

CHAPTER 388

THE DEEP SEA FISHERIES MANAGEMENT AND DEVELOPMENT ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 388

THE DEEP SEA FISHERIES MANAGEMENT AND DEVELOPMENT ACT

An Act to make provisions for recognition of the existence of the Deep Sea Fishing Authority, provide for administration of the Authority, management and development of fisheries conservation and related activities in all areas which the United Republic exercises jurisdiction; for the exercise of effective control of fishing and related activities of nationals of the United Republic in areas beyond national jurisdiction; for the repeal of the Deep Sea Fishing Authority Act, 1998 and to provide for related matters.

[12th October, 2020]

[GN. No. 883 of 2020]

Act No.
5 of 2020

PART I

PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Deep Sea Fisheries Management and Development Act.

Application **2.**—(1) This Act shall apply to Mainland Tanzania as well as Tanzania Zanzibar.

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(2) This Act shall be construed as being in addition to and not in derogation of the Territorial Sea and Exclusive Economic Zone Act for fishing purposes in the Exclusive Economic Zone and other areas which the United Republic exercises jurisdiction rights or sovereign rights, and shall for all fishing intents and purposes complement that Act.

(3) This Act shall have extraterritorial application according to its provisions and tenor.

Interpretation

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

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

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

“Authorised Fishing Vessel” which is also known by its acronym as “AFV”, in relation to an international conservation and management measure, means a fishing vessel on the record of fishing vessels of an applicable regional fisheries management organisation that is:

(a) larger than twenty four metres in length overall; or

(b) in case of fishing vessels less than twenty four metres in length overall, those operating in waters outside the Exclusive Economic Zone of the flag state, and hold a valid and applicable authorisation to fish in the area of competence of such regional fisheries management organisation;

“authorised officer” means officers of the Authority, fisheries officers of the Government, ministries responsible for fisheries, members of police force, members of defense force, KMKM, officers of Customs and Revenue Department or any other person designated as such by the Minister;

“Authority” means the Authority established under section 5;

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

“by catch” means part of a catch of a fishing unit taken incidentally in addition to the target species towards which fishing effort is directed;

“carcass” in relation to sharks, means all parts of the shark except for the head and viscera;

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“Court” means the High Court of Tanzania or the High Court of Zanzibar, as the case may be;

“data buoy” means floating devices, either drifting or anchored, that are deployed by governmental organisations, recognised scientific organisations or entities for the purpose of electronically collecting and measuring environmental data and excludes fishing activities;

“Director General” or “Deputy Director General” means the Director General or Deputy Director General of the Authority appointed under section 15 of this Act;

“Exclusive Economic Zone” shall have a meaning ascribed to it under the Territorial Sea and Exclusive Economic Zone Act;

“Executive Committee” means the Committee established under section 8;

“fish” means all forms of aquatic or amphibious marine life and includes finfish, shell fish, dugong, turtle, dolphins and whales and their spat, brood, fry, spawn, ova or young;

“Fish Aggregating Devices” which is also known by its acronym as “FADS” means an object or group of objects of any size, whether drifting, anchored or deployed or not, that is natural, manufactured or a combination of both and includes buoys, floats, netting, webbing, plastics, metals, bamboo, logs and objects with electronic devices affixed floating or designed to float on or near the surface of the water with which fish may associate, and any natural floating object on which associated electronic equipment has been placed to facilitate its location;

“fisher” includes a person employed or engaged in any capacity or carrying out an activity on board any fishing vessel and persons working on board who are paid on the basis of a share of the catch;

“fishery” means-

- (a) one or more stocks of fish, or parts thereof, 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 inspector” means any person appointed under section 16(1)(n);

“fishery observer” means any person appointed under section 16(1)(n);

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

“fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish, and includes the deployment, monitoring and retrieving of Fish Aggregating Devices;

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

“flag state” means the state under whose laws the vessel is registered, and whose flag a ship flies and is entitled to fly;

“foreign fishing vessel” means any fishing vessel other than a Tanzanian fishing vessel;

“gear” in relation to fishing, means any equipment, implement or other item that can be used in the act of fishing, and includes any net, rope, line, float, trap, hook, Fish Aggregating Device, winch, boat, craft or aircraft carried on board a vessel or aircraft or vehicle used in association with this Act;

“instrumented buoy” means a buoy, associated with a drifting Fish Aggregating Devices, 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 the United Republic entered into with another state or other states;

“KMKM” is an acronym of the words “Kikosi Maalum cha Kuzuia Magendo”;

“International Conservation and Management Measure” which is also known by its acronym as “ICMM” means any measure to conserve and manage fish or fisheries that are adopted and applied consistently with the relevant rules of international law, including those reflected in the 1982 United Nations Convention on the Law of the Sea and the 1995 United Nations Fish Stocks Agreement, by any regional fisheries management organisation, treaty, agreement or arrangement applicable to the United Republic;

“landing” in relation to fish, means bringing any fish or fish product to a port or other landing site and offloading it from the vessel, and “landed fish” may refer to the number or weight of such fish;

“licensing officer” means a person appointed under section 16(1)(n);

“Minister” means the Minister responsible for fisheries in Mainland Tanzania;

“Ministers” means the Minister responsible for fisheries in Mainland Tanzania and the Minister responsible for fisheries in Tanzania Zanzibar;

“Mobile Transceiver Unit” which is also known by its acronym as “MTU” means a device approved by the Director General, which is installed on board a fishing vessel and 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 fishing vessel at all times;

“national”, when referring to a national of the United Republic, includes persons as well as vessels registered in accordance with the laws relating to maritime transport and other applicable laws of the United Republic;

“national fishing logbook” or “fishing logbook” means any permanently bound logbook issued by the flag state of a vessel and required for any purpose relating to fishing or related activities, with irremovable pages, each of which is consecutively numbered and printed with an applicable serial number;

“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” shall have a meaning as ascribed to it under the 2003 United Nations Convention against Transnational Organised Crime and includes a group of three or more persons that were not randomly formed and has existed over a period of time and that acts in concert with the aim of committing a crime punishable by at least four years’ incarceration in order to obtain, directly or indirectly, a financial or other material benefit;

“public notice” includes the posting of relevant requirements of an applicable international conservation and management measure upon a publicly available website associated with the Authority;

“Regional Fisheries Management Organisation” which is also known by its acronym as “RFMO” means an inter-governmental fisheries organisation or arrangement, as appropriate, that has the competence to establish international conservation and management measures;

“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, trans-shipping 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;

“relevant RFMO” means an RFMO in which the United Republic is a member or is otherwise legally bound by ICMMS adopted in accordance with its procedures;

“Tanzania Fishing Vessel” means a fishing vessel registered in accordance with this Act and other applicable laws of Tanzania and which holds a valid and applicable registration issued by Tanzania Maritime Authorities and flies the Tanzanian flag and does not have a registration issued by any other state;

“targeted species” means main fish species which a fishing vessel is licensed to harvest;

“Technical Advisory Committee” means the Technical Advisory Committee established under section 11;

“transnational crime” includes-

- (a) offences committed in more than one state and offences which 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;

“trans-shipment” means the transfer of fish or fish products to or from any vessel, and includes the transfer of fish or fish products from a vessel to a land-based facility exclusively for purposes of promptly on loading to another vessel, without being subject to importation into the country where the land-based facility is located;

“use of port” means use for landing, trans-shipping, packaging or processing of fish or for other port services including, re-fueling, resupplying, maintenance and dry docking;

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

“vessel monitoring operations centre” means a centre established pursuant to this Act; and

“Vessel Monitoring System” which is also known by its acronym as “VMS” means a satellite-based reporting system to monitor position and activities of fishing vessels for the purpose of effective management of fisheries.

Scope of Act

4. The scope of this Act shall include-

- (a) all fishing and related activities and any other activity or matter, and all persons, vessels and vehicles falling within the scope of this Act or any applicable international conservation and management measure;
- (b) all persons and all vessels in, and in relation to areas beyond national jurisdiction-
 - (i) following hot pursuit initiated in waters under the jurisdiction of the United Republic and conducted in accordance with international law; or
 - (ii) as required pursuant to this Act or international conservation and management measures or permitted by international law or any international agreement; and
- (c) all Tanzanian fishing vessels and persons on Tanzanian fishing vessels or dealing with or having any relevant relationship to them or persons associated with them, in and in relation to any areas within or beyond national jurisdiction in so far as this is not in conflict with the jurisdiction of another state.

PART II

**ESTABLISHMENT OF THE DEEP
SEA FISHING AUTHORITY**

Establishment of
Authority

5.-(1) There is hereby established an Authority to be known as the Deep Sea Fishing Authority.

- (2) The Authority shall be a body corporate and shall-
 - (a) have perpetual succession and a common seal;
 - (b) in its corporate name, be capable of suing and being sued;
 - (c) be capable of acquiring, holding and disposing of movable and immovable property; and
 - (d) have exclusive authority for the exploration, exploitation, conservation and management of fisheries in the Exclusive Economic Zone in accordance with the

law relating to Territorial Sea and Exclusive Economic Zone; and

- (e) exercise such other powers and perform such functions which are necessary for the proper performance of its functions or which may be performed under this Act.

(3) The headquarters of the Authority shall be in Tanzania Zanzibar, and for purposes of the smooth execution of its functions, the Authority may establish branches in any part of the United Republic.

Functions of
Authority

6. The functions of the Authority shall be to-

- (a) formulate, implement and monitor the implementation of national policy and strategies concerning the conservation, management, development and sustainable use of fishery resources in the Exclusive Economic Zone;
- (b) develop, manage and control all activities relating to fisheries, including fishing and related activities, in relation to the Exclusive Economic Zone and all other areas, persons and activities within the application and scope of this Act including:
 - (i) formulating appropriate standards on management, development and protection of the fishery resources that occur in the Exclusive Economic Zone;
 - (ii) developing guidelines for the preparation of fisheries specific management plans and developing plans for fishery resources that occur in the Exclusive Economic Zone;
 - (iii) concluding agreements for fisheries access by non-citizens and non-nationals, including foreign fishing vessels;
 - (iv) in collaboration, as may be appropriate, with Mainland Tanzania and Tanzania Zanzibar, managing fishing by citizens of the United Republic in or from vessels registered in the United Republic;

- (v) regulating and administering the issuance of licences, authorisations and other required permissions for activities within the scope of this Act;
- (vi) collecting and analysing data relating to fishery resources and related activities in the Exclusive Economic Zone and other areas in which the United Republic exercises jurisdiction or rights or has responsibilities pursuant to any international conservation and management measure; and
- (vii) coordinating or undertaking monitoring, control, surveillance and enforcement of all activities within the scope of this Act;
- (c) determine fees, charges, resource rent or royalties;
- (d) identify and promote any necessary means toward generating income and social benefits;
- (e) formulate and coordinate programmes for scientific, economic, social or other research in relation to the fisheries;
- (f) negotiate and enter into any contract, agreement or cooperation with any national and regional fisheries management institution or organisation, international organisation or other institution in relation to any matter within the scope of this Act;
- (g) safeguard the marine environment of the Exclusive Economic Zone; and
- (h) do or undertake any other act or thing required or permitted to be done in furtherance of the objectives, purposes and provisions of this Act.

PART III

ADMINISTRATION OF THE AUTHORITY

Organs of
Authority

7. The Authority shall consist of the following organs:
- (a) the Executive Committee;
 - (b) the Technical Advisory Committee; and
 - (c) the Management.

Executive
Committee

8.-(1) The Executive Committee shall consist of the following members:

- (a) Permanent Secretary of the Ministry responsible for fisheries in Mainland Tanzania;
- (b) Principal Secretary of the Ministry responsible for fisheries in Tanzania Zanzibar;
- (c) Permanent Secretary of the Ministry responsible for defense;
- (d) Permanent Secretary of the Vice President's office responsible for Union matters;
- (e) Principal Secretary of the Second Vice President's Office;
- (f) Principal Secretary responsible for special departments in Tanzania Zanzibar;
- (g) Permanent Secretary of the Ministry responsible for finance in Mainland Tanzania;
- (h) Principal Secretary of the Ministry responsible for finance in Tanzania Zanzibar; and
- (i) the Director General who shall be the Secretary of the Executive Committee.

(2) The Deputy Director General and directors of fisheries from both sides of the Union shall be members of the Secretariat.

(3) For the purposes of smooth, transparent and effective discharge of the functions of the Authority, the Chairmanship of the Executive Committee shall alternate after one meeting between the Permanent Secretary of the Ministry responsible for fisheries in Mainland Tanzania and the Principal Secretary of the Ministry responsible for fisheries in Tanzania Zanzibar.

Functions
of Executive
Committee

9. The Executive Committee shall have the functions to:

- (a) appoint officers of the rank of director or manager, in the management of the Authority, on the criteria, terms and conditions determined by the Committee;
- (b) establish committees, sub-committees, working groups or other subsidiary body of the Authority as may be considered necessary;

- (c) receive and review an annual report;
- (d) approve and monitor the budget, work programmes and projects of the Authority;
- (e) approve and monitor implementation of any policy concerning any or all matters under this Act;
- (f) consider and as appropriate, take action on performance reports relating to the Authority;
- (g) approve criteria for the issuance of licences and authorisations; and
- (h) perform any other functions as may be directed or approved by the Ministers for better implementation of this Act.

Meetings and
procedure
of Executive
Committee

10.—(1) The Executive Committee shall ordinarily meet at least twice a year, and may hold an extraordinary meeting where a Chairperson, considering the effective discharge of the functions of the Authority, so determines.

(2) The Executive Committee shall meet at such times and places as may be specified by notice in writing, to members of the impending meeting.

(3) The quorum at any meeting of the Executive Committee shall be at least half of the members from each sides of the Union:

Provided that, in all meetings the Permanent Secretaries responsible for fisheries for both sides of the Union shall be present.

(4) The Executive Committee shall adopt financial and staff regulations for the Authority.

(5) The Executive Committee shall regulate its own proceedings.

(6) The Executive Committee shall report to the Ministers.

(7) Where the Executive Committee fails, for any reason, to reach a decision on any matter within its jurisdiction, the Chairperson shall refer that matter to the Minister who shall consult with the Minister responsible for fisheries in Tanzania Zanzibar, and their decision shall be binding upon both sides of the Union.

Technical
Advisory
Committee

11.-(1) The Technical Advisory Committee shall consist of the following members:

- (a) the Director responsible for fisheries of Mainland Tanzania;
- (b) the Director responsible for fisheries of Tanzania Zanzibar;
- (c) two law officers from the office of the Attorney General, one from each side of the Union;
- (d) two fisheries economists, one from each side of the Union;
- (e) two marine scientific researchers from research institutions, one from each side of the Union; and
- (f) two other members having knowledge and experience in the fishing industry, one from each side of the Union.

(2) The Director General shall be the Secretary to the Technical Advisory Committee.

Functions
of Technical
Advisory
Committee

12. The functions of the Technical Advisory Committee shall be to-

- (a) consider technical aspects of fisheries, including scientific, biological, social, economic and cultural, and provide advice in accordance with the objectives of this Act;
- (b) make proposals for fisheries policies to be formulated by the Executive Committee;
- (c) evaluate proposed fisheries projects and monitor ongoing projects of the Authority and report to the Executive Committee for consideration or approval;
- (d) evaluate and advise on the type of fishing vessels, fishing gears and sustainable fishing methods to be permitted in the management of fisheries under this Act;
- (e) evaluate performance reports on the administration and management of the Authority and report to the Executive Committee;

- (f) consider the budget proposed by the Director General and submit it to the Executive Committee for its consideration and approval; and
- (g) perform any other functions as may be directed by the Executive Committee for better implementation of this Act.

Meetings and
procedure
of Technical
Advisory
Committee

13.—(1) The Technical Advisory Committee shall ordinarily meet twice yearly and may hold an extraordinary meeting where the Chairperson, considering the effective discharge of the functions of the Authority, so determines.

(2) The Technical Advisory Committee shall meet at such times and places as may be specified in the notice in writing, notifying members of the impending meeting.

(3) The Technical Advisory Committee shall regulate its own procedure.

(4) The Chairmanship of the Technical Advisory Committee shall alternate after one meeting between the Director responsible for fisheries of Mainland Tanzania and Tanzania Zanzibar.

Management of
Authority

14.—(1) There shall be a Management of the Authority which shall perform institutional management and administrative functions, and be headed by the Director General.

(2) The Management of the Authority shall consist of the following members:

- (a) the Director General;
- (b) the Deputy Director General;
- (c) Directors of the Departments; and
- (d) other officers as may be required subject to the need of the organisation structure of the Authority.

(3) The Director General shall be the chief executive officer of the Authority.

(4) The Deputy Director General shall be the chief assistant to the Director General and shall assist him in day to day activities of the Authority.

Appointment of
Director General
and Deputy
Director General

15.—(1) There shall be the Director General and Deputy Director General of the Authority who shall be appointed by the President of the United Republic after consultation with the President of Zanzibar.

(2) The Director General and Deputy Director General shall hold office for a term of three years and shall be eligible for reappointment after rotation.

(3) For the purpose of ensuring equal representation of both sides of the Union, the Director General and Deputy Director General shall, at any given time, be appointed one from Mainland Tanzania and the other from Tanzania Zanzibar, and subsequent appointments for each position shall alternate between the two sides of the Union.

(4) A person qualifies to be appointed as a Director General or Deputy Director General if that person has at least a first degree related to fisheries from a recognised university, and experience in that field for at least seven years of which five years shall be in managerial level.

Functions
and powers of
Director General

16.—(1) The functions and powers of the Director General shall be to—

- (a) supervise, manage and control the affairs of the Authority;
- (b) coordinate and facilitate the preparation of policy, plans and strategies concerning fisheries conservation, management, development and sustainable use of fishery resources;
- (c) prepare an annual report, including the budget and work programme of the Authority;
- (d) manage and coordinate as may be appropriate, through operating with other agencies of government, other governments, non- governmental organisations, regional bodies, regional fisheries management organisations and international organisations—
 - (i) the conservation, management, development and sustainable use of fishery resources;

- (ii) the monitoring, control and surveillance of activities;
 - (iii) relevant quality control activities; and
 - (iv) any other activity that falls within the scope of this Act;
- (e) give effect to the responsibilities under paragraph (d) by recommending for consideration and implementation such measures as may be necessary to implement conservation and management measures in accordance with the objectives of this Act and any international agreement;
- (f) give directives to the members of management and other staff of the Authority;
- (g) monitor and advise on international developments in fishery matters and ensure the fulfillment of obligations of the United Republic under international agreements;
- (h) make decisions relating to the issuance, refusal, suspension and revocation of licences, authorisations and other forms of permission required under this Act;
- (i) establish and maintain an information system concerning activities within the scope of this Act, including-
 - (i) all information required under any international agreement, including applicable regional fisheries management organisations;
 - (ii) all relevant information on the application and grant of licences, authorisations or other forms of permission required under this Act;
 - (iii) all information on activities of vessels, including their operators, operating under licence, authorisation or other permission given under this Act relating to catches, by catches, discards, trans-shipments and other related activities;
 - (iv) activities carried out in violation of this Act, including details of any relevant legal or administrative action; and

- (v) any other information that may be required by the Director General or the Executive Committee.
- (j) promote and facilitate-
 - (i) fisheries research, training and education;
 - (ii) the development of Fisheries Management Plans; and
 - (iii) the sustainable development of the fisheries and associated industry, taking into account the objectives of this Act;
- (k) liaise with the Technical Advisory Committee;
- (l) make recommendations on any matter under the Director General's authority and take into account the advice and recommendations of any committees established under this Act;
- (m) appoint the staff of the Secretariat, other than those appointed by the Executive Committee pursuant to section 9 of this Act, in accordance with the staff regulations of the Authority and other procedures and requirements that may be established;
- (n) appoint in writing among officers of the Authority to be licensing officers, fisheries inspectors, fisheries observers or authorised officers to carry out duties as prescribed in the regulations; and
- (o) perform such functions or exercise such powers as may be prescribed or necessary to carry out the objectives and provisions of this Act.

(2) For the purpose of subsection (1)(i)(iii), the term "discard" means the portion of the total catch which is thrown away or slipped at sea, because it is of little or no economic interest to the fisher, or management regulations which may restrict landings *inter alia* the minimum size or quota.

(3) The Director General may, either generally or as otherwise provided by instrument of delegation, delegate to any officer any power or duty conferred or imposed to the Director General by this Act, other than powers stipulated under subsection (1)(h), (l), (m) and (n).

Staff and officers
of Authority

17.—(1) There shall be employed by the Authority such number of employees in such categories and titles as may be necessary for the efficient discharge of the functions of the Authority and on such terms and conditions as may be determined by the Authority.

(2) Employment of staff for the Authority shall, other than the Director General and Deputy Director General, be permanent employment governed by employment and labour laws for the time being applicable to the United Republic.

(3) The Director General may, in consultation with the Executive Committee, employ persons for specific task on temporary basis.

Limitation of
liability

18. A person authorised to perform the functions of the Authority shall not be personally liable for any loss or damage suffered to any person by reason of anything done or not done in good faith.

Power to delegate
functions of
Authority

19.—(1) The Authority may, in consultation with the Executive Committee, delegate some of its functions to any authorised person to act on its behalf.

(2) The functions under subsection (1), may be exercised subject to such conditions, qualifications, limitations or exceptions as the Authority may direct.

Conflict of
interest

20.—(1) Where a person discharges responsibilities or performs functions or duties that fall within the scope of this Act, such person shall, if has an interest of a financial or fiduciary nature or otherwise that conflicts with such functions or duties, be required to promptly disclose in writing the nature of such interest.

(2) Where a disclosure is made pursuant to subsection (1), the Minister or the Director General, shall appoint another officer to perform such functions in respect of that matter.

(3) For the purposes of this section, a person has an interest in a matter if he-

- (a) may derive a financial or in-kind benefit from the matter;
- (b) is the spouse, child or parent of a person who may derive a financial benefit from the matter;
- (c) may have a financial interest in a person to whom the matter relates;
- (d) may have a fiduciary relationship with a person to whom the matter relates;
- (e) is a partner, director, officer, board member or trustee of a person who may have a financial interest in a person to whom the matter relates; or
- (f) may be interested in the matter because this Act so provides.

(4) The Authority shall not engage in any activity which would result in a conflict of interest with its functions and objectives.

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

PART IV

FISHERIES CONSERVATION, MANAGEMENT AND DEVELOPMENT

Conservation
and management
measures

21.-(1) The Authority shall, in giving effect to its responsibilities pursuant to this Act, develop, implement, monitor and enforce conservation and management measures necessary to ensure the long-term sustainable use of fishery resources.

(2) Subject to subsection (1), the conservation and management measures shall be prescribed in the regulations.

(3) Without prejudice to the jurisdiction and sovereign rights of the United Republic over resources in the Exclusive Economic Zone, conservation and management measures

shall implement applicable international conservation and management measures, action plans and as may be appropriate, scientific recommendations adopted by any relevant regional fisheries management organisation.

(4) Conservation and management measures shall be developed, where necessary, taking into account consultations with stakeholders.

(5) A person who contravenes any conservation and management measure taken pursuant to this Act commits an offence and on conviction, shall be liable to a fine as set out in the Second Schedule or any other penalty that may be provided under this Act.

Fisheries research
in Exclusive
Economic Zone

22.—(1) The Director General shall, in collaboration with relevant research institutions and other stakeholders or as may be advised by the Technical Advisory Committee, arrange for research to be carried out concerning fisheries in the Exclusive Economic Zone.

(2) Research conducted under subsection (1) may include-

- (a) fish stock assessment;
- (b) studies on fish migratory patterns;
- (c) fishing season;
- (d) fish biology;
- (e) biodiversity;
- (f) environment;
- (g) ecology;
- (h) socio-economic factors;
- (i) Monitoring Control and Surveillance; or
- (j) any other research relating to fisheries.

(3) Where a research under this section involves an operator of a fishing vessel holding a licence or authorisation issued under this Act, the Director General may enter into an agreement with such operator to participate in such research or tagging programme, and such agreement shall include requirements for the operator to-

- (a) retain the tags onboard; and

- (b) report to the Director General together with data on vessel name, catch position, date of capture, length and weight of individual tagged fish and name of person reporting the capture.

Implementation
of regional
conservation and
management
measures

23.—(1) The requirements of any applicable ICMM in the United Republic shall, without prejudice to the jurisdiction and sovereignty of the United Republic and upon such public notice of the applicable ICMM requirements, apply to—

- (a) any owner, operator or master of any Tanzanian fishing vessel that holds a valid licence or authorisation issued by the Authority and is entered on the Record of Authorised Vessels of a relevant RFMO and authorised to fish for the species and in the area of competence under the mandate of such RFMO;
- (b) any owner, operator or master of any other fishing vessel that falls under this Act and the applicable ICMM; or
- (c) any Tanzanian citizen.

(2) It shall be a condition of every licence, authorisation or other permission issued pursuant to this Act that each of the owner, operator and master of a relevant fishing vessel shall comply with the requirements of any ICMM from the date of public notice unless the Director General notifies an extension for a reasonable period of time to allow arrangements for compliance to be made.

(3) The Director General shall notify holders of licences and authorisations of the relevant obligations of each applicable ICMM upon its date of public notice to this Act.

(4) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

Fisheries
Management
Plans

24.—(1) The Executive Committee may designate priority fishery or fisheries for the purpose of developing Fisheries Management Plans and in doing so shall take into account recommendations of the Technical Advisory Committee, applicable regional fishery bodies and international conservation

and management measures adopted by applicable regional fisheries management organisations.

(2) The Director General may, in consultation with the stakeholders, prepare or cause to be prepared Fisheries Management Plans for any fishery or fisheries under this Act.

(3) Subject to subsection (2), the Director General shall prepare or cause to be prepared Fisheries Management Plans for any fishery designated as a priority by the Executive Committee in accordance with subsection (1).

(4) A Fisheries Management Plan under subsection (2) shall be approved by the Ministers.

(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;

(ii) possible adverse effects of fishing on the resource and environment; and

(iii) regional and international context, if applicable;

(b) specify the management objectives for the fishery;

(c) identify the process for development and implementation of the Fisheries Management Plan;

(d) specify management measures to be applied to the fishery;

(e) specify plans for monitoring and review of the fishery and the Fisheries Management Plan; and

(f) where appropriate, make provision in relation to any other matter necessary for effective conservation and sustainable use of the fishery resources.

(6) When approval has been given for a Fisheries Management Plan pursuant to subsection (4), the Minister shall cause-

(a) the Plan to be published in the *Gazette*; and

(b) copies of the Plan to be made available on the Authority website and any other place as the Minister considers appropriate.

(7) The Minister may make regulations prescribing for the management measures, fines and penalties, as well as the licensing and enforcement powers and other requirements in Fisheries Management Plan.

Marking and protection of set fishing gears

25. The operator of any fishing vessel in the Exclusive Economic Zone or of any Tanzanian fishing vessel within the area of competence of a relevant RFMO shall ensure that fishing gear set in the sea is clearly marked in a manner prescribed in the regulations.

Control of fishing efforts

26. The Minister may, in consultation with the Executive Committee and the Minister responsible for fisheries in Tanzania Zanzibar, make regulations prescribing for control of fishing efforts including Fish Aggregating Devices; fish on data buoys, fishing methods and gears, the use of aircraft and artificial light.

Prohibition to tamper with, use or destroy property of another in Exclusive Economic Zone

27.-(1) A person shall not, within the Exclusive Economic Zone-

- (a) remove any fish from any fishing gear unless such person is the owner or is acting with the authority of the owner;
- (b) tamper with, destroy, damage or impair the functioning of any fishing gear which belongs to another person;
- (c) tamper with, destroy, damage, remove or take any part of a fish aggregating device, artificial reef, mooring buoy, float, trap or other devices which have been authorised and deployed in accordance with this Act and belongs to another person; or
- (d) engage in fishing for fish aggregated by, or within half a nautical mile from a fish aggregating device that belongs to another person, unless such other person has expressly been given permission to do so.

(2) This section shall not limit powers of an authorised officer or prevent the disposal of unauthorised gear or equipment in accordance with this Act.

(3) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

(4) For the purposes of this section, “property” includes things and rights that can be owned or that have a monetary value, and includes fishing vessels, gear and any fish caught, enmeshed, encircled or controlled by a person.

Prohibition to use, possess on vessel, import, purchase or sell prohibited gear

28.—(1) A person shall not—

- (a) use for fishing any fishing gear which does not conform to requirements of this Act and an operator of a vessel shall not, where it is prohibited, permit such fishing gear on board any vessel in the Exclusive Economic Zone; or
- (b) import, buy or sell a driftnet or any other fishing gear prohibited under this Act.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act, and in addition, the prohibited gear shall be seized by the court.

Prohibition of interference with inspected fish and fish products

29.—(1) A person shall not, except with the written permission of the Director General—

- (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 officer; or
- (c) unseal or leave unsealed any boxes that have been inspected by an authorised officer.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding

the maximum amount set out in the Second Schedule to this Act, and in addition, any fish or fish products shall be seized by the court.

Prohibition of possession, trade or export of fish or fish products

30.—(1) A person shall not buy, sell, possess, export or otherwise trade fish or fish products taken or obtained in contravention of this Act.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount described in the Second Schedule to this Act, and in addition, all fish or fish products shall be seized by the court.

Prohibition of trade of fish and fish products taken or obtained in contravention of laws of another State

31.—(1) A person shall not, in any area under the jurisdiction of the United Republic, on their own account or in any other capacity—

- (a) cause or permit a person acting on their behalf to take, import, export, land, trans-ship, transport, trade, sell, receive, acquire or buy any fish or fish product that was caught in contravention of the laws of another state; 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) This section applies to all persons, vessels, fishing, related activities and other activities governed by this Act.

(3) In this section, “illegal fish or fish product” means fish or fish product taken, possessed, transported or sold in violation of any law or regulation of another state or of any international conservation and management measure.

(4) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

(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 the United Republic have been deducted.

Declaration of
and prohibitions
respecting
protected,
threatened or
endangered
species

32.—(1) The Minister may, on the advice of the Director General and in consultation with the Minister responsible for fisheries in Tanzania Zanzibar and the Ministers responsible for environment in Mainland Tanzania and Tanzania Zanzibar, by order published in the *Gazette*, declare any fish as protected, threatened or endangered—

- (a) that are designated as protected or endangered under an international agreement; or
- (b) that the Director General recommends to be declared as protected, threatened or endangered, based on the best available scientific evidence.

(2) A person shall not 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) A person who contravenes subsection (2), commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act, and in addition, the fish or fish products shall be seized by the court.

Designation of
zones or areas

33.—(1) The Minister may, upon the recommendation of the Executive Committee and in consultation with the Minister responsible for fisheries in Tanzania Zanzibar, and by order published in the *Gazette*, declare any zone or area within the Exclusive Economic Zone for—

- (a) purpose that is consistent with the objectives of this Act;
- (b) the conservation, management or protection of fishery resources;
- (c) the development of the fishing industry in the United Republic; or

(d) any other purposes that are consistent with the objectives of this Act.

(2) The Director General 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.

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

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

(4) A person who contravenes subsection (3), commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act:

Provided that, in the event of contravention of subsection (3)(b), the offender shall be liable to full compensation for any destruction or adverse impacts and restoration of the zone or area to its original state.

Marine
environmental
quality

34.-(1) A person shall not introduce into the Exclusive Economic Zone, 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 marine environment.

(2) The operator of any fishing vessel shall-

- (a) take back to port for disposal any unused bait and waste generated on a fishing vessel by fish processing or other human activities; and

(b) carry out bunkering operations in compliance with subsection (1).

(3) A person shall not, without a written authorisation of the Director General, leave in or in a position to enter the Exclusive Economic Zone, any fishing 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 Director General.

(4) The Director General may cause the fishing gear or any other non-biodegradable object referred to in subsection (3) to be removed by any other person authorised for that purpose, 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 subsections (1), (2) or (3), commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act, and be liable for full compensation in respect of any loss or damage as well as the full cost of restoring the affected habitat to its previous state.

PART V

REQUIREMENTS FOR FISHING VESSELS AND FISHERIES ACCESS

(a) General Requirements for Fishing Vessels

Licences,
authorisation or
other permission
required

35.-(1) A person shall not, being an operator of a fishing vessel, engage in any fishing activities unless such person has a valid and applicable licence, authorisation or other permission issued in accordance with this Act.

(2) Subject to subsection (1), the terms and conditions of licence, authorisation and other permission shall be prescribed in the regulations.

Terms and conditions for compliance by holders of licences, authorisations or other permissions

36.—(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, and any other written law, applicable Access Agreement and any applicable international conservation and management measure; and
- (c) comply with all relevant provisions of the laws of the United Republic relating to navigational standards, seaworthiness and safety of vessels at sea.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act, and in addition, the person's licence may be suspended or cancelled.

Gear stowage

37.—(1) The operator of a—

- (a) fishing vessel in any place or at any time in the Exclusive Economic Zone, where it is not licensed or authorised for fishing or related activities, or where this Act or any written law prohibits fishing or related activities; or
- (b) Tanzanian fishing vessel when navigating in areas beyond the Exclusive Economic Zone, where it has not been authorised for fishing or related activities pursuant to 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) An operator who contravenes this section commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

Prohibitions on
use of fishing
vessels for
transnational
organised crime

38.—(1) A person, being an operator of any fishing vessel in the Exclusive Economic Zone, or of a fishing vessel registered in the United Republic that is within or beyond areas under national jurisdiction of the United Republic shall not-

- (a) use the fishing vessel; or
- (b) cause or allow the fishing vessel to be used, whether or not there was knowledge or intention of such use, for any purpose related to transnational organised crime.

(2) A person, being a member of, or associated with a transnational criminal group shall not be permitted to engage in any activity under this Act, and any licence, authorisation or other permission issued without knowledge of such association shall be immediately cancelled upon reasonable proof of such membership or association.

(3) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount as set out in the Second Schedule to this Act, or to a term of imprisonment not exceeding ten years, or to both, and such person shall not be issued with a licence, authorisation or other permission for any activity within the scope of this Act for a minimum period of ten years from the time the contravention was established.

Trans-shipment
at sea prohibited

39.—(1) A person shall not engage in trans-shipment activities at sea-

- (a) in the Exclusive Economic Zone; or
- (b) in respect of any national of the United Republic including any Tanzanian fishing vessel, in areas beyond national jurisdiction,

except in accordance with a written permission under section 29 of this act.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

Clearance for registration of fishing vessels in United Republic

40.—(1) A person who intends to register a fishing vessel within the United Republic under the law relating to maritime transport shall, prior to an application for registration, request a clearance letter from the Director General.

(2) A clearance letter for registration under subsection (1), shall be issued by the Director General in a manner prescribed in the regulations.

(b) National requirements for Fishing Vessels

Requirements for nationals fishing vessels in areas beyond national jurisdiction

41.—(1) All nationals of the United Republic and the operators of any Tanzanian fishing vessel operating or engaging in any fishing or related activities in areas beyond national jurisdiction shall—

- (a) comply with applicable international conservation and management measures;
- (b) not undermine the effectiveness of international conservation and management measures in an area to which such measures apply; and
- (c) when in waters under the national jurisdiction of another state, comply with the legislation of such state.

(2) Where any Tanzanian fishing vessel is used in contravention of subsection (1), the operator of such vessel commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

Requirements for conditions of personnel on board in vessels in areas beyond national jurisdiction and licensed vessels in United Republic Exclusive Economic Zone

42.—(1) The operator of any—

- (a) Tanzania fishing vessel, of twenty four metres in length overall or above, or of less than twenty four metres in length overall that remains at sea for three days or more, or navigates beyond the Exclusive Economic Zone, at all times, while within the Exclusive Economic Zone or beyond the national jurisdiction of the United Republic; and
- (b) foreign fishing vessel carrying a valid and applicable licence, authorisation or other permission granted for

any activity within the scope of this Act, while in the Exclusive Economic Zone or any other place under the jurisdiction of the United Republic, shall comply with all requirements of the International Labour Organisation Work in Fishing Convention, No. 188 of 2007 and other related International Conventions, and in particular, shall implement such requirements that may be prescribed or required by the Director General.

(2) A person who contravenes this section commits an offence and on conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

Fishing beyond
Exclusive
Economic
Zone of United
Republic

43.—(1) A person who intends to fish or undertake fishing related activities beyond the United Republic Exclusive Economic Zone shall, before commencing intended fishing activities, be required to apply for a certificate of authorisation to fish from the Director General.

(2) The Director General shall, upon receipt of application under subsection (1), issue a certificate of authorisation to fish in a manner prescribed in the regulations.

(3) A person who is granted a certificate of authorisation to fish under this Act and who undertakes fishing or fishing related activities beyond Exclusive Economic Zone of the United Republic shall be bound by conditions prescribed in the regulations.

Requirements
for Tanzanian
vessels to provide
cooperation in
other states ports

44.—(1) The operator of each Tanzanian fishing vessel shall-

- (a) cooperate fully with inspections carried out in the ports of other states in accordance with their laws and procedures; and
- (b) engage in any use of 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 in accordance with, or in a manner consistent with,

applicable international or regional instruments relating to port state measures.

(2) An operator of a Tanzanian fishing vessel who contravenes this section commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act, and the authorisation of the fishing vessel may be cancelled.

Provisions for incentives to citizens intending to undertake fishing activities

45.—(1) For the purpose of promoting access to and fisheries in the Exclusive Economic Zone, the Authority may—

- (a) on application by citizens or entities owned by citizens of the United Republic;
- (b) after consultation with the Ministers; and
- (c) subject to the list of incentives issued pursuant to subsection (2) and the regulations prescribed pursuant to subsection (3),

recommend to the relevant institutions responsible for investment incentives in Mainland Tanzania and Tanzania Zanzibar for provision of incentives for matters regulated under this Act.

(2) The Minister may, after consultation with the Minister responsible for fisheries in Tanzania Zanzibar and by notice in the *Gazette*, prescribe a list of incentives to be granted under subsection (1).

(3) The Minister may, after consultation with the Minister responsible for fisheries in Tanzania Zanzibar, make regulations prescribing for procedures and manner for application of incentives under this section.

(c) Foreign Fishing Vessels and Fisheries Access

Foreign fishing vessels to comply with legislation of United Republic

46.—(1) Unless otherwise provided in this Act, a foreign fishing vessel shall not be used for fishing or related activities in the Exclusive Economic Zone except under and in accordance with an applicable fisheries access agreement, licence or other permission for activities within the scope of this Act.

(2) The owner or the operator of a foreign fishing vessel who contravenes subsection (1), commits an offence and on

conviction, shall be liable to a fine not exceeding the maximum amount set out in the Second Schedule to this Act.

Fisheries access
by foreign fishing
vessels

47.—(1) The foreign fishing vessels may be used in the Exclusive Economic Zone for fishing or related activities subject to a written agreement made in accordance with this Act, any applicable Fisheries Management Plan, international agreement, fisheries management agreement and national policy or strategy, and subject to stated terms and conditions.

(2) The Minister may, in consultation with the Minister responsible for fisheries in Tanzania Zanzibar and after consultation with Executive Committee, enter into an agreement referred to in subsection (1) with states or regional economic integration organisations by way of an international agreement, joint venture or other written agreement or arrangement.

(3) The Director General may enter into an agreement referred to in subsection (1) by way of written agreement with-

- (a) a fishing association or similar body;
- (b) a publicly incorporated company; or
- (c) such other persons or bodies as may be agreed by the Executive Committee.

(4) The Minister may make regulations prescribing procedure and requirements for fisheries access by foreign fishing vessels.

Fisheries
Management
Agreement

48. The Minister may, upon the recommendation of the Director General, enter into a Fisheries Management Agreement, other than an Access Agreement, with other states for purpose of cooperation or coordination of fisheries management measures.

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

49.—(1) An agreement governing joint ventures or the chartering of any foreign fishing vessel for fishing or fishing related activities within or beyond the Exclusive Economic Zone, whether or not it involves changing the registration of the vessel, shall not be valid unless it is approved by the Ministers on the advice of the Director General.

(2) A joint venture or charter agreement may be approved if the following requirements are fully met-

- (a) a charter agreement vests operational control of the foreign fishing vessel to a Tanzanian citizen, resident or registered company;
- (b) the joint venture or charter agreement provides clearly identifiable benefits with no adverse effects to the United Republic, its fisheries or its marine environment, including-
 - (i) development of the Tanzanian fishing industry;
 - (ii) training of Tanzanian citizens;
 - (iii) foreign exchange earnings for the United Republic;
 - (iv) investment in the United Republic;
 - (v) landing and domestic distribution activities;
 - (vi) development of export activities; and
 - (vii) establishment of a company under the Companies Act of Mainland Tanzania or the Companies Act of Tanzania Zanzibar with specified ownership, control and equity by Tanzanian citizens;
- (c) the joint venture, charter agreement, right or vessel approved under this Act shall-
 - (i) be registered in Mainland Tanzania or Tanzania Zanzibar;
 - (ii) pay taxes and satisfy other financial obligations fully and promptly;
 - (iii) comply with all applicable laws in the United Republic;
- (d) a legally binding undertaking is submitted that all financial obligations of the foreign fishing vessel will be met promptly and effectively, including payment of all fees and any applicable fine, penalty or other determination which may result from the vessel's activities; and
- (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 the United Republic.

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Act No.
15 of 2013

Cap. 212
Act No.
15 of 2013

(3) Unless a company is otherwise established under a joint venture or charter agreement, where the operator of the foreign fishing vessel is a company incorporated outside the United Republic and doing business within the United Republic, it shall establish a place of business within the United Republic that includes the requirements for significant benefit to the United Republic as provided for under subsection (2)(b) and shall comply with the requirements of the Companies Act of Mainland Tanzania and Tanzania Zanzibar.

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

Agents

50.—(1) The operator of each foreign fishing vessel that applies for a licence under this Act shall designate a corporate person as an agent authorised to accept on behalf of such vessel service of process and any notices required to be served on the vessel 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 if it has been established pursuant to the laws applicable in the United Republic, and has provided full and correct information to the Director General as prescribed in the regulations.

PART VI

INFORMATION, DATA AND STATISTICS

Establishment
of information
system and
register

51.—(1) There shall be established and maintained an information system and a register in order to meet national, regional and international requirements relating to information and data, and for purposes of supporting the objectives of this Act.

(2) The information system shall contain such information, data and statistics as may be prescribed in the regulations.

(3) The Director General shall appoint a registrar and assistant registrar of fishing licences and authorisations from amongst licencing officers who shall keep and maintain the register.

Public access to information

52. A person may, upon payment of such fee as may be prescribed by the Director General, access any non-confidential information from the register.

Confidential information

53.—(1) 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, reveal confidential information acquired by virtue of their duties and responsibilities to any person not having such duties and responsibilities.

(2) The Minister may make regulations prescribing the manner of revealing confidential information.

(3) For the purposes of this Act, “confidential information” means information referred to under section 54 and includes information that the Director General declares to be confidential.

Confidentiality of information in relation to vessel monitoring operations centre

54.—(1) Information received and recorded by the equipment in the vessel monitoring operations centre shall be treated as confidential and may only be revealed—

- (a) to a person who is gathering information in order to decide whether criminal proceedings may be instituted against any person;
- (b) to a prosecutor or 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 of the United Republic with obligations under international law;

- (d) to a relevant regional fisheries management organisation, in accordance with its policy on confidentiality;
- (e) when the revealing of such information is necessary in order to conduct search or rescue operations in relation to any vessel; and
- (f) where the operator of the relevant fishing vessel gives permission for the revealing of the information.

(2) A person who obtains information for a purpose referred to in subsection (1) shall use the information for the purpose as requested and such information shall not be revealed to any other person.

(3) A person who reveals or uses the information contrary to this section commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

Technical
requirements for
Vessel Monitoring
System

55.—(1) The Director General shall approve the technology to be used in relation to the Vessel Monitoring System required pursuant to this Act.

(2) The Director General may, in writing, prescribe or determine, technical requirements for Mobile Transceiver Units.

(3) An operator who fails to comply with the technical requirements designated by the Director General pursuant to subsection (2) in respect of the registered Mobile Transceiver Unit commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

(4) The Director General may suspend or cancel the certificate of registration of a vessel where he is satisfied on reasonable grounds that part or all of the technical requirements designated pursuant to this Act are not being fulfilled.

Ownership of
information

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

Information
sharing

57. The Director General may prepare fisheries and vessel statistics and share the same with the Food and Agricultural Organisation of the United Nations, regional or international organisations which the United Republic is a party.

Information to
be submitted to
relevant RFMOs
and others

58. The Director General shall ensure that such information in relation to foreign fishing vessels and Tanzanian fishing vessels that hold a valid and applicable licence or authorisation is submitted in electronic format, to a relevant regional fisheries management organisation as may be required by an applicable international conservation and management measure.

PART VII

QUALITY CONTROL, IMPORT AND EXPORT

Quality control
for export of fish
and fish products

59.—(1) The Minister may, in consultation with the Executive Committee and the Minister responsible for fisheries in Tanzania Zanzibar and on adoption of any applicable international conservation and management measure or international agreement, make regulations imposing or prescribing conditions, specifications or any requirement on any matter of quality of fish or fish products to be exported, including processing establishments.

(2) The Minister shall, in consultation with the Minister responsible for fisheries in Tanzania Zanzibar, designate a competent authority for quality control of fish or fish products to be exported.

(3) A person who fails to comply with any condition, specification or requirement prescribed in the regulations made under subsection (1), commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

Documentation
required for
import, export or
re-export

60.—(1) The Director General shall ensure implementation of statistical documentation requirements of a relevant regional fisheries management organisation for import, export or re-

export of such species in accordance with such requirements as may be prescribed and by requiring-

- (a) submission of statistical documents by any person who imports, causes to import or intends to import any species of fish into the United Republic, 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 persons or institution of the flag state of the vessel that harvested targeted species, if the vessel is operating under a charter arrangement, by a government official or other authorised persons of the exporting state; and
- (c) validation of a re-export certificate by the Director of Fisheries for Mainland Tanzania or Tanzania Zanzibar as the case may be.

(2) The operator of any fishing vessel or any person who imports or causes to be imported an illegitimate shipment as may be prescribed in the regulations or any person who exports, causes to be exported or intends to export or re-export fish from the United Republic contrary to any requirements made under this Act commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

PART VIII

MONITORING, CONTROL AND SURVEILLANCE

Monitoring,
control and
surveillance

61.-(1) The Authority shall ensure compliance with, and enforce the provisions of this Act, applicable international conservation and management measures and relevant international obligations of the United Republic through effective monitoring, control and surveillance.

(2) Monitoring, control and surveillance shall be carried out by fishery inspectors, authorised officers, observers and such other officers as the Director General may determine.

(3) The persons under subsection (2) shall have powers, authorities and responsibilities as provided for in this Act and any other relevant law.

(4) The Authority may, in discharging its duties, be equipped with such vehicles, aircrafts, patrol boats, communications equipment and any other equipment necessary for efficient and effective implementation of the provisions of this Act.

Port State
measures
application and
implementation

62.—(1) The Port State Measures application and implementation shall apply to-

- (a) foreign fishing vessels and fishing vessels not entitled to fly the flag of the United Republic that are seeking entry to a port or are in a port of the United Republic, except for-
 - (i) fishing vessels of a neighbouring state that are engaged in artisanal fishing for subsistence, provided that there is cooperation between the United Republic and such neighbouring state to ensure that such fishing vessels do not engage in illegal, unreported and unregulated “IUU” fishing; and
 - (ii) container vessels that are not carrying fish or, if carrying fish, are fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing;
- (b) persons, vessels, vehicles, aircraft, export facilities or places engaged in or otherwise connected with any activity falling within the scope of this Act; and
- (c) all fishing and fishing related activities in support of such fishing-
 - (i) in areas over which the United Republic exercises jurisdiction or sovereign rights; or
 - (ii) in areas beyond national jurisdiction-
 - (aa) by nationals of the United Republic, including fishing vessels, persons and all persons on

board such vessels or dealing with them or having any relevant relationship to them, to the extent that it does not conflict with the jurisdiction of another state;

- (bb) as required pursuant to this Act, international agreement, relevant regional fisheries management organisation or applicable international conservation and management measures; and
- (cc) otherwise in relation to illegal, unreported and unregulated “IUU” fishing and fishing related activities in support of such fishing consistent with international law.

(2) For the purposes of this section, the provisions of the First Schedule to this Act shall have effect to the illegal, unreported and unregulated “IUU” fishing.

Designation of
ports

63.—(1) The Ministers shall, in consultation with the Ministers responsible for maritime authorities—

- (a) designate and publicise the port or ports to which foreign fishing vessels may request entry; and
- (b) provide a list of each port designated pursuant to paragraph (a) to any international organisation and to any relevant regional fisheries management organisation in accordance to an applicable conservation and management measure.

(2) The Minister may, by regulations, prescribe the manner and procedure for port entry, inspection and use of ports by fishing vessel.

Hot pursuit
Cap. 238

64.—(1) A fishery inspector or authorised officer shall, in accordance with the Territorial Sea and Exclusive Economic Zone Act or any other relevant law, have power to pursue a vessel beyond waters of the United Republic based on evidence from—

- (a) vessel monitoring system;
- (b) geographical positioning system;

- (c) air photographing;
- (d) satellite system; or
- (e) any other accepted international technological communication system.

(2) A fishery inspector or authorised officer shall, in the exercise of the right of hot pursuit take into consideration relevant bilateral, regional or international instrument to which the United Republic is a party.

(3) A fishery inspector or any authorised officer shall, after exercising powers under subsection (1), inform the Director General who through the Ministry responsible for foreign affairs shall further inform the embassy of the flag state.

(4) An operator of any fishing vessel who fails to comply with the order to stop or with any powers exercised by a fisheries inspector or authorised officer commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act, and the licence or authorisation of the fishing vessel may be cancelled and fish or fish products on board be forfeited.

PART IX

ARREST, SEIZURE, DISPOSAL, RELEASE AND FORFEITURE OF SEIZED ITEMS

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

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

(2) Any foreign fishing vessels and its crew arrested for the contravention of any provisions of this Act relating to any act of fishing or fishing related activity shall be promptly released upon the posting of a reasonable bond or other security in the manner provided for under this Act.

Seizure of vessels,
aircraft, etc.

66.—(1) The Director General or an authorised officer may seize—

- (a) any vessel or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment or thing which the Director General or an 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, including any other fish with which such fish are intermixed, and 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 article, record or thing that the Director General or an 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 has been—
 - (i) or is being used or intended to be used to commit an offence under this Act;
 - (ii) forfeited under this Act; or
 - (iii) unlawfully removed from custody under this Act.

(2) An authorised officer shall deliver anything seized under subsection (1) into the custody of the Director General who shall ensure its safety under such procedures as may be prescribed.

(3) A written notice of the seizure and grounds for such 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.

(4) For purposes of this section, a vessel's equipment, gear, furniture, appurtenances, stores and cargo shall be deemed to form part of the vessel.

Disposal of
perishable seized
goods

67.—(1) A perishable item, including fish and fish products, that has been seized or confiscated under this Act is subject to disposition by the Director General who may, after consultation with the Director of Public Prosecutions—

- (a) sell or authorise its sale;
- (b) otherwise dispose of the item at such time and place as the Director General determines; or
- (c) destroy the item.

(2) The Director General shall notify the owner or apparent owner of any perishable item seized at a reasonable time before selling the item in accordance with subsection (1), and such owner or his nominee may be present at the sale.

(3) Where the Director General cannot ascertain the true ownership of an item at the time of seizure, he shall make reasonable inquiries to ascertain the true owner, and if he has not ascertained the true owner within a reasonable time, taking into account the perishable nature of the item seized, he may sell, dispose of or destroy the item in accordance with subsection (1).

(4) A purchaser for valuable consideration of any item sold under this section shall derive good and unencumbered title in respect of that item.

(5) All items seized pursuant to this Act, and the proceeds from the sale of such items, shall be held in trust by the Director General until—

- (a) the Director of Public Prosecutions 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 item; and
- (ii) has issued an order in relation to the proceeds of sale of the item.

(6) 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 as soon as reasonably practicable after the item is seized, taken possession of or detained.

(7) The Director General, fishery inspector or an authorised officer lawfully exercising any power under this Act shall not be liable for any spoilage or deterioration in the quality of any fish or other item seized, taken possession of, or detained.

Release of seized items upon bond or other security

68.-(1) A person from whom any item was seized pursuant to this Act or the owner or person entitled to possession of such item may, within sixty days after the seizure, apply to the court for the release of the item.

(2) Upon receipt of an application under subsection (1) relating to the seizure of a foreign fishing vessel, 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 that applies for the offences or alleged offences that led to the seizure of the foreign fishing vessel; and
 - (iii) the costs likely to be recovered by the prosecution, if a conviction is entered; and
- (b) that the vessel to be released upon receipt of the bond, surety or other security, subject to such conditions as the court may determine, unless the vessel is reasonably 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 fishing vessel, the court may order-

- (a) that the owner or operator of the item pay into the court a bond, surety or other security having regard to
 - (i) the fair market value of the item and, in the case of a vessel, any other items 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 item; and
 - (iii) the costs likely to be recovered by the prosecution if a conviction is entered; and
- (b) the item 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 it.

(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 disposition 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.

Release of seized items by Director General or court

69.-(1) Subject to subsection (2), the Director General shall immediately release an item seized under section 66 of this Act, or immediately release the proceeds from the sale of such item, to the person entitled to the item, where-

- (a) the Director of Public Prosecutions decides not to lay an 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 paragraph (a), within the time allowed, the item seized be sold and the balance of the proceeds of sale be returned to the owner, his 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 believes to be alive, the authorised officer shall have 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 conditions of bond or other security

70. Where a person to whom an item is released under section 69 fails to comply with the conditions of the bond or other security posted for release of that item-

- (a) the Director General may direct the item to be re-seized at any time; or
- (b) the bond or security shall be automatically forfeited.

Forfeiture

71.-(1) Where a court convicts a person of an offence against this Act, it may order the forfeiture of any of the following:

- (a) any fish, fish product, vessel, including its gear, furniture, accessories, stores, cargo and aircraft gear, equipment, explosive or noxious substance or other item taken, used or otherwise involved in the commission of the offence, or otherwise as may be provided in this Act;
- (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; or
- (d) where any fish has been sold under section 67, the proceeds of the sale of the fish.

(2) Notwithstanding section 67, where any fish or fish product which is subject to a ban imposed under this Act is seized and confiscated pursuant to this Act, it shall be forfeited.

(3) A person who is aggrieved by a decision made pursuant to subsection (2) may apply to the court for relief.

Disposal of
forfeited items

72. An item or security forfeited or confiscated under this Act shall be the property of the Government.

PART X

JURISDICTION, PROCEDURE AND LIABILITIES

Jurisdiction and
standing

73.—(1) An act or omission committed in areas beyond national jurisdiction of the United Republic 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 the United Republic within the jurisdiction of the High Court of Tanzania or the High Court of Zanzibar.

(2) Where an authorised person appointed under this Act is exercising any powers or performing duties conferred on such authorised person by this Act in areas beyond the Exclusive Economic Zone 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 the High Court provided for under subsection (1).

Liability for loss
or damage

74. A person who commits an offence under this Act may, on conviction or a determination under summary proceedings, be liable to the United Republic 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 proceedings as restitution in addition to, and recovered in the same manner as a fine or determination.

Liability of
operators

75. In any proceedings under this Act, the act or omission of a crew member of a fishing vessel or a person working in association with a fishing vessel is deemed to be that of the operator of the vessel, unless otherwise expressly provided.

PART XI

EVIDENCE

Presumptions

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

(2) 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 shall be *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 the Exclusive Economic Zone; and

(b) the court considers that, having regard to that evidence, the grounds are reasonable,

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,

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 fishing vessel, it is presumed to have been given by the operator, including the master, owner or charterer of the vessel concerned, unless it is proved that it was not given or authorised to be given by any of them.

(6) An 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 fishing vessel is deemed to be that of the operator, including the master, owner and charterer of the vessel.

(7) A position fixing instrument on board a vessel or aircraft used for the enforcement of this Act is presumed to be accurate.

Interfering with
evidence

77.-(1) A person shall not interfere with evidence which may be related to an offence under this Act.

(2) Without prejudice to the generality of subsection (1), a person shall not-

- (a) being on board any fishing vessel being pursued, about to be boarded, being boarded or notified that it will be boarded by an authorised officer, whether within or beyond the Exclusive Economic Zone, 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 fishing 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 such person 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 is required under this Act, whether within or beyond the Exclusive Economic Zone, destroy, damage, render inoperative or otherwise interfere with any part of such Mobile Transceiver Unit aboard a vessel, or feed or input into a Mobile Transceiver Unit or an applicable vessel monitoring system information or data which is not officially required or is meaningless.

(3) A person who contravenes any provision of this section commits an offence and on conviction, shall be liable to a fine set out in the Second Schedule to this Act.

PART XII

FINANCIAL PROVISIONS

Funds of
Authority

- 78.** The funds and resources of the Authority shall consist of-
- (a) any sums which Authority may be appropriated by Parliament and the House of Representatives for the purposes of the Authority;
 - (b) such sums of monies as may be payable to the Authority by way of borrowings, donations, gifts, grants, loans or bequests; and
 - (c) such sums of monies as may be payable to or vested in the Authority as a result or in the course of discharging its functions under this Act.

Distribution of
funds

- 79.**-(1) Sum of monies vested in the Authority as a result or in the cause of discharging its functions under this Act, shall be distributed in the following manner:
- (a) fifty percent shall be retained by the Authority for the purposes of running operational costs of the Authority;
 - (b) thirty percent shall be provided to the Government of the United Republic of Tanzania; and

(c) twenty percent shall be provided to the Revolutionary of Government of Zanzibar

(2) The funds of the Authority shall be used as budgeted for.

(3) Without prejudice to subsection (2), the Authority may reserve some of its funds to meet future contingent liabilities as the Executive Committee may consider fit.

Annual budget
and estimates

80.—(1) At least three months before the commencement of any financial year, the Director General shall prepare or cause to be prepared for the approval of the Executive Committee annual estimates of the revenue and expenditure of the Authority for the ensuing financial year.

(2) The Executive Committee shall consider and approve, subject to any modifications and amendments which it may consider appropriate, the estimates prepared in accordance with subsection (1).

(3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular—

- (a) for the payment of salaries allowances and other charges in respect of the staff, Executive Committee or any Committee of the Authority;
- (b) for the payment of construction, improvement, maintenance and replacement of any building or other immovable property of the Authority;
- (c) for the proper maintenance and replacement of furniture and equipment of the Authority;
- (d) for reserve funds to meet future contingent liabilities as the Executive Committee may think fit;
- (e) for the carrying out of surveillance, monitoring and control of fishing activities; and
- (f) for training of officers and staff and for scientific research.

(3) Expenditure shall not be incurred for the purpose of the Authority except in accordance with the provisions of

the annual budget estimates or any supplementary estimates approved by the Executive Committee.

(4) A copy of annual budget, supplementary budget and audit report of account approved by the Executive Committee shall be submitted to the Minister one month after commencement of financial year.

(5) A copy of the report under subsection (4) shall be submitted to the Minister responsible for fisheries in the Revolutionary Government of Zanzibar.

(6) The financial year of the Authority shall be the period of one year ending on the 30th June.

Investment
of funds of
Authority

81. The Executive Committee shall, with the approval of the Ministers after consultation with the Minister responsible for finance in Mainland Tanzania and Minister responsible for finance in Tanzania Zanzibar, have power to invest funds of Authority.

Remuneration
of members of
Committees

82. The Executive Committee may, with the approval of the Ministers, prescribe emoluments and other allowances payable to members of Committees.

Account and
audit

83.—(1) The Authority shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of monies by, and other financial transactions of the Authority and assets and liabilities of the Authority, and shall cause to be made out of every financial year a balance sheet showing the details of the income and expenditure of the Authority and all its assets and liabilities.

(2) Within three months after the close of each financial year, the accounts, including the balance sheet of the Authority in respect of that financial year, shall be submitted to and audited by the Controller and Auditor-General.

(3) As soon as the accounts of the Authority have been audited, and in any case not later than six months after the closure of each financial year, the Executive Committee shall submit to the Ministers a copy of the audited statement

of accounts, together with a copy of the report made by the Controller and Auditor-General on the statements of the accounts.

Laying of report
before National
Assembly

84. The Ministers shall, as soon as practicable and after receiving statements of accounts, lay them before the National Assembly and the House of Representatives, and such a report shall contain a copy of-

- (a) the audited accounts of the Authority;
- (b) audit report, if any; and
- (c) the Director General's report on the activities of the Authority in the preceding financial year.

Director General's
report

85.-(1) The Director General shall, at the end of each financial year, prepare a report on the activities of the Authority during that financial year.

(2) The report referred to under subsection (1) shall contain-

- (a) activities conducted by the Authority;
- (b) activities conducted jointly with other organisations; and
- (c) financial position of the Authority.

Borrowing by
Authority

86.-(1) The Director General may, where circumstances require the Authority to borrow funds, prepare and submit to the Executive Committee for approval, a financial plan showing the amount of monies to be borrowed, how monies will be used and how the Authority will benefit from the loan.

(2) Upon approval by the Executive Committee and the Minister responsible for finance in Mainland Tanzania, the Authority may borrow funds from any financial institution.

Procurement and
disposal of assets
Cap. 410

87. A Tender Board of the Authority shall be established by the Executive Committee in accordance with the Public Procurement Act to address the procurement of goods and services including consultancies, works and disposal of public assets.

PART XIII

OFFENCES AND PENALTIES

Offences and penalties

88.—(1) Unless otherwise provided in this Act, the maximum fines shall be as set out in the Second Schedule to this Act.

(2) The maximum fine referred to under subsection (1) may be paid in Tanzanian shillings equivalent to the United States dollars set out in the Second Schedule.

General penalties

89.—(1) For an offence for which no other fine or penalty is specifically provided, the Court may subject a person guilty of any offence under this Act to the following—

- (a) a fine of up to ten thousand United States dollars or twice the economic benefit that the person obtained through the violation;
- (b) for intentional violations or violations resulting from gross negligence, a fine of up to one hundred thousand United States dollars or three times the economic benefit that the person obtained through the violation, whichever is greater.

(2) For violations resulting in damage to fish or the marine environment in general, an additional fine equal to twice the value of the reduction in market value caused by the violation, twice the total cost of restoration of the fisheries resources or twice the total cost of restoration of the environment, whichever is greater

Deprivation of monetary benefits

90. 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.

Court may
order additional
penalties and
compensation

91. In addition to any fine provided for under this Act, the court may order-

- (a) compensation to be paid to the owner of any property damaged or destroyed as a direct result of the offence; and
- (b) compensation for the cost of clearing any pollution of the Exclusive Economic Zone that may have been caused as a direct result of the offence or removing any objects that continue to cause such pollution.

Increased
maximum fine for
body corporate

92. Where a body corporate is convicted of an offence under this Act, the court may impose a fine of up to three times of the maximum fine specified for the offence.

Continuing
offences and
repeat offenders

93.-(1) Each day of a continuing offence shall be considered a separate offence.

(2) Subject to subsection (1) and without prejudice to any other penalty which may be imposed under this Act, a fine imposed shall be twice times the fine imposed for the previous offence.

Banning order

94.-(1) In addition to any other fine or penalty provided under this Act, the court or the Director General in consultation with the Director of Public Prosecutions may order an owner or operator to be banned from fishing in the Exclusive Economic Zone for a period of up to five years if that person has committed-

- (a) an offence involving unlicensed fishing; or
- (b) multiple offences against this Act,

and shall order owner or operator to be banned from fishing in the Exclusive Economic Zone if that owner or operator has been found by a court to have committed any offence or offences against this Act on three separate occasions.

(2) The operator or master who contravenes any provision of this Act, commits an offence and on conviction, shall be liable to the maximum fine set out in the Second Schedule to this Act.

Compounding of offences

95.—(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or any other sector legislation, the Director General or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding two thirds of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Director General or a person authorised by him may, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations.

(3) Where the person fails to comply with subsection (2), the Director General may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Director General shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) The forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.

PART XIV GENERAL PROVISIONS

Relationship with other laws of United Republic

96. Without prejudice to section 2(2), in the event of a conflict or inconsistency between this Act and any other written law in force relating to deep sea fishing in the United Republic, this Act shall take precedence.

Notifications

97.—(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 on or furnished to any person, that notice or other document may be—

- (a) given to the person personally;
- (b) given personally 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, given to such person as the court may direct;
- (d) except in the case of a notice or document referred to in paragraph (c), submitted by 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), submitted 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 and includes 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 an operator of a foreign fishing vessel is a defendant in a prosecution for an offence against this Act, and 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 refuses to accept it on behalf of the defendant;

- (b) by being submitted 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 submitted under paragraph (a) or (b) to the master of the vessel.

(4) A notice or document so submitted by post or electronic transmission is deemed to have been given, served or received seven working days after the date on which it was posted or submitted, unless the person to whom it was posted or submitted proves that, otherwise than through that person's fault, the notice or document was not received.

Authority
may enter into
agreements
with Mainland
Tanzania and
Tanzania
Zanzibar

98. The Director General may, upon the recommendation of the Executive Committee, enter into an agreement with fisheries and other relevant authorities in Mainland Tanzania and Tanzania Zanzibar to further the purposes of this Act, including an agreement with respect to one or more of the following:

- (a) facilitating cooperation between the parties to the agreement, including facilitating joint action in areas of common interest, reducing overlap between their respective programs and otherwise harmonising those programs;
 - (b) facilitating enhanced communication between the parties, including the exchange of scientific, economic, social and other information;
 - (c) facilitating public consultation or the entry into arrangements with third-party stakeholders; and
 - (d) such other area that may be agreed by the parties.
- (2) An agreement may establish:
- (a) the roles, powers and functions of the parties;
 - (b) programs and projects;
 - (c) principles and objectives of the parties' respective programs and projects;

- (d) standards, guidelines and codes of practice to be followed by the parties in the administration of their respective programs and projects;
- (e) processes for policy development, operational planning and communication between the parties, including the exchange of scientific and other information;
- (f) the administrative structures that will be used to carry out the agreement's objectives;
- (g) the power of the parties to create committees and public panels and to conduct public consultations;
- (h) the circumstances and manner in which each party is to provide information on and cooperate in the administration and enforcement of its legislation that is relevant to the other parties; and
- (i) such other area that may be agreed by the parties.

Affiliation

99. The Authority may, in performing its functions under this Act, establish and maintain a system of collaboration, affiliation, consultation and cooperation with defence and security organs, treasury, customs, marine research institutions, the Commission for Science and Technology and any other person or body of persons established by or under any relevant law and having functions related to those of the Authority.

Appeals

100.—(1) A person who is aggrieved by any decision or order issued by the Authority under this Act may appeal to the Minister.

(2) Subject to subsection (1), procedures for appeals shall be prescribed in the regulations.

Regulations

101.—(1) The Minister may, in consultation with the Minister responsible for fisheries in Tanzania Zanzibar, make regulations prescribing-

- (a) management of the Authority;
- (b) managing, regulating or controlling fishing and related activities;

- (c) implementing any provisions of, or giving effect to, any international agreement, including international conservation and management measures;
- (d) requirements, processes and other relevant matters for access agreements, licences, authorisations and other forms of permission within the scope of this Act;
- (e) monitoring, control and surveillance of fishing and related activities, including rules for procedures for the conduct of boarding and inspection of fishing vessels within and beyond the Exclusive Economic Zone;
- (f) regulating or prohibiting activities which may have an adverse impact on fishery resources or the marine environment;
- (g) regulating, controlling and managing research, statistical data, surveys, education and training regarding fish, fisheries activities and the marine environment;
- (h) entering into agreements with Mainland Tanzania and Tanzania Zanzibar for cooperation and coordination in matters relating to this Act;
- (i) forms, schedules and other documentation required under this Act;
- (j) conditions of use and marking of vessels, gear, equipment and other items permitted in accordance with this Act;
- (k) disposition of by catch, possession, processing, and disposal of fish or fish products;
- (l) the 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;
- (m) for the making of orders for any purpose under this Act; or
- (n) any other matter under the scope of this Act which is required or otherwise consistent with the objective and needed to be prescribed.

(2) The Minister may, in consultation with the relevant authority in respect of each of the following matters, make regulations-

- (a) prescribing fees, charges, levies, resource rent or royalties payable in respect of any matter under this Act;
- (b) regulating the construction and import of fishing vessels and prescribing construction standards for fishing vessels;
- (c) defining required prerequisites for the registration of fishing vessels in the United Republic;
- (d) prescribing safety standards and requirements for fishing vessels;
- (e) prescribing conditions for working on fishing vessels taking into account agreed international standards; and
- (f) prescribing manning and competency requirements for national fishing vessels.

102.-(1) [Repeals the Deep Sea Fishing Authority Act.]

(2) Notwithstanding the repeal under subsection (1)-

- (a) regulations or orders made under the repealed Act prior to the commencement of this Act shall remain effective and in force unless they are amended, revoked or replaced by regulations made under this Act;

- (b) all licences, permits, authorisations and other instruments or documents granted or issued under the repealed Act, shall, so long as they are, on the date of commencement of this Act continue in full force and effect until they expire, cease to have effect or are replaced; and
- (c) the current employees of the Authority shall continue to execute their duties until their employments or appointments expire or are terminated.

FIRST SCHEDULE

(Made under section 62(2))

ILLEGAL, UNREPORTED AND UNREGULATED FISHING

“Illegal, Unreported and Unregulated Fishing” shall have the same meaning that appears in the 2001 FAO International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, as shown below.

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 organisation but operate in contravention of the conservation and management measures adopted by that organisation 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 organisation.

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 organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.

3. Unregulated fishing refers to fishing activities-

- (a) in the area of application of a relevant regional fisheries management organisation that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; 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

(Made under section 88)

OFFENCES AND FINES

Section, subsection including any part thereof	Contents of the Section Contravened	Maximum fine US Dollars
20(5)	Conflict of interest	1 million
21(5)	Conservation and management measures	200,000
23(4)	Implementation of Regional conservation and management measures	200,000
27(3)	Prohibition to tamper with or destroy property of another in the EEZ	500 000
28(2)	Prohibition to use, possess on a vessel, import, purchase, sell prohibited gear	750 000
29(2)	Prohibition of interference with inspected fish and fish products	500,000
30(2)	Prohibition of possession, trade or export in fish, fish products taken or obtained in contravention of Act	500,000
31(4)	Prohibition of trade in fish and fish products taken or obtained in contravention of the laws of another State	750,000
32(3)	Declaration of and prohibitions respecting protected, threatened or endangered species	250,000
33(4)	Designation of zones or areas	750,000
34(5)	Marine environmental quality	1 million
36(2)	Terms and conditions for compliance by holders of licences, authorisations, other permissions	750,000

Section, subsection including any part thereof	Contents of the Section Contravened	Maximum fine US Dollars
37(2)	Gear stowage	750,000
38(3)	Prohibitions on the use of fishing vessels for purposes related to transnational organised crime and on individuals in or associated with a transnational criminal group to engage in any activity under the scope of this Act	2 million
39(2)	Trans-shipment at sea prohibited	750,000
41(2)	Requirements for nationals and vessels of the United Republic in areas beyond national jurisdiction	1 million
42(2)	Requirements for conditions of personnel on board United Republic vessels in areas beyond national jurisdiction and licensed vessels in EEZ	2 million
44(2)	Requirement for vessel operator of Tanzanian vessel to provide cooperation in other state's ports	1 million
46(2)	Foreign fishing vessels to comply with legislation of the United Republic	1 million
54(3)	Confidentiality of information in relation to Vessel Monitoring Operations Centre	250,000
55(3)	Technical requirements for Vessel Monitoring System	250,000
59(3)	Quality control of fish or fish products	250,000
60(2)	Requirement to keep documents for export or import of fish	1 million
64(4)	Hot pursuit	1 million
77(3)	Interfering with evidence	750,000
94(2)	Banning Order	750,000