

CHAPTER 173

THE FISHERIES ACT

Arrangement of Sections
Section

Part I

Preliminary

1. Short title.
2. Interpretation.

Part II

Fisheries Management and Development

3. Promotion of fisheries.
4. Fisheries management and development plan.
5. Fisheries Advisory Committee.
6. Regional co-operation in fisheries management.
7. Fisheries access agreements.
8. Foreign fishing licences.
9. Stowage of fishing gear.
10. Observation of laws.
11. Local fishing licences.
12. Validity of fishing licences.
13. Conditions of fishing licences.
14. Fees, Royalties, etc.
15. Cancellation or suspension of fishing licences.
16. Notice.
17. Appeals.
18. Fish processing establishments.
19. Local fisheries management areas.
20. By-Laws.

Part III

Marine Reserves and Conservation Measures

21. Fishing priority areas.

LAWS OF ANTIGUA AND BARBUDA

2

CAP. 173)

Fisheries

- 22. Marine reserves.
- 23. Fisheries research.
- 24. Prohibited fishing methods.
- 25. Possession of prohibited fishing gear.

Part IV

Enforcement

- 26. Designation of authorized officers.
- 27. Powers of authorized officers.
- 28. Sale of perishable goods seized.
- 29. Immunity of authorized officers.
- 30. Assaulting or obstructing authorized officers.
- 31. Master liable for offences committed on board his

vessel.

- 32. Release of vessel etc. on bond.
- 33. Court's powers of forfeiture.
- 34. Presumptions.
- 35. Onus of Proof.
- 36. Disposal of vessels etc. forfeited.
- 37. Offences triable as if committed within limits of local jurisdiction.
- 38. Minister's power to compound offences.

Part V

General

- 39. Regulations.
- 40. Exemptions.
- 41. Commencement.

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173

3

FISHERIES

An Act to provide for the development and management of fisheries and matters incidental thereto.

(29th March, 1984.)

14/1983
18/1989.

Part I

Preliminary

1. This Act may be cited as the Fisheries Act. Short title
2. In this Act— Interpretation

"access agreement" means an agreement under section 7;

"Antigua and Barbuda waters" means the waters of the exclusive economic zone, fishery zone, territorial sea, archipelagic waters and internal waters as defined in the Maritime Areas Act, and any other cap 260 waters over which Antigua and Barbuda claims fisheries jurisdiction.

"authorized officer" means any fisheries officer, any customs officer or police officer and any other person or category of persons designated as an authorized officer by the Minister under section 26;

"court" means a Magistrate's court;

"Chief Fisheries Officer" means the person appointed as Chief Fisheries Officer under section 3(2) (a);

"fish" means any aquatic animal, whether piscine or not and includes shellfish, turtles, mollusc, crustacean, coral, sponge, echinoderms, their young and their eggs;

"fish aggregating device" means any man-made or partly man-made floating or submerged device, whether anchored or not, intended for the purpose

LAWS OF ANTIGUA AND BARBUDA

4

CAP. 173)

Fisheries

of aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;

"fisheries officer" means the Chief Fisheries Officer, Fisheries Officer or Assistant Fisheries Officer appointed under section 3(2);

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

"fisheries plan" means the plan for the management and development of fisheries prepared under section 4;

"fishing" means fishing for or catching or taking or killing fish by any method or placing of any fish aggregating device and includes searching for fish;

"fisheries licence" means a foreign fishing licence or a local fishing licence;

"fishing vessel" means any vessel used for commercial fishing or related activities including game fishing;

"foreign fishing licence" means a licence issued in respect of a foreign fishing vessel under section 8;

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

"licence" means a licence issued under this Act;

"local fishing licence" means a licence issued in respect of a local fishing vessel under section 11;

"local fishing vessel" means any fishing vessel—

(a) wholly owned by the Government or by any public corporation established by or under any law or;

(b) wholly owned by one or more persons who are citizens of Antigua and Barbuda; or .

(c) wholly owned by any company, society or other association of persons incorporated or established under the laws of Antigua and Barbuda of which at least 51 per cent of the voting shares are held by citizens of Antigua and Barbuda,

"locally based foreign fishing vessel" means any foreign fishing vessel based in Antigua and Barbuda which lands all its catch in Antigua and Barbuda;

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

"related activities"* in .relation to fishing means—

(a) transshipping fish to or from any vessel; or

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

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

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

"testing fishing operations"* means any fishing operations undertaken over a limited period of time with the approval of the Chief Fisheries Officer for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations.

Part II

Fisheries Management and Development

3. (1) The Minister shall take such measures as he thinks fit under this Act to promote the development and management of fisheries, so as to ensure the optimum

LAWS OF ANTIGUA AND BARBUDA

6

CAP. 173)

Fisheries

utilisation of the fisheries resources In Antigua and Barbuda waters for the benefit of Antigua and Barbuda.

(2) There may be appointed—

(a) a Chief Fisheries Officer; and

(b) such other Fisheries Officers and Assistant Fisheries Officers as may be necessary to give effect to this Act.

(3) Any appointments under sub-section (2) shall, if the appointment is to be an office in the Public Service, be made pursuant to the Constitution, but otherwise shall be made by the Minister.

Fisheries
Management and
development
plan

4. (n) The Chief Fisheries Officer shall prepare and keep under review a plan for the management and development of fisheries in Antigua and Barbuda waters.

(2) The Fisheries plan shall—

(a) identify each fishery and assess the present state of its exploitation;

(b) specify the objectives to be achieved in the management of each fishery;

(c) specify the management and development measures to be taken; and

(d) specify the licensing programmes to be followed for each fishery, the limitations, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels.

(3) In the preparation and review of the fisheries plan the Chief Fisheries Officer shall consult with the local fishermen, local authorities and other persons affected by the fishery plan.

Fisheries
Advisory
Committee

5. (I) The Minister may appoint a Fisheries Advisory Committee to advise on the management and development of fisheries.

(2) A Fisheries Advisory Committee appointed under this section shall include the Chief Fisheries Officer and such

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173

7

other persons as the Minister may consider capable of.

advising on the management and development of fisheries.

6. (1) The Minister may enter into arrangements or Regional agreements with other countries in the region or with any operation competent regional organization, providing for— in fisheries management

(a) the harmonization of systems for the collecting of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;

(b) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels;

(c) schemes for the issuance of fishing licences in respect of foreign fishing vessels by a competent regional organization on behalf of, the Minister and the recognition of regional licences issued by such organization, subject to such conditions as may be specified in the agreement or arrangement and to such additional conditions as, the Minister may specify from time to time;

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

(e) the establishment and operation of joint or regional fisheries management bodies where appropriate;

(f) other co-operative measures, where appropriate, which may include the establishment of a regional register of fishing vessels.

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

(a) authorize any competent regional organization designated in the Order to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the Order;.

(b) exempt from the requirements of section 8 any foreign fishing vessel or class of foreign fishing vessels holding valid regional fishing licences issued by a

LAWS OF ANTIGUA AND BARBUDA

8

CAP. 173)

Fisheries

competent regional organization designated in-the Order, and

(c) prescribe the conditions to be observed by foreign fishing vessels exempted under paragraph (&) while fishing or navigating in Antigua and Barbuda waters.

Fisheries access agreements 7. (1) The Minister, with the approval of Cabinet, may enter into agreements with other countries and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those countries or associations.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the fisheries plan.

(3) Any agreement entered into under this section shall include a provision establishing the responsibility of the foreign country or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in Antigua and Barbuda waters.

Foreign fishing licences 8. (1) No foreign fishing vessel shall be used for fishing or related activities in Antigua and Barbuda waters without a valid foreign fishing licence issued under this section.

(2) An application for a foreign fishing licence shall be made, in the prescribed form, to the Minister or to a competent regional organization authorized to issue fishing licences under 'section' 6(2) (a).

(3) Subject to the provisions of this Act and any regulations made under this Act, the Minister may issue a foreign fishing licence authorising a fishing vessel to be used in Antigua and Barbuda waters for such fishing or related activities as may be specified in the licence.

(4) Subject to subsection (5), no foreign fishing licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel

or with an association of which the owner or charterer is a member, an agreement entered into under section 7 to which the Government of Antigua and Barbuda is a party.

(5) Subsection (4) shall not apply to a licence issued in respect of—

(a) test fishing operations; or

(b) a locally based foreign fishing vessel.

(6) Where a foreign fishing vessel is used in contravention of subsection (1) or any condition of the foreign fishing licence, the master, owner and charterer of that vessel is each guilty of an offence and is each liable on summary conviction to a fine not exceeding five hundred thousand dollars.

9. The fishing gear of a foreign fishing vessel which of is prohibited by section 8 from fishing within Antigua, and Barbuda waters, shall be stowed in such manner as may be prescribed while within Antigua and Barbuda waters. Stowage of fishing gear

10. No licence shall relieve any foreign fishing vessel or its master or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, health or other matters. Observation of laws

11. (1) No local fishing vessel shall be used for fishing or related activities in Antigua and Barbuda waters without a valid licence issued under this section in respect of that vessel. Local fishing licences

(2) An application for a local fishing licence shall be made in the prescribed form to the Chief Fisheries Officer.

(3) Subject to subsection (4), the Chief Fisheries Officer may issue a local fishing licence in the prescribed form.

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

(a) that it is necessary to do so in order to give effect to any licensing programme specified in the fisheries plan;

LAWS OF ANTIGUA AND BARBUDA

10

CAP. 173)

Fisheries

(b) that the Chief Fisheries Officer has reason to believe that the applicant will not comply with the conditions of the licence;

(c) that the vessel in respect of which the application is made does not have a valid certificate of inspection where so required under the laws governing merchant shipping, or is not in compliance with regulations prescribed under section 39 relating to the safety of the vessel; or

(d) such other grounds as are specified in this Act or any regulations made under this Act. -!

(5) Where a local fishing vessel is used in contravention of sub-section, (1) or of any condition of the local fishing licence, the master, owner and charterer of that vessel is each guilty of an offence and is each liable upon summary conviction to a fine not exceeding one thousand dollars.

Validity of
fishing
licences

12. (1) Unless earlier cancelled in accordance with section 15, a fishing licence shall be valid for a period of not more than twelve months.

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

(3) The term of a foreign fishing licence shall not extend beyond the term of validity of the applicable access agreement.

(4) No licence shall be transferable except with the written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

Conditions of
fishing
licences.

13. (1) Every fishing licence shall be in the prescribed form and shall be subject-

(a) to such general conditions as may be prescribed;

(b) to such general conditions as may be specified under subsection (2); and

(c) to such special conditions as may be specified under sub-section (3).

(2) The Minister may, by notice published in the Gazette, specify general conditions additional to those prescribed to which all fishing licences or any category of fishing licences shall be subject including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes.

(3) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may attach to any fishing licence such special conditions as he may think fit.

(4) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may from time to time where he is satisfied that it is expedient for the proper management of fisheries in Antigua and Barbuda waters, vary any special conditions attached to any fishing licence.

(5) Where the Minister or the Chief Fisheries Officer varies any special conditions attached to any fishing licence he shall notify the licence holder of such variation as soon as practicable.

14. There shall be payable in respect of every fishing licence such fees as may be prescribed and such royalties or other charges as the Minister may determine. Fees, royalties etc.

15. (1) A fishing licence may be cancelled or suspended on any of the grounds set out in subsection (2). Cancellation or Suspension of fishing licence

(2) The grounds on which a fishing licence may be cancelled or suspended are that the Minister or the Chief Fisheries Officer, as the case may be, is satisfied that—

(a) it is necessary to do so in order to allow for the proper management of any particular fishery;

(b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulations made thereunder, or of any condition of the licence or in breach of any applicable > access agreement; or

(c) he is required or authorised to do so in accordance with the provisions of any arrangement or agreement entered into under section 6.

LAWS OF ANTIGUA AND BARBUDA

12

CAP. 173)

Fisheries

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

(4) Where a fishing licence has been suspended or cancelled on the grounds specified in section 15(2) (a), a portion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at his request.

Notice.

16. (1) Any notification given under section 13(5) or 15(3) shall be in writing, except as otherwise specified in subsection (2).

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

Appeals.

17. Any person aggrieved by any decision of the Chief Fisheries Officer under section 11 or section 15, . may within 21 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

Fish processing
establishment

18. (1) The Minister may grant to any person a licence to operate a fish processing establishment on payment of such fees and subject to such conditions as may be prescribed from time to time.

(2) Any person who operates or causes or allows to be operated any fish processing establishment except under a licence granted under this section and in accordance with the conditions of such licence is guilty of an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(3) In this section "fish processing establishment" means any land, vessel, premises or other place on or in which fish is processed to be sold in or outside Antigua and Barbuda and includes any premises on which fish purchased wholesale from any vessel is gutted, salted, iced, chilled or frozen.

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173

13

19. (1) The Minister may by notice published in the Gazette— Local fisheries
management areas

(a) designate an area as a local fisheries management area;

(b) designate any local authority, fishermen's co-operative or fishermen's association, or other appropriate body representing fishermen in the area as the local Fisheries Management Authority for that area,

(2) Where there is no appropriate body representing fishermen in the area, the Minister may promote the formation of such a body.

(3) The Chief Fisheries Officer shall, wherever practicable, provide to any Local Fisheries Management Authority such assistance as may be reasonably necessary for the performance of its functions,

20. (1) A Local Fisheries Management Authority designated under section 19(1) (6) shall make-by-laws, not inconsistent with this Act or any regulations made under this Act, regulating the conduct of fishing operations in the designated area. By-laws

(2) By-Laws made under sub-section (1) shall be approved by the Minister and published in the Gazette before they come into effect.

(3) By-Laws made under sub-section (1) may provide that a breach of any by-law shall constitute an offence and may provide for penalties on summary conviction by way of fine not exceeding five hundred dollars,

Part III

Marine Reserves and Conservation Measures

21. The Minister may, by notice published in the Gazette, declare any area of Antigua and Barbuda waters, to be a fishing priority area, where he considers that special measures are necessary to ensure that authorized fishing within the area, is not impeded or otherwise interfered with. Fishing priority
areas

LAWS OF ANTIGUA AND BARBUDA

14 CAP. 173) Fisheries

Marine
reserves

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

(a) to afford special protection to the flora and fauna of such areas and to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to flora and fauna in danger of extinction;

(b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted;

(c) to promote scientific study and research in respect of such areas; or

(d) to preserve and enhance the natural beauty of such areas.

(2) Any person who, in any marine reserve, without permission granted under- subsection (3)—

(a) fishes or attempts to fish;

(b) takes or destroys any flora and fauna other than fish;

(c) dredges, extracts sand or gravel, discharges or deposits waste or any other polluting matter, or in any other way disturbs, alters or destroys the natural environment; or

(d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve;

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

(3) The Minister, or any person authorized by him in writing, may give written permission to do any of the things prohibited under this section where the doing of such things may be required for the proper management of the reserve or for any of the purposes referred to in sub-section (1).

Fisheries
Research

23, (1) The Minister may, on the submission of a research plan, approved by the Chief Fisheries

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173

15

Officer, grant permission for any vessel or person to undertake research into fisheries in Antigua and Barbuda waters and in doing so may exempt such vessel or person from any of the provisions of this Act.

(2) The Minister may attach such conditions as he deems fit to any permission granted under sub-section (1).

(3) Any person who undertakes fisheries research in Antigua and Barbuda waters—

(a) without permission under sub-section (1); or

(b) in contravention of any condition attached to the permission under sub-section (2);
is guilty of an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Any permission or exemption granted under this section shall be in writing.

24. (1) Any person who—

Prohibited
fishing method

(a) permits to be used, uses or attempts to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or

(b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph,
is guilty of an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars.

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

(3) Any person who lands, sells, receives or is found in possession of any fish taken in contravention of sub-section (1) (a), knowing or having reasonable cause to believe them to have been so taken, is guilty of an offence and is liable

LAWS OF ANTIGUA AND BARBUDA

16 CAP. 173) Fisheries

on summary conviction to a fine not exceeding twenty thousand dollars,

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

Possession of prohibited fishing gear

25. Any person who within Antigua and Barbuda waters uses for fishing or has on board any fishing vessel, in circumstances which indicate an intention to use for fishing in Antigua and Barbuda waters—

(a) any net the mesh size of which is less than the prescribed minimum size for that fishery; or

(b) any other net OF fishing gear which is prohibited by this Act, is guilty of an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

Part IV

Enforcement

Designation of authorized officers

26. The Minister may designate from time to time by notice published in the Gazette such persons as he deems it, including members of the enforcement authority of any country or of any regional or sub-regional marine enforcement entity, to be authorized officers for the purposes of this Act.

Powers of authorized officers

27. (1) For the purposes of enforcing this Act, any authorized officer may, without a warrant—

(a) stop, board and search any foreign fishing vessel in Antigua and Barbuda waters and any local fishing vessel in or outside Antigua and Barbuda waters and stop and search any vehicle;

(b) require to be produced, examine and take copies of any licence or other document required under this Act;

(c) require to be produced and examine any fishing net or other fishing gear whether at sea or on land

(2) Any authorized officer, where he has reasonable grounds to believe that an offence has been committed under this Act may, without a warrant—

(a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reason to believe that the offence has been committed or where he has reason to believe that fish illegally taken are being stored;

(b) take samples of any fish found in any vessel, vehicle or premises searched under this section;

(c) seize any vessel (together with its gear, stores and cargo), vehicles, fishing gear, net or other fishing appliance which he has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed;

(d) seize any fish which he has reason to believe has been caught in the commission of the offence, or is being possessed in contravention of this Act;

(e) seize any explosive or poison which he has reason to believe has been used or is being possessed in contravention of this Act.

(3) Any vessel seized under sub-section (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other form of security in accordance with the provisions of section 32.

(4) Where following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of Antigua and Barbuda waters, the powers conferred on authorized officers under this section shall be exercisable beyond the limits of Antigua and Barbuda waters in the circumstances and to the extent recognized by international law.

LAWS OF ANTIGUA AND BARBUDA

18

CAP. 173)

Fisheries

(5) An authorized Officer in exercising any of the powers conferred on him by this section shall, on demand produce such means -of identification as may be necessary to show that he is an authorized officer for the purposes of this Act.

Sale of
perishable
goods
seized

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

(2) Where, after making all reasonable efforts, the Chief Fisheries Officer is unable to sell the fish or other articles referred to in subsection (1), he may dispose of them in such other manner as he thinks fit.

Immunity of
authorized
officers

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

Assaulting or
obstructing
authorized
officers

30. Any person who obstructs, assaults or threatens with violence any authorized officer in the exercise of the powers conferred on him under this Act is guilty of an offence and is liable to a fine not exceeding five thousand dollars and to imprisonment for five years.

Master liable
For offences
Committed on
Board his
Vessel

31. Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master of such vessel shall also be guilty of the offence.

Release of
Vessels etc.
On bond

32. The court may, on application therefore, order the release of any fishing vessel (together with its gear, stores and cargo), vehicle, fish, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming such property.

Court's powers
Of forfeiture

33. Where any person is convicted of an offence against this Act, the court, in addition to any other penalty imposed—

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173

19

(a) may order that any fishing vessel (together with its gear, stores and cargo) and any vehicle, fishing gear, net or other fishing appliance, used in the commission of the offence be forfeited;

(b) shall order that any fish caught in the commission of such offence or the proceeds of sale of such fish and any explosive, poison or other noxious substance used in the commission of such offence be forfeited.

34. (1) Until the contrary is proved, all fish found on board any fishing vessel which has been used in the commission of an offence against this Act shall be presumed to have been caught in the commission of that offence. Presumption

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

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

36. Any vessel (together with its gear, stores and cargo), and any vehicles, fishing gear, net or other fishing appliance, explosive, poison or other noxious substance ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct. Disposal
vessels etc
forfeiture

37. Any offence against any of the provisions of this Act or any regulations made under this Act committed within Antigua and Barbuda waters by any person, or any such offence committed outside such waters by any citizen of or person ordinarily resident in Antigua and Barbuda or by any person on board any local fishing vessel, shall be triable Offence
triable as
if committed
within limits
of local
jurisdiction

LAWS OF ANTIGUA AND BARBUDA

20

CAP. 173)

Fisheries

in any court of Antigua und Barbuda as if such offence had been committed in Antigua and Barbuda within the, local limits of. the jurisdiction of such court.

Minister's power
To compound
Offences.

33. (1) Subject to subsection (4), the Minister may where he is satisfied that any person has committed an offence against this Act or any regulations made under this Act compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence.

(2) On compounding an offence under this section the Minister may order the release of any article seized under section 27 or the proceeds of sale of such article under section 28 on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

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

(4) The compounding of an offence under this section shall be notified in writing under the signature of both parties to the appropriate Magistrate's court.

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

(6) This section does not apply to any offence against section 24 or section 30 of this Act.

Part V

General

Regulations.

39. (I) The Minister may make regulations generally for the management and development of fisheries in Antigua and Barbuda waters.

LAWS OF ANTIGUA AND BARBUDA

Fisheries

(CAP. 173 21

(2) In particular' without limiting the generality of subsection (1) the Minister may make regulations for all or any of the following purposes—

(a) providing for the licensing, regulation and management of any particular fishery;

(b) prescribing fisheries management and conservation measures including minimum mesh sizes, minimum species sizes, closed seasons, closed areas, prohibited methods of fishing and schemes for limiting entry into all or any specified fisheries;

(c) prescribing the constitution, functions and duties of the Fisheries Advisory Committee appointed under section 5;

(d) regulating the catching and utilization of fish taken incidentally when fishing for a species for which a licence has been issued;

(e) providing for the registration and licensing of fishermen, fishing gear and other fishing appliances;

(f) organizing and regulating sport fishing in Antigua and Barbuda waters;

(g) regulating the landing, marketing and distribution of fish;

(h) regulating the transiting of foreign fishing vessels through Antigua and Barbuda waters, including the manner in which fishing gear is to be stowed;

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

(j) prescribing the form of foreign fishing licences, which may take the form of a written licence or a telexed or cabled authorization;

(k) providing for the implementation of any agreement or arrangement entered into under section 6

(l) regulating or prohibiting the entry into any fishing priority area, established under section 21, of any class of vessel and prescribing any activities which may not be undertaken in that area;

LAWS OF ANTIGUA AND BARBUDA

22

CAP. 173)

Fisheries

(m) providing for the licensing and control of fish aggregated devices and for rights to fish aggregated by such devices;

(n) regulating—

(i) the management and protection of marine reserves and fishing priority areas,

(ii) the taking of coral and shells,

(iii) the setting of fishing fences,

(iv) the taking of aquarium fish,

(v) aquaculture development;

(o) prescribing measures for the protection of turtles, lobsters and conchs;

(p) to provide for the control or prohibition of the import and export of fish;

(q) prescribing any other matter which is required or authorized to be prescribed.

(3) The Minister may, by Regulation, provide that the breach of any regulation made under this Act shall constitute an offence and may provide for penalties on summary conviction of a fine not exceeding five thousand dollars.

Exemption

40. The Minister may, by Order published in the Gazette, exempt any person or vessel, or establishment or class of persons or vessels or establishments from any of the requirements of this Act.

Commencement

41. (1) Subject to sub-section (2), this Act shall come into force on such date as the Minister may appoint by Order published in the Gazette.

(2) The licensing provisions of this Act in respect of local fishing operations shall not come into force until the Minister by Order published in the Gazette declares that these provisions are to come into effect.

