

BELIZE:

HIGH SEAS FISHING ACT, 2003
NO.3 OF 2003

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SCHEDULE

High Seas Fishing

No. 3 of 2003

I assent,

COLVILLE N. YOUNG
Governor General

31st January, 2003

AN ACT to provide for the control of fishing on the high seas and for matter connected therewith or incidental thereto.

(Gazetted 1st February 2003)

BE IT ENACTED by and with the advice and consent of the House of Representative and the Senate of Belize and by the authority of the same, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the

HIGH SEAS FISHING ACT, 2003

Interpretation

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

“Agreement” means the Agreement to promote Compliance with the International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by the Conference of the FAO on the 24th day of November, 1993;

“authorized officer” means an officer appointed under section 3 of this Act or any person acting on the orders of an authorized officer;

“Fisheries Administrator” means the Head of the Fisheries Department as appointed under Section 107 of the Constitution of Belize.

“IMMARBE” means the International Merchant Marine Registry of Belize;

“FAO” means the Food and Agriculture Organization;

“fish” includes any living marine resource;

“fishing” means –

- (a) the catching or taking of fish;
- (b) any other activity which can reasonably be expected to result in the catching or taking of fish;
- (c) any other activities directly related to fishing including the operation of mother ships;

“fishing vessel,” means any vessel used or intended for use on the high seas for the purposes of the commercial exploitation of fish, including mother ships and any other vessels directly engaged in fishing operations;

“Belize fishing vessel” means a fishing vessel authorized to fly the Belize flag;

“foreign fishing vessel” means a fishing vessel other than a fishing vessel of Belize;

“high seas” means the marine waters beyond the territorial sea, archipelagic waters, fisheries zone or exclusive economic zone of any state;

“High Seas Fishing License” means a fishing license issued pursuant to section 7 of this Act;

“international conservation and management measures” means measure to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law reflected in 1982 United Nations Convention of the Law of the Sea either by global, regional or sub regional fisheries organization subject to the rights and obligations of their members, or by treaties or other international agreements;

“length” means for any fishing vessel-

- (a) built after 18th July 1982, ninety six percent of the total length on a waterline at eighty five percent of the least molded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudderstock on that waterline; if that be greater. In vessels designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
- (b) built before 18th July 1982, the registered length entered on the national register or other record of vessels;

“licensed fishing vessel” means a fishing vessel in respect of which a license has been issued pursuant to section 7;

“Master” includes in relation to a fishing vessel, the person for the time being in command or in charge of the fishing operations on board the vessel;

“Minister” means the Minister responsible for Fisheries’

“Registrar of Ships” means the Solicitor General.

PART II

ADMINISTRATION

Duties of the Fisheries Administrator and Authorized Officers

3. (1) The Fisheries Administrator shall be responsible for:

- (a) maintaining a record of all fishing vessels in respect of which high seas fishing license have been issued under this Act, and such record shall include all information provided by the applicant under section 6;
- (b) maintaining a record of statistics and reports concerning fish stock and fishing on the high seas received from IMMARBE;
- (c) the issue, variation, suspension and revocation of licenses for fishing on the high seas;
- (d) the collection from IMMARBE of fees in respect of license of fishing vessels;
- (e) the making of such reports to the Minister as he may require or as the Fisheries Administrator may consider appropriate;
- (f) the taking of all such other measures the Fisheries Administrator may consider appropriate for the implementation of the Agreement under this Act.

(2) The Director-General and Senior Deputy Registrar of IMMARBE shall be responsible for -

- (a) submitting statistics and reports concerning fish stocks and fishing on the high seas to the Fisheries Administrator;
- (b) the monitoring, control and surveillance of the operations of fishing vessels of Belize pursuant to Articles V ad VII of the Agreement;
- (c) the payment of fees to the Fisheries Administrator in respect of licenses of fishing vessels;
- (d) the giving of such information to relevant international organizations;
- (e) the taking of appropriate measures in co-operation with other states for the implementation of Articles VII and VIII of the Agreement

(3) In the performance of his duties under this Act, the Fisheries Administrator shall be subject to the directions of the Minister. Matters of policy shall be determined jointly by the Minister and the Director-General and Senior Deputy Registrar of IMMARBE.

(4) This Act shall be enforced by the Registrar of Ships and /or the Director General and Senior Deputy Registrar of IMMARBE and for the purpose authorized officers shall have the powers set out in sections 12 and 13 of this Act.

(5) The following persons shall be deemed authorized officers -

- (a) all those empowered to perform as Deputy Registrars or representatives of IMMARBE;
- (b) all companies and recognized organizations authorized to act on behalf of IMMARBE and any of their surveyors or representatives acting under such authorization;
- (c) in the event that a Belize fishing vessel is within the exclusive economic zone of Belize, the officers of the Fisheries Department.

PART III

LICENSING OF FISHING VESSELS ON THE HIGH SEAS

Prohibition of fishing o the high seas without a license

4. (1) Notwithstanding any provisions in any other Act, no Belize fishing vessel shall fish on the high seas without a valid license issued under this Act.

(2) Where a Belize Fishing vessel is used in contravention of subsection (1), the, master, owner and charterer of the vessel shall each commit an offence and shall be subject to one or more of the penalties contained in the Registration of Merchant Ships (Disciplinary) Regulations, 1999

Vessels eligible for high seas fishing license

5. (1) Subject to subsection (2), any flagged ship fishing vessel shall be eligible for a High Seas Fishing License save where the vessel has been authorized to be used for fishing on the high seas by another state and the state has either -

- (a) suspended the authorization of the vessel and the suspension has not expired; or
- (b) withdrawn the authorization within the three years preceding the application made to the Fisheries Administrator.

(2) The exceptions contained in subsection (a) shall not apply where such fishing vessel has undermined the effectiveness of international conservation and management measures, but -

- (a) ownerships of that vessel has changed since the suspension or withdrawal of authorization and the present owner has provided evidence, to the satisfaction of the Fisheries Administrator that the previous owner, charterer or operator has no further legal beneficial or financial interest in or control of the vessel; or

- (b) the Fisheries Administrator has decided after taking into account all the relevant facts, that the issue of a high seas fishing license in respect of the vessel shall not undermine the object and purpose of the Agreement.

Application and fees for High Seas Fishing License

- 6. (1) An application for the issue of a High Seas Fishing License shall be -
 - (a) made in writing on the appropriate form as set out in the First Schedule to this Act;
 - (b) accompanied by the information required under subsection (2) and such other information and documents as may be prescribed by the Fisheries Administrator;
 - (c) accompanied by such fees as may be prescribed.
- (2) An application for High Seas Fishing License shall relate to a specific fishing vessel and shall contain information as set out in the Schedule to the Act.

Issue of High Seas Fishing License

- 7. (1) A High Seas Fishing License shall be issued by the Fisheries Administrator to the Master, owner or charterer in respect of a specified fishing vessel.
- (2) The issuing of a High Seas Fishing License shall be at the discretion of the Minister on the recommendation of the Fisheries Administrator and the Director-General and Senior Deputy Registrar if IMMARBE.
- (3) The Fisheries Administrator shall not issue a Belize High Seas Fishing License unless he is satisfied that Belize will be able to exercise effectively its responsibilities under the Agreement in respect of that vessel.
- (4) A High Seas Fishing License may authorize a vessel to be used for fishing on the high seas or such license may be subject to the conditions relating in particular to-
 - (a) the area in which fishing is authorized;
 - (b) the description, quantities, size and type of fish species which may be taken;
 - (c) the period, times or particular voyages during which fishing is authorized;
 - (d) the method of fishing;
 - (e) the number of Belizeans employed or trained by the holder of the High Seas Fishing License.
- (5) A High Seas Fishing License shall be subject to the following conditions -
 - (a) the license Belize fishing vessel shall display an identification mark assigned to it by the Fisheries Administrator as he may prescribe;

(b) the records of fishing operations shall be kept on board the licensed fishing vessel and the returns shall be submitted to IMMARBE concerning the areas of fishing as may be stipulated in the license or as shall be notified by the Fisheries Administrator to IMMARBE for compliance by the person to whom the license is issued;

(c) the licensed fishing vessel shall not engage in any activities which may undermine the effectiveness of international conservation and management measures for the species of living marine resources in the high seas as may be specified by the Fisheries Administrator in writing.

(6) An owner, master or charterer who fails to comply with subsection (4) or (5) of this section commits an offence and shall be subject to one or more of the disciplinary measures contained in the Registration of Merchant Ships (Disciplinary) Regulations, 1999.

Variation of the High Seas Fishing License

8. (1) A High Seas Fishing License may be –

(a) varied from time to time

(b) revoked; or

(c) suspended

Where, upon the recommendation of IMMARBE, it appears to the Fisheries Administrator that it is necessary or expedient to do so for the conservation of management of living marine resources in the high seas.

Period of Validity of the High Seas Fishing License

9. (1) Subject to subsection (2), the period of validity of a High Seas Fishing License shall be one year or such other period as may be specified in the license.

(2) A High Seas Fishing License shall cease to be valid with immediate effect if the fishing vessel in respect of which it was issued ceases to be entitled to fly the flag of Belize.

PART IV

INTERNATIONAL COOPERATION

Provisions of Information

10. IMMARBE shall provide to any relevant international organization, any information contained in the record provided under 3(1) of this Act.

Exchange of information with other states

11. (1) IMMARBE shall make such arrangement as may be appropriate to enable them to exchange information including evidentiary material with other states that are parties to the Agreement so as to better implement the objects of the Agreement.

(2) Pursuant to subsection (1), IMMARBE shall in particular, where it has reason to believe that a foreign fishing vessel engaged in activities which undermine international conservation management measures -

- (a) provide to the appropriate authorities of the flag state of the foreign fishing vessel concerned such information, relating to those activities as may be necessary to assist the flag state in identifying the vessel; and
- (b) when such foreign vessel is voluntarily in a port of Belize promptly notify the appropriate authorities of the flag state of the vessel accordingly.

PART V

ENFORCEMENT

General powers of authorized officers at sea

12. (1) For the purpose of enforcing this Act, an authorized officer may exercise any of the following powers with respect to any Belize Fishing vessel on the high seas –

- (a) he may stop the vessel;
- (b) he may require the master to stop fishing and retrieve the fishing gear of the vessel;
- (c) he may require the master to facilitate the boarding of the vessel by all appropriate means;
- (d) he may go on board the vessel and take with him such other persons as he may require to assist him in the exercise of his powers;
- (e) he may require the master, crew or any of them to produce any certificate of registration, license, official log book, official paper, article of agreement, record of fish caught and any other document relating to the vessel or crew of any member thereof for examination;
- (f) he may muster the crew of the vessel;
- (g) he may require the master to appear and give any explanation concerning the vessel or any crew or any person on board the vessel and any document mentioned in paragraph (e);

- (h) he may make any search, examination or enquiry which he shall consider necessary to find out whether this Act has been contravened;
- (i) he may take or require the master to take the vessel to any place, port or harbour for the purpose of the carrying out of any search, examination or enquiry;
- (j) he may, having regard to the safety of the vessel take steps to immobilize any fishing vessel detained in accordance with this section for the purpose of preventing the vessel being taken by any person;
- (k) he may seize or take copies of any document which he believes may be relevant to any such offence.

(2) In exercising the powers referred to in subsection (1), an authorized officer may use such force as may be reasonably necessary.

Security for release of a fishing vessel

13. (1) Where a fishing vessel is taken or detained under this Act and an information or charge is laid against the master, owner or the charterer of the vessel in respect of the offence for which the vessel has been detained, the master, owner or charterer of the vessel may at any time before the determination of the information or charge, apply to the Director General and Senior Deputy Registrar of IMMARBE for the release of the vessel on the provisions of security in accordance with this section.

(2) On hearing the application in relation to subsection (1), the Director General and Senior Deputy Registrar of IMMARBE may order the release of the fishing vessel after being satisfied that the reasonable security has been given to IMMARBE in respect of the aggregate of the maximum penalty to which the owner, master or charterer may be liable, and taking into account the cost and expense which IMMARBE may recover.

(3) For the purposes of this section “fishing vessel” includes all equipment on board or equipment used for the vessel and also include any fish which has been detained on board the vessel under this Act.

Penalties – S.I. No. 56 of 1999

14. In accordance with the provisions of the Registration of Merchant Ships (Disciplinary) Regulations, 1999, and in particular, regulations 5, 6, 7 and 8 of those regulations, the Director General and Senior Deputy Registrar of IMMARBE, after examining the facts relating to a violation or offence, may issue a written warning, impose a fine or order the cancellation of registration or documents.

Notification of penalties, etc. S.I. No. 56 of 1999

15. The procedures under this Part are to be governed by regulation 12 and 13 of the Registration of Merchant Ships (Disciplinary) Regulations, 1999

PART VI

PROHIBITIONS AND OFFENCES

Prohibition of activities undermining international conservation and management measures

16. (1) No Belize fishing vessel shall engage in any activity on the high seas which undermines the effectiveness of international conservation and management measures.

(2) The Minister may, by regulation, prescribe any activities which undermines the effectiveness of international conservation and management measures.

(3) Where a fishing vessel of Belize contravenes subsection (1) the master, owner or charterer each commits an offence and shall be liable to the penalties referred to in regulation 7 and 8 of the Registration of Merchant Ships (Disciplinary) Regulations, 1999

Obstruction of authorized officers, etc.

17. (1) Any person who –

- (a) assaults, resists willfully obstructs an authorized officer while in the course of exercising his powers under this Act;
- (b) refuses or neglects to comply with any order, requisition or direction lawfully made or given under this Act;
- (c) without reasonable cause or excuse fails to –
 - (i) answer any question put to him by an authorized officer; or
 - (ii) give any information or produce any thing required to be produced in accordance with this Act;
- (d) fails to allow a search or inspection of a Belize fishing vessel under this Act;
- (e) prevents or attempts to prevent another person from complying with such orders, requisition or directions or from answering such questions, or producing any thing or allowing a search or inspection;
- (f) knowingly or recklessly provides information which is false in a material particular –
 - (i) for the purpose of obtaining a license; or
 - (ii) for purported compliance with any requirement to furnish any information under this Act; or

- (g) any person who without any lawful authority alters a license issued under this Act, commits an offence and shall be liable to one or more of the penalties specified in the Registration of Merchant Ships (Disciplinary) Regulations, 1999.

Other offences, penalties and proceedings.

18. (1) Any person who contravenes any provision of this Act for which no offence is specifically provided commits an offence.

(2) Any person who commits an offence against this Act for which no penalty is specifically provided shall be liable to a fine prescribed in the Regulations.

(3) For the purposes of any proceeding under this Act, any fish found on board a fishing vessel shall, unless the contrary is proved, be presumed to be caught -

(a) on the high seas; and

(b) within the vicinity of the vessel at the time the fish is so found.

(4) An attempt to commit an offence under this Act shall itself constitute an offence and may be dealt with in a like manner as if the offence had been committed.

(5) Any master or other person who transships, receives on board a fishing vessel, transports, sells, offers for sale, processes or in any other manner deals with any fish caught in contravention of this Act commits an offence.

(6) Any person who aids, abets, counsels or procures an offence under this Act or conspires to commit such offence commits the offence so aided, abetted, counseled or procured or conspired to be committed.

(7) When a person is found guilty of a repeated offence under this Act he shall be liable to a penalty which shall be double the normal penalty imposed for that offence.

(8) A certificate purporting to be signed by the Fisheries Administrator or any officer authorized by him for that purpose stating that on a date specified in the certificate -

(a) a fishing vessel specified in that certificate was not licensed under this Act;

(b) the accused person or any other named person was not the holder of a license under this Act;

(c) a person was the holder of a license or permit under this Act, shall, in the absence of any proof to the contrary, be sufficient evidence of the matter stated in the certificate.

PART VII
REGULATIONS

Power to make regulations

19. (1) After consultation with the Fisheries Administrator, the Ministry may, in conjunction with the Director General and Senior Deputy Registrar of IMMARBE, make regulations for the better carrying into effect of the purpose of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may provide for -

- (a) anything which is to be or may be prescribed under this Act;
- (b) the payment of fees on application for licenses and on the issue of licenses;
- (c) the conditions and procedures of applications for licenses and their forms;
- (d) the placing of observers on fishing vessels;
- (e) reports to be made for the purposes of this Act;
- (f) notification of contribution to international conservation and management measures recognized by Belize;
- (g) activities that shall be considered to be activities which undermine the effectiveness of international conservation and management measures.

Commencement

20. This Act shall come into force on a day to be appointed by the Minister by Order published in the Gazette.