

Seychelles

## Fisheries Act

Act 5 of 1986

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## Fisheries Act Contents

|  |   |
|--|---|
| Part I – Preliminary .....   | 1 |
| 1. Short title .....   | 1 |
| 2. Interpretation .....  | 1 |
| Part II – Management of fisheries .....                                    | 2 |
| 3. Fisheries management and development plans .....                        | 2 |
| 4. Management measures .....   | 2 |
| 5. Information .....   | 2 |
| 6. Fishing agreements .....  | 3 |
| 7. Foreign fishing vessel licence .....                                    | 3 |
| 8. Stowage .....   | 3 |
| 9. Local fishing vessel licence .....                                      | 3 |
| 10. Pleasure craft .....   | 4 |
| 11. Other licences .....   | 4 |
| 12. Operating and management requirements and conditions of licences ..... | 4 |
| 13. Fees .....   | 4 |
| 14. Validity of licences .....   | 5 |
| 15. Suspension and cancellation of licences .....                          | 5 |
| 16. Appeals .....  | 5 |
| 17. Scientific research .....  | 5 |
| Section 17A. ....  | 5 |
| 18. Aquaculture .....  | 6 |
| Part III – Enforcement .....   | 6 |
| 19. Powers of authorized officers .....                                    | 6 |
| 20. Hot pursuit .....  | 7 |
| 21. Public officers .....  | 7 |
| 22. Regional arrangements .....  | 7 |
| 23. Custody of seized articles .....                                       | 7 |
| 24. Offences .....   | 7 |
| 25. Forfeiture .....   | 8 |
| 26. Compounding .....  | 9 |
| Part IV – General provisions .....   | 9 |
| 27. Regulations .....  | 9 |

# Seychelles

## Fisheries Act

### Act 5 of 1986

Commenced on 31 March 1987

*[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]*

*[Repealed by [Fisheries Act, 2014 \(Act 20 of 2014\)](#) on 13 January 2015]*

*[Act 5 of 1986; Act [3 of 1997](#); Act [2 of 2001](#)]*

## Part I – Preliminary

### 1. Short title

This Act may be cited as the Fisheries Act.

### 2. Interpretation

In this Act—

**"aquatic organism"** means any aquatic plant or animal with the exception of birds, and includes any fish, crustacean, mollusc, coral, echinoderm, holothurian, or aquatic reptile or aquatic mammal and its shell, eggs and other naturally occurring products;

**"authorized officer"** means any public officer or any employee of SFA designated by the Minister by notice in the *Gazette* to be an authorized officer for the purposes of this Act;

**"continental shelf"** means the continental shelf of Seychelle as defined by section 5 of the Maritime Zones Act.

**"fishing aggregating device"** means any device placed in the water to aggregate fish and includes any natural floating object upon which a device has been placed to facilitate its location;

**"fishing"** means fishing, for, catching, taking or killing fish or other aquatic organisms by any method and includes searching for fish and placing any fishing aggregating device;

**"fishing vessel"** means any vessel used for fishing other than a pleasure craft;

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

**"licensing law"** the Licences Act, or any other law for the time being regulating the granting of licences required under this Act;

**"local fishing vessel"** means any fishing vessel which—

- (a) is wholly owned by one or more citizens of Seychelles or public bodies; or
- (b) is wholly owned by a company, society or other association of persons established under the laws of Seychelles, of which all of the shares are owned by citizens of Seychelles or public bodies; or
- (c) is wholly owned or chartered by a company, society or other association of persons established under the laws of Seychelles, of which at least 51 per cent of the voting shares are held by citizens of Seychelles or public bodies and which the Minister determines should be treated as a local fishing vessel;

**"master"** means the captain or any other person for the time being in charge of a vessel;

"**operator**" means, with respect to a vessel, the owner and charterer, if any;

"**pleasure craft**" means a vessel operated or hired for the primary purpose of sport or recreation;

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

- (a) transshipping fish to or from any vessel;
- (b) storing or processing fish;
- (c) transporting fish except as part of a general cargo;
- (d) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;
- (e) attempting or preparing to do any of the above;

"**Seychelles vessel**" means a vessel required to be registered under the Merchant Shipping Act and a local fishing vessel;

"**Seychelles waters**" means the exclusive economic zone, territorial waters, internal waters and all other waters subject to the fisheries jurisdiction of Seychelles.

"**SFA**" means the Seychelles Fishing Authority established by the Seychelles Fishing Authority (Establishment) Act.

## Part II – Management of fisheries

### 3. Fisheries management and development plans

- (1) SFA shall prepare and keep under review plans for the management and development of fisheries.
- (2) The plans shall indicate the current state of fisheries, the objectives to be achieved and the management, development and licensing measures to be applied, including the amount of fishing, if any, to be allocated to foreign fishing vessels.
- (3) In the preparation of each fisheries management and development plan, SFA shall consult with the local fisherman and other persons affected by the plan.
- (4) SFA shall when practical consult with fisheries management authorities of other States in the Indian Ocean, and in particular with those sharing the same or related stocks, with a view to ensuring the harmonization of their respective fisheries management and development plans.
- (5) Each fisheries management development plan or review thereof shall be submitted to the Minister for approval.

### 4. Management measures

- (1) The Minister may make regulations prescribing measures for the proper management of fisheries including closed seasons and closed areas, specification of gear that may be used (including the mesh size of nets), prohibited fishing methods and gear, the species, sizes and other characteristics of fish and other aquatic organism that it is permitted or forbidden to catch and schemes for the limitation of entry into all or any specified fisheries.
- (2) A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear or fish or other aquatic organism.

### 5. Information

- (1) SFA shall collect and analyse statistical and other information on fisheries.

- (2) Every person engaged in fishing, related activities or aquaculture shall supply such information regarding such activities in such form as the SFA may require.
- (3) No person who receives information pursuant to this Act shall use or disclose it except for the purposes of this Act.
- (4) The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for the exchange of fisheries information and for the harmonization of systems for its collection.

## 6. Fishing agreements

- (1) The Minister may enter into agreements with other States, with intergovernmental organisations and with associations representing foreign fishing vessel operators allocating fishing rights to vessels of those States, organizations and associations.
- (2) The total fishing rights allocated by agreements made under this section shall not exceed the total resources or amount of fishing permitted to foreign fishing vessels by the applicable fisheries management and development plan.
- (3) Any agreement made under this section shall include—
  - (a) a provision establishing the responsibility of the other State, organization or association to take all necessary measures to ensure compliance by its vessels with the agreement and with the law relating to fishing in Seychelles waters; and
  - (b) such other provisions as may be prescribed.

## 7. Foreign fishing vessel licence

- (1) No foreign fishing vessel may be used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf except under and in accordance with a licence granted under the licensing law or an authorization under [section 17](#).
- (2) Subject to this Act, a licence granted in accordance with subsection (1) in respect of a foreign fishing vessel shall authorise that vessel to be used in Seychelles waters and, in respect of sedentary species, on the continental shelf for such fishing activities as may be specified in the licence.
- (3) No licence shall be granted in accordance with subsection (1) unless—
  - (a) there is in force with the Government of the flag state of the vessel, with an intergovernmental organization to which the flag state has delegated the power to negotiate fishing agreements, or with an association of which the operator is a member, an agreement entered into under [section 6](#) to which the Government of Seychelles is a party; or
  - (b) the Minister determines that an agreement under [section 6](#) in respect of the vessel is not practical and the applicant provides sufficient financial and other guarantees for the fulfilment of all obligations under this Act.

## 8. Stowage

Any foreign fishing vessel that is not licensed in accordance with [section 7](#) or authorized under [section 17](#) shall at all times that it is in Seychelles waters keep its fishing gear stowed in such manner as may be prescribed.

## 9. Local fishing vessel licence

- (1) No local fishing vessel may, unless it has been exempted under subsection (2), be used for fishing except under and in accordance with a licence granted under the licensing law or an authorization under [section 17](#).

- (2) The Minister may make regulations exempting any category of local vessel from the requirements of this section, subject to such conditions as he may prescribe.
- (3) No licence shall be granted in accordance with subsection (1) unless—
  - (a) the vessel is a local fishing vessel as defined;
  - (b) the issue of the licence is consistent with any licensing programme specified in the applicable fisheries management and development plan;
  - (c) the applicant is able and willing to comply with the conditions of the licence.

## 10. Pleasure craft

- (1) The Minister may make regulations prescribing the conditions under which pleasure craft may be used for fishing.
- (2) Regulations made under subsection (1) may require a pleasure craft used for fishing to be licensed.
- (3) Where a pleasure craft used for fishing is required to be licensed, a licence may be granted under the Licensing law.

## 11. Other licences

- (1) The Minister may make regulations requiring a licence for—
  - (a) any kind of fishing, with or without the use of a vessel;
  - (b) the use of a vessel for any related activity.
- (2) Where a licence is required for any activity described in subsection (1), a licence may be granted under the licensing law.
- (3) A licence required by regulations made under this section shall authorize any person to conduct any kind of fishing or related activity for which the licence is required.

## 12. Operating and management requirements and conditions of licences

- (1) Every vessel, net or activity required under this Act to be licensed shall be operated or conducted in accordance with such general operating and management requirements as the Minister may prescribe, and, in the case of a foreign fishing vessel, with requirements made applicable to the vessels by any agreement under [section 6](#), and, in all cases, subject to any conditions which may be prescribed or be endorsed on the licence including conditions relating to—
  - (a) the type and method of fishing or related activity authorized;
  - (b) the areas within which such fishing or related activity is authorized; and
  - (c) the target species and amount of fish or other aquatic organisms authorized to be taken, including any restriction on by catch.
- (2) Where it is expedient for the proper management of fisheries, any special condition attached to any licence may be varied by the person or the authority granting the licence.
- (3) Where any special condition attached to any licence is varied, the licensee shall be notified of such variation as soon as practicable.

## 13. Fees

There shall be payable in respect of every licence such fees and other payments as may be prescribed by or under the licensing law or provided for by an agreement under [section 6](#).

## 14. Validity of licences

- (1) A licence granted in accordance with this Act shall be valid for such period not exceeding five years as may be prescribed by regulations or specified in the licence.
- (2) Where a vessel licensed as a local fishing vessel ceases to be a local fishing vessel, the licence shall automatically terminate.
- (3) The term of a foreign fishing vessel licence shall not extend beyond the term of any applicable agreement under [section 6](#).
- (4) No licence shall be transferable except with the written permission of the SFA or as may be prescribed by regulations for the limitation of entry into any fishery.

## 15. Suspension and cancellation of licences

- (1) Any licence granted in accordance with this Act may be suspended or cancelled in accordance with the licencing law—
  - (a) where a vessel or any gear in respect of which the licence was issued has been used, or any activity has been conducted, in contravention of this Act or of any condition of the licence;
  - (b) where such action is necessary or expedient for the proper management of fisheries.
- (2) In the event of suspension or cancellation of a licence for the reasons set out in subsection (1) (b), the proportion of any fees paid with respect to the unexpired portion of the licence shall be refunded to the licensee.

## 16. Appeals

Any person aggrieved by—

- (a) the refusal to grant or renew a licence in accordance with sections [9](#), [10](#) or [11](#); or
- (b) the suspension, cancellation or variation of a condition of any licence;

may appeal against the refusal, suspension, cancellation, or variation, and the provisions of the licensing law shall apply to such appeal.

## 17. Scientific research

- (1) The Minister may in writing authorize any person or vessel to fish for the purpose of scientific research, subject to such conditions as he may prescribe or specify.
- (2) An authorization under subsection (1) may exempt any person or vessel from any provision of this Act.

### 17A.

- (1) No Seychelles vessel shall be used for fishing outside Seychelles waters except under and in accordance with an authorization under this section.
- (2) SFA may, in writing, authorize any Seychelles vessel, other than a vessel which Seychelles is bound by an international agreement not to authorize, to be used for fishing outside Seychelles waters subject to such conditions as it may specify or as may be prescribed and on payment of the prescribed fee.
- (3) The conditions of an authorization under this section may be varied at any time.
- (4) An authorization under this section may be suspended or cancelled where the vessel in respect of which the authorization was granted has been used in contravention of this Act or any regulation

made thereunder or in breach of any conditions of the authorization or at any time that SFA determines that it is unable to exercise its responsibilities effectively in respect of the vessel under international law.

## 18. Aquaculture

- (1) The SFA may in writing grant to any person the exclusive right of propagating, raising and taking fish and other aquatic organism, in any area of Seychelles waters.
- (2) An application for a grant under this section shall be made in the prescribed form to the SFA.
- (3) The SFA shall, at the expense of the applicant, publish in the *Gazette* notice that an application has been made under this section and that any objection to its being granted must be filed with the SFA within 15 days of the date of publication of the notice.
- (4) The SFA shall forward an application under this section, together with any objections thereto, any further submissions by the applicant and its own observations and recommendations, to the Town and Country Planning Authority established by section 3 of the Town and Country Planning Act.
- (5) A grant under this section shall not be made without the prior approval of the Town and Country Planning Authority.
- (6) A grant under this section shall be valid for such period and subject to such conditions and the payment of such fees as may be specified in the grant.
- (7) The Minister may make regulations further providing for the licensing and control of aquaculture in any part of Seychelles or Seychelles waters.

## Part III – Enforcement

## 19. Powers of authorized officers

- (1) For the purpose of enforcing this Act, an authorized officer may, without a warrant—
  - (a) stop, board and search;
    - (i) In Seychelles waters, any fishing vessel, and
    - (ii) On the high seas, any Seychelles vessel or any fishing vessel flying the flag of a state party to an agreement to which Seychelles is a party and which provides for such stopping, boarding and searching;
  - (b) in Seychelles and abroad any vessel boarded under paragraph (a)—
    - (i) Require to be produced, examine and make copies of any licence, logbook or document required under this Act;
    - (ii) Require to be produced and examine any net or other fishing gear and any fish.
- (2) The master of any fishing vessel ordered to stop by an authorized officer shall take all necessary measures to facilitate boarding of the vessel.
- (2A) The master of any Seychelles vessel ordered to stop by an authorized officer of a State party to an international agreement to which Seychelles is a party and which provides for such stopping and boarding shall take all necessary measures to facilitate boarding of the vessel.
- (3) Where an authorized officer has reasonable grounds to believe that an offence against this Act has been committed in Seychelles or Seychelles waters, he may in Seychelles or Seychelles without a warrant, seize and detain any vessel (together with its gear, stores and cargo), fish, fishing gear or other article which he has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed.



- (4) Any vessel seized under subsection (3) and the crew thereof shall be taken forthwith to the nearest or most convenient port.
- (5) Any vessel or other article seized under subsection (3) shall be delivered into the custody of the magistrates' court and shall be dealt with in accordance with [section 23](#).

## 20. Hot pursuit

Where, following the commission in Seychelles waters of an offence against this Act with the use of a vessel, the vessel is pursued beyond the limits of Seychelles waters, the powers conferred on authorized officers under [section 19](#) shall be exercisable in respect of such vessel beyond the limits of such waters in the circumstances and to the extent recognized by international law.

## 21. Public officers

- (1) The Public Officers (Protection) Act is hereby extended to all Seychelles waters.
- (2) Employees of SFA exercising functions under this Act shall be deemed to be public officers for the purposes of the Public Officers (Protection) Act, and of sections 372 and 373 of the Penal Code.

## 22. Regional arrangements

The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for joint or harmonized surveillance and enforcement measures in respect of foreign fishing vessels.

## 23. Custody of seized articles

- (1) The court may order any fish or other perishable articles seized under this Act to be sold.
- (2) The court may order the release of any vessel or other article seized under this Act on receipt of a satisfactory bond or other security for its value.
- (3) The proceeds of any sale under sub-section (1), and any bond or other security received under sub-section (2) shall be held and dealt with in accordance with this Act as though they were the article which has been sold or released.
- (4) If no proceedings in respect of a seized article are instituted within 15 days of its delivery to the court, it shall be released on demand to any person who appears to be entitled thereto.
- (5) Where proceedings are instituted in respect of a seized article, the court may retain it pending the outcome of such proceedings and, where proceedings are instituted in any other court, may deliver it into the custody of that court which shall deal with it in accordance with this section.

## 24. Offences

- (1) Where any foreign fishing vessel that is not licensed in accordance with [section 7](#) or authorized under [section 17](#) is used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf, the operator and master shall each be guilty of an offence and liable on conviction to a fine of R.2,500,000.
- (2) Where any vessel that is licensed in accordance with [section 7](#) or that is a foreign vessel authorized under [section 17](#) is used in contravention of any condition of the licence or authorization or of any condition of the licence or authorization or of any prescribed standard requirements applicable to that vessel the operator and master shall each be guilty of an offence and liable on conviction to a fine of R.500,000.

- (3) Where any local fishing vessel that is required to be licensed in accordance with [section 9](#) is not so licensed and is used for fishing in Seychelles waters, the operator and master shall each be guilty of an offence and liable on conviction to a fine of R.50,000.
- (4) Where any vessel that is licensed in accordance with [section 9](#) or that is a local vessel authorized under [section 17](#), is used in contravention of any condition of the licence or authorization, the operator and master shall each be guilty of an offence and liable on conviction to a fine of R.50,000.
- (5) Any person who, in Seychelles or Seychelles waters, conducts any fishing or related activity for which a licence is required by regulations made under this Act, otherwise than under the authority of and in accordance with the terms of a valid licence, shall be guilty of an offence and liable on conviction to a fine of R.20,000.
- (6) Where any foreign fishing vessel that is not licensed in accordance with [section 7](#) or authorized under [section 17](#) is found in Seychelles waters without its gear stowed in the prescribed manner, the operator and master shall each be guilty of an offence and liable on conviction to a fine of R.250,000.
- (7) Any person who uses any poisonous or explosive substance to kill, stun or disable fish in order to render them more easily caught shall be guilty of an offence and liable on conviction to a fine of R.100,000.
- (8) Any person who fishes in contravention of any management measure prescribed under [section 4](#) shall be guilty of an offence and liable on conviction to a fine of R.50,000.
- (9) Any person who, contrary to [section 19\(2\)](#) or in any other way, prevents or hinders an authorized officer in exercising the powers conferred on him under this Act shall be guilty of an offence and liable on conviction to a fine of R.20,000.
- (10) (a) Any person who, in Seychelles waters, kills, chases or takes any marine mammal, alive or dead, shall be guilty of an offence and liable on conviction to a fine of R.50,000;  
(b) It shall be a defence to a charge under paragraph (a) that either—
  - (i) if taken alive, the marine mammal was returned to the sea with the least possible injury; or
  - (ii) if taken dead or so seriously injured as to render its recovery unlikely, the taking of the marine mammal was reported to the Principal Secretary of the Ministry as soon as practical and body disposed of in accordance with his instructions.
- (11) Any person required to supply information under this Act who fails to supply such information or supplies false or misleading information shall be guilty of an offence and liable on conviction to a fine of R.50,000.
- (12) Where any Seychelles vessel that is not authorized under [section 17A](#) is used for fishing outside Seychelles waters, the operator or master shall each be guilty of an offence and liable on conviction to a fine of R500,000.
- (13) Where any Seychelles vessel authorized under [section 17A](#) is used for fishing outside Seychelles waters, the operator or master shall each be guilty of an offence and liable on conviction to a fine of R500,000.

## 25. Forfeiture

- (1) On convicting any person of an offence against this Act, the court, in addition to any other penalty imposed—
  - (a) may order any fishing gear used in the commission of the offence, and any article in respect of which the offence has been committed, and in the case of an offence under [section 24\(1\)](#), any vessel (together with its gear, stores and cargo) used in the commission of the offence, to be forfeited;

- (b) shall order all fish and other aquatic organisms caught in the commission of the offence to be forfeited.
- (2) All fish and other aquatic organism found on board any vessel which has been used in the commission of an offence against this Act shall be presumed, unless the contrary is proved, to have been caught in the commission of the offence.
- (3) Where an article in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offence in the commission of which the article was used, or which was committed in respect of the article, have been paid. If within thirty days following the imposition of the fine, any part of such fines remains unpaid, such article may be sold, and the proceeds applied towards payment of the fines.

## 26. Compounding

- (1) The Minister may, if he is satisfied that an offence has been committed under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section—
  - (a) compound the offence by accepting the sum of money not exceeding the maximum fine specified for the offence;
  - (b) order the release of any vessel or other article seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other article.
- (2) Any sum of the money received under this section shall be dealt with as though it were a fine imposed by the court.
- (3) In any proceedings brought against any person for an offence against this Act, it shall be a good defence if the person proves that the offence has been compounded under this section.

## Part IV – General provisions

## 27. Regulations

- (1) The Minister may make regulations for the carrying into effect of the purposes and provisions of this Act, including regulations—
  - (a) requiring the holder of a licence in accordance with [section 7](#) to appoint a local agent in Seychelles with authority to represent the holder of the license in respect of the vessel;
  - (b) requiring the holder of any licence to execute a bond or give other guarantee of his obligations under the licence;
  - (c) requiring any licensed vessel to be equipped with specified communications and position-fixing equipment;
  - (d) delimiting areas of Seychelles waters in which fishing shall be reserved to local vessels and local fishermen;
  - (e) providing for compensation payable to Seychelles citizens or to the Government in the event of any loss or damage caused by a foreign fishing vessel to other vessels or their gear or catch, or to cables or to other Seychelles interests;
  - (f) prescribing the manner in which fishing gear is to be stowed and requiring any fishing vessel to stow its gear in the prescribed manner during anytime that it is in an area of Seychelles waters where it is not authorized to fish;
  - (g) regulating the use of fish aggregating devices;
  - (h) regulating the import and export of live fish and other aquatic organisms;

- (h1) regulating fishing by Seychelles vessels beyond the limits of Seychelles waters.
  - (h2) regulation the exercise of powers under this Act outside Seychelles waters.
  - (h3) regulating the landing and transhipment of any fish;
  - (i) prescribing any other matter which is required or authorized to be prescribed.
- (2) Regulations made under this section may provide that their contravention shall constitute an offence and may prescribe fines not exceeding R.20,000 for any offence.