

FIRST REPORT ON
NEW FISHERIES LAWS FOR GUYANA

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TABLE OF CONTENTS

	Page
1. Legal background	1
2. The Constitution	1
3. International Laws and Agreements	2
4. Legislation concerning fisheries	3
5. Legislation concerning safety of fishing vessels	8
6. Licensing and registration of vessels	9
7. Custom Duties	10
8. Policing Laws	10
9. Legislation concerning sea walls, and aquaculture and mariculture development	11
10. Environmental protection legislation	13
11. Legislation concerning companies, partnerships, cooperatives and public corporations	14
12. Other legislation indirectly relevant to fisheries	15
13. The need for a new fisheries law	16
ANNEX I	19
ANNEX II	65

1. Legal background

The Cooperative Republic of Guyana has inherited the English common law, which continues to operate in Guyana subject to any constitutional and legislative changes that apply. Thus, the principles by which legislation is interpreted and drafted are the same as operate throughout the common law world. In addition to common law principles, some elements of Roman-Dutch law are capable of applying, being a legacy of its period as a Dutch colony, though this consideration is no longer of practical relevance.

The matter is regulated by the Civil Law of Guyana Act Cap 6:01. (No. 15 of 1916), which codifies certain portions of the Roman Dutch Law of the State and in other matters substitutes the English common law and principles of Equity. The Act (Sect. 2(3)) saves existing rights acquired under Roman Dutch Law, but from 1 January 1917, the Roman Dutch law shall otherwise cease to apply (Sect. 3(a)), while the English common law at that date shall apply (Sect 3(b)). The Act also provides that the foreshore (defined as the shore of the sea and of tidal navigable rivers which is covered by medium high tide between the spring tides and the neap tides) the soil under tidal waters, and the seabed within territorial waters of Guyana shall be deemed to be State lands and may be dealt with in the same manner as any other lands under the State Lands Act (Sect. 4). As from 1 January 1917, the ownership of the foreshore and of all lands covered by public navigable rivers, or by arms of the sea or by territorial waters is vested in the State upon the same terms as to use and enjoyment by the public for navigation and fishing and by the owners of the adjoining lands for access to the sea for purposes of navigation, and upon the same terms for all other purposes, as in England. Thus, the public right of fishing, as it existed in the English common law, applies in Guyana, subject only to any subsequent legislative changes.

2. The Constitution

The constitutional texts for Guyana when it became independent from the United Kingdom were: the Guyana Independence Act, 1966 and the Guyana Independence Order, 1966. In 1970, Guyana became a Republic and a President was substituted for the Governor General. It was not until 1980, however, that a presidential system with considerable power attaching to the office was introduced.

The present constitution was enacted in 1980, and is described as the "Constitution of the Cooperative Republic of Guyana". The Constitution describes Guyana as "an indivisible, secular, democratic sovereign state in the course of transition from capitalism to socialism [to] be known as the Cooperative Republic of Guyana" (Sect. 1)

Chapter II of the present Constitution sets out the "Principles and Bases of the Political, Economic and Social System", and states certain objectives. Brief reference may be made to: Sect. 11, which entitles "cooperatives, trade unions, and all socio-democratic organisations of a national character" to participate in the various management and decision making processes of the State; Sect. 14 which states that "the supreme goal of the economic system which is being established in the State is the fullest possible satisfaction of the people's growing material, cultural and intellectual requirements, as well as the development of their personality and their socialist relations in society"; Sect. 15 which requires the State to "revolutionise the national economy" (para 1) and that the national economy "will be based

upon the social ownership of the means of production, and the eventual abolition of internal arrangements and relationships which permit the exploitation of man by man". Other paragraphs in Sect. 15 refer to the objectives of economic laws of socialism, the role of national economic planning, and the role of cooperativism as the dynamic principle of socialist transformation

The organs of power under the Constitution are: The Parliament; the National Congress of Local Democratic organs; the Supreme Congress of the People; the President; and the Cabinet.

The Parliament (i.e. the President and the National Assembly - Sect. 51) has the power to make, subject to the Constitution, "laws for the peace, order and good government of Guyana".

In addition to the references to cooperativism in the Constitution, the Local Democratic Organs Act, 1980, in Sect. 4, allows the Minister of National Development to divide Guyana into 10 regions and into sub-regions, districts, communities, neighbourhoods and (finally) cooperative units.

While not strictly under the Constitution, it is useful to refer here to the National Security (Miscellaneous Provisions) Act (Cap. 16:02) which gives the President power in time of war, threatened subversion and other emergency to make regulations for the purpose of dealing with that situation (Section 30 (1)). One power (Sect 30 (2) (C)) permits regulations to be made with respect to "control of the harbours, ports and territorial waters of Guyana, and the movements of vessels", while another paragraph allows for

"(g) amending any law, suspending the operation of any law, and applying with or without modification any law, other than the Guyana Independence Order, 1966."

3. International Law and Agreements

Guyana has signed and ratified the Law of the Sea Convention, 1982. It has signed two agreements on fisheries - with Jamaica and Suriname - though these remain unratified. Currently, therefore, no fishing agreements are in force.

Guyana has not acceded to the Geneva Conventions on the Law of the Sea, 1958. On becoming independent, the government sent a letter to the Secretary General of the United Nations indicating that Guyana would continue to be bound by agreements entered into on its behalf by the United Kingdom until Guyana has indicated its intention not to be bound. It is uncertain therefore, whether Guyana is bound by the 1958 Conventions.

In addition to being a member of the United Nations, Guyana is also a member of the Food and Agriculture Organisation, the International Maritime Organisation, the Economic Commission for Latin America and the Caribbean and the International Oceanographic Commission/Unesco. It participates in the United Nations Environment Programme.

It is also a member of CARICOM (the Secretariat of which is based in Georgetown), SELA (Systema Economica America Latina), and OLDEPESCA (Organisation Latino Americano de Desarrollo de Pesca), and, since January 1991, the Organisation of American States.

4. Legislation concerning fisheries

There are two distinct sets of laws regarding fisheries in Guyana. First there is the Fisheries Act 1956, as amended, and regulations enacted under it, which is primarily concerned with inland fisheries and fisheries within "territorial limits" (Sect. 36), which now extend out to the limits of the twelve mile territorial sea of Guyana. Secondly, the Maritime Boundaries Act, 1977 which permits the President to proclaim an EEZ, and establishes a 200 mile fishing zone.

The Fisheries Act is still the principal legislation for local fishermen. It has sections dealing with the registration of fishing vessels, and providing for the inspection of vessels, the issuance of a licence number, its display on a fishing boat, etc., as well as provisions concerning change of possession, alterations to the register, etc. In addition to registration of vessels, the Act provides for the licensing of individual fishermen, and for a licence to export fish. Finally, fishery officers may be appointed (members of the police force not below the rank of Sergeant are automatically given the powers of fishery officers), and these officers are given certain enforcement powers, including the power to stop and search any vessel which is suspected of being used in fishing contrary to the Act or regulation, search and examine fishing stakes, and seize and detain vessels or stakes, etc. suspected of being used contrary to the Act.

The range of persons qualified as Fishery Officers was expanded considerably in 1977 by the Maritime Boundaries Act, Sect. 43, and now includes members of the Guyana Defence Force, members of the Police Force, officers of the Customs and Excise Dept., and other persons appointed for the purposes of the Act. The Coastguard, which was established in 1990, is given, inter alia, enforcement powers with respect to fisheries legislation. See further 8 below.

A regulation making power is provided, covering such matters as: forms of application for registration and licensing, fees, facilitating identification of holders of licences and certificates of registration, particulars to be recorded in respect of fishing boats, controlling generally or specifically the taking of fish either throughout Guyana or in any specified water or area, the stocking of waters with fish, and the establishment and control of fish hatcheries, controlling the methods of taking fish, including traps, limiting the number of fish that can be taken, the provision of information for statistical purposes, providing for safety and welfare of fishermen, regulating or prohibiting certain types of fishing methods, regulating and controlling the marketing of fish, prescribing minimum sizes for fish caught, prescribing areas and periods of time within which particular fish may not be caught, and prohibiting the deposit or discharge of noxious substances. Prosecutions can only be instituted with the consent of the Director.

The Act was amended in 1969 by the Fisheries Amendment Act, which added a definition of Minister, and included in effect an exemption from holding a licence in respect of fishing by Amerindians. This was done by stating that the relevant subsection "shall not apply to any

person who uses a line with not more than three hooks attached thereto, or who fishes in the interior". "Interior" is defined as "all that part of Guyana not less than twenty miles from the sea coast between Corentyne River on the east and the Pomeroon River on the west and includes the North West District". Other substantive amendments dealt with the duration of a licence (12 months), time for payment for a licence, refusal to issue a licence, and the provision of an appeal to the Minister within twenty-one days. Finally, all police officers, not just those of the rank of Sergeant and above, were given the powers of fisheries officers for enforcement purposes.

Fisheries Regulations, 1957

These regulations set out the form in which an application shall be made for the registration of a fishing boat, and for a licence to fish.

Exemptions from the licensing requirements are made in respect of persons using nets or structures not exceeding 20 feet, or lines with not more than three hooks, or who fish in the interior.

The Regulations also deal with the licensing of fish pens, export licences, the sale of fish, fishermen's rest rooms, mooring at the fish dock, landing fish and fishing equipment, etc. at the fish dock, provision of a watchman while alongside the dock, liability for damage to the fish dock and the use of ramps and grids.

Contravention of the regulations incurs a penalty of G\$25 on summary conviction.

The first schedule sets out the forms of applications for registration of fishing boats, certificates of registration of fishing boats, applications for licences to fish, licences to fish, fish pen permits, and licences to export fish.

The second schedule exempts certain fish from distribution through the Fish Marketing Centre; the third schedule sets out licence fees and charges.

In 1959, the Fisheries (Amendment) Regulations were enacted, which required all fish landed at the Fish Marketing Centre to be subject to the approval of the superintendent and to be wholesale. The Regulations also revised the licence fees and charges set out in the 1957 regulations.

The 1969 Regulations made largely technical changes to the 1957 regulations (changes of title to director, permits to expire on 31 December each year, etc.). Regulation 5 of the 1957 Regulations exempted nets and structures not exceeding 20 feet in length, or using a line with no more than three hooks attached thereto, or persons fishing in the interior. (See new Section 11(b) of the principal Act).

Fisheries (Aquatic Wildlife) Control Regulations made under Sect. 33 of the Fisheries Act

These regulations authorise "a fishing officer" to issue a licence to any person to capture, collect, remove or slaughter any form of prescribed wildlife found in any waters of Guyana in such number and subject to such conditions as shall be set out in the licence". (Sect. 3(1)).

A fee of G\$10 is prescribed in Section 3(2). "Prescribed aquatic wild life is defined as including "Manatees, Arapaima, Caymans, Water Dogs, Turtles".

Section 9 states that "the onus of proving that any prescribed aquatic wildlife

- (a) has been captured or killed accidentally;
- (b) has been captured, removed, collected or slaughtered under a licence issued in accordance with these Regulations;
- (c) or the carcass thereof is the subject of private ownership;
- (d) or the carcass or flesh thereof has been examined by a food inspector and certified as fit for human consumption,

shall rest upon the person charged with the offence".

The penalty is, on summary conviction, a fine of up to G\$250, or six months imprisonment, and forfeiture of the licence. (Section 10).

Maritime Boundaries Act, 1977

The Maritime Boundaries Act, 1977 is a comprehensive Act covering, as well as fishing matters, important maritime jurisdictional issues for Guyana. It was one of the earlier comprehensive Acts enacted as a result of the developing consensus at UNCLOS III, in particular regarding the EEZ.

Part I (Sect. 3) of the Act enacts a twelve mile territorial sea measured from the low water line, or, where the coast is broken by a river, by a "straight line joining the two points where the low water line on the coast ends on either side of the river". (Sect. 7). The low water line is defined as the line of the mean low water springs as depicted on official charts (Sect. 8). Sect. 44 repeals the U.K. Territorial Waters Jurisdiction Act, 1878 insofar as it applies to Guyana.

Part II, on the Continental Shelf, confirms the pre-existing British Guyana (Alteration of Boundaries) Order in Council, 1954, which included the shelf within "the boundaries of Guyana" and further defines it as comprising "the seabed and subsoil of the submarine areas that extend beyond the limit of the territorial sea throughout the natural prolongation of the land territory of Guyana to the outer edge of the continental margin or to a distance of 200 miles where the outer edge of the continental margin does not extend up to that distance".

Part III, on the Exclusive Economic Zone, authorises the President to proclaim such a zone. In such a zone Guyana shall have "sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living ". The Act also asserts that Guyana shall have "such other rights as are recognised by international law". Missing is any reference to duties, as is provided for in Art. 56(1)(c) of LOSC.

The Act also requires that no exploration or exploitation of the natural resources of the zone shall take place except in accordance with an agreement with the Government of Guyana or licence, or letter of authority from the relevant Minister. The President may also extend any enactment to the EEZ, and such enactment will have effect "as if the exclusive economic zone is part of the territory of Guyana."

Part IV provides for a fishery zone which extends 200 miles from the territorial sea base lines, though not including the territorial sea itself. In February, 1991, Guyana proclaimed an EEZ, thus the fisheries provisions of the Act operate in the context of an EEZ.

The Part provides a detailed legal regime for fishing. The Minister is authorised to regulate (by Order) the conduct of fishing operations including ancillary operations, and the marking of fishing boats and fishing gear. An Order would apply to all Guyanese fishing boats wherever they may be and to all foreign fishing boats within the fishery zone. For non-compliance with such an Order, there may be imposed a penalty of G\$1,000 on summary conviction, or G\$2,000 for subsequent convictions. The Act makes provision for access to the fishery zone by foreign boats only by the country in which they are registered being designated for that purpose by the Minister responsible for fisheries. A foreign boat not registered in country for the time being so designated is not to enter the fishery zone except for a purpose recognised by international law or in accordance with a convention between Guyana and the country of designation, and it is to leave the zone as soon as the purpose is fulfilled, as well as not fishing while within the zone.

A breach renders "the master" of the boat liable upon summary conviction to a fine of G\$200,000, as well as forfeiture "of any fishing gear" found in the boat. Likewise, fishing for scientific research requires an arrangement between Guyana and the foreign government.

The Act also has enforcement provisions: Fisheries Officers appointed under the Fisheries Act are officers for the purposes of this Act. They are given power to board fishing boats, examine fish, gear and documents while on board, and where it appears that an offence has been committed, they may without warrant, "seize the boat together with any net, line, stake, instrument or appliance suspected to have been used in the commission of an offence and detain any person found on board". The fisheries officer is to bring such vessel, thing or person to the most convenient port as soon as practicable to lay a complaint and persons detained are to come before a court of summary jurisdiction.

The court may order any "boat, net, line, stake, instrument or appliance to be disposed of in such manner as the court may think fit". Likewise, fish seized may be sold and the proceeds either forfeited to the State, or handed to the person who caught the fish where no prosecution is made or is unsuccessful. Where any person on board a fishing boat within the zone, or on any Guyanese fishing boat outside the zone fails to comply with any requirement imposed by a Fisheries Officer, or prevents another from complying or assaults or obstructs a fisheries officer, such a person is guilty of an offence and liable on summary conviction to a fine of G\$2,000.

There is also a power to prevent interference with fishing operations, though it is limited to controlling Guyanese fishing boats, or to fishing boats belonging to a country which is party to a Convention with Guyana. It is not clear whether that is intended to embrace only

bilateral fisheries agreements, or more broad based Conventions such as LOSC.

There is a General Part (V) and amongst the provisions here, are: a Presidential power to alter the seaward limits of the territorial sea, the continental shelf, the EEZ, and the fishery zone; adjacent maritime boundaries and maritime zones are to be negotiated by agreement, and pending such agreement, are not to extend beyond the line every point of which is equidistant from the nearest point on the baseline from which the breadth of the territorial sea of Guyana is measured; and the issue of charts delineating the territorial sea. A certificate from the Minister responsible for lands and surveys that a particular chart is for the time being an authorised and accurate chart is admissible as conclusive evidence of the matter stated in the certificate.

Section 39 deals with offences by companies and permits proceedings against "every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company" though an exception is made for individuals who had no knowledge or had exercised all due diligence to prevent the commission of the offence.

The regulation making power (Sect. 41) covers many matters, of which the following could be relevant to fisheries; "(a) regulation of the conduct of any person in the territorial sea, the continental shelf, the exclusive economic zone, or the fishing zone" (c) regulation of the exploration, exploitation, conservation and management of the resources of the exclusive economic zone". Others concern the preservation of the marine environment, and the authorization of marine scientific research.

The charging of fees for fisheries is not specifically covered. Section 41(2)(g) refers to "fees in relation to licences and letters of authority referred to in Part II and Part III, or for any other purposes". Parts II and III concern the continental shelf and the exclusive economic zone.

Regulations concerning fees have been enacted, and are: the Maritime Boundaries (Fishery Zone Fees) Regulations, 1977 (No. 12) and the Maritime Boundaries (Fishery Zone Fees) (Amendment) Regulations, 1977 (No. 14). The former sets out the fees payable by the "owner" (defined as including the person having for the time being the principal charge and care of a fishing boat): Regulation 5 imposes a fine of G\$10,000 and imprisonment up to six months. The second set of regulations amend the earlier principally by allowing the payment of fees in instalments on arrangements satisfactory to the Chief Agricultural Officer, and by re-enacting the fees payable in the earlier regulations, as well as providing more fees. These are set out in a schedule to the regulations (No. 14) and are:

1. Any fishing boat operating in the fishery zone but not doing so from a base in Guyana G\$2,000,000
2. Any foreign owned fishing boat exceeding 100 feet in length operating in the fishery zone from a base in Guyana G\$ 1,000,000
3. Any foreign owned fishing boat less than 100 feet in length operating in the fishery zone from a base in Guyana G\$ 225,000

4. Any Guyanese owned fishing boat 100 feet in length operating in the fishery zone from a base in Guyana G\$ 250,000
5. Any Guyanese owned fishing boat less than 100 feet in length operating in the fishery zone from a base in Guyana G\$ 45,000

Maritime Boundaries (Turtle Excluder Device) Order, 1994 (25 April).

This Order was enacted to deal with the problem of accidental turtle catching. The Order has definitions of "trawl net" and "turtle excluder device". The Order requires the master, owner or charterer of a fishing boat referred to in section 24(2) of the Act not to fish in the fishery zone or territorial sea with a trawl net "unless he has installed on such net a turtle excluder device which he shall not remove while fishing and shall have at least one spare turtle excluder device on board his fishing boat." The order further requires that "Every master, owner or charterer shall return to the water any live sea turtle caught accidentally while fishing and apply, where necessary, the resuscitation procedure established by the ministry of Agriculture".

5. Legislation concerning safety of fishing vessels

There are two Acts that are relevant here. Inland fishing vessels are dealt with under the River Navigation Act Cap 50:01 (1891). The Act applies (Sect. 2) to vessels "used for the navigation of any river or lake in Guyana which has not less than three quarters of its length, measured at the water line, covered with decking". Section 12 provides: "Nothing in this Act shall affect boats belonging to Amerindians and used by them solely for their own purposes", though certain regulations concerning lighting may apply below the "first falls". Regulations can be made under Sect 7(1) concerning navigation of rivers which would apply to fishing vessels as well. No specific regulation making power refers to fishing vessels.

Regulations have been enacted under Sect. 7 dealing *inter alia* with river navigation covering inspection and certificating of vessels and boats, passenger vessels and boats, certificating of captains, steersmen, and bowmen to be employed in charge of boats, control of navigation of boats and vessels used on parts of rivers obstructed by rapids and other aspects. These would apply generally to river fishing vessels.

The Commissioner for Lands has primary responsibility for the control of river navigation.

A major source of difficulty in Guyana results from the presence of fishing stakes in the mouth of the Demerara River and in the Harbour area of New Amsterdam. These stakes have been in place for a long time. The Harbour master and the Fisheries Department were unclear where the authority should lie in dealing with these stakes. These stakes constitute a hazard to navigation, either because in some instances they are located in the shipping channels, or because they were close to those channels in places where boats would be stopping and liable to drift into them. A clear example of the latter is found just below the Demerara bridge where certain large boats have to wait for it to open in order to pass through.

The principal legislation dealing with harbours is the Transport and Harbours Act Cap 49:04, the purpose of which is to establish a transport and harbours department to manage and control the railways and government vessels and to control and regulate the use of the harbours of Guyana. Two harbours are defined in the Act, these being Georgetown and New Amsterdam. Other areas used as harbours, but not proclaimed, are: Essequibo/Pariko, Linden and Morawhanna. In addition, Sect 34 refers to pilotage districts, including the harbours referred to (in the case of Georgetown, a wider area is defined) which may be established by regulations. The regulation making power (Sect. 49), in paragraph (i) of subsection (2) refers to "the removal of obstructions to navigation in pilotage districts", while paragraph (j) refers to "the regulation of traffic in the harbours for securing the safety of vessels and the prevention of accidents". It is thought that para (i) and probably also para (j) would authorise the enactment of regulations covering the erection of nets that come within the pilotage districts. Furthermore, Sect 42 makes it an offence to make "fast or [use] a fishing net, line, seine, or other similar thing near any stelling within a harbour" and authorises the seizure and destruction of these items.

The Transport and Harbours Act is also the source of authority to issue certificates of seaworthiness for vessels to navigate in a harbour and a licence to act as a master of a vessel in a harbour. (Harbours Regulations 1939, and 1970 Sects 3 and 8). This requirement of seaworthiness applies to marine fishing vessels that "leave or navigate" in the waters of any harbour, though this does not apply to vessels holding a valid certificate of seaworthiness issued by "a competent authority outside of Guyana" (Sect. 6(2)(a)).

6. Licensing and registration of vessels

Vessels engaged in the coasting trade, as defined in the Customs Act (Cap 82:01) are subject to the licensing Provisions of that Act. Section 16 defines coasting trade as "all trade by sea or by air from one part of Guyana to any other part thereof", though an exception is made for vessels and aircraft arriving from overseas, and trading at several ports. (Sect. 169). Sect. 171 authorises the Minister to prescribe by regulation for the licensing of ships in the coasting trade. This has been done under Customs regulation (Part XIII - Forms not Elsewhere Provided for Sect 144), and Form C.47 which is set out in the Regulations states, *inter alia*, "Licence is hereby granted to the _____ tons _____ Master, owned by _____ to trade coastwise, from this date until the 31st day of December, 19 _____, subject to the law regulating the coastwise trade of Guyana."

In the Customs Act (Sect 2) Guyana is defined to include "the islands adjacent to Guyana and forming part thereof", the dependencies of Guyana, all inland waters of Guyana, and "all territorial waters adjacent to Guyana, islands or dependencies". "Waters of Guyana" is defined to mean "any waters other than waters of the Corentyne River, within a space contained within an imaginary line drawn parallel to the shores or outer reefs of Guyana which appear above the surface at low water mark at ordinary spring tides and distant three miles therefrom". (See now the Maritime Boundaries Act, 1977, Sect. 2(2)). which extends the territorial sea to twelve miles.

Section 3 gives customs officers the same powers, authority and privileges as are given by law to members of the Police Force, ("for the purpose of carrying out the provisions of the customs laws").

Vessels which are capable of going overseas, including trawlers, are currently still registered under British merchant shipping legislation. The Comptroller of Customs is the local Registrar of British Ships and vessels are registered with British Registry Certificates and Numbers issued in U.K. The Registrar certificate issued is prescribed by the Commissioner for Customs and Excise with the consent of the Board of Trade (UK). (The Fisheries Act also provides for the registration of fishing vessels).

Section 65 permits the Comptroller to grant licences for small craft, which are defined as "ships not exceeding 100 tons burden". Regulations (Sects 178-190) have been enacted which are concerned with such vessels proceeding to ships which "have arrived in the waters of Guyana". Although not specifically directed at fishing vessels that would be small craft, it would seem to apply to them.

A new Shipping Act is under consideration.

7. Custom Duties

There is in operation a ban on the importation of fish, as a means of encouraging the use of locally caught fish, as well as enhancing the export of fish. For this purpose, even though the Act defines Guyana waters as extending up to 3 miles, (extended to 12 miles by the Maritime Boundaries Act, 1977) fish caught within the 200 mile exclusive fishing zone is not in practice treated as having being imported.

Shrimp, when exported, is subject to an export tax, which is 10% of the f.o.b. value. This tax does not apply to export to CARICOM countries.

Chapter 3 of the Import Schedule imposes an import duty on fish, crustaceans and molluscs (but not marine mammals (or meat thereof), fish unfit for human consumption, or caviar)). The rate of duty varies. Aquarium fish attracts a rate of 25%, fresh and frozen fish attracts a duty of 15%, though cod, mackerel Herring and Alewives (whether smoked, dried or salted) is free, though smoked salmon and other smoked fish is 10%.

Crustaceans (in particular shrimp and lobster) and molluscs carry a rate of 30% duty.

Finally, it should be noted that the Customs Act (Cap 82:01) in Sect. 263 places the burden of proof on the person charged regarding the payment of customs duties. Section 263 states:

"In any prosecution under the customs laws, the proof that the proper duties have not been paid in respect of any goods, or that the same shall have been lawfully imported or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from one aircraft or ship to another aircraft or ship shall lie on the defendant".

8. Policing Laws

The Police Act (Cap 16:01) (10 August 1957) Sect. 3(2) states that the "Force shall be employed for the prevention and detection of crime, the preservation of law and order, the preservation of the peace, the repression of internal disturbance, the protection of property, the apprehension of offenders and the due enforcement of all laws and regulations with which

it is directly charged and shall perform such military duties within Guyana as may be required of it by or under the authority of the Minister".

The police force is the primary law enforcement agency in Guyana, and although it would not be actively involved in marine enforcement, its members will be involved with offenders once they are brought ashore. Nonetheless, the Maritime Boundaries Act, 1977, Sect. 43 makes all members of the police force fishery officers for the purposes of the Act.

Defence Act, (Cap. 15:01)

The Act establishes the Guyana defence Force (the GDF) which has responsibility for the "defence and maintenance of order in Guyana and with such other duties as may from time to time be defined by the Defence Board". The GDF makes arrests of vessels in Guyanese waters and hands over to the police or customs officials the vessel and crew as soon as it is reasonably practicable to do so. Since 1990, as a result of an amendment to the Act, (Act No 4 of 1990, Part IXA), there has been specific provision made for the Coastguard of Guyana. Section 208A establishes the Coastguard "which shall comprise those officers of the Force serving as members of the Maritime Corps of the Force, or after the enactment of this Part, appointed to or from the Force as members of the Coastguard." The Coastguard is to be employed primarily as a "specialist" coastwatching force, "enforcing or assisting in the enforcement of all applicable laws on and under the high seas and waters subject to the jurisdiction of Guyana." (Section 208A(2)). In the ensuing section some specific laws are mentioned, some of them being "fisheries".

Section 208B gives wide enforcement powers to members of the Coastguard, which cover the normal range of enforcement powers at sea. They are also specifically given the powers of arrest without warrant in respect of a breach of those laws. Again, the Fisheries Act" is specifically mentioned.

9. Legislation concerning sea walls, and aquaculture and mariculture development

Much of the coastline of Guyana is below sea level. Because many of the fisheries cooperatives in Guyana utilise the seawall, and sluice gates areas for marketing fish, it is worthwhile mentioning briefly the legislation on sea defences. Also, this legislation will have some impact on aquaculture development.

First, the Sea Defences Act (Cap 64:01), which is aimed at securing the maintenance of the Sea, River and Outer Dams of Estates. This Act allows the Chief Officer of the Hydraulics Division of the Minister of Works to enter on any estate and inspect the sea, river and outer dams thereof (Sect 3), and he can require the owner to undertake certain repairs.

Sect. 13 permits regulations concerning

"(a) protecting the growth of underwood, shrubs, and trees, on or near the foreshore between high and low water marks;

- (b) the protection of land and soil between high and low water marks; and
- (c) generally, conserving the foreshore".

No regulations to date have been made.

The Act was enacted in 1883, and it was drafted with large plantations in mind. As these became sub-divided, it was impractical to expect small lot owners to maintain sea defences, hence the decision was made to make sea defence a State responsibility. In 1933, the Sea Defence Act (Cap 64:02) was enacted, which established the Sea Defence Board which is "charged with the care, maintenance, management and construction of the sea defences of Guyana". The Sea Defence Board is not functioning at the present time, and its responsibilities will in due course be transferred to Regional Democratic Councils. Until this happens, there is no mechanism whereby a mariculture application could be considered at the present time.

An elaborate definition of "sea defences" is set out in the Act. Three parts of the definition require specific mention. These are: that "sea defence" includes

"(c) all land fifty feet landwards from the centre of any sea or river dam or sea or river wall ... and all land on the other side of such sea or river dam or sea or river wall in the direction of the sea or river to the toe of such sea or river dam or sea or river wall"

"(d) any shell bank or reef, mud bank or reef, sandbank or reef, or other natural feature, which serves as a protection of the sea coast against the erosive action of the sea or which protects the bank of any river from the erosive action of the river current; and

(e) all land fifty feet landward of the crest or top of any reef, bank or natural feature under paragraph (d) hereof, and all land on the other side thereof in the direction of the sea or river as far as the mean high water mark."

The significance of this is that under Sect. 12(1), "All sea defences which are or shall be in existence in any district shall by force of this Act become the property of the State".

In rivers, the sea walls come about one mile inland, and thereafter, the normal rule of ownership applies i.e. the adjacent landowner has title up to the median high tide (i.e. average high tide) - See Sect. 4, Civil Law Act, Cap. 6:01. Thus, as a general rule, there would be no right of access to the river bank for fishermen.

The Commissioner for Lands is, however, creating reserves 66 ft. wide along river banks whenever it alienates land with a view to creating a public right of access.

Acquisition of Lands for Public Purposes Act, Cap.62.05.

This Act sets out the procedures by which land can be compulsorily acquired.

Land is defined (in Sect. 2) to include "all land whether covered with water or otherwise".

The land, however, must be acquired with a view to the construction of a "public work". (Sect. 4). Public work is not defined, but Sect. 3 states:

"The Minister may by order declare any railway, tramway, road, canal, dock, harbour work, polder, building, dam, sluice, or drain, or any work, measure or undertaking of whatsoever description whether ejusdem generis with any of the foregoing or not, and whether to be constructed out of public funds or otherwise or by the Government or otherwise, to be a public work and may alter or vary any order so made".

Although aquaculture and mariculture projects are not specifically contemplated, it seems that Sect. 3 is sufficiently broad to encompass such projects as a "public work".

10. Environmental protection legislation

The long title of the Environmental Protection Act, 1996 states that it provides for the "management, conservation, protection and improvement of the environment, the prevention or control of pollution, the assessment of the impact of economic development on the environment, the sustainable use of natural resources". It does not appear to have been drafted specifically with fisheries in mind, however, some of the clauses clearly will apply to it because of the generality of the language used. For example, "environment" or "natural environment" means all land, area beneath the land surface, atmosphere, climate, all water, surface water, ground water, sea, seabed, marine and coastal areas and natural resources, or any combination or part thereof", while "natural resources" is likewise broadly defined. The Act establishes an Environmental Protection Agency as a body corporate governed by a Board of Directors. The Agency is given very wide "functions" indeed, though it is understood that it is intended that its principle function is to act as a coordinatory body. In the exercise of its functions it is to make use of current principles of environmental management, namely the polluter pays principle, the precautionary principle, the strict liability legal principle, the avoidance principle, and the state of technology principle.

The Act (in Part IV) provides for environmental impact assessments for projects listed in the fourth schedule, one of which is "dams and other installations designed to hold liquid or store it on a long term basis", while another is the "release, use or keeping of any genetically modified organisms". Although it is not obvious that aquaculture was squarely in view when the Law was drafted, it obviously is covered by this schedule, and consequently by the related procedures for environmental impact assessment.

The same part makes provision for the submission of assessments, including in particular detailed requirements regarding the contents of the assessments. Finally provision is made for the approval or rejection of a project, and the issuance of an environmental permit. (Sections 12 and 13) This approval is subject to a number of conditions which might be imposed.

The Act is very lengthy and complex, and is not unlike other general environmental laws being adopted in other parts of the world. It is also quite ambitious in its scope. It merits careful attention in the event that an aquaculture activity is contemplated, as major projects

will certainly come within the ambit of the law, and thus be subject to its environmental impact assessment processes.

11. Legislation concerning companies, partnerships, cooperatives and public corporations

The Companies Act (Cap 89:01, amended by Act No 29 of 1991) and the Partnership Act (Cap 89:02) are typical of that type of legislation found throughout the common law world.

Cooperative Societies Act (Cap 88:01)

This Act provides for the formation of and regulates the operations of cooperative societies. Section 3 establishes the office of Commissioner for Cooperative Development. This office provides some support to cooperatives, assisting them in running their affairs as well as performing a supervisory role. The act is typical of such legislation found throughout the common law world, though it is coming to assume greater significance in Guyana because the Government is actively encouraging the establishment of cooperatives. These would be registered under this Act. These cooperatives should not, from a legal viewpoint, be confused with the cooperative units envisaged under the Local Democratic Organs Act 1980 (see above).

In the fisheries sector, local fisheries cooperatives have come to play an important part. At one time, there were 14 cooperatives which were:

Upper Corentyne Fishermen's Co-op Society Ltd.,
Corriverton, Corentyn, Berbice

Corentyne Pin Seine Co-op Society Ltd.,
Whim Village, Corentyne, Berbice

Rosignol/East Canje Fishermen's Co-op Society Ltd.

Lower East Coast Fishermen's Cooperative Society,
Lusignan Village, East Coast Demerara

Georgetown Fishermen's Co-operative Society Ltd.

West Bank Demerara Fishermen's Co-op Society Ltd.,
La Grange, West Bank Demerara

Upper West Coast Demerara Fishermen's Co-op Society Ltd.,
13, Zeeburg Village West Coast Demerara.

Leguan Fishermen's Co-op Society Ltd.,
La Bagatelle,
Leguan Island,
Essequibo

Wakenaam Fishermen's Co-op Society Ltd.,
Ridge Wakenaam Island,
Essequibo

Essequibo/Pomaroon Fishermen's Co-op Society Ltd.,
Essequibo Coast

Morawhanna Fishermen's Co-op Society Ltd.,
Morawhanna,
North West District

Lanaballi Fishermen's Co-op Society Ltd.,
Lanaballi,
Essequibo River

Moruca Fishermen's Cooperative Society Ltd.,
Moruca

However, many of these cooperatives have now either been disbanded or have joined the Federation of Fishermen's Cooperatives. Those that have joined the latter are: West Bank Demerara Fishermen's Coop Society Ltd, Leguan Fishermen's Cooperative Society, Ltd, Wakenaam Fishermen's Coop Society Ltd, Lanaballi Fishermen's Coop Society Ltd.

Public Corporations Act, 1988.

This Act provides for the establishment of public corporations. It has two main objectives, the first being to amend the law relating to the establishment and management of public corporations, the second being to dissolve the Guyana State Corporation. This latter point is of interest to the fisheries sector inasmuch as Guyana Fisheries Ltd was once owned by the Corporation, however, the Government has now completely divested its interest in Guyana Fisheries Ltd.

12. Other legislation indirectly relevant to fisheries

Trade Act (Cap 91:01)

The Act permits the President to prohibit the importation or exportation of goods and to regulate prices, and to prohibit importation or exportation of goods except with a licence issued by the "Competent Authority" (Sect. 5). The Competent Authority is appointed by the Minister responsible for trade.

Penalties are imposed for breaches of the Act which are: on summary conviction, a fine of \$750 and 6 months imprisonment; on conviction on indictment, a fine of \$3,000 and 2 years imprisonment.

"Export" is defined as "to take, or to be concerned in taking out of Guyana or the territorial waters thereof, and exportation shall be construed accordingly".

"Import" means to bring, or to be concerned in bringing into, Guyana or the territorial waters thereof, and "importation" shall be construed accordingly".

This act has been used to prohibit the importation of fish into Guyana, thereby encouraging self reliance on local fisheries products.

Interpretation and General Clauses Act Cap 2:01

This Act governs the interpretation of laws, other than constitutional instruments and applied laws.

"Applied laws" is defined in Sect. 5 as "an applied Act and any legislative instrument (other than the constitutional instruments) made thereunder otherwise than by an authority in Guyana, having effect or having had effect as part of the law of Guyana".

"Applied Act" (Sect. 5) means an Act of Parliament of the United Kingdom, having effect or having had effect as part of the law of Guyana."

The Act in other respects is typical of its kind of legislation found throughout the common law world.

There is also a Law Revision Act, Cap 3:02, which authorised an extensive revision of the statute laws. This has been carried out, and the results published as law in July 1973. The revision does not include "any applied law", hence laws of the U.K. Parliament still applying to Guyana are not included in the revision. The revision is of a high standard and finding the statute law of Guyana is a relatively easy task. Another revision is under way and is close to completion.

Other Acts which would impinge on fisheries activities, though indirectly only, are: the Government Wharves Act (Cap 49:05), Shipping Casualties (Investigation and Prevention) Act (Cap 49:07) and the Law of Merchant Shipping Act. (Cap 49:01). The latter Act, which came into force in 1865, applied the law of England concerning merchant shipping to Guyana. Presumably, therefore, the 1984 Merchant Shipping Act U.K. would apply, as amended from time to time, even though the amendments made to the latter Act are stated to apply only to very few locations, which would not include Guyana as a matter of UK law.

13. The need for a new fisheries law

At present, legislation concerning fisheries is split between two sets of laws. The Fisheries Act was drafted for the 1950's and 1960's, and in particular, with a limited objective of regulating fishing in a three mile territorial sea and internal and inland waters. The Maritime Boundaries Act of 1977 was one of the first national laws to give effect to the international law of the sea that was emerging at UNCLOS III, and it would be useful to provide now for a comprehensive Act that can reflect the final product of the Convention insofar as it concerns fisheries. Furthermore, since that Act was introduced, not only has the UN Convention on the Law of the Sea entered into force (which Guyana has ratified), but there

have been other developments, including in particular, the FAO Compliance Agreement (the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993), as well as the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December, 1982 relating to the Conservation of Straddling Fish Stocks and Highly Migratory Fish Stocks.

It is also necessary to ensure that the benefits of the fisheries provisions of the Convention become fully operative in domestic law, and further to provide for an effective management and enforcement regime for Guyana.

Because the new regime of fisheries involves the regulation of access by foreign vessels to a 200 mile zone as well as controlling local access, and because the administrative challenges thus presented are significantly different to the old fisheries regime, it is thought appropriate to repeal the old legal regime, as well as those parts of the Maritime Boundaries Act, 1977 which concern fisheries.

In the new law to be drafted it is proposed to include, in addition to such standard clauses as definitions, and other introductory and final clauses, parts dealing with:

- Fisheries management and development (including the establishment of a fisheries advisory committee)
- Registration of Fishing Vessels
- Local Fishing licences
- Foreign Fishing
- Provisions Applicable to both foreign and local fishing (including Fisheries research and test fishing operations)
- Fees, royalties etc
- Marine reserves and Fishing Priority Areas
- Prohibited fishing methods, gear, and stowage of fishing gear
- High seas fishing
- Fish processing establishments
- Import and export of fish
- Enforcement and judicial proceedings
- General provisions (including compounding of offences)
- Regulation making power

It had originally been the intention to include aquaculture in the proposed law, however, in the light of discussions with the Fisheries Department, it was agreed that a separate aquaculture law would be prepared in view of the substantially different issues raised by that activity, though also because the number of requests for permission to undertake aquaculture has increased, including in particular one request for authority to undertake a large scale activity. Such a law needs to interact with the recently enacted Environmental Protection Act, 1996.

Accordingly, there has been prepared as Annex II a draft Aquaculture Bill which contains provisions on the following parts:

Licensing
Enforcement
Offences and Penalties
Miscellaneous Provisions, including a regulation making power.

The linkage with the Environmental Protection Act, 1996, has been achieved at the application stage by making provision for the possibility of an environmental impact assessment or the acquisition of an environmental permit in accordance with Part V of that Act.

Finally, it will be necessary to prepare some regulations to accompany the Fisheries Act, and, most probably, the Aquaculture Act also.

ANNEX I

THE DRAFT FISHERIES BILL

AN ACT to provide for the promotion, management, and development of fisheries and for matters connected therewith.

Enacted by the Parliament of Guyana

PART I PRELIMINARY

SHORT TITLE AND COMMENCEMENT

1. (1) This Act may be cited as the Fisheries Act, 199_.
- (2) This Act shall come into force at such time as the Minister may, by Order, appoint.
- (3) The Minister may, by Order, specify different dates for the commencement of the different provisions of this Act.

INTERPRETATION AND APPLICATION

2. (1) In this Act -

"authorised officer" means any fisheries officer and any other person or category of persons designated as an authorised officer by the Minister under section 4;

"Chief Fisheries Officer" means the person appointed as Chief Fisheries Officer under Section 4;

"commercial fisher's licence" means a commercial fisher's licence issued under section 14;

"fish" means any aquatic animal, whether piscine or not, and includes any shellfish, turtle, mollusc, crustacean, coral, sponge, echinoderm, holothurian, its young and its eggs;

"fish processing establishment" means any land, premises or other place on or in which fish are canned, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale by wholesale within or outside Guyana;

"fisheries officer" means the Chief Fisheries Officer, Fisheries Officer, or Assistant Fisheries Officer and any other officer appointed under Section 4;

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

"fisheries plan" means the plan for the management and development of fisheries prepared under Section 5;

"fisheries waters" means the waters of the exclusive economic zone and the territorial sea of Guyana as defined in Section 2 of the Maritime Boundaries Act 1977, internal waters as defined in Section 4 of that Act, all inland waters of Guyana, and such other waters in respect of which Guyana exercises jurisdiction from time to time for fisheries purposes";

"fishing" means fishing for or catching or taking or killing fish by any method and includes

- searching for fish;
- the attempted searching for or catching or taking of fish;
- engaging in any other activity that can reasonably be expected to result in the taking of fish;
- the use of an aircraft in relation to any activity described in this paragraph;

but does not include the taking of fish from an aquaculture facility or any other activity related to aquaculture.

"fishing licence" means a foreign fishing vessel licence, a local fishing vessel licence or a commercial fisher's licence;

"fishing vessel" means any vessel used for commercial fishing or related activities or for sport fishing:

"foreign fishing vessel licence" means a licence issued in respect of a foreign fishing vessel under Section 18;

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

"licence" means a licence issued under this Act;

"local fishing company" means any company incorporated under the laws of Guyana and having its principal place of business in Guyana,

- (a) of which all of the shares are owned by citizens of Guyana or by any fishers' cooperative society, fishers' association or other such society of which all the members are citizens of Guyana: or

(b) which, in view of the substantial nature of the participation by Guyana citizens in the shareholding of the company or other benefits accruing to Guyana, has been designated by the Minister by notice published in the Gazette as being a local fishing company for the purposes of this Act;

"local fishing vessel licence" means a licence issued in respect of a local fishing vessel under Section 13;

"local fishing vessel" means any fishing vessel which is:

(a) wholly owned by the State or by a public corporation established by or under the law of Guyana; or

(b) wholly owned by one or more natural persons who are citizens of Guyana; or

(c) wholly owned by a fishers' cooperative society, fishers' association or other such society or association of persons established under the law of Guyana or by a local fishing company;

"locally based foreign fishing vessel" means any foreign fishing vessel based in Guyana which lands all its catch in Guyana;

"master" means the person or persons having control of a fishing vessel at any given time;

"Minister" means the Minister to whom matters relating to fisheries have been assigned;

"prescribed" means prescribed by the Minister by regulations;

"prohibited fishing gear" in relation to any fishery in any area means:

(a) any net the mesh size of which does not conform to the prescribed mesh size for that type of net, for that fishery in that area; or

(b) any trap or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear for that fishery in that area; or

(c) any other net or fishing gear which is prohibited by any regulations made under this Act for that fishery in that area.

"related activities" in relation to fishing means:

(a) trans-shipping fish to or from any vessel whether or not for the purpose of sale or barter; or

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

- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations; or
- (d) the use of an aircraft in relation to any activity described in this paragraph;
- (e) attempting or preparing to do any of the above.

"test fishing operations" means any fishing operations undertaken over a limited period of time with the approval of the Chief Fisheries Officer under Section 25 for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations.

- (2) This Act has extra-territorial application according to its tenor.

PART II FISHERIES MANAGEMENT AND DEVELOPMENT

PROMOTION OF FISHERIES

- 3. The Minister or the Chief Fisheries Officer as the case may be, may take such measures as he thinks fit to promote the management and sustainable development of fisheries so as to ensure the optimum utilisation of fisheries resources in the fisheries waters for the benefit of Guyana, and in so doing shall promote precautionary approaches to fisheries management, as well as the need to conserve fisheries resources for future generations.

APPOINTMENT OF OFFICERS

- 4. (1) The Minister may appoint a Chief Fisheries Officer and such other fisheries officers and authorised officers as may be necessary to give effect to this Act.

(2) The following persons shall also be fisheries officers for the purposes of this Act:
 - (a) members of the Guyana Defence Force;
 - (b) members of the Police Force;
 - (c) officers of the Customs and Excise Department; and
 - (d) such other persons as the Minister may, by notification in the Gazette, appoint.

FISHERIES PLANS

5. (1) The Chief Fisheries Officer shall progressively prepare and keep under review plans for the management and development of significant exploitable fisheries in the fisheries waters.
- (2) Each fisheries plan shall include:
 - (a) an identification of the fishery to which it applies and an assessment of the present state of its exploitation;
 - (b) where appropriate, a statement of the objectives to be achieved in the management and development of the fishery;
 - (c) specification of any management and development measures to be taken;
 - (d) an indication of the main requirements for statistical information on the fishery and the means to be used to obtain such information;
 - (e) specification, where appropriate, of any licensing programmes to be followed for the fishery, any limitations to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels; and
 - (f) specification, where appropriate, of the measures that are necessary to ensure that the fisheries plan can be harmonised with fisheries plans or licensing laws or policies of States in the subregion or region, particularly in respect of shared or straddling fish stocks and highly migratory fish stocks.
- (3) In the preparation and review of each fisheries plan, the Chief Fisheries Officer shall consult with the local fishermen, local authorities, other persons affected by the fisheries plan and with any Fisheries Advisory Committee appointed under Section 6.
- (4) Each fisheries plan and each review thereof shall be submitted to the Minister for approval.

FISHERIES ADVISORY COMMITTEE

6. (1) The Minister may appoint a Fisheries Advisory Committee to advise on the management and development of fisheries, with the objective of ensuring the optimum utilization of the fisheries resources of the fisheries waters of Guyana for the benefit of the people of Guyana.

(2) Any Committee appointed under this Section shall include the Chief Fisheries Officer and such other persons as the Minister may consider capable of advising him on the management and development of fisheries.

(3) The names of the members of the Committee as first constituted and every change in the membership of the Committee shall be published in the Gazette;

(4) The Minister may prescribe the procedure of the Committee, including the frequency of meetings, and the quorum for its meetings;

(5) Subject to the provisions of this Act, and of any regulations made by the Minister, the Committee may determine its own procedure.

FUNCTIONS OF THE COMMITTEE

7. The functions of the Committee shall be:

(a) to advise the Minister on fisheries management and development;

(b) to consider and advise the Minister on any aspect of a fisheries plan;

(c) to consider and advise the Minister on any proposals under the Act for subregional or regional cooperation with respect to fisheries, fisheries agreements, joint ventures, or development projects in the fisheries sector;

(d) to advise the Minister on such other matters as may be referred to it by the Minister.

REMUNERATION OF MEMBERS OF THE COMMITTEE

8. There shall be paid to the members of the Committee such remuneration or allowances, if any, as may be determined by the Minister.

PART III REGISTRATION OF FISHING VESSELS

LOCAL FISHING VESSELS TO BE REGISTERED

9. (1) After thirty days from the commencement of this Act every owner of a local fishing vessel which is used or intended to be used for fishing in the fisheries waters, shall, before such vessel is put to sea, be the holder of a valid certificate of registration in respect of such fishing vessel.

(2) Application for a certificate of registration shall be made in the prescribed form on behalf of the owner to the Chief Fisheries Officer.

(3) A certificate of registration shall not be issued unless the Chief Fisheries Officer is satisfied that the fishing vessel to which the application refers is seaworthy and fit for the purpose of fishing.

(4) The Chief Fisheries Officer, or any person authorized by him in writing, may, on application therefor and on payment of the prescribed fees, issue a certificate of registration in the prescribed form in respect of a local fishing vessel.

(5) The Minister may by Order exempt any owner or class of owners or any government department from the provisions of subsection (1) and such exemption may be general or subject to such conditions as the Minister may specify.

(6) Where a fishing vessel puts to sea without there being a valid certificate of registration in respect of it, or in respect of which an Order made under subsection 5 applies, the master, owner, or charterer each is guilty of an offence and shall be liable upon summary conviction to a fine not exceeding dollars.

REGISTER OF LOCAL FISHING VESSELS

10. (1) The Chief Fisheries Officer shall keep a Register of every local fishing vessel in respect of which there is in existence a valid certificate of registration and shall cause to be entered from time to time in the said Register the particulars of ownership and the place of mooring or beaching of such fishing vessel and such other particulars as may be prescribed in respect of such fishing vessel.

(2) The contents of the Register of local fishing vessels shall be prima facie evidence of the facts contained therein in any proceedings under this Act.

CHANGE OF OWNERSHIP TO BE NOTIFIED

11. (1) On the sale or change of ownership of a fishing vessel in respect of which a valid certificate of registration is in existence, the vendor and purchaser of such fishing vessel shall, within thirty days of such sale or other change of ownership, notify the Chief Fisheries Officer of the change of ownership (stating the name and address of the new owner or owners) and return to the Chief Fisheries Officer the certificate of registration issued for such fishing vessel for cancellation.

(2) The Chief Fisheries Officer shall issue to the new owner of the fishing vessel a new certificate of registration.

FISHERIES OFFICER'S POWERS TO INSPECT LOCAL FISHING VESSELS

12. (1) The Chief Fisheries Officer may at any time inspect without notice any local fishing vessel for the purpose of satisfying himself that such fishing vessel is being maintained in a sea-worthy condition.

(2) Where on an inspection pursuant to subsection (1), the Chief Fisheries Officer is satisfied that the fishing vessel is not sea-worthy or is otherwise unfit for the purpose of fishing, he may cancel the certificate or registration of that fishing vessel and that fishing vessel shall thereupon be deemed to be not registered and shall be removed from the register of fishing vessels kept by the Chief Fisheries Officer.

(3) The registration of a fishing vessel in accordance with the provisions of this Part does not relieve the owner or master or charterer of any obligations arising under other laws of Guyana concerning the registration of shipping.

PART IV LOCAL FISHING LICENCES

LOCAL FISHING VESSEL LICENCES

13. (1) No local fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid licence issued under this Section in respect of that vessel.

(2) Subsection (1) shall not apply to any local fishing vessel used purely for the purpose of fisheries related research or survey operations.

(3) An application for a local fishing vessel licence or for the renewal of a local fishing vessel licence shall be made in the prescribed form to the Chief Fisheries Officer.

(4) Subject to subsection (5) of this Section, the Chief Fisheries Officer may issue a local fishing vessel licence in the prescribed form.

(5) No local fishing vessel licence shall be issued or renewed in respect of any local fishing vessel unless

(a) an application has been made in accordance with subsection (3);

(b) the vessel has been registered in accordance with Section 9 and such registration has not been cancelled under subsection (2) of Section 12; and

(c) any fees payable in respect of the licence have been paid.

(6) The Chief Fisheries Officer may refuse to issue or renew a local fishing vessel licence in respect of any local fishing vessel

(a) where it is necessary to do so in order to give effect to any licensing programmes specified in any applicable fisheries scheme;

(b) where the licence application is made in respect of a fishery that has not hitherto been exploited in Guyana and where the Chief Fisheries Officer is satisfied that it would be contrary to the interests of the proper management of that fishery to issue the fishing vessel licence; or

(c) for such other grounds as may be specified in this Act or any regulations made under this Act.

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

COMMERCIAL FISHER'S LICENCES

14. (1) No person shall fish in the fisheries waters without a valid commercial fisher's licence issued under this Section.

(2) Subsection (1) shall not apply to any person fishing purely in the course of fisheries related research or survey operations, nor to any person on board a foreign fishing vessel licensed to fish under Section 18.

(3) Application for a commercial fisher's licence shall be made to the Chief Fisheries Officer in the prescribed form.

(4) Subject to subsection (5) the Chief Fisheries Officer may issue or renew a commercial fisher's licence.

(5) No commercial fisher's licence shall be issued or renewed in respect of any person unless

(a) an application has been made in accordance with subsection (3); and

(b) any fees payable in respect of the licence have been paid.

(6) Any person who fishes in contravention of subsection (1) or of any condition of a commercial fisher's licence shall be guilty of an offence and shall be liable to summary conviction to a fine not exceeding dollars.

RESOLUTION OF FISHING DISPUTES

15. (1) Where a fishing dispute arises between two or more individuals or groups in regard to the right to fish in a particular locality, or in regard to the time or manner of fishing in any part of the fisheries waters, such dispute may be referred to the Chief Fisheries Officer.

(2) Where a fishing dispute has been referred to the Chief Fisheries Officer he may:

(a) deal with the dispute in accordance with subsection (3)

(b) refer it to an arbitrator or arbitrators for decision, in accordance with subsection (3); or

(c) appoint a conciliator or a committee of conciliators to enquire into the dispute who shall make recommendations to the parties to the dispute regarding its solution.

(3) A decision of the Chief Fisheries Officer or of an arbitrator or group of arbitrators appointed by him may include a determination that a particular area or areas shall be reserved for particular methods of fishing only, or that only particular types of boats or groups of individuals may fish within such areas.

(4) Where a dispute has been referred to an arbitrator or arbitrators, any party aggrieved by the decision may appeal to the Chief Fisheries Officer within sixty days of the decision being made.

(5) A decision of the Chief Fisheries Officer, and a decision of an arbitrator or arbitrators whose decision has not been appealed against under subsection 4 shall be final and shall not be called in question in any civil court and shall be enforced in the same manner as if the decision had been a judgment of a civil court.

(6) Any person who fails to comply with a decision of the Chief Fisheries Officer, or with a decision of an arbitrator or arbitrators handed down in accordance with this Section, shall be guilty of an offence and liable to a fine not exceeding.....

(7) Where the Chief Fisheries Officer determines that a conciliation process is an appropriate method for dealing with a particular dispute, he may appoint a conciliator, or a committee of conciliators not exceeding three in number, for the purpose of enquiring into a dispute and recommending a settlement.

(8) The proceedings before a conciliator or a committee of conciliators shall be conducted in public, and participation by the parties shall be voluntary.

(9) Subject to any regulations made under Section 76 the conciliator or a committee of conciliators shall determine its own procedures.

(10) Where a committee of conciliators is appointed, it shall appoint one of its members to act as chairman.

(11) The role of the conciliator or of a committee of conciliators shall be to assist the parties to settle the dispute between them, and to recommend, where necessary, to the Chief Fisheries Officer the measures required to prevent a recurrence of the dispute.

(12) If the parties do not accept the recommendations of the conciliator or of the committee of conciliators, the conciliator or the committee may refer the dispute to the Chief Fisheries Officer for decision by him.

PART V FOREIGN FISHING

REGIONAL CO-OPERATION IN FISHERIES

16. (1) The Minister may enter into arrangements or agreements with other countries in the region or with any competent sub-regional, regional or global organisation with the purpose of promoting regional co-operation in fisheries.

(2) Arrangements or agreements referred to in subsection (1) may concern but are not limited to the harmonisation of systems for collecting statistics, carrying out surveys for assessing the state of the fishery resources, harmonisation of licensing procedures regarding foreign fishing vessels, and co-operation in enforcement measures in respect of foreign fishing vessels.

FISHERIES ACCESS AGREEMENTS

17. (1) The Government of Guyana may enter into access agreements with other states and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those states or associations.

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

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

(4) For the purpose of this Section and Section 16, the term "State" shall include any regional organisation to which the power to negotiate access agreements has been delegated by the member countries of that organization.

FOREIGN FISHING VESSEL LICENCES

18. (1) No foreign fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid foreign fishing vessel licence issued under this Section.

(2) Subsection (1) shall not apply to any foreign fishing vessel used purely for the purpose of fisheries related research operations.

(3) An application for a foreign fishing vessel licence shall be made, in the prescribed form, to the Minister.

(4) Subject to the provisions of this Act and any regulations made under this Act, the Minister may issue a foreign fishing vessel licence in the prescribed form authorizing a foreign fishing vessel to be used in the fisheries waters for such fishing or related activities as may be specified in the licence.

(5) Subject to sub-sections (6) and (7), no foreign fishing vessel licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer is a member, an access agreement to which the Government of Guyana is a party.

(6) A licence may be issued in respect of:

(a) test fishing operations;

(b) a locally based foreign fishing vessel,

notwithstanding the absence of an access agreement otherwise required under subsection (5).

(7) Where the Minister determines that an agreement under Section 17 in respect of a foreign fishing vessel is not practical, he may issue a licence in respect of that vessel where the applicant provides sufficient financial and other guarantees relating to his fulfilment of all obligations arising under this Act.

(8) Where a fishing vessel is used in contravention of subsection (1) or of any condition of a foreign fishing vessel licence, the master, owner and charterer of that vessel is each guilty of an offence and shall be liable on summary conviction to a fine not exceedingdollars.

PART VI PROVISIONS APPLICABLE TO BOTH FOREIGN AND LOCAL FISHING VESSELS

VALIDITY OF FISHING LICENCES

19. (1) Unless earlier cancelled in accordance with Section 22, a fishing licence shall be valid for such period not exceeding twelve months as may be specified in the licence.

(2) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically cease to be valid.

(3) A fishing licence shall be valid only for the fishery or fisheries specified in the licence.

(4) Except as may be otherwise specified in any regulations made under Section 76 in implementation of a scheme for the limitation of effort in any specified fishery, no licence shall be transferable except with the written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

CONDITIONS OF FISHING LICENCES

20. (1) Every fishing licence shall be in the prescribed form and shall be subject:

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

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

(c) to such special conditions as may be specified under subsection (3).

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

(3) The Chief Fisheries Officer may attach to any local fishing licence such special conditions as he may think fit relating to the proper management of fisheries, the base of operations of the vessel, the landing of its catch and the gathering of information on the vessel's operations.

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

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

NOTICE

21. (1) Any variation of a special condition given under Section 20 or cancellation or suspension under 22 shall be in writing, except as otherwise specified in subsection 2.

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

CANCELLATION AND SUSPENSION OF FISHING LICENCES

22. (1) The Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister, may cancel or suspend a fishing licence or a category of fishing licences on any of the grounds set out in subsection (2).

(2) A fishing licence, or a category of fishing licences, may be cancelled or suspended where the Minister or the Chief Fisheries Officer as the case may be, is satisfied that

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

(b) where, following the inspection of a local fishing vessel, the certificate of registration of the vessel has been cancelled under Section 12; or

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

(d) he is required or authorized to do so in accordance with the provisions of any agreement entered into under Section 17.

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

(4) Where a fishing licence has been cancelled or suspended on the grounds specified in subsection (2)(a) of this Section a proportion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the person to whom the licence was issued at his request.

CONTROLS OVER SALE OF FISH TAKEN IN THE COURSE OF SPORT FISHING OR FISHERIES RELATED RESEARCH AND SURVEY OPERATIONS

23. (1) No fish taken in the course of sport fishing or fisheries related research or survey operations shall be sold except with the prior authorization of the Chief Fisheries Officer and in accordance with such conditions as he may impose.

(2) Any person who contravenes subsection (1) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding dollars.

FISHERIES RELATED RESEARCH OR SURVEY OPERATIONS

24. (1) Subject to subsection (2), no person shall undertake fisheries related research or

survey operations in the fisheries waters except with the prior permission of the Minister.

(2) Subsection (1) shall not apply to fisheries related research or survey operations undertaken in the fisheries waters by an international organization or agency of which Guyana is a member under and in accordance with a detailed international project to which the Government of Guyana has given its formal approval.

(3) An application to undertake fisheries related research or survey operations in the fisheries waters shall be made to the Minister in the prescribed form and shall be supported by a detailed plan of the research or survey operations to be undertaken.

(4) The Minister, with the approval of Cabinet, may grant permission for any vessel or person to undertake fisheries related research or survey operations in the fisheries waters and in doing so may exempt such vessel or person from any of the provisions of this Act where such exemption may be required for the proper carrying out of the research or survey operations.

(5) It shall be a condition of any permission given by the Minister under subsection (4) that

(a) such scientific observers or other personnel as the Minister may designate shall be allowed on board the research or survey vessel and shall be allowed to participate fully in the research or survey project both on board the vessel and onshore;

(b) copies of any raw data generated by the research or survey operations shall be submitted to the Chief Fisheries Officer at the end of the operations or during the course of such operations;

(c) the results and conclusions of the research or survey operations shall be submitted to the Chief Fisheries Officer as soon as practicable following the completion of the operations and in any case no later than the time specified for the submissions of the results and conclusions in the written permission given by the Minister;

(d) no results of the research and survey operations shall be published or otherwise made internationally available without the prior agreement of the Minister.

(6) The Minister may attach such other conditions as he deems fit to any permission granted under subsection (1).

(7) Where any of the conditions set out in paragraph (5) has been breached, no further permission for fisheries related research or survey operations shall be granted to the person concerned until such time as corrective action has been taken to the satisfaction of the Minister.

(8) Any person who undertakes or assists in any fisheries research in the fisheries waters

(a) without permission under subsection (1); or

(b) in contravention of any condition or conditions attached to the permission under subsection (5) or (6),

is guilty of an offence and shall be liable on summary conviction to a fine not exceedingdollars.

(9) Any permission or exemption granted under this Section shall be in writing.

TEST FISHING OPERATIONS

25. (1) The Chief Fisheries Officer may, where he considers it to be in the best interests of Guyana, approve test fishing operations to be undertaken by foreign fishing vessels.

(2) Any approval given by the Chief Fisheries Officer under this Section shall be in writing and shall be valid for such period not exceeding six months as may be specified in the approval, provided that a longer period may be specified with the approval of the Minister.

(3) Any approval given under this Section shall not exempt a foreign fishing vessel from the requirement to hold a valid foreign fishing vessel licence under Section 18.

PART VII FEES, ROYALTIES ETC.

FEES, ROYALTIES AND OTHER CHARGES

26. (1) There shall be payable in respect of every local fishing vessel licence, commercial fisher's licence, or permit such fees as may be prescribed.

(2) There shall be payable in respect of every foreign fishing vessel licence such royalties or other charges as may be set out in any applicable access agreement or in the case of a locally based foreign fishing vessel or a foreign fishing vessel engaged in test fishing operations, such royalties or other charges as the Minister may determine, or as may be prescribed.

PART VIII MARINE RESERVES AND FISHING PRIORITY AREAS

MARINE RESERVES

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

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

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

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

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

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

(a) fishes or attempts to fish;

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

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

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

is guilty of an offence and shall be liable on summary conviction to a fine not exceedingdollars.

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

FISHING PRIORITY AREAS

28. The Minister may, by Order, declare any area of the fisheries waters to be a fishing priority area, where he considers that special measures are necessary to ensure that authorised fishing within the area is not impeded or otherwise interfered with.

PART IX PROHIBITED FISHING METHODS, POSSESSION OF PROHIBITED
FISHING GEAR, AND STOWAGE OF FISHING GEAR

PROHIBITED FISHING METHODS

29. (1) Any person who in any part of the fisheries waters or elsewhere in Guyana:

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

(b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph,

is guilty of an offence and shall be liable on summary conviction to a fine not exceedingdollars.

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

(3) Any person who lands, sells, receives or is found in possession of any fish taken in contravention of subsection (1)(a), knowing or having reasonable cause to believe them to have been so taken, is guilty of an offence and shall be liable on summary conviction to a fine not exceedingdollars.

(4) For the purposes of this Section, a certificate as to the cause and manner of death or injury of any fish signed by the Government Analyst or, in the case of the alleged use of explosives, signed by the Chief Fisheries Officer or by such other person as he may designate in writing, shall be accepted as prima facie evidence in court without proof of the signature of the person appearing to have signed the certificate or his official character.

(5) For the purposes of subsection (4), the defendant to proceedings brought under this Section is entitled to 14 days notice in writing of the prosecution's intention to adduce the said certificate.

POSSESSION OF PROHIBITED FISHING GEAR

30. Any person who, in the fisheries waters -

(a) uses any prohibited fishing gear; or

(b) has any prohibited fishing gear in his possession on board any fishing vessel in

circumstances which indicate an intention to use it for fishing,

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

STOWAGE OF FISHING GEAR

31. (1) The fishing gear of any foreign fishing vessel which is prohibited from fishing in the fisheries waters under Section 8 shall be stowed in the prescribed manner while the vessel is within the fisheries waters.

(2) Where a foreign fishing vessel is licensed to fish by means of a particular type of fishing gear in any specific area of the fisheries waters, any other fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is within that area and all fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is or within any other area of the fisheries waters where it is not licensed to fish.

(3) Where a foreign fishing vessel contravenes subsection (1) or (2), the master, owner and charterer of that vessel is each guilty of an offence, and shall be liable on summary conviction to a fine not exceedingdollars.

PART X HIGH SEAS FISHING

INTERPRETATION

32. In this Part unless the context otherwise requires:

"Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by the Conference of the Food and Agriculture Organization of the United Nations on the twenty fourth day of November 1993;

"FAO" means the Food and Agriculture Organization of the United Nations.

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

"fishing vessel of Guyana" means a fishing vessel that is entitled to fly the flag of Guyana;

"foreign fishing vessel" means a fishing vessel other than a vessel of Guyana;

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

"high seas fishing licence" means a fishing licence issued pursuant to Section 37 and the other provisions of this Part;

"international conservation and management measures" means measures 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 as reflected in the 1982 United Nations Convention on the Law of the Sea whether by global, regional or subregional fisheries organizations, 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 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stern to the axis of the rudder stock 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 18 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 licence has been issued pursuant to Section 37;

ADMINISTRATION

33. (1) The Chief Fisheries Officer shall be responsible for:-

- (a) maintaining a record of all fishing vessels in respect of which high seas fishing licences have been issued under this Act, which record shall include all information provided by an applicant under Section 36;
- (b) the collection of statistics concerning fish stocks and fishing on the high seas;
- (c) the monitoring, control and surveillance of the operations of fishing vessels of Guyana on the high seas;
- (d) the issue, variation, suspension and revocation of licences for fishing on the high seas;
- (e) the collection of fees in respect of licences of fishing vessels;
- (f) the giving of such information and the making of such reports to FAO and other parties to the Agreement as is required of Guyana pursuant to Articles V and VI of the Agreement;

(g) the taking of appropriate measures in cooperation with other states for the implementation Articles VII and VIII of the Agreement;

(h) the making of such reports to the Minister as the latter may require or the Chief Fisheries Officer shall consider appropriate;

(i) the taking of all such measures as the Chief Fisheries Officer may consider appropriate for the implementation of the Agreement and this Act.

(2) Subject to subsection (3) the Chief Fisheries Officer may, in writing, authorise any public officer to exercise any or all of the powers of the Chief Fisheries Officer either concurrently with him or in his absence subject to such conditions, including territorial restrictions, as he may stipulate in the authorization.

(3) In the performance of his duties under this Act, the Chief Fisheries Officer shall be subject to the directions of the Minister on matters of policy.

PROHIBITION OF FISHING ON THE HIGH SEAS WITHOUT A LICENCE

34. (1) No fishing vessel of Guyana shall be used for fishing on the high seas except under the authority of a high seas fishing licence.

(2) Where a fishing vessel is used in contravention of subsection (1) the master, the owner and the charterer shall each commit an offence and be liable to a fine not exceeding....

VESSELS ELIGIBLE FOR HIGH SEAS FISHING LICENCES

35. (1) Subject to Subjection (2) any fishing vessel of Guyana shall be eligible for a high seas fishing licence except where the vessel has been authorized to be used for fishing on the high seas by another state and that state has either:

(a) suspended such authorization and such suspension has not expired; or

(b) withdrawn such authorization within the three years preceding the application;

because the fishing vessel has undermined the effectiveness of international conservation and management measures.

(2) The exceptions contained in subsection (1) shall not apply to a vessel where:

(a) ownership of that vessel has changed since such suspension or withdrawal of authorization and the new owner has provided evidence, to the satisfaction of the Chief Fisheries Officer, that the previous owner, charterer or operator has no further legal, beneficial or financial interest in, or control over, the vessel; or

(b) the Chief Fisheries Officer has decided, after taking into account all relevant facts, that the issue of a fishing licence in respect of the vessel will not undermine the object and purpose of the Agreement.

APPLICATIONS AND FEES

36. (1) An application for the issue of a high seas fishing licence shall be:

- (a) made in the prescribed manner;
- (b) accompanied by the information required under subsection (2) and such other information and documents as may be prescribed; and
- (c) accompanied by the prescribed application fee.

(2) An application for a high seas fishing licence shall relate to a specific vessel and shall be accompanied by the following information in relation to the vessel:

- (a)(i) name of fishing vessel,
- (ii) registration number (if any),
- (iii) previous name (if known),
- (iv) port of registry;
- (b) previous flag (if any);
- (c) international radio call sign (if any)
- (d) names and addresses of owners and operator or manager (if any),
- (e) where and when built,
- (f) type of vessel,
- (g) length,
- (h) type of fishing method or methods
- (i) moulded depth
- (j) beam
- (k) gross registered tonnage where available,
- (l) power of main engine or engines

ISSUE OF HIGH SEAS FISHING LICENCES AND CONDITIONS RELATING TO LICENCES

37. (1) A high seas fishing licence shall be issued by the Chief Fisheries Officer to the master, owner or charterer in respect of a specified fishing vessel.

(2) The issue of each high seas fishing licence shall be in the discretion of the Chief Fisheries Officer.

(3) The Chief Fisheries Officer shall not issue a high seas fishing licence in respect of a fishing vessel unless he is satisfied that Guyana will be able to exercise

effectively its responsibilities under the Agreement in respect of that vessel.

(4) A high sea fishing licence may authorise a vessel to be used for fishing generally or subject to conditions set out in the licence relating in particular to:

- (a) the area in which fishing is authorised,
- (b) the period, times or particular voyages during which fishing is authorised,
- (c) the description, quantities, size and species of fish which may be taken, or
- (d) the method of fishing.

(5) A high seas fishing licence shall be subject to the following conditions:

- (a) the licensed fishing vessel shall be marked in accordance with such specifications for the marking and identification of fishing vessels as may be prescribed;
- (b) such records of fishing operations shall be kept on board the licensed fishing vessel and such returns shall be submitted to the Chief Fisheries Officer concerning areas of fishing, catches and landings of fish and such other matters as are stipulated in the licence or as shall be notified by the Chief Fisheries Officer to the person to whom the licence is issued;
- (c) the licensed fishing vessel shall not engage in activities which undermine the effectiveness of international conservation and management measures and in particular such activities as may be prescribed.

(6) A high seas fishing licence shall authorise fishing subject to such further conditions as may appear to the Chief Fisheries Officer to be necessary or expedient for the conservation or management of species of living marine resources in the high seas and as may be specified by him in writing.

(7) If a licence condition referred to in subsection (4), (5) or (6) is broken, the master, the owner and the charterer of the fishing vessel concerned in such breach shall each commit an offence and be liable to a fine not exceeding...

(8) a high seas fishing licence may be:

- (a) varied from time to time; or
- (b) revoked or suspended,

if this appears to the Chief Fisheries Officer to be necessary or expedient for the conservation or management of the living marine resources in the high seas.

(9) If a high seas fishing licence is varied, revoked or suspended the Chief Fisheries Officer may, if he considers it appropriate, taking into account the circumstances of the case, refund the whole or any part of the fee charged for the licence.

PERIOD OF VALIDITY OF HIGH SEAS FISHING LICENCES

38. (1) Subject to subsection (2), the period of validity of high seas fishing licence shall be one year or such other period as may be specified in the licence.

(2) A high seas fishing licence shall cease to be valid if the vessel in respect of which it was issued ceases to be entitled to fly the flag of Guyana.

HIGH SEAS FISHING INFORMATION

39. The Chief Fisheries Officer may require any information or person owning or working on a fishing vessel of Guyana that is used for fishing on the high seas, whether or not that fishing vessel is required to be licensed under this Act, to provide him with information or make returns in such form and at such periods as he may decide concerning areas of fishing, catches and landings of fish and such other matters relating to fishing operations with which such person is connected as may be stated in any such requirement.

PROVISION OF INFORMATION TO FAO

40. (1) The Chief Fisheries Officer shall provide FAO with all such information as is required to be furnished to FAO by Guyana pursuant to Article VI of the Agreement and shall in particular but without derogating from the generality of the requirements of that Article make readily available to FAO all information contained in the record provided for under Section 33 (1) (a).

(2) The Chief Fisheries Officer shall notify FAO promptly

(a) any changes in the information referred to in subsection (1)

(b) any addition of a fishing vessel to the record provided for under Section 33 (1) (a)

(c) any deletion of a fishing vessel from the record provided for under Section 33 (1) (a) by reason of:

(i) the voluntary relinquishment or non-renewal of the high seas fishing licence by the fishing vessel owner or operator;

(ii) the withdrawal of the high seas fishing licence issued in respect of the fishing vessel;

- (d) the fact that the fishing vessel concerned is no longer entitled to fly its flag;
- (e) the scrapping, decommissioning or loss of the fishing vessel concerned; or
- (f) any other reason;

specifying for which of the above reasons the fishing vessel has been deleted from the record;

(3) The Chief Fisheries Officer shall inform FAO of

- (a) the number and type of fishing vessels of Guyana of less than twenty four metres in length used for fishing on the high seas and the geographical areas in which they are operating.
- (b) information relating to any licence issued pursuant to Section 37 including information sufficient to identify the vessel and the owner or operator and such other information as is relevant to the decision to issue the licence;
- (c) information relating the activities and identities of fishing vessels that have undermined the effectiveness of international conservation and management measures and the sanctions imposed by Guyana;
- (d) a summary of evidence regarding the activities of any foreign fishing vessels that have undermined the effectiveness of international conservation and management measures;
- (e) information with respect to the activities of vessels of states that are not parties to the Agreement that undermine the effectiveness of international conservation and management measures.

EXCHANGE OF INFORMATION WITH OTHER STATES

41. (1) The Chief Fisheries Officer shall make such arrangements as may be appropriate to enable him to exchange information, including evidentiary material, with other States that are parties to the Agreement to enable Guyana and such other states to better implement the objects of the Agreement.

(2) Without derogating from the generality of arrangements made under subsection (1), the Chief Fisheries Officer shall, in particular, where he has reason to believe that a foreign fishing vessel has engaged in activities that undermine international conservation and management measures

- (a) provide to the appropriate authorities of the flag state of the foreign fishing vessel concerned such information, including evidentiary material, relating to those activities, as may be necessary to assist the flag State in identifying the

those activities, as may be necessary to assist the flag State in identifying the vessel; and

(b) when such foreign fishing vessel is voluntarily in a port of Guyana promptly notify the appropriate authorities of the flag state of the vessel accordingly.

PROHIBITION OF ACTIVITIES THAT UNDERMINE THE EFFECTIVENESS OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES

42. (1) No fishing vessel entitled to fly the flag of Guyana, whether or not it is required to be licensed under this Act, shall engage in any activity on the high seas that undermines the effectiveness of international conservation and management measures.
- (2) The Minister may, by regulation, prescribe certain activities as being activities that undermine the effectiveness of international conservation management measures.
- (3) Where a vessel contravenes subsection (1) the master, the owner and the charterer shall each commit an offence and be liable on conviction to a fine not exceeding....

PART XI FISH PROCESSING ESTABLISHMENTS

FISH PROCESSING ESTABLISHMENTS

43. (1) Subject to subsection (2), the Chief Fisheries Officer may grant to any person a licence to operate a fishing processing establishment on such conditions, and subject to the payment of such fees, as may be prescribed.
- (2) No licence shall be issued in respect of a fish processing establishment, unless the establishment conforms to such conditions relating to the manner of construction of the establishment as may be prescribed.
- (3) Any person who operates, or allows to be operated any fish processing establishment except with a licence granted under this Section and in accordance with any conditions prescribed is guilty of an offence and shall be liable on summary conviction to a fine not exceeding dollars.

PART XII IMPORT AND EXPORT OF FISH

IMPORT AND EXPORT OF FISH

44. (1) No person shall import into Guyana or export or bring to any place for export any fish without first obtaining a licence for that purpose from the Chief Fisheries Officer.

(2) Application for a licence under subsection (1) shall be made in the prescribed form to the Chief Fisheries Officer and shall be accompanied by the prescribed application fee.

(3) Where an application is made under subsection (2), the Chief Fisheries Officer may grant the licence on the payment of such fees as may be prescribed and subject to such terms and conditions as may be specified and as may be prescribed.

(4) Prior to issuing a licence to import live fish into Guyana, the Chief Fisheries officer may require that a study or studies be carried out, at the applicant's expense, to ascertain the possible impact that the release of such live fish may have on the environment.

(5) The Chief Fisheries Officer, in deciding whether to grant a licence under subsection (1) shall have due regard to the provisions of the Convention On International Trade in Endangered Species of Wild Flora and Fauna, Washington, 1973, to which Guyana is a party, as well as to such other obligations Guyana may have under other international agreements.

45. (1) Any person who imports into or exports or brings to any place for export from Guyana any fish without obtaining a licence to do so in accordance with Section 44 shall be liable on summary conviction to a fine of dollars and imprisonment not exceeding years.

(2) Where any person is prosecuted for exporting or attempting to export any ornamental fishes or any part thereof, the proof that such fish were caught outside the limits of Guyana shall be on that person.

PART XIII ENFORCEMENT AND JUDICIAL PROCEEDINGS

POWERS OF AUTHORISED OFFICERS

46. (1) For the purposes of enforcing this Act, any authorised officer may, without a warrant -

(a) stop any foreign fishing vessel in the fisheries waters and any local fishing vessel in or beyond the fisheries waters;

(b) require the master of the vessel to stop fishing and take the fishing gear of the vessel back on board;

(c) require the master to facilitate the boarding of the vessel by all appropriate means;

(d) 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) muster the crew of the vessel;

(f) require to be produced, examine and take copies of any certificate of registry, licence, permit, official log book, official paper, article of agreement, record of fish caught and any other document required under this Act or relating to the vessel and to the crew or any member thereof or to any person on board the vessel which is in their respective possession or control on board the vessel;

(g) require the master to appear and give any explanation concerning the vessel and any crew or any person on board the vessel and any document mentioned in paragraph (f);

(h) make any search, examination or enquiry which he shall consider necessary to find out whether any provision of this Act has been contravened;

(i) make an entry dated and signed by him in any vessel's log;

(j) take or require the master to take the vessel to any place, port or harbour in Guyana for the purpose of carrying out any search, examination or enquiry;

(k) take samples of any fish found in any vessel, vehicle, aircraft or premises searched under this Section;

(l) give directions to the master and any crew member of any vessel stopped, boarded or searched as may be necessary or reasonably expedient for any purpose specified in this Act or to provide for the compliance by the vessel, master or any crew member with the conditions of any licence;

(m) at all reasonable times enter and inspect any fish processing establishment, aquaculture facility or any other place where fish or fish products are kept or stored for the purposes of sale or export.

(2) Where an authorised officer has reasonable grounds to believe that an offence against this Act has been or is being committed, he may, without a warrant -

(a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reasonable grounds to believe that an offence has been or is being committed or that fish illegally taken or explosives for use contrary to Section 29 are being stored;

(b) stop, enter and search any vehicle or aircraft which he reasonably suspects is being used or is involved in the commission of an offence against this Act;

(c) following hot pursuit in accordance with international law and commenced within the fisheries waters, stop, board and search outside the fisheries waters any foreign fishing vessel which he has reasonable grounds to believe has been

used in the commission of an offence and bring such vessel and all persons and things on board within the fisheries waters;

(d) seize -

- (i) any vessel (together with its fishing gear, equipment, stores and cargo), vehicle or aircraft which he has reasonable grounds to believe has been or is being used in the commission of an offence or in respect of which he believes such offence to have been committed or which he knows or has reasonable grounds to believe has been seized or forfeited in accordance with any provision of this Act;
 - (ii) any fish or fish products which he has reasonable grounds to believe have been taken or produced in the committing of such offence or which are possessed in contravention of this Act;
 - (iii) any explosive, poison or noxious substance which he has reasonable grounds to believe has been used or is possessed or controlled in contravention of this Act;
 - (iv) any logs, charts or other documents required to be maintained by this Act or under the terms of any licence or which he has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence under this Act;
 - (v) any thing which he has reasonable grounds to believe might be used as evidence in any proceedings under this Act;
- (e) arrest any person whom he has reasonable grounds to believe has committed an offence against this Act

(3) In exercising the powers referred to in this Section an authorised officer may use such force as may be reasonably necessary.

POWERS OF AUTHORISED OFFICERS BEYOND LIMITS OF NATIONAL JURISDICTION

47. Where, following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of the fisheries waters in circumstances and to the extent recognized by international law, the powers conferred on authorised officers under this Act shall be exercisable beyond the limits of national jurisdiction in accordance with international law.

SEIZURE OF FISHING VESSELS

48. (1) Where any vessel is seized under this Act the master and crew thereof shall take the vessel to such place, port or harbour in Guyana as the authorised officer shall require and the vessel may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under Section 55.
- (2) In bringing the vessel to the designated place, port or harbour, the master shall be responsible for the safety of the crew, vessel, himself and any other person on board the vessel.
- (3) If the master fails or refuses to take the vessel to the designated place, port or harbour, an authorised officer may take charge of the vessel for the purpose of bringing it into port.
- (4) If the vessel is brought into port in the circumstances described in subsection (3), no claim whatever may be made against any authorised officer or the Government of Guyana in respect of any death, injury, loss or damage occurring while the vessel is being brought into port.

SEIZURE OF VEHICLE OR AIRCRAFT

49. (1) Where any vehicle or aircraft is seized under this Act the driver or pilot thereof shall take the vehicle or aircraft to such place in Guyana as the authorised officer shall designate being the nearest or most convenient place for the holding of such vehicle or aircraft and the vehicle or aircraft may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under Section 55.
- (2) In bringing the vehicle or aircraft to the designated place the driver of the vehicle or pilot of the aircraft shall be responsible for the safety of the vehicle or aircraft, its passengers, crew and any other person on board the vehicle or aircraft.
- (3) If the driver or pilot fails or refuses to take the vehicle or aircraft to the designated place, an authorised officer may take charge of the vehicle or aircraft for the purpose of bringing it to the designated place.
- (4) If a vehicle or aircraft is brought into port in the circumstances described in subsection (3), no claim whatever may be made against any authorised officer or the Government of Guyana in respect of any death, injury, loss or damage occurring while the vehicle or aircraft is being brought to the designated place.

IMMOBILIZATION OF FISHING VESSEL, VEHICLE OR AIRCRAFT

50. (1) Having regard to the safety of the vessel, vehicle or aircraft, an authorised officer may take steps to immobilize any vessel, vehicle or aircraft seized, taken or

detained in the custody of the Government of Guyana in accordance with this Act, including by removing any part or parts from the vessel, vehicle or aircraft, for the purpose of preventing the vessel being taken by any person prior to the release of the vessel under Section 55 or 57(2) or by the Court.

(2) Any part or parts removed under subsection (1) shall be kept safely and returned to the vessel, vehicle or aircraft immediately upon its lawful release from custody.

ASSAULTING, OBSTRUCTING ETC. AUTHORISED OFFICER OR OBSERVER

51. (1) The master and each member of the crew of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with every instruction or direction given by an authorised officer and shall facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any fishing gear, equipment, records, documents, fish and fish products.

(2) The master and each member of the crew of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall take all measures to ensure the safety of an authorised officer in the performance of his duties.

(3) The holder of a fish processing establishment licence or aquaculture permit and all persons employed at the establishment or aquaculture facility shall immediately comply with every instruction or direction given by an authorised officer, facilitate his safe entry and inspection of the fish processing establishment, records, documents, fish and fish products and take all measures to ensure the safety of an authorised officer in the performance of his duties.

(4) Every person who contravenes subsections (1), (2) or (3), or who -

(a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer or observer in the performance of his duties;

(b) incites or encourages any other person to assault, resist or obstruct any authorised officer while carrying out his or her powers or duties, or any person lawfully acting under the officer's orders or in his aid;

(c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards any authorised officer or observer while in the execution of his powers of duties, or any person lawfully acting under an authorised officer's orders or in his aid;

(d) fails to comply with the lawful requirements of any authorised officer or observer;

(e) furnishes to any authorised officer any particulars which, to his knowledge are false or misleading in any material respect; or

(f) personates or falsely represents himself to be an authorised officer, or who falsely represents himself to be a person lawfully acting under an authorised officer's orders or in his aid;

shall be guilty of an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding dollars or to imprisonment for a term not exceeding or to both such fine and imprisonment.

(5) For the purposes of subsection (4), any person who does not allow any authorised officer, or any person acting under his orders or in his aid, or an observer to exercise any of the powers conferred on such person by this Act shall be deemed to be obstructing that officer, observer or person.

IDENTIFICATION OF AUTHORISED OFFICERS AND OBSERVERS

52. An authorised officer or observer, when exercising any of the powers conferred by this Act, shall on request produce identification to show he or she is an authorised officer or observer under this Act.

PROTECTION OF AUTHORISED OFFICERS AND OBSERVERS

53. A person who does any act in pursuance or intended pursuance of the functions conferred on him by or under this Act shall not be subject to any civil or criminal liability in respect of such act, whether on the ground of want of jurisdiction, mistake of law or fact, or on any other ground, unless he or she has acted, or omitted to act, in bad faith without reasonable cause.

DESTRUCTION OF EVIDENCE ETC.

54. Any person who, being on board any vessel being pursued, about to be boarded or notified it will be boarded by any authorised officer throws overboard or destroys any fish, fish products, fishing gear, explosive, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence against this Act shall be guilty of an offence and shall be liable on summary conviction before a Magistrate to a fine not exceeding dollars or to imprisonment for a term not exceeding or to both such fine and imprisonment.

SECURITY, RELEASE AND FORFEITURE OF DETAINED PROPERTY

55. (1) Where a fishing vessel is taken, seized or detained under this Act and an information or charge is laid against the master, the owner or the charterer of the vessel in respect of the offence for which the vessel has been detained, the master, the owner or the charterer or the agent of the owner or of the charterer of the vessel may at any time before the determination of the information or charge apply to the

Court by which the information or charge is due to be determined for the release of the vessel on the provision of security in accordance with this Section.

(2) On hearing the application the Court shall either -

(a) being satisfied that reasonable security has been given to the Government in respect of the aggregate of the maximum penalty to which the defendant may be liable, order the release of the fishing vessel; or

(b) order the release of the fishing vessel on the execution by any suitable person or persons approved by the Court for the purpose of a reasonable bond in favour of the Government in the prescribed form and conditioned in accordance with subsection (4) in an amount not less than the aggregate of the maximum penalty to which the defendant may be liable.

(3) Notwithstanding subsection (2) the Court may, where it is satisfied that there are special circumstances to justify it doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

(4) The condition of the bond shall be that if -

(a) the defendant is found not guilty of the information or charge; or

(b) the defendant, on being convicted of the information or charge, pays in full within fourteen days after he is convicted the amount of the fine imposed by the Court, then the bond shall be of no effect but that otherwise the bond shall remain in full force and effect.

(5) The amount specified in the bond shall be recoverable in full in any Court of competent jurisdiction as a debt due to the Government jointly and severally by the person or persons by whom the bond is given unless the person or persons prove the due performance of the condition for which the bond was made.

(6) In this Section "fishing vessel" includes all equipment on board or used by the vessel and also includes all fish that has been seized from the vessel under this Act and is detained on board the vessel in the custody of the Government.

DISPOSAL OF SEIZED FISH AND OTHER PERISHABLES.

56. (1) Where any fish or other things of a perishable nature are seized under Section 56 the Chief Fisheries Officer may, notwithstanding any other provision of this Act, either -

(a) return the fish or other thing to the person from whom it was seized on receiving security that is, in the opinion of the Chief Fisheries Officer adequate for the equivalent value of the fish or thing by way of bond or other stipulation conditioned for payment of such equivalent value in the event that

such amount shall be adjudged by the Court to be forfeited to the Government; or

(b) cause the sale of the fish or other thing at its reasonable market value and, if Court proceedings are instituted, pay the proceeds of sale into Court pending an order by the Court in respect of the forfeiture or otherwise of the proceeds or, if no proceedings are instituted, release the proceeds to the person from whom the fish or other thing was seized provided that, if, after making all reasonable efforts, the Chief Fisheries Officer is unable to sell the fish or other items, or where such fish or other items are unfit for sale, he may dispose of them in such other manner as he thinks fit.

(2) Where any live fish has been seized in accordance with Section 40(3) it may be released or destroyed at the discretion of the seizing officer where he considers such act desirable in order to prevent undue suffering or for other good and sufficient reason.

TREATMENT OF PERSONS ARRESTED, VESSELS AND OTHER THINGS DETAINED OR SEIZED

57. (1) Any person arrested and, subject to Sections 55 and 56, any vessel, article or thing arrested, detained or seized shall be brought before or under the jurisdiction of a Court of competent jurisdiction without undue delay.

(2) Where any person arrested is released without charge or the prosecution of that person is not proceeded with within thirty days of the arrest, any vessel, article or thing arrested, detained or seized when in the possession of or under the control of that person or the proceeds of sale thereof shall, subject to Sections 55 and 56, be returned to that person.

(3) Where the Court holds any vessel, article or thing arrested, detained or seized under Section 56 and a person who has been properly charged with an offence in relation thereto within ninety days of the arrest, detention or seizure fails to appear to answer the charge the Chief Fisheries Officer may apply to the Court for such vessel, article or thing to be forfeited to the Government and the Court shall make such order as it shall consider just.

(4) Where the Court fails or refuses to make an order for forfeiture under subsection (3) the Chief Fisheries Officer may appeal to the Supreme Court the decision of which shall be final.

(5) Subject to subsection (6) and Section 65 where a vessel, article or thing is arrested, detained or seized under Section 56 and no person is arrested the vessel, article or thing shall be returned to the owner or the person having possession care or control of it at the time of arrest, detention or seizure.

(6) If the lawful owner of a vessel, article or thing arrested, detained or seized under Section 56 cannot be traced within thirty days of such seizure it shall be forfeit to the Government and be disposed of as the Chief Fisheries Officer in his discretion shall consider fit and any proceeds of sale thereof shall be paid into the [Consolidated Fund].

(7) Where a vessel, article or thing has been arrested, detained or seized under Section 56 and the Court does not order the forfeiture of that vessel, article or thing it, or any proceeds realised from its disposal, shall be returned to the owner thereof or the person having the possession, care or control of it at the time of arrest, detention or seizure.

(8) Where the owner of a vessel, article or thing or the person having the possession, care or control of it at the time of its arrest, detention or seizure is convicted of an offence under this Act and a fine is imposed -

(a) the vessel, article or thing may be detained until all fines, orders for costs and penalties imposed under this Act have been paid;

(b) failing payment within the time allowed the vessel, article or thing may be sold in satisfaction of the fine and the balance of the proceeds returned in accordance with Section 68 after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale; or

(c) any proceeds realised from its disposal under Section 55 may be applied in payment of the fine, order for costs and costs of sale.

(9) Any vessel, vehicle, aircraft or other item ordered to be forfeited under this Act may, at the expiry of the time limited for appeal and if no appeal is lodged, be disposed of in such manner as the Chief Fisheries Officer may direct.

APPLICATION OF BOND, ETC.

58. Any bond, security or net proceeds of sale held in respect of any vessel, vehicle or aircraft or other item shall be applied as follows and in this order -

(a) the discharge of any forfeiture ordered under Section 61;

(b) the payment of all fines for offences against this Act or penalties imposed under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item;

(c) the discharge of all orders for costs in proceedings under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and

(d) return as provided in Section 57.

LIABILITY FOR LOSS, DAMAGE OR DETERIORATION OF ITEMS IN CUSTODY

59. The Government of Guyana shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other item while in the custody of the Government under this Act.

REMOVAL OF ITEM IN CUSTODY

60. (1) Any person who removes any vessel, vehicle, aircraft or other item held under this Act in the custody of the Government commits an offence whether or not he knew the vessel, vehicle, aircraft or other item was held in the custody of the Government and shall be liable on summary conviction before a Magistrate to a fine not exceeding dollars and, in default of payment thereof, to imprisonment for a term not exceeding
- (2) Where any vessel, vehicle, aircraft or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government of Guyana it is liable to seizure at any time within the fisheries waters.

COURT'S POWER OF FORFEITURE

61. (1) Where any person is convicted of an offence against this Act, the Court, in addition to any other penalty may, and in the case of a foreign fishing vessel, shall order that any fishing vessel, together with its fishing gear, equipment, stores and cargo, together with any fish caught unlawfully or the proceeds of sale of such fish or any perishables, and any vehicle or aircraft used or involved in the commission of that offence be forfeited to the Government.
- (2) Where any vessel, vehicle, aircraft or other items seized under this Act, or any bond, security or net proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or penalty imposed under this Act, it shall be made available for collection by the registered owner or his nominee or, in the absence of such persons, the persons who appear entitled to it.
- (3) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security an order for forfeiture shall, unless the Court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security.
- (4) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security, the Court may order any convicted defendant and the owner of the vessel, vehicle, aircraft or other item concerned, whether or not he is a defendant, to pay the difference between the bond or amount lodged in respect of the forfeited property and the aggregate value of the forfeited property.

ONUS OF PROOF

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

DISPOSAL OF VESSEL ETC. FORFEITED

63. Any vessel (together with its gear, stores and cargo), and any vehicle, fishing gear, net or other fishing appliance, explosive or poison ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct.

OFFENCES TRIABLE AS IF COMMITTED WITHIN LOCAL JURISDICTION

64. Any offence against any of the provisions of this Act or any regulations made under this Act committed within the fisheries waters by any person, or any such offence committed outside the fisheries waters by any citizen of, or person ordinarily resident in Guyana, or by any person on board any local fishing vessel, shall be triable in any court of Guyana as if such offence had been committed in any place in Guyana within the local limits of the jurisdiction of such court.

IMMUNITY OF AUTHORISED OFFICERS

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

CERTIFICATE EVIDENCE

66. (1) The Minister or any person authorised in writing by him may give a certificate stating that
- (a) a specified vessel was or was not on a specified date or dates a local fishing vessel or a foreign fishing vessel;
 - (b) a specified vessel or person was or was not on a specified date or dates the holder of any specified licence, authorization or certificate of registration;
 - (c) an appended document is a true copy of the licence, authorization or certificate of registration for a specified vessel or person and that specified conditions were those of a licence, authorization or certificate of registration issued in respect of a specified vessel or person;

(d) a particular location or area of water was on a specified date or dates within the fisheries waters, or within a closed, limited, restricted or in any other way controlled area of the fisheries waters, or an area of the fisheries waters subject to specified conditions;

(e) an appended chart shows the boundaries on a specified date or dates of the fisheries waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;

(f) a call sign, name or number is that of a particular vessel or has been allotted under any system of naming or numbering of vessels to a particular vessel; or

(g) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel; or

(2) Any certificate issued under this Section shall be -

(a) signed by the person who made it;

(b) headed "Certificate Made Under Section 66, Fisheries Act";

(c) served, together with a copy of Sections 66 and 67 of this Act, on all other parties to the proceedings by or on behalf of the person seeking to tender it in evidence at least twenty-one days before the hearing at which the certificate is to be so tendered.

(3) Unless the contrary is proved, a document purporting to be a certificate given under this Section shall be deemed to be such a certificate and to have been duly given.

CERTIFICATE AS TO CAUSE OF DEATH

67. (1) In any proceedings for any offence against Section 29 or 30, a certificate as to the cause and manner of death or injury of any fish, signed by the Chief Fisheries Officer, or any person authorised by him in writing, shall, until the contrary is proved, be sufficient evidence as to the matters stated in the certificate.

(2) In any proceedings for any offence against this Section, the defendant shall be given not less than fourteen days' notice in writing of the prosecution's intention to adduce a certificate under subsection (1).

VALIDITY AND PROCEDURES FOR CERTIFICATES

68. (1) Subject to this Section, in any proceedings under this Act, a certificate issued under Section 66 shall be admissible in evidence and shall, in the absence of proof to the contrary, be evidence of all the facts averred in it.

(2) Notwithstanding that a certificate may be admissible by virtue of subsection (1), the Court may, on its own motion or on application by any party to the proceedings, require that the maker of the certificate attend and give oral evidence at the hearing.

(3) Any omission from or mistake made in any certificate issued under Section 66 or Section 67 shall not render it inadmissible in evidence unless the Court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(4) The Court may, where it thinks appropriate, having regard to the circumstances of any particular case, dispense with the requirement for service as specified in subsection (2) of Section 66 and subsection (2) of Section 67.

CERTIFICATE AS TO THE LOCATION OF A VESSEL

69. (1) Where in any proceedings under this Act the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offence charged then a place or area stated in a certificate given by an authorised officer or observer shall, in the absence of proof to the contrary, be evidence of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) An authorised officer shall in any certificate made in subsection (1) state -

(a) his name, address, official position, country of appointment and provision under which he is appointed;

(b) the name and, if known, call sign of the fishing vessel concerned;

(c) the date and time or period of time the vessel was in the place or area;

(d) the place or area in which it is alleged the vessel was located;

(e) the position fixing instruments used to fix the place or area stated in (d) and their accuracy within specified limits;

(f) a declaration that he checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and

(g) if a position fixing instrument which is not a designated machine or is not judicially recognised as notoriously accurate is used, a declaration that he checked the instrument as soon as possible after the time concerned against such instrument.

(3) Section 68 shall apply to a certificate given under this Section as if it had been a certificate given under Section 66 and any reference therein to Section 66 shall be read as a reference to this Section.

DESIGNATED MACHINES

70. (1) The Minister may by order published in the *Gazette* designate any machine or class of machines as a designated machine or machines.

(2) The readings of designated machines shall be admissible as evidence of the facts they aver if -

(a) the readings were made by a competent operator; and

(b) the machine was checked for correct working a reasonable time before and after the readings it is sought to adduce in evidence were made and the machine appeared to be working correctly.

(3) A designated machine, when checked for correct working and read by a competent operator, shall, unless the contrary is proved, be presumed to give accurate readings within the manufacturer's specified limits.

(4) The readings of designated machines may be made from a printout or as observed from a visual display unit.

(5) The machines referred to in subsection (1) must be capable either wholly or partially in themselves of producing the readings concerned and not merely be receivers of information or data.

PHOTOGRAPHIC EVIDENCE

71. (1) Where a photograph is taken of any fishing or related activity and simultaneously the date and time and position from which the photograph is taken are superimposed upon the photograph then it shall be presumed unless the contrary is proved that the photograph was taken on the date, at the time and in the position so appearing.

(2) The presumption set out in subsection (1) shall arise only if -

(a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and

(b) the instruments which provide the date, time and position are judicially recognised as being notoriously accurate or are designated machines or were checked as soon as possible after the taking of the photograph against such instruments.

(3) Any authorised officer or observer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating -

(a) his name, address, official position, country of appointment and provision under which he is appointed;

(b) the name and call sign, if known, of any fishing vessel appearing in the photograph;

(c) the names of the camera, watch or clock or other instruments supplying the date and time and the position fixing instrument and a declaration that he checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2)(b) and that they all appeared to be working correctly;

(d) the matters set out in subsection (2)(a);

(e) the accuracy of the fixing instrument used within specified limits;

(f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Section 68 shall apply to a certificate given under this Section as if it had been a certificate given under Section 66 and any reference therein to Section 66 shall be read as a reference to this Section.

OBSERVER DEVICES

72. (1) The Minister may, by order published in the *Gazette*, designate any device or machine or class of device or machine as an observer device.

(2) "Observer device" means any device or machine placed on a fishing vessel in accordance with this Act, as a condition of its licence, which transmits, whether in conjunction with other machines elsewhere or not, information or data concerning the position and fishing activities of the vessel.

(3) The information or data concerning the vessel's position and fishing activities referred to in subsection (2) may be fed or input manually into the observer device or automatically from machines aboard the vessel or ascertained by the use of the observer device transmissions in conjunction with other machines.

(4) All information or data obtained or ascertained by the use of an observer device, shall be presumed, unless the contrary is proved, to -

(a) come from the vessel so identified;

(b) be accurately relayed or transferred; and

(c) be given by the master, owner and charterer of the fishing vessel;

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(5) The presumption in subsection (4) shall apply whether or not the information was stored before or after any transmission or transfer.

(6) Any authorised officer or observer may give a certificate stating -

(a) his name, address and official position;

(b) he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from an observer device;

(c) the date and time the information was obtained or ascertained from the observer device and the details thereof;

(d) the name and call sign of the vessel on which the observer device is or was located as known to him or as ascertained from any official register, record or other document; and

(e) a declaration that there appeared to be no malfunction in the observer device, its transmissions or other machines used in obtaining or ascertaining the information.

(7) Section 58 shall apply to a certificate given under this Section as if it had been a certificate given under Section 66 and any reference therein to Section 66 shall be read as a reference to this Section.

(8) Any person who destroys, damages, renders inoperative or otherwise interferes with an observer device or machine aboard a vessel which automatically feeds or inputs information or data into an observer device, or who intentionally feeds or inputs information or data into an observer device which is not officially required or is meaningless shall be guilty of an offence and shall be liable on summary conviction before a Magistrate to a fine not exceedingdollars and, in default of payment thereof, to imprisonment for a term not exceeding ...

PRESUMPTIONS

73. (1) For the purposes of any proceedings under this Act, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to or in association with that vessel shall be deemed to be also that of the operator of the vessel.

(2) For the purposes of the prosecution of a person for an offence against this Act, where a person is charged for an act or omission done by an employee or other agent,

the act or omission shall be deemed to have also been done by the person charged for the offence.

(3) Any entry in writing or other mark in or on any log, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel shall be deemed to be that of the operator of the vessel.

(4) Where any information is given in respect of a fishing vessel under this Act or an applicable access agreement in relation to any fishing activity of a foreign fishing vessel, it shall be presumed, unless the contrary is proved, to have been given by the operator of the vessel concerned, whether it is given by post, telex, telephone, facsimile, radio transmission or other method of communication.

(5) All fish found on board any fishing vessel or in or on any vehicle or aircraft used or involved in the commission of an offence under this Act shall be presumed, unless the contrary is proved, to have been caught unlawfully and shall be liable to forfeiture.

PART XIV GENERAL

LIABILITY OF MASTER

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

POWER TO COMPOUND OFFENCES

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

(2) On compounding an offence under this Section the Minister may order the release of any article seized under Section 46 or the proceeds of sale of such article under Section 57 on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

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

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

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

(6) The powers conferred on the Minister by subsection (1) may be exercised by the Chief Fisheries Officer in respect of a local fishing vessel.

(7) This Section does not apply to any offence against Section 29 or Section 30 of this Act.

PART XV REGULATIONS

76. (1) The Minister may make regulations generally for the management and development of fisheries in the fisheries waters.

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

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

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

(c) prescribing the constitution, functions and duties of any Fisheries Advisory Committee appointed under Section 6;

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

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

(f) organising and regulating sport fishing in the fisheries waters;

(g) regulating the use of underwater breathing apparatus;

(h) regulating or prohibiting the use of spear guns or other similar device;

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

(j) regulating the transiting of foreign fishing vessels through the fisheries waters and the manner in which fishing gear is to be stowed aboard such vessels;

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

(l) prescribing the form of foreign fishing licences which may take the form of a written licence or a telexed or cabled authorization:

(m) providing for the implementation of any agreement or arrangement entered into under Section 16 or 17;

(n) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated to such devices

(o) regulating:

(i) the management and protection of marine reserves;

(ii) the taking of coral and shells;

(iii) the setting of fish pens and pin seines;

(iv) the taking of aquarium fish.

(p) prescribing measures for the protection of turtles;

(q) providing for the control or prohibition of the import and export of fish or fish products;

(r) prescribing standards and other measures for the safety of local fishing vessels and fishers;

(s) providing for the particulars to be recorded in the register of fishing vessels;

(t) providing for procedures to be followed in respect of dispute settlements;

(u) regulating the fees payable to fishers' cooperatives and other bodies for the use of wharf facilities;

(v) regulating the operation of fish processing establishments, including quality control measures and inspection of such establishments;

(w) prescribing any other matter which is required or authorised to be prescribed.

(3) Where not otherwise provided for, any breach of a regulation made under this Act shall constitute an offence and any person guilty of such an offence shall be liable on summary conviction to a fine not exceedingdollars.

PART XVI EXEMPTIONS, SAVINGS, AND REPEALS

EXEMPTIONS

77. The Minister may, by Order published in the Gazette, exempt from the requirements of Section 13, any local fishing vessels under a size, type or class specified in the Order.

SAVINGS

78. Any regulations, orders and notices made under the Fisheries Act, and the Maritime Boundaries Act, 1977 insofar as they relate to fisheries matters, and any licences, permits and other authorizations issued thereunder shall, except insofar as they are inconsistent with this Act, continue to have effect as though made or issued under this Act.

REPEALS

79. The following Acts are hereby repealed:

The Fisheries Act, 1956

The Maritime Boundaries Act, 1977, Sections 24 to 33, and Section 43.

ANNEX II

THE DRAFT AQUACULTURE BILL

An Act to provide for the promotion, management, and development of aquaculture and for matters connected therewith

PART I PRELIMINARY

1. This Act may be cited as the Aquaculture Act, 199-

INTERPRETATION

2. In this Act -

"aquaculture" means the culture or husbandry of flora and fauna in water, whether fresh, marine or brackish and includes any activity or activities carried out at or in connection with a aquaculture facility;

"aquaculture facility" includes any equipment, construction, place, area or zone in Guyana in which aquaculture is conducted;

"aquaculture product" means the species which are being, or have been cultured, whether alive or dead, in Guyana;

"aquatic species" means any aquatic flora and fauna, including all plants and animals, fish, mollusc, crustaceans, their seed and eggs;

"authorised officer" means any officer of the Fisheries Department;

"licence" refers to the licence to undertake aquaculture issued under section 4;

"Minister" means the Minister of Agriculture;

"pollution" means the introduction through human activities, directly or indirectly, of substances or energy into the aquatic environment resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to activities, including fishing, impairment of quality for use of water and reduction of amenities;

PART II LICENSING

AQUACULTURE TO BE CONDUCTED WITH A LICENCE

3. No person shall engage in aquaculture except with a licence issued to him by the Chief Fisheries Officer under this Act and in accordance with such conditions as may be imposed under section 10 and in accordance with any regulations or orders made under this Act.

LICENCE APPLICATION

4. (1) Applications for a licence shall be made to the Chief Fisheries Officer in the form provided for by him and accompanied by such documents or information as may be required by him under this Act.

(2) Where in the opinion of the Chief Fisheries Officer, the proposed aquaculture activity requires an environmental impact assessment or an environmental permit in accordance with the provisions of Part IV of the Environmental Protection Act, 1996, as amended from time to time, he shall first transmit the proposal to the Environmental Protection Agency established under that Act before proceeding further with the application.

CHANGE OF INFORMATION

5. Prior to the issue of a licence, any change in the particulars required under section 4 or any change in the information on the basis of which an environmental impact statement has been prepared shall be notified immediately in writing to the Chief Fisheries Officer.

ISSUE OF LICENCE

6. (1) No licence shall be issued unless there has been obtained by the applicant such approvals as may be required under the law relating to land and water use, and environmental protection;

(2) A licence in respect of aquaculture shall be issued in the form provided for by Order made by the Minister.

(3) Nothing in this Act shall exempt a licence holder from the obligation to comply with present or future requirements under laws for the protection of the environment.

PROVISION OF INFORMATION

7. (1) The Chief Fisheries Officer may require a licence holder at any time to provide such information in writing as may be determined by him concerning aquaculture under the responsibility or control of the licence holder.

(2) The licence holder shall provide a report not later than the thirtieth day of November of each year which shall contain such information as the Minister may determine by Order.

FEEES

8. The fee or fees payable in respect of aquaculture shall be prescribed by regulation.

DURATION

9. A licence issued under this Act shall be valid for a period ofyears, which may be renewed for a lesser period.

CONDITIONS OF LICENCE

10. The Chief Fisheries Officer, in issuing or renewing a licence, may impose a condition or conditions which may relate to:
 - (a) the area or areas in which aquaculture may be undertaken;
 - (b) the structure, equipment and maintenance practices that may be used for aquaculture;
 - (c) the aquatic species, including the quantities, which may be introduced to a particular aquaculture facility;
 - (d) the composition or quantity of feed which may be used;
 - (e) the control of, or prohibition on, the use of any pharmaceutical preparation, drug or antibiotic;
 - (f) the notification of diseases;
 - (g) the disposal of dead fish, material or waste resulting from aquaculture, including the requirement of consent or notification in relation thereto;
 - (h) the movement of aquatic species;
 - (i) the monitoring and control of water quality;

- (j) insurance of aquaculture facilities;
- (k) the maintenance of records of aquaculture activities and their content;
- (l) the disclosure of information concerning aquaculture activities;
- (m) the period or periods within which conditions must be fulfilled;
- (n) such other conditions as the Chief Fisheries may deem appropriate.

CHANGE IN STRUCTURE, EQUIPMENT AND MAINTENANCE PRACTICES

11. A person who holds a licence to which there is a condition, or conditions, attached which concern the structure, equipment and maintenance practices that may be employed in aquaculture shall not alter the structure, equipment, or maintenance practices except in accordance with that condition or conditions unless he has the prior consent in writing of the Chief Fisheries Officer

REFUSAL TO GRANT OR RENEW A LICENCE

12. (1) The Chief Fisheries Officer may refuse to grant or renew a licence if he has reason to believe that the aquaculture activity or activities in respect of which the licence is sought:
- (a) may lead to the spread of disease among aquatic species;
 - (b) may create a significant risk of pollution from the aquaculture facility concerned;
 - (c) is unsuited to the locality having regard to the aquaculture activity planned, the character of the general locality, the traffic requirements, or other exploitation being undertaken in the locality; or
 - (d) the licence holder has not complied with a condition to a licence imposed under section 10;
 - (e) is unsuited for the purposes of protecting and conserving the environment;
 - (f) is not in the public interest.
- (2) The Chief Fisheries Officer, instead of refusing to renew a licence under subsections (1) (c), (d) and (e) of this section, may issue in writing a variation of the licence permitting the continuation of aquaculture under conditions determined by him.

CANCELLATION OF A LICENCE

13. (1) The Chief Fisheries Officer may cancel a licence in respect of aquaculture where:

(a) there has been an outbreak of disease among aquatic species under the control of the licence holder or there is reason to believe that an outbreak of disease among aquatic species under the control of the licence holder is imminent;

(b) where there has been a failure to comply with a condition or conditions of a licence issued in respect of aquaculture;

(c) the licence holder has ceased to conduct aquaculture;

(d) the licence holder has not commenced the aquaculture activities within six months of the issue of the licence; or

(f) the continuation of the aquaculture is not in the public interest.

(2) The Chief Fisheries Officer, instead of cancelling a licence under subsection (1) of this section, may issue in writing a variation of the licence permitting the continuation of aquaculture under such conditions as he may determine.

COMPENSATION FOR CANCELLATION OR REFUSAL TO RENEW LICENCE

14. Compensation shall not be paid to a licence holder where the refusal to renew or to cancel the licence was proved to be necessary for the purposes of protecting and conserving the environment, its fauna and flora, by reason of a change in circumstances which could not reasonably have been foreseen at the time the licence was granted or at the time the conditions to the licence were last varied under sections 12(2) and 13(2) of this Act.

APPEAL AGAINST THE REFUSAL TO GRANT OR RENEW A LICENCE, OR ITS CANCELLATION

15. A person in respect of whom a licence has been refused, not renewed or cancelled, may appeal to the Minister against that decision within thirty days of the notification of that decision to him in writing.

TRANSFER OF LICENCE

16. (1) A licence issued under this Act shall not be transferable except with the permission of the Chief Fisheries Officer.

(2) Where the Chief Fisheries Officer authorises the transfer of a licence, he may vary the conditions already imposed on the licence or he may impose such other conditions as may be provided for in section 10 of this Act.

PART III ENFORCEMENT

POWERS OF AUTHORISED OFFICERS

17. An authorised officer may without warrant do any or all of the following:
- (a) enter, inspect and search any place other than a place used solely as a dwelling house, in which aquaculture is being undertaken, as well as inspecting documents relating to aquaculture;
 - (b) stop, enter and search any vehicle, vessel or aircraft which he has reasonable grounds to believe may be transporting aquaculture products without a valid licence, or not in accordance with provisions of a licence issued under this Act;
 - (c) seize any aquaculture product which he has reasonable grounds to believe has not been cultured in accordance with a licence issued under this Act;
 - (d) seize any vessel, vehicle, aircraft, or equipment which he has reasonable grounds to believe has been used in the commission of an offence against this Act;
 - (e) order the destruction of any aquaculture product which he has reasonable grounds to believe is diseased;
 - (f) order the cessation of any aquaculture activity which he has reasonable grounds to believe is being undertaken contrary to the provisions of this Act.

DISPOSAL OF PERISHABLE AQUACULTURE PRODUCTS AND OTHER GOODS SEIZED

18. (1) Any aquaculture product seized under the provisions of this Act which is liable to deteriorate rapidly may be sold by the Chief Fisheries Officer and the proceeds of such sale shall be held by him pending the outcome of any legal proceedings in respect of these products.
- (2) After making all reasonable efforts to sell the products referred to in subsection (1) of this section, or where the products are unfit for sale, the Chief Fisheries Officer may dispose of them in such manner as he thinks fit and any expense incurred by him so doing shall be borne by the licence holder.

(3) The Chief Fisheries Officer shall hold any vessel, vehicle, aircraft or equipment seized under subsections (c) and (d) of section 17 pending the outcome of any legal proceedings in respect of these products.

PART IV OFFENCES AND PENALTIES

OFFENCES AND PENALTIES

19. (1) Any person who engages in aquaculture without a licence is guilty of an offence and liable upon conviction to a penalty not exceeding.....
- (2) Any licence holder who contravenes the terms and conditions attached to his licence, including a failure to obtain the consent referred to in Section 11 is guilty of an offence and liable on conviction to a penalty not exceeding...
- (3) Any person other than the licence holder or a person authorised to do so by the licence holder, or an authorised officer pursuant to any provision of this Act, who interferes with the operation of an aquaculture facility is guilty of an offence and is liable upon conviction to a penalty not exceeding.....
- (4) Any person who without lawful excuse causes the release of an aquaculture product from an aquaculture facility is guilty of an offence and liable upon conviction to a penalty not exceeding.....
- (5) Any licence holder who fails to provide such information as may be required under this Act shall be guilty of an offence and liable upon conviction to a penalty not exceeding.....
- (6) Any licence holder who knowingly provides false information relating to aquaculture, or an aquaculture facility shall be guilty of an offence and liable upon conviction to a penalty not exceeding.....
- (7) Any person who discloses any information relating to aquaculture in contravention of the provisions of this Act shall be guilty of an offence and liable to a fine not exceeding.....
- (8) Any person who obstructs an authorised officer in the exercise of his powers or duties under this Act shall be guilty of an offence and liable to a fine not exceeding.....
- (9) Any person who commits a second or subsequent offence under this Act is liable to a penalty not exceeding..... in addition to any other penalty which may be imposed in respect of that offence.

(10) Any person who commits an offence against the provisions of this Act for which no penalty is specifically provided is liable on conviction to a penalty not exceeding.....

PART V MISCELLANEOUS PROVISIONS

THREE MONTHS TO SEEK LICENCE

20. Any person who undertakes aquaculture at the time this Act enters into force shall apply within three months of that date for a licence in accordance with the provisions of this Act.

AUTHORIZATION OF FISHING

21. Nothing in this Act shall authorise fishing in, on, or under any aquaculture facility other than in accordance with the provisions of the Fisheries Act and this Act.

USE OF PHARMACEUTICAL DRUGS, ETC. IN AQUACULTURE

22. The Chief Fisheries Officer, in exercising any power or responsibility under this Act concerning animal disease or the use of a pharmaceutical preparation, drug, or antibiotic in respect of aquaculture, shall act with the concurrence of the Director, Guyana Agency for Health, Food, Environment and Health Sciences.

DISCLOSURE OF INFORMATION BY OFFICIALS

23. Information obtained in pursuance of this Act shall not be disclosed by the Chief Fisheries Officer or any other officer of the Fisheries Department except:
- (a) with the written consent of the licence holder;
 - (b) for the purpose of a criminal proceeding; or
 - (c) for the purpose of enabling the competent government authorities to fulfil their functions where there is:
 - (i) a significant risk of pollution in or around the aquaculture facility,
 - (ii) pollution in or around the aquaculture facility,
 - (iii) a significant risk of an outbreak of disease, or
 - (iv) an outbreak of disease.

REGULATIONS

24. (1) The Minister may make regulations for the carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such regulations may relate to:

- (a) the conduct, management, and licensing of aquaculture;
- (b) the structure, equipment and operation of aquaculture;
- (c) the control of any discharge from an aquaculture facility;
- (d) collection of data, including business data, concerning aquaculture activities;
- (e) the establishment of safety zones and the provision of navigational warnings with respect to marine aquaculture;
- (f) the location of aquaculture facilities;
- (g) control over the quantity and quality of feed used in aquaculture including the imposition of a levy or levies with respect to the use of certain feeds;
- (h) the monitoring and control of aquaculture;
- (i) the control of predators and hazards to wildlife;
- (j) the movement of aquatic species in Guyana or in the waters subject to the jurisdiction of Guyana;
- (k) quality control for aquaculture products;
- (l) the procedures for and contents of an environmental impact statement for aquaculture activities.

EXEMPTION

25. The Minister may from time to time by Notice in the Gazette, exempt from the application of the provisions of this Act or any regulations made thereunder any particular type of aquaculture activity having regard to the smallness of the activity in question or its very limited impact on the area concerned.

