consult the Fisheries Officer and the subdivision of the Fijian people whose fishing rights may be affected thereby, prior to granting the same.

(3) A permit may be granted for any period not exceeding three years, but every such permit shall expire on the 31st day of December in any one of such years.

*(Section substituted by 26 of 1964. s.6.)*

*Native Fisheries Commission*

**14.-** The Minister responsible for Fijian affairs may appoint a Native Fisheries Commission (hereinafter referred to as the Commission), consisting of one or more commissioners, each of whom shall have the powers of the Commission, who shall be charged with the duty of ascertaining what customary fishing rights in each province of Fiji are the rightful and hereditary property of native owners, whether of mataqali or in whatsoever manner or way or by whatsoever divisions or subdivisions of the people the same may be held.

*(Amended by 37 of 1966, s.50 and 112 of 1970)*

*Inquiry by Commission*

**15.-** (1) The Commission shall institute inquiries into the title of all customary fishing rights claimed by mataqali or other subdivisions of the people, and shall record in writing the boundaries and situation of such rights together with the names of the respective communities claiming to be owners thereof.

*(Amended by 8 of 1951, s.3)*

(2) The Commission shall with the approval of the Minister responsible for Fijian affairs make rules for regulating the procedure to be followed and prescribe forms to be adopted in any such inquiry.

*(Amended by 112 of 1970)*

*Announcement of decision*

**16.** On the conclusion of the proceedings recording the ownership of any customary fishing rights the Commission shall announce its decision to the parties concerned:

Provided that the Commission may adjourn to such date as it may think fit for the purpose of considering such decision.

*Appeal*

**17.-** (1) There is hereby constituted an Appeals Tribunal consisting of a chairman and two other members all to be appointed by the Minister responsible for Fijian affairs. It shall be the duty of the Appeals Tribunal to hear and determine appeals from decisions of the Commission under section 16, and any such determination by the Appeals Tribunal shall be final.

(2) Any person aggrieved by any such decision of the Commission shall within ninety days of the announcement thereof give notice of his desire to appeal, which shall be signed by the appellant or his duly authorised agent, to the Commission. The notice shall contain the grounds of the appeal.

(3) For the purpose of determining an appeal the Appeals Tribunal shall have power to hear further evidence, but only if all of the three following conditions are satisfied:-

- (a) it is shown that the evidence could not have been obtained with reasonable diligence for use at the inquiry before the Commission;
- (b) if the further evidence is such that, if given, it would probably have an important influence on the decision;
- (c) if the evidence is such as is presumably to be believed.

**Cap.158 Ed. 1992 Fisheries**

(4) If no notice of appeal is given the record of the Commission shall be conclusive and final.

*(Section substituted by 16 of 1958, s.2)  
(subsections 1 and 2 amended by 112 of 1970)*

*Power to summon witnesses*

**18.-** For the purpose of any inquiry the Commission shall have the same powers as those vested in magistrates to summon and examine on oath any person whom they may think able to give relevant evidence, and to require the attendance of all claimants to any customary fishing rights, the title of which is being inquired into, and of all persons likely to be interested in the title to such right.

*Registration*

**19.-** (1) The Commission shall cause the description of the boundaries and situation of fishing rights recorded and settled in the manner aforesaid to be entered in a register called the "Register of Native Customary Fishing Rights".

(2) The volumes of such register according to the provinces shall from time to time be transmitted to the Registrar of Titles who shall preserve the Register of Native Customary Fishing Rights in the same manner as the Register of Lands granted by the Crown.

(3) Where it is found that an error has been made in the preparation of such register it shall be lawful for the Registrar of Titles on the receipt of an order under the hand of the Minister responsible for Fijian affairs to correct the same.

*(Amended by 118 of 1970)*

*Copy of register to be deposited*

**20.** A copy of the volume of the said register in the Fijian language so far as applicable to each province shall be deposited with the scribe of the province, and a copy of the register so far as it affects each mataqali or other subdivision of the people shall be given to each for public use, whenever the boundaries of the fishing rights of such mataqali or subdivision have been finally fixed and determined.

*Controlled by the Ministry of Primary Industries*