

No. 18 of 1979                      Fisheries Ordinance, 1979                      Virgin Islands

and

No.12 of 1980                      Fisheries (Amendment)                      I Assent

Ordinance 1980

J.A. Davidson  
Governor

VIRGIN ISLANDS

18 October 1979

No. 18 of 1979

AND

No. 12 of 1980

an Ordinance to provide for the protection, regulation and control of products of the sea in the waters of, and adjacent to, the Virgin Islands, and for matters connected therewith or incidental thereto.

[ Gazetted 1 November 1979 ]

AND

30<sup>th</sup> October, 1980

ENACTED by the Legislature of the Virgin Islands.

Short title.

1. This Ordinance may be cited as the Fisheries Ordinance, 1979, and amended 1980.

Interpretation.

2. In this Ordinance, unless the context otherwise requires:-

"belonger" has the meaning ascribed thereto by the Virgin Islands (Constitution) Order, 1976;

"court" means Magistrate's court;

"export" includes placing in any ship, boat or vessel or aircraft for conveyance outside the Territory;

"exclusive fishing zone" means the territorial waters of the Virgin Islands together with the zone contiguous to the said waters which was proclaimed as a fisheries zone for the Virgin Islands by proclamation made by the Governor on the 9<sup>th</sup> day March, 1977;

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1977.

"fish" means fish of any kind found in the sea and includes lobsters, crawfish, crabs, shrimps, prawns, oysters, mussels, cockles and any other kind of shell fish;

"fishing boat" includes any vessel of whatever size used by any person in fishing;

"foreign fishing boat" means a fishing boat owned and operated by a person not deemed to be a believer or a fishing boat owned and operated by a person not resident in the Territory, and includes any fishing boat

registered or licensed in a country other than the Territory;

"functions" includes powers and duties;

"licence" means a licence issued by the Minister;

"marine product" means fish, turtle, sponge, corals and any other natural product of the sea;

"Minister" means the Minister of the Government in charge of or to whom the subject matter of this Ordinance has been assigned;"

"protected area" means an area declared by the Minister to be a protected area under section 4;

"taking" with reference to a marine product includes capturing, killing and destroying;

"vessel" includes any ship or boat or any other description of vessel used in navigation and any description of aircraft.

Fisheries inspectors

3. (1) Every officer of the revenue, every peace officer, every officer of the Department of Agriculture and Fisheries, and any other officer, appointed for the purpose by the Minister by instrument in writing shall be a fisheries inspector for the purposes of this Ordinance and shall have and may exercise the functions assigned to a fisheries inspector by or under this Ordinance.

(2) The Minister may appoint the Chief Agricultural Officer or a senior officer of that Department to be the Chief Fisheries Inspector.

Power to declare protected areas.

4. (1) The Minister may by order declare any area of the waters within the exclusive fishing zone whether alone or together with any area of land up to high water mark adjacent to such waters to be a protected area for the purposes of this Ordinance -

Provided that when the Minister proposes to make any order under this section he shall publish notice of his intentions in the Official Gazette and in a newspaper published within the Territory giving interested persons the opportunity of submitting objections in writing within twenty-one days of the date of such publication and shall not proceed to make any such order until all such objections, if any, have been duly considered.

(2) Any order made under this section may prohibit the taking within the protected area of marine products, or of any marine products specified in the order, by any person otherwise than under the authority of and in accordance with the terms and conditions of a licence in that behalf granted to that person for the purpose.

(3) Any person who takes any marine product in a protected area in contravention of the provisions of any order made under this section in respect of such area or of any term or condition attached to a licence granted for the purpose shall be guilty of an offence and liable upon summary conviction to a fine not exceeding seven hundred and fifty dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and any vessel used for the commission of the offence shall be liable to forfeiture.

(4) Where any person is found within a protected area in possession of any marine product the taking of which within that area is prohibited by an order made under this section he shall be deemed, until the contrary is proved, to have taken that marine product within that area.

Taking,  
and certain  
methods of  
taking,  
marine  
products  
may be  
prohibited

5. (1) The Minister may by order prohibit the taking:-
- (a) of any species or kind of marine product specified in the order (whether by reference to size or weight or otherwise) absolutely or during such period or periods as may be so specified;
  - (b) of any marine product by any method specified in the order; and
  - (c) of any marine product by the use of any engine, dredge, trap or device,

anywhere within the exclusive fishing zone and whether within a protected area or otherwise.

(2) Any person who take any marine product in contravention of the provisions of an order made under this section, and the Master or other person in charge of any vessel who suffers or permits the vessel or any person belonging to the vessel to be employed in so taking or to so take any marine product, shall each be guilty of an offence and liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment, and the marine product so taken and any vessel used in such taking shall be liable to forfeiture;

"Registration  
and licensing  
of fishing  
boats.

- \* (3) No person shall:-

- (a) use a fishing boat; or
- (b) being the owner, permit a fishing boat to be used, to take any marine product in the exclusive fishing zone unless there is a licence issued in respect of the fishing boat and the fishing boat is registered as prescribed under this Ordinance,

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- (c) Notwithstanding subsection (1), any fishing boat licensed under the General Revenue Ordinance is deemed to be registered under this Ordinance, and any licence issued under the General Revenue Ordinance in respect thereof is deemed to be issued under this section and is valid until the date of its expiry."

Restriction  
on export.

6. (1) No person shall export any marine product from the Territory otherwise than under the authority of, and in accordance with the terms and conditions of a licence in that behalf granted to that person for the purpose.

(2) Any person who exports any marine product in contravention of the provisions of this section or of any term or condition attached to a licence granted thereunder shall be guilty of an offence and liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

Fishing  
boats.

7. (1) Where any person on board a foreign fishing boat takes any marine product within the exclusive fishing zone then that person and also the Master or other person in charge of the boat shall each be guilty of offence and liable, upon summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, and the marine product so taken and the boat used in such taking shall be liable to forfeiture.

(2) Where any marine product is found on board any foreign fishing boat within the exclusive fishing zone or where any marine product is landed, or placed in any crawl from any fishing boat at any creek, island or cay within the Territory, such marine product shall be deemed, until the contrary be proved, to have been taken within the exclusive fishing zone by a person on board such fishing boat.

(3) Notwithstanding anything to the contrary, a taking by a person on board a foreign fishing boat shall be deemed not to be in contravention of subsection (1) of this section if such taking was made:-

for scientific research purposes under the authority, of, and in accordance with the terms and conditions of a licence in that behalf granted to the person operating the boat.

Powers of  
seizure  
arrest,  
etc.

8. (1) A fisheries inspector may at any time stop, go on board and search any fishing boat within the exclusive fishing zone, and if he has reason to suspect that any person on board such boat has contravened any of the provisions of this Ordinance, may without summons, warrant or other process seize the boat and detain it and any person found on board.

(2) A fisheries inspector may at any time without summons, warrant or other process seize and detain any vessel or thing which is liable to forfeiture under this Ordinance or which he has reasonable grounds to believe is so liable.

(3) Any fisheries inspector and any person whom he may call to his assistance may arrest and detain without warrant any person who such inspector has reason to suspect has committed or permitted the commission of any offence against this Ordinance.

(4) Any person who resists or obstructs any fisheries inspector in the exercise of any of his powers conferred by this section shall be guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars, and such person may be detained by the fisheries inspector.

(5) Where any vessel or thing is seized or detained or any person is detained under this section by a fisheries inspector, the inspector shall take such vessel, thing or person as soon as may be to the nearest or most convenient place in the Territory and there deliver it or him into the custody of the most senior police officer.

Persons in  
custody to  
be brought  
before a

9. Where on delivering any person into the custody of a police officer in accordance with the provisions of section 8:-

magistrate's  
court or  
released.

(a) the fisheries inspector makes a complaint to such officer that such person has committed an offence against this Ordinance, the police officer shall as soon as may be cause such person to be brought before a magistrate's court

to be dealt with according to law; or

- (b) the fisheries inspector does not make any such complaint, the police officer shall forthwith release such person.

Detention  
of vessels,  
etc;

10. (1) Where any vessel or thing is delivered into the custody of a police officer at any place by a fisheries inspector in accordance with the provisions of section 8, such vessel or thing shall be detained in the custody of the Chief of Police at that place or at such other place as the Chief of Police may direct until the same shall be forfeited or released in accordance with the provisions of this section.

(2) Any vessel or thing detained under the provisions of subsection (1) of this section shall be released upon demand to the owner or his duly accredited agent:-

- (a) within the period of seven days next following the date of delivery of the vessel or thing to the police officer, if no proceedings are instituted within this period against the owner or the Master or other person in charge of the vessel or thing in respect of an offence against this Ordinance; or
- (b) in any case where such proceedings are instituted as aforesaid upon the final determination of such proceedings, where the vessel or thing is not liable or ordered to be forfeited under the provisions of this Ordinance, or where a fine has been imposed by the Court in such proceedings upon the payment of such fine within the time prescribed by the Court for such payment.

(3) Any vessel or thing detained under the provisions of subsection (1) of this section shall be subject to a lien in favour of the Crown for the amount of any fine imposed by the Court upon the owner of the Master or other person in charge thereof in any proceedings in respect of an offence against this Ordinance, and if such fine shall not have been paid by the due date for payment thereof the Registrar may, subject as in this subsection provided, after first serving upon the owner or the Master or other person in charge of the vessel or thing, a notice in writing of his intention so to do, sell the vessel or thing by public auction after the lapse of fourteen days of the service of such notice and deduct the amount of the fine or fines unpaid and the expenses incurred in selling the vessel or thing from the proceeds of the sale and pay the balance to the Accountant General to be held by the Accountant General and paid by him to such person as shall satisfy him that he is entitled thereto:

Provided that if within the period of fourteen days next following the date of service of a notice under this subsection upon the owner, Master or other person in charge of a vessel or thing, such owner, Master or other person pays to the Court the amount of any fine or fines unpaid, and pays to the Registrar the amount of any expenses incurred by the Registrar in respect of the proposed sale, the Minister shall not offer such vessel or thing for sale but shall release the vessel or thing to such owner, Master or other person.

- (4) No action shall lie at the suit of any

person against the Account General in respect of the payment by him in good faith of any moneys under subsection (3) of this section to any person appearing to him to be entitled to the same.

\* (5) Where a vessel is detained under subsection (1) no action shall lie against the Chief of Police or the Crown in respect of loss or damage to any perishable marine product.

Trial of offences.

11. (1) Where any offence against any of the provisions of this Ordinance or of any rule made thereunder is committed within the exclusive fishing zone then, of the purposes of the jurisdiction of any court in the Territory, that offence shall be deemed to have been committed at the place in the Territory where the offender is found or to which he is first brought after the commission of the offence.

(2) The jurisdiction under subsection (1) of this section shall be in addition to and not in derogation of any jurisdiction or power of any court under any other enactment.

Rules.

12. The Minister may make rules for the better carrying out of the provisions of this Ordinance and in particular, and without prejudice to the generality of the foregoing, for all or any of the following purposes:-

- (a) providing for the issue of licences, their terms and conditions, and for the transfer, amendment and revocation of licences;
- (b) prescribing the forms to be used for any of the purposes of this Ordinance;
- (c) prescribing the fees to be charged in respect of the issue of any licence or the transfer or amendment of any licence;
- (d) prescribing the size and type of construction of any trap, net or seine and prohibiting the use for the purpose of taking any marine product of any trap, net or seine other than a trap, net or seine of the prescribed size of mesh;
- (e) regulating the size, type, quantity, quality or species of any marine product which may be in the possession of any person;
- (f) providing for the regulation of the sale of any marine product to the public and for the inspection, grading, packing and storage of any marine product intended for human consumption whether within or outside the Territory; and
- (g) prescribing anything to be prescribed under the provisions of this Ordinance.

Penalty for possession.

13. Any person, whether holding a licence or not, found in possession of any article prohibited to be used, or any marine product prohibited to be taken under an Order or rule issued or made under this Ordinance and failing to give a satisfactory explanation of such possession shall be guilty of an offence and liable upon summary conviction to a fine not exceeding eight hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Exemptions.

14. The Minister may by Order published in the Gazette exempt any person or class of person from any provision of this ordinance.

Passed the Legislative Council this 16<sup>th</sup> day of October, 1980 and amended by the Legislative Council 16<sup>th</sup> October, 1980.

I. Dawson  
Speaker

M.G. Borde  
Clerk of the Legislative Council

\* From the Fisheries Amendment Ordinance 1980.