

ASCENSION

REVISED EDITION OF THE LAWS, 2017

ENVIRONMENT AND NATURAL RESOURCES

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE, 2015¹

Ordinance A4 of 2015

In force 16 December 2015 (see L.N. A2/2016)

Amended by Ordinance A3 of 2021

Subsidiary legislation:

FISHERY LIMITS (LICENSING OF FISHING)(OFFSHORE ZONE) ORDER, 2015

Legal Notice A2 of 2015

FISHERY LIMITS (LICENSING OF TRANSHIPMENT) ORDER, 2015

Legal Notice A3 of 2015

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE, 2015

ARRANGEMENT OF SECTIONS

**PART I
INTRODUCTORY**

1. Short title and commencement
2. Interpretation
3. Fishery limits
4. Director of Fisheries and Fisheries Protection Officers

**PART II
RESTRICTION OF FISHING AND FISHING-RELATED OPERATIONS IN THE
FISHERY LIMITS**

5. Licensing of fishing
6. Report prior to entry or transmission of location within fishery limits
7. IUU Offences
8. Related IUU Offences
9. Unstowed fishing gear
10. Fish aggregating devices
11. Other offences relating to fishing boats

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 July 2021.

**PART III
TRANSHIPMENT AND HARBOUR ACCESS**

12. Transhipment
13. Access to harbour and services (foreign fishing boats)
14. Prior notice required
15. Authorisation to access Ascension harbour
16. Seizure of fish cargo pending authorisation

**PART IV
POWERS OF FISHERY PROTECTION OFFICERS**

17. Powers of Fishery Protection Officers: introductory provisions
18. Powers referred to in section 17 and provisions related to those powers
19. Powers of inspection
20. Release of fishing boat, other vessel or thing if no proceedings are instituted
21. Security for and release of fishing boat, fish other vessel or thing by court
22. Reports on departure (foreign fishing boats)
23. Temporary departure provisions

**PART V
APPEALS**

24. Appeals against decisions

**PART VI
FURTHER PROVISION RELATING TO OFFENCES**

25. Further provisions as to offences
26. Jurisdiction of Supreme Court
27. Forfeiture of licence
28. Administrative penalties for minor offences
29. Provisions as to amounts of fine and other orders to be made by court on conviction
30. Detention or forfeiture of fishing boats on failure to pay or secure fine

**PART VII
GENERAL**

31. Regulations
32. Repeal

Schedule A: List of organisations pursuant to section 11

Schedule B: List of information to be provided pursuant to section 14

Schedule C: IUU fishing declaration under section 14

AN ORDINANCE to repeal the Fishery Limits Ordinance, 1978 and to re-enact it with amendments enhancing the management of Ascensions marine resources.

**PART I
INTRODUCTORY**

Short title and commencement

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance, 2015, and comes into force on a date the Governor appoints by order.²

Interpretation

2. In this Ordinance, unless the context otherwise requires—
- “**catch**” and its correlatives include “take” and its correlatives;
- “**controlled fishing zone**”³ means any area of the fishery limits for the time being the subject of an order or regulations, as the case may be, made under, or continuing to have effect as if made under, section 5(1A);
- “**conservation and management measures**” means measures in force to conserve and manage one or more species of marine living resources;
- “**Director of Fisheries**” means the Director of Fisheries appointed under section 4(1);
- “**exclusive economic zone**”⁴ means the Ascension maritime zone that extends 200 nautical miles from the nearest points of the baseline from which the breadth of the territorial sea adjacent to the island of Ascension is measured and as established by Proclamation dated 13 July 2017;
- “**fish**” or “**fishery products**” means all aspects of living marine resources, whether processed or not;
- “**Fisheries Protection Officer**” means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);
- “**fishery limits**” means the fishery limits of Ascension provided for in section 3;
- “**fishing**” means—
- (a) the catching or taking of fish;
 - (b) any activity which can reasonably be expected to result in the catching or taking of fish; or
 - (c) any operation at sea in support of, or in preparation for, any activity mentioned in paragraph (a) or paragraph (b),
- and includes exploring or prospecting for the presence of fish (including acoustic searching for fish) and the collecting or taking by any means of marine invertebrates (including crustaceans, molluscs or echinoderms);
- “**fishing boat**” means any vessel of whatever size, and in whatever way propelled, which is for the time being adapted or used, or intended to be used, for fishing;
- “**fishing gear**” includes nets of every kind, fish-hooks, lines, pots, trawl doors and buoys;
- “**fishing licence**” means a licence provided for under section 5;
- “**fishing-related operations**” means the processing, storage, carriage or transhipment of fish aboard any vessel and any operation ancillary to any of those operations;
- “**foreign fishing boat**”⁵ means a fishing boat which is not—
- (a) registered in Ascension; or
 - (b) owned by a person who is ordinarily resident in Ascension; or
 - (c) owned by a company (wherever registered) that holds a licence to fish granted under this Ordinance;

² Commencement Order published as LN A2 of 2016

³ Definition of “controlled fishing zone” inserted by Ord. A3 of 2021

⁴ Definition of “exclusive economic zone” inserted by Ord. A3 of 2021

⁵ Definition of “foreign fishing boat” amended by Ord. A3 of 2021

“harbour” means Ascension harbour as defined in the Harbour Declaration (Ascension) Order 2010;

“ICCAT” means the International Commission for the Conservation of Atlantic Tunas;

“illegal”⁶, with respect to fishing, means fishing—

- (a) conducted by a fishing vessel in the fishery limits of Ascension contrary to a prohibition under this Ordinance, or otherwise than in accordance with a licence issued under this Ordinance; or
- (b) conducted by a fishing vessel flying the flag of a State which is a party to a RFMO, but which is operating in contravention of the conservation and management measures of that RFMO; or
- (c) conducted in contravention of international law applicable to Ascension;

“IUU fishing” means fishing activity that is illegal, unreported or unregulated;

“large-scale commercial fishing”⁷ means extractive fishing or fishing-related operations by a person, the primary purpose of which is the taking of fish to export from Ascension for fee, gain or reward, or for sale elsewhere, whether such sale is by or on behalf of that person or another;

“master”, in relation to a fishing boat, means both the person appearing to be the person who is for the time being in command or in charge of the boat and any person who is for the time being in charge of fishing operations on board that fishing boat;

“miles” means international nautical miles of 1,852 metres;

“processing” (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

“regional fisheries management organisation” or **“RFMO”** means a regional, sub-regional or similar organisation with competence to establish conservation and management measures for marine living resources that the members of that organisation have placed under its responsibility including but not limited to those organisations listed in Schedule A;

“specified area”⁸ ...

“territorial sea” has the same meaning as it has by virtue of article 2 of the St Helena and Dependencies (Territorial Sea) Order 1989 (SI 1989/1994);;

“transshipment” means the transfer of a catch in its harvested or processed form or fuel from a vessel to another vessel or means of transport;

“transshipment licence” means a licence granted under section 12; **“UNCLOS”** means the 1982 United Nations Convention on the Law of the Sea;

“unregulated”, with respect to fishing, means fishing—

- (a) conducted in the area of application of a RFMO by a fishing vessel of a State that is not a contracting party to that RFMO, or by a fishing vessel that does not fly the flag of any State, or of any other fishing entity, in a manner that contravenes the conservation and management measures of the RFMO; or
- (b) conducted in an area, or for fish stocks, in relation to which there are no conservation or management measures, but in a manner that is not consistent with the responsibilities of the flag State for the conservation of marine living resources under international law;

“unreported”, with respect to fishing, means fishing—

- (a) which has not been reported, or has been misreported, to the Director of Fisheries; or

⁶ Definition of “illegal” amended by Ord. A3 of 2021

⁷ Definition of “large-scale commercial fishing” inserted by Ord. A3 of 2021

⁸ Definition of “specified area” deleted by Ord. A3 of 2021

- (b) which has been undertaken in the area of application of a RFMO but which has not been reported, or has been misreported, in contravention of the reporting procedures of that RFMO.

Fishery limits

3.⁹ Notwithstanding any reference to fishery limits or cognate expressions in any other Ordinance, the Ascension fishery limits extend to the seaward limits of the exclusive economic zone.

Director of Fisheries and Fisheries Protection Officers

4. (1) The Governor must appoint a person to be the Director of Fisheries who is to administer this Ordinance and is responsible for—

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing and fishing-related operations;
- (e) the regulation of the conduct of fishing and fishing-related operations;
- (f) the issue, variation, suspension and revocation of licences for fishing and fishing-related operations;
- (g) the collection of fees in respect of fishing licences and transshipment licences;
- (h) the making of such reports to the Governor as the Governor, in his or her discretion, requires;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his or her duties under this Ordinance, the Director of Fisheries is subject to the direction of the Governor.

(3) This Ordinance is to be enforced by Fisheries Protection Officers acting subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers have the powers set out in this Ordinance.

(4) The Governor must appoint Fisheries Protection Officers and, in addition thereto, the Director of Fisheries, every police officer, customs officer, Harbour Master, commissioned officer on any of Her Majesty's ships and person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force are Fisheries Protection Officers for the purposes of this Ordinance.

(5) In the performance of their duties under this Ordinance, the Director of Fisheries and every Fishery Protection Officer must have regard to the provisions of ICCAT, but the question as to whether the Director of Fisheries or any Fishery Protection Officer has done so in any particular instance is not to be inquired into in any court.

PART II RESTRICTION OF FISHING AND FISHING-RELATED OPERATIONS IN THE FISHERY LIMITS

⁹ Section 3 substituted by Ord. A3 of 2021

Licensing of fishing

5.¹⁰ (1) Large-scale commercial fishing in any area of the fishery limits that is declared to be a marine protected area under the National Protected Areas Ordinance, 2003 is prohibited.

(1A) Subject to subsection (1), the Governor, acting on the advice of the Director of Conservation, may by regulations—

- (a) specify any area of the fishery limits within which fishing is prohibited unless it is authorised by a licence granted under this section; and
- (b) make provision for the types of fishing licences that may be granted in respect of that area.

(2) Every fishing licence for fishing by a fishing boat must be granted in respect of a single fishing boat specified in it and may be granted to the master, the owner or the charterer of the boat.

(3) Every fishing licence for fishing other than by a fishing boat must be granted in respect of the person specified in it.

(4) A licence referred to in subsections (2) and (3) may authorise fishing generally or may confer limited authority by reference to, in particular—

- (a) the area within which fishing is authorised;
- (b) the periods, times or particular voyages during which fishing is authorised;
- (c) the descriptions and quantities of fish which may be taken;
- (d) the method of fishing; or
- (e) the specific boat or vessel to be used.

(5) An order under this section may authorise the charging of a fee for licences under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(6) Where an Order under this section authorises the charging of a fee for a licence—

- (a) the Governor may waive or reduce that fee if he or she sees fit to do so in the circumstances of the particular case;
- (b) any such fee may be expressed to be variable in relation to all or any of the following matters:
 - (i) the size of the fishing boat;
 - (ii) the equipment in relation to fishing affixed to or employed upon or in connection with the fishing boat;
 - (iii) the facilities aboard the fishing boat for the storage, freezing, processing or other treatment of fish;
 - (iv) the area in which fishing is authorised;
 - (v) the description and quantities of fish which may be taken;
 - (vi) the method or methods of fishing authorised to be used.

¹⁰ Section 5 amended by Ord. A3 of 2021

(7) A licence under this section may authorise fishing either unconditionally or subject to conditions—

- (a) that the Director of Fisheries has been directed by the Governor to impose;
- (b) that in the opinion of the Director of Fisheries are necessary or expedient to regulate the conduct of fishing and fishing-related operations by the licensee under authority of the licence;
- (c) as to the use to which the fish may be put;
- (d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or marine mammal to be found or likely to be found in the area to which the licence relates;
- (e) as to the disposal of waste, effluvia or deleterious matter by the fishing boat to which the licence relates;
- (f) otherwise that in the opinion of the Director of Fisheries are necessary or expedient to secure the fulfilment of any obligation under, or objective of, ICCAT.

(8) The conditions subject to which a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(9) Subsection (6) has effect without affecting any power under section 30 to make regulations in relation to any matter as to which under subsection (7) conditions may be imposed.

(10) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(11) The Director of Fisheries may—

- (a) from time to time vary a licence granted under this section;
- (b) revoke or suspend such a licence if he or she considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee.

(12) If the Director of Fisheries varies, revokes or suspends a licence he or she may, if he or she considers it appropriate in all the circumstances of the case, refund the whole or part of the fee paid in respect of that licence.

Report prior to entry or transmission of location within fishery limits

6.¹¹ (1) Not less than 12 hours and no more than 24 hours before it enters the fishery limits, and whether intending to fish in them or to exercise the right of free passage through the waters lying within the fishery limits, every foreign fishing boat must contact the Marine Officer, Georgetown or any other person or establishment or by any other means the Director of Fisheries has approved for the purpose, and must provide the following information:

- (a) the name and port and country of registry of the foreign fishing boat and its international radio call sign;

¹¹ Section 6 amended by Ord. A3 of 2021

- (b) the estimated time and date of entry into the fishery limits and the co-ordinates of the point of entry and, in the case of a foreign fishing boat intending to exercise the right of free passage through the fishery limits, the estimated time, date of its departure from the fishery limits and the co-ordinates of its intended point of departure;
- (c) in the case of a foreign fishing boat intending to fish in the fishery limits pursuant to a fishing licence granted under this Ordinance - the reference number or other sufficient details of the licence; and
- (d) in any case - the quantity of fish, according to species, aboard the foreign fishing boat.

(2) Fish reported pursuant to subsection (1) to be on board a foreign fishing boat is, in the absence of proof of circumstances tending to indicate that the report was materially false, presumed to have been caught outside the fishery limits but, subject to that, if any fish is found on a foreign fishing boat within the fishery limits, that fish is presumed, unless the contrary is proved, to have been taken within the fishery limits.

(3) Any foreign fishing boat which enters the fishery limits, and whether intending to fish therein or to exercise the right of free passage through the waters lying within the fishery limits, is required to transmit its location either by Automatic Identification System (AIS) or to the Vessel Monitoring System nominated by the Government of Ascension.

(4) If the requirements of subsections (1) and (3) of this section are contravened in respect of a foreign fishing boat, the master, owner and the charterer (if any) of the foreign fishing boat each commits an offence.

Penalty: A fine of £100,000.

IUU Offences

7.¹² (1) If a fishing boat is used in contravention of any prohibition imposed by or under section 5, the master, the owner and the charterer (if any) of the fishing boat each commits an offence.

Penalty: A fine of £2,000,000.

(2) An individual who fishes other than by a fishing boat in contravention of any prohibition imposed by or under section 5 commits an offence.

Penalty: A fine of £5,000.

(3) If a condition of a licence held by any fishing boat is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence each commits an offence.

Penalty: A fine of £1,000,000.

(4) A licence holder who fishes other than by fishing boat and in contravention of a condition of the licence commits an offence.

Penalty: A fine of £1,000.

¹² Section 7 amended by Ord. A3 of 2021

(5) A fishing boat which does not have a licence in respect of a controlled fishing zone must not enter the controlled fishing zone except for a purpose recognised by international law or by any convention binding on Ascension and the government of the country to which the boat belongs. Any such boat which enters the controlled fishing zone for such a purpose must—

- (a) return outside the controlled fishing zone as soon as the purpose has been fulfilled;
- (b) not fish or attempt to fish while within the controlled fishing zone; and
- (c) transit in a continuous fashion (without loitering or stopping) and any deviation from that will be considered to be fishing.

(6) It is an offence for a person who—

- (a) for the purpose of obtaining a licence under section 5; or
- (b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries or to any person on his or her behalf of statistical information,

provides information which the person knows to be false or recklessly furnishes information which is false in a material particular.

Penalty: A fine of £100,000.

(6) If a person other than the master, the owner or the charterer (if any) of the fishing boat in question provides false information as mentioned in subsection (5), that master, that owner and that charterer (if any) as well as the person who actually provided the information is each deemed to have provided it and to have committed the offence and is each liable to be dealt with in respect thereof, unless the master, owner or charterer proves that the person who actually provided the information was not authorised to act on behalf of the master, owner or charterer, as the case may be.

Related IUU Offences

8. It is an offence for a person to—

- (a) conduct business directly related to IUU fishing, including the trade in, or the importation of, fishery products;
- (b) falsify documents referred to in this Ordinance; or
- (c) use such false or invalid documents.

Penalty: A fine of £100,000.

Unstowed fishing gear

9.¹³ (1) A fishing boat must not within a controlled fishing zone carry aboard it any unstowed fishing net, line or other device directly employed in the taking of fish if the fishing boat—

- (a) is not licensed under section 5 to fish within that controlled fishing zone; or
- (b) is licensed under section 5 to fish within that controlled fishing zone but —
 - (i) is not licensed to fish within the part of the controlled fishing zone in which it for the time being happens to be; or

¹³ Section 9 amended by Ord. A3 of 2021

- (ii) is not authorised by that licence, to use a net, line or other device directly employed in the taking of fish of any particular type, dimensions or specification mentioned in the licence.

(2) If subsection (1) is contravened, the master, owner or charterer (if any) of the fishing boat or other vessel each commits an offence.

Penalty: A fine of £100,000.

(3) In subsection (1) “**unstowed**” means not stored or secured in such a manner as to be not readily capable of use within a reasonable period of time, and in any proceedings for an offence under subsection (2) it is for the defendant to prove that the thing in question was not unstowed.

Fish aggregating devices

10. (1) A person must not place any fish aggregating device in the fishery limits without the express written permission of the Director of Fisheries and in accordance with the terms of such permission.

(2) An application for permission to place a fish aggregating device must be made to the Director of Fisheries in writing specifying the intended location and the nature and construction of the device.

(3) On consideration of an application under this section, the Director of Fisheries may either grant or refuse permission for a term and subject to conditions he or she determines, including the payment of the prescribed fee, or may refuse permission.

- (4) Any fish aggregating device placed in the fishery limits must at all times be—
- (a) clearly marked with the name of the vessel from which it is placed;
 - (b) clearly visible from a distance and equipped with radar reflector and lights;
 - (c) equipped with equipment and marked in a manner prescribed by the Director of Fisheries

(5) A person who contravenes the provisions of this section commits an offence.
Penalty: A fine of £100,000.

Other offences relating to fishing boats

11. It is an offence for the each of the master, owner or charterer (if any) of a fishing boat to engage in IUU fishing, that is to say —

- (a) fishing without a licence issued by the flag State of the boat or the coastal State of the boat which entitles it lawfully to conduct fishing related activities;
- (b) failing to record and report catch data, including data transmitted by a Vessel Monitoring System;
- (c) fishing for a stock which was subject to a moratorium or for which fishing is prohibited;
- (d) using prohibited gear or fishing gear that does not comply with the requirements of the licence of or with conservation and management measures of a relevant RFMO;
- (e) falsifying or concealing markings, identity or registration;
- (f) concealing, tampering with or disposing of evidence relating to an investigation;

- (g) obstructing the work of—
 - (i) Fisheries Protection Officers or officials acting for the relevant RFMO, 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; or
 - (ii) inspectors or observers acting in the exercise of their duties of observing compliance with this Ordinance or such measures;
- (h) taking on board, transshipping or landing undersized fish in contravention of this Ordinance or the provisions of a licence issued by the Director of Fisheries or a conservation and management measure of a RFMO;
- (i) transshipping or participating in joint fishing operations in which the fishing boat was supported or re-supplied by other vessels identified as having engaged in IUU fishing, including those in the list maintained by a RFMO;
- (j) assisting or engaging in fish processing operations or participating in any transshipment or joint fishing operations with IUU fishing vessels;
- (k) carrying out fishing activities in the area of application of a RFMO in contravention of the conservation and management measures of that organisation, or not cooperating with that organisation;
- (l) attempting to enter the harbour of Ascension when the fishing boat appears as one that has been engaged in IUU fishing on a list of vessels kept by one or more RFMO or regional economic integration organisation, listed at Schedule A; or
- (m) causing or permitting the fishing boat to have no nationality, and therefore to be a stateless vessel in international law.

Penalty: A fine of £2,000,000.

PART III TRANSHIPMENT AND HARBOUR ACCESS

Transshipment

12. (1) The Governor may by order provide that in any or all of the fishery limits area specified in the order transshipment of fish or fishing products or fuel is prohibited unless it is authorised by a licence granted by the Director of Fisheries.

(2) Every transshipment licence must be granted in respect of a single fishing boat and recipient vessel specified in it and may be granted to the master, owner or the charterer of the boat.

(3) A licence under this section may authorise transshipping either unconditionally or subject to conditions—

- (a) that the Director of Fisheries has been directed by the Governor to impose;
- (b) as to the area within which fish or fuel may be transhipped;
- (c) as to the periods or times within which fish may be transhipped or may be transported by a fishing boat authorised by the licence to do so;
- (d) as to the descriptions and quantities of fish that may be transported by a fishing boat authorised by the licence to do so; and
- (e) as to the number of times that fish may be transported by a fishing boat authorised by the licence to do so.

(4) Within any limitation imposed under subsection (3), and subject to any regulations made under section 31, a transshipment licence may be unconditional or may be made subject to any conditions the Director of Fisheries thinks fit, including (but not limited to) conditions as to the treatment of transhipped fish on board the recipient vessel to which it has been passed.

(5) If a condition to which a transshipment licence is subject is contravened, the master, the owner and the charterer (if any) of the fishing boat in respect of which the licence was granted each commits an offence.

Penalty: A fine of £100,000.

(6) An order under this section may authorise the charging of a fee for licences under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(7) The Director of Fisheries may require the master, the owner or the charterer of a fishing boat in respect of which a transshipment licence has been granted, to provide the Director with any information, relevant to the licence or to the operation of the boat, he or she directs; and any person to whom such a requirement is addressed who fails without reasonable excuse to comply with it commits an offence.

Penalty: A fine of £20,000.

(8) It is an offence for a person, for the purpose of obtaining a transshipment licence or in purported compliance with a requirement under subsection (7) to—

- (a) provide information which the person knows is false or misleading in any material particular; or
- (b) recklessly supply information which is so false or misleading.

Penalty: A fine of £50,000.

(9) The Director of Fisheries may at any time suspend or revoke a transshipment licence or vary it in any respect; but no part of the fee that was charged for the licence is to be refunded in any such case, unless the Director of Fisheries considers that it is appropriate, in all the circumstances of the case, to make such a refund.

Access to harbour and services (foreign fishing boats)

13. (1) Access to Ascension harbour, the provision of harbour services, and the conduct of landing or transshipment operations in the harbour is prohibited for foreign fishing boats unless they meet the requirements laid down in this Part, except in cases of *force majeure* or distress within the meaning of Article 18(2) of UNCLOS for services strictly necessary to remedy those situations.

(2) Illegal, unreported and unregulated foreign fishing boats must not be supplied in harbour with provisions, fuel or other services, except in case of *force majeure* or distress.

(3) Illegal, unreported and unregulated foreign fishing boats are not authorised to change the crew, except as necessary in case of *force majeure* or distress;

Prior notice required

14. (1) The master, owner or charterer in charge of a foreign fishing boat, or that person's representative, must notify the Director of Fisheries at least 72 hours before the estimated time of arrival of the vessel at the Ascension harbour, and supply the Director with the information in Schedule B.

(2) A master, owner or charterer in charge of a foreign flagged vessel or that person's representative must submit to the Director of Fisheries, if possible by electronic means and at least 72 hours before entering the harbour or conducting transshipment, a signed declaration in the form in Schedule C indicating whether or not the fishing vessel or anyone on board has engaged in or supported IUU fishing activities.

(3) The Director of Fisheries must keep the originals of the declarations referred to in subsection (2), or a hard copy of the originals if transmitted electronically, for a period of 3 years or until any court case has concluded, whether on appeal or otherwise.

Authorisation to access Ascension harbour

15. (1) A foreign fishing boat must not be granted authorisation to access the harbour unless the information set out in Schedule B is complete.

(2) Notwithstanding subsection (1), illegal, unreported and unregulated foreign fishing boats must not be authorised to enter except in case of *force majeure* or distress within the meaning of Article 18(2) of UNCLOS:

(3) Subsection (2) is subject to the following exceptions—

- (a)** the Director of Fisheries may authorise the entry of an illegal, unreported and unregulated foreign fishing boat into the harbour on the condition that the catches on board and, where appropriate, fishing gear prohibited pursuant to conservation and management measures adopted by the RFMO, are confiscated; and
- (b)** the Director of Fisheries must also confiscate catches and, where appropriate, fishing gear prohibited pursuant to those measures, on board IUU fishing vessels which have been authorised to enter into the harbour for reason of *force majeure* or distress.

Seizure of fish cargo pending authorisation

16. (1) The Director of Fisheries may authorise access to the harbour (or a specified part of it) if, in his or her opinion, the information referred to in section 14 is incomplete or the check or verification is pending, but must keep the fish concerned in a cold storage designated by the Director and under his or her supervision, though the cost of storage must be paid by the operator of the vessel before it is allowed to leave port.

(2) The fish must be released from storage to be sold, ownership transferred or transported once the information required by section 12 has been received and the authorisation process in sections 14 and 15 has been completed to the satisfaction of the Director of Fisheries.

(3) If, due to the operator of the fishing vessel, such process has not been completed within 14 days of the actual access to the harbour, the Director of Fisheries may confiscate and

dispose of the fish and the operator of the fishing boat must meet any further costs of storage and disposal.

PART IV POWERS OF FISHERY PROTECTION OFFICERS

Powers of Fishery Protection Officers: introductory provisions

17.¹⁴ (1) For the purposes of enforcing and administering the provisions of this Part, or any regulations under section 33, so far as such regulations apply to any matter to which by virtue of section 18(1) and section 19 the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 18(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any prohibition under section 5 or under section 12 for the time being in force.

(2) In exercising the powers conferred by section 18(1) and section 19, a Fisheries Protection Officer may—

- (a) use such force as is reasonably be necessary; and
- (b) engage the assistance of any person who have been assigned to assist him or her in the exercise of those powers, provided that in such a case the Fisheries Protection Officer is, subject to subsection (3), liable for anything done by any such person if the officer would be liable if he or she had done it himself or herself.

(3) A Fisheries Protection Officer is not liable to any civil or criminal proceedings for anything done in the purported exercise of any of the powers conferred upon him or her by this Part, if the court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

Powers referred to in section 17 and provisions related to those powers

18.¹⁵ (1) The powers of a Fisheries Protection Officer referred to in section 17(1) are—

- (a) a power to stop any person or any fishing boat or any other vessel which it reasonably appears to him or her has been or might have been engaged in any fishing or fishing-related operations in a controlled fishing zone;
- (b) a power to require such person, or in respect of a boat, the master of the fishing boat to cease fishing and take back on board the boat's fishing gear;
- (c) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;
- (d) a power to board any such fishing boat or other vessel accompanied by any person or persons assigned to assist the officer or that he or she engages to accompany him or her;
- (e) a power to muster the crew of the fishing boat or any other vessel and require the master to appear and to give any explanation concerning the boat and any crew, any other person on board the boat, and any document mentioned in paragraph (f);

¹⁴ Section 17 amended by Ord. A3 of 2021

¹⁵ Section 18 amended by Ord. A3 of 2021

- (f) a power to make any examination and inquiry which appears to the Fisheries Protection Officer to be necessary for any of the purposes mentioned in section 17(1) and, in particular—
- (i) to examine any fish aboard the fishing boat or other vessel concerned and its equipment, including the fishing gear and any other equipment related to, or possibly related to, any fishing or fishing-related operations and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him or her to be necessary for facilitating the examination;
 - (ii) to require any such persons on board the fishing boat or other vessel concerned to produce any certificate of registry, licence, official logbook, official paper, article of agreement, and any other document relating thereto, to its fishing or fishing-related operations or to the persons on board which is in that person's custody or possession, and to take copies of any such document;
 - (iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or might have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to the Fisheries Officer to be necessary for facilitating the search;
 - (iv) where the fishing boat or other vessel is one in relation to which the Fisheries Protection Officer has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence; but this sub-paragraph does not permit any document required, or appearing to be required, by the law of the State of registry of the fishing boat or vessel to be carried on board it to be seized and detained except where the fishing boat or vessel is detained in a port;
- (g) a power to make any examination and inquiry which appears to the Fisheries Protection Officer to be necessary for any of the purposes mentioned in section 17(1) and, in particular—
- (i) to examine any fish in the possession of any person and their equipment, including the fishing gear and any other equipment related to, or possibly related to, any fishing or fishing-related operations, and for that purpose to require any person to do anything which appears to him or her to be necessary for facilitating the examination;
 - (ii) to require any persons concerned to produce any certificate of registry, licence, official logbook, official paper, article of agreement, and any other document relating thereto;
 - (iii) for the purpose of ascertaining whether any person concerned, has or might have committed an offence under this Ordinance, a power to search any premises for any such documents and to require any person in those premises to do anything which appears to the Fisheries Protection Officer to be necessary for facilitating the search;
 - (iv) where he or she has reason to suspect that an offence under this Ordinance has been committed - a power to seize and detain any document for use as evidence in proceedings for that offence;

- (h) a power to intercept in the course of its transmission any communication from any vessel in the fishery limits for the purpose of assisting in locating the position of any vessel or vessels;
- (i) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (f)(iv) and (g)(iv) has been committed, the following powers:
 - (i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in the fishery limits;
 - (ii) to detain or require the master to detain the fishing boat or other vessel in that place;
 - (iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or she or another Fisheries Protection Officer permits and until such time as it can be released by him or her or another Fisheries Protection Officer or by a court;
 - (iv) to seize and detain any fishing gear, instruments or appliances which appear to the Fisheries Protection Officer to have been, or which might have been used in the commission of the offence, until such time as the same are released by him or her or by another Fisheries Protection Officer or by order of a court;
 - (v) to seize and detain any fish which appear to the Fisheries Protection Officer to have been taken as a result of such offence until such time as the same are released by him or her or by another Fisheries Protection Officer or by order of a court.

(2) Any information, document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of the powers under subsection (1) is not to be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

- (3) It is an offence for a person to—
- (a) fail without reasonable excuse to comply with any requirement imposed, or answer any question asked, by a Fisheries Protection Officer in the exercise of his or her powers under subsection (1);
 - (b) prevent, obstruct or attempt to prevent or obstruct, any other person from complying with any such requirement or answering any such question;
 - (c) assault any Fisheries Protection Officer, or any person engaged to assist him or her, while that officer is exercising any of those powers.,

Penalty: A fine of £50,000.

Powers of inspection

19. (1) With a view to preventing, deterring and eliminating IUU fishing, Fisheries Protection Officers may conduct inspections of fishing vessels in order to determine whether such fishing vessels have engaged in illegal, unreported or unregulated fishing as respectively defined in section 2.

- (2) In all cases a fishing vessel must be inspected when—

- (a) the fishing vessel appears on an IUU list of a RFMO; or
- (b) the Director of Fisheries reasonably believes that—
 - (i) the fishing vessel has engaged in IUU fishing; or
 - (ii) a person on board the fishing vessel, or who was on board at the relevant time, might have committed an offence under this Ordinance.

Release of fishing boat, other vessel or thing if no proceedings are instituted

20. (1) If –

- (a) a fishing boat, fish, other vessel or thing has been seized or detained under a power conferred by section 18(1); and
- (b) no proceedings have been commenced in relation to any offence in respect of which that fishing boat, fish, other vessel or thing could lawfully have been seized or detained under a power conferred by section 18(1),

a Fisheries Protection Officer may release the boat, fish, vessel or thing.

(2) In any case where—

- (a) a fishing boat, fish, other vessel or thing has been seized or detained under a power conferred by section 18(1); and
- (b) no proceedings in respect of such an offence have been commenced within 14 days of the arrival of that boat or vessel at a place in Ascension to which it has, in accordance with section 18(1)(g)(i) been required to proceed or, in the case of any fish or other thing, within 14 days of its arrival in Ascension, or at any earlier time at which the Attorney General is satisfied that no such offence has been committed,

the Director of Fisheries must release the fishing boat, fish, other vessel or thing.

(3) If a fishing boat, fish, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 18(1) and—

- (a) the boat, fish, vessel or thing has been brought to a place in Ascension; but
- (b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within 14 days of the arrival of the boat, fish, vessel or thing at a place in Ascension,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that the fishing boat, fish, other vessel or thing seized be released, whereupon it must immediately be released.

(4) In subsection (3), “**a court**” means a court having jurisdiction under section 28(1) to try and determine proceedings in respect of an offence under this Ordinance.

Security for and release of fishing boat, fish, other vessel or thing by court

21. (1) If proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, fish, other vessel or thing seized or detained under a power conferred by section 18(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

(2) The court may order the release of any fishing boat, fish, other vessel or thing so seized on being satisfied that—

- (a) the applicant has given adequate security to the Crown in a sum appearing to the court to equal or exceed the relevant sum;
- (b) a person or persons approved by the court have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4), and in an amount appearing to the court to equal or exceed the relevant sum; or
- (c) there are special circumstances justifying the court accepting a bond or bonds in a suitable form, conditioned in accordance with subsection (4), but in an amount appearing to the court to be less than the relevant sum.

(2A) In subsection (2) “**relevant sum**” means the aggregate of—

- (a) the maximum fine the court has power to impose if it convicts the owner, or as the case may be the charterer or master of the fishing boat;
- (b) in the case only of an alleged offence under section 7(1) or (3) - the sum appearing to the court to be the value free on board at Georgetown of all fish aboard the fishing boat immediately after the time of the alleged offence; and
- (c) the maximum amount that it appears to the court might reasonably be awarded to the Crown in respect of costs and expenses pursuant to section 28(2).

(3) The Director of Fisheries must be the respondent in respect of any application under this section and is entitled to be heard in relation to it.

(4) The conditions of the bond or bonds referred to in subsection (2)(b) and (c) are that if—

- (a) the defendant to the proceedings is not convicted or the charge or the summons is not proceeded with; or
- (b) the defendant, on having been convicted and sentenced, pays in full within 14 days, or any greater period the court allows at the time of sentencing the defendant, the fine and all other sums the defendant is ordered by the court to pay to the Crown,

then the bond is of no further effect and is discharged, but otherwise remains in full force and effect, and may be enforced accordingly.

Reports on departure (foreign fishing boats)

22.¹⁶ **(1)** Before departing from a controlled fishing zone (or in the case of a fishing boat authorised by a licence under section 5 to fish only in part of a controlled fishing zone, before proceeding from that part) the master, owner or charterer (if any) of a foreign fishing boat licensed under section 5 must notify the Director of Fisheries or person nominated by him or her in accordance with subsection (3).

(2) If subsection (1) is contravened, the master, owner or charterer (if any) of the fishing boat each commits an offence.

Penalty: A fine of £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries approves, made as nearly as possible immediately before departure of the following or such of the following as he or she requires:

¹⁶ Section 22 amended by Ord. A3 of 2021

- (a) the name, port of registry, international radio call sign and fishing licence number of that fishing boat;
- (b) the quantity of fish aboard the fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a controlled fishing zone or a part of a controlled fishing zone in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;
- (c) if any fish of any species was, while the fishing boat was within a controlled fishing zone transhipped to any other vessel or in any other manner disposed of, particulars—
 - (i) of the name, port of registry, and international radio call sign of any vessel to which any fish was transhipped;
 - (ii) of the date or dates of the transhipping and the place at which it occurred;
 - (iii) in relation to each species so transhipped, of the quantity transhipped on every occasion and, in relation to each occasion, the quantity of that species transhipped which was taken under authority of the fishing licence and the quantity of that species of it which was not;
- (d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same fishing licence;
- (e) as to the expected next port of call of the fishing boat and its expected date of arrival there;
- (f) as to the place or places it is expected that the fishing boat will discharge or tranship the fish aboard any other fishing boat or other vessel;
- (g) if the fishing boat has discharged any fish other than by transhipping, particulars—
 - (i) of the date or dates of the discharge and the place at which it occurred;
 - (ii) in relation to each species so discharged, of the quantity discharged on every occasion and, in relation to each occasion, the quantity of that species discharged which was taken under authority of the fishing licence and of the quantity of that species which was not; and
 - (iii) in relation to each species so discharged, of the reasons for the discharge on each occasion.

(4) Before proceeding from any place in a controlled fishing zone at which it is authorised by a licence under section 12 to receive fish, the master, owner or charterer (if any) of the vessel must notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened, the master, owner or charterer (if any) of the vessel each commits an offence.
Penalty: A fine of £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries approves, made as nearly as possible before departure of the following or such of the following as he or she requires:

- (a) the name, port of registry, international radio call sign and transhipment licence number of the vessel;
- (b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a controlled fishing zone, a statement

- in relation to each species of the quantity of it which was received under the authority of the transshipment licence and the quantity of it which was not;
- (c) in relation to fish of any species received under the authority of the transshipment licence—
- (i) the quantity of it received from any fishing boat from which it was received;
 - (ii) the date or dates on which and the place at which it was received;
 - (iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;
- (d) whether or not it is expected that the vessel will return to receive fish under the authority of the same transshipment licence;
- (e) the expected next port of call of the vessel and its expected date of arrival at that port;
- (f) the place or places at which it is expected that the vessel will discharge or tranship the fish aboard the vessel.
- (7) The preceding provisions of this section have effect without affecting—
- (a) any obligation under the conditions of a licence granted under section 5 or section 12;
 - (b) any obligation under any regulations made under section 33 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he or she directs.

(8) If a person contravenes any provision of this section and has also contravened or thereafter contravenes any obligation under any other provision in such a manner as to constitute an offence, the person may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

Temporary departure provisions

23.¹⁷ (1) If a fishing boat has temporarily departed from a controlled fishing zone or part of an area or, in the case of a vessel licensed to carry on any fishing-related operation, from the place it was authorised to carry on that operation, and thereafter returns to undertake further operations under the same licence, the provisions of section 22 apply to the vessel on each occasion of entry or departure of it.

(2) If any person, in purported compliance with any obligation under section 22, provides any information –

- (a) which to his or her knowledge is false or misleading or is incomplete; or
 - (b) recklessly as to its truth, falsehood, misleading nature or incompleteness,
- the master, owner and charterer (if any) of the fishing boat or other vessel each commits an offence.

Penalty: A fine of £100,000.

PART V APPEALS

¹⁷ Section 23 amended by Ord. A3 of 2021

Appeals against decisions

24. (1) A person aggrieved by the refusal by the Director of Fisheries to grant a licence or permission, or by a decision by the Director of Fisheries to attach any condition to a licence or permission, or to vary, suspend or revoke a licence or permission, may appeal –

- (a) to the Supreme Court on the grounds that the Director of Fisheries erred in law or that the decision was based on an incorrect understanding of the facts; or
- (b) if the licence or permission relates solely to fishing within the territorial sea - to the Magistrates' Court on the same ground.

(2) The appeal must be commenced by giving notice in writing within 30 days from the date of the decision.

(3) Subject to subsection (4), the court may uphold the decision of the Director of Fisheries or amend the decision and substitute its own decision, and costs will be at the discretion of the court.

(4) The court must not uphold the appeal and amend the decision of the Director of Fisheries, unless it is established with respect to the relevant decision that the facts are such that had the Director of Fisheries been aware of them, he or she could not reasonably have made the decision he or she made.

PART VI FURTHER PROVISIONS RELATING TO OFFENCES

Further provisions as to offences

25. (1) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for her or that purpose to the effect that on a date specified in the certificate—

- (a) the person or the fishing boat or other vessel was not licensed under section 5 or (as the case may be) section 12;
- (b) the defendant or any other named person was not the holder of the licence; or
- (c) by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish product in a particular place,

is, unless the contrary is proved, sufficient evidence of the matter stated in the certificate.

(2) If any offence under this Ordinance or under regulations made under section 33 committed by a corporate body is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of that body (or, in the case of a corporate body existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) that person, as well as the corporate body, is deemed to have committed the offence and is liable to be proceeded against and punished accordingly.

Jurisdiction of Supreme Court

26. (1) All penalties, offences and proceedings under this Ordinance, or any regulation or order may be recovered, prosecuted and taken before the St Helena Supreme Court, except as provided in section 24(1)(b).

(2) In respect of such offences and notwithstanding any provision of law to the contrary, the St Helena Supreme Court may award to the Crown such costs and expenses incurred in relation to the prosecution of any such offence as appear to the court to be proper.

(3) Every person who commits an offence against this Ordinance or under any regulation or order made under it, for which no other penalty is specifically provided is liable to a fine not exceeding £10,000.

Forfeiture of licence

27. (1) Every person convicted of an offence under this Ordinance or any regulation or order made under it, who is at any time again convicted of such an offence within the licence period must, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence.

(2) In subsection (1), “**convicted of an offence**” means convicted of an offence in relation to matters brought before a court and for clarification does not include administrative penalties.

Administrative penalties for minor offences

28. (1) If the Director of Fisheries has reasonable cause to believe that—

- (a)* an offence against this Ordinance, other than an offence contrary to section 7(1), has been committed by any person;
- (b)* having regard to the previous conduct of the person or the fishing boat concerned it would be appropriate to impose a penalty under this section,

the Director may, unless the Attorney General has given him or her a direction (which has not been withdrawn) that a prosecution in respect of the offence must be brought, cause a notice in writing in accordance with subsection (2) to be served on that person.

(2) A notice under subsection (1) must specify—

- (a)* the date and nature of the offence;
- (b)* a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against the person);
- (c)* the monetary value of the penalty which will be imposed in respect of the alleged offence, which must not exceed in amount one half of the maximum fine to which the person would be liable if the person were convicted of the offence by a court; and
- (d)* any other matters (not being previous convictions) that the Director of Fisheries considers relevant to the imposition of a penalty,

and must be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing served on the Director of Fisheries, require that

proceedings in respect of the alleged offence be dealt with by a court having jurisdiction to try and determine that offence, in which case the following apply:

- (a) no further proceedings may be taken under this section by the Director of Fisheries; and
- (b) this section does not prevent the subsequent issuing of any summons in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) A person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence be dealt with by a court, may by notice in writing served on the Director of Fisheries—

- (a) admit the offence; and
- (b) bring to the attention of the Director of Fisheries any matters the person wishes the Director of Fisheries to take into account regarding reducing the value of any penalty under this section (as prescribed in subsection (2)(c)).

(5) If a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on the person—

- (a) require that proceedings in respect of the alleged offence be dealt with by a court; or
- (b) admit the offence,

the person is on the expiration of that period deemed to have admitted the offence.

(6) If under this section a person admits or is deemed to have admitted an offence, the Director of Fisheries may, after taking into account any submissions made by that person under subsection (4), reduce the monetary penalty as detailed in the notice under subsection (2) imposed on that person in respect of the offence

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section does not count as a conviction of an offence for the purposes of section 27.

(8) If the Director of Fisheries imposes a penalty on a person under this section in respect of an offence, he or she must cause a notice in writing of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section must pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on the person in accordance with subsection (8).

(10) A penalty imposed under this section is recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence, and, without affecting that provision, may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, if an offence has been admitted or is deemed to have been admitted under this section, no summons may be issued or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

- (12) This section does not apply in respect of any offence or alleged offence —
- (a) under section 7(1) or section 7(7); or
 - (b) in respect of which any summons has been issued or charge has already been laid.

Provisions as to amounts of fine and other orders to be made by court on conviction

29. (1) After convicting an individual of an offence and before ordering him or her to pay a fine under this Ordinance, the court must inquire into and take into account the means of the individual to pay that fine within a reasonable time, but in respect of any other person convicted of an offence under this Ordinance the court must order the person to pay such fine (not being greater than the maximum it is permitted to impose in respect of the offence) as the court considers just and proper in all the circumstances of the case.

(2) If the master, owner or charterer of a fishing boat is convicted of an offence under this Ordinance, the court must, in addition to any fine or other sum it orders to be paid, make an order of one or other of the kinds mentioned in subsections (3) and (4) and in so doing must take into account any representations made by or on behalf of the prosecution as to which of those orders it should make.

(3) An order under this subsection is an order that all the fish concerned in the offence be forfeited to the Crown.

(4) An order under this subsection is an order that the convicted person within 7 days must pay to the Crown a sum appearing to the court to be the value free on board at Georgetown of all fish appearing to the court to have been concerned in the offence.

(5) If a person is convicted of an offence under section 7(2) or section 7(4), the court must, in addition to any fine or other sum it orders to be paid, make an order of one or other of the kinds mentioned in subsections (3) and (4) of this section and in so doing must take into account any representations made by or on behalf of the prosecution as to which of those orders it should make.

Detention or forfeiture of fishing boats on failure to pay or secure fine

30. (1) If a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under it to pay a fine or costs and expenses or the value of the catch aboard the vessel or any part of that catch, the court must —

- (a) if no security has been given to the Crown for payment of the sum or it considers that insufficient security has been given to the Crown, order that in default of payment the person so ordered must give security for payment of the amount due; and
- (b) order the detention in such place within its jurisdiction as the court names of the fishing boat concerned, its equipment and the catch aboard it, until security to the satisfaction of the court is given or all sums referred to in this subsection are paid, whichever first occurs.

(2) If a person is convicted of an offence under this Ordinance and is ordered to pay a fine and that fine is not paid or security given within 7 days of the date of the order of the

court, or any longer period the court determines at the time the fine was imposed, the court must, on the application of the Crown and unless sufficient cause is shown to the contrary, order that the fishing boat concerned in the offence, and its equipment concerned in the commission of it, together with the catch aboard that fishing boat in so far as that catch has not already been forfeited under section 31(3), or such of the foregoing as are the subject of the application by the Crown, be forfeited to the Crown.

(2A) On making an order under subsection (2), the court must revoke or vary any order under subsection (1) previously made in a manner that in the circumstances it believes to be appropriate.

(3) On an order of forfeiture being made pursuant to subsection (2), the property to which it relates vests in the Crown free from encumbrances and may be disposed of in such a manner as the Director of Fisheries, acting in his or her discretion, directs.

(4) No appeal lies to any court against an order under subsection (2).

PART VII GENERAL

Regulations

31.¹⁸ (1) The Governor may make regulations for the better carrying into effect of the purposes of this Ordinance.

(2) In particular, and without limiting subsection (1), such regulations may provide for—

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that are to apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishery limits and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;
- (i) any matters in relation to which under section 5 a condition may be imposed on the grant of a licence under that section;
- (j) the designation by applicants for licences and licensees of authorised agents in Ascension in respect of fishing and fishing-related operations and otherwise for the purposes of this Ordinance;
- (k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;
- (l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence on such boats;

¹⁸ Section 31 amended by Ord. A3 of 2021

- (m) a maximum fine of an amount prescribed in the regulations in respect of any offence under the regulations (but so that no such fine may exceed £100,000 and, subject to that limitation, different fines may be prescribed in relation to different offences);
- (n) any other purpose related to any obligation under, or objective of, ICCAT.

(3) Regulations made under this section may make different provisions for different parts of the fishery limits, different controlled fishing zones, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

Repeal

- 32. The Fishery Limits Ordinance, 1978 is repealed.

SCHEDULE A (Sections 2 and 11)

A (non-exhaustive) list of organisations pursuant to section 11

The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

The Convention on the Conservation and management of the Pollock Resources in the Central Bering Sea (CCBSP)

Commission for the Conservation of Southern Bluefin Tuna (CCSBT)

European Commission (to the extent to which it performs the functions of an RFMO)

General Fisheries Commission for the Mediterranean (GFCM)

Indian Ocean Tuna Commission (IOTC)

Inter-American Tropical Tuna Commission (IATTC)

International Commission for the Conservation of Atlantic Tunas (ICCAT)

International Pacific Halibut Commission (IPHC)

International Whaling Commission (IWC)

Lake Victoria Fisheries Organisation (LVFO)

Northwest Atlantic Fisheries Organisation (NAFO)

North Atlantic Salmon Conservation Organisation (NASCO)

North East Atlantic Fisheries Commission (NEAFC)

North Pacific Anadromous Fish Commission (NPAFC)

Pacific Salmon Commission (PSC)

Regional Commission for Fisheries (RECOFI)

Southeast Atlantic Fisheries Organisation (SEAFO)

South Indian Ocean Fisheries Agreement (SIOFA)

South Pacific Regional Fisheries Management Organisation (SPRFMO)

Western and Central Pacific Fisheries Commission (WCPFC)

SCHEDULE B

(Sections 14(1) and 15(1))

List of information to be provided pursuant to section 14

- (a) estimated date and time of arrival;
- (b) all the purposes of the call,
- (c) the name of the suggested next port of call and the expected final port of call;
- (d) last port of call, its date and purpose;
- (e) name of vessel;
- (f) flag State;
- (g) type of vessel;
- (h) international radio call sign;
- (i) vessel contact information;
- (j) vessel owner;
- (k) certificate of registry ID;
- (l) VMS details;
- (m) dimensions of vessel;
- (n) names and nationalities of master and crew;
- (o) fishing authorisation(s);
- (p) start and estimated end of the fishing voyage;
- (q) fishing or transshipment authorisation;
- (r) the quantities of each species of fish on board;
- (s) the quantities of each species of fish to be landed or transhipped;
- (t) where the catch was made or where transshipment (in whole or in part) would take place.

SCHEDULE C

(Section 14(2))

Illegal, Unreported, or Unregulated Fishing Declaration under section 14:

I.....[*name*], Master of the.....[*Flag State*] flagged vessel.....[*vessel name*] having declared my intention to enter Ascension Harbour hereby declare that I and my vessel have/have not [*please delete as appropriate*] been engaged in or supported any form of illegal, unregulated, or unreported fishing activity.

Signed:.....

Date:.....

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE, 2015

FISHERY LIMITS (LICENSING OF FISHING)(OFFSHORE ZONE) ORDER 2015
(Section 5(1))

Citation and commencement

1. This Order may be cited as the Fishery Limits (Licensing of Fishing)(Offshore Zone) Order, 2015 and comes into force on 5th November 2015.

Licensing of fishing

2. Fishing within the fishery limits in any area beyond the territorial sea is prohibited unless authorised and carried out in accordance with a fishing licence granted by the Director of Fisheries under section 5 of the Ordinance.

Form and duration of licence

3. The form and duration of a fishing licence to which this Order applies is to be determined by the Director of Fisheries in each case.

Charge for licence

4. A charge may be made for each fishing licence, having regard to the factors set out in section 5(6)(b), of the Ordinance, the amount of which is prescribed in the Schedule.

SCHEDULE

(Article 4)

LICENCE FEE CHARGES

<u>Type of licence</u>	<u>Licence Fee</u>
1. Commercial offshore fishing licence	£20,000

FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE, 2015

FISHERY LIMITS (LICENSING OF TRANSHIPMENT) ORDER, 2015
(Section 12(1))

Citation and commencement

1. This Order may be cited as the Fishery Limits (Licensing of Transshipment) Order, 2015 and comes into force on 5th November 2015.

Licensing of Transhipment

2. Transhipment of fish or fishing products is prohibited within the fishery limits unless it is authorised by a transhipment licence granted by the Director of Fisheries under section 12 of the Ordinance.

Form and duration of licence

3. The form and duration of a transhipment licence to which this Order applies is to be determined by the Director of Fisheries in each case.

Charge for licence

4. A charge may be made for each transhipment licence, the amount of which is prescribed in the Schedule.

SCHEDULE (Article 4)

TRANSHIPMENT LICENCE FEE CHARGE

<u>Type of licence</u>	<u>Fee per transhipment</u>
1. Transhipment licence (fishing vessel)	£500
2. Transhipment licence (recipient vessel)	£0
