

## FISHERIES BILL - ANNEX C: Stakeholder Comments and Sub-committee Response to Consultation on Draft Fisheries Bill 2021

Denotes where legislation has been revised following consultation feedback

No	Stakeholder	Ordinance Section	Stakeholder comment	Sub-committee Action/Response
1	NGO's	Title	<p>Modern fisheries regulation is moving away from managing fisheries as a distinct entity from the marine environment (see for instance the Inshore Fisheries and Conservation Authorities set up under the UK's Marine and Coastal Access Act 2009). (But it should go beyond a well-meaning phrase).</p> <p>This Ordinance would be more appropriately entitled The Fisheries (Conservation and Management) Ordinance</p> <p>This would also bring it into line with the Ascension Island Fisheries Conservation and Management Ordinance 2015 which has been broadly well received.</p>	<p>We have reviewed this and consider that the ordinance should be primarily a fisheries ordinance. Environmental protection and conservation is managed under the Environmental Protection Ordinance (2016) and we have ensured that the two are complimentary to each other.</p>
2		1.(2)	<p>Does this mean certain provisions contained within this ordinance may begin at different times? i.e. it will be illegal for IUU fishing to take place from May but only from August for Transshipment, for example?</p> <p>If this is the case – will prior legislation have to apply? In which case, it therefore cannot be revoked fully otherwise there would be a gap in coverage?</p>	<p>This is a standard provision under modern St Helena ordinances which allows for subsequent orders to be made as and when necessary</p>
3		2. Bait fish	<p>Small pelagic species such as mackerel (<i>Scomber-japonicas</i>) and <i>Decapterus</i> spp. Are caught by line and dip net as bait.</p>	<p>This is correct, but does not affect the definition as laid out in the ordinance</p>

			Catches of bait species have not been quantified, but new log sheets will require fishermen to report on bait quantities.	
4		<b>2. Chief Fisheries Officer</b>	<p>This is the first time CFO has been mentioned – previous consultation documents including the 2020 Fishing Licence Policy refers to the Senior Fisheries Officer.</p> <p>The SFO is also not referred to in this Ordinance?</p> <p>And likewise, the Chief Fisheries Officer is not referred to anywhere in the Fishing License Policy?</p>	The CFO is a statutory title rather than a job role and is required as part of the ordinance. The CFO could be any appropriate member of public service (i.e. Senior Fisheries Officer, Director of ENRP)
5		<b>2. Enforcement Officer</b>	<p>Does this not include Jason/his local colleagues?</p> <p>Are they now classed as Fisheries Protection Officers?</p>	As point 4, a Fisheries protection officer is a statutory position and could be appropriate member of public service (i.e. MEO's, Police Officers)
6		<b>2. Fish</b>	We assume there is separate legislation dealing with mammals (whales, dolphins etc), reptiles such as sea turtles and that either there is no harvesting of aquatic plants or that is dealt with elsewhere. Generally speaking, it is expedient to include all marine life under this definition, as it all forms part of an ecosystem. To effectively manage such a system, it is beneficial if one set of “rules” apply	The Environmental Protection Ordinance (2016) provides protection for these species.
7		<b>2. Fish Agregating Device</b>	Why? What is the justification?	Advice has been taken from many different stakeholders and a new definition drafted
8		<b>2. Fishing (d)</b>	<p>Would this then include non-invasive research activities such as BRUV (camera) deployments, which by their nature are “exploring for the presence of fish”, regardless of the intention not to catch any?</p> <p>If so, then most likely <b>all</b> marine research activities will legally require a fishing licence in addition to a research permit.</p>	<ul style="list-style-type: none"> <li>• This has been updated to remove reference to ‘exploring or prospecting for the presence of fish’ to ensure that only the act of fishing is covered. This kind of research will no longer require a fishing licence.</li> <li>• The definition of a fishing vessel has been updated based on consultation responses</li> </ul>

		Very good point – also need to ensure then that the list of permitted fishing methods does not refer only to this flawed definition of a fishing vessel	
9	<b>2. fishing vessel</b>	For continuity across Bills, policies, etc, should this definition be the same as that used in the Merchant Shipping Bill 2020?  “ <b>fishing vessel</b> ” means a ship used to fish with the intention of doing so for profit, but does not include a ship used wholly to convey a person wishing to fish for pleasure;	Different definitions may be provided across different statutes. The Merchant Shipping Ordinance definition would not for example capture a small recreational vessel that was engaged in fishing.
10	<b>2. foreign fishing vessel</b>	This is unclear – with the use of the word ‘but’, it almost reads like recreational fishing vessels will be classed as a foreign fishing vessel...	This has been updated to clarify
11	<b>2. locally registered vessel</b>	Section 6 refers to flags St Helena that ships can fly	This is a typo, corrected to say section 5
12	<b>2. observer</b>	NOAA definition	The ordinary language use of this term is sufficient for this ordinance
13	<b>2. public authorities</b>	Senior Fisheries Officer? Marine Conservation and Fisheries Section?	Public authorities are not referred to in the ordinance, so no definition is required
14	<b>2, spear fishing</b>	Could trophies/world records be classed as rewards? Or does the word financial need to be added?	This definition is not required
15	<b>2. traditional rock fishing</b>	This should be included for clarity as rock fishing for sale should require a licence	We have amended to cover this
16	2 FADs	This is important and a more robust example text could be:  “ <b>Fish Aggregating Device (FAD)</b> ” means a permanent, semi-permanent or temporary object, structure or device	<ul style="list-style-type: none"> <li>The draft bill provides for licencing of anchored FADs only so do not require reference to ‘deployed or tracked’ within the definition.</li> </ul>

			<p><b>of any material, man-made or natural, which is deployed and/or tracked, for the purpose of aggregating fish.</b></p> <p>Any anchored &lt;100cm buoys that don't have specific aggregator materials attached to them can and should instead be considered moorings or markers rather than FADs anyway. I don't believe a single line and buoy of that size would be a commercially viable aggregator anyway and the intent of deployment is important here (i.e. was it deployed for the purpose of attracting fish or not?)</p>	<ul style="list-style-type: none"> <li>Propose to agree – to define FADs to exclude buoys without aggregated materials attached may be useful and to have a definition that leads to tracked FADS being contrary to the ordinance.</li> </ul>
17		2 Trans shipment	<p>Maybe separate this out to constitute “landing catch”.</p> <p>Note the transshipment of bait or catch for the purpose of commercial efficiency among locally registered vessels with local observers onboard, and with the sole intent of still landing that catch at James Bay or Rupert's Bay should probably still be permitted. This may be important in ensuring the commercial viability of some operations and can be permitted while still disallowing any transshipments to foreign vessels, or any transshipments that would result in landings outside of St Helena. Feel free to reach out to me at [REDACTED] if you would like me to seek example text for this from our legal experts and government colleagues elsewhere?</p>	<ul style="list-style-type: none"> <li>The draft bill already allows for transshipment of bait fish (and ferryboat landings)</li> <li>HMG advice to SHG is that ICCAT rules would not allow catch transfer even within the jurisdiction. Unless ICCAT reform the rule or SHG are content to become ICCAT non-compliant the transfers proposed would not be contemplated – despite the importance for commercial viability.</li> </ul>
18	Blue Belt	2(a-d)	<p>This definition of AIS appears to have been lifted directly from the SOLAS definition and is what is reflected in the EU regulation. However, under UK law it requires fishing vessels &gt;15m to be fitted with Class A transponders, and this would be a good inclusion here too. It is referred to in the guidance document below. As the AIS feed from any vessels operating offshore will be almost entirely dependent on satellite AIS, A-Class transponders would be more appropriate and reliably picked up by the satellites. See below:</p>	<p>The points made appear to be:</p> <ul style="list-style-type: none"> <li>That a requirement for A -Class transponders may prove more reliable than AIS</li> <li>VMS definition is too wide. An alternative is proposed with reference to ‘real time’ transmission. To date SHG considers real-time systems too expensive / unsuited to our location. It may be that</li> </ul>

			<p><a href="https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2020/11/fishing-vessel-weekly-licence-variations-20-november-2020/documents/automatic-identification-system-for-fishing-vessels/automatic-identification-system-for-fishing-vessels/govscot%3Adocument/AIS%2Bfor%2Bfishing%2Bvessels.pdf">https://www.gov.scot/binaries/content/documents/govscot/publications/factsheet/2020/11/fishing-vessel-weekly-licence-variations-20-november-2020/documents/automatic-identification-system-for-fishing-vessels/automatic-identification-system-for-fishing-vessels/govscot%3Adocument/AIS%2Bfor%2Bfishing%2Bvessels.pdf</a></p> <p>19The VMS definition is not specific enough leaving it open to interpretation. For example, under the current definition it could be argued that AIS could act as a VMS device. For a more detailed VMS definition, St Helena Government may wish to consider looking at the ICCAT definition of VMS: <i>A system for tracking the position and operation of fishing vessels electronically, with real-time data transmission via satellite.</i></p> <p>It should be noted that under ICCAT, the requirement for VMS only applies to commercial fishing vessels exceeding 20 metres, however St Helena Government may wish to apply this requirement to all fishing vessels.</p>	<p>future development of VMS for smaller vessels will make it a viable alternative.</p> <p>The following have been considered:</p> <ul style="list-style-type: none"> <li>• Retaining reference to VMS to futureproof bill.</li> <li>• Not requiring VMS on all vessels at this stage.</li> <li>• Making provision for A class transponders.</li> </ul> <p>The type of AIS required would be managed using licence conditions reflective of appropriate technology.</p>
19	Blue Belt	2.	<p>Fish Aggregating Device</p> <p>Currently the definition may be open to interpretation.</p> <ul style="list-style-type: none"> <li>• Consider removing ‘used to attract fish’. For example, could a device be deployed and then it be argued that its purpose is for mooring and therefore not attracting fish?</li> <li>• Would it be acceptable for 10 x 100cm buoys to be tied together as one FAD?</li> </ul> <p>Does this Ordinance pertain to FADs used to target ICCAT species only? Or, does this apply to both ICCAT species and non-ICCAT species? If the former, the IOTC definition may provide a template for a more specific definition:</p>	<p>See point 16.</p> <ul style="list-style-type: none"> <li>• The definition for a FAD has been amended in line with stakeholder feedback.</li> <li>• The regulation applies to all FADs regardless of the target species.</li> </ul>

		<p><i>Fish Aggregating Device (FAD) means a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed and/or tracked, for the purpose of aggregating target tuna species for consequent capture.</i></p> <p><i>Drifting Fish Aggregating Devices (DFADs) means a FAD not tethered to the bottom of the ocean. A DFAD typically has a floating structure (such as a bamboo or metal raft with buoyancy provided by buoys, corks, etc.) and a submerged structure (made of old netting, canvass, ropes, etc.).</i></p> <p><i>Anchored Fish Aggregating Devices (AFADs) means a FAD tethered to the bottom of the ocean. It usually consists of a very large buoy and anchored to the bottom of the ocean with a chain.</i></p> <p><i>Instrumented buoy means a buoy with a clearly marked with a unique reference number allowing identification of its owner and equipped with a satellite tracking system to monitor its position.</i></p> <p><i>Operational buoy means any instrumented buoy, previously activated, switched on and deployed at sea on a drifting FAD or log, which transmit position and any other available information such as eco-sounder estimates.</i></p> <p><i>Activation of a buoy means the act of initializing satellite communication service, which is done by the buoy supplier company at the request of the vessel owner or manager.</i></p>	
--	--	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

			<p><i>Deactivation of a buoy means the act of cancelling satellite communications service, which is done by the buoy supplier company at the request of the vessel owner or manager.</i></p> <p><i>Buoy owner means any legal or natural person, entity or branch, who is paying for the communication service for the buoy associated with a FAD, and/or who is authorized to receive information from the satellite buoy, as well as to request its activation and/or deactivation.</i></p> <p><i>Reactivation: the act of re-enabling satellite communications services by the buoy supplier company at the request of the buoy owner or manager.</i></p>	
20	NGO's	Objective	<p>It may also be useful to add some clearly defined principles for fisheries management, similar to section 5 of the Environmental Protection Ordinance 2016.</p> <p>The precautionary principle, best available techniques principle, polluter pays principle, and principle of intergenerational equity are all relevant to fisheries management. Together with the objective, these principles will help to interpret the ordinance.</p>	Following legal advice, the objectives and principles have been removed from the ordinance. They can be found in the Fishing Licencing policy (2020) which is relevant for public law decision making.
21	Blue Belt	Objective	<p>Why is the objective limited to mitigating harmful impacts to just by-catch species? What about potential damage/disturbance to benthic species from fishing activities or impacts to other marine species from 'ghost fishing' or indirect impacts through food web interactions? There is an assumption bycatch here refers to fish species as it then also specifically mentions mitigating harmful impacts to marine mammals and seabirds (although these could also be considered as bycatch species), but what about other</p>	Following legal advice, the objectives and principles have been removed from the ordinance. They can be found in the Fishing Licencing policy (2020) which is relevant for public law decision making.

			megafauna species such as marine turtles? Could the objective be simplified to “identify and mitigate harmful impacts on marine habitats and species”?	
22	NGO’s	Objective	This is the first and only time by-catch is mentioned. If it part of the Objective of this Ordinance, should there be more info on how this will be mitigated for?	Following legal advice, the objectives and principles have been removed from the ordinance. They can be found in the Fishing Licencing policy (2020) which is relevant for public law decision making.
23		Objective	Taken from the Marine and Coastal Access Act and modified - otherwise these objectives have no hook. Similar to section 6 of the Environmental Protection Ordinance 2016, “general duty regarding environment”	Following legal advice, the objectives and principles have been removed from the ordinance. They can be found in the Fishing Licencing policy (2020) which is relevant for public law decision making.
24		3.(2)(a)	What is the reason for 30nm limit for inshore?  UNCLOS territorial sea limit is 12 nautical miles for example.	This is stated in the Fishing Licencing policy (2020) as a result of consultation, and generally is a result of inshore vessel fishing range.
25		4.(1)(b)	If the board is giving scientific advice (e.g. on catch limits) it should probably be stipulated to have at least one fisheries scientist on the board, surely?	The board will be made up of a range of members and will be required to develop Terms of Reference that ensure all elements of fisheries management are considered before providing advice to decision makers.
26		4(2)(b)	Relevant to setting	Adopt typo correction
27	Blue Belt	4.(2)(b)	Should read ‘catch data and projections material <i>for</i> setting...’	Adopt typo correction
28	NGO’s	4.(5)	Binding fisheries management plans are quite normal - why is this a problem for the Board?  Who will hold ultimate responsibility for a decision if recommendations on reducing/increasing TACs are made?  The responsibilities of the CFO as laid out in his ordinance and the 2020 Fishing License Policy appear to make this point (5) redundant  Minutes from the Board meetings will be made public?	This level of detail is not required in the ordinance however:  <ul style="list-style-type: none"> <li>The board is advisory, and can submit advice and recommendation but ultimately the decision remains with Governor in council, legislative council, or relevant council committee.</li> <li>The board will be required to develop Terms of Reference that ensure all elements of fisheries management are considered in a fair and transparent manner.</li> </ul>



			<p>The Board will meet every quarter?</p> <p>If possible we there should be something that makes the recoemndations for tac levels etc. the highest that they can be - the legislation should allow them to go under advice but prevent them going over!</p>	
29	NGO's	6(1)(a)(ii)	This is an offence so no licenses and no need for transhipment fees	This has been altered to reflect the change prohibiting transhipment.
30		6(1)(b)(i)	<p>Could be better to say “ensuring the sustainable use of fish stocks while not causing lasting damage to marine ecosystems”</p> <p>Conservation and extraction through fishing can otherwise be considered contradictory</p>	This has been amended to make the wording more suitable.
31		6(1)(c)	<p>I believe this could explicitly state ICCAT for the purpose of St Helena's fisheries?</p> <p>From the FAO perspective, I also can't see another RFMO overlapping anytime soon, because the UN is not keen to further split up the oceanwide management pie into more, smaller management authority chunks.</p>	For the purposes of future proofing and making the ordinance more robust, we have elected to keep RMFO. Refer to the definition of RFMO.
32	Blue Belt	6.(1)(a)(ii)	See comment below on Part 9 Section 25. Pleas e amend wording to reflect whether a transhipment licence will be issued or not.	HMG advice to SHG is that ICCAT rules would not allow catch transfer even within the jurisdiction. Unless ICCAT reform the rule or SHG are content to become ICCAT non-compliant the transfers proposed would not be contemplated – despite the importance for commercial viability.
33		7. Fishing licences	Given the difficulty of enforcing labour laws on vessels flying under different flags, we would recommend that anti-slavery/forced labour conditions be made part of the licensing conditions.	This is primarily a fishing ordinance. If St Helena wishes to introduce anti-slavery and labour laws with emerging international norms this will be done under a separate ordinance.

34		7.(2)(a)(b)	Cultural consideration here but no consistency (i.e. recreational license if you have a vessel)	There are effective ways of regulating different sectors. It is more effective to regulate vessel fishing through licencing, whereas it is more effective to regulate rock fishing (where required) via Fishing Control Notices.
35	NGO's	7(2)(b)	that does not involve the use of a vessel	Adopt typo correction
36		8.(1)(d)(e)	Consistency with contents page and description of licenses below – i.e. that research license is not separate of Exploratory but falls under it	This has been updated during the final re-numbering of the ordinance
37		8.(3)	include “following evidence from the Advisory Board”.	This is not relevant for this decision
38	Blue Belt	8.(3)	This comment relates to the Policy rather than the legislation itself and provides several suggestions; we suggest that there needs to be something setting out how licences are issued and what criteria should be met. For example, is there ever likely to be a cap on fleet capacity, or is it simply a case that if you apply for a licence you get one? Is there anything around like-for-like swap? If there is a finite number of vessels licenced, does the licence become ‘owned’ by those who are granted a licence at the start of the regime, and therefore potentially tradable? Vessel replacement – could you get a licence for a small vessel and just automatically transfer it to a much bigger vessel?	The licensing system is ‘quota-led’, the systems envisaged deals with licence restrictions by conditions. Licences are non-assignable, non/tradable.
39	Blue Belt	9.(1)	You may wish to consider adding a line to say individuals under 16 years old are exempt. It is presumed that this is the position, unless individuals under 16 are precluded from fishing recreationally? From a policy perspective, there are some potential complications with licensing the individual, as opposed to the vessel, such as:	<ul style="list-style-type: none"> <li>• The approach is to licence individual licence holders to fish on specified vessel/s.</li> <li>• In the case of joint ownership licence may only be held by one owner, but may be used by other owners as masters.</li> </ul>

			<ul style="list-style-type: none"> <li>• Joint ownership – do both need a licence?</li> <li>• Is there a formal ownership record?</li> </ul> <p>Are there any requirements in terms of having a copy of the licence on board? Would a licence be transferable upon sale of the vessel? Some of these points may be covered in later sections, but it would be worth considering these in more detail to avoid complications during implementation.</p>	<ul style="list-style-type: none"> <li>• No requirement to carry the licence on-board; local vessels are not well suited to that.</li> <li>• The present intention is that those <b>under 18*</b> years would not be exempt. They may undertake traditional rockfishing and although cannot hold a recreational finishing licence could fish as passenger on a recreational vessel.</li> </ul> <p>*The ordinance has been amended to specify the age of 18 in line with policy.</p>
40	Blue Belt	10.(1)	<p>With reference to the following sentence:  “A sports fishing licence may be granted to a person (who, in the case of an individual, is at least 18 years of age)”  If the licence is granted to a person, then it has to be granted to an individual.  See previous comment in 10 (1). Similarly, are persons &lt;18 years old exempt or ineligible?  See previous comments in 10 (1) around joint ownership.  11(1) makes no link to a specific vessel – i.e. section 11(1) reads as though someone with a licence could go on any vessel, or does it have to be a vessel owned by the licence holder? Is that by design?  In reference to paying customers, are there circumstances where, for example, people have taken fish in return for, getting their house painted or car MOT’d, and no ‘payment’ has been made? We suggest that the sentence be expanded to “payment, or in exchange for goods or services” if this would be permitted.</p>	<ul style="list-style-type: none"> <li>• The approach is to licence individual licence holders to fish on specified vessel/s.</li> <li>• The present intention is that those under 18 years would not be exempt.</li> </ul>
41	NGO’s	10.(1)	<p>This seems to be the first instance of “angling” which has not been previously defined. As such, the simplest solution seems to be replacing the word “angling” with “fishing” here or elsewhere. This also helps by covering the whole suite of fishing activities.</p>	<p>The reference to angling has been removed and replaced with fishing. The intention was to potentially distinguish between sportfishing done by angling and sports fishing done by spear fishing as the quota &amp; management of these activities are different.</p>

42		10.(1)	Any reason for change in age from recreation for angling?	This has been changed to 18 years of age to be consistent with the Fishing Licencing policy (2020)
43		10.(2)	<p>You may want to be specific about whether a sports fishing licence allows for the sale of harvests. Provided they are fishing within their quota this may be ok to permit, noting that it often happens anyway and makes logical sense to aid the commercial viability of sport fishing enterprises.</p> <p>I however feel that pure “recreational fishers” should not be allowed to sell their catch, otherwise some usually commercialise their operations under the guise of recreational fishing</p>	<ul style="list-style-type: none"> <li>• In line with the Fishing Licencing policy (2020) fish caught from a sport spearfishing licence can be sold but fish caught from a sports angling licence can not.</li> <li>• This will be dealt with via licence conditions.</li> <li>• Recreational catches can not be sold.</li> </ul>
44	Blue Belt	Licencing	<p>See above – licence issued to person, not vessel, all previous comments on Sections 10 and 11 apply.</p> <p>Can a person have multiple licences e.g. a sports fishing boat selling the catch?</p> <p>Are there any age restrictions that apply?</p> <p>Are there any restrictions on where they can / can’t sell? Does it have to be e.g. to a registered buyer? Direct to the public?</p> <p>Does the licence holder need to be on board?</p>	<p>In addition to above considerations:</p> <ul style="list-style-type: none"> <li>• A person could hold multiple licences</li> <li>• Provided fish can be sold by the licence holder fisheries do not enforce where it can be sold, or register first-buyers.</li> <li>• Analogous matters are already dealt with in the Fish and Fish Products Ordinance.</li> </ul>
45		11.(1)	Any reason for not including an age restriction for commercial fishing as there is for recreational, sport and exploratory?	We have now updated the ordinance to cover this
46		11.(3)	Should this definition be included in the Interpretation section? And (for consistency) should a definition for Sports and recreation also be given, if rock fishing has been stated?	This definition only applies to this section of the ordinance and does not need to be added to the definitions. Sports and recreation are not required to be defined for the purposes of the ordinance.
47	NGO’s	11.(3)	You might want to change this to “trade”, as a means of avoiding the need to agree on a specific definition of what constitutes “commercial” (catch volume, fishing trips per year, harvest revenues etc), while also capturing opportunistic or barter trade that could otherwise subvert the intention of this section	We have now updated the ordinance to cover this.

48		12. Exploratory fishing licence	Given that this license holds the majority share of the Islands TAC for the vulnerable BET for example, the information pertaining to this license is rather scant. We would recommend a similar approach to detail as that for the research fishing license	Further details on this licence can be found in the Fisheries Licencing policy, but the necessary provision has been made within this ordinance
49		12.(1)	<p>Species CPUE, location, depth, time of year – not sure this phrase is necessary.</p> <p>Testing or experimenting of what? Seems slightly obsolete here</p> <p>I was of the understanding that Exploratory fell under Commercial TACs in the TAC table and therefore should it be noted that fish caught under the Exploratory License will be sold commercially?</p>	<ul style="list-style-type: none"> <li>• None of these phrases (CPUE etc.) are included in the ordinance.</li> <li>• The term testing or experimenting has been removed.</li> <li>• There is provision for fish caught under an exploratory licence to be sold commercially. This will be assessed on a case by case basis, and take into account best available data and other restrictions such as RFMO quotas.</li> </ul>
50	Blue Belt	12.(1)	<p>There needs to be greater clarity between an exploratory licence and a research licence.</p> <p>It is a little unclear as to the purpose of the exploratory licence. Will vessels operating under this licence be conducting commercial operations (i.e. selling the fish), whilst simultaneously undertaking scientific, stock assessment type work? If this is the case, then it may be easier to issue the commercial licence, and just provide dispensations against the aspects of the work that would otherwise breach the legislation. Alternatively, if the operation is a scientific endeavour, then this would be captured under a research licence. We feel that there is a risk in the way it is currently set up that it could be perceived as though a commercial fishery is being licenced under the auspices of scientific research.</p>	<ul style="list-style-type: none"> <li>• It is presently proposed that it be considered on application, on a case-by-case basis that fish caught by research licence or exploratory licence may be open to sale.</li> <li>• There is provision already at 13 that the CFO must be satisfied that such fishing is for a scientific, research or educational purpose.</li> <li>• Details on exploratory licences can be found in the Fishing License policy (2020)</li> </ul>

			If St Helena Government did feel that establishing a regime for issuing dispensations would be more appropriate, then the Blue Belt Programme could provide further advice around this.	
51	Blue Belt	12.(2)	<p>There needs to be an observer protocol or clear</p> <p>Was this not another purpose of the exploratory effort – i.e. the tagging programme which could not be completed for BET?</p> <p>Need to add the requirement for compulsory observer coverage for exploratory fishing – this also aids in differentiating this form of commercial fishing</p>	<ul style="list-style-type: none"> <li>• This section has been re-drafted taking into account all stakeholder feedback.</li> <li>• There is no absolute requirement for an observer, it is not feasible in both capacity or logistical terms. Non-compliance will be dealt with via a variety of enforcement methods</li> </ul>
52		13. Research fishing licence	<p>This was not included in the 2020 Fishing License Policy – needs updating</p> <p>would this be for research/ monitoring TACs?</p>	We acknowledge this, there are a number of instances where policy will need to be updated as a result of the drafting of this legislation and this will be considered by the relevant committee.
53		13 (1)	<p>Surely this applies to Exploratory fishing too?</p> <p>Why would Exploratory License not need to have oversight by the CFO and CEO?</p> <p>Particularly as the research license here falls as a subsection under exploratory fishing?</p> <p>Does a research fishing license apply to CAR programmes? (e.g. catch and release of fish instead of landing?) This wording implies a research fishing license only applies to landed/killed fish</p>	<ul style="list-style-type: none"> <li>• Research fishing has a scientific element that the Chief Environmental Officer may be able to assist with. Exploratory fishing is for commercial viability assessment and the licence is granted by the CFO.</li> <li>• Research licences are not a subsection of exploratory licences. The sections have been re-numbered in the final version of the ordinance.</li> <li>• For catch and release (CAR) programmes a licence is required to fish. This is because the act of fishing requires a licence regardless of catch mortality</li> </ul>

			The research license sits under Exploratory fishing – in which fish can be sold commercially, therefore the needs to be an explicit mention here that fish under the research license must not be sold if that is the intention.	
54	13. (3)	Will a Research Fishing Licence be issued instead of or in addition to a Research Permit from the St Helena Research Institute (SHRI).  It is currently necessary to obtain a Research Permit from SHRI in all research cases, so the legislation pertaining to that must be closely scrutinised to ensure the 2 licences do not conflict.  There is no exclusion of the sale of fish under this license – should this be explicitly included?		<ul style="list-style-type: none"> <li>• A research licence from SHRI will still be required when applying for a research fishing, it will be required when applying for an exploratory licence for protected EPO species.</li> <li>• Points noted about SHRI.</li> <li>• The sale of fish will be considered on a case-by-case basis.</li> </ul>
55	9 to 16	Broader comments on all the licences: Do the licence and current licence conditions need to be held on board at all times? In the UK, this is covered in licence conditions as opposed to the legislation. These require the licence to 1) be carried on board the vessel to which it relates and 2) be produced to an enforcement officer on demand; or be presented to an enforcement officer within 5 working days of a request. As noted in comments on Section 13 (1) above, St Helena Government might wish to consider including a provision for dispensations, which would potentially negate the need for the exploratory licence. St Helena Government might wish to consider a provision for notices to be given to a nominee, for example: <a href="https://www.legislation.gov.uk/ukpga/1967/84/data.pdf">https://www.legislation.gov.uk/ukpga/1967/84/data.pdf</a> It is not clear how the fleet will be notified of any licence variations. See for example:		<ul style="list-style-type: none"> <li>• These issues dealt with above in the above points.</li> <li>• The provision for nominee / delivery of notices to licence holders can be given in regulations.</li> <li>• Section 38 deals with the production of a licence.</li> <li>• The remainder of the questions are dealt with via the Fishing Licencing policy (2020) and the Compliance and Enforcement strategy for Marine operations on St Helena (2020).</li> </ul>

			<a href="https://www.legislation.gov.uk/ukxi/2012/827/data.pdf">https://www.legislation.gov.uk/ukxi/2012/827/data.pdf</a> for possible transposable examples.	
56		12 and 13	Why are these sections numbered in this way?	These have been renumbered on the final draft of the ordinance.
57		13. (1)	<p>There is a lack of clarity around a research licence. A research fishing licence may be granted to fish for species “not listed as protected species in the EPO”. Schedule 2 of the EPO includes important commercial species such as bigeye tuna, spiny and slipper lobster as well as St Helena’s endemic fish species. What happens if SHG wants to do scientific research on these species that may involve taking samples? Can this not happen, or would they instead need to apply for a licence for scientific purposes under section 25 of the EPO?</p> <p>The introductory note suggests that a schedule 2 licence would be issued under the EPO by the Chief Environment Officer, but it is not clear.</p>	<ul style="list-style-type: none"> <li>• We acknowledge this, there are a number of instances where policy will need to be updated as a result of the drafting of this legislation and this will be considered by the relevant committee.</li> <li>• The EPO criminalises the killing / harming of certain species unless by licence. The Fisheries Bill criminalises fishing (except traditional rock fishing or by fishing by licence).</li> <li>• To research for a non-EPO species then a person could use any other catch or licence they had or that was available to them but otherwise would have to apply for a research licence which would take them out of quota competition with commercial or recreational fishers.</li> <li>• To research-fish for an EPO species a person would need an EPO licence to kill, harm or disturb the fish and, by 13 (3) of the draft Fisheries Bill that EPO licence will be considered a Research Fishing Licence so no further permission is needed to fish in the fisheries limits.</li> </ul>
58	NGO’s	13.(1)	Would like clarity/confirmation that “permitted fishing methods” cannot enable fishing for tuna with non one-by-one gears under this permit. I read this as “permitted” meaning only the gears already allowed for use within the St Helena EEZ?	<ul style="list-style-type: none"> <li>• Research fishing is limited to the already permitted methods detailed in section 17; which (save for droppers &amp; handheld net) are one-by-one methods.</li> </ul>



			If not, then please confirm and let's discuss further asap.	<ul style="list-style-type: none"> <li>Spearfishing is a permitted method but is subject to additional rules in that scuba-spear-fishing is banned unless permitted for a research purpose.</li> </ul>
59		13.(2)	<p>May be important to provide a component here on whether or not harvests made under a exploratory license can or cannot be traded/sold/commercialised.</p> <p>It is often the case that test fishing harvests are sold to recuperate fishing costs and/or define the commercial viability of a fishing opportunity, but up to you on how this may be specified here.</p>	<ul style="list-style-type: none"> <li>The sale of fish is to be dealt with on a case-by-case basis by licence conditions.</li> </ul>
60		13.(1)	Suggest "commercially harvestable quantities" here, while otherwise noting that a single fish is technically "harvestable"	The wording has been changed to address this point.
61		13.(2)	Repetition of "that" here	Adopt typo correction
62		13.(3)	Might also want to be explicit about the potential for selling/commercialising the harvests resulting from such research fishing. This practice has been commonly used to recuperate costs or help pay for lost fishing time by the owner of an engaged commercial vessel, when I've done fishing trials elsewhere.	The sale of fish is to be dealt with on a case-by-case basis by licence conditions
63		14.	<p>What is the process if a vessel wants to hold multiple licences which apply to the same vessel?</p> <p>Why does 14 (2) only apply to Section 11 (sports licences)?</p> <p>Would this not be relevant to all licences?</p>	<ul style="list-style-type: none"> <li>A licence holder may hold different types of licence for the same vessel.</li> <li>Sports fishing sector is treated differently as it is the only sector that has a 'whole sector quota' (i.e., not boat quota or bag limit).</li> <li>It is not wished for the sector to be dominated by an artificial race for quantity of boats.</li> </ul>
64		14.(3)	Again why age should probably be included for Exploratory and research licenses?	It has been amended to be include this for all licences.
65	Blue Belt	14.(3)	This sections states 'A licence granted to a corporate or statutory body must specify a nominated individual' – does	This section is considered appropriate.

			<p>this person have to be a named director of the company or could it be anyone (e.g. an agent) with no corporate responsibility in respect of the company that owns the vessel? This currently suggests that a company could specify anyone as the nominated individual, enabling the people who actually control the fishing operations, to essentially be removed from any immediate liability from those who control the company. All of the licences (Sections 10 - 13) refer to the licence being issued to a person and make no provision for issuance to a corporate or statutory body. We therefore presume that the individual (who may or may not be related to the company who owns the vessel) assumes responsibility for it.</p>	
66	NGO's	15.	<p>This seems contrary to Part 2; Subsection 5 (5) where the Governor and Council can essentially treat CFO and Advisory board recommendations as advice only and non-binding.</p> <p>Think there needs to be clearer separation of authority/responsibilities.</p>	<p>There are actions that appropriate for the CFO undertake and it is felt that the ordinance clearly defines these powers. The governor in council will be consulted when the consequences of the action fall outside the CFOs responsibilities.</p>
67		16.	<p>We were unaware that licensing of foreign vessels was consulted on.</p> <p>For years, reduced throughput has been the go-to reason for the factory not succeeding. Would it therefore not be prudent – particularly in light of the 2 year exploratory phase – that there be a clause that states all landings should go through the factory?</p> <p>It seems odd to allow licensing of foreign fishing vessels with no stipulations whatsoever for bringing all, if not some of the landings through St Helena.</p> <p>As previously, for foreign fishing vessels, there should be conditions in the licenses that prohibit slavery/forced labour etc.</p>	<ul style="list-style-type: none"> <li>• Licencing of foreign vessels is clearly detailed in the Fishing Licencing policy (2020) and Policy statement for the management of St Helena's fisheries (2020) that were extensively consulted prior to their endorsement in April 2020.</li> <li>• This is primarily a fishing ordinance. If St Helena wishes to introduce anti-slavery and labour laws with emerging international norms this will be done under a separate ordinance.</li> </ul>

			<p>If a vessel has breached International Labour Standards in the past, and these were included in their licensing conditions for St Helena, then this can justify a licence not being renewed.</p> <p>Can foreign fishing vessels apply for exploratory licenses?</p> <p>Furthermore, if landings from foreign fishing vessels is required under the licence conditions this also benefits St Helena from the human rights and anti-slavery perspective as thorough checks can be conducted once the vessel is in port with its landings.</p>	
68	Blue Belt	16.(a)	<p>The applicant must demonstrate that the foreign fishing vessel has provided or will provide local crewing positions open to persons in the St Helena labour market. There are a number of queries around how this will work:</p> <ul style="list-style-type: none"> <li>• Could they advertise a role and still fish if no one from St Helena was appointed?</li> <li>• What terms and conditions would be attached to the role?</li> <li>• What are the payment expectations and how will this work if the wage share is based on vessel catch?</li> <li>• What is the duty of care? What happens if someone from St Helena gets injured on a vessel either because the vessel is required to employ someone, and that person doesn't have proper experience, or the vessel is unsafe? Who is liable?</li> <li>• Can the St Helena employee be sacked if they have been guaranteed a job under legislation?</li> </ul>	<p>Consider:</p> <ul style="list-style-type: none"> <li>• Some of the scenarios raised are straightforward as usual provisions apply (I.e., payment, duty of care, dismissal, if vessel breakdown etc).</li> <li>• If local crew member were dismissed operator would confirm to CFO success or otherwise in recruiting replacement.</li> <li>• The broader point is perhaps that s 16 is in present policy but is difficult to implement perfectly; as drafted the law provides a way to implement this intention.</li> </ul>

			<ul style="list-style-type: none"> <li>What happens if the vessel breaks down/doesn't fish?</li> </ul> <p>This was previously flagged in in the Blue Belt response to the St Helena Fishing Licensing Policy (13<sup>th</sup> September 2019).</p>	
69		16.(b)	<p>The CFO may refuse a licence for fishing within the inshore fishing zone unless it is demonstrated that local licensed fishing boats will not be able to meet the catch potential for the fishery in that zone. Some further clarification might be needed on who should do this and how this information should be fed into the decision-making process.</p> <p>A licence may be refused for fishing within the inshore fishing zone, unless it is demonstrated that local licensed fishing boats will not be able to meet the catch potential of the fishery in that zone – who would need to demonstrate this: the applicant or SHG? How would the applicant demonstrate this?</p>	<ul style="list-style-type: none"> <li>The catch capacity of local boats is considered &amp; determined by CFO supported by the advisory board.</li> <li>The conditions for the access to the fishery are detailed in the Policy statement for the management of St Helena's fisheries (2020).</li> </ul>
70	NGO's	16.(b)	<p>Why is this specified to only apply to the inshore fishing zone? The CFO should be able to refuse or revoke licensing throughout the EEZ if deemed necessary, and in the local public interest, to do so. Vessels fishing anywhere within the St Helena EEZ should either be flagged to St Helena or should only enter under the auspices of a specific fishing agreement. I would further suggest that any such agreement also requires the carrying of local Observers at all times and all harvests should be landed at the local factory(s). This could actually help improve the cost effectiveness of land based processing, and export market opportunities if done properly.</p>	<ul style="list-style-type: none"> <li>The intention in the present Fishing Licencing policy (2020) is that limiting this to the inshore fishery has relevance as the range of most local boat is limited to the inshore fishery.</li> <li>There is no absolute requirement for an observer, it is not feasible in both capacity or logistical terms. Non-compliance will be dealt with via a variety of enforcement methods</li> </ul>
71		17.	<p>Is this not the max size recommended by martin Collins RE the most appropriate sized vessels for St Helena's fisheries?</p>	<p>This is a policy matter, section 17 deals with fishing methods, reference section 9.10 of the Fishing Licencing (2020) policy.</p>
72		17(a)	<p>No reel, so think best to replace this with "retrieved"</p>	<p>Adopted suggestion</p>
73	Blue Belt	17.(a & c)	<p>Definition (a) and (c) appear to contradict each other.</p>	<p>They do not contradict because multiple hooks/droppers are a permitted method in respect of bait fish and ground</p>

				fish, but not pelagic species. 17 (c) has been updated amended for clarity.
74	NGO's	17(b)	Paragraph to be reworded.	We have amended based on stakeholder feedback
75	Blue Belt	17.(d)	Delete 'so'.	Adopted suggestion.
76	NGO's	18.(1)	Why the upper limit and not the precautionary approach? They are not mutually exclusive however, therefore see proposed inclusions below:	A TAC is an upper limit set using the precautionary approach. It is not for the ordinance to set specific TAC limits, only to provide the provision to set them.
77		18.(2)	<p>This section needs a little clarity – this could be read that if anecdotal reports say there are thousands of fish out there that catch limits could be increased which would obviously be highly damaging to stocks.</p> <p>Anecdotal reports should only be used as a precautionary approach to reduce catch limits where reports suggest a reduction in fish numbers (though this could be open to scrutiny so should stipulate catch limits will be reduced as a precautionary, whilst scientific data is collection and analysed).</p> <p>Needs more work and calculation but in line with spatio-temporal management zones under the MMP, closed areas and fisheries should be included in such an ordinance if the evidence calls for this.</p>	The wording has been changed to introduce clarity for this section. The requirement is to consider the best available information and what weight is attached to anecdotal evidence will depend on the circumstances.
78	NGO's	19.(1)	<p>It isn't completely clear how a control notice differs to a licence variation.</p> <p>This section currently prescribes how a control notice would be used. There is a risk this may limit their use.</p>	Control notices apply to licensed and un-licensed fishing (I.e., apply to traditional rock fishing).
79		19.(2)	<p>This section infers that the onus is on SHG to ensure the fleet get the messages, whereas it should be the other way around. It is the responsibility of all licence holders to ensure compliance with any licence conditions.</p>	<ul style="list-style-type: none"> <li>• It is the licence holder's responsibility to ensure they comply.</li> <li>• The Marine enforcement section are content to send letters as described.</li> </ul>

				<ul style="list-style-type: none"> <li>• Publicity in newspapers is important considering some reasonable effort is required to reach traditional rock fishing.</li> </ul>
80		20.(1)	<p>An overall caution here that FADs tend to do more damage than good. Their deployment tends to be a short term plaster action in response to broader stock overfishing. The increased proportions of juvenile yellowfin and bigeye tuna typically aggregated/captured around FADs is also a concern for stock health. My personal suggestion would be to ban FADs altogether within your waters, while leveraging this to help fishers get a better price from their fish in foreign markets by marketing themselves as one of the most responsible fleets in the Atlantic (one-by-one and genuinely FAD-Free)</p> <p>If you choose this route, it would be important to use the FAD definition I provided (or something similar) to ensure single buoyed moorings or markers (without any aggregator materials added to their anchor line) are dealt with separately – largely because their intent of deployment is not to aggregate fish for subsequent capture. I’m happy to further discuss this with you if preferred.</p> <p>Of course the section can quite safely stay in regardless, provided the CFO is fully informed and aware of the consequences of allowing local FAD deployments.</p>	<ul style="list-style-type: none"> <li>• The use of FADs will be regulated via the FAD management policy and licences with conditions.</li> <li>• The definition for a FAD has been amended in line with stakeholder feedback.</li> </ul>
81		20.(2)	<p>How will the fee be prescribed?</p> <p>Might be simplest to prescribe the fee here and now if feasible?</p>	<p>The fee will be prescribed by ordinary use of regulations</p>
82		20.(5)	<p>To be reworded to ensure at 20(4) that any permitted replacement of FAD will be limited to a size and design equal to the originally permitted device.</p>	<ul style="list-style-type: none"> <li>• The definition for a FAD has been amended in line with stakeholder feedback.</li> </ul>

				<ul style="list-style-type: none"> <li>The use of FADs will be regulated via the FAD management policy and licences with conditions.</li> </ul>
83	NGO'S	20.(5)	<p>Should stipulate that the FAD applicant is responsible for the maintenance of any such device and removal of the device at the end of the licence period if it is not renewed, to avoid ghost fishing.</p> <p>Should state which regulations.</p>	<p>Removal has been added to the ordinance in section 20 (1) and maintenance will be dealt with via licence conditions.</p>
84	Blue Belt	20.(5)	<p>It may be helpful to define the regulation under which FADS need to be marked.</p> <p>A full stop is needed at the end of the sentence.</p>	<ul style="list-style-type: none"> <li>This would follow in ordinary use of local regulations (I.e. it is not intended to import any regulations or requirements but will set our own) and maritime law.</li> <li>Added full stop as suggested.</li> </ul>
85	NGO's	20.(6)	<p>Propose rewording include new</p> <p>'(6) Only FAD designs that contain no netting, or other meshed materials, while also following other non-entangling design advice and being made of biodegradable materials to the extent feasible will be permitted'.</p> <p>If you choose to retain the option of legal FAD deployments in St Helena, this would become an important addition. On a global scale, NGO'S is pushing these things firmly onto the drifting FADs deployed by industrial purse seine fleets. It will be hypocritical of NGO'S to then advocate for a one-by-one tuna fishery not doing the same. Regardless of NGO'S, the political pressure being imposed on these issues, because of the massive pollution and ghost fishing caused by FADs on a global scale, means I would again suggest it's simplest to just not enable the development of a FAD fishery in your waters.</p>	<ul style="list-style-type: none"> <li>The definition for a FAD has been amended in line with stakeholder feedback.</li> <li>The use of FADs will be regulated via the FAD management policy and licences with conditions.</li> </ul>

86	Commercial Fishing	20.	I have about 8 single buoys located around the coastline which I use mainly for bait purpose but 1 is also at a deepwater ground with a mast attached. Is this classed as a FAD and do I need to have permission for these?	Single moored or anchored buoys with no further aggregating materials would not be considered FADs.
87		21. Snorkel	You don't breathe air through a snorkel if completely submerged – only when partially submerged at the surface	Amendments have been made to reflect this.
88	Blue Belt	21.	Closed season - Does that include the days of the 1 <sup>st</sup> January and the 31 <sup>st</sup> March?  A “snorkel” is defined as a device comprising a tube not more than 18 inches long – this seems very specific; what happens if someone used a snorkel more than 18 inches long? Could someone make one just to go speargun fishing in the closed season?	<ul style="list-style-type: none"> <li>• For clarity, the ordinance now refers to 1 Jan - 31<sup>st</sup> March inclusive.</li> <li>• The definition for snorkel has been removed.</li> </ul>
89		22.	Should there be inclusion of the prohibited or restricted areas here for clarity?  And a stipulation referring to section 19 – Fishing Control notices? In 19, the CFO can determine/change spatio-temporal restrictions, yet here it is the Governor in Council.  We would suggest streamlining/better continuity	<ul style="list-style-type: none"> <li>• Noted, this be part of regulations/orders attached to the ordinance.</li> <li>• Fishing Control notices are purely a fisheries management issue. Prohibited areas for spear guns are potentially a broader issue so is left to Governor in council.</li> </ul>
90		23.	Remove “for the purpose of” and change to ‘cannot be in possession of’. Consider rewording this section to make it more enforceable, for example: a) while equipped with scuba equipment, use or have in possession a spear gun in the fisheries limits; b) while equipped with a snorkel, use or have in possession a spear gun in the fisheries limits during a closed season.	Wording has been adopted



91	Sports Fishing	23.	Can consideration be given to undertake spearfishing activities for <b>pelagic species</b> during January to March (the closed season). Commercial fishing for pelagics take place during this time so why can't spearfishing?	This is contrary to agreed policy. Policy, management plans and law to be reviewed regularly. Suggest revisiting the issue at review.
92	NGO's	23.(1)(b)	Does this create a loophole that allows people to spearfish within the closed season if done without a snorkel?	Amendment has been considered and resolved.
93		23.(1)(c)	Was this not 50m stipulated elsewhere? I may be wrong, if so ignore.	N/A
94		23.(1)(c)	More clarity is needed to explain what the intent is of part (c) and what it hopes to achieve.	(c) is existing law. Is intended to prohibit speargun possession on or near the sea in the closed season.
95		23.(1)(d)	How would one legally proceed through James Bay/wharf area (prohibited) in possession of a spear gun, if intending to use the spear gun outside of the prohibited area? According to 23.(2) anyone boarding a vessel in James Bay to spearfish elsewhere would be contravening this legislation.  This came up recently in discussion with a member of the community at the wharf steps in James' Bay	The revised ordinance provides provision at section 73(3) and 73(4) that allows transit purely for the purpose of conveying a speargun through a prohibited area.
96		23.(1)(d)	A person does not commit an offence under section 23(1)(d) if the person has a spear gun in his or her possession on a vessel solely for the purpose of conveying the spear gun through a prohibited area to an area that is not a prohibited area. This needs rewording to make it enforceable. Currently it seems to suggest that anyone who gets caught with a spear gun in their possession could simply state they were transiting to where it is not prohibited.	This is not so; section 73(3) and 73 (4) refers to defence being available if defendant can prove the defence.
97	NGO's	23.(2)	So guns/lances etc cannot be stored on boats?	No, this is not permitted during the closed season
98	Blue Belt	23.(2)	This is a deeming provision - consider whether it opposes the fundamental principle of innocent until proven guilty. Is it proportionate? See also 73 (4) regarding burden of proof on defendant.	This is a fairly usual reverse burden of proof in criminal law when using a statutory defence. In this situation the evidential burden rests with the defendant on the balance of probabilities.

99	NGO's	23.(2)	Of all ?	If a speargun(s) are found on a vessel during a closed season, all person(s) are deemed to be in possession.
100		24.(1)	Qualified in what areas? Fishing? Fisheries science? Safe spear gun use? Needs clarification	The criteria has been simplified and the text amended so that the CFO considering all the circumstances may grant approval if appropriate.
101	Blue Belt	24.(1)	Approval may be granted to carry on activities which otherwise would be in contravention of section 23, if they are for scientific purposes. This relates specifically to speargun fishing but needs additional clarity to determine if the approval process is different from the research fishing licence described in Part VI 13A?	Explanation can be provided but clarification may not be necessary.  In practice research fishing (or EPO research) will require a licence. If proposal is for scuba-spear fishing then accompanying permission may be given or sought in respect of this section.
102		24.(2)	Surely this should be required for approval, regardless?	Yes, this is why it is included in the ordinance.
103		24.(2)	A person who is granted approval to conduct research must submit a report setting out the number and types of marine specimens collected. More clarity is needed to set out what is required. Does this mean that the applicant should submit a description of the intended work as part of a licence application (so that the CFO can consider the application fully prior to approval) or that the applicant should submit a report after the work is complete to provide evidence in line with any conditions on the licence? Both are recommended.	<ul style="list-style-type: none"> <li>• This section reflects existing law.</li> <li>• In practice similar will be required by Research Licence conditions.</li> </ul>
104		25.	Transshipment approval will only allow transshipment for single instances and under exceptional circumstances. There needs to be greater clarity around what constitutes 'exceptional'. "Does this explicitly mean <i>force majeure</i> or are there other circumstances that could be considered as 'exceptional'? See Article 4 (2) for an example, which refers to Article 18 of UNCLOS: <a href="https://www.legislation.gov.uk/eur/2008/1005/data.pdf">https://www.legislation.gov.uk/eur/2008/1005/data.pdf</a> . This could form the basis of a definition if it is restricted to <i>force majeure</i> or distress.	<ul style="list-style-type: none"> <li>• Amended, changes have been made to follow the 2017 ICCAT recommendation.</li> <li>• HMG advice to SHG is that ICCAT rules would not allow catch transfer even within the jurisdiction. Unless ICCAT reform the rule or SHG are content to become ICCAT non-compliant the transfers proposed would not be contemplated – despite the importance for commercial viability.</li> </ul>

		<p>There needs to be greater clarity around what constitutes a single instance e.g. a single ship to ship transfer or a single operation.</p> <p>As there are such stringent requirements for transshipment, the approval process needs to be more robust and prescriptive. An approval should state:</p> <ul style="list-style-type: none"><li>• The amount of notice needed.</li><li>• The parameters of the transshipment which may include (but are not limited to):<ul style="list-style-type: none"><li>○ the area within which it may occur;</li><li>○ the periods or times when transshipment may or may not occur; and</li><li>○ the species and quantities of fish.</li></ul></li><li>• How the notification and approval should be made – for example, electronically or verbally, and the associated timescales.</li><li>• The notification or reporting requirements.</li></ul> <p>Section 7.1a (ii) refers to charges associated with a transshipment ‘licence’. However, this section (25) refers to an ‘approval’. The wording should be made consistent throughout the Ordinance. Section 7.1a states that the CFO is responsible for “...charging fees in respect of fishing licences and <u>transshipment licences</u>”. Should this therefore be changed to ‘approvals’? Would you need to pay for an approval if it was an exceptional circumstance? Or does approval from the CFO culminate in the issue of a transshipment licence? If the latter, should Section 9 be amended to reflect that a transshipment licence may be granted? Or should section 7.1a simply read “charging fees in respect of fishing licences”?</p> <p>We suggest a provision is added to exclude James Bay and Ruperts Bay from Section 25(1). This would however need to</p>	
--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

			be tightly worded to clearly define the parameters of transshipment within the port areas.	
105		25.(1)	How will you monitor/enforce that only bait fish is coming on board and not catch being off loaded. Must stipulate that any transshipment but have observer presence. Will cameras be used on board for monitoring?	This relates to small amounts of bait being transferred amongst the inshore fleet. It would not be pragmatic for every inshore vessel to have an observer so will be dealt with via a range of enforcement methods.
106		25.(2)	Such as? What would these be?  Should stipulate here there would be a charge if permitted but not sure what circumstances would justify transshipment?  Should also learn from previous cases (i.e. vessels claiming they have broken down and must tranship their catch to another vessel to be taken back to SA and not landed on St Helena).	This section has been removed.
107	NGO's	25.(1) and (2)	I believe [REDACTED] plans to use a freezer vessel, which means that transshipment of tuna catch will be critical to enabling their proposed operating model. Provided there is an observer present on each of the involved vessels, and the catch is ultimately landed at the local facility, then allowing such transshipment may be important to the commercial viability of the fleet, which is already hampered in its international market competitiveness by relatively small volumes and remote location.  If you would like my help with example text that covers the intent of disallowing harmful transshipments that could enable the transfer of fish from your EEZ to foreign vessels, but enabling well managed & Observed local transshipments, then I can get some example text from elsewhere for you. Feel free to make such a request to roy.bealey@NGO's.org.	See response to point 104

108	Commercial Fishing	25.(1) &(2)	<p>Trans shipment is the transfer of fish from one vessel to another where that collected fish is then transported to a foreign territory for processing. When two vessels from the same territory move fish between vessels that will be transported to a facility in the same territory then according to my understanding it's not considered to be "trans shipment" of product. In other countries with similar fisheries like the Maldives they state in their legislation the following: "<i>(f) Transshipment - NO fish shall be transhipped form or to another vessel except, to a collector vessel authorized to operate within the territory of the Maldives through an applicable regulation or management plan.</i>"</p> <p>Would you be able to include/draft such "<i>applicable regulation or management plan</i>" that would allow for this operation offshore?</p>	See response to point 104.
109	Blue Belt	26.(1)	<p>Suggest changing enforcement officer to fisheries protection officer or vice versa. It may appear confusing to have 2 definitions.</p> <p>Justice has the meaning given by section 30(5). There is no section 30 (5) within the draft Ordinance.</p>	<ul style="list-style-type: none"> <li>• The CFO is not a Fisheries Protection Officer. CFO and Fisheries Protection Officers are each Enforcement Officers. The two definitions are required so that the CFO has fisheries protection officer powers but remains a separate entity.</li> <li>• The reference to justice has been removed.</li> </ul>
110	NGO's	26.(1)	Not [REDACTED]?	Enforcement Officers will be designated on commencement of the ordinance.
111		26.(1) Justice	This section does not exist	Amended
112		26.(1) Relevant offence	An enforcement officer? CFO?	Amended
113		28.(4)	<p>Does "land" include permanent or temporary terrestrial buildings?</p> <p>Given 30 (1) states a need for a warrant to enter dwellings, does "dwelling" need to be specified? For example would a bed make a place a dwelling? This would enable this caveat to</p>	Yes, land includes temporary or permanent terrestrial buildings that will constitute premises. A dwelling is a matter of fact and degree that may be determined by a court.

		protect properties from enforcement officer powers. Or is a dwelling only a property on St Helena with a listed permanent occupant? Would empty homes still be 'dwellings' requiring a warrant? This could have implications if a business were to buy a house in Ruperts for storage, for example.	
114	31.(4)	? and/or seize any dead animal or take a sample (as assume it will mostly be dead fish catch?)	This is captured by 31 (3).
115	31.(5)	Limits to this? In theory, as this isn't mentioned in section 29, this would include the power to break open a vehicle, for example, or a dwelling (with a warrant).  If there are limits to this power that aren't explicitly disclosed then they don't exist.  Who would cover cost of damages? In the case of an eventual conviction, or legally declared innocence?	The limit on this is what is considered reasonable and will be judged by a court.
116	31.(10)	And at mature life stages? Living or dead?  Does it include other objects, such as fishing equipment, or only documents, animals and samples?	The definition is normal use of language for the word animal or item, plus whatever else is specified.
117	34.(1)(b)	Do we mean a 'shipping container' specifically or any method of storage or containment such as a box? Perhaps "container" should be clarified with a glossary type entry as with other terms.	This is ordinary use of the word container regardless of size.
118	38.(2)	Are there limits to this? i.e. a minimum or maximum timeframe within which produce the licence in question, or a specific location at which or person to whom to produce the licence?	The limit on this is what is considered reasonable and will be judged by a court.

119	39.(2)(a)	Add: The person to whom any licence has been issued	This is not appropriate; the licence holder may not be present.
120	40.(4)	Legally in charge or in practice? Considering for example a situation where the legally responsible person is for any reason not present/on board.	The section is intended to cover the person factually in charge (rather than legally in charge).
121	41.(1)(a)	Literally 'any'? Are there minimum requirements, such as employment within Civil Service or something, or could it just be a friend?	Yes, any, there are no minimum requirements.
122	45.(6)	Interested/affected by/referred to within?	Interested in the ownership.
123	50.(1)(d)	And Any person so named in any licence	Not required.
124	53.(1)	with proceeds going XX?.	This is dealt with in section 53 (5) and 53 (6).
125	53.(1)	I have seen instances where this is abused, so it may be important to explicitly stipulate where the financial proceeds of such sales will be permitted to go. Often goes into a consolidated or maintenance fund with strict controls. Proceeds can otherwise go back to the prior owner, if not ultimately convicted	This will be dealt with via SHGs existing financial regulations, provision is already made for this.
126	53.(6)	This is highly subjective - surely this has to be providing it is on Government business  As above – does it need to be stipulated that proceeds from an sale of seizures is property of SHG and not the personal property of the CFO, and that the manners in which the CFO may see fit to apply the proceeds are restricted to a specific number of permissible actions?	<ul style="list-style-type: none"> <li>• This provision overall is to sell fish and hold money for return to owner or forfeiture by a court.</li> <li>• This will be dealt with via SHGs existing financial regulations, provision is already made for this.</li> </ul>

127		53.(10)	The Chief Fisheries Officer may, on production of a valid expenses form/proof of expenses, deduct any reasonable expenses he or she has incurred in selling any fish under this section from the proceeds of the sale.	The existing wording is felt to be sufficient.
128		54.(7)	Again this is a bit general – assume they can't just give it to a mate/colleague? Would expect more clarity within an Ordinance of this magnitude	<ul style="list-style-type: none"> <li>• This will be dealt with via SHGs existing financial regulations, provision is already made for this.</li> <li>• What is deemed fit will be subject to public law tests of reasonableness and can be challenged.</li> </ul>
129		55.(1)	Not used the term sea fishing anywhere else in document	Amended.
130		55.(3)	Again as above	What is deemed fit will be subject to public law tests of reasonableness and can be challenged.
131		56.(3)	Again as above	What is deemed fit will be subject to public law tests of reasonableness and can be challenged.
132		58.(6)	Again term not used in rest of document – only “fishing”	Amended.
133		60.(1)	Quick note that an option to turn seized vessels into artificial wrecks under certain circumstances can prove beneficial to government (otherwise left with mooring or other fees) and citizens (fishers, scuba divers, tour operators) alike.	This section deals with detention not forfeiture. The general point is noted.
134		63.(2)	In St Helena?	Amended.
135		65.(1)	Chapter or Part?	Amended to Part.
136	Recreational Fishing	69.	I doubt you can write this into your law, if an officer commits an offence – for instance ‘common assault’ or ‘aggravated assault’ or damage to property for instance when trying to board a boat while at sea then an individual can seek justice under our laws which cannot be circumvented by your fisheries bill saying no one can be taken to civil or criminal court!	<ul style="list-style-type: none"> <li>• This broadly reflects existing St Helena and UK law. See subsection 69 (3) officer are only void of liability if actions are reasonable and in good faith.</li> <li>• Liability for damages committed in good faith (accidentally) would sit with SHG, rather than the individual.</li> </ul>



			Where is the scientific data to show that we need this level of monitoring? Where has the imperative being adequately demonstrated for such draconian rules & regulations to be required?	<ul style="list-style-type: none"> <li>St Helena has a duty to manage its resources as part of its IUCN Category VI sustainable use Marine Protected Area (MPA). Monitoring and enforcement are a key part of ensuring that this is achieved and needs to be adequately reflected in law.</li> </ul>
137	Blue Belt		Details of fines and imprisonment are not included. This section should state that fines and imprisonment are upon summary conviction. Does there need to be reference within the Ordinance to allow for financial penalties?	<ul style="list-style-type: none"> <li>Financial Penalties will include Fixed Penalty Notice.</li> <li>Offences cover a great range on low level incidental breaches to large scale commercial / criminal activity. Accordingly, offences will be either way (I.e. summary and on indictment).</li> </ul>
138	NGO's	71. Offences	This would perhaps go better as Part 10 before enforcement/appeals etc especially as it refers to sections much earlier in the document – e.g. see 71 referring to section 8  Should have a provision that if a fishing vessel is within the St Helena fisheries limits but is not reporting its position via AIS it will be considered to be taking part in IUU	<ul style="list-style-type: none"> <li>Noted, but we will stay with the current format.</li> <li>AIS can be inactive for innocent reasons</li> </ul>
139		71.(1)(2)(3)	Doesn't this need to be completed?  There is also the prospect of opening civil penalties here – not just the sale value of the stock but the damage to the fishery done by its extraction which may be greater.  More here:  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948367/The_Offshore_Environmental_Civil_Sanctions_Regulations_2018_Guidance_Document__002_.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948367/The_Offshore_Environmental_Civil_Sanctions_Regulations_2018_Guidance_Document__002_.pdf</a>	<ul style="list-style-type: none"> <li>This section has now been completed.</li> <li>Levels of fines should be able to reflect the levels of harm overall.</li> </ul>
140	Blue Belt	71.(3)	71 (3) – Is this necessary? We can't quite think of a situation whereby this wouldn't be captured by 71 (1) and 71 (2).	71(3) is intended to separate offence/conduct for fishing without a licence and the arguably less serious) offence

			71 (4) implies that an owner would only be liable in the event that the Master cannot be found or identified, which appears to contradict 71 (2).	of having a licence but breaching conditions of the licence.
141	NGO'S	72(1) to (6)	<p>Doesn't this need to be completed?</p> <p>There is also the prospect of opening civil penalties here – not just the sale value of the stock but the damage to the fishery done by its extraction which may be greater.</p> <p>More here:</p> <p><a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948367/The_Offshore_Environmental_Civil_Sanctions_Regulations_2018_Guidance_Document__002_.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948367/The_Offshore_Environmental_Civil_Sanctions_Regulations_2018_Guidance_Document__002_.pdf</a></p>	<ul style="list-style-type: none"> <li>• This section has now been completed.</li> <li>• Levels of fines should be able to reflect the levels of harm overall.</li> </ul>
142	Blue Belt	73.	The fine seems quite low considering there is a prison sentence attached.	This has been updated to come into line with the rest of the fines proposed.
143	NGO'S	73.(1)	<p>amounts (£) and time listed here but not for any other offences?</p> <p>Surely these should also form part of the consultation?</p>	<ul style="list-style-type: none"> <li>• This section has now been completed.</li> <li>• Levels of fines should be able to reflect the levels of harm overall.</li> </ul>
144	NGO'S	73.(3)	Worth clarifying for avoidance of doubt that the spear gun must be properly stowed during transit through the prohibited area	This is a matter of fact and degree.
145	NGO'S	74. Transshipment	Again why Transshipment Licenses needs to be removed. Licenses implies more than just a one off occasion as referenced previously.	These licences have been removed.
146	Blue Belt	73.(4)	This is a deeming provision – there is a need to consider whether it opposes the fundamental principle of innocent until proven guilty. Is it proportionate?	As above - this is reverse evidential burden on defendant. Legal burden of proof remains with the prosecutions per normal.

147	NGO'S	75.(2) Illegal	Means fishing with gear other than that stipulated in section 17?	This is a separate offence under section 72 (1).
148	NGO'S	75.(2) Unregulated	Conducted without an observer on board as per XXX of the exploratory and/or research fishing licenses?	There is no absolute requirement for an observer, it is not feasible in both capacity or logistical terms. Non-compliance will be dealt with via a variety of enforcement methods.
149	NGO'S	77.(1)	within the fisheries limits	By implication this ordinance only affects St Helena fisheries limits.
150	NGO'S	77.(2)	Might want to note that best practice includes cutting the line as close to the captured animals mouth as is safely possible. This practice reduces the likelihood of post release mortality for that animal, while it also reduces the contribution to marine plastic that results from such acts.  Suggest deleting this caveat after releasing fish, It seems ambiguous and not aligned with the intent of this section	There is no need for the law to dictate exactly how to release fish from a line. The objective is to discard plastics / gear but while not making normal fishing (or vessel operation) impossible within the law.
151	NGO'S	79. Offences	What about offence for obstruction of the work of observers in the exercise of their duties in inspecting the fishing vessel or catch, for compliance with this Ordinance or with conservation and management measures of a RFMO	This will be managed using licence conditions.
152	Blue Belt	79.	There is no prison sentence attached to an assault charge. This does not seem consistent with imprisonment for possession of a spear gun.	This has been amended along with the proposed fines.
153	Blue Belt		'Miscellaneous' should read 'Miscellaneous'.	Amended.
154	NGO'S	79. Misc.	Might be worth considering adding in administrative penalties for minor offences –  There are no sections covering vessels entering/access to St Helena harbour – is this covered in other legislation?  Several of the key items seem to be here under GENERAL regulations that may (or may not) be made by the Governor	<ul style="list-style-type: none"> <li>• This is provided under the Fixed Penalties Ordinance.</li> <li>• Access to harbours is managed under the Ports Ordinance.</li> <li>• It is agreed, regulations are required for the full effect of the Ordinance.</li> </ul>

			i.e. use of AIS, observer coverage – would be good to be assured that these regulations are being drafted and to also see any licence conditions being proposed	
155	NGO'S	81.(d)	Add “ The equipment to be carried on board fishing boats; - to include conservation and OH&S requirements”	This is primarily a fishing ordinance and doesn't cover health and safety, matters in relation to this should be dealt with in a separate ordinance.
156	NGO'S	81.(k)	This seems to open the door for record attempts at trophy fish? Why would prohibited species be not be released after capture?  Does St Helena want to allow prohibited species catch for record attempts but not for science/research?	<ul style="list-style-type: none"> <li>Record attempts are allowed in the Fishing Licencing policy (2020) but with the strict minimum landing size parameters set out in TAC tables.</li> <li>As per section 26 of the EPO, licences can be granted for research on protected species.</li> </ul>
157	NGO'S	81.(o)	Add “a fine of such amount as may be prescribed therein in respect of any offence under any such regulations”	This clause is a catch-all and does not need to be specified
158	NGO'S	82.(4)(a)	Refer back to original comment RE 30 versus 12 nautical mile limits  Is this referring to this bill? In which case should be 2021?	<ul style="list-style-type: none"> <li>This is stated in the Fishing Licencing policy (2020) as a result of consultation, and generally is a result of inshore vessel fishing range.</li> <li>Amended</li> </ul>
159	NGO'S	Schedule 1	Unsure as to what this means/the purpose?  Commencement of what?  What about other international bodies (e.g. IUCN)?	This is a scheduled to list RFMOs to which St Helena has obligations. As stated in the definition of RFMO in Section 2.
160	NGO'S		<b>Principles:</b> We welcome the inclusion of a clearly defined objective (section 3). We suggest that it may be useful to add some clearly defined principles for fisheries management within St	<ul style="list-style-type: none"> <li>Unlike the EPO (2016), which was drafted without Policy existing to support it at the time, fisheries policy exists which provides for fisheries management principles in St Helena. Therefore, the</li> </ul>

			<p>Helena’s Marine Protected Area, similar to section 5 of the Environmental Protection Ordinance 2016. The precautionary principle, best available techniques principle, polluter pays principle, and principle of intergenerational equity are all relevant to fisheries management – the latter of which is also one of IUCN’s defining principles for a Category VI MPA. Together with the objective, these principles will help to interpret the ordinance.</p> <p>Overall, there is still an apparent lack of transparency for the allocation of access to public resources (fishing rights belong to St Helena and are valuable public assets so their disposal needs the usual checks and balances); with the majority of decisions being the responsibility of one person Chief Fisheries Officer (CFO) – these are not the standards one would expect from an Ordinance of this level.</p> <p>Under PART 12, Offences; we query whether St Helena needs to ratify various agreements post Brexit or whether she is covered by the UK signing up to these?</p>	<p>objectives are now not considered necessary to be included in the Bill.</p> <ul style="list-style-type: none"> <li>• There are other Ordinances such as the EPO (2016) where responsibility is invested in one officer, or there is an Agricultural Authority which is one officer. Policy exists to provide guidance for the officer with such responsibility.</li> <li>• Ratifying agreements is not considered necessary for the purposes of the Bill. The UK would ratify any agreements related to fishing on St Helena’s behalf where St Helena supported such agreements.</li> </ul>
161	NGO’S	5.(1)	<p><b>Advisory Board:</b> It is reassuring to see that there is a defined administrative function for the licencing and effective management of St Helena’s fish stocks within the fisheries limits. It is clear that the CFO together with the Fisheries Advisory Board will be responsible to administer the ordinance. However, we note that some clarity is needed with regards to where the authority of the CFO stops and the HE Governor begins.</p> <p>What is the purpose of the Fisheries Advisory Board? Its functions listed in the Ordinance – to provide technical advice – appear to duplicate SHG’s Marine Conservation and Fisheries Section? Considering that the recommendations of</p>	<ul style="list-style-type: none"> <li>• The Advisory Board will not provide an administrative role for the Ordinance, this will be the responsibility of the Chief Fisheries Officer.</li> <li>• The Advisory Board will exist once established to provide advice on request to the CFO and Governor in Council but do not see this as a duplication of SHG’s fisheries and marine conservation section’s responsibilities.</li> <li>• There is no need for representatives to be included in the Bill.</li> <li>• The board will be made up of a range of members and will be required to develop Terms of Reference that ensure all elements of fisheries management are</li> </ul>

		<p>the Board are non-binding, it does not seem wise to duplicate a government function in this way.</p> <p>Further, there is no indication as to who will be appointed to the Board. We would expect that at least one Scientific Advisor, an Elected Member and a Portfolio Director are appointed. There is also an opportunity here to encourage gender equality across Board membership.</p> <p>This legislation should allow the Board to set TACs <i>under</i> scientific advice, but prevent them setting TACs <i>over</i> recommendations.</p>	<p>considered before providing advice to decision makers.</p> <ul style="list-style-type: none"> <li>• The responsibility would fall to the CFO to ensure we do not have representatives setting TAC's that might directly benefit themselves in some way.</li> </ul>
162		<p><b>Human Rights at Sea:</b> Given potential enforcement constraints relating to which country a vessel may be flagged to, we strongly recommend (for both St Helena flagged vessels and for licenced foreign fishing vessels) that the International Labour Organisation be referred to and that prevention of 'Forced labour and human trafficking in fisheries' be incorporated into licensing conditions.</p> <p>Furthermore, as we assume that licenced foreign fishing vessels will be required to bring their landings on shore, through the factory (following SHG's focus on increasing factory throughput) then this also provides an opportunity for St Helena's enforcement section to perform vessel inspections for compliance with license conditions in particular checks on human rights, catch species, sizes and quantities, etc.</p>	<p>The comments is noted. However, such issues are better covered in other policy and law that relates to Human Rights rather than in a fisheries law.</p>
163		<p><b>Observers:</b> We recommend 100% observer coverage for all exploratory, research and offshore commercial fishing licenses and that MRAG (or another accredited observer provider) be the</p>	<ul style="list-style-type: none"> <li>• There is no absolute requirement for an observer. It is not feasible in both capacity or logistical terms. Non-compliance will be dealt with via a variety of enforcement methods.</li> </ul>

			<p>partner body to ensure impartiality and robust data collection, given recognised on-island capacity constraints.</p>	<ul style="list-style-type: none"> <li>• This requirement for full observer coverage for offshore and exploratory work is not financially viable for SHG or fishing business, practically acceptable nor safe when it comes to on board observers and alternative means of coverage has not been tried and tested on vessels thus far. Some of the vessels that fish offshore are small and have little to no facilities. All fish will be landed in St Helena and so some of the concerns arising for the need of 100% coverage can be managed through the wider fisheries compliance and enforcement programme.</li> </ul>
164		25.(1)	<p><b>Transshipment:</b> We commend the inclusion of prohibitions on transshipment within St Helena’s IUCN Cat VI MPA.</p> <p>However, we do not think that there should be any instances which require a one-off need for the CFO to <i>allow</i> for transshipment to take place. We must learn from previous mistakes with exploratory licenses with ICV Tuna on the Southern Cross and not accept ‘mechanical failure’ as a justification for transshipment to take place offshore and/or vessels not to return to St Helena. The risk of technical malfunction must be borne by the licensee.</p> <p>Furthermore, we believe that the power to grant such a Transshipment License should not fall solely on one person (i.e. CFO).</p> <p>The ordinance states that it is an offence to tranship, therefore transshipment licenses should be removed from the responsibilities of the CFO on page 8.</p>	<ul style="list-style-type: none"> <li>• Amended, changes have been made to follow the 2017 ICCAT Recommendation.</li> <li>• HMG advice to SHG is that ICCAT rules would not allow catch transfer even within the jurisdiction. Unless ICCAT reform the rule or SHG are content to become ICCAT non-compliant the transfers proposed would not be contemplated – despite the importance for commercial viability.</li> </ul>

165			<p><b>Fees:</b> We recommend the inclusion of asset recovery, linking to the UK Proceeds of Crime Act (which would also provide clarity on what fees and proceeds from illicit landings can and should be spent on and by whom).</p> <p>The legislation allows (via regulations) for charging for licenses/access to resource fees on St Helena and MRAG/Cefas could be engaged to determine an appropriate fee structure. It is important that St Helena recognises the financial benefit from the issuing of any exploratory licence/licensing of any international vessel. Such financial benefits can also be used to support future enforcement and science programmes which have been identified as lacking capacity and funding.</p>	<ul style="list-style-type: none"> <li>• This is not required for inclusion in this Fisheries law for St Helena at this time.</li> <li>• It is agreed advice will be taken when the setting of licensing fees is being undertaken.</li> </ul>
166	18.(1)	<p><b>TACs:</b> We have added a number of clauses under TAC limits as we believe the current wording to be very imprecise and does not restrict what <i>could</i> be set. There should be a principle for <i>how</i> one sets a maximum quota relating to stock assessments and MSY.</p> <p>Furthermore, we are keen to see the legislation make explicit commitments to following the precautionary approach, as required under UNCLOS, thereby preventing lack of scientific data providing a rationale for overfishing.</p>	<ul style="list-style-type: none"> <li>• These are not necessary to be included in the ordinance as currently provisions are covered in Fishing Licencing policy (2020).</li> <li>• It is not for the ordinance to set specific TAC limits, only to provide the provision to set them.</li> </ul>	
		<p>We applaud the explicit prohibition of unsustainable fishing gears such as long lining and trawling, and overall, it is clear that a lot of work has gone into this long awaited piece of legislation which we are pleased to see come to consultation; but we urge caution on premature endorsement until the enclosed recommendations have been included in their entirety.</p>	<ul style="list-style-type: none"> <li>• This statement reflects the efforts put into the consultation process.</li> </ul>	