

**FISHERIES AND AQUACULTURE BILL, 2023**

*(Bill No. 23 of 2023)*

**EXPLANATORY STATEMENT OF THE OBJECTS OF  
AND REASONS FOR THE BILL**

The objective of this draft Bill is to ensure the long-term conservation, management and development of fisheries in Seychelles and genetic material derived from them, while safeguarding the marine resources, biodiversity, environment and ecosystems for sustainability, for the benefit of the people of Seychelles.

The Bill seeks to provide for the sustainable management and development of fisheries, aquaculture and related activities in all areas over which the Republic of Seychelles exercises jurisdiction and sovereign rights, for the exercise of effective control of fishing and related activities of Seychelles nationals in areas beyond national jurisdiction, including persons and vessels, for the implementation of regional and international obligations and standards.

Finally, the Bill seeks to implement provisions from regional and international fisheries instruments which Seychelles is a party, such as the United Nations Convention on the Law of the Sea (UNCLOS), the United Nations Fish Stock Agreement (UNFSA), various Fisheries and Agriculture Organisation (FAO) instruments, Port State Measure to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing, and in particular to domesticate the Indian Ocean Tuna Commission (IOTC).

**Dated this 13<sup>th</sup> day of November, 2023.**

**JEAN-FRANÇOIS FERRARI  
MINISTER FOR FISHERIES AND  
THE BLUE ECONOMY**

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## **FISHERIES AND AQUACULTURE BILL, 2023**

*(Bill No. 23 of 2023)*

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## FISHERIES AND AQUACULTURE BILL, 2023

*(Bill No. 23 of 2023)*



### A BILL FOR

**AN ACT TO PROVIDE FOR THE SUSTAINABLE MANAGEMENT AND DEVELOPMENT OF FISHERIES, AQUACULTURE AND RELATED ACTIVITIES IN ALL AREAS OVER WHICH THE REPUBLIC OF SEYCHELLES EXERCISES JURISDICTION AND SOVEREIGN RIGHTS, FOR THE EXERCISE OF EFFECTIVE CONTROL OF FISHING AND RELATED ACTIVITIES OF SEYCHELLES NATIONALS IN AREAS BEYOND NATIONAL JURISDICTION, INCLUDING PERSONS AND VESSELS, FOR THE IMPLEMENTATION OF REGIONAL AND INTERNATIONAL OBLIGATIONS AND STANDARDS AND TO PROVIDE FOR OTHER RELATED MATTERS.**

**ENACTED** by the President and the National Assembly.

### PART I - PRELIMINARY

#### **Short title and commencement**

1. This Act may be cited as the Fisheries and Aquaculture Act, 2023 and shall come into operation on such date as the Minister may, by notice published in the Gazette appoint.

## Interpretation

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

“abandoned fishing gear” means fishing gear over which the operator, or owner has control and could retrieve, but is deliberately left at sea due to force majeure or other unforeseen reasons;

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

“applicable international conservation and management measure” or “applicable ICCM” means a conservation and management measure adopted by a relevant regional fisheries management organisation in accordance with its procedures and which is legally binding on Seychelles;

“applicant” means a person making an application for a licence, authorisation or permit, and includes any person making the application on behalf of the applicant, with his or her authorisation;

“aquaculture” means the cultivation, propagation or farming of fish including cultivation, propagation or farming from eggs, spawn, spat or seed, or by rearing fish taken from the wild or imported into Seychelles, or by other similar process, and the collecting and holding of live fish;

“associated electronic equipment” means any device or system that can be used to locate, track or otherwise monitor a fish aggregating device;

“authorised vessel” or “AV”, in relation to an international conservation and management measure, means a fishing vessel entered on the record of fishing vessels of an applicable regional fisheries management organisation that is —

- (a) twenty- four metres in length overall or more; or
- (b) in case of vessels less than twenty-four metres in length overall, those operating in waters outside Seychelles waters, and hold a valid and applicable authorisation to operate in the area of competence of such regional fisheries management organization and for species under its mandate;

“authorised officer” means a person appointed pursuant to section 88;

“Authority” means the Seychelles Fishing Authority established under the Seychelles Fishing Authority (Establishment) Act, Cap 214;

“Automatic Identification System” or (AIS) means the system required pursuant to Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea as may be applicable to vessels used for fishing or related activities;

“beneficial owner” means the natural person(s) who ultimately owns or controls a vessel or the natural person(s) on whose behalf a transaction is being conducted, and includes those persons who exercise ultimate effective control over a legal person or arrangement;

“biodegradable” means made of natural materials or bio-based biodegradable plastic compounds, prioritising those materials that comply with international relevant standards or certification labels for plastic compostability in marine environments and where the substances resulting from the degradation of these materials are not toxic for the marine and coastal ecosystems or include heavy metals in their composition;

“biological diversity” or “biodiversity” means the variability among living organisms from all sources including terrestrial, marine and other aquatic ecosystems and the ecological

complexes of which they are part, including diversity within species, between species and of ecosystems;

“bioprospecting” means the systematic search for and development of new sources of chemical compounds, genes, micro-organisms, macro-organisms, and other valuable products from fish and entails the search for economically valuable genetic and biochemical resources from fish;

“buy” or “purchase” includes —

- (a) barter or attempt to barter;
- (b) purchase or attempt to purchase;
- (c) trade or attempt to trade;
- (d) receive on account or consignment; or
- (e) receive in order to send, forward or deliver for sale;

“bycatch” means part of a catch of a fishing unit taken incidentally in addition to the target species towards which fishing effort is primarily directed, and may include —

- (a) different species from the target species;
- (b) non-target species identified by any international conservation and management measure, applicable licence or fisheries management plan;
- (c) undersized or juvenile individuals or the prohibited sex of the target species;
- (d) species which are incidentally affected by interacting with fishing equipment in the fishery, but are not taken;
- (e) those components of the target species of industrial fisheries that are rejected because —

- (i) the sizes are too small for canning or other external markets;
- (ii) of the heavy metal content of larger fishes, damage during hauling, depredation, or rejection of target species by primary markets for other quality concerns;

“carcass” in relation to sharks means all parts of the shark other than the head and viscera;

“Chief Executive Officer” means the Chief Executive Officer of the Authority;

“commercial fishing” means any fishing or fishing related activity resulting or intending or appearing to result in the sale or trade of any fish taken, caught or harvested during a fishing operation;

“commercial fishing vessel” means a fishing vessel used for commercial fishing;

“competition sport fishing” means any fishing activity which —

- (a) is undertaken for sport among competitors who are observing a prescribed set of rules;
- (b) involves the hiring, chartering or leasing of a vessel; and
- (c) does not result in the trading, offering for sale or selling of fish;

“continental shelf” has the meaning given to it under section 11 of the Maritime Zones Act, 1999;

“conservation” means the protection, improvement, and use of natural resources according to principles that will assure their highest economic or social benefits;

“court” means a court of competent jurisdiction in Seychelles;

“data buoy” means any floating device, either drifting or anchored, that is deployed by governmental or recognised scientific organizations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities;

“discard” means that portion of the total catch which is thrown away or slipped at sea;

“discarded fishing gear” means fishing gear that is released at sea without any attempt for further control or recovery by the owner or operator;

“electronic logbook” means a computerised record of information and data relating to fishing or related activities in such template and containing such information as may be required pursuant to this Act or any international conservation and management measure;

“electronic monitoring system” or “EMS” means an onboard information and data collection system, which may include, without limitation, onboard cameras, GPS, scanning devices, sensors, or other imaging technology to acquire verifiable information relating to, inter alia, vessel position, methods and duration of fishing and related activities, gear, species and number of catch and bycatch taken on board vessels, released or transshipped;

“endangered species” includes species that are declared endangered species under Seychelles law or any applicable international agreement;

“equipment” in relation to a vessel includes electronic equipment;

“Exclusive Economic Zone” has the same meaning given by the

Maritime Zones Act, 1999 and in accordance with the Maritime Zones (Exclusive Zone and Continental Shelf) Order, 2008;

“exploratory fishing” means fishing for scientific purposes excluding commercial fishing, including the testing of new gears and fishing methods, carried out to explore and identify new stocks of fish or those that were previously unexploited in order to assess the potential for management and development of commercial fisheries;

“fish” means any aquatic or marine organism, other than a bird, living or not and processed or not, and includes finfish, crustacean, mollusc, coral, echinoderm, holothurian, reptile, marine mammal and amphibious and sedentary species, and any of their parts or derivatives and includes plants to the extent they are directly essential for the habitat or survival of fish;

“fish aggregating device” or “FAD” means an object or group of objects of any size, whether drifting (“DFAD”) or anchored floating or submerged objects (“AFAD”), deployed or not, that is a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed or tracked, for the purpose of aggregating target species for consequent capture, and includes any natural floating object on which associated electronic equipment has been placed to facilitate its location;

“fish product” means any fish which has been partly or wholly processed;

“fisher” means a person employed or engaged in any capacity or carrying out an occupation whether or not on board any vessel used for fishing or related activities, including persons working on board who are paid on the basis of a share of the catch other than pilots, naval personnel, other persons in the permanent service of a government and shore-based persons carrying out work aboard such vessel;

“Fisheries Monitoring Center” means the Center established pursuant to section 118;

“fishery” or “fisheries” means —

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

“fishery resource” or “fisheries resource” means any fish, fishery, stock, species, or habit of fish or part of any of them;

“fish stock” means a population of fish, including straddling or migratory species, which constitute a coherent reproductive unit;

“fishing” means —

- (a) searching for, attracting, locating, catching or harvesting of fish;
- (b) the attempted searching for, attracting, locating, taking or harvesting of fish;
- (c) engaging in any activity which can reasonably be expected to result in the locating, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated electronic equipment including radio beacons;
- (e) any operation at sea in support of or in preparation for any activity in relation to a vessel described in paragraphs (a) to (d); or



- (f) any use of an aircraft which is related to any activity described in paragraphs (a) to (d), except for flights in emergencies involving the health or safety of a crew member or the safety of the vessel;

“fishing vessel” means any vessel used for, intended to be used for, equipped to be used for or of a type that is normally used for fishing or related activities;

“fishmonger” or “fisher dealer” means a person who purchases, collects, transports, or stores fish or fish products for the purpose of trading, or otherwise dealing in fish or fish products;

“flag State” means the State under whose laws the vessel is registered;

“foreign vessel” means any fishing vessel not registered in Seychelles;

“gear” in relation to fishing means any equipment, implement or other item or combination of items or parts that can be used for fishing, including any net, rope, line, float, trap, hook, fish aggregating device, winch, boat, craft or aircraft carried on board a vessel, manned or unmanned aircraft or vehicle used in association with the act of fishing;

“genetic resource” includes germplasm of plants, animals or other organisms containing useful characters of actual or potential value, and “genetically” has a corresponding meaning;

“Government” means the Government of the Republic of Seychelles;

“illegal, unreported and unregulated fishing” or “*IUU fishing*” has the meaning attributed to it in the First Schedule;

“instrumented buoy” means a buoy associated with a FAD with a clearly marked reference number allowing its identification

and equipped with a satellite tracking system to monitor its position;

“international agreement” means a treaty, convention or other form of agreement or arrangement legally binding upon Seychelles and entered into with another State or other States or any regional economic integration organisation or entity, and may be concluded at the international, regional, sub-regional or bilateral level;

“international conservation and management measure” means any legally binding measure to conserve or manage one or more species of fish that are adopted and applied by any global or regional fisheries management organisation, or by any international agreement applicable to Seychelles;

“introduction from the sea” means transportation by vessels into Seychelles of specimens of any species which they took in the marine environment not under the jurisdiction of any State”;

“joint venture vessel” means a fishing vessel which —

- (a) is registered in Seychelles under the Merchant Shipping Act (Cap 127);
- (b) exceeds 18 metres in length overall;
- (c) is to be licensed for tuna and tuna-like species, and other species as per condition of the licence; and
- (d) is wholly beneficially owned by a company established under any written law of Seychelles;
- (e) at least 51 per cent of the actual effective shares are beneficially owned by a citizen of Seychelles and having a place of business in Seychelles;

“landing” in relation to fish means bringing any fish or fish product to a port or other landing site and transferring it from

the vessel to the port or landing site, including offloading it in a container, and “landed” fish may refer to the number or weight of such fish;

“lost fishing gear” means fishing gear over which the owner or operator has accidentally lost control and that cannot be located or retrieved by the owner or operator;

“marine mammal” means those specimens of the following orders, which are morphologically adapted to the marine environment, and whether alive or dead, and any part thereof, including but not limited to, any raw, dressed or dyed fur or skin: Cetacea (whales, dolphins, and porpoises) and Pinnipedia, other than walrus (seals and sea lions);

“marine scientific research” includes bioprospecting and exploratory fishing operations;

“maritime zones” includes all maritime zones defined in the Maritime Zones Act, Act, 1999;

“Minister” means the minister responsible for fisheries;

“mobile transceiver unit” or “MTU” means a vessel monitoring system device approved by the Authority, which is installed on board a vessel and is designed to automatically transmit, whether independently or in conjunction with another device or devices, information or data concerning position, fishing, catch and such other activities as may be required, and allows detection and identification of the vessel at all times;

“national”, when referring to a Seychelles national, includes citizens of Seychelles and vessels registered in Seychelles and entitled to fly Seychelles flag;

“observer” means a person appointed in accordance with section 89;

“offloading” in relation to fish means landing fish in containers;

“operator” means any person who is in charge of, responsible for the operations of, directs or controls a vessel, including the owner, charterer, master and the beneficiary of the economic or financial benefit of the vessel's operations;

“organised criminal group” has the same meaning as the 2003 United Nations Convention against Transnational Organised Crime, and includes a group of three or more persons that was not randomly formed and has existed over a period of time and that acts in concert with the aim of committing at least one crime punishable by at least four years' imprisonment in order to obtain, directly or indirectly, a financial or other material benefit;

“person” means any natural or legal person, whether acting in a public or private capacity, and includes a corporation, partnership, cooperative, association or other business enterprise, a group of individuals, a community, a judicial person and an institution or corporate body of Government;

“prescribed” means prescribed by regulations;

“processing” in relation to fish, includes cutting up, dismembering, separating parts of, cleaning, sorting, packing, loining, freezing, salting, canning or preserving fish;

“public notice” includes the posting upon a publicly available website associated with the Authority;

“recreational fishing” means any fishing activity for recreation or pleasure which does not result or intend or appear to result, directly or indirectly in the trading or selling of fish or fish products taken during the fishing activity;

“related activities”, in relation to fishing, or “fishing related activities” includes 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;

“regional fisheries management organisation” or “RFMO” means an intergovernmental fisheries organisation or arrangement that has the competence to establish international conservation and management measures and includes global, regional and sub-regional organisations;

“relevant regional fisheries management organization” *or* “relevant RFMO” means an RFMO in which Seychelles is a party or member, or is otherwise legally bound by international conservation and management measures adopted in accordance with its procedures;

“sedentary species” means living organisms belonging to sedentary species that are at the harvestable stage either immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil;

“sell” includes —

- (a) any method of disposition for consideration, including cash, trade and barter, of anything which has value or which can be exchanged for cash;
- (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;
- (d) disposition by way of raffle, lottery, or other game of chance, and

“sale” and “sold” have corresponding meanings;

“Seychelles vessel” means a fishing vessel that holds a valid and applicable registration or identification under the Merchant Shipping Act, 1992 or as may be required by other applicable Seychelles legislation, and includes any small scale vessel, **Seychelles industrial vessel**, joint venture vessel and Seychelles registered vessel, but does not include a vessel registered in a State other than Seychelles instead of or in addition to being registered in Seychelles, unless it is a chartered vessel lawfully operating under a parallel registration system in accordance with a relevant charter agreement and the applicable laws and standards of the relevant countries and international agreements;

“Seychelles registered vessel” means a fishing vessel that holds a valid and applicable registration under the Merchant Shipping Act, 1992 and is wholly legally and beneficially owned by one or more foreign citizens only or by a company established under the written laws of Seychelles of which all the shares are beneficially owned by foreign citizens;

“Seychelles industrial vessel” means a fishing vessel that is registered or identified under the Merchant Shipping Act and is 24 meters or more in length overall, owned wholly by citizens of Seychelles or by a company established under section 3 of the Companies Act, (Cap 40) with 100 percent of its shares legally and beneficially owned and controlled by two or more citizens of Seychelles and includes any classifications of such vessels that may be prescribed or declared by the Minister by Order;

“Seychelles waters” includes any waters and continental shelf area over which Seychelles exercises jurisdiction or sovereign rights as provided in the Maritime Zones Act, 1999;

“Small-scale fishery or fisheries” means any fishery where small-scale vessels of less than 24 metres in length overall

require licenses to carry out fishing activities within maritime zones under national jurisdiction described in the Maritime Zones Act, 1999 and to a lesser extent on the high seas;

“Small-scale fishing vessel” means any vessel less than 24 metres length overall that is classified as such as provided in the vessel classifications in the Second Schedule;

“sport fishing” means a fishing activity undertaken for sports or recreation which involves the hiring, chartering or leasing of a vessel, but which does not result in the trading, offering for sale or selling of fish taken during the fishing activity;

“sport fishing vessel” means a vessel used for sport fishing;

“subsistence fishing” means a fishing activity other than recreational or sports fishing, conducted exclusively for personal or family consumption;

“sustainable use” means the use of resources in a manner that does not lead to its long-term decline or that of the ecosystem, thereby maintaining its potential to meet the needs and aspirations of present and future generations;

“target species” means the subject of directed fishing effort in a fishery, including primary and secondary target species;

“transnational crime” includes —

- (a) offences committed in more than one State and those that take place in one State but are planned or controlled in another;
- (b) crimes in one State committed by groups that operate in more than one State; and
- (c) crimes committed in one State that impact on other States;

“transshipment” means the transfer of fish or fish products to or from any vessel, and may include the transfer of fish or fish products from a vessel to a land-based facility exclusively for purposes of promptly onloading to another vessel, without being subject to importation into the State where the land-based facility is located;

“use of port” means use for landing, transshipping, packaging, or processing of fish or for other port services including amongst others refuelling and resupplying, maintenance and dry docking;

“vessel” means a boat, ship, hovercraft water board or other watergoing craft, and refers to vessels used or intended to be used for fishing or related activities;

“vessel monitoring system” or “VMS” means a satellite-based reporting system to monitor the position and activities of vessels that are engaged in activities under the scope of this Act;

“vessel without nationality” means a vessel used for fishing or related activities that is not entitled to fly the flag of any State or sails under the flag of two or more States, using them according to convenience.

(2) Notwithstanding subsection (1), where interpretation relates to a term in an international conservation and management measure and the term is defined in such measure or an applicable glossary of definitions adopted by the relevant regional fisheries management organisation, such definition shall be taken into account in applying the interpretation provided in this Act, particularly where the former may be more stringent or provide better understanding of the context.

### **Application**

3.(1) This Act shall apply to —

- (a) all areas and persons over which Seychelles exercises sovereignty, jurisdiction or sovereign rights;



- (b) all fish, fishing and related activities, utilisation of fish and genetic material derived from fish and any other activity or matter falling within the scope of this Act, any applicable international conservation and management measure or a joint management area applicable to fisheries subject to an international agreement in accordance with its terms, including sedentary species that occur on the extended continental shelf declared by Seychelles;
- (c) all persons, vessels, vehicles, aircraft, fish processing facilities, export or import facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act or any applicable international conservation and management measure;
- (d) all persons and all vessels in and in relation to areas beyond national jurisdiction —
  - (i) following hot pursuit initiated in waters under Seychelles jurisdiction and conducted in accordance with international law; or
  - (ii) as required pursuant to this Act or any applicable international conservation and management measure, or permitted by international law or any international agreement; and
- (e) all Seychelles vessels and all persons on them, associated with them or dealing with or having any relevant relationship to them, in and in relation to any areas beyond national jurisdiction in so far as this is not in conflict with the jurisdiction of another State.

(2) A vessel is deemed not to be a Seychelles vessel if it is registered in a State other than Seychelles instead of or in addition to being registered in Seychelles, unless it is a chartered vessel operating under a parallel registration system in accordance with a relevant charter agreement

and the applicable laws and standards of the relevant countries and international agreements.

### **Objective**

4. The objective of this Act shall is to ensure the long-term conservation, management and development of fisheries in Seychelles and genetic material derived from them, while safeguarding the marine resources, biodiversity, environment and ecosystems for sustainability and for the benefit of the people of Seychelles.

### **General principles**

5. All functions, duties and responsibilities under this Act shall be exercised in a manner consistent with the following principles —

- (a) all fisheries and aquaculture resources of Seychelles, as well as the environment in which they exist, are a natural asset and heritage of all its people, and shall be managed, developed and used sustainably for the benefit of present and future generations and so as to achieve sound ecological balance and socio-economic benefits including economic growth, human resource development and employment creation, consistent with national policy, plans and development objectives;
- (b) conservation and management measures shall be based on the best technical knowledge and international practices as well as 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 relevant international standards, also taking into account traditional knowledge of the resources and their habitat;
- (c) conservation and management measures shall implement Seychelles' obligations and commitments under

applicable international agreements, and be based on applicable standards agreed at all levels of governance;

- (d) the precautionary approach shall be applied to the management and development of the fisheries at a standard that is equal or superior to the standard provided under any applicable international instrument or agreement;
- (e) an ecosystem approach shall be applied to the management and development of fisheries and aquaculture in order to promote the health of the general marine environment, and shall take into account climate change and relevant international commitments and global developments;
- (f) activities and measures taken within the scope of this Act shall protect and enhance biodiversity;
- (g) complete and accurate data and information concerning all activities and resources under the scope of this Act shall be required, collected and shared in a timely manner;
- (h) conservation and management measures shall be implemented and enforced through effective monitoring, control and surveillance;
- (i) all activities under the scope of this Act shall eliminate or minimise —
  - (i) wastes, bycatch, discards, regulatory discards, economic discards and catch by lost or abandoned gear;
  - (ii) catch of non-target species;
  - (iii) catch of endangered species; and
  - (iv) pollution;

- (j) development and use of selective, environmentally safe and cost-effective gear and techniques shall be promoted;
- (k) over-fishing and excess capacity shall be prevented or eliminated and levels of fishing effort managed so they do not exceed those commensurate with sustainable use of fishery resources;
- (l) the interests of fishers using small-scale Class 1 vessels shall be taken into account, including their participation in management of their respective fisheries;
- (m) the welfare of current and future generations shall be safeguarded, including through the recognition of special needs relating to gender equity and vulnerable groups;
- (n) an understanding of and broad and accountable participation by stakeholders in the conservation, management, development and sustainable use of fisheries resources shall be promoted to the extent practicable, including the principles of visibility, transparency, participation and inclusivity in the decision-making process as well as relevant environmental awareness and capacity-building; and
- (o) effective cooperation shall be pursued with other States and regional and intergovernmental organisations in matters under the scope of this Act.

## **PART II - CONSERVATION, MANAGEMENT, DEVELOPMENT AND SUSTAINABLE USE**

### **Conservation and management measures**

**6.(1)** In giving effect to its responsibilities for conservation and management, the Authority shall develop, implement, monitor and enforce conservation and management measures necessary to ensure the long-term sustainable use of fisheries resources, including measures applicable to

fishing, related activities, aquaculture and to any other activity which falls within the scope of this Act.

(2) Conservation and management measures shall provide for the sustainable management and development of fisheries and aquaculture and implement obligations and standards under international agreements and international conservation and management measures and may, —

- (a) provide for allocations, areas, gear, spatial or temporal closures, effort limitation, fishing capacity, quotas, participatory rights and reporting;
- (b) provide for or prohibit the landing, transporting, transshipping, receiving or possession of fish;
- (c) regulate any activity which may have an adverse effect on living or non-living marine resources or the marine environment;
- (d) provide for aquaculture management of operations, including in relation to facilities, species, disease and the environment;
- (e) provide for the restoration of fish stocks;
- (f) include positive incentives for the sustainable business development of the fishing industry and for full compliance; and
- (g) provide for any other activity that is relevant to the conservation and management of the fisheries resources.

(3) Except as may be otherwise provided in this Act, conservation and management measures shall have legal force and effect —

- (a) upon approval by the Minister, taking into account the recommendations of the Authority, and promulgation in regulations or publication in the Gazette;

- (b) as conditions of licences, authorisations or other permissions given in accordance with this Act;
- (c) in accordance with procedures specified under section 7 concerning applicable international conservation and management measures; or
- (d) through Fisheries Management Plans as specified under section 8.

(4) Without prejudice to the jurisdiction and sovereign rights of Seychelles over fisheries resources under its jurisdiction, conservation and management measures shall implement —

- (a) applicable international conservation and management measures adopted by any relevant RFMO in respect of —
  - (i) any vessel or person in areas under Seychelles jurisdiction; and
  - (ii) Seychelles nationals including persons and vessels in the area of competence of the relevant RFMO; and
- (b) action plans and recommendations of the Scientific Committee of any relevant RFMO, and notwithstanding paragraphs (a), conservation and management measures may take into account measures recommended by any organisation or body in which Seychelles participates.

(5) Conservation and management measures shall be developed taking into account the objective and principles of this Act and consultations with stakeholders.

(6) A person who contravenes any conservation and management measure taken pursuant to this Act commits an offence and unless otherwise provided shall be liable on conviction to a fine provided in the Third Schedule and any other penalty that may be specified or provided under this Act.

## Implementation of international conservation and management measures

7.(1) The requirements of any applicable international conservation and management measure in respect of —

- (a) any owner, operator or master of any Seychelles registered vessel that holds a valid licence or authorisation issued by the Authority and is entered on the Record of Authorised Vessels of a relevant regional fisheries management organisation and authorised to fish for the species and in the area of competence under the mandate of such organisation;
- (b) any owner, operator or master of any other vessel that falls within the scope of this Act and the applicable international conservation and management measure; or
- (c) any Seychelles citizen,

shall have full legal effect under this Act upon such public notice of the applicable international conservation and management measure requirements as may be approved by the Minister, and, subject to subsection (2) the obligation to comply shall apply *mutatis mutandis* to each of the owner, operator or master of the vessel or Seychelles citizen.

(2) Notwithstanding subsection (1), where it is not possible for a vessel to fulfil the requirements for compliance for technical reasons, the Authority may grant an extension for a reasonable period of time to allow the arrangements to be made.

(3) The Authority shall notify all holders of licences and authorisations of the relevant obligations of each applicable international conservation and management measure upon its date of public notice.

(4) Any person who contravenes any international conservation and management measure implemented pursuant to this section or as may be provided in this Act commits an offence and shall be liable on conviction to

a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Fisheries Management Plans**

8.(1) The Minister may designate a priority fishery or fisheries for the purpose of developing fisheries management plans, and in doing so shall take into account the recommendations of the Authority, applicable regional fishery bodies and international conservation and management measures adopted by relevant regional fisheries management organisations.

(2) The Authority may, in consultation with stakeholders cause to be prepared Fisheries Management Plans, including interim Fisheries Management Plans, for any fishery or fisheries within the scope of this Act, and shall do so for any fishery designated as a priority in accordance with subsection (1).

(3) A Fisheries Management Plan, including an interim Fisheries Management Plan, shall have no force or effect unless and until it is approved by the Minister and published in accordance with subsection (7).

(4) A Fisheries Management Plan shall be consistent with the objective and principles of this Act and shall apply to persons, vessels and fish and to fishing and related activities within the scope of this Act.

(5) A Fisheries Management Plan shall —

- (a) identify the fishery and its characteristics, including the —
  - (i) current status of the fishery and resource, including area, species and fishing activities;
  - (ii) possible adverse effects of fishing on the resource and environment;
  - (iii) status of the resource as a protected, threatened or endangered species under Seychelles law and applicable international agreement;



- (iv) applicable sub-regional, regional and international context;
  - (b) specify the management objectives and strategy for the fishery or fisheries, including the biological, ecological and socio-economic aspects;
  - (c) identify the process for development and implementation of the Fisheries Management Plan, including stakeholder consultations;
  - (d) specify management measures to be applied to the fishery;
  - (e) specify plans for periodic monitoring and review of the fishery and the Fisheries Management Plan;
  - (f) make provision in relation to any other matter necessary for effective conservation, management and sustainable use of the fishery.
- (6) The Authority may, if it considers necessary enter into a co-management arrangement with any persons or entity representing them.
- (7) When approval has been given for a Fisheries Management Plan under subsection (3) —
- (a) the Minister shall cause the Plan to be published in the Gazette; and
  - (b) the Authority may cause copies of the Plan to be made available on relevant websites and any other place considered appropriate.
- (8) Compensation is not payable where a Fisheries Management Plan is made or amended or anything previously permitted is prohibited or regulated under the Plan, but this shall not prevent a Plan from providing for payment of compensation.

(9) The Minister may, by order or regulation, give legal effect to the management measures, fines, penalties and sanctions, as well as the licensing and enforcement powers, authorities and other requirements in each Fisheries Management Plan.

### **Research for effective conservation and management**

9.(1) The Authority shall, in discharging its mandate to promote and conduct scientific and development research under the Seychelles Fishing Authority (Establishment) Act, Cap 214 and other applicable national legislation to promote and conduct research related to fisheries including socio-economical, biochemical and genetic research —

- (a) acknowledge the mandates for research of other institutions of the Government and collaborate and cooperate with such other institutions as appropriate;
- (b) promote national international, regional and sub-regional standards and requirements for research performed in areas under Seychelles jurisdiction and by vessels registered in Seychelles;
- (c) where relevant, take into account the research and contribute to the research or scientific advice of any relevant agency of the Government or any regional fisheries management organisation.

(2) Any person or institution that undertakes research under this section shall be duly registered and approved by a Seychelles institution having a mandate for national research, or pending establishment of such an institution shall notify the Authority, and will not be exempt from licenses, authorisations, permissions or registrations required under this Act.

(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding 6 months, or to both, and in addition, shall provide all information, data and outcomes to the Authority.

### **Declaration of and prohibitions or restrictions respecting protected, threatened or endangered species of fish**

10.(1) The Minister may, upon the advice of the Authority and the Minister responsible for the environment, by Order in the Gazette, declare as protected, threatened or endangered any species of fish —

- (a) that are designated as protected, threatened or endangered under an international agreement or by a relevant regional fisheries management organisation; or
- (b) that the Minister of Environment or the Authority recommends to be declared as protected, threatened or endangered, based on the best available scientific evidence.

(2) No person shall take, land, sell, deal in, transport, receive, buy, possess, import or export any fish or fish product declared as protected or endangered in accordance with this section.

(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding 6 months, or to both, and in addition, the fish or fish products shall be forfeited to the State.

### **Designation of zones or areas**

11.(1) The Minister may establish by regulation or Order in the Gazette any zone or area within Seychelles waters for purposes of —

- (a) the conservation, management, protection or restoration of fisheries resources;
- (b) the development of the fishing industry in Seychelles; and
- (c) any other purpose that is consistent with the objective and principles of this Act.

(2) Prior to establishing any zone or area under subsection (1), the Minister shall consult with —

- (a) other Ministries responsible for declaring maritime zones or areas or implementing marine spatial plans for purposes other than the conservation and management of fisheries; and
- (b) relevant stakeholders with an interest in the said zone or area.

(3) Consultations under subsection (2) shall include a minimum of 28 days for stakeholders to provide written comments on the proposed zones or areas.

(4) Ministers responsible for declaring maritime zones or areas or implementing marine spatial plans for purposes other than the conservation and management of fisheries but which may affect the fisheries and all related activities shall, prior to declaring such zones or areas, consult with the Authority with the aim of ensuring the consistency and cooperation in the management of such zones, areas or plans.

(5) The Authority shall, as appropriate, ensure the development and implementation of conservation and management measures for any zone or area established pursuant to subsection (1), and effectively monitor the activities and attainment of purposes for which they were established.

(6) A person shall not engage, or permit or allow any other person to engage in any activity that —

- (a) is prohibited under a regulation or order made pursuant to subsection (1);
- (b) results in destruction or adverse impacts on the fishery resource in the area declared pursuant to subsection (1); or
- (c) causes the objective of establishing such area to be unattainable.

(7) Any person who contravenes subsection (5) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding three years or to both, and in addition for contraventions of subsection (5)(b) shall be liable to full compensation for any destruction or adverse impacts and restoration of the area to its original state.

### **Marine environmental quality**

12.(1) A person shall not attempt or cause another person to prepare for the introduction into Seychelles 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 aquatic or marine environment, and which may affect the habitat or health of the fish.

(2) The operator of any vessel used for fishing shall use biodegradable materials for fishing operations and —

- (a) take back to port for disposal any waste on such vessel that is non-biodegradable or may adversely affect the habitat or health of the fish; and
- (b) carry out bunkering operations in compliance with subsection (1).

(3) A person shall not, without a written authorisation of the Authority, leave in or in such a position or place that it could enter Seychelles waters any gear or any other non-biodegradable object used for fishing after the termination of fishing activity, except in an emergency when the incident is promptly reported to the Authority.

(4) The Authority may cause the gear or any other non-biodegradable object referred to in subsection (3) to be removed by any person authorised for that purpose where it constitutes a threat to the habitat or health of the fish, and any cost incurred in connection with such removal may be recovered from the person or persons responsible for leaving the gear or object.

(5) A person who contravenes subsection (1) (2) (a) or (b) or (3) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule and 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.

### **Management of bycatch**

13.(1) The operator of any vessel in Seychelles waters or of any Seychelles vessel in areas beyond national jurisdiction shall ensure that —

- (a) measures are taken to mitigate bycatch of non-target species
- (b) non-target species are not discarded at sea, dumped on land as fish waste or are otherwise discarded or abandoned, except where the master of the vessel determines that the fish and non-target species —
  - (i) caught are unfit for human consumption; and
  - (ii) were caught during the final set of a trip and there is insufficient storage capacity to accommodate all fish;
- (c) non-target species taken alive shall be released in accordance with Seychelles legislation or international obligations, unless otherwise provided in writing by the Authority or under any international conservation and management measure;
- (d) dead non-target species fit for human consumption that are not vulnerable species or species of concern are landed.

(2) Notwithstanding subsection (1), purse seine vessels may retain on board and land, to the extent practicable, the following non-targeted species or species group namely —

- (a) other tunas;
  - (b) rainbow runner;
  - (c) dolphinfish;
  - (d) triggerfish;
  - (e) billfish;
  - (f) wahoo; and
  - (g) barracuda.
- (3) For the purposes of this section —
- (a) “unfit for human consumption” are fish that —
    - (i) are meshed or crushed in the purse seine;
    - (ii) are damaged due to depredation;
    - (iii) have died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch, and efforts to release the fish alive;
  - (b) “unfit for human consumption” does not include fish that —
    - (i) are considered undesirable in terms of size, marketability, or species composition; or
    - (ii) are spoiled or contaminated as a result of an act or omission of the crew of the fishing vessel.

(4) Any operator who does not comply with any requirement in subsection (1) or (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Management of genetic resources**

14.(1) Where any fishing activity includes marine bioprospecting, no licence or authorisation shall be issued without the prior approval in writing of the Authority or authorities responsible for the exploration and exploitation of genetic resources.

(2) Where any fishing activity consists exclusively of marine bioprospecting carried out by non-nationals of Seychelles, the competent national authority or authorities shall not issue a permit unless the Authority has given prior approval in writing.

### **Marking and protection of vessels and set gears**

15.(1) The operator of any vessel in Seychelles waters, or of any Seychelles vessel beyond areas under national jurisdiction and within the area of competence of a relevant regional fisheries management organisation shall ensure that vessels and gear set in the sea are clearly marked in accordance with such minimum standards and such other requirements as may be prescribed or the Authority may impose, subject to an exemption of any vessel or gear or class of vessel or gear approved in writing by the Authority.

(2) Any operator who does not comply with any requirement that may be required in subsection (1) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Fish aggregating devices**

16.(1) The operator of —

(a) a vessel shall not —

(i) have on board, deploy or maintain any fish aggregating device in Seychelles waters;

(ii) deploy or allow to be deployed any drifting fish



aggregating device equipped with an instrumented buoy in areas beyond national jurisdiction that drifts into Seychelles waters;

- (b) a Seychelles vessel shall not deploy or allow to be deployed any drifting fish aggregating device equipped with an instrumented buoy in the area of competence of a relevant regional fisheries management organization,

except under an authorisation issued by the Authority and in accordance with such conditions as it may specify or as are prescribed or otherwise specified in this Act or in an applicable international conservation and management measure.

(2) The operator of each vessel that holds a valid and applicable authorisation for the use of FADs under this Act shall comply with such conditions as may be required under section 74 or prescribed or required by an applicable international conservation and management measure.

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

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

(5) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule in respect of each fish aggregating device or to imprisonment not exceeding three years or both, and each fish aggregating device that is used or found in Seychelles waters in contravention of this Act shall be confiscated, any authorisation to deploy fish aggregating devices may be revoked and the licence for fishing or may be revoked and all costs for clean-up, repatriation and disposal of fish aggregating devices shall be borne by the licensee or operator of the vessel with which the device is associated.

### **Prohibition on fishing on data buoys**

17.(1) No person shall deploy a data buoy in Seychelles waters or from a Seychelles vessel within the area of competence of a relevant regional fisheries management organisation unless the Authority has been notified of such deployment and provided with such information in any form and manner and at such times as the Authority may require.

(2) The operator of any vessel in Seychelles waters or of any Seychelles vessel within the area of competence of a relevant regional fisheries management organisation shall comply with such conditions as may be prescribed or required concerning fisheries activities that may be directly or indirectly related to data buoys.

(3) Any operator who does not comply with any requirement made pursuant to subsection (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Prohibition on commercial whaling and conservation of marine mammals, etc.**

18.(1) No person shall engage, support or assist in commercial whaling for any species or population of whales in Seychelles waters or using a Seychelles vessel in areas beyond national jurisdiction, including in any sanctuary established by the International Whaling Commission.

(2) The operator of any vessel in Seychelles waters shall ensure that all fishing and related activities, operations and gear are carried out or used and disposed of in a manner that avoids entanglement or any other adverse or harmful impact on any marine mammal, including avoidance of whale concentrations wherever possible, and shall comply with best practices developed under subsection (3)(b) and any requirement made pursuant to this Act or an international conservation and management measure.

(3) The Authority shall cooperate with relevant authorities and stakeholders to —

- (a) mitigate the effects of underwater anthropogenic noise on marine mammals; and
- (b) develop best practices to avoid entanglement of marine mammals in fishing gear or debris.

(4) The operator of any vessel in Seychelles waters or any Seychelles registered vessel in the area of any relevant RFMO shall not intentionally cause or allow a purse seine net to be set around any marine mammal or whale shark if it is sighted prior to the commencement of the set.

(5) Where any marine mammal or whale shark is unintentionally encircled in a purse seine net, the operator shall take such actions as may be prescribed or provided pursuant to an international conservation and management measure.

(6) Any person who does not comply with any requirement under this section commits an offence and shall be liable on conviction to the fine described in the Third Schedule or to imprisonment not exceeding three years or to both.

### **Prohibition on removal and sale of shark fins**

19.(1) The operator of any vessel used for fishing in Seychelles waters or of any Seychelles vessel fishing in areas beyond national jurisdiction shall, unless otherwise provided, comply with such prohibitions on the removal of shark fins and sale of illegally removed shark fins as may be prescribed.

(2) Any person who contravenes any requirement made pursuant to subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding two years, or to both, and in addition any fish or fish products that do not comply with the requirements in sub-section (1) shall be forfeited to the State.

### **Prohibition on use of large-scale driftnets and demersal trawl nets**

20. For the purposes of this section —

- (a) “large-scale driftnets” means gillnets or other nets or a combination of nets that are more than two and a half kilometres in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column;
- (b) “configured”, in relation to use large-scale drift-nets, means having on board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets.
- (c) “demersal trawl nets” means large nets that are pulled through the water with the bottom edge of the net touching the seabed to target bottom-dwelling species living on and near the seabed, and at each edge the net is held open by metal 'trawl doors' which act as hydroplanes pulling the net mouth open.

(2) The operator of any vessel in Seychelles waters, or of any Seychelles vessel within the area of competence of a relevant regional fisheries management organisation or otherwise beyond areas of national jurisdiction shall not use large-scale driftnets or demersal trawl nets except for research purposes approved by the Authority.

(3) An operator of a vessel shall be presumed to have used large-scale driftnets or demersal trawl nets if the vessel is found operating in Seychelles waters or in the area of competence of a relevant regional fisheries management organisation and it is configured to use large-scale driftnets or demersal trawl nets.

(4) The operator of a vessel subject to this Act that is configured to use large-scale driftnets or demersal trawl nets shall ensure that such driftnets, demersal trawl nets and related fishing equipment are stowed or secured in such a manner that they are not readily available to be used for fishing.

(5) Any operator who does not comply with any requirement in subsections (2), (3) or (4) commits an offence and shall be liable on

conviction to a fine provided in the Third Schedule or to imprisonment not exceeding five years, or to both, and in addition, the prohibited gear shall be forfeited to the State.

### **Prohibition on use of aircraft and unmanned aerial vehicles**

**21.(1)** The operator of any vessel, including support, supply and auxiliary vessels, in Seychelles waters or any Seychelles vessel within the area of competence of a relevant regional fisheries management organisation shall not use aircraft, including unmanned aerial vehicles, as fishing aids unless authorisation consistent with applicable international conservation and management measures is given by the Authority.

(2) Aircraft and unmanned aerial vehicles used for scientific, monitoring, control or surveillance purposes are not subject to the prohibition under subsection (1).

(3) Any operator who does not comply with subsection (1), unless exempted under subsection (2), commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Prohibition on use of artificial lights to attract fish**

**22.(1)** The operator of any —

- (a) vessel in Seychelles waters equipped with purse seine gear;
- (b) support, supply or auxiliary vessel in Seychelles waters; or
- (c) Seychelles vessel in areas beyond national jurisdiction within the area of competence of a relevant regional fisheries management organisation,

is prohibited from using, installing or operating surface or submerged artificial lights, including on drifting fish aggregating devices, for the purpose of aggregating or that are likely to aggregate any fish species.

(2) The operator of any vessel other than those that fall within subsection (1) shall not use, install or operate surface or submerged artificial lights, including those associated with gear, for the purpose of aggregating any fish species within Seychelles exclusive economic zone without a valid and applicable permit issued by the Authority.

(3) Glow sticks used for attracting swordfish, navigation lights and lights necessary to ensure safe working conditions are not subject to the requirements under this section.

(4) Any operator who does not comply with any requirement in subsection (1) or (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Tampering with or destroying property of another in Seychelles waters**

**23.(1)** No person shall, within Seychelles waters, remove any fish from any gear unless he or she is the owner of the gear or is acting with the authority of the owner or of the Authority.

(2) No person shall tamper with, destroy, damage or knowingly or intentionally impair the functioning of any gear or other property which belongs to another person or the Government.

(3) No person shall tamper with, destroy, damage, remove or take any part of a marked fish aggregating device, artificial reef, mooring buoy, float, trap or other device which has been authorised and deployed in accordance with this Act and belongs to another person or the Government, unless such other person or the Government has expressly given permission to do so or removal is necessary because the safety and health of the reef would otherwise be under imminent threat and removal is promptly reported to the Authority.

(4) Nothing in this section shall limit the powers of an authorised person to remove objects under section 12(4) for purposes of marine environmental quality or prevent the disposal of unauthorised gear or equipment in accordance with this Act.

(5) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding one year, or to both.

### **Use, possession, importation, purchase and sale of prohibited gear**

**24.(1)** The Minister may, by order upon the recommendation of the Authority prohibit the use, possession on a vessel, import, purchase or sale of gear.

(2) No person shall use, possess, import, purchase or sell gear that is prohibited under this Act or by the Minister in accordance with subsection (1).

(3) No person shall use or arrange or permit to be used, and no operator shall carry on board a vessel gear, unless it is expressly permitted or authorised under the relevant licence, authorisation or permit; except that prohibited gear may be carried on board a vessel where the operator has declared such gear to the Authority prior to entering Seychelles waters and keeps the gear stowed at all times while in Seychelles waters.

(4) Any person who contravenes subsection (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding three years, or to both, and in addition, the prohibited gear shall be forfeited to the State.

### **Abandoning or discarding gear, fish or fish product**

**25.(1)** No person shall in areas under Seychelles jurisdiction, or being a citizen of Seychelles or associated with a Seychelles vessel in areas beyond national jurisdiction, with or without intention, abandon or discard any gear, fish or fish product unless otherwise provided in this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding

three years, or to both, and in addition, the prohibited gear shall be forfeited to the State.

### **Use of harmful fishing methods and sale of fish caught using such methods**

**26.(1)** No person shall, unless authorized in writing for purposes of scientific research —

- (a) use, permit to be used 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;
- (b) carry on board a vessel, transport or have in his or her possession or control any explosive, poison or other noxious substance for any purpose referred to in paragraph (a); or
- (c) land, sell receive or possess any fish or fish products, knowing or having reasonable cause to believe they were taken in contravention of paragraph (a) or (b).

(2) Any person who contravenes subsection (1) (a), (b) or (c) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding two years, or to both, and in addition any fish or fish products that were taken in violation of sub-section (1) shall be forfeited to the State.

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

### **Interference with inspected fish and fish products**

**27.(1)** No person shall, except with the written permission of the Authority —



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

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding two years, or to both, and in addition any fish or fish products shall be forfeited to the State.

### **Possession, trade and export of illegally taken or obtained fish or fish products**

**28.(1)** No person shall buy, sell, possess, export or otherwise trade in fish or fish products taken or obtained in contravention of this Act or an international conservation and management measure, except where such fish or fish products have become the property of the Government in accordance with Part 9 of this Act.

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

### **Trade in fish and fish products taken or obtained in contravention of the laws of another State**

**29.(1)** No person shall, on their own account or in any other capacity —

- (a) cause or permit a person acting on their behalf to take, buy, sell, import, export, land, tranship, transport, trade, receive or acquire any fish or fish product that was caught in contravention of the laws of another State or of any international conservation and management measure, other than fish taken on the high seas contrary to the laws of another State where Seychelles does not recognise the jurisdiction of that State over those fish; or
- (b) use or permit a vessel to be used to engage in fishing or related activities for a purpose referred to in paragraph (a).

(2) Notwithstanding any provision in this section, where fish or fish products subject to this section has become the property of Government through forfeiture, court order or other judicial process, they may be sold, processed exported or otherwise dealt with in the same manner as other government property and shall not be considered as a product of illegal, unreported or unregulated fishing or related activities.

(3) Any person who contravenessubsection (1)commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule, or to imprisonment not exceeding three years or to both, and the fish and fish products shall be forfeited to the State.

(4) Notwithstanding any other law of Seychelles, mistake of fact is not a defence to a prosecution for an offence under this section.

(5) Where an international agreement with another State provides for a fine, penalty or other determination or any portion of it to be remitted to that State on conviction or other process, such remittance shall be made after all costs and expenses incurred by Seychelles have been deducted.

**Vessels on a list of illegal, unreported and unregulated vessels maintained by a regional fisheries management organization**

**30.(1)** For the purposes of this section, “listed vessel” means a vessel

that is included on a list of illegal, unreported and unregulated vessels maintained by an RFMO.

(2) No person shall, being the operator of a Seychelles vessel, including any fishing vessel, support vessel, refuelling or supply vessel, mothership or cargo vessel —

- (a) provide, cause to be provided or arrange assistance to a listed vessel in any way except for the purpose of rendering assistance where such vessel, or any person on that vessel, is in danger or distress;
- (b) engage in fish processing operations with a listed vessel;
- (c) participate, cause participation in or arrange for participation in transshipment or joint fishing operations with a listed vessel; or
- (d) charter or be associated in any way with the chartering of a listed vessel.

(3) No person shall control, arrange, cause to be controlled or arranged or participate in the import, landing or transshipment of any species from a listed vessel over which the relevant RFMO has competence.

(4) No person shall —

- (a) sell a listed vessel or otherwise change legal or beneficial ownership or purchase another vessel with the apparent aim of continuing to maintain control of the listed vessel or the new vessel and continuing illegal, unreported or unregulated operations for fishing or related activities; or
- (b) operate a listed vessel which has been sold or where the legal or beneficial ownership has been changed under paragraph (a).

(5) A listed vessel shall not be —

- (a) approved for or granted registration under the Merchant Shipping Act, 1992 except if the vessel has changed owner and the new owner has provided sufficient information demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account and documented all relevant facts, it is determined that granting the vessel its flag will not result in IUU fishing; or
- (b) authorised to enter any port in Seychelles except in case of force majeure or where the vessel, or any person on that vessel, is in danger or distress, unless it is allowed entry into port for the exclusive purpose of inspection and effective enforcement action.

(6) Notwithstanding any provision in this section, where fish or fish products that have been associated with a listed vessel has become the property of Government through forfeiture, court order or other judicial process, they may be sold, processed, exported or otherwise dealt with in the same manner as other government property, and shall not be considered as a product of illegal, unreported or unregulated fishing or related activities, and any purchaser for valuable consideration shall derive good and unencumbered title in respect of such fish or fish products.

(7) Any person who contravenes any requirement of subsection (2), (3) or (4) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule, or to imprisonment not exceeding three years or to both, and in addition the vessel including its gear and fish or fish products on board shall be forfeited to the State.

### **Vessels without nationality**

**31.(1)** For the purposes of this Act, a “vessel without nationality” is a vessel used for fishing or related activities that is not entitled to fly the flag of any State or sails under the flag of two or more States, using them according to convenience.

(2) Where any vessel without nationality engages in fishing or related activities in the area of competence of a relevant regional fisheries management organisation, and such organization has adopted an applicable international conservation and management measure that considers fishing or related activities by such vessel to be illegal, unreported and unregulated, such vessel —

- (a) shall be prohibited from landing or transshipping fish or fish products within areas under the jurisdiction of Seychelles, or in areas beyond national jurisdiction involving a Seychelles vessel;
- (b) shall be denied access to, and use of any port within Seychelles.

(3) Notwithstanding subsection (2) (b), a vessel may be allowed access where it is essential to the safety or health of the crew or safety of the vessel and shall be allowed exclusively for that purpose and not for any other activity or use of port.

(4) Any operator, person on board or other person acting in association with or support of a vessel without nationality who lands, transships or uses a port in contravention of subsection (2)(a) or (b) commits an offence and shall be liable upon conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and to any other penalty provided under this Act, and in addition, the licence or authorisation of the vessel may be cancelled and any fish or fish products shall be forfeited to the State.

### **PART III - GENERAL REQUIREMENTS FOR FISHING AND OTHER ACTIVITIES**

#### **Compliance with licence, authorisation or other permission, international conservation and management measures**

**32.(1)** The holder of a licence, authorisation or other permission issued under this Act shall —

- (a) comply with the terms and conditions of the licence, authorisation or other permission;
- (b) comply with this Act, all other laws of Seychelles, any applicable international agreement, including an agreement for fisheries access, and any applicable international conservation and management measure;
- (c) comply with all laws relating to navigational standards and the seaworthiness and safety of vessels at sea; and
- (d) not engage in any activities under the scope of this Act, except in accordance with the licence, authorisation or other permission.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding five years or to both, and the person's licence may be suspended or cancelled.

### **Reporting requirements**

**33.(1)** Where any person, including the operator of any vessel, is required to make a report under this Act or an international conservation and management measure, such report shall be —

- (a) true, correct and complete in every respect;
- (b) prepared by the person or vessel licensed or authorised under this Act or an accredited agent;
- (c) submitted in the required form and format;
- (d) submitted at the required time or times;
- (e) submitted to the designated person or body;
- (f) certified, verified or otherwise validated as may be required.

(2) No person shall falsify, forge, tamper with or submit any report that is false, inaccurate, misleading or incomplete.

(3) No person shall provide sales receipts as documentation in lieu of the catch documentation required under this Act.

(4) Where estimates for any aspect of the catch may be made under this Act, no person shall submit an estimate unless —

- (a) an estimation process officially recognised by the Authority is used; and
- (b) any standard of proof that may be required by the Authority is satisfied.

(5) Any person that contravenes this section commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and the relevant licence, authorisation or permit may be cancelled.

### **Gear stowage**

**34.(1)** The operator of a —

- (a) vessel in Seychelles waters in any place or at any time where it is not licensed or authorised for fishing or related activities; or
- (b) Seychelles vessel in areas beyond national jurisdiction where it has not been authorised for fishing or related activities under this Act,

shall ensure that all gear on board is at all times stowed or secured in such a manner that it is not readily available for fishing.

(2) The operator of a vessel that contravenes subsection (1)(a) or (b) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and in addition, an applicable licence or authorisation of the vessel may be cancelled.

## **Requirements for citizens and Seychelles vessels in areas beyond national jurisdiction**

**35.(1)** No person shall use a Seychelles vessel —

- (a) in areas under the national jurisdiction of other States except in accordance with the laws of that State; or
- (b) to engage in any activity on the high seas or in areas of national jurisdiction of other States that —
  - (i) does not comply with an applicable access agreement; or
  - (ii) undermines the effectiveness of applicable international conservation and management measures.

(2) All Seychelles citizens and the operators of Seychelles vessels in areas beyond national jurisdiction shall comply with —

- (a) applicable international conservation and management measures; and
- (b) the laws of other States, when in areas under the jurisdiction of such States.

(3) Where any Seychelles vessel is used in contravention of subsection (1) or (2), the operator of such vessel commits an offence, and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding five years, or to both.

(4) Where any Seychelles citizen contravenes subsection (2) he or she commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to a term of imprisonment not exceeding five years, or to both.



**Requirements for compliance with labour conditions of personnel on board Seychelles vessels in areas beyond national jurisdiction and licensed vessels in Seychelles waters**

- 36.** The operator of any —
- (a) Seychelles vessel, at all times while within or beyond Seychelles waters —
    - (i) of twenty four meters in length overall or above; or
    - (ii) of less than twenty four meters in length overall that remain at sea for three days or more or navigate beyond Seychelles waters; and
  - (b) foreign vessel carrying a valid and applicable license, authorisation or other permission granted for any activity within the scope of this Act, while in Seychelles waters,

shall comply with all applicable requirements of Seychelles legislation relating to employment of personnel on board, and failure to do so shall result in the cancellation or suspension of any applicable licence, authorisation or other permission.

**Individuals in or associated with a transnational criminal group**

**37.(1)** No person, being a member of or associated with a transnational criminal group shall be permitted to engage in any activity under this Act, and any license, authorisation or other permission issued without knowledge of such association shall be immediately cancelled upon reasonable proof of such membership or association.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding ten years, or to both, and in addition, such person shall not be issued with a licence, authorisation or other permission for any activity under this Act for a minimum period of ten years from the time that the contravention was established.

## **Transshipment in Seychelles ports, waters, and areas beyond national jurisdiction**

**38.(1)** No person, unless otherwise authorised by the Authority in writing shall engage in, support or be associated with transshipment activities —

- (a) in Seychelles waters except in cases of *force majeure*, or at a port designated for such purposes by the Authority and within the limits of such port as may be defined under the Harbour Act Cap 90, except where the Authority declares the unavailability of a designated port during a reasonable time period, based on advice from the Harbour Master's Office, and the transshipment operations are monitored by such authorised officer or observer as may be required; or
- (b) being the operator of a Seychelles vessel or a Seychelles citizen, in areas beyond national jurisdiction.

(2) Any person who contravenes subsection (1) (a) or (b) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or to imprisonment not exceeding three years, or to both.

## **Requirements for the registration of Seychelles registered vessels, joint venture vessels or foreign vessels**

**39.(1)** Any Seychelles registered vessel or joint venture vessel that applies for registration in Seychelles under the Merchant Shipping Act, 1992 or the Maritime Transport Act, 2006 shall not be granted registration unless the Authority first approves such registration.

(2) Registration of a foreign vessel in Seychelles shall be considered invalid for purposes of issuance of licences, authorisations or other permissions for fishing or related activities unless the application has been approved by the Authority.

(3) In considering the approval of applications for registration by foreign vessels, the Authority shall take into account —

- (a) whether such vessel is or has been on a list of illegal, unreported and unregulated vessels maintained by a regional fisheries management organization;
- (b) whether such vessel or the operator of the vessel has been involved in any form of non-compliance with national fisheries laws or international conservation and management measures over the preceding ten years;
- (c) whether the vessel is fit for the purpose of fishing or related activities in compliance with this Act;
- (d) whether such vessel, the operator of the vessel or its crew members have been involved in transnational criminal activities or an organized criminal group within the past ten years;
- (e) such other activities that may indicate the likelihood of future non-compliance with this Act,

and shall not approve registration where such conditions exist.

## **PART IV - REQUIREMENTS FOR FISHERIES ACCESS**

### **Fisheries access**

**40.(1)** The Minister may, upon the recommendation of the Authority and in accordance with this Act and any applicable Fisheries Management Plan, international agreement, national policy or plan, and taking into account relevant international guidelines, enter into a written agreement to authorise access to Seychelles waters for fishing and related activities by foreign vessels.

(2) The written agreement required in subsection (1) may be in the form of an international agreement, joint venture agreement, charter agreement or other written agreement or arrangement with any —

- (a) State;
- (b) regional economic integration organisation;
- (c) fishers or boatowners association or a similar body;
- (d) publicly incorporated company; or
- (e) such other person or body as the Minister may, upon the recommendation of the Authority, consider appropriate.

(3) The Minister shall, prior to entering into a fisheries access agreement ensure that —

- (a) the terms of the agreement comply with this Act and each international agreement and fisheries management agreement or arrangement to which Seychelles is a party;
- (b) any vessel subject to the agreement and its operator, master and beneficial owner —
  - (i) have not engaged in or been suspected to have engaged in illegal, unreported or unregulated fishing activities in any place during the five year period prior to conclusion of the agreement; and
  - (ii) where judicial or administrative proceedings have determined that illegal, unreported or unregulated fishing activities took place, there has been compliance with a relevant judgment or determination;
- (c) the fishing or related activities of the vessel would not result in any direct or indirect adverse impact to the sustainability of Seychelles fisheries resources or the marine ecosystem; and
- (d) there are clear benefits to Seychelles for entering into the agreement.

(4) The Minister shall not enter into an agreement or permit licenses, authorisations or other permissions to be issued unless the agreement conforms to the requirements under this section.

(5) The Minister shall, upon the advice of the Authority, determine in respect of each proposed agreement for access —

- (a) the estimated value of the access to the other party based on economic and other relevant considerations; and
- (b) the value of the designated fee and other required benefits for Seychelles, excluding development assistance or benefits that are unrelated to the value of the access.

(6) Access shall be permitted solely for purposes of fishing or related activities in Seychelles waters or at a designated port.

(7) Notwithstanding the requirements in subsections (1) to (6), any agreement for access to the sedentary fisheries resources on that part of the continental shelf subject to bilateral joint jurisdiction and designated as a Joint Management Area shall be concluded jointly in accordance with the relevant bilateral agreement.

(8) No licence or other authorisation for fishing or related activities shall be issued for any foreign vessel unless fisheries access has been granted in accordance with this Act and is valid during the full pendency of the licence or authorisation and where such validity ceases prior to the expiration of the such pendency, the licence or authorisation shall be terminated at the same time.

### **Fisheries access terms and conditions**

**41.** In addition to any other terms or conditions for fisheries access that may be prescribed or required, each agreement entered into by the Minister shall require that —

- (a) the other party to the agreement and the operator of all vessels subject to the agreement must comply with this Act and all other applicable laws of Seychelles;

- (b) the operator of any vessel subject to the agreement must hold, in respect of their vessel, a valid and applicable licence or authorisation from the State in which the vessel is registered to carry out fishing or related activities in areas beyond national jurisdiction including in Seychelles waters;
- (c) all vessels subject to the agreement must have good standing on an authorised vessel list of an applicable regional fisheries management organisation or a register maintained under any applicable fisheries management agreement, and the agreement will automatically terminate should the vessel's good standing on any such register be withdrawn;
- (d) no vessel subject to the agreement is on a list of illegal, unreported or unregulated vessels maintained by a regional fisheries management organisation, and the agreement and license will automatically terminate should any vessel be included on any such list;
- (e) the other party to the agreement and all operators of vessels subject to the agreement must take all necessary measures required to ensure compliance with the agreement and this Act;
- (f) any vessel or operator that does not comply fully with the agreement, this Act or any applicable international conservation and management measure may be denied renewal or issuance of any licence, authorisation or other permission under the access agreement for a period of up to ten years;
- (g) in the case of an agreement entered into with a corporation, association or other body acting on behalf of its members or other persons, that the corporation, association or other body is liable for the un-discharged liabilities of its members or other persons arising out of

any operations under the agreement and the agreement itself, including fees;

- (h) fees, levies and other charges are fully paid at the required time, and the agreement will automatically terminate on non-payment or late payment;
- (i) the other party to the agreement shall ensure minimum specified benefits to Seychelles citizens including training and employing such level of qualified citizens as crew members and such other benefits as may be specified by the Minister; and
- (j) in the case of an agreement with a term of more than one year, the agreement is subject to an annual review or such other period as the Minister may determine and termination or suspension in accordance with section 42.

### **Fisheries access review**

**42.(1)** Where the term of an access agreement is more than one year, the Minister shall review the agreement annually to assess compliance with the terms and conditions of the agreement, including —

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

(2) The Minister may, upon the advice of the Authority, terminate or suspend an agreement at any time according to its terms or upon material non-compliance by the other party with this Act or any other condition of the

agreement, except that the Minister shall give the other party reasonable notice of the termination or suspension to ensure the prompt termination of fishing or related activities.

- (3) The Minister may suspend or otherwise limit an agreement —
- (a) upon the advice of the Authority that continued fishing at current levels would pose a risk to the sustainability of any fish stocks based on a precautionary approach; or
  - (b) on such other ground as may be specified in this Act.

(4) Suspension of an agreement under subsection (2) or (3) may be for such time or until such conditions are met, as the Minister may require, based on the recommendation of the Authority.

(5) Where an agreement is suspended or limited under subsection (3)(a), such portion of the access fees as may be determined by the Minister upon the recommendation of the Authority may be refunded on a pro rata basis for the suspended fishing opportunities.

### **Requirements for joint venture and charter agreements**

**43.(1)** No agreement governing a joint venture, or the chartering of any foreign vessel for fishing or fishing related activities within or beyond Seychelles waters shall be valid unless it is approved by the Minister.

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

- (a) the joint venture or charter agreement provides clearly identifiable benefits with no adverse effects to Seychelles, its fisheries or its marine environment, including —
  - (i) development of Seychelles fishing industry;
  - (ii) training of Seychelles citizens;
  - (iii) foreign exchange earnings for Seychelles;



- (iv) investment in Seychelles;
  - (v) landing and domestic distribution activities; and
  - (vi) development of export activities;
- (b) establishment of a company under the Companies Act (Cap 40) with specified ownership, control and equity by Seychelles citizens;
- (c) the joint venture or charter agreement approved under this Act shall —
  - (i) be registered in Seychelles;
  - (ii) comply with all applicable laws and national policies in Seychelles;
- (d) a legally binding undertaking is submitted that all financial obligations of the foreign vessel will be met promptly and effectively, including payment of all taxes, fees and any applicable fine, penalty or other determination which may result from the vessel's activities; and
- (e) 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 Seychelles.

(3) Any vessel fishing under an approved joint venture or charter agreement shall be subject to all requirements of this Act in respect of foreign vessels.

### **Chartering of vessels to comply with international conservation and management measures**

**44.(1)** For the purposes of this section —

- (a) “chartering of vessels” means an agreement or an arrangement by which a vessel flying the flag of a contracting party or cooperating non-contracting party of a regional fisheries management organization is contracted for a defined period of time by an operator in another member without the change of flag;
- (b) “chartering member” refers to the member that holds the quota allocation or fishing possibilities; and
- (c) “flag member” refers to the member in which the chartered vessel is registered.

(2) Any chartering of vessels shall comply with the provisions of this Act and any applicable international conservation and management measure.

(3) The chartering agreement shall contain the following conditions, in addition to any other condition required under this Act —

- (a) the flag member has consented in writing to the chartering agreement, and the duration of the fishing operations under the chartering agreement does not exceed such time in any calendar year as may be prescribed;
- (b) vessels to be chartered shall be registered to responsible members and cooperating non-members of the relevant RFMO, which shall —
  - (i) explicitly agree to apply international conservation and management measures of the relevant RFMO and enforce them on their vessels; and
  - (ii) effectively exercise their duty to control their vessels to ensure compliance with international conservation and management measures;

- (c) vessels to be chartered shall be on the applicable record of authorised vessels of the relevant RFMO;
- (d) without prejudice to the duties of the chartering member, the flag member shall ensure that the chartered vessel complies with both the chartering member and the flag member or cooperating non-member with international conservation and management measures;
- (e) where the chartering member allows the chartered vessel to engage in fishing in the high seas, the flag member shall be responsible for controlling the high seas fishing conducted pursuant to the charter arrangement, and the chartered vessel shall report VMS and catch data to both the chartering member and flag member and to the secretariat of the relevant RFMO;
- (f) all catches, including bycatch and discards, taken pursuant to the chartering agreement as well as the observer coverage shall be counted against the quota or fishing possibilities of the chartering member;
- (g) the chartering member shall report to the secretariat of the relevant RFMO all catches, including bycatch and discards, and other information required under any charter notification scheme adopted by the relevant RFMO;
- (h) a vessel monitoring system and tools for the differentiation of fishing areas, such as fish tags or marks, shall be used for effective fisheries management in accordance with relevant international conservation and management measures;
- (i) all chartered vessels shall have a fishing license issued by the chartering member, and shall not be on an IUU Vessel List maintained by any RFMO;

- (j) when operating under charter agreements, the chartered vessels shall not, to the extent possible, be authorised to use the quota (if any) or entitlement of the flag members or cooperating non-members;
- (k) no chartered vessel shall be authorised to fish under more than one chartering agreement at the same time;
- (l) unless specifically provided in the chartering agreement, and consistent with relevant domestic law, the catches of the chartered vessels shall be unloaded exclusively in the ports of the chartering member or under its direct supervision in order to assure that the activities of the chartered vessels do not undermine international conservation and management measures; and
- (m) the chartered vessel shall at all times be required to carry a copy of the following documentation —
  - (i) the name, in both native and Latin alphabets, and registration of the chartered vessel, and International Maritime Organization (IMO) ship identification number if eligible;
  - (ii) the name and contact address of the beneficial owner(s) of the vessel;
  - (iii) the description of the vessel, including the length overall, type of vessel and the type of fishing method to be used under the charter;
  - (iv) a copy of the chartering agreement and any fishing authorisation or license it has issued to the vessel, including in particular the quota allocation or fishing possibility assigned to the vessel and the duration of the chartering arrangement;
  - (v) its consent to the chartering agreement; and
  - (vi) the measures adopted to implement these provisions.

## **Fisheries Management Agreement**

**45.** The Minister may, upon the recommendation of the Authority, enter into a fisheries management agreement, other than an access agreement, that has as its purpose cooperation in or coordination of fisheries management measures with other States.

### **Agents**

**46.(1)** The operator of each foreign vessel or of any vessel registered in Seychelles that applies for a license under this Act shall designate a corporate person as an agent authorised to accept on behalf of such vessel the service of process and notices 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) A corporate person may be designated as agent only where it has been established pursuant to the laws of Seychelles, and has provided full and correct information to the Authority in relation to the following —

- (a) the full physical street address of the registered or principal office of the company and the principal place of business in Seychelles;
- (b) the present name and any former name, physical street address, fixed line telephone, email and occupation of the person authorised to manage the company in Seychelles;
- (c) a list of the officers of the company, containing such particulars with respect to the officers as are required to be furnished in the register of the officers of a company;
- (d) the names and physical street addresses, fixed line telephone and email of one or more persons continuously resident in Seychelles and liable to pay taxes to Seychelles and authorised to accept on behalf of the company service of process and notices 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

- (e) the corporate registration number,

and in the event of any alteration being made in the instrument or in the address or in the officers or managers or in the names, addresses, fixed line telephone and email address of such persons, the company shall promptly deliver to the Authority a notice of the alteration in writing.

(3) Each corporate person designated under subsection (1) and (2) shall —

- (a) be continuously resident or have its corporate seat in Seychelles;
- (b) be liable for taxes on income in Seychelles and submit a Tax Identification Number;
- (c) have no record of conviction as an individual or as an officer of a corporation;
- (d) have no record of association with illegal, unreported or unregulated fishing activities that take place within or beyond areas under the national jurisdiction of Seychelles;
- (e) carry out duties as required pursuant to the laws pertaining to relevant and applicable legislation in Seychelles relating to agents and, companies;
- (f) provide such information as may be required under this Act in relation to the relevant foreign vessel;
- (g) receive and respond to legal process with respect to the vessel and its activities, operator, master and crew members;

- (h) assume full liability for the vessel and its actions under this Act;
- (i) comply with the laws of Seychelles;
- (j) not exceed his or her authority as an agent, including dealing on his or her own account; or
- (k) not engage in any activity that constitutes or is likely to constitute a conflict of interest provided under section 166.

(4) Each agent designated under subsection (1) and each company established under subsection (2) shall not have legal authority as agent or otherwise as representative in relation to any foreign vessel unless it has applied for and been granted a valid and applicable accreditation by the Authority, and such accreditation shall be considered separate and apart from any other activities outside the scope of this Act for which the agent may be licensed.

- (5) The operator of each foreign vessel shall ensure that its agent —
- (a) has full legal authority and is sufficiently informed at all times in order to carry out its responsibilities under this Act including the requirements in subsection (3); and
  - (b) complies with all requirements in subsection (3).

(6) No licence shall be issued to a foreign vessel unless an agent has been designated and meets all requirements of this section.

(7) Where there is clear evidence of a violation of subsections (1), (2) or (3), the agent shall no longer be recognised as such for purposes of carrying out the activities of an agent under this Act, and notification shall be given to the operator and agent of the relevant foreign vessel of such suspension or revocation.

(8) Where notification is given under subsection (7), such agent or company shall be permanently prohibited from representing any foreign vessel in relation to fishing or related activities in Seychelles.

(9) The operator of a foreign vessel shall appoint a new agent within a time period specified in the notification given under subsection (7), and until such appointment is made, the operator shall be directly responsible to communicate with the Government and comply with requirements under this Act and other laws of Seychelles.

(10) A person who contravenes subsections (1), (2), (3) or (9) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding five years or both.

(11) A person who represents himself or herself as an agent or performs activities as an agent in relation to a foreign vessel when recognition of such status has been withdrawn under subsection (7) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding five years or both, and shall in addition be permanently prohibited from performing duties as an agent in Seychelles in relation to any foreign vessel under this Act.

(12) Where any operator does not comply with subsection (5), he or she commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule, and in addition —

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

such operator shall fully disclose information regarding the agreement between the operator and the agent in addition to the any other requirements in this Act.



## Preference for products of Seychelles

47.(1) The holder of a licence, authorisation or other permission issued for purposes of fisheries access under this Part shall, in the conduct of all relevant activities give preference to —

- (a) materials and products made in Seychelles;
- (b) service agencies located in Seychelles and owned by —
  - (i) Seychelles citizens;
  - (ii) companies or partnerships incorporated or registered in Seychelles; and
  - (iii) public corporations.

(2) Any review of the performance of a licence holder under this Part shall note whether, and if so the extent to which, preference was given to materials, products and service agencies in Seychelles, and the evaluation shall be considered when recommending any licence re-issuance or renewal.

## Performance bond

48.(1) The Minister may require either as a precondition of issuing a licence to any foreign 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 or required by the Minister, in consultation with the Attorney General, taking into account —

- (a) the level of compliance by the vessel, its operator and an associated fleet of vessels with requirements of the flag State, other coastal States, relevant regional fisheries management organisations and international law;
- (b) any risk of non-compliance with this Act or any other laws of Seychelles; or
- (c) other criteria that may be identified by the Minister.

(2) A performance bond prescribed under subsection (1) shall serve as a financial assurance for the fulfilment of all obligations arising out of the licence, including potential costs relating to rescue, recovery of other costs and fines, penalties or compensation for non compliance with this Act.

(3) The amount of financial assurance provided under this section shall be determined by the Authority, considering criteria that may be adopted by the Board, and having regard to any applicable fishery management plan, the value of the relevant fishery and the maximum amount of fine provided under this Act for any offence, taking into account the risks identified under subsection (1).

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

- (a) surety bond;
- (b) trust fund with pay-in period;
- (c) insurance policy;
- (d) cash deposit;
- (e) annuities.

(5) Where a licence holder is obliged to provide a financial assurance under this section and fails to do so, the Authority shall —

- (a) cause a notice of demand to be served on the licence-holder; and
- (b) cause a copy 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 Authority shall cause the registry endorsement to be cancelled; or
- (b) has not been provided, the applicable licence shall be liable to cancellation by the Minister.

### **Requirements for performance bond**

**49.(1)** A performance bond issued pursuant to section 48 shall —

- (a) be in the form approved by the Minister in consultation with the Attorney General;
- (b) include a cash deposit, letter credit or other form of guarantee;
- (c) be valid for such period of time as the Minister may specify;
- (d) be lodged with a bank approved by the Minister; and
- (e) subject to paragraph (2), authorise the Minister to draw directly on the bond in the event of non-compliance with any term, condition or requirement of the licence or of any provision of this Act.

(2) The Minister may, upon the recommendation of the Authority prescribe the types or categories or the class or classes of licence, for which a performance bond is required, and the amount or scale of amounts of bonds.

(3) The Minister may, in consultation with the Attorney General, draw directly on a bond only —

- (a) in accordance with procedures under this Act; and
- (b) to the extent of the approved scale of deductions for specified breaches of terms, conditions or requirements.

(4) Where the Minister draws on a bond in accordance with this Act, the holder of the licence shall, within 30 days of being so notified by the Minister, deposit a sum equivalent to the amount drawn in the account from which the amount was drawn.

(5) A performance bond —

- (a) may be lodged in respect of each and every foreign vessel in a sum specified in an access agreement under and in accordance with which each vessel is licensed; and
- (b) may be lodged in respect of any other vessel in a sum determined under the terms of the licence or by the Minister.

(6) A performance bond required by this Act or the terms of a licence shall be lodged within one week of the issuance of the licence, or within such further time as the Minister upon the recommendation of the Authority may designate.

(7) Where a performance bond is not lodged in accordance with this Act, the licence shall be suspended by the Authority, until such time as this Act is complied with.

(8) A performance bond under this Act shall not be considered as a payment of security into any Court and shall not be used for any such purpose.

(9) A performance bond lodged under this Act shall not be considered as part of the funds of the Authority, except in circumstances where the Minister is authorised to draw on the performance bond in accordance with this Act.

(10) Any person who lodges a performance bond in accordance with this Act but cancels or withdraws it prior to any time required by the Minister commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or to both, and in addition, the person's licence shall be cancelled.

### **Requirements for drawing on performance bond**

**50.(1)** The Minister may draw on a performance bond for non-compliance in accordance with a term, condition or requirement of the licence or this Act.

(2) Where the Minister draws on a performance bond in accordance with subsection (1), he or she shall, subject to subsection (6), give written notice in accordance with subsection (3) to the licensee or to the legal representative or agent of the vessel.

(3) A notice under subsection (2) shall —

- (a) contain a description of the non-compliance alleged and a statement of the amount which it is proposed to draw; and
- (b) state that the bond will be drawn upon if no objection is received by the Minister within 7 days from the date of the notice.

(4) Unless the terms of the licence permit otherwise, the amount that may be drawn on the performance bond under subsection (3)(a) shall not exceed 100% of the maximum fine for the relevant offence.

(5) Where no objection is received by the Minister within 7 days from the date of a notice under this Act, the Minister may draw directly on the performance bond, and where an objection is received the Minister shall refer it to the Attorney General who shall determine, on the merits of the objection, whether the Minister may draw directly on the performance bond.

(6) Notwithstanding any other provision of this Act, where a person who has been duly served a summons to answer a charge of a contravention of, or a failure to comply with, a term or condition of a licence, fails to appear in answer to the summons, the Minister may, without notice, draw directly on any performance bond lodged in respect of the licence to an amount not exceeding 100% of the maximum fine for the relevant offence.

(7) A performance bond in the form of a cash deposit shall be

returned at the end of the period of validity of the licence, subject to the provisions of this Act.

### **Requirements for vessels to report entry to, exit from and regularly while in Seychelles waters**

**51.(1)** The operator of every Seychelles registered vessel, joint venture vessel or Seychelles vessel shall, upon entry into or exit from Seychelles waters report directly to the Authority through electronic means the vessel's position by latitude and longitude, the time of entry or exit, speed, heading and species on board by weight and such other information as may be prescribed or determined by the Authority or the Minister or required by a relevant regional fisheries management organisation, and shall —

- (a) make such reports using a Vessel Monitoring System and Automatic Information System required by a relevant regional fisheries management organisation, or where this is not possible by email;
- (b) where the vessel falls within requirements by the International Maritime Organization to continuously operate an Automatic Information System, ensure that such operation is effected;
- (c) report continuously at least every six hours at all times while in Seychelles waters directly to the Authority in accordance with such requirements;
- (d) where the vessel does not hold a valid and applicable license for fishing or related activities in Seychelles waters proceed expeditiously and continuously through Seychelles waters; and
- (e) where the vessel holds a valid and applicable license for fishing in Seychelles waters, prior to departing from Seychelles waters report the last fishing area and weight by species of fish caught in Seychelles waters.

(2) The operator of a foreign vessel shall comply with subsection (1) but shall report to the Authority at least 24 hours before the vessel enters into or exits from Seychelles waters.

(3) Notwithstanding subsection (1), the operator shall ensure that the transit report upon first entry is effected manually.

(4) The operator of every foreign vessel shall ensure that the vessel does not engage in fishing in Seychelles territorial sea or other area that may be prohibited under this Act or the laws of Seychelles.

(5) An operator who contravenes subsection (1), (2) (3) or (4) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule and in addition any applicable licence shall be suspended for such period as the Authority considers fit but not less than one month.

## **PART V - AQUACULTURE**

### **Management and development of aquaculture**

**52.(1)** The Authority shall manage and develop aquaculture activities in accordance with such aquaculture sector plan as may be agreed from time to time and taking into account the recommendations of such regulatory committee as may be established by regulation.

(2) The Authority may adopt an aquaculture sector development plan that may 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 an evaluation of the implementation of the aquaculture plan that preceded it;

- (d) a description or identification of any zone which is suitable for aquaculture and the type of aquaculture for which the area is suitable;
  - (e) a description of suitable or unsuitable methods for undertaking any type of aquaculture;
  - (f) identification of suitable or unsuitable species of fish for aquaculture;
  - (g) acceptable drugs and medications that may be used;
  - (h) requirements for the importation and manufacture of seed, and feed that may be used for aquaculture;
  - (i) requirements or standards for water quality, aquaculture waste, escapement, environmental impact assessments and the introduction, transfer, release and harvesting of fish for purposes related to aquaculture;
  - (j) a conflict prevention and resolution mechanism; and
  - (k) any other matter concerning aquaculture which the Authority considers appropriate.
- (3) The Minister may establish —
- (a) Aquaculture Development Zones; and
  - (b) temporary aquaculture concessions for purposes of research and development or restorative licences,

in accordance with such criteria and processes as may be prescribed.

(4) The Authority may issue licenses for purposes of aquaculture operations and research, taking into account the recommendations of such regulatory committee as may be established under this Act and may set conditions for —



- (a) siting, design and materials to be used in the construction of an aquaculture establishment;
- (b) health conditions of fish;
- (c) the introduction of species that do not naturally occur in Seychelles;
- (d) measures for the prevention of the spread of fish diseases to the wild stocks;
- (e) measures for the control of pollution;
- (f) infrastructure impacts on the environment resulting from aquaculture; and
- (g) commercial provisions relating to the marketing of fish and fish products.

### **Conditions for aquaculture licences**

**53.(1)** The Authority may require such conditions for licences related to aquaculture activities as it may attach to a licence or as may be prescribed by regulations.

(2) An applicant for a licence related to aquaculture activities shall provide —

- (a) such specific information to be submitted as may be prescribed or otherwise required in writing by the Authority, including economic data;
- (b) payment in full of all fees owed to the Government; and
- (c) a tax registration number, tax certificate and other relevant documents as may be prescribed or required in writing by the Authority.

(3) Where an applicant for a licence related to aquaculture activities does not provide all the required information and data, the Authority may issue a provisional licence valid for a stated period of time by which the information and data must be provided.

(4) A person who does not comply with conditions in subsection (1) or (2)(a), (b) or (c), commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and in addition the person's license may be suspended or cancelled.

### **Introduction, transfer, export and release of live fish**

**54.(1)** Without prejudice to any laws relating to the sale, export or trade in fish or to food safety, no person shall, without such license, permit or authorisation as may be required by law —

- (a) introduce, place or by act, omission or otherwise cause to be placed any specie of live fish in any place in Seychelles waters for purposes of aquaculture;
- (b) transfer any eggs, fingerlings or seed of exotic or genetically modified species or such adult species of fish from one aquaculture establishment in Seychelles to another or from any location in Seychelles to another;
- (c) export aquaculture products for human consumption from Seychelles unless they are produced in an aquaculture establishment under and in accordance with a permit granted under this Act by the Chief Executive Officer of the Seychelles Bureau of Standards; or
- (d) release or by act, omission or otherwise cause the release of live fish from an aquaculture facility.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding five

years or both, and in addition any applicable licence shall be suspended for such period as the Authority considers fit but not less than one month.

### **Authority may inspect, seize fish that are diseased, highly invasive**

**55.(1)** The Authority 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) Without prejudice to any law relating to diseased or highly invasive fish, the Authority may or may cause to be seized, held, quarantined, disinfected or destroyed, any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and take such measures where it is determined that the fish or fish species are diseased or highly invasive.

### **Aquaculture waste**

**56.(1)** Each person engaged in commercial aquaculture shall ensure that aquaculture waste —

- (a) does not cause an unsightly or offensive condition at the concession area;
- (b) does not cause damage to the environment; and
- (c) 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 Authority, 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 Authority may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area.

(3) A person who is notified by the Authority under subsection (2) shall promptly fulfil the requirements set out in the notification.

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

### **Escapement**

57.(1) Each person engaged in commercial aquaculture shall take appropriate measures to prevent or minimise the risk of the escape of aquaculture stock into the wild, except wherethe escape has been approved for purposes of wild stock enhancement.

(2) Where there has been an escape of hatchery reared aquaculture stock, except where the escape has been approved for purposes of wild stock enhancement, 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.

(3) Each person engaged in commercial aquaculture in Seychelles 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 or she exercises management or control or to other equipment that may lead to the escape of hatchery reared aquaculture stock, notify the Authority 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;

- (d) the age or developmental stage of the fish at the time of their escape; and
- (e) details of the circumstances in which the escape or damage took place.

(4) Every person to whom subsection (3) applies shall, within 7 days after becoming aware of the escape or damage referred to in that subsection, notify the Authority in writing of the action taken to deal with it.

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

#### **Use of restricted drug, chemical etc.**

**58.(1)** No person shall use in a commercial aquaculture facility or a restorative and research and development 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 Authority.

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

#### **Information on wild, genetically modified species**

**59.** The Authority shall collect information and data on wild and genetically modified species for the purpose of assessing the impact of aquaculture on the general environment.

#### **Interfering with aquaculture facility prohibited**

**60.(1)** No person shall, without a valid and applicable aquaculture licence —

- (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 such a manner 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
- (d) 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 not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding five years or both, and in addition shall fully compensate the relevant licensee for any damage which is the direct result of his or her contravention.

## **PART VI - INFORMATION, DATA AND STATISTICS**

### **Establishment of information system**

**61.(1)** There shall be established and maintained in the Authority, an information system with the objectives of meeting national, regional and international requirements relating to information and data and supporting the objectives of this Act.

(2) The information system shall be available on the website of the Authority and subject to designated confidentiality requirements that are determined by the Authority, taking into account best international practices for transparency and accountability.

(3) The information system shall include such information that supports the implementation of this Act and international conservation and management measures, including such information as the Authority may require in relation to fisheries management, fishing and related activities,

monitoring, control and surveillance, legal and administrative matters, statistical and economic aspects and other information consistent with the objectives of this Act.

(4) The Authority shall ensure that information is released from the database and communicated to other national agencies, States and regional and international organisations in a timely manner to ensure the discharge of national, regional and international obligations of Seychelles, including as a flag State and as a member of any relevant regional fisheries management organisation.

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

### **Information may be required, inspected**

**62.(1)** Each person carrying out activities under this Act shall keep and maintain such records and information and supply them to the Authority in such form and manner as the Authority may require or as may be required under this Act, other Seychelles laws or any applicable conservation and management measure or international agreement.

(2) The Authority shall ensure the timely collection and analysis of statistical data and other information in relation to activities and persons under this Act and the provision of data and information to a relevant regional fisheries management organisation as may be required by an applicable international conservation and management measure.

(3) The Authority may, for the purposes of verifying accounts, records, documents and other information required to be kept, furnished or communicated under subsection (1) direct —

- (a) the audit or inspection of any accounts, records, documents, data and other information or place where such information may be kept;
- (b) the audit or inspection of any vessel, processing plant or other facility to which this Act applies; and

(c) that any person provide further information regarding any accounts, records, documents, data and other information kept, furnished or communicated under this Act in accordance with such time limits as may be specified or prescribed.

(4) Any person who —

- (a) fails to keep, furnish or communicate any accounts, records, documents, data and other information as required under subsection (1); or
- (b) does not facilitate, assist or comply with the requirements for an audit or inspection undertaken under subsection (3),

commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years, or to both, and in addition the applicable licence, authorisation or registration may be revoked.

### **Information to be true, complete and correct and destruction of documents prohibited**

**63.(1)** All persons shall keep records and provide information, data and statistics as required under this Act and such records, information, data and statistics shall at all times be true, complete and accurate.

(2) No person shall alter, destroy, erase or obliterate any —

- (a) declaration, certificate, or other document, information, data or statistics made or required to be made or issued under this Act;
- (b) label subject to this Act; or
- (c) required markings on vessels or gear.

(3) No person shall submit to the Authority, the Ministry or any person, court, body or government authority in Seychelles or other relevant



State or relevant regional fisheries management organisation, international organisation or other body or person, any information or document that is fraudulent or, in the case of written information or document, forged.

(4) This section shall apply to any records, information, data and statistics required under this Act without regard to whether they are submitted to the Authority, Ministry, court, body, or government authority in Seychelles, other relevant State or relevant regional fisheries management organization, international organisation or other body or person.

(5) Any person who does not comply with subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years, or both.

### **Information sharing bilaterally, regionally, internationally**

64.(1) The Authority may prepare and share information that falls within the scope of this Act, including fisheries statistics and vessel information, to any regional organisation to which Seychelles is a party or pursuant to an international agreement, as may be required by such organisation or international agreement, taking into account any confidentiality requirements, and shall do so where required by international agreement or a regional fisheries management organisation.

(2) Where the information under subsection (1) is required, it shall be shared within any time frame that may be required or promptly upon the demand or request for it.

### **Confidential information**

65.(1) For the purposes of this Act, “confidential information” means —

- (a) information that the Authority declares to be confidential;
- (b) information under subsection (3); and
- (c) the information referred to in subsection (5).

(2) A person carrying out duties or responsibilities under this Act shall not, unless authorised under this Act or in accordance with data confidentiality policy and procedures of a relevant regional fisheries management organisation, disclose confidential information acquired by virtue of his or her duties and responsibilities to any person not having such duties and responsibilities.

(3) The Authority may by written notice —

- (a) declare any information to be confidential information; and
- (b) declare that certain general summaries of such information are not confidential information.

(4) The Authority may in writing authorise any person to —

- (a) receive or access confidential information;
- (b) access such premises holding confidential information as he or she may designate or restrict access to such premises.

(5) The following information shall be confidential information unless otherwise provided by notice in the *Gazette* —

- (a) any information or data of a commercial nature provided in records, returns, or other documents required to be kept, furnished or communicated under this Act;
- (b) any information or data supplied by a mobile transceiver unit or other vessel monitoring device in accordance with this Act; and
- (c) raw data from scientific research.

(6) Confidential information may be disclosed —

- (a) to the extent that the disclosure is authorised or required under this Act or any other law; or that the person providing the confidential information authorised its disclosure; or
- (b) as may be necessary to —
  - (i) enable the Authority to publish statistical information relating to the fisheries sector;
  - (ii) enable other agencies of the Government to enforce the laws of Seychelles;
  - (iii) promote cooperation and coordination among relevant national agencies and at sub-regional, regional and international levels in the monitoring, control and surveillance of fisheries-related and other relevant activities; or
  - (iv) enable advice to be given to the Minister consistent with the objective of this Act.

(7) The Authority may authorise the release of confidential information —

- (a) relating to the real-time or other position of any vessel, upon request, to any authority for the purposes of assisting with surveillance, search and rescue and other emergency responses; and
- (b) for purposes that the Authority believes are supportive of the objective and enforcement of this Act, including transparency in decision-making.

(8) Confidential information shall maintain its classification for a period of seven years from the date that it is declared to be confidential information under subsection (3).

(9) The Authority may extend the classification of confidential information at the expiry of the period referred to in subsection (8) as the Authority may deem necessary to achieve the objectives of this Act and assist with its enforcement.

(10) Any person who receives confidential information under this Act shall not use or disclose such information except for the purposes of this Act and in accordance with any international conservation and management measure.

(11) Any person who does not comply with any requirement in subsection (2) or (10) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Confidentiality of information in relation to Fisheries Monitoring Centre**

**66.(1)** Information received and recorded by the equipment in the Fisheries Monitoring Centre shall be treated as confidential and may only be revealed —

- (a) to a person who is authorised to gather information in order to decide whether criminal proceedings should be instituted against any person;
- (b) to a prosecutor or authorised legal representative who requires such information for the purpose of prosecuting or defending criminal proceedings;
- (c) to a person who is empowered to ensure compliance with this Act, other Seychelles laws or obligations under international law;
- (d) to a relevant regional fisheries management organisation, in accordance with its international conservation and management measures and any applicable policy on confidentiality and may be subject to a reservation by the Authority;

- (e) to a body or organisation, including an international organisation, in which Seychelles is a member or cooperates for the purposes of fisheries monitoring, control and surveillance and in accordance with any applicable confidentiality requirements, subject to a reservation by the Authority;
- (f) when the revealing of such information is necessary in order to conduct search or rescue operations in relation to any vessel; and
- (g) in aggregated form for purposes of research as approved by the Authority, or
- (h) in accordance with official policy.

(2) Any person who obtains information for a purpose referred in subsection (1) shall use that information for such purpose and may reveal such information to any other person for the same purpose.

(3) Any person who reveals or uses information contrary to subsections (1) or (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act.

### **Ownership of information**

67. Ownership of all information required to be reported, notified or otherwise given to the Government and all information generated by mobile transceiver units or other vessel monitoring device that is part of a vessel monitoring system or Automatic Identification System under this Act is vested in the Government.

### **Public access to information**

68.(1) The public shall have access to information not designated as confidential under this Act.

(2) The Authority may, in writing determine and publish in the Gazette, an administrative fee for categories of information that is not readily available, which shall be charged for public access to such information.

## **PART VII - LICENSES, AUTHORISATIONS, OTHER PERMISSIONS AND REGISTRATION**

### **Licences, authorisations and other permissions, registration required**

**69.(1)** No person shall engage in any of the following activities without a valid licence, authorisation or permit issued in accordance with this Act —

- (a) use of a vessel for fishing or related activities in Seychelles waters;
- (b) use of a Seychelles vessel for fishing or related activities in areas beyond Seychelles waters, including on the high seas and in waters under the jurisdiction of another State;
- (c) have on board, deploy, maintain or retrieve any fish aggregating device in Seychelles waters or, being a Seychelles vessel, in areas beyond national jurisdiction in the area of competence of a relevant regional fisheries management organisation;
- (d) use of aircraft, including drones, for the purpose of fishing;
- (e) use of such equipment or gear as may be prescribed;
- (f) exploratory fishing for purposes of researching species, techniques or gear;
- (g) marine scientific research;
- (h) aquaculture;

- (i) marine bioprospecting;
- (j) landing;
- (k) transshipment;
- (l) fishing for such species, using such gear or undertaking such other activity as may be specified in a fisheries management plan or prescribed.

(2) Registration by the Authority shall be required for —

- (a) the use of any MTU by a licensed vessel in Seychelles waters or a Seychelles vessel in areas beyond national jurisdiction;
- (b) any agent accredited under this Act; and
- (c) every person who undertakes fishing and fishing-related activities.

(3) The Authority shall determine and publicly notify in writing whether a licence, authorisation, other permission or registration is applicable to each activity or requirement specified under subsection (1), unless otherwise provided in this Act.

(4) The Authority shall publicly notify the information required in an application for a licence, authorisation, other permission or registration, unless otherwise provided in this Act.

(5) Any operator who does not comply with any requirement in subsection (1) or 2(a) or any person who does not comply with a requirement in subsection (2) (b) or (c) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years, or both.

### **Subsistence fishing exempt from license, authorisation or permit requirements**

**70.** Persons and vessels engaging in subsistence fishing shall be

exempt from the requirements for licensing, permits or authorisations unless otherwise prescribed under this Act.

**Terms and conditions of licences, authorisations, other permissions, registrations**

71.(1) A licence, authorisation, registration or other permission granted under this Act —

- (a) shall be subject to the terms and conditions provided in this Act or as may be prescribed, and to such other terms and conditions as may be specified in writing by the Authority, or provided in applicable international conservation and management measures;
- (b) may, upon reasonable notice determined by the Authority, be subject to any varied, amended or additional terms and conditions consistent with the objective and principles of this Act as may be —
  - (i) prescribed;
  - (ii) specified in writing by the Authority where it is expedient for the management of a fishery; or
  - (iii) specified in writing by the Authority or Minister in accordance with this Act or with any applicable conservation and management measure;
- (c) enters into force on the date specified in it; and
- (d) remains in force until the date on which it expires in accordance with the period approved by the Authority for the class of licence to which it belongs, unless it is sooner suspended, cancelled or revoked in accordance with this Act.

(2) The operator of any vessel holding a licence, authorisation, registration or other permission issued under this Act shall ensure that the



original or a certified scanned electronic version or certified copy of it is on board the vessel at all times during the period of validity, except where the vessel was at sea when such document was issued and has not entered port since the issuance, in which case an electronic copy shall suffice, and the master shall, upon request, produce it to an authorised officer or other person authorised under this Act.

(3) The holder of a license or authorisation required under this Act shall display the license or authorisation or a certified copy of it in the registered business office, and upon request produce it to an authorised officer or any other person with powers of inspection under this Act.

(4) The operator of a Seychelles vessel shall —

- (a) carry on board at all times such documents issued and certified by the Authority as may be prescribed or required by the Authority or an international conservation and management measure, and upon request produce them to an authorised officer or other person authorised under this Act or other applicable laws, or who is carrying out duties pursuant to a relevant regional fisheries management organisation;
- (b) while in areas under the national jurisdiction of any other State comply with all laws of that State; and
- (c) while in an area of competence of a relevant regional fisheries management organization, comply with all applicable conservation and management measures.

(5) The operator of a vessel that holds a licence, authorisation or other permission for fishing or related activities shall, as a condition of licence or authorisation maintain log books and make such reports relating to fishing or related activities at such times, containing such information and in such format as may be prescribed or required by the Authority in writing or required by an applicable international conservation and management measure.

(6) The holder of any licence, authorisation, registration or other permission shall report to the Authority —

- (a) the sale or transfer of any vessel, company or item that is subject to or operating under the licence, authorisation, registration or other permission, upon such sale or transfer;
- (b) any other change of information that was provided in the application form, registration form or other process or requirement to obtain the licence, authorisation, registration or other permission,

within fourteen days of such sale, transfer or change.

(7) All licences, authorisations and registrations granted under this Act are not transferable, and no person shall —

- (a) transfer, or attempt to transfer such licence, authorisation or registration to another person or vessel; or
- (b) use or attempt to use a transferred licence or authorisation as authority for fishing or related activities.

(8) Any person who contravenes any terms and conditions required under this section commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years, or both, and the relevant licence may be suspended or cancelled, and in the case of contravention of subsection (6) (a) or (b) the relevant licence, authorisation, registration or other permission shall be deemed invalid immediately after the expiry of the fourteen day period.

### **Conditions for landing and transshipment**

72.(1) The operator of any foreign, joint venture or Seychelles registered vessel or such other vessel shall, if required to do so by a condition in the licence, transmit electronically a prior request to the Authority or such addressee as he or she may designate to land or transship any or all of the fish

or fish products on board at such time in advance of landing or transshipment and including such information and format as may be required by the Authority or prescribed.

(2) The operator of each vessel shall carry out landing and transshipment at any port designated by the Authority by public notice, and shall comply with such procedures as may be required by the Authority, including pre-inspection and the placement of any fishery inspector or observer on board prior to and during landing or transshipment, to —

- (a) obtain and verify data, including on the quantity and species landed or transhipped; and
- (b) determine when landing or transshipment has been completed,

and such other procedures as may be prescribed or any applicable international conservation and management measure.

(3) The licensee of the vessel shall pay in full all costs of transport, accommodation and subsistence relating to the performance of the duties of an authorised officer or other person designated by the Authority to conduct supervision of a transshipment of fishery resources outside a port in Seychelles.

(4) Fresh shark fins shall not be transhipped without the carcass, and where sharks are landed frozen, up to the first point of landing, a vessel shall not have on board shark fins that total more than 5% of the weight of sharks on board.

(5) The operator of any vessel that lands or imports tuna and tuna-like species and sharks, either unprocessed or after having been processed on board and which are transhipped, shall submit at such time as may be required by the Authority, such declaration of transshipment that may be prescribed or required by an international conservation and management measure until the first sale has taken place.

(6) The vessel operator shall not land, tranship or offload fish into a container that has been caught or otherwise subject to activity in contravention of an international conservation and management measure.

(7) During transhipment the operator of each vessel shall comply with all applicable laws relating to protection of the marine environment.

(8) Landing and transhipment shall be subject to such further conditions as may be prescribed or otherwise required by the Authority and shall comply with any applicable international conservation and management measure.

(9) Any person who contravenes any requirement in this section commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both.

### **Conditions for marine scientific research**

73.(1) The Authority, with the written approval of the Minister, may enter into agreements with foreign persons, organizations or institutions to carry out marine scientific research in Seychelles waters in relation to matters within the scope of this Act providing a relevant registration or other permission has been issued to such person or institution as may be required for research pursuant to Seychelles legislation.

(2) The Authority may require conditions for such agreements as are consistent with international and regional obligations and its mandate over the conservation, management and enforcement of activities in relation to fisheries resources of Seychelles.

(3) Any person who does not comply with conditions imposed under subsection (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or both, and in addition the person's authorisation may be suspended or cancelled.

### **Conditions for authorisation for fish aggregating devices**

74.(1) The operator of a vessel that holds a valid and applicable authorisation for the use of fish aggregating devices shall —

- (a) maintain and keep on board the vessel at all times a FAD logbook which includes information that may be

prescribed and any other information on all activities relating to the FADs as may be required by the Authority or by an international conservation and management measure;

- (b) not use any FADs unless they are marked in accordance with such specifications that may be prescribed or required by the Authority, this Act or an international conservation and management measure;
- (c) at all times track the vessel's deployed FADs and associated items;
- (d) not abandon any FADs in Seychelles waters or on any land, reef or beach in Seychelles;
- (e) report to the Authority full details of registration for all companies under which FADs are registered;
- (f) not carry, deploy or collect more FADs than the total number permitted under the authorisation;
- (g) ensure that the FADs are designed and deployed in accordance with the following specifications —
  - (i) the surface structure of the FAD is not covered, or only covered with non-meshed material;
  - (ii) if a sub-surface component is used, it is not made from netting but from non-meshed materials such as ropes or canvas sheets; and
  - (iii) the use of synthetic marine debris in FADs shall be reduced and eliminated at the direction of the Authority, and natural or biodegradable materials such as hessian canvas or hemp ropes shall be used for drifting FADs;

- (h) assemble all FADs on land and not assemble, construct, cause or allow to be assembled or constructed any FAD at sea;
- (i) declare any purchases of FADs, and provide to the Authority the purchase orders for all FADS purchased in any year or licensing period as the Authority may require;
- (j) provide full access to the Authority of direct live satellite transmissions from all FADs in real time;
- (k) not deploy FADS in any channel or in such a way as to hinder or block marine traffic or be a hazard to navigation at sea;
- (l) make such reports as may be required by the Authority, this Act or any applicable international conservation and management measure.

(2) The Authority may attach any further conditions to an authorisation to use fish aggregating devices as it deems fit, including the materials used for construction, the areas for deploying and retrieving and the reporting times.

(3) A person who does not comply with conditions in subsection (1) or with conditions attached under subsection (2), commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and to any other penalty provided under this Act, and in addition the person's authorisation may be suspended or cancelled.

### **Conditions for vessel monitoring system registration**

75.(1) The operator of each vessel licensed to carry out fishing or related activities in Seychelles waters or of any Seychelles vessel authorised to carry out fishing or related activities in the area of competence of a relevant regional fisheries management organisation shall, as a condition of the licence or authorisation, comply with the requirements under

sections 115 and 116, and register with the Authority the mobile transceiver unit required to be carried on board under this Act, in accordance with requirements that may be prescribed or required by the Authority.

(2) A person who engages in fishing or related activities without a valid and applicable registration under subsection (1) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding one year or both, and to any other penalty provided under this Act, and in addition the person's licence may be suspended or cancelled.

### **Conditions for the quality of fish on board vessels**

76.(1) The licence, authorisation, registration or other permission in relation to any vessel may include requirements concerning the quality of unprocessed fish which is on —

- (a) a vessel registered in Seychelles; or
- (b) any vessel while under the jurisdiction of Seychelles.

(2) A person who does not comply with any condition, specification or requirement made under subsection (1), or who tampers with any evidence that would otherwise indicate non-compliance or interferes with the means of preservation of the unprocessed fish, commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding one year or both, and to any other penalty provided under this Act.

### **Statistical documentation for import and export or re-export**

77.(1) Statistical documentation requirements of a relevant regional fisheries management organisation, international organisation or other body for validation of the legitimacy of the catch subject to the import, export or re-export of such species it may designate shall be implemented according to such measures as may be prescribed or required by the Authority, including by —

- (a) requiring submission of statistical documents by any person who imports, causes to import or intends to import any species of fish into Seychelles, including such statistical documents that may be adopted by a relevant regional fisheries management organisation or prescribed under this Act;
  - (b) validation by a government official or other authorised individual or institution of the flag State of the vessel that harvested the tuna, or, if the vessel is operating under a charter arrangement, by a government official or other authorised individual of the exporting state; or
  - (c) validation of a re-export certificate under the Export of Fishery Products Act, 1996.
- (2) Any shipment of a species designated as described in subsection (1) shall be considered illegitimate where it is —
- (a) not accompanied by the statistical documentation in subsection 1(a) and validated as required in accordance with subsections 1(b) and (c); or
  - (b) improperly documented, including where it is either missing from the shipment, incomplete, invalid or falsified.
- (3) The entry into Seychelles of any illegitimate shipment of species designated as described in subsection (1) shall be —
- (a) suspended pending receipt of a properly completed document; or
  - (b) subject to the fines and penalties in subsection (5), or administrative or other sanctions as may be determined under this Act.
- (4) A person who exports, causes to export or intends to export or re-export bigeye tuna from Seychelles shall —



- (a) submit a complete and valid Re-Export Certificate as may be required under the Export of Fishery Products Act, 1996 and by the Authority in relation to the shipment as required under a relevant international conservation and management measure;
- (b) not export or re-export the species designated under subsection (1) without a Re-Export Certificate validated by the Authority in accordance with any applicable procedures agreed by a relevant regional fisheries management organisation; and
- (c) in the case of bigeye tuna, submit a Statistical Document in such form as may be adopted by a relevant regional fisheries management organisation or prescribed.

(5) The operator of any vessel or any person who imports or causes to be imported an illegitimate shipment described under subsection (2) or any person who exports, causes to export or intends to export or re-export bigeye tuna from Seychelles and contravenes subsection (4)(a), (b) or (c) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

### **Procedures and responsibilities for the licensing process**

**78.** The Authority shall be responsible for implementing the procedures and responsibilities endorsed by the Board in relation to licences, authorisations, registrations or other permissions.

### **Application for licence, authorisation, registration or other permission**

**79.(1)** An application for a licence, authorisation, registration or other permission under this Act shall be in such form, contain such information as may be prescribed or otherwise required in writing by the Authority.

(2) An application made under this section shall not be considered unless —

- (a) where the application is for a vessel to engage in fishing or related activities, it is accompanied by a valid and applicable certificate of registration, a certificate of seaworthiness and safety, and an insurance certificate issued in accordance with subsection (1) under applicable laws of Seychelles;
- (b) the applicant is the natural or legal person to whom a vessel is registered in the certificate of registration;
- (c) any application fee that may be prescribed or required by the Authority is paid in full;
- (d) where the applicant is a company registered under the International Business Companies Act (Cap 274), the application is accompanied by a certificate of authorisation stating the legal and beneficial ownership of such company and that the applicant is the natural or legal person who is named in the certificate of registration of a vessel;
- (e) in the case of a foreign vessel, it is accompanied by a certified copy of a valid and applicable authorisation for fishing or related activities issued by the flag State;
- (f) in the case of a foreign vessel, joint venture vessel or Seychelles registered vessel or other category of vessel, the applicant declares that there is no participation by or association with a transnational criminal group in the relevant activities and guarantees that there shall be no such participation or association during the period of validity of the licence.

(3) An application made under this Act shall not be considered where —

- (a) there are reasonable grounds to believe that any owner, operator or other person to be involved in fishing or related activities is associated with any transnational criminal group;
- (b) true, correct and complete information is not provided on the application form or the information is found to be false, inaccurate misleading or incomplete; or
- (c) a certificate of registration for the relevant vessel has been issued in Seychelles and the Authority has not pre-approved registration in accordance with this Act and established procedures.

(4) The Authority may carry out any investigations to verify information submitted under this section, and all persons associated with an application for a licence, authorisation, registration or other permission shall give full cooperation and compliance with such investigation.

(5) A person who does not provide full cooperation or compliance with investigations pursuant to subsection (4) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both and in addition, the person shall not be issued with a licence, authorisation, registration or other permission.

(6) Where, after issuance of the licence, authorisation, registration or other permission it is found that any information, declaration or documentation required under this section is false, forged or misleading, the licence, authorisation, registration or other permission shall be deemed invalid and shall be revoked immediately.

### **Standards for pre-approval of vessel registration**

**80.(1)** In addition to the requirements under section 39, any vessel that applies for registration under applicable Seychelles laws shall not be granted registration unless the Authority gives prior approval to such registration, based on criteria under this Act and relevant international standards.

(2) In reviewing an application for registration from vessels to be used for fishing or related activities, the Authority shall take into account the requirements of this Act and the following internationally agreed standards and procedures —

- (a) applicable international standards and requirements for vessel marking and identification are met;
- (b) full information on vessel owners, operators and charterers is given which identifies effective beneficial owners and operators;
- (c) full information on the history of the vessel is given and verified, including identification of prior flag and name changes;
- (d) the characteristics of the vessel;
- (e) the vessel is included on a record of authorised vessels or equivalent maintained by a relevant regional fisheries management organisation;
- (f) a vessel with a history of non-compliance shall not be approved for registration, except where —
  - (i) the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or
  - (ii) having taken into account all relevant facts, it determines that flagging the vessel would not result in IUU fishing or fishing related activities in support of such fishing;

- (g) a vessel that is on an IUU vessel list maintained by a regional fisheries management organisation shall not be approved for registration;
- (h) a vessel that does not meet relevant standards or requirements of a relevant regional fisheries management organization shall not be approved for registration;
- (i) vessels that does not meet standards for seaworthiness, pollution, safety or labour in this Act or any other relevant laws of Seychelles shall not be approved for registration; and
- (j) a vessel that is registered in two or more States shall not be approved for registration except in cases of temporary parallel registration in accordance with the law.

(3) Pre-approval of registration shall be valid for a period of up to two years, and the Authority shall develop procedures in cooperation with the authority responsible for registration of vessels which would require the Authority, after every two years, to pre-approve a renewal of the registration for an additional two years, based on current information and the standards described under this section.

(4) Where pre-approval for registration is given based on the standards and procedures under subsections (1) and (2) and there is any material change in facts or circumstances during the pendency of the registration that results in non-compliance with the standards or where it is discovered that the information on which the pre-approval was based was false, inaccurate or incomplete, the Authority shall notify the authority responsible for registration and the vessel shall be deregistered immediately, and any applicable licence, authorisation, other permission or other registration issued under this Act shall be considered invalid and revoked upon notification to the holder.

### **Pre-licensing and pre-registration inspection**

**81.(1)** The operator of a vessel in respect of which an application has been made for a licence, authorisation or other permission under this Act or

for a vessel registration in accordance with Seychelles laws shall, prior to being issued any registration, licence, authorisation or other permission —

- (a) avail the vessel intended to be used for fishing or related activities for inspection, survey or other requirement at a port nominated by the applicant and approved by the Authority; and
- (b) fulfil pre-licensing and pre-registration criteria as may be prescribed or required by the Authority.

(2) Subject to subsection (1)(a), the operator shall provide not less than forty-eight hours advance notice of the vessel's estimated time of arrival, weight by fish species catch onboard and port of call to the Authority.

(3) Where the applicant nominates a port other than Port Victoriathe applicant shall bear all costs for inspection of the vessel in the nominated port, including full costs of salary, travel, inspection and any other costs that may be approved by the Authority.

(4) An authorised officer shall undertake and verify the pre-licensing or pre-registration inspection of any vessel in accordance with this Act and such criteria as may be approved by the Authority, and in addition the Authority may designate a survey inspector to undertake such inspection.

(5) The Authority shall review all relevant documentation required for the consideration and issuance of a registration, licence, authorisation or other permission.

(6) The operator of the vessel subject to the requirements in this section shall —

- (a) allow and assist any authorised officer and survey inspector to board and inspect the vessel and otherwise exercise his or her powers and responsibilities under this Act; and

- (b) provide to the Authority all documentation and information required for consideration and issuance of a registration, licence, authorisation or other permission.

(7) Any operator who does not comply with any requirement in subsection (1), (2), (3) or (6) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and any other penalty provided under this Act, and in addition where the costs of inspection required under subsection (3) are not paid in full the operator shall not be granted a license, authorisation or other permission under this Act.

### **Standards for grant or renewal of licence, authorisation, registration or other permission**

**82.(1)** The Authority shall, within a reasonable time and taking into account the recommendations of the review of the applications and associated documents, grant or deny an application for any licence, authorisation, registration or other permission made under this Act.

(2) In granting or renewing a licence, authorisation, other permission or registration under this Act, the Authority shall take into account the extent to which any relevant State, operator, owner, charterer of the vessel or other relevant person or company, or the vessel has —

- (a) complied with this Act, other relevant laws of Seychelles, applicable licensing terms and conditions and any applicable access agreement;
- (b) complied with any applicable requirements concerning the appointment of agents and the agent has complied with this Act and other relevant laws of Seychelles;
- (c) complied with the requirements for seaworthiness and safety;
- (d) provided all required data and information and vessel attributes promptly and accurately, including any applicable vessel monitoring system requirements;

- (e) complied with all applicable international conservation and management measures and such other regional and international standards as may be applicable;
- (f) been included in the record of authorised vessels of any relevant RFMO;
- (g) not been, or is not associated with a vessel that is on a list of any relevant RFMO designating vessels that have engaged in illegal, unreported or unregulated fishing or related activities;
- (h) is fit for the purpose for which the application has been made; and
- (i) the ability to comply with this Act.

(3) In this section, “vessel attributes” includes the type, construction, capacity, machinery and other attributes of a vessel, and specifications and other information in relation to its gear, equipment, and instrumentation.

### **Grounds for denial or non-renewal of licence, authorisation or registration**

**83.(1)** Issuance or renewal of any licence, authorisation, registration or other permission under this Act shall be denied where the Authority determines that —

- (a) the standards set out in section 82 (2) have not been met;
- (b) the exploitation of the fisheries is unsustainable;
- (c) the operator of the vessel has not complied with or fulfilled pre-licensing requirements in accordance with section 81;
- (d) the operator of the vessel has been convicted of an offence involving dishonesty or fraud;



- (e) notwithstanding any other provision in this Act, the operator of the vessel or the vessel is subject to an access agreement and has not fully complied with the agreement, this Act or any applicable international conservation and management measure;
- (f) there is sufficient evidence that the operator or any person associated with the vessel has engaged in any IUU fishing or related activity or any other relevant illegal activity and has not satisfied any relevant judgement or determination, or been involved in an organised criminal group or transnational crime;
- (g) the operator of the vessel has committed an offence in Seychelles waters, or the vessel has been used for such an offence and any consequent process has not been concluded;
- (h) the operator of the vessel is associated with a vessel that is on a list maintained by a relevant regional fisheries management organisation of vessels that have engaged in illegal, unreported or unregulated fishing;
- (i) the vessel is registered under a flag that is considered to be a “flag of non-compliance” because of the failure of the flag State to exercise effective flag State responsibility based on criteria set out in paragraph 2 of the FAO Voluntary Guidelines for Flag State Performance;
- (j) the vessel is not fit for the purpose for which application has been made;
- (k) port State measures have been taken against the vessel under an applicable conservation and management measure, and there is reasonable evidence that the vessel had engaged in illegal, unreported and unregulated fishing and the operator or vessel has not submitted to such legal or other process as may be demanded by a

relevant port State, coastal State or flag State in relation to such evidence;

- (l) the applicant, owner or operator has not —
  - (i) complied with the terms of an existing or previous licence or any other requirement under this Act;
  - (ii) complied with any laws of Seychelles; and
  - (iii) submitted to due process under this Act in respect of the non-compliance or fully satisfied any applicable judgment or determination.

(2) If the information in an application for a licence, authorisation, registration or renewal is found to be false, misleading or inaccurate in any material particular, the Authority may decline to grant or renew the licence, authorisation or registration.

(3) A licence, authorisation, registration or other permission shall not be granted or renewed unless all applicable fees, charges or levies required under this Act have been paid.

(4) A licence, authorisation, registration or other permission shall not be granted or renewed in relation to any foreign vessel previously licensed for fishing or related activities by a foreign State if that vessel undermined applicable international conservation and management measures and —

- (a) the foreign State suspended the previous licence, 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 the previous licence.

(5) The restriction in subsection (4) does not apply if —

- (a) the ownership of the vessel has changed since the vessel undermined applicable international conservation and management measures; and
- (b) the new owner has provided evidence to the Authority that demonstrates that the previous owner has no further legal, beneficial or financial interest in the vessel.

(6) The Authority shall notify in writing the applicant of its refusal to grant or renew a licence, authorisation, registration or other permission and the reasons for the refusal.

### **Fees, charges and levies**

84.(1) The Authority may require and determine fees, charges and levies in relation to any requirement or activity under this Act, including —

- (a) licenses, authorisations, other permissions and registrations;
- (b) catch certificates;
- (c) vessel and fisher registration;
- (d) agents;
- (e) transshipment;
- (f) landing;
- (g) management of VMS. electronic reporting system and electronic monitoring system;
- (h) observers; and
- (i) such other charges as may be prescribed.

(2) A licence, authorisation, registration or other permission granted or renewed under this Act shall be subject to payment of the following, in such amount as may be prescribed or approved by the Authority —

- (a) an application fee;
- (b) an issuing fee, renewal fee or periodic fee;
- (c) such other fees, charges or levies as are set out in this Act, or as may be prescribed or approved by the Authority.

(3) Payments shall not be refundable except where *pro rata* refunds are given in accordance with section 42(5).

(4) Where a person to whom a licence, authorisation, registration or other permission has been issued under this Act satisfies the Authority that the licence has been lost, destroyed or defaced, the Authority may, upon payment of a fee of thirty percent of the value of the licence or such other amount that may be prescribed or approved by the Authority, issue a duplicate licence including any particulars endorsed or entered upon the licence lost, destroyed or defaced and the duplicate so issued shall have the same effect as the original licence.

(5) A licence, authorisation, registration or other permission which is altered without lawful authority or defaced or mutilated shall be deemed as invalid for the purpose of this Act.

### **Duration of license, authorisation, registration or permission**

**85.** A licence, authorisation, other permission and registration issued under this Act shall, unless suspended, revoked or otherwise cancelled, have a maximum duration of one year from the date of issuance, and may have a shorter duration as prescribed or required by the Authority after approval by the Minister.

### **Suspension, cancellation, surrender or termination of a licence, authorisation, registration or permission**

**86.(1)** The Authority may suspend or cancel a licence, authorisation, registration or permission in accordance with such procedures as may be prescribed or determined by the Authority, for reason that —

- (a) the holder has contravened —
  - (i) this Act or the terms and conditions specified in the licence or authorisation;
  - (ii) any applicable access agreement; or
  - (iii) any applicable international conservation and management measure;
- (b) the holder had provided false, misleading or incomplete information in the application;
- (c) the holder has not submitted to the required legal, judicial or administrative process, discharged an applicable fine or penalty or complied with the requirements of an applicable judicial order or administrative determination;
- (d) another State has suspended or cancelled the licence or authorisation of a Seychelles registered vessel that has been issued a licence or authorisation to fish in that State's waters for reasons related to illegal, unreported or unregulated fishing or related activities or violation of laws;
- (e) there has been a change in circumstances affecting the eligibility criteria required for the licence, authorisation, registration or permission;
- (f) there has been a material change since the grant of the licence, authorisation, registration or permission under such conditions prescribed or determined by the Authority;
- (g) it is necessary to do so to ensure the sustainable use of the fisheries resource or to implement any international conservation and management measure;

- (h) there is sufficient evidence that the owner, operator or master has engaged in any IUU fishing or related activity not otherwise addressed under this section or any other illegal activity or is associated with any organised criminal group or transnational criminal activity;
- (i) the information included in the application for the grant or renewal of the licence has been found to be false, misleading or inaccurate; or
- (j) for such other reasons as may be prescribed.

(2) The Authority shall suspend or cancel a licence or authorisation, in accordance with such procedures as may be prescribed, where —

- (a) this Act, or any applicable access agreement or applicable international conservation and management measure so requires;
- (b) judicial or administrative procedures taken in relation to the licence holder pursuant to this Act so require;
- (c) in the case of a foreign vessel, the licence issued by the flag State has been suspended or revoked.

(3) The suspension or cancellation of any licence or authorisation shall be promptly communicated by the Authority to the licence holder by way of a written notice.

(4) Where a relevant access agreement terminates during the period of validity of the licence, the licence shall terminate on the same date as the access agreement.

(5) No person whose licence or authorisation is suspended or cancelled under subsection (1) or (2) is entitled to the refund of any fee, levy, or other charge paid in respect of the licence.

(6) Notwithstanding subsection (4), a pro rata refund, based on the

duration of the suspension, shall be made in respect of a licence or authorisation suspended or cancelled under subsection (1)(g).

(7) Any holder of a licence, authorisation, registration or other permission issued under this Act shall surrender such licence, authorisation, registration or permission to the Authority after ceasing fishing operations, suspension or revocation, as may be required by the Authority, without prejudice to any liability or obligations which have accrued on the holder prior to the date of surrender.

(8) Any person who finds a licence, authorisation, registration or other permission issued under this Act shall surrender it to the Authority or the nearest police station.

(9) Any person who —

- (a) engages in any activity for which the licence, authorisation, registration or other permission was granted after receiving notice of suspension or cancellation under this Act; or
- (b) having found a licence, authorisation or registration issued under this Act purports to use it as the holder,

commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years, or both, and any other penalty provided under this Act.

## **PART VIII - MONITORING, CONTROL AND SURVEILLANCE**

### **Monitoring, control and surveillance department**

**87.(1)** The Authority shall, in consultation with the Minister establish a Monitoring, Control and Surveillance Department, otherwise known as the “MCS Department”).

(2) The MCS Department shall be responsible for —

- (a) monitoring compliance with this Act and other relevant national laws and international conservation and management measures, vessels, and validation of statistical documents and catch certificates;
- (b) processing licences, authorisations, other permissions and registrations under this Act;
- (c) surveillance and enforcement, including all inspectorate duties relating to ports, land, sea and air in accordance with national and regional requirements, and

such other activities or operations as the Authority in consultation with the Minister may direct related to monitoring, control and surveillance.

(3) The MCS Department shall, in carrying out the mandate and powers of the Authority and subject to the overall direction of the Authority in consultation with the Minister, promote, facilitate and lead in the cooperation and coordination with —

- (a) other national authorities and organisations; and
- (b) relevant regional and international organisations, programmes and requirements,

in monitoring, control, surveillance and enforcement operations under this Act.

(4) The MCS Department shall consist of authorised officers, observers, licensing officers and such other persons as the Authority may determine.

### **Appointment of authorised officers**

**88.(1)** The Minister shall, in writing appoint among the officers of the Authority authorised officers on such terms and conditions as the Minister may determine.



(2) The following persons are deemed to be authorised officers for the purposes of this Act —

- (a) the CEO;
- (b) public officers employed by the Authority who are appointed in writing by the Minister as authorised officers;
- (c) such members or class of members of Seychelles Defence Force and Seychelles Police Force as the Minister and the Ministers responsible for defence and police affairs may approve in writing and publish in the Gazette;
- (d) such other public service officers or category of such officers as the Minister and the Minister responsible for such officers may both approve in writing and publish in the Gazette; and
- (e) such other person or body designated in a fisheries co-management plan and approved by the Minister and published by Notice in the Gazette.

(3) The Authority may, in consultation with the Minister in writing authorise for a specified period of time any experienced, foreign fisheries officer under active duty in another State to exercise the rights and responsibilities of an authorised officer in Seychelles in accordance with an international agreement or regional programme to which Seychelles is party.

### **Appointment of observers**

**89.(1)** The Authority may, in writing appoint any person or category of persons as an observer for the purpose of observing, collecting, recording and reporting reliable and accurate information and data for scientific, monitoring, management and compliance purposes under this Act, in accordance with such terms and qualifications that may be approved by the Board.

(2) The Authority shall not appoint as observer any person who has a direct or indirect interest or association with the vessel, or persons being observed, or vessel owner or operator, or any other person associated with the vessel owner or operator, and no such person shall be permitted to serve as an observer on any vessel or for any activity under this Act.

### **Exercise of powers and functions by authorised officer and observer**

**90.(1)** An authorised officer and observer shall exercise monitoring, control, surveillance and compliance functions in accordance with this Act in areas to which this Act applies, including —

- (a) areas under the national jurisdiction of Seychelles; and
- (b) areas beyond the national jurisdiction of Seychelles to which this Act applies under section 3.

(2) Where an authorised officer and observer exercises the functions under subsection (1)(b), the provisions of this Act shall apply as if the duties were performed in areas under the national jurisdiction of Seychelles.

(3) Each authorised officer and observer shall, in the course of discharging his or her duties, carry an identification issued by the Authority in such form as may be prescribed or approved by the Authority, and shall produce it upon request for purposes of identification, and the production of such identification shall, unless the contrary is proved, be sufficient authority for the exercise of powers and functions under this Act.

### **Authority and general powers of authorised officer**

**91.(1)** An authorised officer may do such acts and things and give such directives as are necessary for the purposes of performing or exercising his or her functions, powers and duties under this Act.

(2) An authorised officer may use such force as is reasonably necessary to exercise his or her powers and duties under this Act.

(3) An authorised officer may require any person to assist him or her —

- (a) to bring a vessel to a place in Seychelles in accordance with this Act; or
- (b) in circumstances where the need for assistance in enforcing this Act is immediate and urgent,

and that person is deemed to have the authority and powers of an authorised officer for the purposes for which, and time during which, he or she is required to assist the authorised officer, except for the power of arrest.

(4) Subsection (3) shall apply where a person or persons are duly appointed by another State with powers and authority similar to those of an authorised officer under this Act, and in addition the Minister may, in consultation with authorities of such other State, declare such person or persons to have the authority and powers of an authorised officer under this Act for a specified purpose, area or time except for the power of arrest.

### **Power of authorised officers to issue notice of fixed penalty**

**92.(1)** In this section, “appropriate period” in relation to a notice under subsection 3 or 4, means a period of 3 days from the date on which the notice is served, or such longer period as may be specified in the notice or as may be permitted in writing by or on behalf of the Commissioner of Police.

(2) Where an authorised officer has reason to believe that a person is committing or has committed an offence under this Act which attracts a fixed penalty, he or she may give that person a notice in writing in such form as may be prescribed offering the person an opportunity to discharge his or her likely conviction for that offence upon payment of such fixed penalty as may be prescribed.

(3) If the fixed penalty is paid in accordance with this section within the appropriate period, no person shall be liable to be convicted of the prescribed offence in respect of which the notice was issued.

(4) Where a person has been given a notice under this section, no proceedings shall be taken against that person for the prescribed offence in respect of which the notice was issued until the expiry of the period indicated in the notice.

(5) Payment of a fixed penalty shall be made to the Registrar of the Supreme Court or to such other person as may be prescribed and a sum paid by way of fixed penalty shall be treated as if it were a fine imposed on conviction for the prescribed offence in respect of which the fixed penalty notice was issued.

(6) In any proceedings a certificate, signed by or on the authority of the Registrar of the Supreme Court or by such other person as may be prescribed under subsection (4), that payment of a fixed penalty was or was not made by the date specified in the certificate shall be sufficient evidence as to the facts stated, unless the contrary is proved.

(7) A notice under subsection (1) shall —

- (a) give such particulars of the circumstances alleged to constitute the offence as are necessary to give reasonable identification of the offence;
- (b) state the period within which, by virtue of subsection (2) no proceedings will be taken with respect to the offence;
- (c) state the amount of the fixed penalty; and
- (d) state the person to whom and the address at which the fixed penalty may be paid.

### **Power of entry and search**

**93.(1)** An authorised officer may, for the purposes and activities falling under this Act, without a warrant —

- (a) stop, board, stay on board, enter and search any vessel, vehicle or aircraft, including —
  - (i) any vessel which he or she has reason to believe has been used, is being used or is intended to be used for fishing or a related activity;

- (ii) any Seychelles vessel beyond Seychelles waters;
- (iii) any vessel without nationality on the high seas; and
- (iv) any other vessel to which this Act, any international law, international agreement or applicable international conservation and management measure applies,

and such search may include the breaking open of any hold or compartment, container or other receptacle upon a boarded vessel that the authorised officer has reasonable grounds to believe may contain evidence of an offence under this Act;

- (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 or she reasonably suspects are used for activities falling within the scope of this Act —
  - (i) in or on which he or 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;
- (d) pass across any land;
- (e) monitor landing and transshipment operations and take samples, photographs, videos and relevant documentation;
- (f) require a person engaged or apparently engaged in any activity for which a license, authorisation or other

permission is required under this Act or an applicable international agreement or international conservation and management measure to —

- (i) give information about the relevant activity;
  - (ii) state whether he or she holds a licence, endorsement or other authorisation under this Act and, if so, to produce the licence, endorsement or other authorisation;
  - (iii) state his or her name, date of birth and place of abode;
- (g) make an entry dated and signed by him or her in a vessel's log, and require the master to sign the entry, or to indicate on a chart or other document the position of the vessel at that time and initial such chart or other document accordingly;
- (h) require any person associated or apparently associated with a vessel, vehicle, aircraft, premises, facility, or other place or activity falling within the scope of this Act, to provide such information as may be reasonably required for the enforcement of this Act;
- (i) examine any gear, equipment, record or other document that is found in or on any vessel, vehicle, aircraft, premises, facility or place, that he or she has reason to believe has been used, is being used or is intended to be used for or in relation to any activity requiring a licence or authorisation under this Act;
- (j) examine or test or cause to be examined or tested any electronic equipment required to be on board any vessel or used for the any purpose that falls within the scope of this Act,

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

(2) An authorised officer may, in respect of premises used exclusively as a dwelling house, only conduct searches and seizures in accordance with this Act and with a warrant issued by a court of competent jurisdiction, and the provisions of this section shall apply with any necessary modifications.

### **Power to investigate or request investigation of activities beyond areas under national jurisdiction**

**94.** An authorised officer may —

- (a) investigate any person where there are reasonable grounds for believing that such person is associated directly or indirectly with any vessel or activity that may not be complying with this Act in areas beyond national jurisdiction;
- (b) request another State to carry out investigations of any vessel or person where there are reasonable grounds to believe that such vessel or person has been involved in illegal, unreported or unregulated fishing in violation of this Act, any international conservation and management measures or international agreement.

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

**95.(1)** An authorised officer may, for purposes and activities falling under this Act —

- (a) inspect, take, detain and secure samples, documents, electronic records and recordings, logbooks or other information 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 under this Act;

- (b) make or take copies of any record, and for this purpose may take possession of and remove any records from the place where they are kept, for such period of time as is reasonable in the circumstances;
- (c) if necessary, require a person to reproduce, or assist the authorised officer to produce in a useable form, information recorded or stored in a document; and
- (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 required for the monitoring or enforcement of this Act.

(2) Where an authorised officer is questions a person for the purposes of subsection (1)(d), the authorised officer may —

- (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, purchase, 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 respect of any vessel or person.

### **Power to detain persons, vessels, gear, etc.**

96.(1) An authorised officer may detain any person, vessel, vehicle, parcel, package, record, document, article, gear, equipment, apparatus, device, container, fish or thing for such period as is necessary to enable an examination or search under this Act.

(2) Where a vessel or vehicle is detained, a Notice of Detention in such form as may be approved by the Authority or prescribed shall be



provided to the operator or owner of the vessel or vehicle and a copy of such Notice shall be promptly transmitted to any relevant government authority of Seychelles.

(3) Where a foreign vessel is detained, the Authority shall ensure that the flag State is notified.

(4) A person who is detained under this section shall be subject to relevant detention requirements provided in Article 18 of the Seychelles Constitution concerning production of such person before a court.

### **Power of arrest**

**97.(1)** An authorised officer who has legal authority to make arrests, may, if he or she believes on reasonable grounds that a person is committing or has committed an offence against this Act —

- (a) order that person to immediately cease and desist;
- (b) request that person to supply to the authorised officer their name, date of birth, residential address and occupation and request such verification of those details as it is reasonable in the circumstances; and
- (c) arrest that person without a warrant.

(2) Where a person associated with a foreign vessel is arrested, the Authority shall ensure that the flag State is notified.

### **Power to order a vessel to port**

**98.(1)** An authorised officer may order a vessel to port for inspection concerning compliance with this Act, an applicable international conservation and management measure or an international agreement.

(2) The operator of any vessel that does not comply with the order to port or submit to any inspection procedures in port commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding five years or both.

### **Power to give direction**

**99.(1)** An authorised officer who reasonably believes that a vessel, including its gear or equipment is being or has been used in contravention of this Act, an applicable licence, authorisation or other permission, an international conservation and management measure or any agreement entered into under this Act —

- (a) may take the vessel as soon as practicable to the nearest available port in Seychelles for the purposes related to inspection or such port or place that will facilitate inspection, having due regard for the safety of the vessel and crew and the need for sufficient port services to continuously maintain the vessel's electricity, water and other requirements and avoid the spoilage of fish or fish products;
- (b) may remain in control of the vessel at such port for such period as is reasonably necessary to enable the authorised officer to exercise any other powers under this Act, until the vessel is permitted to depart from the port.

(2) The vessel taken under subsection (1) shall be permitted to depart within seventy two hours after arrival in port or such time as it may take to expediently conduct a full inspection of the vessel and record all relevant evidence and consult with the Attorney General, relevant government officials and regional fisheries management organisations, until the Authority determines that there are no reasonable grounds to suspect a contravention described under that subsection.

### **Seizure of vessel, aircraft and items**

**100.(1)** For the purposes of this section, a vessel's equipment, gear, furniture, appurtenances, stores, and cargo are deemed to form part of the vessel.

- (2) An authorised officer may seize —

- (a) any vessel or other conveyance, gear, implement, appliance, material, container, goods, equipment or thing which the authorised officer believes on reasonable grounds is being, has been or is intended to be used in the commission of an offence under this Act;
- (b) any fish or fish product that the authorised officer believes on reasonable grounds are being or have been taken, killed, transported, bought or sold or have been found in the possession of any person in contravention of this Act;
- (c) any item, article, record or thing that the authorised officer believes on reasonable grounds may provide evidence of an offence under this Act or contravention of an applicable international conservation and management measure;
- (d) any passport and seaman's record 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 authorised officer has reasonable grounds to believe —
  - (i) has been or is being used to commit an offence under this Act;
  - (ii) has been forfeited under this Act; or
  - (iii) has been unlawfully removed from custody under this Act.

(3) An authorised officer shall deliver anything seized under subsection (2) into the custody of the Authority for safekeeping under such procedures as may be prescribed.

(4) A written notice of the seizure shall be given to the person from whom any article or thing was seized or to any other person whom the authorised 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 notice.

(5) The Authority shall, upon seizure of a foreign vessel, ensure that the flag State is promptly notified of any action taken and penalties imposed.

### **Removal of parts from seized vessel**

**101.**(1) An authorised officer may remove or cause to be removed any part from the vessel seized under this Act for the purpose of immobilising that vessel.

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

(3) No person, otherwise than acting in accordance with a written direction from the Authority, shall —

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

(4) Any person who contravenes subsection (3) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

## Hot pursuit

**102.**(1) An authorised officer who suspects on reasonable grounds that a foreign vessel has contravened this Act, an applicable international conservation and management measure or international agreement, may undertake hot pursuit of the vessel in accordance with conditions recognised under international law.

(2) Where the authorised officer is satisfied that the foreign vessel or one of its associated boats is within Seychelles waters, based upon evidence from —

- (a) a vessel monitoring system;
- (b) a geographical positioning system;
- (c) aerial photography;
- (d) satellite systems; or
- (e) any other accepted international communication system,

the authorised officer may commence the pursuit after a visual or auditory signal to stop has been given to the vessel at a distance which enables it to be seen or heard by persons aboard the vessel.

(3) It is not necessary that, at the time when the foreign vessel receives the order to stop under subsection (2) the vessel giving the order should likewise be within Seychelles waters.

(4) The pursuit must be continuous and not interrupted.

(5) The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

(6) The right of hot pursuit shall be exercised by vessels or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

(7) Any authorised officer exercising powers under this section shall inform the Authority, who shall, through the ministry responsible for foreign affairs, inform the flag State.

(8) An authorised officer may, following hot pursuit outside Seychelles waters in areas beyond national jurisdiction and international law, stop board and search outside Seychelles waters any vessel which he or 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 on board back into Seychelles waters.

(9) The operator any vessel who does not comply with the order to stop given under subsection (2) or with any powers exercised by a fisheries inspector or authorised officer under subsection (8) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding five years or both, and to any other penalty provided under this Act, and an applicable licence or authorisation of the vessel may be cancelled and all fish or fish products on board shall be forfeited.

### **Authority of authorised officer in relation to abandoned, discarded vessel, gear, fish or fish products**

**103.**(1) Where an authorised officer has reasonable grounds to believe that any vessel, gear, fish or fish product has been abandoned or discarded for the purpose of avoiding prosecution or in violation of this Act or an international conservation and management measure, the authorised officer shall apply to the court for an order for the disposition of the vessel, gear, fish or fish product.

(2) Where a vessel, gear, fish or fish product is abandoned or discarded, and an authorised officer 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 Seychelles, or has concealed himself or herself so that he or she would not be searched, arrested or otherwise investigated, the fisheries 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 suspected person.

## **Appointment and responsibilities of inspectors**

**104.** The Board shall prescribe the requirements for the appointment and responsibilities of inspectors for the purposes of fisheries and aquaculture activities under this Act.

## **Responsibilities of observers**

**105.(1)** The observers shall have responsibility for collecting, recording and reporting the following information —

- (a) observing and recording the harvesting, handling and processing of fish and fish products and related operations;
- (b) collecting and recording scientific, biological and other information related to activities under this Act;
- (c) recording the species, quantity, size, age and condition of fish taken, including as bycatch and whether a specie is threatened or endangered;
- (d) observing the methods by which, the areas in which, and the depths at which, fish are taken;
- (e) observing and recording the effects of fishing methods on fish and the environment, including where applicable cases of entanglement in nets;
- (f) observing all aspects of the operation of any vessel, including activities relating to bribery, corruption or illegal activities;
- (g) processing, transportation, transshipment, storage or disposal of any fish or fish products;
- (h) taking samples or photographs of fish harvested or anything on board a vessel;

- (i) monitoring the implementation of conservation and management measures taken under this Act, applicable international conservation and management measures and international agreements; and
  - (j) collecting such other information as may be required under this Act.
- (2) The responsibilities of observers shall include performing —
- (a) activities to implement applicable international conservation and management measures as may be assigned by the Authority; and
  - (b) such other activities that may assist the Authority to obtain, analyse or verify information for fisheries scientific, conservation, management and compliance purposes, and as may be assigned by the Authority.
- (3) Observers may be deployed by the Authority in accordance with this Act, any international agreement or applicable international conservation and management measure, on or in relation to any vessel used for fishing, transhipment, transportation or landing of fish, or in relation to any other activity under this Act, within and beyond the areas under the national jurisdiction of Seychelles.

### **Observer costs**

**106.**(1) The costs for observers performing duties under this Act shall be charged as a separate levy, in addition to all other charges including the fees relating to licences, authorisations, permissions and registrations, in such amount and manner as the Authority may require in accordance with any decision of the Board or as may be prescribed.

- (2) The costs referred to in subsection (1) shall include —
- (a) full insurance coverage;
  - (b) salary;



- (c) allowances;
- (d) equipment;
- (e) training;
- (f) all travel and associated expenses to and from the vessel or other place 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 by the Board.

(3) Where payment required under subsection (1) is not made as required, the applicable licence or authorisation shall not be issued, or if issued, be deemed to be suspended and without legal force or effect until payment in full has been made and acknowledged in writing by the Authority.

(4) All payments received under subsection (1) shall be deposited into a trust account administered by the Authority and used for payment of costs incurred under subsection (2), or for such related costs as may be determined by the Authority.

### **Duty of operators, and crew members to assist observers**

**107.(1)** The operator and each crew member of any vessel on which an observer is placed shall, at all times within and beyond areas under the national jurisdiction of Seychelles, allow and assist the observer, in the performance of his or her duties, to —

- (a) board such vessel at Victoria port or any other port that the Authority may designate outside Seychelles;
- (b) provide the observer with appropriate working space, access to all spaces and communication equipment;
- (c) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment;

- (d) ensure that accommodation, meals and treatment of the observer is at the same standard as officers on board the vessel;
- (e) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;
- (f) gather such other information relating to fisheries as may be required for purposes of carrying out the objectives of this Act or any applicable conservation and management measure; and
- (g) disembark at such time and place as the Authority may require, provided that such disembarkation is in accordance with the safe operation of the vessel.

(2) An operator or a crew member of any vessel on which an observer is placed in accordance with this Act who contravenes any part of subsection (1), commits an offence shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

### **Notice of intention to place observer**

**108.(1)** Before placing any observer on a vessel, the Authority shall give the operator or holder of the licence, authorisation or other permission reasonable notice of its intention to place an observer upon the vessel.

(2) The operator of the vessel shall, for purposes of placement and deployment of an observer —

- (a) notify the Authority at the beginning of each licensing period of any port or ports in Seychelles where it intends to base operations, and if placement is not possible at such port or ports, be responsible to the Authority for all and any extra costs incurred in the placement; and

- (b) notify the Authority of the intended time of entry into and subsequent departure from the port at such reasonable time prior to such entry as the Authority may direct.

(3) Any operator who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule and in addition the applicable licence may be suspended or cancelled.

### **Observers and field inspectors under an RFMO observer scheme**

**109.**(1) This section applies to activities under the observer scheme of a relevant regional fisheries management organisation and the collection of verified catch data and other scientific data related to the fisheries for tuna and tuna-like species in the area of competence of such regional fisheries management organisation.

(2) For purposes of this section, “observer” refers to a person whose duties are on board a vessel and “field inspector” refers to a person who collects information on land during the unloading of a vessel.

(3) An observer assigned to a vessel shall monitor the catches at unloading to identify the composition of bigeye tuna catches and shall —

- (a) record and report fishing activities and verify positions of the vessel;
- (b) observe and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, bycatches and size frequency;
- (c) record the type of gear, mesh size and attachments employed by the master;
- (d) collect information to enable the cross-checking of entries made to the logbooks species composition and quantities, live and processed weight and location, where available; and

- (e) carry out such other scientific work as requested by the scientific committee of the relevant regional fisheries management organisation.

(4) Field inspectors shall monitor catches at the landing place with a view to estimating catch-at-size by type of boat, gear and species, or carry out such scientific work as requested by the scientific committee of the relevant regional fisheries management organisation.

(5) The confidentiality rules, policy and procedures for fine-scale data set out in any applicable international conservation and management measure shall be applicable and have the force of law in Seychelles.

### **Definition of authorised person**

**110.** For the purposes of this Part “authorised person” includes authorised officers, inspectors and observers appointed in accordance with this Act or under an observer programme of a relevant regional fisheries management organisation.

### **Protection of authorised persons from liability**

**111.(1)** The Authority, authorised persons, officers, employees and persons acting under the authority of the Authority, including persons with delegated authority and any person assisting an authorised officer pursuant to section 91 (3), who acts or omits to act while performing or exercising functions, powers or duties under this Act or another legislative authority are not subject to any action, liability, claim or demand for anything done or omitted to be done in good faith, whether negligently or not, in the performance or exercise, or purported performance or exercise, of such functions, powers, or duties under this Act or other legislative authority.

(2) Where a vessel is being brought to a place in Seychelles as directed in accordance with this Act —

- (a) if required to remain in control of the vessel, the master shall be responsible for the safety of the vessel and of each person on board until the vessel arrives at the designated place; and

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

### **Obstruction of, failure to comply with authorised person**

**112.(1)** For the purposes of this Act, “fails” includes any effort which does not result in meeting the specified requirement.

- (2) A person commits an offence who —

(a) being an operator or a crew member of a vessel, fails or refuses to allow or assist an authorised person to —

- (i) safely board the vessel;
- (ii) have full access to and use of such facilities, gear and equipment on board as the authorised person may deem necessary to perform or exercise his or her functions, powers or duties, including the bridge, fish and fish products on board, gear and areas which may be used to hold, process, weigh or store fish;
- (iii) have full access to the vessel's records including its logbook, charts and documentation and other information relating to fishing for purposes of performing or exercising his or her functions, powers or duties under this Act;
- (iv) have access to navigational and communications equipment;
- (v) 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; and
- (vi) safely disembark from the vessel;

- (b) fails or refuses to allow, obstructs or hinders an audit, inspection, examination or search that is authorised under this Act;
- (c) fails or refuses to facilitate an authorised person's entry into and any inspection of —
  - (i) any premises, facility or export facility, including storage areas and suspected storage areas, facilities or locations;
  - (ii) any fish or fish products, gear, equipment or records;
- (d) fails or refuses to comply with a lawful instruction or direction given by an authorised person;
- (e) denies a request made by an authorised person in the course of performing or exercising his or her functions, powers or duties under this Act, including a request for access to records, documents, areas, gear and equipment and a request that equipment be turned on;
- (f) fails or refuses to give the person's birth name, date of birth and place of abode to an authorised person, when lawfully required to do so;
- (g) when lawfully required to give information to an authorised person, gives information which is false, incorrect or misleading in any material respect;
- (h) resists lawful arrest for any act prohibited by this Act;
- (i) interferes with, delays or prevents by any means, the apprehension or arrest of another person by an authorised person, if the authorised person has reasonable grounds to believe that the person has committed an offence under this Act;

- (j) fails or refuses —
  - (i) to allow an authorised person to carry out his or her duties safely; or
  - (ii) to take all reasonable measures to ensure the safety of an authorised person in the performance of his or her functions or duties;
- (k) impersonates an authorised officer or inspector or falsely represents himself or herself to be an authorised officer or inspector or a person lawfully acting under the Authority's instructions or in aid of an authorised officer;
- (l) impersonates or falsely represents himself or herself to be the master or an officer, or not to be the master or an officer, of a vessel;
- (m) if requested by an authorised officer, fails to sail a seized vessel to a place in Seychelles designated by the authorised officer and fails to ensure the safety of all those on board;
- (n) bribes or intentionally attempts to bribe an authorised officer;
- (o) interferes with an authorised officer in the performance of his or her duties;
- (p) in any other way obstructs or hinders an authorised officer in the performance or exercise of his or her functions, powers or duties under this Act;
- (q) is in breach of any other duty to an authorised officer as required under this Act;
- (r) obstructs, resists, hides, delays, refuses boarding or other access to, intimidates or kidnaps —

- (i) an authorised officer who is carrying out his or her duties or exercising his or her powers under this Act or as a consequence of his or her having done so; or
  - (ii) any person lawfully acting under an authorised officer's instructions or in his or her aid or as a consequence of his or her having done so, or aids, incites, or encourages another person to do so; or
  - (s) assaults, uses abusive or threatening language or insulting gestures or behaves in a threatening or insulting manner towards an authorised officer who is performing or exercising his or her functions, powers or duties under this Act or as a consequence of his or her having done so, or towards any person lawfully acting under the authorised officer's instructions or in his or her aid, or aids, incites or encourages another person to do so.
- (3) Any person who commits an offence under —
- (a) subsections (2)(a) to (q), except for subsection (2)(i), shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or both, and to any other penalty provided under this Act; or
  - (b) subsection (2)(i), (r) or (s) shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act.
- (4) It shall be a defence to any prosecution under subsection (2)(a)(i) if it is proved that compliance with the requirement for safe boarding of the relevant vessel would have placed the safety of the vessel or the lives of its crew in imminent and overwhelming danger for reasons unrelated to such boarding.



### **Pre-licensing and unloading inspection procedures**

**113.** An authorised officer or other person authorised to carry out inspections shall, for the purposes of pre-licensing or unloading inspection, perform such inspections, carry out such procedures and apply such standards that may be prescribed or required by the Authority under this Act, or by an applicable international conservation and management measure, relevant regional fisheries management organisation or international agreement.

### **Sea inspection procedures**

**114.** An authorised officer shall, for the purpose of at-sea inspection, perform such inspections, carry out such procedures and apply such standards that may be prescribed or required by the Authority under this Act, or by an applicable international conservation and management measure, relevant regional fisheries management organisation or international agreement.

### **Monitoring Systems technical requirements**

**115.(1)** The Authority shall approve the technology to be used in relation to any monitoring system applicable to vessels which is required under this Act, which include —

- (a) a vessel monitoring system;
- (b) an electronic monitoring system;
- (c) an electronic reporting system;
- (d) any other system or technology adopted by the Authority for purposes of monitoring, control or surveillance under this Act.

(2) Technical requirements for mobile transceiver units, including installation, may be prescribed or required by the Authority.

(3) Any operator who does not comply with the technology or technical requirements designated by the Authority, including installation, pursuant to subsection (1) or (2) in respect of any mobile transceiver unit used by the vessel shall, where a licence, authorisation, registration or other permission —

- (a) has not yet been issued be denied such issuance, and
- (b) has been issued, commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding one year or both, and to any other penalty provided under this Act, and the Authority shall suspend or cancel the Certificate of Registration or licence, authorisation or permission.

### **Vessel monitoring system, requirements of operators**

**116.**(1) The operator of every vessel holding a valid and applicable licence or authorisation under this Act shall, unless the vessel falls within a category of vessels excepted by the Authority and unless otherwise prescribed, comply, and ensure compliance by all persons associated with the vessel, with any conditions or requirements that may be prescribed or required by the Authority or any applicable international conservation and management measure, 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) declarations and reports.

(2) Any operator who does not comply with any condition or requirements that may be prescribed or required by the Authority or any applicable international conservation and management measure commits an

offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or both, and to any other penalty provided under this Act.

(3) Any person who, without lawful excuse, renders inoperative or otherwise interferes or tampers with a mobile transceiver unit or any part of a vessel monitoring system so that it does not operate automatically or accurately or in accordance with any licence conditions or otherwise in accordance with this Act commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or both, and to any other penalty provided under this Act.

### **Automatic identification system and electronic monitoring system**

**117.**(1) The Authority may require, as a condition of licence, authorisation or other permission, require that the operator of a vessel maintains an Automatic Identification System or an Electronic Monitoring System on board.

(2) An Automatic Identification System shall be maintained in accordance with the specifications in Chapter V, Regulation 19 of the International Convention for the Safety of Life at Sea.

(3) The operator shall comply with the requirements and specifications for the Electronic Monitoring System that may be prescribed or required by the Authority.

(4) The operator shall, in relation to the applicable Automatic Identification System and Electronic Monitoring System —

- (a) be responsible for the installation, maintenance and operation;
- (b) bear all costs for installation, maintenance, replacement and satellite transmission of data reports to the Authority;
- (c) ensure that each system reports continuously to the Fisheries Monitoring Center at all required times;

- (d) ensure compliance with the prohibition to move, disconnect, destroy, damage, interfere with or render inoperative, intentionally alter, divert or falsify data recorded, or the continuous monitoring recording and transmission of the devices on board; and
- (e) ensure that meta-data are automatically made available to the Authority in near real time for the period during which the vessel is operating.

(5) A person who contravenes subsection (2), (3) or (4) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding one year or both, and to any other penalty provided under this Act.

### **Fisheries Monitoring Centre**

**118.(1)** The Authority shall establish a Fisheries Monitoring Centre equipped with computer hardware and software enabling automatic data processing and electronic data transmission and other equipment for purposes of monitoring the activities of vessels by receiving and recording information through —

- (a) a vessel monitoring system, including an electronic monitoring system and an electronic reporting system; and
- (b) an Automatic Identification System.

(2) The Fisheries Monitoring Centre shall be in a place that is capable of being locked in a secured manner.

(3) A list of names of employees authorised to enter the centre shall be displayed on the door of the room of the centre.

(4) The Authority may, in writing, authorise any other person to enter the centre on a specific occasion.

## Port State measures , application and implementation

119.(1) This section applies to —

- (a) foreign vessels and vessels not entitled to fly the flag of Seychelles that are seeking entry into a port or are in a port of Seychelles, except for container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessel has engaged in fishing related activities in support of IUU fishing;
- (b) persons, vessels, aircraft, export facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act;
- (c) All fishing and fishing related activities in support of such fishing —
  - (i) in areas over which Seychelles exercises jurisdiction or sovereign rights;
  - (ii) in areas beyond national jurisdiction —
    - (A) by Seychelles nationals, including vessels and persons and all persons on board such vessels or dealing with them or having any relevant relationship to them or to persons on them, to the extent that it does not conflict with the jurisdiction of another State;
    - (B) as required pursuant to this Act, international agreement, relevant regional fisheries management organisation or applicable international conservation and management measures;
    - (C) otherwise in relation to illegal, unreported and unregulated fishing and fishing related

activities in support of such fishing consistent with international law.

(2) The provisions in this section shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

(3) In implementing this section, the Authority shall ensure that an electronic Port State Measures system of a relevant regional fisheries management organisation is used to the greatest extent possible.

### **Designation of ports**

**120.** The Minister shall ensure —

- (a) that the port or ports to which foreign vessels may request entry are designated and published; and
- (b) that the list of each port designated under paragraph (a) is provided to any international organisation and to any relevant regional fisheries management organisation in accordance with an applicable conservation and management measure.

### **Prerequisites for entry or use of port**

**121.** The operator of a foreign vessel shall not enter or use a port in Seychelles unless —

- (a) where ports have been designated and published in accordance with section 120, such port has been so designated and published;
- (b) the operator has requested entry into port and provided such information as may be prescribed or required by the Authority, for licensed vessels at least 24 hours in advance of port entry where the vessel holds a licence or authorisation to fish in Seychelles waters or at such other time as may be prescribed or required by the Authority,

including for purposes of landing or transhipment of any fish or fish product;

- (c) the Authority has authorised entry of such vessel into port and communicated such authorisation to the master of the vessel and any agent of the vessel in Seychelles; and
- (d) upon the vessel's arrival at port, the master of the vessel or the vessel's representative has presented the authorisation for entry into the port to a person authorised to receive it on behalf of the Authority.

### **Denial of entry into port and use of port**

**122.(1)** The Authority, where there is sufficient proof that a vessel seeking entry into a port of Seychelles has engaged in IUU fishing or fishing related activities in support of such fishing, in particular where it is an IUU listed vessel —

- (a) shall cause the vessel not to be authorised to enter port, and shall deny entry to such vessel;
- (b) notwithstanding paragraph (a), may allow such vessel to enter a port exclusively for the purpose of inspecting it and taking other appropriate action in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing; and
- (c) shall communicate any decision taken under paragraphs (a) or (b) to —
  - (i) the vessel or its representative; and
  - (ii) to the relevant authority at Seychelles Ports Authority, which shall implement the Authority's decision taken under this Act.

(2) The Authority may cause entry into and use of port to be denied to any vessel that the Authority has reasonable grounds to believe has violated this Act and shall communicate such decision to persons described in subsection (1)(c).

(3) Where entry or use of a port is denied under subsection (1)(a) or (b) or (2), the Authority shall notify the decision to the operator, flag State of the vessel and to each relevant coastal State, relevant regional fisheries management organisation and other international organisations.

### **Force majeure or distress**

**123.**(1) Nothing in this Act affects the entry of a vessel into port in accordance with the laws of Seychelles for reasons of *force majeure* or distress.

(2) A claim of force majeure or distress shall not apply where —

- (a) it is contrived, untrue or otherwise intentionally created;  
or
- (b) its objective is to avoid liability,

and any person who makes an inapplicable claim commits an offence.

(3) The burden of proof that a claim of force majeure or distress is valid and does not fall within prohibitions in subsection (2) shall be on the vessel operator.

(4) An authorised officer or other officer with authority to inspect such vessel under Seychelles law may board and inspect the vessel at any time in accordance with the applicable law for the purpose of verifying the claim of force majeure or distress.

(5) A vessel that claims force majeure or distress shall be subject to the direction of the Authority.

(6) The Authority may grant a vessel that falls within the scope of



this Act entry into port for reasons of *force majeure* or distress, provided that —

- (a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and
- (b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

(7) The operator of a foreign vessel that is authorised to enter port pursuant to subsection (6) (a) or (b) shall not allow or cause such vessel to engage in the use of port.

(8) The operator of a vessel in respect of which an inapplicable claim described in subsection (6)(a) was made or who does not comply with the requirements of subsection (7) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding three years or both, and to any other penalty provided under this Act.

### **Denial of use of port after entry**

**124.(1)** Where a vessel that has been authorised to enter port under section 121 (c) and (d) has entered a port, the Authority shall cause the use of port to be denied to such vessel if —

- (a) the vessel does not have a valid and applicable authorisation or licence to engage in fishing or fishing related activities required by its flag State or a coastal State in respect of areas under its national jurisdiction;
- (b) there is clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- (c) the flag State does not confirm within a reasonable period of time, on the request of the Authority, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organisation; or
  - (d) there are reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of IUU fishing unless the operator or charterer of the vessel can establish —
    - (i) that it was acting in a manner consistent with relevant conservation and management measures, including international 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 that had engaged in IUU fishing.
- (2) Notwithstanding subsection (1), the Authority shall —
- (a) not deny a vessel the use of port services —
    - (i) where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven; or
    - (ii) for the scrapping of the vessel; and
  - (b) where the use of the port has been denied, notify the decision to the flag State of the vessel and to each relevant coastal State, any relevant regional fisheries management organisation and any other international organisation.

(3) Where the use of the port has been denied under this Act, the Authority shall, on the advice of Attorney General —

- (a) withdraw such denial in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply; and
- (b) promptly notify the withdrawal to each person that was notified under this Act.

### **Conduct of inspections of vessels in port**

**125.**(1) The Authority shall ensure that vessel inspections are conducted to achieve the objectives of this Act, and at least at a level that may be agreed pursuant to an applicable international conservation and management measure.

(2) The Authority shall prioritize vessel inspections based on —

- (a) vessels that have been denied entry or use of a port in accordance with an applicable conservation and management measure;
- (b) a request from another State or regional fisheries management organisation to inspect a vessel, particularly where the request is supported by evidence of IUU fishing or fishing-related activities in support of IUU fishing by the vessel in question; and
- (c) whether there are clear grounds for suspecting that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing.

(3) The Authority shall, to the extent possible, ensure inspection of a minimum level of vessels as may be required by any applicable conservation and management measure.

(4) During inspections of a vessel in port, authorised officers shall carry out inspection in conformity with such procedures as may be

prescribed or required by the Authority, and complete a written report of the inspection in such form as may be required or prescribed and submit it to the Authority.

(5) The operator of the vessel shall, in relation to inspection of the vessel, give authorised officers all necessary assistance and information, and present relevant material and documents as may be required.

(6) The Authority shall ensure that the results of an inspection under this Act are transmitted to —

- (a) the flag State of the inspected vessel;
- (b) the parties to a relevant international agreement;
- (c) the relevant coastal State and the State of which the vessel master is a national;
- (d) any relevant regional fisheries management organization; and
- (e) other relevant international organizations.

(7) An operator who does not comply with, or cause compliance with subsection (5) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or to imprisonment not exceeding three years or both, and to any other penalty provided under this Act.

### **Denial of use of port after inspection**

**126.**(1) Where, following an inspection, there are clear grounds for believing that a vessel has been used for engaging in IUU fishing or fishing related activities in support of such fishing, the Authority shall —

- (a) notify the flag State and relevant coastal States, RFMOs and other international organisations, and the State of which the vessel's master is a national of the findings; and

- (b) deny the use of port by the vessel if these actions have not already been taken in respect of the vessel.

(2) Notwithstanding paragraph 1(b), the Authority shall not deny a vessel the use of port services, where such services are essential to the safety and health of the crew or the safety of the vessel.

### **Use of port in absence of authorisation or after denial**

**127.(1)** Where a vessel —

- (a) is in port in contravention of —
  - (i) requirements for entry specified under section 121;
  - (ii) an applicable denial of authorisation to enter port under section (122 (1)(a) or (2);
- (b) is permitted to enter port exclusively for the purpose of —
  - (i) inspection under section 122 (1)(b);
  - (ii) rendering assistance to persons or vessels in danger or distress under section 123; or
- (c) has not been permitted or has been denied the use of port under sections 31(2)(b), 122(1)(b), 124 (2)(b) or 126 (1)(b),

no person, including the operator or crew member of such vessel or any person that is acting directly or indirectly in relation to the vessel, shall cause or allow the vessel in contravention of paragraph (a) to enter port, engage in, facilitate or be associated with the use of such port or allow or assist, directly or indirectly, the use of the port by such vessel, unless permission is given in writing by the competent authority for port services to be used for the safety or health of the crew or the safety of the vessel in accordance with this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or

to imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

(3) Where a vessel operator commits the offence under subsection (2), the licence of the vessel shall be cancelled.

### **Requirements for Seychelles vessels**

**128.(1)** The operator of each Seychelles vessel shall —

- (a) not enter a foreign port without requesting entry into such port at least 72 hours in advance and holding valid and applicable authorisations issued by the Authority and the competent authority in the relevant port State;
- (b) cooperate with inspections carried out in the ports of other States in accordance with their laws and procedures; and
- (c) not engage in any use of a port, including landing, transshipping, packaging or processing fish or using other port services, in a port State identified by a relevant regional fisheries management organisation as not acting in accordance with, or in a manner consistent with, applicable international or regional instruments or international conservation and management measures relating to port State measures.

(2) Where there are clear grounds to believe that a Seychelles vessel has engaged in IUU fishing or fishing related activities and is seeking entry to or is in the port of another State, the Authority shall request such State to inspect the vessel or take other measures consistent with applicable international or regional instruments.

(3) Where, following an inspection in another State, there are clear grounds to believe that a Seychelles vessel has engaged in IUU fishing or fishing related activities, the Authority shall cause the matter to be investigated and, upon sufficient evidence shall cause enforcement action to be taken in accordance with this Act.

(4) Any operator of a Seychelles vessel that contravenes subsection (1) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

### **Fishing in contravention of international conservation and management measures**

**129.**(1) The operator of a vessel is presumed to have engaged in IUU fishing or related activities where such vessel has, in contravention of any international conservation and management measure of a relevant regional fisheries management organisation —

- (a) engaged in fishing or related activities and was not registered on the relevant Record of Vessels authorised to fish for such species or recorded in the Active List of Vessels;
- (b) engaged in fishing or related activities when its flag State was without quota, catch limit or effort allocation under an applicable international conservation and management measures, unless flagged to a member or cooperating non-member of such organisation;
- (c) failed to record or report its catches in accordance with any applicable conservation and management measure or has made false reports;
- (d) taken or landed undersized fish;
- (e) engaged in fishing or related activities during closed fishing periods or in closed areas;
- (f) used prohibited gear;
- (g) transhipped fish to, or otherwise participated in joint operations with, supported or re-supplied vessels not included on the Record of Authorised Vessels or on the

Record of Vessels Authorised to Received Transhipments  
At-Sea;

- (h) engaged in fishing or related activities in Seychelles waters in contravention of this Act or in areas under the jurisdiction of any other coastal State in contravention of the laws of that State;
- (i) engaged in fishing or related activities while the vessel is without nationality;
- (j) engaged in fishing or related activities having intentionally falsified or concealed its markings, identity of registration; or
- (k) engaged in fishing or related activities in contravention of any other applicable international conservation and management measure.

(2) The Authority shall provide information and evidence to a relevant regional fisheries management organization where any vessel has engaged or is engaging in an activity that is presumed to involve IUU fishing.

(3) The presumption in subsection (1) shall apply to any vessel in Seychelles waters and any Seychelles vessel in areas beyond national jurisdiction.

(4) Notwithstanding subsection (3), and where it is presumed that any vessel in Seychelles waters has engaged in IUU fishing or related activities in any place beyond Seychelles waters in the area of competence of the relevant regional fisheries management organisation, the operator of such vessel shall be deemed to have committed an offence under this Act.

(5) An operator of a vessel that engages in any IUU fishing or related activity commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five



years or both, and to any other penalty provided under this Act, and an applicable licence, authorisation, registration or other permission of the vessel may be revoked.

### **Actions in relation to vessels on an IUU Vessels List**

**130.(1)** The operator of any Seychelles vessel shall not, in relation to any vessel that is entered in an IUU Vessels List of a regional fisheries management organisation, provide assistance in any way, engage in fish processing operations, or participate in transshipment or joint fishing operations with such vessel, except for rendering assistance where such vessel, or any person on that vessel, is in danger or distress.

(2) Any Seychelles vessel that is included on an IUU Vessels List of a regional fisheries management organisation shall be de-registered and any relevant licence, authorisation, other permission and registration shall be revoked and the operator and the vessel may not be issued with any other licence, authorisation, registration or other permission under this Act for a minimum period of five years.

(3) The following shall be prohibited in respect of vessels included in an IUU Vessels List of a regional fisheries management organisation, and an operator of such vessel shall not undertake any activity, make any request or seek any permission in relation to —

- (a) entry into any Seychelles port, except in cases of force majeure or where the vessel, or any person on that vessel, is in danger or distress, unless entry is permitted for the exclusive purpose of inspection and effective enforcement action;
- (b) chartering of such vessel;
- (c) registration of such vessel in Seychelles, except if the vessel has changed owners and the new owner has provided sufficient evidence to prove that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having

taken into account all relevant facts, the Authority determines that granting the vessel its flag will not result in IUU fishing; and

- (d) importing, landing or transhipment of species within the competence of such organisation.

(4) No person shall engage in import, landing and transhipments, of species under the mandate of the regional fisheries management organisation or catch and carry such species on a vessel on the IUU Vessel List of such regional fisheries management organisation.

(5) The Authority shall collect and exchange with other members and cooperating non-members of a regional fisheries management organisation any appropriate information with the aim of detecting, controlling and preventing false import or export certificates for fish from vessels included in the IUU Vessels List.

(6) An operator who contravenes the provisions of subsection (1), (3) or (4) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act, and except as provided in subsection (4) an applicable licence, authorisation, registration or other permission of the vessel may be cancelled.

## **PART IX - DISPOSAL, RELEASE AND FORFEITURE OF SEIZED ITEMS**

### **Disposal of perishable seized goods**

**131.**(1) Subject to subsection (3), and subject to applicable Seychelles laws on the custody, management and disposal of seized, forfeited or confiscated properties, any perishable item, including fish and fish products, that has been seized or confiscated under this Act shall be disposed of in accordance with this section.

(2) Perishable items referred to in subsection (1) shall be subject to disposal by the Authority, who may apply for a court order to sell, destroy or otherwise dispose of them.

(3) The Authority shall notify the owner or apparent owner of any application for a court order in relation to any perishable item made in accordance with subsection (1).

(4) Where the Authority cannot ascertain the true ownership of any item at the time of seizure, the Authority shall make reasonable enquiries to ascertain the true owner, and if the true owner is not ascertained within a reasonable time, taking into account the perishability of the item(s) seized, the Authority may apply for a court order to sell, destroy or dispose of the items in accordance with subsection (1).

(5) The owner, operator or other person associated with the vessel or other place from which any perishable item was seized shall —

- (a) be prohibited from purchasing the items;
- (b) take all measures to preserve the perishable items at all times; and
- (c) not tamper with the seized items or interfere with the means of their preservation.

(6) A purchaser for valuable consideration of any item sold under this section shall derive good and unencumbered title in respect of such item.

(7) Where the perishable items are suspected to have been subject to IUU fishing or related activities, they shall, upon the sale, not be considered to have been associated with such activities and be considered legitimate because —

- (a) proof of IUU fishing or related activities was not addressed or determined; and
- (b) if, after the sale and subsequent to due process it is determined that the items were subject to IUU fishing or related activities, the proceeds of the sale shall not be returned to the owner, who shall —

- (i) be deprived of any monetary benefits from relevant activities; and
- (ii) bear all costs related to such activities involved in the sale of the perishable items.

(8) All items seized pursuant to this Act, and the proceeds from the sale of such items, shall be held in trust until —

- (a) the Attorney-General decides not to lay any information or charge in respect of any alleged offence which relates to the seizure of the item; or
- (b) the Court —
  - (i) has completed its proceedings in respect of a charge or information laid for an offence which relates to the seizure of the items; and
  - (ii) has issued an order in relation to the proceeds of sale of the items.

(9) The decision whether or not to lay any information or charge in respect of an alleged offence in relation to any item seized under this Act shall be made after the item is seized, taken possession of or detained.

(10) The Authority or an authorised officer exercising any power under this Act shall take reasonable measures to facilitate the preservation of the perishable items after seizure and before sale, but shall not otherwise be liable for any spoilage or deterioration in the quality of any fish or other item seized, taken possession of or detained.

(11) Any person that contravenes the provisions of subsection (5) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or imprisonment not exceeding five years or both, and to any other penalty provided under this Act, and an applicable licence, authorisation, registration or other permission of the vessel may be cancelled.

### Release of seized items on bond or other security

**132.**(1) A person from whom any item was seized under this Act or the owner or person entitled to possession of such item may, within 15 days after the seizure or such other period as may be provided in the laws of Seychelles, apply to the court for the release of the item.

(2) Upon receipt of an application under subsection (1), the Court shall order —

- (a) that the owner or operator of the vessel pay into court a bond, surety or other security having regard to —
  - (i) the fair market value of the vessel and any items including fish and fish products on board;
  - (ii) the maximum fine or fines that apply for the offences or alleged offences that led to the seizure of the foreign vessel; and
  - (iii) the costs likely to be recovered by the prosecution if a conviction is entered; and
- (b) that the vessel be released upon receipt of the bond, surety or other security, subject to such conditions as the court sees fit,

unless the vessel is required as evidence in court proceedings or for any further investigation of offences under this Act.

(3) Upon receipt of an application under subsection (1) that does not relate to the seizure of a foreign vessel, the Court may order —

- (a) that the owner or operator of the vessel pay into court a bond, surety or other security having regard to —
  - (i) the fair market value of the vessel, including fish and fish products on board the vessel;

- (ii) the maximum fine or fines that apply for the offences or alleged offences that led to the seizure of the vessel; and
- (iii) the costs likely to be recovered by the prosecution if a conviction is entered; and

- (b) the items to be released upon receipt of the bond, surety or other security and subject to such conditions as the court deems fit.

(4) In the event of an appeal from an order of forfeiture, the court may, pending the final disposition of the appeal and of any retrial or rehearing on remand —

- (a) continue any bond, surety or other security deposited in accordance with subsection (2) or (3); or
- (b) require an additional bond, surety or other security to be deposited with the court.

(5) Exoneration of any bond, surety or other security deposited in accordance with subsection (2), or (3) is conditional upon —

- (a) the return of the released item to the court without any impairment of its value; or
- (b) final disposal of or discontinuation of proceedings under this Act and payment of any fines, penalties and other determination imposed by the court.

(6) An item seized under this Act, or a bond, surety or other security paid under subsection (2) or (3) shall be held until any proceedings under this Act have been disposed of or discontinued and any fines, penalties and other determinations imposed have been paid.

(7) Where a bond, surety or other security has been paid under subsection (2) or (3) and the item has been released —

- (a) the sum paid in respect of the value of the vessel or property shall be forfeited from the bond, surety or other security;
- (b) any fine or penalty ordered upon the conviction of any person who committed an offence which led to the seizure of the item shall be paid from the bond, surety or other security; and
- (c) any order for costs against a person accused of committing an offence against this Act which led to the seizure of the item shall be applied against the bond, surety or other security, including costs incurred by the Authority or other government institutions in the handling of the fishing vessel, crew and other activities directly associated with the seizure.

### **Release of seized items by the Authority or Court**

**133.(1)** Subject to subsection (2), the Authority shall release an item seized under this Act, or release the proceeds from the sale of such item, to the person entitled to the item, where —

- (a) the Attorney-General decides not to lay any information or charge;
- (b) the persons charged with the offences that led to the forfeiture of the item have all been acquitted; or
- (c) all court proceedings relating to offences which led to the forfeiture of the item have been finally disposed of without any order for forfeiture having been made in accordance with this Act.

(2) The Court may direct —

- (a) that the release of any item seized, or proceeds from the sale of the item under subsection (1), be contingent on

payment of all fines, penalties orders for costs and other determinations imposed in respect of any offence; and

- (b) that failing the payment referred to in subsection (1) within the time allowed, the item seized be sold and the balance of the proceeds of sale be returned to the owner, his or her nominee or the apparent owner in accordance with this Act, after deducting all fines, penalties, orders, costs and other determinations imposed and the costs for the sale.

(3) Notwithstanding anything in this section, where an authorised officer returns to the water at the time of seizure any fish seized pursuant to this Act that he or she believes to be alive, the authorised officer has no criminal liability or civil liability to the person from whom the fish was seized, in the event of a decision being made not to lay an information or charge in respect of the fish, or of the person being acquitted of the charge.

### **Failure to comply with the conditions of a bond or other security**

**134.** Where a person to whom an item is released under this Act fails to comply with the conditions of the bond or other security posted for release of that item —

- (a) the item may be re-seized at any time; or
- (b) the bond or security shall be automatically forfeited.

### **Forfeiture**

**135.(1)** Where a court convicts a person of an offence under this Act, it may order the forfeiture of any or all of the following —

- (a) any fish, fish product, vessel including its gear, furniture, accessories, stores, cargo and aircraft, gear, equipment, explosive or noxious substance involved in the commission of the offence;
- (b) where a vessel was used in the commission of the offence, any fish on board the vessel at the time of the offence;



- (c) where an export storage facility was used in the commission of the offence, any fish or fish product in the facility at the time of the offence;
- (d) where any fish has been sold under this Act, the proceeds of the sale of the fish;
- (e) any other item taken, used or otherwise involved in the commission of the offence, or otherwise as may be provided in this Act.

(2) Where any fish or fish product which is subject to a prohibition under this Act is seized and confiscated, it shall be forfeited and become the property of the State.

(3) Any person who is aggrieved by a decision made under subsection (2) may apply to a court for relief.

### **Disposal of forfeited item**

**136.**(1) Any item or security forfeited under this Act becomes the property of the State.

(2) The State may dispose of any forfeited item as it thinks fit, and upon the application of the Republic, the court shall make an order to dispose of any vessel found or determined to have contravened this Act, together with its gear, equipment or other appurtenances by selling, destroying, otherwise disposing of the vessel or transferring it to the Republic.

(3) Where any forfeited item is sold or otherwise disposed of by the State or the Authority, the owner, operator, agent or other person associated with any vessel, fish, fish product or other item forfeited, shall be prohibited from directly or indirectly purchasing or possessing or otherwise dealing with the item at any time during or after the sale, including through any subsequent re-sale, transfer or other transaction.

(4) Any person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine provided in the Third Schedule or

imprisonment not exceeding five years or both, and to any other penalty provided under this Act.

(5) A person convicted under subsection (4) shall not be issued any licence, authorisation, registration or other permission under this Act for a period of at least five years from the date of conviction.

## **PART X - JURISDICTION, PROCEDURE, LIABILITIES**

### **Jurisdiction and standing**

**137.(1)** Any act or omission committed in areas beyond national jurisdiction of Seychelles to which this Act applies which constitutes a contravention of this Act shall be dealt with and judicial proceedings taken as if such act or omission had taken place in Seychelles.

(2) Where an authorised person appointed under this Act is exercising any powers or performing duties conferred on him or her by this Act in areas beyond Seychelles waters in connection with any act or omission of any person in contravention of this Act, that act or omission shall be deemed to have been committed within the jurisdiction of Seychelles as provided under subsection (1).

(3) Standing in the Supreme Court of Seychelles shall be afforded to any authorised officer or other person performing duties under this Act or under a relevant international agreement, international conservation and management measures or in a relevant regional fisheries management organisation to provide evidence for any act or omission that —

- (a) occurs within the jurisdiction of the Supreme Court of Seychelles as provided under subsection (1);
- (b) is actionable under this Act or any other laws of Seychelles; or
- (c) is a violation of an access agreement, international agreement or international conservation and management measure adopted by a relevant regional fisheries

management organisation under or in which the authorised officer or other person was performing duties, notwithstanding the nationality or permanent residence of such authorised person.

### **Procedure**

**138.(1)** An offence under this Act shall be prosecuted before a court of competent jurisdiction except where summary administrative proceedings are taken in accordance with Part 12 of this Act.

(2) An authorised officer may lay an information for offences under this Act.

(3) The limitation on the laying of an information imposed under any Act shall not apply to an offence under this Act.

(4) A person who is arrested or detained, if not released, shall be produced before a court in accordance with section 18(5) of the Constitution of Seychelles where, for purposes of offences under this Act, and designation of a period that is practicable between the arrest or detention of a person and producing him or her in court shall take into account —

- (a) whether the relevant activity and arrest or detention took place at sea;
- (b) whether the relevant activity involved areas beyond national jurisdiction;
- (c) whether the relevant activity involved contravention of an international agreement or international conservation and management measure;
- (d) the non-availability of a judge or magistrate; and
- (e) in view of the circumstances in paragraphs (a), (b) and (c) the need for reasonable time for investigation and gathering evidence,

### **Liability for non-payment of pecuniary penalties**

**139.** The following amounts 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, and all such proceedings shall be deemed to be civil proceedings —

- (a) pecuniary penalties not specifically designated as fines;
- (b) forfeitures incurred under or imposed under this Act, and the liability to forfeiture of any article seized under this Act;
- (c) all rents, charges, expenses and duties; and
- (d) all other sums of money payable under this Act.

### **Liability for loss or damage**

**140.** A person who commits an offence against this Act shall be liable on conviction or pursuant to a determination under summary administrative proceedings, be liable to the Government for —

- (a) any loss or damage caused by the offence;
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence; and
- (c) any costs incurred in detaining or seizing any property, fish, article or thing in respect of that offence,

and the amount of compensation for such loss, damage or costs may be awarded by the court or determined in summary administrative proceedings as restitution in addition to, and recovered in the same manner as, a fine or determination.

### **Liability of companies and officers of companies**

**141.(1)** Except as provided in this section, if an employee, officer or agent of a partnership, corporation, firm, company or any other business

enterprise commits an offence under this Act, the partnership, corporation, firm, company or any other business enterprise also commits the same offence if —

- (a) the employee, officer or agent was acting within the scope of his or her employment or authority, or apparent employment or authority; and
- (b) the partnership, corporation, firm, company or other business enterprise —
  - (i) expressly or impliedly authorised the act or omission that constituted the offence; or
  - (ii) had direct or indirect knowledge of the act or omission that constituted the offence.

(2) Except as provided under subsection (3), every CEO or other person concerned with the management of a body corporate, partnership, corporation, firm, company or other business enterprise engaged in activities governed by this Act commits an offence if an offence under this Act is committed by any member, employee or agent of that entity.

(3) It shall be a defence to liability under this section for the CEO or other person concerned with the management of the entity to prove that —

- (a) he or she used due diligence to secure compliance with this Act; or
- (b) the offence was committed without his or her knowledge, consent, collusion or collaboration.

### **Liability of operators**

**142.(1)** In any proceedings under this Act, the act or omission of a crew member of a vessel or a person working in association with a vessel is deemed to be that of the operator of the vessel, unless otherwise expressly provided.

(2) The operation of subsection (1) does not absolve the crew member or other person of any liability he or she may have under this Act.

### **Liability of principal for actions of agent**

**143.**(1) Where a person, in this section referred to as “the principal” is required by or under this Act to do or refrain from doing anything, every act or omission of any person acting or purporting to act as agent for the principal in respect of any such requirement is deemed for the purposes of this Act to be the act or omission of the principal, unless the principal proves that the person purporting to act as agent had no authority, either express or implied, to act as the principal's agent in carrying out the act or omission.

(2) Subsection (1) does not absolve the principal of any liability he or she may have under this Act.

## **PART XI - APPEALS BOARD**

### **Establishment of Appeals Board**

**144.**(1) There is established an Appeals Board.

(2) The Appeals Board shall consist of the Chairperson and the following four members who shall be appointed by the President —

- (a) a representative of the Attorney General's Chambers, nominated by the Attorney General, who shall be Chair of the Appeals Board;
- (b) a representative of the Ministry, nominated by the Minister;
- (c) two members who have extensive knowledge and experience in fisheries-related administration or industry, nominated by the Minister; and
- (d) a member of the Board of the Authority, nominated by the Board, who shall serve in an *ex officio* capacity with no voting rights.

(3) The appointment of the Chairperson and members of the Appeals Board shall be published in the *Gazette*.

(4) The Appeals Board shall elect a Vice-Chairperson who, in the absence of the Chairperson or where he or she is unable to execute his or her responsibilities shall have the same powers as, and carry out the duties of the Chairperson and may call meetings of the Appeals Board.

(5) The Chairperson and members of the Appeals Board shall hold office for a term of three years and are eligible for reappointment for a maximum of two terms, and after an absence of at least one term may be reappointed for an additional two terms.

(6) The Chairperson and members of the Appeals Board shall be paid such allowance as the Minister may in consultation with the Minister responsible for finance, determine.

(7) The Chairperson or a member of the Appeals Board shall be removed from office by the President, if the Chairperson or member —

- (a) is absent from two consecutive hearings of the Appeals Board or three consecutive meetings of the Appeals Board;
- (b) has a conflict of interest contrary to section 166 and does not declare it to the Appeals Board for its decision on whether such person is to be recused;
- (c) becomes employed by, is a contractor for or receives payment in any way for services to the Authority, except for the member representing the Board;
- (d) engages in misbehaviour that is considered a breach of discipline or non-compliance with any matter under the scope of this Act;
- (e) becomes incapable of performing the functions of a member because of physical or mental incapacity;

- (f) is adjudged insolvent; or
- (g) is convicted of an offence where the maximum sentence is imprisonment of three years or more.

(8) The Chairperson or a member of the Appeals Board may resign by signed notice of resignation given to the President, which shall become effective not less than 14 working days after the President receives the notice.

(9) Where a vacancy occurs for any reason before the expiry of the term of office of the Chairperson or any member, the President shall appoint a new Chairperson or member.

(10) The Appeals Board may regulate its own proceedings.

### **Meetings of Appeals Board**

**145.**(1) The meetings of the Appeals Board shall be held at a time and place to be advised by the Chairperson.

(2) The quorum for meetings of the Appeals Board shall be three members and the Chairperson.

(3) The Chairperson, or in his or her absence, the Vice-Chairperson shall preside at all meeting of the Appeals Board.

(4) The Appeals Board shall take decisions by consensus, but where consensus is not possible may do so by majority vote of the Chairperson and members, and where votes are equal the Chairperson shall have a casting vote.

### **Appeals to the Appeals Board**

**146.**(1) A person whose interests are adversely affected by or is dissatisfied with an order or decision made by or under the authority of the Authority may appeal to the Appeals Board on the grounds that the decision was contrary to or outside the provisions of this Act, or manifestly unfair.



- (2) No appeal shall be taken against —
- (a) a decision of the Authority about an officer or employee of the Authority in the person's capacity as an officer or employee;
  - (b) a decision of the Minister or the Authority concerning the adoption of any management plan or regulation for the management of fisheries or aquaculture; or
  - (c) a decision of the Minister or the Authority on the appointment or removal of a person as an authorised officer.

### **Procedures for initiating appeals**

147.(1) An appeal shall be initiated within 28 days of the notification of the relevant order or decision to the appellant, by submitting a written notice of appeal to the Chairperson of the Appeals Board in any form that may be approved by the Appeals Board, and the Chairperson shall promptly provide a copy to the Authority.

(2) The notice of appeal shall state the grounds of the appeal and be accompanied by such fee as the Appeals Board may require.

### **Procedures and powers of the Appeals Board**

148.(1) Upon receipt of an appeal under section 146 the Authority shall cause a written report relating to the appeal to be completed and transmitted to the Chairperson of the Appeals Board within 7 days.

(2) The Appeals Board shall make a decision on the appeal within 28 days of receiving the Authority's report and shall take into account the information in the report, such independent information that may be submitted to it regarding the appeal and other such information the Appeals Board may deem relevant.

(3) The Appeals Board is not bound by the rules of evidence and may inform itself in any way it considers appropriate, including by

considering testimony, documentation or information provided by the appellant, which it may seek from other sources or in which the members have expertise and knowledge, while observing the principle of natural justice.

(4) The Appeals Board shall have the power to hear evidence, including the testimonies of witnesses, before making a decision.

(5) In deciding an appeal, the Appeals Board may —

- (a) confirm the order or decision appealed against; or
- (b) set the decision aside and make another decision.

(6) Any party to an appeal who is aggrieved with the decision of the Appeals Board may seek judicial review by a court.

## **PART XII - COMPOUNDING SUMMARY ADMINISTRATIVE OFFENCES**

### **Decision to proceed administratively**

**149.**(1) The Minister may, in consultation with the Attorney General, proceed administratively against any person who has or may have committed an offence under this Act, if that person consents in writing to the Minister for proceeding administratively.

(2) The Minister shall notify the person charged that he or she may, within 7 working days of receiving such notification, either consent to or decline summary administrative proceedings.

(3) Where the person charged fails to respond to the Minister's written notice within 7 working days, the Minister shall refer the matter to the Attorney General.

(4) Where the person charged consents to summary administrative proceedings, the person shall notify in writing the Minister within 7 working days of receiving the Minister's notification that he or she —

- (a) admits to having committed the offence that he or she is charged with; and
- (b) consents to the charge being dealt with by summary administrative proceedings.

(5) Upon notifying the Minister of his or her consent to summary administrative proceedings under subsection (4), the person charged shall —

- (a) be deemed to have consented to any seizure which took place in accordance with this Act in relation to the offence that is subject to the summary administrative proceedings, and to have waived any right to a probable cause hearing; and
- (b) not engage in any fishing, related activity or other activity which is the subject of the summary proceedings until an administrative penalty assessed under this Act, including such fixed penalty as may be prescribed, has been paid in full.

(6) Upon receiving the notification given under subsection (4), the Minister —

- (a) shall notify the Attorney General that the matter is being dealt with in accordance with this Part; and
- (b) may consult the Attorney General on the handling of the matter.

(7) Upon receipt of a notification under subsection (6), the Attorney General shall refrain from prosecuting the person charged with the offence while the matter is being dealt with under this Part, unless in his or her opinion there is a public interest in proceeding with the prosecution.

### **Summary administrative proceedings**

**150.(1)** The Minister may, upon receiving the notification under section 149(4), cause a Compounding Agreement to be drawn up in consultation

with the Attorney General to formalise the terms and conditions upon which the Minister will accept on behalf of the Government from the person charged, an administrative penalty, the amount of which —

- (a) shall be determined in accordance with this Act, any report that may be prepared by the Authority or the Minister in consultation with the Attorney General regarding the details of the offence and the applicable fine or penalty levels which may include such fixed penalties as may be prescribed;
- (b) unless otherwise provided in this Act, shall not be below any level that may be prescribed or exceed the maximum fine or penalty for the relevant offence, plus the fair market value of any fish caught illegally;
- (c) includes such amount that may be necessary to deprive the person of monetary benefits acquired or saved by the person as a result of the commission of the offence based on an assessment by an expert that would otherwise be acceptable in a court of law;
- (d) takes into account that any offence in relation to an unlicensed vessel or a foreign vessel shall be compounded at a significantly higher level;
- (e) shall, for any second or subsequent offence being compounded be significantly greater than the amount determined for the previous offence;
- (f) may include the costs to the State under section 140, which provisions apply with any necessary modifications.

(2) Summary administrative proceedings shall be void if the full amount of the penalty determined under subsection (1) is not paid within 14 days of the notification of such penalty assessment to the charged person, and the matter shall immediately be referred to the Attorney General for prosecution.

(3) Where the person charged is not a Seychelles citizen and payment originates from another State, the Embassy or Diplomatic Mission representing such State shall verify the payment of the penalty determined under subsection (1).

(4) Upon payment of the penalty in full under this section after the verification of a relevant Embassy or Diplomatic Mission under subsection (3), the Authority may order the release of any item seized under this Act or of the proceeds of sale of such item on such conditions as the Authority may determine.

(5) The Compounding Agreement under subsection (1) may provide that any item used or involved in the commission of the offence be confiscated or forfeited.

(6) Any sum of money received under a Compounding Agreement shall be dealt with as though it were a fine imposed by a court.

(7) A person who engages in fishing, related activities or other activity which is the subject of the summary administrative proceedings while prohibited from doing so under section 149 (5)(b) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount provided in the Third Schedule, and in addition, to the costs to the State described in section 140.

**Evidence of participation in summary administrative proceedings not to be used in prosecution**

**151.**(1) The fact that a person charged with an offence consented to summary administrative proceedings under this Part and any admission made under section 149 (4) shall not be used against that person in the prosecution of the offence under this Act pursuant to —

- (a) a decision of the Attorney General under section 149 (7);  
or
- (b) referral of a matter to the Attorney General for prosecution under section 149 (3).

(2) In any proceedings brought against any person for an offence under this Act, it shall be a defence if such person proves that the offence has been compounded under this Act.

### **Criminal offences not eligible to be settled by summary administrative proceedings or compounding**

**152.** This Part does not apply to —

- (a) criminal offences in any applicable laws of Seychelles, notwithstanding that any such offence may also be an offence under this Act; and
- (b) any offences relating to transnational organised crime or individuals in or associated with a transnational criminal group.

## **PART XIII - EVIDENCE**

### **Certificate of evidence**

**153.** An authorised officer or any other person designated in writing by the Authority may give a certificate stating that —

- (a) a specified vessel was or was not on a specified date a Seychelles registered vessel, a Seychelles vessel, a joint venture vessel or a foreign vessel, a sport fishing vessel or a commercial fishing vessel or such other vessel designated under this Act;
- (b) a specified vessel or person was or was not on a specified date the holder of any specified licence, authorisation or certificate of registration;
- (c) an appended document is a true copy of the licence or certificate of registration for a specified vessel or person and that specified conditions were attached to such document;

- (d) a particular location or area of water was on a specified date within Seychelles waters, or within a closed, limited, restricted or in any other way controlled area of Seychelles waters, or an area of Seychelles waters subject to specified conditions;
- (e) a vessel was located at a particular place or area at the date and time or during the period of time stated;
- (f) a vessel was used for fishing or related activities at a particular place or area at the date and time or during the period of time stated;
- (g) an appended chart shows the boundaries on a specified date of Seychelles waters, closed or limited areas or other maritime areas or zones delineated for any specified purpose;
- (h) a particular item or piece of equipment is gear;
- (i) the cause and manner of death of, or injury to, any fish is as stated;
- (j) an appended document is a true copy of a valid and applicable charter agreement, access agreement or Fisheries Management Agreement;
- (k) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (l) an appended position or catch report or other record was given in respect of a specified vessel;
- (m) a specified vessel is or is not on a list of illegal, unreported and unregulated vessels or a record of authorised vessels maintained by a regional fisheries management organisation;

- (n) a specified vessel, mobile transceiver unit or other item fulfils or does not fulfil registration requirements under this Act, an applicable access agreement or any international conservation and management measure;
- (o) an appended document is a true certificate of calibration of a specified measuring device;
- (p) an offence was committed against the laws of another State, as declared in an appended copy of a statement signed by a competent authority of such State;
- (q) specified international conservation and management measures are in force, as declared in an appended copy of a statement signed by the CEO, or equivalent, of the international organisation or arrangement which adopted such measures;
- (r) a certification as to the condition of fish given under this Act was made in accordance with this Act and by the person who is signatory to the certificate;
- (s) the fish, fish products or other item disposed or dealt with as a perishable item under section 131 are fully described in the certificate;
- (t) a photograph is a true and accurate representation of what it is meant to represent;
- (u) a photograph was taken by a specified person;
- (v) an appended document is a true copy of admissible evidence from another jurisdiction; or
- (w) any specified return, log, record or information required to be kept or furnished under this Act was or was not kept or furnished,



and such certificate shall, unless the contrary is proved, be *prima facie* evidence of all facts averred in it in any judicial proceedings under this Act when submitted in accordance with the procedures under section 154 and any other requirements in this Act.

### Validity and procedures for certificates

**154.**(1) Unless the contrary is proved, a document purporting to be a certificate given under this Part shall be deemed to be such a certificate and to have been duly given.

(2) Where a certificate issued under this Part is served on a defendant 14 or more days before its production in court and the defendant does not, within 7 days of the date of service, serve notice of objection in writing on the prosecutor, then the certificate is, unless the Court finds the defendant is unduly prejudiced by any failure to object, conclusive proof of all the facts averred in it.

(3) Where a certificate issued under this Part —

- (a) is served on a defendant 7 or more days, but less than 14 days, before its production in court in any proceedings under this Act; or
- (b) is served on a defendant 14 or more days before its production in court in any proceedings under this Act and an objection is notified in accordance with subsection (2),

the certificate is, unless the contrary is proved, *prima facie* evidence of all the facts averred in it.

(4) Any omission from or mistake made in a certificate issued under this Part does not render it invalid unless —

- (a) the court considers such omission or mistake to be material to any issue in the proceedings concerned; or
- (b) the defendant is unduly prejudiced by the omission or mistake.

(5) Where in any proceedings a certificate made under this Part is produced incourt, the prosecution is not obliged to call the maker of the certificate and the court shall, where material, rely on the facts stated in the certificate unless the contrary is proved.

### **Certificate of location of vessel**

**155.**(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 the prosecution of an offence charged, the place or area stated in a certificate given by an authorised officer shall be prima facie 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 authorised officershall, in any certificate made under subsection (1), state —

- (a) his or her name, address, official position, country of appointment and the authority under which he or she is appointed;
- (b) the name and call sign, if known, of the vessel concerned;
- (c) the date and time or period of time that 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) that he or she 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 recognised as notoriously accurate is used, that he or she checked the instrument used as soon as possible after the time concerned against an instrument that is judicially recognized as notoriously accurate.

(2) For the purposes of this section, “authorised officer” includes observers and those charged with similar responsibilities in other States including surveillance officers.

### **Photographic evidence**

**156.**(1) For the purposes of this section, “photographic evidence” and “photograph” includes videos or other reproduction or transmission of visual images.

(2) Where a photograph is taken of any activity under this Act and simultaneously the date, time and position from which the photograph is taken are superimposed upon the photograph, it shall be presumed unless the contrary is proved that the photograph was taken on the date, at the time and in the position so appearing.

(3) The presumption set out in subsection (1) shall arise only if —

- (a) the device taking the photograph is connected directly to or integrated with the instruments which provide the date, time and position concerned; and
- (b) the photograph was taken by an authorised officer or observer or under the supervision of an authorised officer or observer.

(4) Any authorised officer or observer who takes or supervises the taking of a photograph under subsection (1) may give a certificate appending the photograph stating —

- (a) his or her name, address, official position, country of appointment and the authority under which he or she is appointed;

- (b) the name and call sign, if known, of any vessel appearing in the photograph;
- (c) the name of the camera, watch, clock or other instruments supplying the date and time and the position fixing instrument;
- (d) that he or she checked the instruments referred to in paragraph (c) at a reasonable time before and after the taking of the photograph and that they all appeared to be working correctly;
- (e) the matters set out in subsection (2)(a) and (b); and
- (f) the accuracy of the position fixing instrument used within specified limits.

### **Vessel monitoring system evidence**

**157.(1)** All information or data obtained or ascertained by the use of a mobile transceiver unit or other vessel monitoring device required under this Act, including use of a camera onboard for observation purposes, shall be presumed, unless the contrary is proved, to —

- (a) come from the vessel so identified;
- (b) come from the mobile transceiver unit so identified;
- (c) be accurately relayed or transferred;
- (d) be given by the operator, including the master, owner and charterer of the vessel,

and evidence may be given of information and data so obtained or ascertained whether from a printout or a visual display unit.

(2) The presumption under subsection (1) applies whether or not the information was stored before or after any transmission or transfer.

(3) A mobile transceiver unit or other vessel monitoring device installed and operated in accordance with this Act shall be judicially recognised as notoriously accurate.

(4) An authorised officer or other person authorised in writing by the Authority may give a certificate stating —

- (a) his or her name, address and official position;
- (b) that he or she is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from a mobile transceiver unit or other vessel monitoring device;
- (c) the date and time the information was obtained or ascertained from the mobile transceiver unit or other vessel monitoring device and the details of the information;
- (d) the name and call sign of the vessel on which the mobile transceiver unit is or was located as known to him or her or as ascertained from any official register, record or other document; and
- (e) a declaration that there appeared to be no malfunction in the mobile transceiver unit or other vessel monitoring device, its transmissions, or other machines used in obtaining or ascertaining the information.

### **Satellite based evidence**

**158.** Evidence furnished from a satellite with a capacity to provide accurate tracking or other information concerning vessels shall be admissible and presumed to be accurate.

### **Presumptions**

**159.(1)** All fish found on board any 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) Where, in any legal proceedings under this Act —

- (a) 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 is presumed to be the place in which the event took place; and
- (b) the production of a written copy or extract of the entry certified by an authorised officer as a true copy of the accurate extract is prima facie evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft.

(3) Where in any legal proceedings relating to an offence under this Act —

- (a) an authorised officer or observer gives evidence of reasonable grounds to believe any fish to which the charge relates were taken in a specified area of Seychelles waters or the area of competence of a relevant regional fisheries management organisation; 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.

(4) Where in any legal proceedings for an offence under this Act —

- (a) an authorised officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken by the use of driftnets; 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.

(5) Where any information is given in respect of any fishing or related activity of a vessel, it is presumed to have been given by the operator, including the master, owner and charterer of the vessel concerned, unless it is proved that it was not given or authorised to be given by any of them.

(6) Any entry in writing or other mark in or on a log, chart or other document required to be maintained under this Act or used to record the activities of a vessel is deemed to be that of the operator, including the master, owner and charterer of the vessel.

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

### **Strict liability**

**160.** In a prosecution for an offence under this Act, it is not necessary for the prosecution to prove that the defendant intended to commit an offence or to engage in any conduct that comprises the offence.

### **Burden of proof**

**161.(1)** Where in any proceedings under this Act, a person is charged with an offence involving an act for which a licence is required, the burden is on that person to prove that at the relevant time he or she held the requisite licence.

(2) Where a person is charged with the contravention of section 62, the burden is on the person to prove that the information given was true, complete and correct.

### **Interfering with evidence**

**162.(1)** No person shall interfere with evidence which may be related to an offence under this Act.

(2) Without limiting the generality of subsection (1), no person shall —

- (a) being on board any vessel being pursued, about to be boarded, being boarded or notified that it will be boarded by an authorised officer, whether within or beyond Seychelles waters, throw overboard or destroy any fish, fish product, equipment, document, explosive, noxious substance or other thing with intent to avoid its seizure or the detection of any offence against this Act;
- (b) remove from custody any vessel, fish, fish product, equipment or other item held in custody under this Act, or act or omit to act so that a vessel, fish, fish product, equipment or other item held in custody under this Act may be removed from custody, whether or not he or she knew that the vessel, fish, fish product, equipment or other item was being held in custody;
- (c) destroy, damage, render inoperative or otherwise interfere with any premises or facilities licensed under this Act; or
- (d) where a mobile transceiver unit or other vessel monitoring device is required under this Act, destroy, damage, render inoperative or otherwise interfere with any part of such mobile transceiver unit or other device aboard a vessel, or feed or input into a mobile transceiver unit or an applicable vessel monitoring system or other vessel monitoring device, information or data which is not officially required or is meaningless.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule, or imprisonment not exceeding three years, or both.

## **PART XIV - OFFENCES AND PENALTIES**

### **Offences and penalties**

**163.(1)** Unless otherwise provided in this Act, the maximum fines for



contraventions of this Act are specified in Part A of the Third Schedule, and the minimum fines are specified in Part B of the Third Schedule.

(2) The Minister may by regulations amend the Third Schedule.

(3) In setting the amount of any fine or determination under this Act, the criteria in section 164(2) shall be applied.

### **Guidelines for setting a fine or determination**

**164.**(1) The fine or determination in judicial or administrative proceedings shall be taken to be effective in securing compliance and to discourage violations and shall deprive offenders of the benefits accruing from prohibited activities.

(2) In particular, the relevant judicial or administrative proceedings shall take into account the following criteria —

- (a) the seriousness of the offence, taking into consideration the —
  - (i) maximum level of fine;
  - (ii) international and national requirements and best practices in relation to serious offences, including their definition in international fisheries instruments;
  - (iii) degree of impact of the offence on the fishery resources, the environment and the economic and social well-being of citizens of Seychelles;
  - (iv) scope of the offence;
  - (v) duration of the offence;
  - (vi) issue of whether personal injury or loss of life was involved; and

- (vii) 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.

(3) An aggravated fine or determination shall be imposed for offences involving assault, obstruction or bribery of an authorised office, inspector or observer or any fisheries officer or person carrying out responsibilities under this Act, damage to gear or vessels, personal injury, loss of life, illegal fishing, forgery, or damage to the environment.

(4) Where it appears that any offence against this Act involved transnational criminal activity or was committed in association with other transnational criminal activity, an aggravated fine or determination shall be imposed at a level of no less than ninety per cent of the maximum fine for the relevant offence in the Third Schedule.

### **General offence**

**165.(1)** Any person who contravenes any provision of this Act for which no specific fine or penalty is provided commits an offence and is liable on conviction to —

- (a) a fine of up to SCR6,500,000 or twice the economic benefit that the person obtained through the contravention, whichever is greater;
- (b) notwithstanding paragraph (a), contraventions resulting from gross negligence, one or both of the following —
  - (i) a fine of up to SCR13,000,000 or three times the economic benefit that the person obtained through the violation, whichever is greater; or
  - (ii) imprisonment not exceeding five (5) years.

(2) For contraventions resulting in damage to fish or the marine environment in general, an additional fine equal to twice the total cost of restoration of the fisheries resources or twice the total cost of restoration of the environment or both.

### **Conflict of interest**

**166.**(1) Where any matter falling under this Act comes before any person exercising any authority, duty or function under this Act in which that person or a close relative has a personal interest, such person shall immediately inform his or her supervisor or other public authority of the nature of his or her interest, and shall not further exercise any authority, duty or function under this Act regarding the matter in question.

- (2) A person has an interest in a matter where the person —
  - (a) could benefit directly or indirectly from a decision on a matter over which he or she has influence or control, or if a matter over which that person has influence or control relates in any way to a business or property —
    - (i) over which the person directly or indirectly owns or controls;
    - (ii) owned or controlled, directly or indirectly, by a family member of that person;

- (iii) in which he or she has a beneficial interest of any kind, whether through a trust or otherwise;
  - (b) is party to, or will or may derive a material financial benefit from the matter;
  - (c) has a material financial interest in another party to the matter;
  - (d) is a family member of a person who will or may derive financial benefit from the matter; or
  - (e) is otherwise directly or indirectly materially interested in the matter, or a transaction affecting the matter.
- (3) In this section —
- (a) “benefit” means gain or advantage of any kind, and includes financial gain, property, service, or improvement of condition;
  - (b) “business” means business of any kind whether situated in Seychelles or elsewhere and whether incorporated or not;
  - (c) “family member” means a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or in accordance with custom, or for whom care was given by the person, such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person's immediate or extended family;
  - (d) “interest” means either direct or indirect ownership of, shares in, or financial benefit from, remuneration, fees, commissions or other payment from, or complete or partial control of such property or business; and

- (e) “property” means real or personal property whether situated in Seychelles or elsewhere.

(4) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount described in the Third Schedule or imprisonment not exceeding five years or both, and in addition any profits that accrued to such person as a result of the conflict of interest shall be forfeited and such person shall be discharged and not permitted to exercise any further authority, duties or functions under this Act.

### **Bribery**

167.(1) No person shall offer money or a monetary benefit, directly or indirectly, to any person carrying out responsibilities under this Act.

(2) No person carrying out responsibilities under this Act shall accept, receive or solicit a bribe on his or her own behalf or for another person.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine not exceeding the maximum amount specified in the Third Schedule or imprisonment not exceeding five years or both, and in addition, any profits that accrued to such person as a result of the bribe shall be forfeited.

(4) Any person who is convicted under subsection (3) for contravening subsection (2) shall, in addition to the penalty provided under that subsection, be discharged and not permitted to exercise any further authority, duties or functions under this Act.

### **Deprivation of monetary benefits**

168. Where a person is convicted of an offence under this Act, and the court is satisfied that as a result of committing the offence the person acquired monetary benefits or monetary benefits accrued to the person, the court may, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, order the person to pay an additional

fine in an amount equal to the court's finding of the amount of those monetary benefits, based on an estimation of such amount to be provided by the Authority.

### **Court may order additional penalties and compensation**

**169.** In addition to any fine and imprisonment provided under 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, such term of imprisonment in lieu of payment of the fine;
- (b) forfeiture of the vessel, fish on board or gear;
- (c) cancellation or suspension of the relevant licence, authorisation or registration;
- (d) compensation to be paid to the owner of any property damaged or destroyed as a direct result of the offence; and
- (e) compensation for the cost of clearing any pollution that may have occurred as a direct result of the offence or removing any objects that continue to cause such pollution.

### **Increased maximum fine for body corporate**

**170.** If a body corporate is convicted of an offence against this Act, a fine of up to three times the maximum fine specified for the offence may be imposed or determined.

### **Continuing offences and repeat offenders**

**171.(1)** Each day of a continuing offence shall be considered to be a separate offence.

(2) Any fine and penalty charged or determined for any person convicted of the same offence more than once shall be at a significantly

higher level than imposed or determined on the previous occasion and, to the extent possible, shall be double such level.

### **Banning order**

**172.(1)** In addition to any other fine or penalty provided under this Act, the court or in the case of summary administrative proceedings, the Minister in consultation with the Attorney-General may order any natural person to be banned from engaging in fishing or related activities in Seychelles waters for a period up to five years if that person has been found to commit —

- (a) an offence involving unlicensed fishing; or
- (b) two or more offences against this Act.

(2) Any person who is banned from engaging in fishing or related activities under subsection (1), and the owner, operator or master of a vessel used for fishing or related activities who knowingly permits a person banned under subsection (1) to go or remain on board a vessel under his or her command or control, commits an offence and shall be liable on conviction on conviction to a fine of the maximum amount specified in the Third Schedule or imprisonment not exceeding three 3 years or both.

### **Imprisonment of non-nationals**

**173.** Where an offence under this Act is committed in the Exclusive Economic Zone of Seychelles by a person who is a national of another State and is associated with a vessel that is not registered in Seychelles, penalties shall not include imprisonment or any form of corporal punishment in the absence of any agreement to the contrary between Seychelles and the State concerned.

## **PART XV - GENERAL PROVISIONS**

### **Relationship with other laws of Seychelles**

**174.** In the event of a conflict or inconsistency between this Act and any other laws of Seychelles, this Act shall take precedence.

## Notifications

175.(1) Any notification required under this Act shall be in writing.

(2) Except as otherwise specified in this Act, if under this Act any notice or other document is to be given, served upon or furnished to any person, that notice or other document may be —

- (a) given to the person physically;
- (b) given physically to any other person authorised to act on behalf of the person;
- (c) in the case of a notice or document to be given or served in the course of or for the purpose of any proceedings for an offence under this Act, served upon such person as the court may direct;
- (d) except in the case of a notice or document referred to in paragraph (c), sent by registered post to the person, or any other person authorised to act on that person's behalf, at the person's usual or last known place of business or abode;
- (e) except in the case of a notice or document referred to in paragraph (c), sent by electronic transmission to the person, or any other person authorised to act on the person's behalf, at the person's usual or last known address, and for the purpose of this paragraph —
  - (i) “electronic transmission” means any transmission of information sent electronically; including any transmission sent by facsimile, electronic mail, or electronic data transfer; and
  - (ii) “address” includes a facsimile number or an electronic mail address.



(3) Where the operator of a foreign vessel is a defendant in a prosecution for an offence under this Act, notwithstanding any other law, service on the defendant of any summons or other documents may also be effected —

- (a) by being delivered personally to the agent of the vessel on behalf of the defendant or being brought to the notice of the agent if that agent declines to accept it on behalf of the defendant;
- (b) by being sent to the agent of the vessel, by registered letter to that agent on behalf of the defendant at the agent's last known or usual place of residence or that agent's place of business; or
- (c) where no agent has been nominated in respect of any foreign vessel, by being delivered or sent under paragraph (a) or (b) to the master of the vessel.

(4) Any notice or document sent by registered post or electronic transmission is deemed to have been given when delivery is accepted or the read receipt is received, unless the notification provides otherwise, or unless the addressee proves otherwise that it was not his or her fault.

## **Regulations**

**176.(1)** The Minister may, in consultation with the Authority make regulations to carry out and give effect to the provisions of this Act, including without limitation —

- (a) managing, regulating, monitoring or controlling fishing and related activities, aquaculture, fish dealers and any other activities within the scope of this Act;
- (b) implementing any provisions of, or giving effect to, any international agreement, management agreement and international conservation and management measures;

- (c) implementing measures for cooperation and coordination with other Seychelles government authorities or other entities where appropriate and recommended by the Authority;
- (d) prescribing requirements, processes and other relevant matters for access agreements, licences, authorisations, other permissions and registration within the scope of this Act;
- (e) prescribing fees, charges, levies, resource rents, or royalties payable in respect of any matter under this Act;
- (f) establishing zones or management areas under this Act;
- (g) prescribing forms, schedules and other documentation required under this Act;
- (h) implementing procedures and other requirements for monitoring, control and surveillance of activities under the scope of this Act;
- (i) duties, qualifications and appointment of authorised officers, observers and other personnel authorised to perform monitoring, control, surveillance or enforcement duties under this Act, including but not limited to fisheries or aquaculture inspectors;
- (j) regulating or prohibiting activities which may have an adverse impact on fisheries resources or the marine environment in which they occur;
- (k) regulating, controlling and managing research, surveys, education and training regarding fish, fisheries resources and activities and aspects of the marine environment relevant to fisheries management;
- (l) providing for the conditions of use and marking of vessels, gear, equipment including vessel monitoring

systems and fish aggregating devices, and other items that may be regulated in accordance with this Act;

- (m) regulating bycatch;
- (n) regulating the registration of fishers;
- (o) possession, processing, and disposal of fish or fish products
- (p) regulating marine scientific research;
- (q) regulating the access to fisheries as genetic resources;
- (r) requiring elements of any account, record, document or information that any person or class of persons may be required to keep or provide for the purposes of this Act, including —
  - (i) the manner and form in which such account, record, document or information is to be kept, furnished or communicated;
  - (ii) the time for or within which such account, record, document or information is to be kept, furnished or communicated;
  - (iii) the person by or to whom such account, record, document or information is to be kept, furnished or communicated; and
  - (iv) the places where such account, record, document or information is to be kept, furnished or communicated;
- (s) taking necessary measures to combat illegal, unreported and unregulated fishing and related activities;

- (t) providing for the making of orders for any purpose under this Act;
- (u) setting conditions in relation to performance bonds, prescribing fines to be imposed under summary administrative proceedings and providing for compensation or other payments under the Act;
- (v) amending the Schedules; and
- (w) providing for any other matter under the scope of this Act which is required or otherwise consistent with the objective and principles and needs to be prescribed.

(2) The Minister may, in consultation with the relevant Seychelles government authority in respect of each of the following matters, make regulations —

- (a) regulating the construction and import of vessels used for fishing and prescribing construction standards for such vessels;
- (b) defining required prerequisites for the registration of vessels used for fishing in Seychelles;
- (c) prescribing safety standards and requirements for vessels used for fishing;
- (d) prescribing conditions for working on vessels used for fishing taking into account agreed international standards; and
- (e) prescribing manning and competency requirements for vessels registered in Seychelles used for fishing.

### **Repeal and savings**

177.(1) The Fisheries Act, 2014 is repealed.

(2) Notwithstanding the repeal under subsection (1), all regulations made, directions and notifications issued under the repealed Act shall continue in effect, in so far as they are consistent with this Act, until they are amended or repealed under this Act.

(3) All acts done, decisions taken, licences, permits or authorisations granted by the Minister, or employees of the Authority under the repealed Act which were validly done, taken or granted shall continue to have effect until they are amended, annulled or withdrawn in accordance with this Act.

## FIRST SCHEDULE

### MEANING OF ILLEGAL, UNREPORTED AND UNREGULATED FISHING

*(Section 2)*

In this Act, unless the context otherwise requires —

“illegal, unreported and unregulated fishing” has the same meaning that appears in the 2001 FAO International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, as specified in this Schedule.

#### **1. Illegal fishing refers to activities —**

- (a) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- (b) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

- (c) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

**2. Unreported fishing refers to fishing activities —**

- (a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (b) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

**3. Unregulated fishing refers to fishing activities —**

- (a) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- (b) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

## SECOND SCHEDULE

### CLASSIFICATION OF SMALL-SCALE FISHING VESSELS

The following classifications shall apply to all small-scale fishing vessels for the purposes of this Act.

CLASS	CLASS 1	CLASS 2	CLASS 3	CLASS 4	CLASS 5	Crew
<b>Length Overall (metres)</b>	Less than 6.00	6.00-12.00	Less than 12.00	12.00-18.00	Greater than 18.00 Less than 24 metres	
<b>Ownership</b>	Wholly beneficially owned by one or more citizens of Seychelles or by a company established under any written laws of Seychelles of which all of the shares are beneficially owned by citizens of Seychelles.					
<b>Permitted Activities Subject to license activity</b>						
Handline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		100% Seychellois
Trap	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			100% Seychellois
Net (Sardine, Mackerel, Crevice)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			100% Seychellois
BeachSeine	<input type="checkbox"/>	<input type="checkbox"/>				100% Seychellois
Lobster	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			100% Seychellois
Spanner Crab	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	100% Seychellois
Deepwater shrimp				<input type="checkbox"/>	<input type="checkbox"/>	100% Seychellois
Octopus	<input type="checkbox"/>	<input type="checkbox"/>				100% Seychellois
Sea Cucumber			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As per the <i>National Guideline for The Recruitment of Non-Seychellois</i>
Longline Tuna and Tuna-like Species				<input type="checkbox"/>	<input type="checkbox"/>	As per the <i>National Guideline for The Recruitment of Non-Seychellois</i>
Dropline			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As per the <i>National Guideline for The Recruitment of Non-Seychellois</i>

**THIRD SCHEDULE**  
**OFFENCES, FINES AND PENALTIES**

**Part A**

**OFFENCES AND MAXIMUM LEVEL FOR FINE AND PENALTY**

<b>Section and subsection including any part thereof</b>	<b>OFFENCE Section</b>	<b>Maximum level for fine, penalty</b>
6 (6)	Conservation and management measures	Level 5
7 (4)	Implementation of international conservation and management measures	Level 3
9 (3)	Research for effective fisheries conservation and management	Level 3
10(3)	Declaration of and prohibitions or restrictions respecting protected, threatened or endangered species of fish	Level 4
11(7)	Designation of zones or areas	Level 4
12(5)	Marine environmental quality	Level 5
13(4)	Management of bycatch	Level 3
15 (2)	Marking and protection of set gears	Level 3
16 (5)	Fish Aggregating Devices	Level 4
17 (2)	Prohibited to fish on data buoys	Level 4



<b>Section and subsection including any part thereof</b>	<b>OFFENCE</b>  <b>Section</b>	<b>Maximum level for fine, penalty</b>
18 (6)	Prohibition on commercial whaling and conservation of marine mammals, etc.	Level 5
19 (2)	Prohibition on removal of shark fins and sale, etc. of illegally removed shark fins	Level 4
20 (5)	Prohibited to use large-scale driftnets and demersal trawl nets	Level 5
21 (3)	Prohibited to use aircraft and unmanned aerial vehicles	Level 4
22 (4)	Prohibited to use artificial lights to attract fish	Level 4
23 (5)	Prohibited to tamper with or destroy property of another in Seychelles waters	Level 3
24 (4)	Prohibited to use, possess on a vessel, import, purchase, sell prohibited gear	Level 4
25(2)	Prohibition on abandoning or discarding gear, fish or fish product	Level 3
26 (2)	Prohibition of use of harmful fishing methods and sale, etc of fish caught using such methods	Level 3
27 (2)	Prohibition of interference with inspected fish and fish products	Level 3
28 (2)	Prohibition of possession, trade, export etc. of fish, fish products taken or obtained in contravention of Act or international conservation and management measure	Level 4

<b>Section and subsection including any part thereof</b>	<b>OFFENCE</b>  <b>Section</b>	<b>Maximum level for fine, penalty</b>
29 (4)	Prohibition of trade, etc. in fish and fish products taken or obtained in contravention of the laws of another State	Level 5
30(7)	Prohibitions in relation to vessels on a list of illegal, unreported and unregulated vessels maintained by a regional fisheries management organization	Level 4
31(3)	Prohibitions in relation to vessels without nationality	Level 5
32 (2)	Compliance with Act, licence, authorisation or other permission, international conservation and management measures, other	Level 5
33 (5)	Reporting requirements	Level 4
34 (2)	Gear stowage	Level 4
35 (3), (4)	Requirements for citizens and Seychelles vessels in areas beyond national jurisdiction	Level 5
37 (2)	Prohibitions on individuals in or associated with a transnational criminal group to engage in any activity under the scope of this Act	Level 6
38 (2)	Transshipment in Seychelles ports, Seychelles waters, areas beyond national jurisdiction	Level 4
46 (10), (11), (12)	Agents	Level 5

<b>Section and subsection including any part thereof</b>	<b>OFFENCE</b>  <b>Section</b>	<b>Maximum level for fine, penalty</b>
49 (10)	Requirements for performance bonds	Level 1
51(4)	Requirements for all foreign vessels to report entry to, exit from and regularly while in Seychelles waters	Level 3
53(4)	Conditions for aquaculture licenses	Level 3
54(2)	Introduction, transfer, export, release of live fish	Level 5
56(4)	Aquaculture waste	Level 5
57(5)	Escapement	Level 5
58(2)	Use of restricted drug, chemical, etc.	Level 2
60(2)	Interfering with aquaculture facility prohibited	Level 5
62 (4)	Information may be required, inspected	Level 4
63 (5)	Information to be true, complete and correct and destruction etc of documents prohibited	Level 5
65 (11)	Confidential Information	Level 2
66 (3)	<b>Confidentiality</b> of information in relation to Fisheries Monitoring Center	Level 2

<b>Section and subsection including any part thereof</b>	<b>OFFENCE</b>  <b>Section</b>	<b>Maximum level for fine, penalty</b>
69 (5)	Licences, authorisations, other permissions, registration required	Level 5
71 (8)	Terms and conditions of licences, authorisations, other permissions	Level 4
72 (9)	Conditions for landing and transhipment	Level 4
73 (3)	Conditions for marine scientific research	Level 4
74 (3)	Conditions for authorisations for fish aggregating devices	Level 4
75 (2)	Conditions for vessel monitoring system registration	Level 2
76 (2)	Conditions for the quality of fish on board vessels	Level 2
77 (5)	Statistical documentation for import and export or re-export	Level 3
79 (5)	Application for licences, authorisations, registrations or other permissions	Level 2
81 (7)	Pre-licensing and pre-registration inspection and other requirements	Level 3
88 (9)	Suspension, cancellation, surrender or termination of a licence, authorisation, registration or other permission	Level 5

<b>Section and subsection including any part thereof</b>	<b>OFFENCE</b>  <b>Section</b>	<b>Maximum level for fine, penalty</b>
98 (2)	Power to order a vessel to port	Level 5
1001(4)	Removal of parts from seized vessels	Level 5
102 (4)	Hot pursuit	Level 5
107 (2)	Duty of operators, and crew members to assist observers	Level 5
108 (3)	Notice of intention to place observer	Level 1
112 (3)(a)	Obstruction of, failure to comply with authorised persons	Level 4
112 (3)(b)	Obstruction of, failure to comply with authorised persons	Level 5
115 (3)	Vessel Monitoring System - technical requirements	Level 2
116 (2), (3)	Vessel monitoring system - requirements of operators	Level 3
117 (5)	Automatic identification system and electronic monitoring system	Level 3
123 (4)	Force majeure or distress	Level 4
125 (7)	Conduct of inspections of vessels in port	Level 4

Section and subsection including any part thereof	OFFENCE	Maximum level for fine, penalty
	Section	
127 (2)	Prohibited to use or assist, etc in the use of port in absence of authorisation or after denial	Level 5
128 (4)	Requirements for Seychelles vessels	Level 5
120)	Presumptions of IUU fishing in contravention of international conservation and management measures	
130 (6)	Actions in relation to vessels on an IUU Vessels List of a relevant regional fisheries management organization	Level 5
131 (11)	Disposal of perishable seized goods	Level 3
136 (4)	Disposal of forfeited item	Level 3
150 (7)	Summary administrative proceedings	Level 5
162 (3)	Interfering with evidence	Level 4
166 (4)	Conflict of interest	Level 5
167 (3)	Offering and accepting bribes	Level 3
172 (2)	Banning Order	Level 4

**Part B**  
**LEVELS OF FINES AND PENALTIES**

Level	Maximum term of imprisonment	Maximum fine SCR Millions
1	None	2.5
2	1 year	3
3	2 years	6.5
4	3 years	10
5	5 years	13
6	5 years	25.5

**Part C**  
**GUIDELINES FOR MINIMUM FINES**

The following Guidelines for minimum fines may be considered in setting the level of fines or administrative determination for a first offence:

- (1) for commercial fishing for tuna and tuna-like species, 50% of the maximum fine;
- (2) for first offences for minor misreporting, 15% of the maximum fine.