

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries.

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Primary Industry at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in or in relation to this Chapter to—

“the Departmental Head”—should be read as references to the Secretary for Primary Industry;

“the Department”—should be read as references to the Department of Primary Industry.

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¹Subsidiary legislation has not been updated.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries Act.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries Act.

Being an Act relating to fisheries.

PART I.—PRELIMINARY.

1. Interpretation.

(1) In this Act, unless the contrary intention appears—

“accredited processors” means a processor of tuna accredited under Part IIIA;

“boat” means steamer, launch, vessel, hovercraft, submersible or floating craft of any description;

“carrying”, in relation to fish, includes preserving for the purpose of carriage and storing for that purpose;

“the declared fishing zone” means the area declared under Subsection (2).

“fish” includes—

(a) turtles; and

(b) dugong; and

(c) subject to Paragraph (e), crustacea, molluscs, trochus and beche-de-mer,

but does not include—

(d) any species of whales; or

(e) any organism that is a sedentary organism for the purposes of the *Continental Shelf (Living Natural Resources) Act*;

“fisherman” means a person licensed under this Act to take fish;

“fishing” means the taking of fish, and includes—

(a) the processing; or

(b) the carrying; or

(c) the storing,

of fish that have been taken;

“foreign boat” means a boat other than a Papua New Guinea boat;

“net” means a fabric of rope, cord, twine or other material knotted or woven into meshes and designed or fitted to catch fish;

"officer" means—

- (a) an officer or employee of the Public Service or of an authority of Papua New Guinea who is authorized in writing by the Minister to perform duties under this Act; or
- (b) a member of the Police Force; or
- (c) a member of the Defence Force;

"Papua New Guinea boat" means a boat the operations of which are based on a place in the country and that is wholly owned by a natural person who is a resident of, or by a company incorporated in, the country, being a boat that—

- (a) was built in the country; or
- (b) has been lawfully imported into the country, otherwise than for a limited period; or
- (c) has been sold, or otherwise disposed of, in the country after having been forfeited or distrained under an Act or, before Independence Day, an Act of Australia;

"processing", in relation to fish, includes the work of cutting up, dismembering, cleaning, sorting, packing, loining and canning;

"the regulations" means any regulations made under this Act;

"take", in relation to fish, means take, catch or capture for trading or manufacturing purposes;

"this Act" includes the regulations;

"traditional fishing" means fishing by natives¹ where—

- (a) the fish are taken in a manner that, as regards the boat, the equipment and the method used, is substantially in accordance with the traditions of the indigenous inhabitants of Papua New Guinea; and
- (b) the fish are landed in the country by the boat from which they are taken, or are transhipped from that boat to a boat the licence in respect of which is specially endorsed under Section 6(4)(b);

"trap" means an enclosure (not being a net) designed to catch fish, whether fixed to the shore or not.

(2) The Head of State, acting on advice, may, by notice in the National Gazette, declare the offshore seas or a part of the offshore seas to be the declared fishing zone.

(3) Until a declaration is made under Subsection (2) the area of the territorial sea shall be deemed to have been declared under that subsection.

(Amended by No. 6 of 1977, s. 1 and No. 2 of 1982, s. 1.)

2. Application.

(1) Subject to Subsection (2) this Act applies—

- (a) in and in relation to the declared fishing zone and the internal waters—to all persons (including foreigners), and to all boats (including foreign boats); and
- (b) in and in relation to any other waters—to all Papua New Guinea boats and to all persons on them or dealing with, or having any relevant relationship to, them or persons on them.

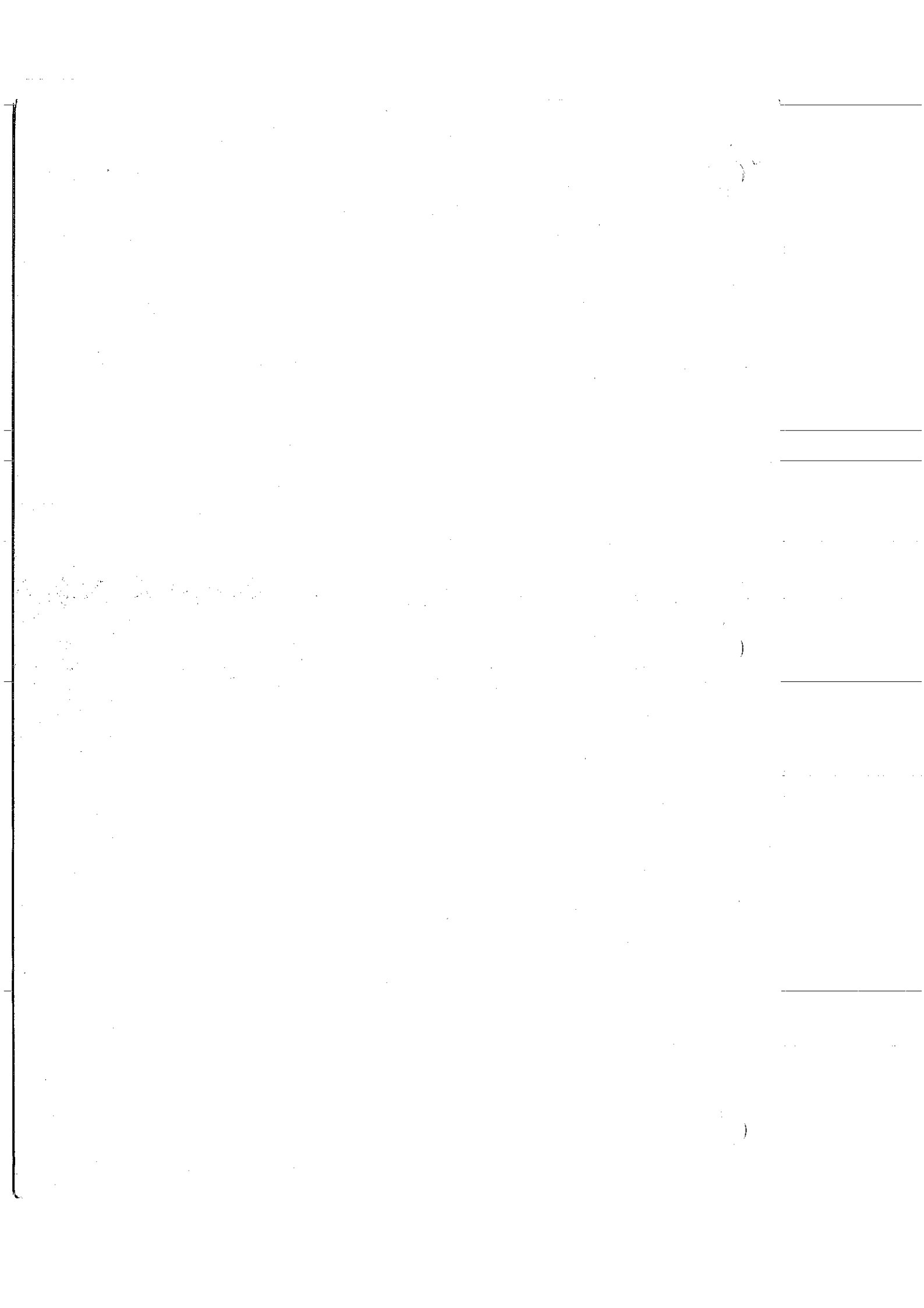
¹See Section 6 of the pre-Independence Acts Interpretation Act 1949-1973 and Section 98 of the Interpretation Act.

(2) This Act does not apply in respect of the area to which the *Fisheries (Torres Strait Protected Zone) Act* applies.

(Replaced by No. 26 of 1984, s. 3.)

3. Application of Tuna Resources Management Act.

This Act shall be read subject to the *Tuna Resources Management Act*.



under Section 6(3), extends to authorizing that taking, processing or carrying, as the case may be; and

- (e) prohibit a person from having in his possession or in his charge in a boat, in any area of waters, equipment of a specified kind for taking fish unless the equipment is stowed and secured; and
- (f) prohibit a person from using, or having in his possession or in his charge in a boat, in any area of waters, a quantity of equipment of a specified kind for

taking fish that is a quantity in excess of a quantity specified in, or ascertainable as provided in, the notice; and

- (g) prohibit a person from using or having in his possession or in his charge in a boat, in any area of waters to which a notice under Paragraph (f) applies, equipment of a kind to which the notice applies, unless the equipment is registered or there is a licence in respect of the equipment.

(2) A notice under this section may provide for exemptions from the prohibition in the notice.

(3) Without limiting the generality of the power conferred by Subsection (1) to prohibit the taking of fish included in a class of fish, the power extends to prohibiting, in the case of rock lobsters, the taking of female rock lobsters having eggs or spawn attached to them.

(4) In a notice under Subsection (1)(b), the Minister may also prohibit the cutting up or dismembering, on a boat in any area of waters, of the fish, or of the fish included in the class of fish, specified in the notice, that are taken from any specified area of waters.

5A. Determination of allowable level of fishing.

In determining the allowable level of fishing in the declared fishing zone by foreign nationals or boats of foreign states the Minister shall have regard to—

- (a) whether such states have co-operated with Papua New Guinea in, and made substantial contributions to, the development of the Papua New Guinea fishing industry, fishery research and the identification of fishing resources; and
- (b) any rights of a reciprocal nature granted to Papua New Guinea nationals or boats by such states; and
- (c) whether such states have co-operated with Papua New Guinea in enforcement and with respect to the conservation and management of fishing resources; and
- (d) whether, and to what extent, the fishing vessels of such states have traditionally engaged in such fishing; and
- (e) such other matters as the Minister, in consultation with the Minister responsible for foreign affairs, deems appropriate.

(Amended by No. 6 of 1977, s. 4.)

6. Licences.

(1) Subject to Subsection (1A), the Minister may grant to a person a licence or a class of licence to engage in fishing in any area of waters.

(1A) The grant of a licence or a class of licence under Section 18C (1) shall take precedence over the grant of any other licences under this section.

(2) The Minister may grant to a person a licence in respect of a boat authorizing the use of the boat by that person, or by a person acting on his behalf, in any area of waters—

- (a) for the taking of fish, and for the processing and carrying of fish that have been taken with the use of the boat; or
- (b) for the carrying, or for the processing and carrying, of fish that have not been taken by the use of the boat.

(3) Where a licence granted under this section authorizes the use of a boat for a purpose in an area of waters that includes an area of waters to which a notice under Section 5(1)(d) applies, the Minister may endorse the licence so as to extend it to authorize the use of the boat for that purpose—

- (a) in the area of waters; and
- (b) in respect of fish,

to which the notice applies.

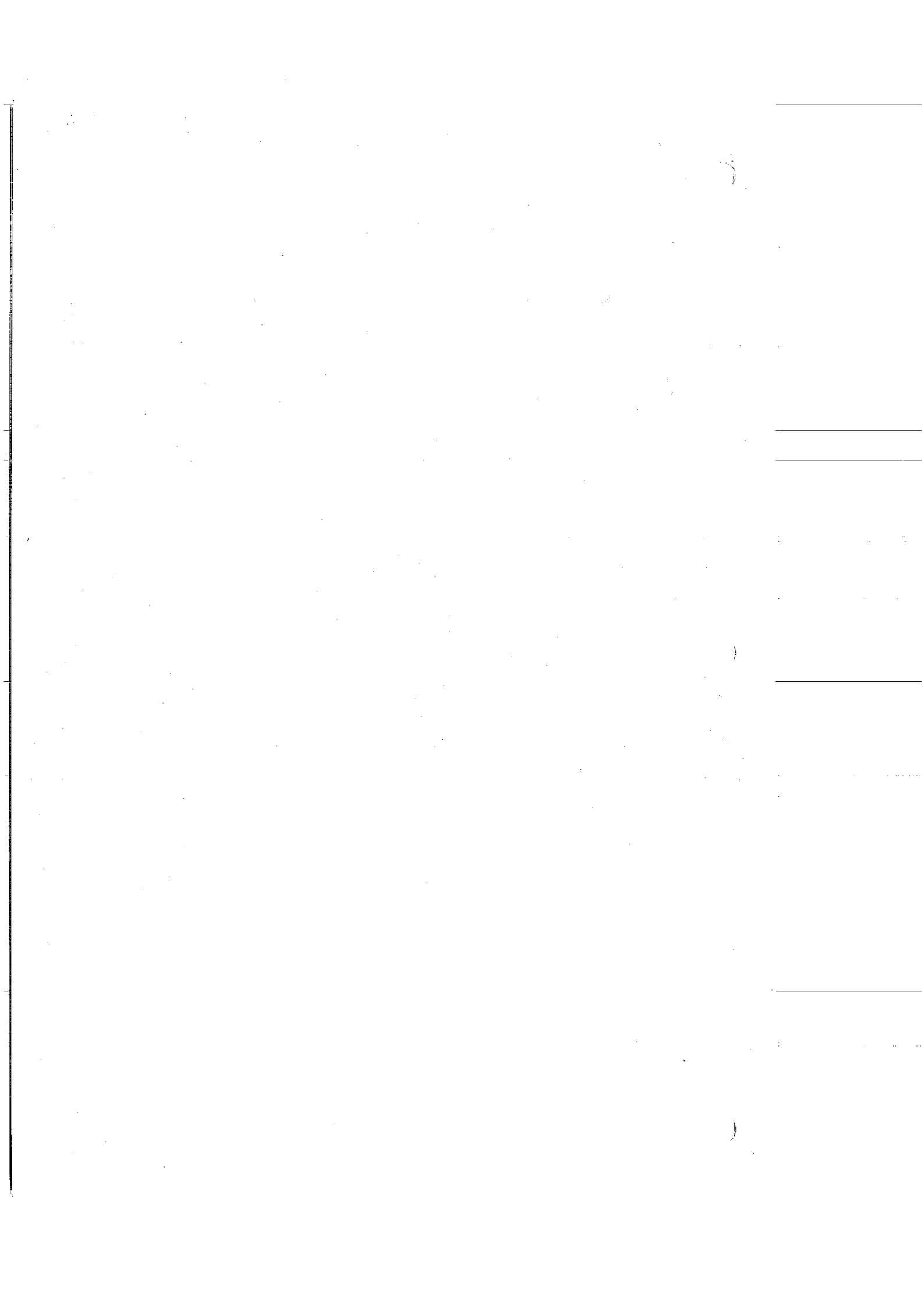
(4) A licence granted under this section—

- (a) is subject to the conditions specified in the licence; and
- (b) may be specially endorsed for the purposes of Paragraph (b) of the definition of "traditional fishing" in Section 1, allowing fish taken in accordance with Paragraph (a) of that definition to be transhipped to it; and
- (c) comes into force on a date specified in it or, if no date is specified, on the date on which it is granted; and
- (d) remains in force, subject to this section, until the expiration of the day specified for the purpose in accordance with Subsection (6).

(5) A licence may contain a condition that an officer—

- (a) shall be allowed to be on board; and
- (b) shall be provided with reasonable board and accommodation, free of charge,

at all times or at any time while the boat is operating under it.



(6) A licence granted under this section shall specify as the day until which it is to remain in force—

- (a) a day in the period of 12 months commencing on the day on which the licence comes into force; or
- (b) in the case of a licence that comes into force during the month of December in any year—a day not later than 31 December in the next year.

(7) On the application of the holder of a licence in respect of a boat and of another person as proposed transferee, the Minister may transfer the licence to that other person.

(8) The prescribed fees (if any) are payable in respect of—

- (a) the grant; or
- (b) the endorsement; or
- (c) the transfer,

of a licence under this section.

(9) A licence shall be in a form approved by the Minister.

(10) Registers showing particulars of the licences granted under this section and in force from time to time shall be kept at such places as the Minister directs.

(Amended by No. 2 of 1982, s. 2.)

7. Special provisions for major operations.

The Minister—

- (a) in the case of any application for a licence—may; and
- (b) in the case of an application where in his opinion the capital value of the investment in the fishing operations proposed and in any associated operations in the country, exceeds or may exceed K250 000.00—shall,

refer the matter to the National Executive Council before granting or refusing the application.

8. Cancellation and suspension of licences.

The Minister may cancel a licence under Section 6, or may cancel such a licence in its application to an area of waters, if—

- (a) he is satisfied that there has been a contravention of, or a failure to comply with, a condition to which the licence is subject; or
- (b) the holder of the licence has been convicted of an offence against this Act or the *Continental Shelf (Living Natural Resources) Act*.

(2) The Minister may, by written notice expressed to be under this subsection given to a licensee under Section 6, suspend the licence if he has reasonable grounds to suspect that there has been a contravention of, or a failure to comply with, a condition to which the licence is subject, not being a ground in relation to which he has previously exercised his powers under this subsection in relation to that person.

(3) Unless sooner revoked, the suspension of a licence under Subsection (2) ceases—

- (a) if proceedings for an offence in respect of the licence are instituted against the licensee within one month after the suspension—on the completion of the proceedings; or
- (b) in any other case—on the expiration of one month after the suspension.

(4) The Minister may, by written notice expressed to be under this section given to a licensee under Section 6, suspend the licence for a specified period if he is satisfied that

suspension for that period under this subsection is necessary for the proper management of fisheries in an area.

(5) A suspension of a licence under Subsection (2) or (4) may be expressed to operate generally or so far as the licence applies in relation to a specified area of waters.

9. Powers of officers.

An officer may—

- (a) board or enter on a boat that he has reason to believe has been used, is being used or is intended to be used for fishing, and search the boat for fish and for equipment used or capable of being used for fishing; and
- (b) enter and search any vehicle, premises or place—
 - (i) in or on which he has reason to suspect that evidence of an offence against this Act may be found; or
 - (ii) that it is necessary or expedient to search to ascertain whether this Act is being or has been complied with; and
- (c) examine any equipment that is found in or on any boat, vehicle, premises or place, being equipment that he has reason to believe has been used, is being used or is intended to be used for fishing; and
- (d) seize, take, detain, remove and secure any fish, boat, net, trap or equipment that he has reason to believe has been taken or used, is being used or is intended to be used in contravention of this Act; and
- (e) arrest, without warrant, a person whom he has reason to believe has committed an offence against this Act; and
- (f) require the master or other person in charge of a boat that he has reason to believe has been used, is being used or is intended to be used in contravention of this Act—
 - (i) to bring the boat to a place in the country specified by the officer; and
 - (ii) to remain in control of the boat at that place until an officer permits him to depart from that place; and
- (g) bring a boat that he has reason to believe has been used, is being used or is intended to be used in contravention of this Act to a place in the country, and remain in control of the boat pending the taking and determination of proceedings in respect of the contravention; and
- (h) where a boat is seized under Section 16, require the master or other person who was in charge of the boat immediately before it was seized—
 - (i) to bring the boat to a place in the country specified by the officer; and
 - (ii) to remain in control of the boat at that place until an officer permits him to depart from that place; and
- (i) bring a boat seized under Section 16 to a place in the country, and remain in control of the boat pending the condemnation, recovery or release of the boat; and
- (j) require the master or other person in charge of a boat in respect of which a licensee under this Act is required—
 - (i) to produce the licence for the boat (and he may take copies of, or extracts from, the licence); and

- (ii) to give information concerning the boat and her crew and any person on board the boat; and
- (k) require a person who—
 - (i) is on board a boat in respect of which a licence under this Act is required; or
 - (ii) is engaged in fishing,
to state his name and place of abode; and
- (l) require a person whom he has reason to believe has committed an offence against this Act, to state his name and place of abode; and
- (m) require a person engaged in fishing to state whether he is a licensee under Section 6(1) and, if so, to produce the licence; and
- (n) sell any fish seized by him under this Act; and
- (o) at all reasonable times enter and inspect premises in respect of which an accredited processor is appointed under Part IIIA.
(Added by No. 2 of 1982, s. 3.)

PART III.—OFFENCES.

9A. Interpretation of Part III.

In this Part, unless the contrary intention appears "waters" means internal waters and the offshore seas.

(Added by No. 6 of 1977, s. 5.)

10. Fishing, carrying, etc., without licence.

- (1) A person who—
 - (a) on his own account, or as the partner, agent or employee of another person, engages in fishing in any area of waters except as authorized by a licence granted to him under Section 6(1); or
 - (b) in any area of waters—
 - (i) uses a boat for taking fish; or
 - (ii) uses a boat for processing fish that have been taken with the use of the boat; or
 - (iii) uses a boat, not being a foreign boat, for carrying fish that have been taken with the use of the boat; or
 - (iv) has in his possession or in his charge a boat for taking fish,
except as authorized by a licence granted to him, or to a person on whose behalf he is acting, under Section 6(2)(a); or
 - (c) in any area of waters uses a boat for processing or carrying fish that have been taken with the use of another boat except as authorized by a licence granted to him, or to a person on whose behalf he is acting, under Section 6(2)(b) authorizing the use of the first-mentioned boat for the processing or for the carrying, as the case may be, in the area; or
 - (d) in any area of waters, has any fish in his possession or under his control in a boat at a time when the taking of the fish in the area is prohibited by a notice under Section 5; or

- (e) being a licensee under this Act, contravenes a condition of the licence; or
- (f) being a licensee under this Act in respect of a boat, causes or permits a person acting on his behalf to contravene a condition of the licence; or
- (g) being a person acting on behalf of a licensee under this Act in respect of a boat, contravenes a condition of the licence; or

(b) does an act prohibited by a notice for the time being in force under Section 5, is guilty of an offence.

Penalty: A fine not exceeding K1 000.00.

(2) Except with the consent of the Minister and subject to such conditions as the Minister thinks proper, or by virtue of an endorsement under Section 6(4)(b), a person who, in any area of waters, tranships fish to or from a boat for which there is no licence in force under Section 6(2)(b) is guilty of an offence.

(3) A reference in Subsection (1)(b)(iv) to a boat shall be read as not including a reference to a foreign boat if the equipment for the taking of fish belonging to the boat is stowed and secured.

(4) It is a defence to a prosecution for an offence against Subsection (1)(d) if the person charged satisfies the court—

- (a) that the fish was not taken, caught, captured or retained for trading or manufacturing purposes; or
- (b) that the fish was not taken, caught or captured in the area of waters referred to in that paragraph; or
- (c) that the taking, catching or capturing of the fish was not in contravention of this Act.

(5) For the purposes of the prosecution of a person for an offence against Subsection (1), an act done by an employee or other agent of the person charged shall be deemed to have been done also by that person.

(6) Subject to Section 15, where a court convicts a person of an offence against this section the court may order the forfeiture of—

- (a) a boat, net, trap or equipment used in the commission of the offence; or
- (b) fish on board the boat at the time of the offence; or
- (c) the proceeds of sale of the fish.

11. Removing fish from traps, etc.

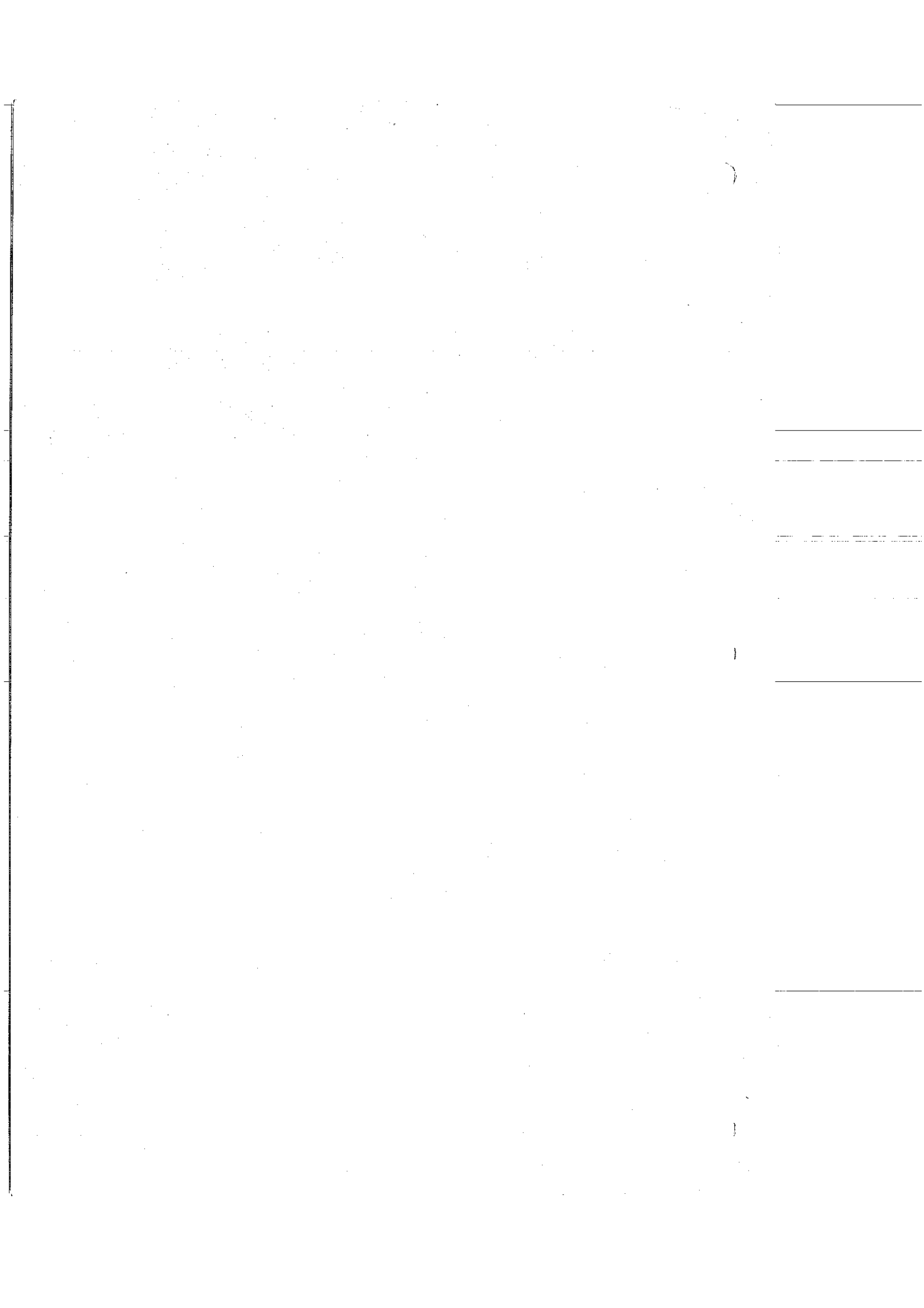
A person who, in any area of waters, removes a fish from a net, trap or other equipment for the taking of fish is guilty of an offence unless he is the owner of the net, trap or other equipment or is acting with the authority of the owner.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding six months.

12. Foreign boats fishing in declared fishing zone.

(1) A person who, in the declared fishing zone or in the internal waters—

- (a) uses a foreign boat for taking fish; or
- (b) uses a foreign boat for processing fish that have been taken with the use of the boat; or



(c) has in his possession or in his charge a foreign boat for taking fish, unless there is in force a licence under Section 6(2)(a) authorizing the use of the boat in the area of waters concerned, is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K1 000.00 or imprisonment for a term not exceeding six months, or both.

On conviction on indictment—a fine of not less than K1 000.00 and not exceeding K10 000.00, or imprisonment for a term not exceeding one year, or both.

(Amended by No. 6 of 1977, s. 9.)

(2) A person who, in the declared fishing zone or in the internal waters, uses a foreign boat for processing or carrying fish that have been taken with the use of another boat—

(a) except as permitted by Section 10(2); or

(b) unless there is in force a licence under Section 6(2)(a) authorizing the use of the foreign boat for the processing or for the carrying, as the case may be, in the area of waters concerned,

is guilty of an offence.

Penalty: On summary conviction—a fine not exceeding K1 000.00 or imprisonment for a term not exceeding six months, or both.

On conviction on indictment—a fine of not less than K1 000.00 and not exceeding K10 000.00, or imprisonment for a term not exceeding one year, or both.

(Amended by No. 6 of 1977, s. 9.)

(3) A reference in Subsection (1)(c) to a foreign boat shall be read as not including a reference to a foreign boat whose nets, traps and other equipment for the taking of fish are stowed and secured.

(4) Subject to Subsection (5), an offence against this section may be prosecuted either summarily or on indictment, but an offender is not liable to be prosecuted more than once for the same offence.

(5) Proceedings for an offence against this section shall not be heard and determined summarily except with the consent of the defendant.

13. Obstruction of officers, etc.

A person who—

(a) fails to facilitate by all reasonable means the boarding of a boat by an officer; or

(b) refuses to allow a search to be made that is authorized by or under this Act; or

(c) refuses or neglects to comply with a requirement made by an officer under Section 9; or

(d) when lawfully required to state his name and place of abode to an officer, states a false name or place of abode to the officer; or

(e) when lawfully required by an officer to give information, gives false or misleading information; or

(f) uses abusive or threatening language to an officer; or

(g) assaults, resists or obstructs an officer acting under this Act; or

(h) impersonates an officer; or

(i) in an application for the purposes of this Act, makes a statement or gives information that is false or misleading in any particular,
is guilty of an offence.

Penalty: A fine not exceeding K1 000.00 or imprisonment for a term not exceeding six months.

14. Liability of master or person in charge of boat.

(1) The master or other person in charge of a boat on which, or by the use of which, an offence against this Act (in this section referred to as "the primary offence") is committed is guilty of an offence against this section punishable on conviction as if it were the primary offence.

(2) A person may be convicted of an offence against this section whether or not the identity of the person who committed the primary offence appears, or has appeared, from the evidence in the proceedings in respect of the offence against this section or in any other proceedings, but shall not be convicted both of an offence against this section and of the primary offence.

(3) The provisions of Section 10 relating to forfeiture, and of Section 15, apply where a person is convicted of an offence against this section in the same manner as they would apply if that person had been convicted of the primary offence.

15. Forfeiture in relation to foreign boats.

Where a court convicts a person of—

- (a) an offence against Section 10 in the commission of which a boat that was a foreign boat was used or otherwise involved; or
- (b) an offence against Section 12,

the court shall order the forfeiture to the State of—

- (c) any net, trap or other equipment, being equipment for the taking of fish, that was on the boat concerned at the time of the offence; and
- (d) any fish that was on the boat concerned at the time of the offence and has not been sold under Section 9.

(Amended by No. 6 of 1977, s. 10.)

16. Forfeiture of foreign boats.

(1) For the purposes of this section, the equipment of a boat, other than equipment for the taking of fish, shall be deemed to form part of the boat.

(2) A foreign boat used or otherwise involved in the commission of an offence against this Act is forfeit to the State.

(3) An officer may seize any boat that is forfeit under this section, or any boat that he has reason to believe is so forfeit.

(4) The Minister may authorize a boat seized under this section to be released to its master on the giving of security for payment of the value of the boat if it is condemned.

(5) The State may bring an action for the condemnation of a boat seized under this section.

(6) If—

- (a) no person claiming an interest in a boat seized under this section brings an action in the country against the State for the recovery of the boat within 60 days after its seizure; or

(b) all such actions (if any) brought within that time are dismissed, the boat shall be deemed to be condemned.

(7) For the purposes of Subsection (6), an action for the recovery of a boat seized under this section shall be deemed not to have been brought within 60 days after its seizure if the writ in the action has not been served on the State within that time.

(8) Where a boat is forfeit under this section by reason of the commission of an offence, the conviction of a person of that offence has effect as a condemnation of the boat.

(9) In an action for the condemnation or recovery of a boat seized under this section, a party to the action shall not allege that an offence against this Act has been committed by a person if a court has acquitted the person of the offence.

17. Forfeited goods.

A boat or goods ordered by a court to be forfeit under this Act, or a boat and equipment that are forfeit under Section 16 and condemned as forfeit, become the property of the State and shall be dealt with or disposed of in accordance with the directions of the Minister.

18. Evidence.

(1) Where, in proceedings for an offence against this Act or in proceedings for the condemnation or recovery of a boat seized under this Act—

- (a) an officer gives evidence that he suspects that any fish to which the charge relates were taken in a particular area of waters or were taken for trading or manufacturing purposes, together with evidence of the grounds on which he so suspects; and
- (b) the court thinks that, having regard to that evidence, the suspicion is reasonable,

the fish shall, in the absence of proof to the contrary, be deemed to have been so taken.

(2) The Minister or a person authorized in writing by him to give certificates under this section may give a certificate that—

- (a) a specified boat was, or was not, at a specified time, a Papua New Guinea boat; or
- (b) a specified area of waters is or was, at a specified time, part of the declared fishing zone or part of the internal waters; or
- (c) a specified person was, or was not, at a specified time, the holder of a licence under Section 6(1) to engage in fishing in a specified area of waters; or
- (d) a specified person was or was not, or no person was, at a specified time, the holder of a licence under Section 6 in respect of a specified boat—
 - (i) authorizing the use of the boat for a specified purpose in a specified area of waters; or
 - (ii) endorsed under Section 6(3) or 6(4)(b) so as to authorize the use of the boat in a specified area of waters for a specified purpose relating to fish of a specified kind.

(Amended by No. 6 of 1977, s. 11.)

(3) A person giving a certificate under Subsection (2)(d) that a person was the holder of a licence may certify in the certificate that conditions specified in the certificate were the conditions specified in the licence.

(4) In proceedings for an offence against this Act, a certificate given under this section is prima facie evidence of the matters specified in the certificate.

(5) For the purposes of this section, unless the contrary is proved a writing purporting to be a certificate under this section shall be deemed to be such a certificate and to have been duly given.

PART IIIA.—PROCESSING OF TUNA.

(Added by No. 2 of 1982, s. 4.)

18A. Interpretation of Part IIIA.

In this Part "tuna" includes—

- (a) skipjack tuna (*Katsuwonus pelamis*); and
- (b) yellowfin tuna (*Neotunnus macropterus*); and
- (c) albacore (*Thunnus alalunga*); and
- (d) bigeye tuna (*Parathunnus mebachii*); and
- (e) mackerel tuna (*Euthynnus a. affinis*); and
- (f) northern bluefin tuna (*Kisbinoella tonggol*).

18B. Accredited processors.

(1) Subject to Subsection (2), a person who has entered into an agreement with the State to occupy or erect and occupy premises in the country that are used or proposed to be used for the processing of raw tuna may apply to the Minister for appointment as an accredited processor.

used for the processing of raw tuna may apply to the Minister for appointment as an accredited processor.

(2) Premises referred to in Subsection (1) shall be—

- (a) maintained in a safe and hygienic condition; and
- (b) capable of—
 - (i) processing not less than 30 metric tonnes of raw tuna per day; and
 - (ii) being expanded over a period of nine years to a capacity of not less than 80 metric tonnes of raw tuna per day; and
- (c) furnished with adequate facilities for the storage, handling, loining, canning, quality control and marketing of tuna.

(3) The appointment referred to in Subsection (1) shall be by notice in the National Gazette and shall be subject to such conditions as the Minister thinks fit.

18C. Rights of accredited processors.

(1) Subject to Subsection (2), an accredited processor shall have—

- (a) subject to the *Tuna Resources Management Act*—the right to the grant under Section 6 of a sufficient number and class of licences to enable him to adequately carry on fishing operations to harvest the amount of tuna necessary to fulfil the quantity requirements of processing of raw tuna under Section 18B (2); and

(2) The—

- (a) persons from whom; and
- (b) conditions under which,

an accredited processor may purchase raw tuna or a person may sell raw tuna to an accredited processor under Subsection (1) (b) are as prescribed.

PART IV.—RESEARCH AND DEVELOPMENT.

19. Exploratory operations.

The Minister may carry out operations—

- (a) for ascertaining whether fishing in any area of waters can be engaged in on a commercial basis; and
- (b) for the development of fisheries in any area of waters.

(Amended by No. 6 of 1977, s. 6.)

20. Investigations.

The Minister shall cause investigations to be made into economic matters relating to fisheries in any area of waters.

(Amended by No. 6 of 1977, s. 7.)

PART V.—MISCELLANEOUS.

20A. Exercise of Minister's powers.

In exercising his powers under and in relation to this Act in respect of any part of the declared fishing zone beyond the internal waters, archipelagic waters and territorial sea, the Minister shall have regard to—

- (a) the principle that fish stocks should be managed so as to ensure production from those stocks of the optimum sustainable yield; and
- (b) any relevant international obligations of Papua New Guinea, or applicable rule of international law, relating to the exercise of jurisdiction of Papua New Guinea in that part of the declared fishing zone.

(Added by No. 6 of 1977, s. 8.)

21. Regulations.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular—

- (a) for prescribing signals and rules of navigation to be observed by fishermen; and
- (b) for providing for the marking of boats licensed under this Act and of nets, traps and other equipment registered under this Act; and
- (c) for providing for service in actions for the condemnation of foreign boats seized as forfeit; and
- (d) for providing for the sale or disposal of unclaimed nets, traps or other fishing equipment found in any waters; and

- (e) for regulating the rights of priority as between fishermen, and for prescribing the rules of fishing; and
- (f) for providing for the furnishing of returns containing information in relation to—
 - (i) the taking of fish in any area of waters, and the sale or disposal of fish so taken; and
 - (ii) the processing of fish in the country or in any area of waters, and the sale or disposal of fish so processed; and
- (g) for prescribing penalties of fines not exceeding K1 000.00 for offences against the regulations.

(Amended by No. 2 of 1982, s. 5.)

(2) The Minister shall—

- (a) cause to be compiled, from the returns furnished under the regulations and from other sources, statistics in relation to the matters referred to in Subsection (1)(f); and
- (b) publish or make available, in such manner as he thinks proper, such of those statistics as he thinks proper.

(3) Information derived from returns furnished under the regulations must not be used for purposes other than statistical purposes.

(4) A person is not excused from—

- (a) furnishing a return required by the regulations; or
- (b) including information in such a return,

on the ground that the return or information might tend to criminate him, but his return is not admissible in evidence against him in any proceedings other than proceedings in respect of—

- (c) false information in the return; or
- (d) a refusal or failure to include information in the return.

(5) The regulations may provide for—

- (a) scales of fees for licences, which may be based, amongst other things, on the size or value of the operation in relation to which the licence is granted or its actual or potential contribution to the development of the country; and
- (b) the levying of provisional fees.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries Regulation.

ARRANGEMENT OF SECTIONS.

1. Interpretation—
 "factory ship licence"
 "fishing boat licence".
2. Persons licensed to engage in fishing.
3. Fishing boat licences.
4. Factory ship licences.
5. Transfer of licence.
6. Lost, destroyed or defaced licence.
7. Form of register.
8. Fees.
9. Requirements for marking of licensed fishing boats.

SCHEDULES.

SCHEDULE 1.

FORM 1.—Application for Licence to Engage in Fishing.

FORM 2.—Licence to Engage in Fishing.

FORM 3.—Application for Fishing Boat Licence.

FORM 4.—Licence to use a Boat for Fishing.

FORM 5.—Application for Factory Ship Licence.

FORM 6.—Licence to use a Boat as a Factory Ship.

FORM 7.—Register of Licences.

SCHEDULE 2.—Scale of Fees.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries Regulation.

MADE under the *Fisheries Act*.

1. Interpretation.

In this Regulation, unless the contrary intention appears—

“factory ship licence” means a licence in respect of a boat authorizing the use of the boat for carrying, or for processing and carrying, fish that have not been taken by the use of the boat;

“fishing boat licence” means a licence in respect of a boat authorizing the use of the boat for taking fish and for processing and carrying fish that have been taken with the use of the boat.

2. Persons licensed to engage in fishing.

(1) An application for a licence to engage in fishing shall be in Form 1, and shall be accompanied by the prescribed fee which shall be refunded if a licence is refused.

(2) A licence to engage in fishing shall be in Form 2.

3. Fishing boat licences.

(1) An application for a fishing boat licence shall be in Form 3, and shall be accompanied by the prescribed fee which shall be refunded if the licence is refused.

(2) A fishing boat licence shall be in Form 4.

4. Factory ship licences.

(1) An application for a factory ship licence shall be in Form 5, and shall be accompanied by the prescribed fee which shall be refunded if the licence is refused.

(2) A factory ship licence shall be in Form 6.

5. Transfer of licence.

(1) An application for a transfer of a licence shall be made in writing to the Minister, and shall be accompanied by the prescribed fee.

(2) Where the Minister approves an application for the transfer of licence, he shall endorse on the licence a memorandum of the transfer.

6. Lost, destroyed or defaced licence.

(1) Where a licence under Section 6 of the Act has been lost or destroyed, the licensee may make written application to the Minister for the issue to him of a duplicate licence.

(2) Where the Minister is satisfied that—

(a) the licence has been lost or destroyed; and

(b) no improper use has been made or is being made of the licence,

he may, on payment of the prescribed fee, issue a duplicate licence to the licensee.

(3) Where a licence under Section 6 of the Act has been defaced, the licensee shall, on returning the licence to the Minister and on payment of the prescribed fee, be issued with a duplicate licence.

(4) A duplicate licence issued under this section has the same force and effect as the licence of which it is a duplicate.

7. Form of register.

A register kept under Section 6(10) of the Act shall be in Form 7.

8. Fees.

(1) In this section "value" in relation to fish means the value from time to time determined by the Minister.

(2) Subject to Subsections (5) and (6) the fee payable in respect of a fishing boat licence for a foreign boat (other than a foreign boat on charter to a citizen of Papua New Guinea) is—

- (a) K30.00 per metre of overall length calculated to the lowest whole metre; and
- (b) 5% of the value of the fish caught pursuant to that licence during the period of the licence.

(3) The fee payable in respect of a fishing boat licence for a foreign boat on charter to a citizen of Papua New Guinea is K30.00 per metre of overall length calculated to the lowest whole metre.

(4) The fees respectively specified in Column 2 of Schedule 2 are payable in respect of the several matters specified in Column 1 of that Schedule.

(5) That part of the licence fee specified in Subsection (1) relating to the overall length of the boat is a fee in respect of a licence for a full 12 months' period.

(6) Where a licence is granted in respect of part only of the period referred to in Subsection (5), the licence fee shall be such proportion of K30.00 per metre as the period of the licence bears to a full 12 months' period.

(Replaced by No. 10 of 1978, s. 1.)

9. Requirements for marking of licensed fishing boats.

(1) This section applies to boats in respect of which a fishing boat licence or a factory ship licence has been issued.

(2) A licensed boat shall have displayed on the centre line on the stern and on each side of the bow above the water line—

- (a) its name in Roman letters; and
- (b) the letters "P.N.G." followed by the licence number in Arabic numerals, painted in letters and numerals—
 - (c) in black on a white ground or in white on a black ground; and
 - (d) of a size—
 - (i) not less than 150mm high; and
 - (ii) not less than 40mm wide; and
 - (e) spaced not less than 40mm apart.

(3) The licence number shall be painted horizontally on the top of the wheelhouse, or where there is no wheelhouse as directed by the Minister, in numerals—

- (a) not less than 1m high; and
- (b) not less than 150mm wide in any part; and
- (c) in black on a yellow ground.

(4) A small boat or tender carried on or used by a licensed boat shall have the licence number of the licensed boat painted on the centre line on the stern above the water line in accordance with Subsection (2)(c), (d) and (e).

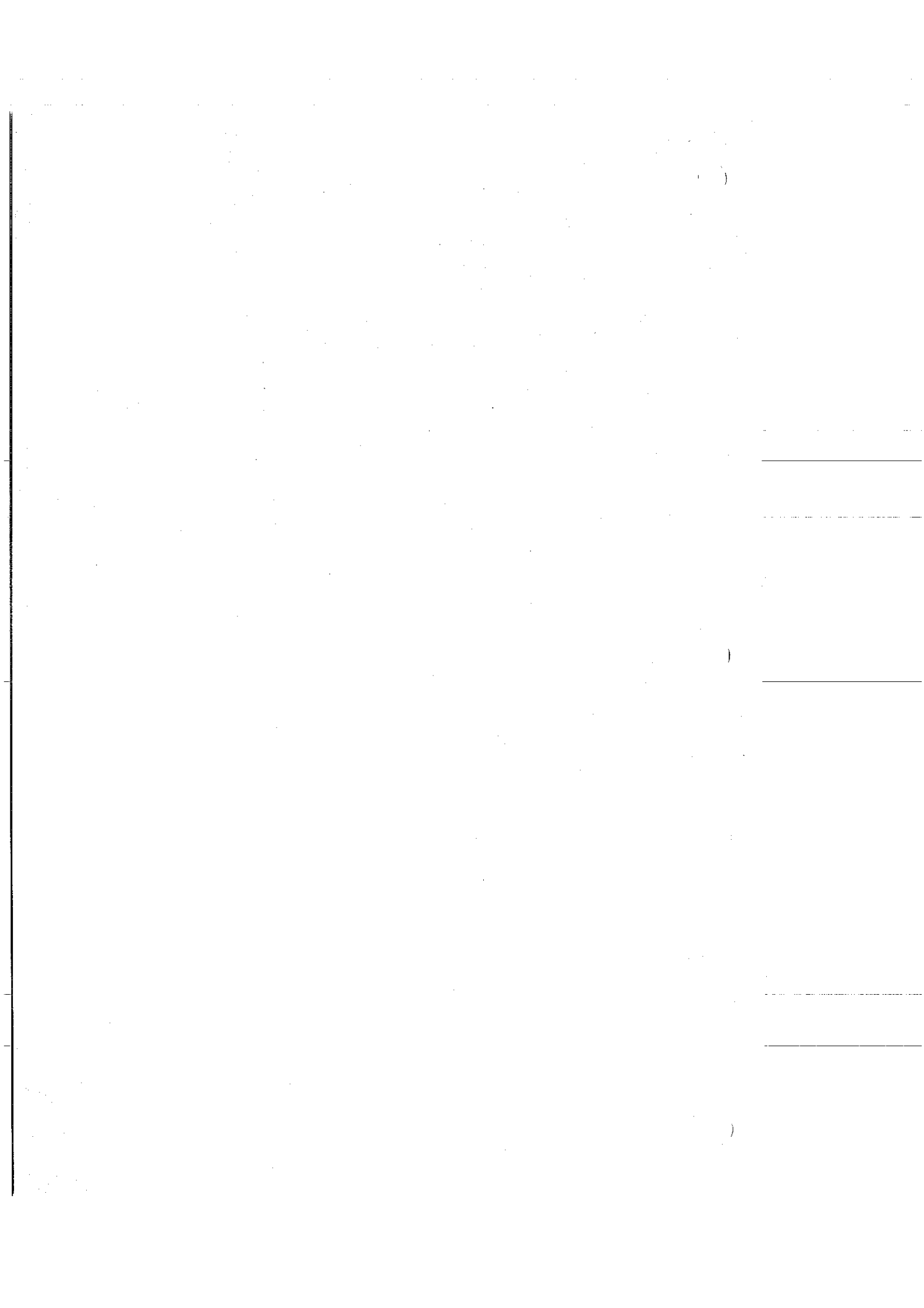
(5) Letters and numerals prescribed in Subsections (2) and (3) shall be—

(a) displayed at all times during the currency of the licence; and

(b) maintained in a legible condition.

(6) The licensee, and the person in charge of a boat that is not marked in accordance with this section are each guilty of an offence.

Penalty: A fine not exceeding K200.00.



Fisheries

Ch. No. 214

SCHEDULE 1.

PAPUA NEW GUINEA.

Fisheries Act.

Reg., Sec. 2(1).

Form 1.

APPLICATION FOR LICENCE TO ENGAGE IN FISHING.

To: The Minister for

I, _____ of

apply for a licence to engage in fishing in the following areas of Papua New Guinea waters :—

Previous licence No: _____ issued on

Fee: K1.00.

(*Signature of Applicant.*)

Dated _____ 19

PAPUA NEW GUINEA.

Fisheries Act.

Reg., Sec. 2(2).

Form 2.

LICENCE TO ENGAGE IN FISHING.

Issued at _____ Licence No. _____

Date: _____

(*Name and address of applicant*) is licensed to engage in fishing in the _____ area subject to the following conditions :—

1. The licensee shall comply with the provisions of the *Fisheries Act*.
2. The licensee shall not interfere with traditional fishing as defined in Section 1 of the Act.
3. Special conditions :—

This licence remains in force until _____ 19 _____, unless sooner cancelled or suspended under Section 8 of the Act.

Dated _____ 19

Minister for

Ch. No. 214

Fisheries

PAPUA NEW GUINEA.
Fisheries Act.

Reg., Sec. 3(1).

Form 3.

APPLICATION FOR FISHING BOAT LICENCE.

To: The Minister for

I, (*name and address of applicant*)

apply for a licence to use a boat for fishing in the following areas of Papua New Guinea waters :—

Particulars of Boat.

Name:

Type:

Length overall:

Gross tonnage:

Built of:

at

Based at:

Owner (*name and address of owner and whether resident of, or company incorporated in, Papua New Guinea*):

Port of registry:

No. of tender boats:

Type of fishing:

Other operations:

Note. Is vessel to be engaged in processing or transporting fish taken in other vessels:

Fee:

(*Signature of Applicant.*)

Dated

19 .

PAPUA NEW GUINEA.
Fisheries Act.

Reg., Sec. 3(2).

Form 4.

LICENCE TO USE A BOAT FOR FISHING.

No.

Issued at

on

19 .

(*Name and address of licensee*) is licensed to use (*name of boat*)

particulars of which are as follows:

Particulars of Boat.

Name:

Type:

Length overall:

Gross tonnage:

Port of registry:

No. of tender boats:

Type of fishing:

Other operations:

for fishing in Papua New Guinea waters subject to the following conditions :—

1. The licensee shall comply with the provisions of the *Fisheries Act*.
2. The licensee shall not interfere with traditional fishing as defined in Section 1 of the Act.
3. Fish taken on board the boat shall not be delivered or transhipped to any other boat without prior written permission from the licensing authority.
4. Transporting, preserving, cutting up, dismembering, cleaning, sorting, packing or storing of fish that have been taken by another boat shall not be undertaken by the boat.
5. Special conditions:

This licence remains in force until 19 , unless sooner cancelled or suspended under Section 8 of the Act.

Fee paid:

Dated

19 .

Minister for

Fisheries

Ch. No. 214

PAPUA NEW GUINEA.
Fisheries Act.

Reg., Sec. 4(1).

Form 5.

APPLICATION FOR FACTORY SHIP LICENCE.

To: The Minister for

I, (name and address of applicant)

apply for a licence to use a boat as a factory ship in the following areas of Papua New Guinea waters :—

Particulars of Boat.

Name: Type:

Length overall: Gross tonnage:

Built of: at

Based at:

Owner (name and address of owner and whether resident of, or company incorporated in Papua New Guinea):

Port of registry:

No. of tender boats:

Type of fishing:

Other operations:

(Signature of Applicant)

Dated 19 .

PAPUA NEW GUINEA.
Fisheries Act.

Reg., Sec. 4(2).

Form 6.

LICENCE TO USE A BOAT AS A FACTORY SHIP.

No.

Issued at on 19 .

(Name and address of licensee) is licensed to use (name of boat)

particulars of which are as follows :—

Particulars of Boat.

Name: Type:

Length overall: Gross tonnage:

Port of registry:

No. of tender boats:

Type of operations:

as a factory ship in Papua New Guinea waters subject to the following conditions :—

1. The licensee shall comply with the provisions of the *Fisheries Act*.
2. The licensee shall not interfere with traditional fishing as defined in Section 1 of the Act.
3. Fish carried on board the boat shall not be delivered or transhipped to any other boat without prior written permission from the licensing authority.
4. Special conditions:

This licence remains in force until 19 , unless sooner cancelled or suspended under Section 8 of the Act.

Fee paid:

Dated 19 .

Minister for

REGISTER OF LICENCES.

Date of issue.	Licence No.	Licence to engage in fishing.	Fishing boat or factory ship licence.		Transfer of licence.		Date of cancellation or suspension.
			Name	Name of licensee.	Name of boat.	Name of transferee.	

SCHEDULE 2.

(Replaced by No. 21 of 1984.)

SCALE OF FEES.

Reg., Sec. 8.

	K
1. Grant of fishing licence (per boat)	25.00
2. Grant of fishing boat licence for PNG boat where—	
(a) overall length does not exceed 6m	50.00
(b) overall length exceeds 6m but does not exceed 15m	100.00
(c) overall length exceeds 15m	200.00
3. Grant of factory ship licence for P.N.G. boat where—	
(a) overall length does not exceed 6m	50.00
(b) overall length exceeds 6m but does not exceed 15m	100.00
(c) overall length exceeds 15m	200.00
4. Grant of fishing boat licence for foreign boat per meter of overall length to the lower whole metre	50.00
5. Grant of factory ship licence for foreign boat—per metre of overall length to the lower whole metre	30.00
6. Issue of duplicate licence	25.00
7. Transfer	100.00
8. Fisherman fee—	
foreign	20.00
national	10.00

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 214.

Fisheries.

APPENDIX 1.

SOURCE OF THE FISHERIES ACT.

Previous Legislation.

Fisheries Act

as amended by—

Fisheries (Processors) Act 1982 (No. 2 of 1982)

Torres Strait Treaty (Miscellaneous Amendments) Act 1984 (No. 26 of 1984).

APPENDIX 2.

SOURCE OF THE FISHERIES REGULATION.

Previous Legislation.

Fisheries Regulation

as amended by—

Fisheries (Amendment) Regulation 1984 (Statutory Instrument No. 21 of 1984).

