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REGIONAL FISHERIES LAW ADVISORY PROGRAMME
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FISHERIES LEGISLATION IN CAYMAN ISLANDS



FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
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Regional Fisheries Law Advisory Programme

Fisheries Legislation in Cayman Islands

by

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and

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Regional Fisheries Law Advisory Programme
Western Central Atlantic Region

The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

REGIONAL FISHERIES LAW ADVISORY PROGRAMME

The Regional Fisheries Law Advisory Programme is a subprogramme of FAO's Programme of Assistance to Developing Countries in Planning the Utilization of the Living Resources of the Extended Economic Zones (EEZ Programme). Under the subprogramme assistance is provided to developing coastal states in the revision of their fisheries legislation to meet the needs of extended jurisdiction.

A Regional Fisheries Legal Adviser worked in the Western Central Atlantic region for one year, from December 1979, with financing provided by the Government of Norway through a Trust Fund agreement. During this period, he assisted a number of Governments, upon request, in the formulation of legislation for the management and development of fisheries resources within zones of extended jurisdiction. Documents are being prepared to provide information on his activities and this is the first in the series which is entitled "Fisheries Legislative Reports".

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1. Introduction and Terms of Reference

In February, 1979, under assignment by the Legislation Branch to the Interregional Project for the Development of Fisheries in the Western Central Atlantic (WECAF), Mr. E. Fidell visited Cayman Islands with the following terms of reference:

"The Consultant will:

- (a) visit the Cayman Islands and advise the Government on:
 - (i) the formulation of legislation relating to the management and control of fisheries in its new 200 mile zone, and in particular comment, as necessary, on the draft legislation already prepared by the Government;
 - (ii) assess the needs for further assistance in the area of fisheries legislation, fisheries administration, the drawing up of bilateral fisheries agreements and/or joint venture arrangements as applicable."

As a result of that visit, a first draft of the fisheries law was prepared which formed the basis of a detailed consideration of its terms. This draft was prepared in collaboration with the Attorney General of the Cayman Islands, the Hon. David Barwick, C.B.E., Q.C. A second visit was undertaken in May 1980 by W.R. Edeson, Regional Fisheries Law Adviser, WECAF region on which occasion the first draft was revised to take into account comments and discussions concerning the first draft. The revised version of the original draft is set out in the Annex to this report as the recommended Fisheries Law for Cayman Islands.

The Food and Agriculture Organization gratefully acknowledges the assistance of the following in the preparation of this report:

Hon. David Barwick, C.B.E., Q.C., Attorney General
Hon. G. Haig Bodden, Member for Agriculture and Natural Resources
Mr. B.D. Lauer, Principal Secretary, Agriculture and Natural Resources
Mr. J. Martin, Senior Crown Counsel, Legal Administration
Mr. R.N. Donaldson, Legal Draftsman, Legal Administration
Mr. T.C. Jefferson, Deputy Principal Secretary, Finance and Administration
Mr. R. Bodden, Registrar of Shipping

2. General Legal Background

The Cayman Islands is a colony of the United Kingdom. Its legal system is typically common law in character. Thus, the interpretation of legislation, legal drafting practices, the legal principles governing the review of administrative decision making are governed by principles found in most jurisdictions which have inherited the common law. Although the legislation of the Cayman Islands has considerable autonomy, its powers in respect of defence and foreign affairs are reserved for the U.K. authorities.

3. Laws Directly Relevant to Fisheries

3.1 Proclamation No. 5 of 1977

On 12 December 1977 the Governor of the Cayman Islands, acting on Royal Instructions, proclaimed a fisheries zone for the Islands 200 n mi in extent, measured from the territorial sea baseline, or unless otherwise proclaimed, a median line every point of which is equidistant from the nearest points of the baselines of the Cayman Islands and the corresponding baselines of other countries or territories (Article 2). In this zone, "Her Majesty" will exercise the same jurisdiction over fisheries as she has in respect of fisheries of the territorial waters of the Cayman Islands subject to such laws as may be enacted regarding "the control and regulation of fishing" within the fisheries zone.

3.2 The Marine Conservation Law, 1978

This Law sets out quite detailed provisions regarding the preservation of the "natural amenities" of the territorial waters of Cayman Islands. Marine life is defined broadly to include "creatures and plants which exist mainly in water as well as coral, sponge, and every class of crustacean and shellfish" (Section 2).

General administration of the Law is placed in the hands of the Marine Conservation Board, which has wide statutory powers covering the general administration of the Law, the control of fisheries inspectors, the issue of licences, and the collection of fees payable under the Law (Section 4). The Board is also empowered to appoint "suitable persons" to be fisheries inspectors.

Several parts of this Law deal specifically with fisheries. Sections 6 to 10 provide detailed rules regarding the protection and conservation of lobsters and conch. Sections 12 to 15 deal with certain restricted fishing methods, including prohibiting the use of "any noxious substance" for fishing, regulating the use of diving equipment, spear guns, while the use of seine or gillnets except for obtaining fish for human consumption or fish bait is prohibited. Section 16 prohibits the taking (except with a licence) of coral, algae, sponge, turtle egg, hermit crab (except in reasonable quantities for fish bait or for human consumption). Section 17 prohibits the export of live fish, etc.

Sections 10 and 11 provide for the establishment of restricted marine areas and marine parks, though it should be noted also that Section 18 makes it an offence to discharge harmful effluents into Cayman waters, while Section 19 protects underwater coral or plant growth from mutilation, etc.

Other provisions of the Law relate to powers of arrest, forfeiture of traps, nets, diving equipment or the vessel used in the commission of an offence, authorization of scientific research appeals against the decision of the Board (with a ten-day time limit for lodging appeals).

There is also a wide regulation making power (Section 24), some of which directly concern fisheries: thus 24(d) permits regulations as to "varying the limits and numbers of marine creatures which may from time to time be taken or exported", 24(j) allows for "prescribing forms of seines or nets which may and may not be used in Cayman waters" while 24(k) authorizes the "stocking of restricted marine areas and marine parks with marine life and the protection of such stock".

4. Recommendations Regarding New Fisheries Legislation

Although the Marine Conservation Law, 1978 covers fisheries, it is thought to be inadequate to deal with fisheries in a zone of extended jurisdiction for at least two reasons: first, it only applies within 3 miles of the coast; secondly, it does not provide a sufficiently flexible basis for the implementation of modern management techniques for a fisheries zone of 200 miles, which Cayman Islands now has. At the same time, in dealing with fisheries in this area it would be necessary to elaborate on some of the matters touched upon in that Law in new legislation, as well as providing the legal basis for the sophisticated management measures that may be required in a zone of extended jurisdiction.

It is therefore recommended that a new Fisheries Law as set out in Annex 1 to this report, be enacted. The principles underlying this legislation are set out in this report.

It is also recommended that regulations be enacted which deal with the following topics: (a) stowage of fishing gear for unlicensed foreign fishing vessels while in Caymanian fisheries waters. These regulations will assist in detecting unlicensed vessels engaging in unauthorized fishing while in these waters; (b) the maintenance of a fishing logbook for the purpose of assisting the collection of statistical information. This information will be useful to the Government as it will assist in determining the need for future management and conservation measures. In this connexion, it may be mentioned also that the WECAF Project is promoting the introduction of the logbook system for the collection of industrial fisheries data in the region. The cooperation of the Cayman Islands Government in the use of such books would be of considerable value to the Project's objectives in this regard; (c) weekly reports. The Government may if it wishes require

radio reports to be made regarding the vessel's position, catch information, etc. As it may not always be practical to make this a general requirement, the regulation operates only if the master is required in the licence to provide the information.

The regulations recommended for adoption are set out in Annex 2 to this report.

In Annex 3 a possible logbook format that may be used for the purpose of Section 4 of the proposed regulations is set out.

In Annex 4 a licence form for a foreign fishing vessel is set out. The form is authorized under Section 7 of the proposed Fisheries Law. The form also makes allowance for the imposition of conditions. The conditions which may be imposed are set out in Section 10 of the proposed Law, and their use will enable the Cayman Islands Government to impose important conservation measures on foreign fishing vessel activities in Cayman fisheries waters.

5. Recommendations Regarding the Marine Conservation Law

Although the Government of the Cayman Islands is reluctant to change existing laws any more than is necessary, it may wish to consider at some future time the modification of the Marine Conservation Law to remove overlapping provisions regarding fisheries. In doing so, it is suggested that consideration is given to repealing those sections which contain specific conservation measures, in particular, Sections 6, 7, 8, 9, 12, 13, 14, 15, 16 and 17. Section 12, which deals with the use of noxious substances, is covered in the draft Fisheries Law (Part 5 - Prohibited Fishing Methods) and could therefore usefully be repealed altogether. The other provisions are specific conservation measures which could appropriately be re-enacted as regulations under the Fisheries Law, and would require only minor drafting changes to achieve this. The advantage of doing this would, of course, be that all fisheries laws would then be under the same legal rubric.

Likewise, it is suggested that consideration be given to creating one Board that could fulfil both the functions of the Marine Conservation Board and the consultation requirements of Section 6 which the proposed Fisheries Law imposes on the fisheries officer. This could be achieved, e.g., by appointing as members of the Board those persons with whom the fisheries officer is obliged to consult, together with, e.g., four other persons chosen to represent the commercial fishing industry, and the Lesser Islands. Finally, the functions of the Board, as set out in Section 4 of the Marine Conservation Law could be expanded to include consideration of the Fisheries Management and Development Plan (see Section 4 of the proposed Fisheries Law).

6. General Principles Underlying the Proposed Fisheries Bill, 198

6.1 General

The Proposed Fisheries Bill is intended to provide a comprehensive framework within which decisions regarding the management and development of marine fisheries can be made for a fisheries zone of up to 200 miles in extent. In order to achieve this, the legislation must be sufficiently flexible to enable the administration to handle novel situations and needs as they arise. In addition, however, it must provide some guidance to the administrators as to their powers in order to ensure that the legislation is legally effective.

6.2 Geographical Application

The Law is intended to apply to Cayman waters, which comprises the territorial sea and internal waters of the islands and the waters adjacent thereto over which jurisdiction has been proclaimed in 1977 by Proclamation No. 5, or as may be subsequently proclaimed. Proclamation No. 5 provides for a fisheries zone of 200 miles, or in the case of overlap with the maritime zone of another country, then a median line is to be drawn (see Section 2 of the proposed Law).

6.3 Application to Vessels

The legislation is primarily concerned with regulating the activities of vessels, both foreign and local. The latter are, however, exempt under the licencing provisions for the time being, though continuing of course to be subject to other parts of the legislation, including the provisions on prohibited fishing methods. All fishing vessels below a certain size will, however, be exempt from the provisions of the Law (see the definition of a fishing vessel, Section 2). The precise dimensions will be determined by the Caymanian Government.

6.4 Nationality Criteria

A clear distinction needs to be drawn between a local and a foreign vessel for the purposes of the licencing provisions of the Law as foreign vessels will be granted access only to any surplus of the total allowable catch that the local fishermen are unable to exploit. It is necessary, therefore, to define with some care the criteria for determining the nationality of a vessel. In the present legislation all vessels not fulfilling the requirements of the definition of a Caymanian fishing vessel are regarded as "foreign" while a Caymanian fishing vessel must be linked to the island by virtue of its being owned by a Caymanian or Caymanians, or by a local company or owned by a statutory corporation of the Cayman Islands (see definition of a Caymanian fishing vessel, Section 2).

6.5 Administrative Basis for Fisheries Management

Principal responsibility for administering the Law rests upon the "fisheries officer" who is to be appointed by the Governor (Section 3). The legislation provides for this officer to prepare a fishery management and development plan (Section 4), the object of which is to ensure that decisions taken regarding conservation management and development are based on the best available scientific information, and shall be intended to achieve the optimum utilization of the fisheries resources. The plan itself is to contain specific features set out in the legislation to assist in achieving this objective.

In addition, provision is made (Section 5) for the fisheries officer to promote, if appropriate, consultations with other governments of the region to ensure close coordination of fisheries conservation and management objectives, especially with regard to shared stocks. In view of the increased responsibilities cast on regional and sub-regional bodies by the provisions of the Draft Convention on the Law of the Sea (Informal Text, 1980), it is thought that this Section will enable Cayman Islands to fulfil the obligations which may arise.

Increasingly, fisheries management measures will depend in part for their success on cooperation from other parts of Government. To assist in achieving this, Section 6 requires the fisheries officer to consult and coordinate with other appropriate Government officers, including the Marine Conservation Board, the Agricultural and Industrial Development Board, the Registrar of Shipping, the Port Authority, the Financial Secretary, and the Collector of Customs.

6.6 Licencing

The heart of the proposed legislative scheme is the licencing system it provides, the most important aspect of which is the power of the fisheries officer to issue licences in respect of foreign or local fishing vessels (see Section 10). In doing so, the fisheries officer may impose conditions, though more stringent conditions may be imposed on foreign vessels. Generally, the most important management measures, e.g., areas of fishing, periods authorized, species, sizes, etc., that may be caught, fishing methods allowed, the type of fishing gear that may be used, and the collection of statistical information may be imposed on all fishing activities subject to the Law, whether local or foreign, while conditions relating to entry into local ports for catch inspection, specification of points of entry or departure from Cayman fisheries waters, the protection of local fisheries, posting of bonds, reporting of position within Cayman fisheries waters, installation of position fixing equipment, the carriage of communication equipment, nautical charts and instruments, carriage of observers on board, training of local fishermen, transfer of technology, and the conduct of fisheries research programmes may be imposed as conditions on foreign vessels.

Licences are valid for a period of up to twelve months and are not transferable except with the permission of the fisheries officer.

The licencing provisions of the legislation also distinguish between foreign and local licences in another important way. The fisheries officer has a wider discretion to refuse to issue a licence in respect of a foreign vessel than in the case of a local vessel. For the latter, it is necessary that the applicant is either ineligible or unfitted to hold the licence, or that it is necessary to do so in accordance with a fisheries management and development plan or in accordance with any general licencing instructions issued by the fisheries officer (see Section 11).

6.7 Appeals

The legislation (Section 13) provides for appeals by persons aggrieved by a decision of the fisheries officer regarding a refusal to issue a licence, its cancellation or suspension or imposition of further conditions on the licence. A period of 21 days is given for lodging the appeal, which is a not uncommon period of time for such a matter. The appeal lies to the Governor whose decision is final and binding. Furthermore, his decision is classified by the legislation itself as being an administrative, and not a judicial, decision. This is designed to ensure that the court system is not overburdened with cases of this nature. This classification has already been employed in other legislation of the Cayman Islands.

6.8 Foreign Fishing Vessels

The legislation (Section 17) restricts the circumstances in which foreign fishing vessels may enter Caymanian fisheries waters to (a) conducting fishing operations in accordance with a valid licence; (b) entry for a purpose recognized by international law. This would include passage through the waters to reach a destination outside the waters, and emergency or humanitarian situations. In order that illegal fishing activity under the guise of passage for any such reason is discouraged, the legislation provides for fishing gear of vessels not authorized to fish in Caymanian fisheries waters to be stowed in a prescribed manner. Regulations setting out the stowage requirements are included in this report (see Annex 2).

Foreign fishing vessels may undertake scientific research with the prior approval of the fisheries officer (Section 19).

6.9 Prohibited Fishing Methods

Certain methods of fishing are often forbidden because of their destructive, extensive, or indiscriminate effects on the marine environment and its resources. In the present law, the use of e.g., explosives and poisons is prohibited. This prohibition applies to all fishing operations, except for scientific research conducted with the approval of the fisheries officer (see Part 5).

6.10 Enforcement

The management provisions of the legislation are backed up by carefully defined enforcement powers which are given to authorized officers, these powers being carefully defined in the legislation (see Part 6). The powers include stopping and boarding vessels, entering certain premises, searching certain vehicles, to undertake hot pursuit of foreign fishing vessels in circumstances permitted by international law, as well as seizure and arrest. There are also detailed provisions regarding the disposal of perishable items seized, and the forfeiture of the catch and the vessel (including its equipment, stores and cargo).

6.11 Punishment

With the exception of an assault on an authorized officer in the course of his duties, the only punishments provided for are fines and forfeiture of the vessel, gear, and catch (see generally Part 7). This is consistent with the provisions of Article 73(3) of the Draft Convention of the Law of the Sea (Informal Text).

Administrative flexibility is also provided by giving to the Governor the power to mitigate penalties, or to restore anything forfeited (Section 32).

6.12 Subordinate Legislation

In addition to the power to attach conditions to licences, a wide regulation making power is also provided. The Government would, for example, be able to enact as general regulations the conditions which the fisheries officer can impose on individual licence applications, if it so wished. The regulation making power, is of course wider in its scope than the provisions regarding licence conditions, and will provide the Government with the legal basis for the future development of fisheries in Cayman Islands.

6.13 The Protection of the Marine Environment

It is sometimes appropriate to enact provisions in the context of fisheries legislation that allow for the establishment of marine parks or reserves where it is necessary to provide special protection to aquatic flora and fauna or to protect and preserve natural breeding grounds, or to provide for the regeneration of aquatic life, or to preserve and enhance the natural beauty of certain areas. As the Marine Conservation Law of 1978 already makes some provision for the proclamation of restricted marine areas or marine parks, no provision is made in the present legislation for them.

Draft Fisheries Law, 198

Cayman Islands

A Bill for a Law

Memorandum of Objects and Reasons

The purpose of this law is to make comprehensive provisions for the proper control of the fishing industry of the Cayman Islands and in its fisheries waters.

Arrangement of Sections

PART I - PRELIMINARY

1. Short title
2. Interpretation

PART II - ADMINISTRATIVE

3. Appointment of Fisheries Officer and assistant fisheries officers
4. Fishery management and development plan
5. Regional cooperation in fisheries management
6. Coordination with other government officers

PART III - GENERAL LICENSING PROVISIONS

7. Application for licences
8. Licensing of Caymanian fishing vessels
9. Licensing of foreign fishing vessels
10. Licences subject to conditions
11. Power to refuse licence
12. Power to cancel, suspend or further condition a licence
13. Appeals against licensing decisions
14. Term and non-transferability of licences
15. General conditions of fishing vessel licence
16. Exemptions

PART IV - FOREIGN FISHING VESSELS

17. Entry and fishing by foreign fishing vessels within Cayman fisheries waters
18. Observers
19. Fishing for research and scientific purposes

PART V - PROHIBITED FISHING METHODS

20. Prohibited methods of fishing
21. Possession of prohibited fishing gear

PART VI - ENFORCEMENT

22. Power to stop, board, inspect, etc.
23. Powers of hot pursuit, entry, seizure, arrest, etc.
24. Disposal of fish and other perishable articles
25. Obstruction of authorized officers and observers
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PART VII - OFFENCES AND LEGAL PROCEEDINGS

27. Offences and penalties
28. Offences involving foreign fishing vessels
29. Offences involving local fishing vessels
30. Forfeiture
31. Presumption
32. Power to mitigate penalties, etc.
33. Jurisdiction over offences committed in Cayman fisheries waters

PART VIII - GENERAL

34. Regulations
35. Application of Law

A Bill for

A Law to control the fishing industry in the Cayman Islands and in its fisheries waters and for matters connected therewith and incidental thereto.

Enacted by the Legislative Assembly of the Cayman Islands

PART I - PRELIMINARY

- | | |
|--------------------|--|
| Short title | 1. This Law may be cited as the Fisheries Law, 198 <u> </u> . |
| Interpretation | 2. In this Law, unless the context otherwise requires - "authorized officer" means the Fisheries Officer, any constable, Fishery Inspector, game warden, Customs Officer, master of a Government vessel, officer or petty officer of Her Majesty's naval forces, and any other person declared to be such by regulation; |
| Law 19 of 1978 | "Board" means the Marine Conservation Board established by section 3 of the Marine Conservation Law, 1978; |
| Gazette 26 of 1977 | "Cayman fisheries waters" means Cayman waters and the fisheries zone contiguous to the territorial sea of the Cayman Islands as described in Cayman Islands Proclamation No. 5 of 1977 |

and such other Proclamations as may hereafter be made respecting the area in which Her Majesty will exercise jurisdiction in the right of the Cayman Islands in respect of fisheries;

"Cayman waters" means the territorial sea of the Islands and the internal waters thereof;

"Caymanian fishing vessel" means a fishing vessel wholly owned by one or more natural persons having Caymanian status within the meaning of the Caymanian Protection Law (Revised) or a local company incorporated in the Cayman Islands or a fishing vessel wholly owned by a statutory corporation established under the Law of Cayman Islands or by the Government of Cayman Islands;

Cap. 22

"company", "exempted company", "foreign company" have the meanings ascribed respectively to those terms under the Companies Law;

"coral" includes all species of marine coral whether alive or dead;

"Customs Officer" means a person appointed under section 4 or section 6 of the Customs Law (Revised);

Law 28 of 1975

"explosive" has the meaning ascribed to that term in the Explosives Law, 1975;

"fish" means any aquatic animal, whether piscine or not, and includes shellfish, mollusca, crustacea, sponge and the young and eggs thereof;

Law 19 of 1978

"Fishery Inspector" has the meaning ascribed to it in the Marine Conservation Law, 1978;

"Fisheries Officer" means the person appointed as such under section 3;

"fishing" means fishing for, catching, taking or killing fish by any method;

"fishing vessel" means a vessel used for fishing and operated for financial reward or other material gain, scientific research or processing, storage or carriage of fish, and includes any vessel used in support of or ancillary to fishing

operations but does not include a vessel transporting fish or fish products as part of its general cargo or vessels less than _____ feet from stem to stern;

"foreign fishing vessel" means a fishing vessel other than a Caymanian fishing vessel;

S.I. 1972 No. 1101

"Governor" means the Governor in Council except with respect to powers vested in the Governor and referred to in paragraphs (a), (b) and (c) of section 7(1) of the Cayman Islands Constitution Order 1972;

"licence" means a licence granted under this Law;

"local company" has the meaning assigned to that expression by the Local Companies (Control) Law (Revised);

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

"mile" means a nautical mile being a distance of 6 080 feet;

"noxious substance" means any substance by means of which fish may be killed, stupefied or otherwise harmed but does not include any device for catching fish used lawfully under this Law;

"observer" means a person appointed as such under section 18;

"optimum utilization" means with respect to the yield from any fishery the amount of fish that will produce from the fishery the maximum sustainable yield as qualified by any relevant biological, economic, environmental or social factors, and taking into account fishing patterns, the interdependence of stocks of fish, the need to avoid overfishing and any generally accepted subregional, regional, or global fishing standards;

"plan" means the plan approved under section 4;

"prescribed" means prescribed by this Law or any regulation;

"territorial sea" means the belt of sea adjacent to the coast of the Islands the outer limit of which is a line drawn so that each point is 3 miles from the nearest point on the low-water line on the coast or other baseline from which the territorial sea is measured;

"vessel" includes ship, boat, raft, barge, float, lighter and hovercraft.

PART II - ADMINISTRATIVE

Appointment
of Fisheries
Officer and
assistant
fisheries
officers

3. (1) The Governor may appoint a Fisheries Officer and such assistant fisheries officers as he may consider necessary for carrying out the purposes and provisions of this Law.

(2) The Fisheries Officer shall promote the management and development of fishing and fisheries of the Islands in accordance with this Law.

Fishery
management
and development
plan

4. (1) The Fisheries Officer shall prepare and periodically review for submission to and approval by the Governor a plan for the management and development of fisheries within Cayman fisheries waters.

(2) The plan shall be based on the best available scientific data and shall be designed to ensure the optimum utilization of the fisheries resources, consistent with sound management principles.

(3) The plan shall

- (a) identify the resources and estimate the potential average annual yields that can be taken from them;
- (b) assess the present state of exploitation of each resource and determine the total annual catch that may be allowed from each fishery;
- (c) specify the measures, if any, to be taken to promote the development of the local Cayman fishing effort;

- (d) determine the amount of resources, if any, to be made available to foreign fishing vessels on an annual basis, taking into account any obligations under international law or any international convention or agreement in force; and
- (e) specify the conservation measures to be enforced, through legislation, regulations or licence conditions, to protect the resources from over-exploitation.

Regional
cooperation
in fisheries
management

5. (1) The Fisheries Officer may make recommendations to the Government with regard to consultations with the Governments of other nations in the region, and in particular with the governments of nations sharing the same or related stocks, with a view to

- (a) ensuring the closest practicable coordination of their respective fisheries management and development plans;
- (b) ensuring the harmonization of systems for the collection of statistics, the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (c) establishing, on a bilateral or regional level, as appropriate, reciprocal fishing rights with other nations in the region, where and to the extent that such reciprocal fishing rights are necessary to sustain the growth of Cayman fisheries efforts;
- (d) providing, as appropriate, for the formulation of regional fisheries management and development plans, for the allocation of fishing effort and catch, for the formation of joint fishing, processing or marketing enterprises, and for the taking of joint or regional conservation measures; and
- (e) providing, where appropriate, for the establishment and operation of joint or regional fisheries management bodies.

(2) Consultations under this section may be undertaken either directly with the governments concerned or through existing appropriate international organizations.

Coordination
with other
government
officers

Law 24 of 1978

6. In administering this Law, the Fisheries Officer shall consult and coordinate with such officers of Government as may be appropriate, including

- (a) the Board;
- (b) the Agricultural and Industrial Development Board established by section 3 of the Agricultural and Industrial Aid Law, 1978;
- (c) the Registrar of Shipping;
- (d) the Port Authority;
- (e) the Financial Secretary; and
- (f) the Collector of Customs.

PART III - GENERAL LICENSING PROVISIONS

Application
for licences

Licensing
of Caymanian
fishing
vessels

Law 18 of 1978

7. Applications for licences are to be made in the prescribed form addressed to the Fisheries Officer.

8. The Fisheries Officer may, with the prior approval of the Governor and upon payment of the prescribed fee, grant a licence in the prescribed form in respect of any Caymanian fishing vessel;

Provided that no licence may be granted in respect of any Caymanian fishing vessel to which the Fishing Vessel (Safety Provisions) Law, 1978 applies unless a safety certificate is in force in respect of that vessel or, if no such certificate is required, unless the vessel meets the safety standards prescribed under that Law in respect of the particular class of vessel.

Licensing
of foreign
fishing
vessels

9. The Fisheries Officer may, with the approval of the Governor and upon payment of the prescribed fee, grant a licence in the prescribed form in respect of any foreign fishing vessel.

Licences
subject to
conditions

10. (1) A licence issued under this Law or any regulation shall be subject to such conditions as may be prescribed, or as may be otherwise endorsed upon such licence by the Fisheries Officer.

(2) The Fisheries Officer may attach any or all of the following conditions to any licence issued under this Law:

- (a) the areas in which fishing is authorized;
- (b) the periods during which fishing is authorized;
- (c) the species, size, sex and quantities of fish that may be taken;
- (d) the methods by which fish may be taken;
- (e) the types, size and amount of fishing gear that may be used by the fishing vessel;
- (f) statistical and other information required to be given by the master of the fishing vessel to the Fisheries Officer, including statistics relating to catch and effort and reports as to the position of the vessel;
- (g) the marking of the vessel and other means for its identification;
- (h) such other terms and conditions as the Fisheries Officer may consider necessary or expedient for the conservation, management and development of the fisheries resources of Cayman Islands.

(3) In addition to the conditions which may be imposed on any licence under the preceding subsection, the Fisheries Officer may make applicable to foreign fishing vessels the following terms and conditions:

- (a) entry by foreign fishing vessels to Cayman Islands ports, whether for inspection of catch or any other purpose;

- (b) the specification of points of entry into and departure from Cayman fisheries waters;
- (c) the protection of local fisheries;
- (d) the posting of bonds or other forms of security for the duration of the licence;
- (e) the reporting of the position of the foreign fishing vessels while within Cayman fisheries waters;
- (f) the installation and maintenance in working order of equipment for the identification and location of the vessel and of adequate navigational equipment to enable its position to be fixed from the vessel;
- (g) the carriage on board of specified communication equipment, specified nautical charts, nautical publications and nautical instruments;
- (h) the placing of observers on a foreign fishing vessel and the provision of suitable accommodation while on board and the reimbursement of the Government of costs incurred thereby;
- (i) the training of residents of the Cayman Islands in the methods of fishing employed by the foreign fishing vessel and the transfer of technology relating to fisheries to residents of the Cayman Islands;
- (j) the conduct by the foreign fishing vessel of specified programmes of fisheries research.

Power to
refuse
licence

11. (1) The Fisheries Officer may refuse to issue or renew a licence for which application has been made in respect of a foreign fishing vessel on any ground that he thinks fit.

(2) The Fisheries Officer may refuse to issue a licence for which application has been made in respect of a local fishing vessel.

- (a) where he considers that the applicant is ineligible or unfitted to hold such licence;
- (b) where it is necessary for the proper management of any particular fishery in accordance with the plan and any general licensing instructions issued by the Fisheries Officer in implementation thereof.

Power to cancel, suspend or further condition a licence

12. The Fisheries Officer may, where the holder of a licence is convicted of an offence under this Law, cancel such licence, suspend it for such period of time as he may think fit, or impose such further or different conditions as may be proper in the circumstances with or without the return of any fee paid.

Appeals against licensing decisions

13. (1) A person aggrieved by any decision of the Fisheries Officer under sections 11 and 12 may within 21 days of the receipt of notification of that decision appeal against it to the Governor, whose decision shall be final and binding on the appellant.

(2) A decision of the Governor under subsection (1) or section 8 or 9 shall be deemed to be an administrative, and not judicial, decision. No person shall be required to give any reason for such decision nor shall it be questioned in any court of law.

Term and non-transferability of licences

14. (1) Unless earlier cancelled in accordance with section 12, a licence shall be valid for a period of not more than one year.

(2) Where a vessel licensed as a Caymanian fishing vessel becomes a foreign fishing vessel, the licence shall terminate ipso facto.

(3) No licence shall be transferable except with the written permission of the Fisheries Officer which is to be endorsed upon such licence.

General conditions of fishing vessel licence

15. (1) A copy of the licence shall be carried on board any licensed fishing vessel, and made available to any authorized officer or observer upon request.

(2) Every foreign fishing vessel shall maintain on board a navigation log and a fishing log and make these available to any authorized officer or observer upon request.

Exemptions

16. The provisions of this Part shall not apply to fishing conducted by local fishing vessels until the Governor by Order published in the Gazette declares that the provisions of this Part shall apply to such fishing.

PART IV - FOREIGN FISHING VESSELS

Entry and fishing by foreign fishing vessels within Cayman fisheries waters

17. (1) No foreign fishing vessel shall

- (a) enter within Cayman fisheries waters except for a purpose recognized by international law;
- (b) fish within Cayman fisheries waters;
- (c) load, unload or trans-ship any fish within Cayman fisheries waters; or
- (d) load or unload any fuel or supplies within Cayman fisheries waters

unless licensed so to do under this or any other Law.

(2) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within Cayman fisheries waters shall, while the vessel is within those waters, be stowed in such manner as may be prescribed.

Observers

18. The Fisheries Officer may appoint one or more observers for the purpose of monitoring the operations of foreign fishing vessels licensed under Section 9 and whoever, being the master of a foreign fishing vessel so licensed fails or refuses

- (a) to permit an observer to come and remain on board;
- (b) to examine the vessel's navigation charts and instruments, logs, fishing logs and recorder, fish, cargo or equipment;
- (c) to provide the observer with accommodation equivalent to that provided to the vessel's officers;
- (d) to permit where possible an observer to send or receive radio messages at any time; or

- (e) to permit an observer to observe the vessel's fishing operations

is guilty of an offence.

Fishing
for research
and
scientific
purposes

19. The Fisheries Officer may, in writing, authorize any foreign fishing vessel to fish within Cayman fisheries waters for the purpose of scientific investigation, and may, for this purpose, exempt such vessel from all or any of the provisions of this Law, and in making such exemption, may impose such conditions as he may think fit.

PART V - PROHIBITED FISHING METHODS

Prohibited
methods of
fishing

20. (1) Whoever

- (a) uses 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) 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.

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

(3) Whoever lands, sells, receives or is found in possession of any fish taken in contravention of paragraph (a) of subsection (1), knowing or having reasonable cause to believe them to have been so taken, is guilty of an offence.

Possession
of prohibited
fishing
gear

21. Whoever uses for fishing or, except as permitted by Regulations respecting the stowage of gear, has on board any vessel within Cayman fisheries waters

- (a) any net the mesh size of which is less than the prescribed minimum mesh size for that type of net; or
- (b) any other net or other fishing gear which is prohibited by this Law

is guilty of an offence.

PART VI - ENFORCEMENT

Power to
stop,
board,
inspect, etc.

22. For the purpose of ascertaining whether there is, or has been a contravention of this Law, any authorized officer may

- (a) at all reasonable hours enter any premises other than premises used exclusively as a dwelling-house;
- (b) stop, board and search
 - (i) any fishing vessel within Cayman fisheries waters; or
 - (ii) any Caymanian fishing vessel within or outside Cayman fisheries waters;
- (c) stop and search any vessel or vehicle transporting or reasonably suspected of transporting fish or fish products;
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, vessel or vehicle in relation to which any of the powers conferred by this section have been or may be exercised, and take samples of any fish or fish products found therein;
- (e) require any person to produce his licence if it appears to the authorized officer that such person is doing or has done an act for which a licence is required under this Law; and
- (f) require to be produced and examine any fishing gear, nets or other fishing appliance, whether at sea or on land.

Powers of
hot pursuit,
entry,
seizure,
arrest, etc.

23. (1) Where he has reasonable grounds for believing that this Law has been contravened an authorized officer may, without a warrant

- (a) following hot pursuit as recognized by international law and commenced within Cayman fisheries waters stop, board and search outside Cayman fisheries waters any foreign fishing vessel which he believes has been used in such contravention or in relation to which he believes such contravention has been committed and bring such vessel and all persons and things on board it within Cayman fisheries waters.

Provided that such power shall not be exercised within the territorial sea or internal waters of any other State, or other territory for whose external relations the United Kingdom is responsible or any Associated State;

- (b) within Cayman fisheries waters, he may
 - (i) arrest any person who he believes has committed an offence and, if the authorized officer is not a police officer, he shall forthwith deliver such person to a police officer or police station;
 - (ii) in the case of an offence against section 17, 20 or 21, seize any vessel (together with its equipment, stores, cargo and catch) which he believes has been used in the commission of such contravention or in respect of which he believes such contravention has been committed;
 - (iii) seize any fishing gear, instruments or appliances which he believes have been used in such contravention;
 - (iv) seize any fish which he believes have been taken or fish products produced in the contravention; and

- (v) seize any explosive, poison or other noxious substance which he believes has been used or is possessed in contravention of section 20.

(2) The right of hot pursuit may be exercised by

- (a) any of Her Majesty's ships or aircrafts;
- (b) any Cayman Islands Government vessel or aircraft; and
- (c) any other vessel or aircraft displaying the Cayman Islands Government ensign or pursuant to an Order made by the Governor and published in the Gazette.

(3) Any vessel seized and the crew thereof shall be taken to the nearest or most convenient port and dealt with in accordance with the provisions of this Law.

(4) A written receipt shall be given for anything seized under subsection (1) by the authorized officer to the person from whom the seizure is made.

Disposal
of fish
and other
perishable
articles

24. (1) Any fish, fish product or other article of a perishable nature seized under the provisions of section 23, may on the direction of the Fisheries Officer, be sold, and the proceeds of sale held pending the outcome of any prosecution brought under this Law, and if no such prosecution is brought, such proceeds shall be paid to the owner of the fish, fish product or other article sold.

(2) Any fishing vessel, gear, instrument or appliance, or vehicle seized under section 23, which is not ordered to be forfeited under section 30, shall be returned to its owner

(3) Where any fishing vessel, gear, instrument or appliance, fish, fish product or other article or vehicle has been seized under section 23, the court may order its release on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person

- (a) delivering such property to the court upon the order of the court, without any impairment of value; or
- (b) paying the value of such property in accordance with an order or judgement of the court.

Obstruction
of authorized
officers and
observers

25. Whoever

- (a) wilfully obstructs any authorized officer or observer in the exercise of any power conferred by this Law or by Regulations made hereunder; or
- (b) fails to comply with any lawful inquiry or requirement made by an authorized officer in accordance with the provisions of section 22, or by an observer in accordance with the provisions of section 18

is guilty of an offence.

Assaults
upon autho-
rized officers
and observers
Law 5 of 1976

26. Any assault upon an authorized officer or observer in the performance of his duties shall be deemed an assault upon a police officer in the performance of his duties within the meaning of section 63 of the Police Law, and may be tried and punished accordingly.

PART VII - OFFENCES AND LEGAL PROCEEDINGS

Offences
and
penalties

27. Whoever commits an offence against this Law or any regulation for which no specific penalty is provided is liable upon summary conviction to a fine not exceeding C\$_____.

Offences
involving
foreign
fishing
vessels

28. (1) Whoever being the master, owner or charterer of any foreign fishing vessel contravenes subsection (1) of section 17 is guilty of an offence and liable on summary conviction to a fine not exceeding C\$_____.

(2) Whoever being the master, owner or charterer of a foreign fishing vessel which contravenes the conditions of a licence issued in accordance with sections 9 and 10 or which contravenes measures regarding the stowage of fishing gear prescribed pursuant to subsection (2) of section 17 is guilty of an offence and liable on summary conviction to a fine not exceeding C\$_____.

Offences
involving
local
fishing
vessels

29. Whoever operates a Caymanian fishing vessel in Cayman fisheries waters without a valid licence when required by virtue of this Law or who having such a licence operates a Caymanian fishing vessel in contravention of the conditions attached to such a licence in accordance with section 10 or in contravention of the provisions of section 15 is guilty of an offence and liable on summary conviction to a fine not exceeding C\$_____.

- Forfeiture 30. Where any person is convicted of an offence against this Law the court may, in addition to any other penalty it may impose, order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of any fishing gear, instruments or appliances under section 24, and, in the case of any offence under section 17, 20 or 21, any vessel (together with its equipment, stores, cargo and catch) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Government, and if so forfeited shall be disposed of in such manner as the Governor may direct.
- Presumption 31. All fish found on board any fishing vessel used in the commission of an offence under this Law or in respect of which any such offence has been committed, shall, unless the contrary is proved be presumed to have been caught in the commission of such offence.
- Power to mitigate penalties, etc. 32. The Governor may
- (a) compound any proceedings for an offence or for the condemnation of anything as being forfeited under this Law;
 - (b) restore, subject to such conditions, if any, as he thinks proper, anything forfeited or seized under this Law.
- Jurisdiction over offences committed in Cayman fisheries waters 33. Any offence against this Law which takes place in Cayman fisheries waters shall be deemed to have been committed in the Islands, any may be inquired into, tried and punished accordingly.

PART VIII - GENERAL

- Regulations 34. (1) The Governor may make Regulations generally for the proper management, development and regulation of fisheries, and for the implementation of the provisions and purposes of this Law, and may in particular, and without prejudice to the generality of the foregoing, make Regulations for all or any of the following purposes

- (a) to conserve, manage or protect fish resources or particular species of fish, by such means as the establishment of closed seasons, the prescription of limits on the amount, size or weight of fish caught and retained or traded, the prescription of minimum mesh sizes, the designations of prohibited fishing areas for all fish or certain species of fish or methods of fishing and the prohibition of certain methods of fishing;
- (b) to provide for the licensing, regulation and management of any particular fishery;
- (c) to regulate the conduct of fishing operations in Cayman fisheries waters;
- (d) to establish the conditions to be observed by foreign fishing vessels while within Cayman fisheries waters;
- (e) to specify without prejudice to other applicable provisions of law, the procedures to be followed for foreign capital investment and joint-venture proposals in fisheries, and the conditions to be fulfilled by any such investment;
- (f) to regulate the landing of fish, to prescribe and provide for the management and control of fish landing areas;
- (g) to promote and control the cultivation of fish;
- (h) to prescribe the conditions and procedures of application for any licenses required under this Law or any Regulations made hereunder and their form;
- (i) to prescribe a schedule of annual fees for licences establishing different fees by type of licence, sizes of vessel or establishment, local or foreign character of the licensed activity;
- (j) to establish and gazette a schedule of royalties payable in respect of licensed activities;

- (k) to prescribe the powers to be exercised by the Fisheries Officer, authorized officers and observers;
- (l) to designate persons or classes of persons to be authorized officers for the purposes of this Law;
- (m) to organize and regulate sport fishing in Cayman fisheries waters;
- (n) to prescribe the amount of fish that may be caught incidentally when fishing for a species for which a licence has been issued;
- (o) to prescribe the form and content of navigation or fishing logs and designate the classes of fishing vessels or types of fishing activities in respect of which such logs shall be maintained.

Application
of Law

35. (1) This Law does not apply to the Crown.

(2) The Governor may, by Order published in the Gazette, exempt any person, vessel or premises, or any type or class of person, vessel or premises, from any of the requirements of this Law.

Passed the Legislative Assembly this day of 198 .

President

Clerk of the Legislative Assembly

The Fisheries Law, 198

Fisheries Regulations

- Citation 1. These regulations may be cited as the Fisheries Regulations, 198_.
- Interpretation 2. In these Regulations, unless the context otherwise requires:
"Law" means the Fisheries Law, 198_.
- Stowage of gear 3. Any foreign fishing vessel that is not licensed to operate in Cayman fisheries waters or being licensed is not authorized to engage in fishing shall, while within such waters, stow its fishing gear in accordance with the following provisions:
(a) all such gear shall be carried wholly inboard and shall be stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it cannot be readily used for fishing;
(b) all nets, trawl boards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames; and
(c) all fishing gear carried on deck shall be secured to some part of the superstructure of the vessel.
- Maintenance of fishing log 4. (1) Each fishing vessel licensed to fish in Cayman fisheries waters shall maintain a fishing log in the form issued by the Fisheries Officer.
(2) The log shall be made available to the Fisheries Officer on request, and shall in any event be forwarded to him at the end of the period to which the licence relates.
- Weekly report 5. The master of any foreign fishing vessel shall, if required in the licence, cause radio reports to be made weekly to the Fisheries Officer or person authorized to receive such reports by him, and such reports

shall contain the following information:

- (a) the name of the vessel;
- (b) the licence number;
- (c) the precise geographical position of the vessel in terms of latitude and longitude;
- (d) the quantity in kilos/pounds of each species of fish caught in Cayman fisheries waters;
- (e) the quantity in kilos/pounds of each species of fish caught since the last report or the last inspection by an authorized officer;
- (f) the quantity in kilos/pounds of each species of fish transferred to other vessels since the last report or the last inspection by an authorized officer.

Made in Council this _____ day of _____ 198_.

Clerk of the Executive Council.

Suggested Log-book for Industrial Fisheries

Page of pages

Vessel Name _____
Flag Country _____
Trip No. _____ 198 _____
No. of Crew (including captain) _____

	Port	Day	Month	Year
Vessel Departed				
Vessel Returned				

	Gear Specifications ^{1/}	Target Species
Shrimp trawl <input type="checkbox"/>		
Fish trawl <input type="checkbox"/>		
Purse seine <input type="checkbox"/>		
Traps/divers <input type="checkbox"/>		
Handlines <input type="checkbox"/>		
Longlines <input type="checkbox"/>		

(Separate page to be used for each gear)

Activities

Departure ----->
Steaming <input checked="" type="checkbox"/>
Searching <input checked="" type="checkbox"/>
Fishing <input checked="" type="checkbox"/>
Others ^{2/} <input checked="" type="checkbox"/>
Return <-----

(use of symbols)

Percentage composition of daily total catch by weight

Species	Percent
1. (list here the	
2. species most	
3. likely to be	
4. caught)	
5.	
6.	
to 14.	
15. mixed fishes	
16. discards	

Date	Hours	Acti- vities	Area fished (No.)	Catch (kg)	Date	Hours	Acti- vities	Area fished (No.)	Catch (kg)
	00 ⁰⁰ / ₃₀					12 ⁰⁰ / ₃₀			
	01 ⁰⁰ / ₃₀					13 ⁰⁰ / ₃₀			
	02 ⁰⁰ / ₃₀					14 ⁰⁰ / ₃₀			
	03 ⁰⁰ / ₃₀					15 ⁰⁰ / ₃₀			
	04 ⁰⁰ / ₃₀					16 ⁰⁰ / ₃₀			
	05 ⁰⁰ / ₃₀					17 ⁰⁰ / ₃₀			
	06 ⁰⁰ / ₃₀					18 ⁰⁰ / ₃₀			
	07 ⁰⁰ / ₃₀					19 ⁰⁰ / ₃₀			
	08 ⁰⁰ / ₃₀					20 ⁰⁰ / ₃₀			
	09 ⁰⁰ / ₃₀					21 ⁰⁰ / ₃₀			
	10 ⁰⁰ / ₃₀					22 ⁰⁰ / ₃₀			
	11 ⁰⁰ / ₃₀					23 ⁰⁰ / ₃₀			

The Fisheries Law, 198

Foreign Fishing Vessel Licence

No.

Issued to

Address

Name and Address of Owner of Vessel if Different from Above

.....

Name and Address of Agent or Other Legal Representative in Grand Cayman
Islands

Name and Address of Master of Vessel

.....

Name of Vessel

Type of Vessel

Port and Country of Registry

Registration Number

Fishing Vessel Identification Mark

Length Registered Net Tonnage

Engine Horse Power

Radio Call Sign Frequency

The vessel, details of which appear above, is hereby authorized to do
such of the following in Cayman fisheries waters as may be indicated
on this licence:-

Description of Fishing Operations Authorized

.....

.....

Areas to be Fished

.....

Species of Fish to be Taken

.....

Authorized Landing Places

.....

Fishing Gear to be Used

.....

This licence is valid for the period commencing

until Date of Issue

Fees Paid

.....
Signature of Issuing Officer

This permit is granted subject to the following conditions:

1. The holder shall comply with and ensure that the vessel is used in conformity with the provisions of the Fisheries Law, 198_, and any regulations made thereunder.
2. (Here insert any other conditions to which licence is subject).

