

VIRGIN ISLANDS
HIGH SEAS FISHING ACT, 1995

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I Assent

Governor
, 1995

VIRGIN ISLANDS

NO. OF 1995

A Bill for

An Act to make provisions for the implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by the Conference of the Food and Agriculture Organisation of the United Nations on the twenty fourth day of November, 1993 and the Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10th December, 1982 relating to the Conservation of Straddling Fish Stocks and Highly Migratory Fish Stocks and other matters connected therewith.

[Gazetted 1995]

ENACTED by the Legislature of the Virgin Islands as follows:

PRELIMINARY

Short title and Commencement.

1. This Act may be cited as the High Seas Fishing Act, 1995 and shall come into force on such date as the Governor in Council may by Notice Published in the Gazette, appoint.

Interpretation.

In this Act, unless the context otherwise requires,

"Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by the Conference of the Food and Agriculture Organisation on the twenty fourth day of November, 1993 and the Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10th December, 1982 relating to the Conservation of Straddling Fish Stocks and Highly Migratory Fish Stocks;

"authorised officer" means the Chief Conservation and Fisheries Officer and any of the authorised officers provided for under section 3 or any person authorised by or acting under the orders of the Chief Conservation and Fisheries Officer;

"Chief Conservation and Fisheries Officer" means the public officer for the time being holding or acting in such office or any person to whom he may delegate functions under section 3 (2);

"exclusive fishing zone" means the territorial waters of the Virgin Islands together with the zone contiguous to the territorial waters which was proclaimed as a fisheries zone for the Virgin Islands by proclamation made by the Governor on the 9th day of March, 1977, and any other marine waters to which any enactment applies.

"fish" includes any living marine resource;

"fishing" means the catching or taking of fish, or any other activity which can reasonably be expected to result in the catching or taking of fish or which is directly related to fishing, including the operation of mother ships;

"fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of fish, including mother ships and any other vessels directly engaged in fishing operations;

"foreign fishing vessel" means a fishing vessel other than a Virgin Islands fishing vessel;

"high seas" means the marine waters beyond the territorial sea, archipelagic waters, fisheries zone or exclusive economic zone of any State;

"high seas fishing licence" means a fishing licence granted pursuant to section 7 and the other provisions of this Act;

"international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea either by global, regional or subregional fisheries organisations, subject to the rights and obligations of their members, or by treaties or other international agreements;

"licensed fishing vessel" means a fishing vessel in respect of which a licence has been granted pursuant to section 7;

"master", in relation to a fishing vessel, includes the person for the time being in command or in charge of the fishing operations on board the vessel; and

Act No. of 1995 "Virgin Islands fishing vessel" means a fishing vessel that is registered under the Fisheries Act, 1995.

PART I

ADMINISTRATION

Duties of Chief Conservation and Fisheries Officer. 3. (1) In the performance of his functions under this Act, the Chief Conservation and Fisheries Officer shall be responsible for

- (a) maintaining a record of all fishing vessels in respect of which high seas fishing licences have been issued under this Act, which record shall include all information provided by an applicant under section 6;
- (b) the collection of statistics concerning fish stocks and fishing on the high seas;
- (c) the monitoring, control and surveillance of the operations of Virgin Islands fishing vessels on the high seas;
- (d) the issue, variation, suspension and revocation of licences for fishing on the high seas;
- (e) the collection of fees in respect of high seas fishing vessel licences;
- (f) the taking of appropriate measures in cooperation with other States for the implementation of the Agreement;
- (g) the making of such reports to the Minister as the latter may require or the Chief Conservation and Fisheries Officer shall consider appropriate;
- (h) the taking of all such other measures as the Minister may direct or the Chief Conservation and Fisheries Officer may consider appropriate for the implementation of the Agreement and this Act.

(2) The Minister may give or may authorise the Chief Conservation and Fisheries Officer to give such information and make such reports as may be necessary to enable the Virgin Islands to comply with their obligations under the Agreements or either of them.

(3) Subject to subsection (4), the Chief Conservation and Fisheries Officer may, and if directed by the Minister shall, in writing authorise any public officer to exercise any or all of the powers of the Chief Conservation and Fisheries Officer either concurrently with him or in his absence subject to such conditions, including territorial restrictions, as may be stipulated in the authorisation.

(4) The Chief Conservation and Fisheries Officer shall personally exercise the powers provided for under section 21, but may not exercise those powers in any case without the consent of the Attorney General.

(5) This Act shall be enforced by authorised officers acting subject to the direction of the Chief Conservation and Fisheries Officer and for that purpose authorised officers shall have the powers set out in sections 12 and 13.

(6) The following persons shall be authorised officers:

- Act No. of 1995
- (a) the fisheries officers appointed pursuant to the Fisheries Act, 1995;
 - (b) the members of the Royal Virgin Islands Police Force;
 - (c) the persons in command or in charge of any vessel, aircraft or hovercraft of Her Majesty's Armed Services or of the Government of the Virgin Islands; and
 - (d) such other public officers as the Minister may prescribe.

PART II

LICENSING OF FISHING ON THE HIGH SEAS

Prohibition of fishing on the high seas without a licence. 4. (1) No Virgin Islands fishing vessel shall be used for fishing on the high seas except under the authority of a high seas fishing licence.

(2) Where a fishing vessel is used in contravention of subsection (1) the master, owner and charterer of such vessel each commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

Vessels eligible for high seas fishing licences. 5. (1) Subject to subsection (2), a Virgin Islands fishing vessel is eligible for a high seas fishing licence, except where the vessel has been authorised to be used for fishing on the high seas by another State and that State has

- (a) suspended such authorisation and the suspension has not expired, or

- (b) withdrawn such authorisation within the three years preceding the application,

because the fishing vessel has undermined the effectiveness of international conservation and management measures.

(2) The exceptions contained in subsection (1) shall not apply to a vessel where

- (a) ownership of that vessel has changed since the suspension or withdrawal of authorisation and the new owner has provided evidence, to the satisfaction of the Chief Conservation and Fisheries Officer, that the previous owner, charterer or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or
- (b) the Chief Conservation and Fisheries Officer has decided, after taking into account all relevant facts, that the grant of a fishing licence in respect of the vessel will not undermine the object and purpose of the Agreement.

Applications and fees.

6. (1) An application for the grant of a high seas fishing licence shall be

- (a) made in the manner prescribed by the Minister;
- (b) accompanied by the information required under subsection (2) and such other information and documents as the Minister may prescribe; and
- (c) accompanied by the prescribed application fee.

(2) An application for a high seas fishing licence shall relate to a specific vessel and shall be accompanied by the following information in relation to the vessel:

- (a) the name of the fishing vessel;
- (b) the registration number, if any;
- (c) the previous names, if known;
- (d) the port of registry;
- (e) the previous flag, if any;
- (f) the international radio call sign, if any;
- (g) the names and addresses of the owners and operator;

- (h) where and when built;
- (i) the type of vessel;
- (j) the length of the vessel;
- (k) the type of fishing method used;
- (l) the moulded depth;
- (m) the beam;
- (n) the gross register tonnage, where available; and
- (o) the power of the main engines.

Grant of high seas fishing licences and conditions relating to licences.

7. (1) A high seas fishing licence shall be granted by the Chief Conservation and Fisheries Officer to the master, owner or charterer in respect of a specified fishing vessel.

(2) Subject to any directions given to him by the Minister, the issue of each high seas fishing licence shall be in the discretion of the Chief Conservation and Fisheries Officer.

(3) The Chief Conservation and Fisheries Officer shall not grant a high seas fishing licence in respect of a fishing vessel unless he is satisfied that the Virgin Islands will be able to exercise effectively its responsibilities under the Agreements in respect of that vessel.

(4) A high seas fishing licence may authorise a vessel to be sued for fishing generally or may confer limited authority by reference in particular to

- (a) the area in which fishing is authorised;
- (b) the period, times or particular voyages during which fishing is authorised;
- (c) the descriptions, quantities, size and presentation of fish which may be taken; or
- (d) the method of fishing.

(5) A high seas fishing licence shall be subject to the following conditions:

- (a) the licensed fishing vessel shall be marked in accordance with the Food and Agriculture Organisation Standard Specifications for the Marking and Identification of Fishing Vessels;
- (b) the records of fishing operations shall be kept on board the licensed fishing vessel and such returns shall be submitted to the Chief

Conservation and Fisheries Officer concerning areas of fishing, catches and landings of fish and such other matters as are stipulated in the licence or as shall be notified by the Chief Conservation and Fisheries Officer to the person to whom the licence is granted; and

- (c) the licensed fishing vessel shall not engage in activities which undermine the effectiveness of international conservation and management measures and in particular such activities as may be prescribed in the licence.

(6) A high seas fishing licence shall authorise fishing subject to such further conditions as may appear to the Chief Conservation and Fisheries Officer to be necessary or expedient for the conservation or management of species of living marine resources in the high seas and as may be specified by him in writing.

(7) If a condition in a licence referred to in subsection (4) or (5) is breached, the master, owner and charterer of the fishing vessel concerned in such breach each commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

(8) A high seas fishing licence may be

- (a) varied from time to time, or
(b) revoked or suspended,

if this appears to the Chief Conservation and Fisheries Officer to be necessary or expedient for the conservation or management of living marine resources in the high seas.

(9) If a high seas fishing licence is varied, revoked or suspended the Chief Conservation and Fisheries Officer may, if he considers it appropriate taking into account the circumstances of the case, refund the whole or any part of the fee charged for the licence.

Period of
validity of
high seas
fishing licences.

8. (1) Subject to subsection (2), the period of validity of a high seas fishing licence shall be twelve months or such other period as may be specified in the licence and it may be renewed upon payment of the prescribed fee.

(2) A high seas fishing licence shall cease to be valid if the vessel in respect of which it was issued ceases to be entitled to fly the flag of the Virgin Islands.

PART III

INTERNATIONAL COOPERATION

High seas
fishing
information.

9. The Chief Conservation and Fisheries Officer may require any fisherman or person owning or working on a Virgin Islands fishing vessel that is used for fishing on the high seas, to provide him with information or make returns in such form and at such periods as he may decide concerning areas of fishing, catches and landings of fish and such other matters relating to fishing operations with which such person is connected as may be stated in any such requirement.

Exchange of
information with
other States.

10. (1) The Chief Conservation and Fisheries Officer, if so authorised by the Minister, may make such arrangements as may be appropriate to enable him to exchange information, including evidentiary material, with other countries that are parties to the Agreements or either of them or to which the Agreements have or either of them has been applied to enable the Virgin Islands and such other countries better to implement the objects of the Agreements or either of them.

(2) Without derogating from the generality of arrangements made under subsection (1), the Chief Conservation and Fisheries Officer in particular may, where he has reason to believe that a foreign fishing vessel has engaged in activities that undermine international conservation and management measures,

(a) provide to the appropriate authorities of the flag State of the foreign fishing vessel concerned such information, including evidentiary material, relating to those activities, as may be necessary to assist the flag State in identifying the vessel; and

(b) when such foreign fishing vessel if voluntarily in a port of the Virgin Islands promptly notify the appropriate authorities of the flag State of the vessel accordingly.

PART IV

ENFORCEMENT

General powers
at sea of
authorised
officers.

11. (1) For the purpose of enforcing this Act with respect to any Virgin Islands fishing vessel on the high seas and in the exclusive fishing zone, an authorised officer may

(a) stop the vessel;

(b) require the master to stop fishing and take the fishing gear of the vessel back on board;

- (c) require the master to facilitate the boarding of the vessel by all appropriate means;
- (d) go on board the vessel, and take with him such other persons as he may require to assist him in the exercise of his powers;
- (e) require the master or crew to produce, and he may examine and take, copies of any certificate of registry, licence, official log book, official paper, article of agreement, record of fish caught and any other document relating to the vessel and to the crew or any member thereof or to any person on board the vessel which is in their respective possession or control on board the vessel;
- (f) muster the crew of the vessel;
- (g) require the master to appear and give any explanation concerning the vessel and any crew or person on board the vessel and any document mentioned in paragraph (e);
- (h) make any search, examination or enquiry which he shall consider necessary to find out whether any provision of this Act has been contravened;
- (i) take or require the master to take the vessel to any place, port or harbour in the Virgin Islands for the purpose of the carrying out of any search, examination or enquiry;
- (j) in the case of any person who appears to him to have committed an offence under this Act arrest, without summons, warrant or other process, such *suspected offender and take or* require the master of the vessel to take the vessel in respect of which it appeared to the authorised officer that there has been an offence, together with the crew thereof to a port of harbour in the Virgin Islands and bring such person or persons before a competent court and detain him or them and the vessel in the Virgin Islands until the alleged offence has been adjudicated upon;
- (k) having regard to the safety of the vessel, take steps to immobilise any fishing vessel seized, taken or detained in

accordance with this section for the purpose of preventing the vessel being taken by any person prior to the release of the vessel under section 12 or 13 or by the court:

- (1) in the case of an offence under section 4, seize any vessel together with its equipment, stores and cargo which he believes have been used in the commission of such offence or in respect of which he believes such offence has been committed;
- (m) seize any fishing gear, instruments or appliances which he believes have been used in the commission of an offence under this Act;
- (n) seize any fish which he believes have been taken or fish products produced in the commission of an offence under this Act;
- (o) seize or take copies of any documents which he believes are relevant to any offence committed under this Act.

(2) In exercising the powers referred to in subsection (1), an authorised officer may use such force as may be reasonably necessary.

Security for
release of a
fishing vessel.

12. (1) Where a fishing vessel is taken, seized or detained under this Act and a charge is laid against the master, owner or charterer of the vessel in respect of the offence for which the vessel has been taken, seized or detained, the master, owner or charterer or the agent of the owner or charterer of the vessel may, at any time before the determination of the charge, apply to the court by which the charge is due to be determined for the release of the vessel on the provision of security in accordance with this section.

(2) On hearing an application under subsection (1) the court shall,

- (a) upon being satisfied that reasonable security has been given to the Crown in respect of the aggregate of the maximum penalty to which the defendant may be liable and the costs and expenses that the Crown may recover under section 19, order the release of the fishing vessel; or
- (b) order the release of the fishing vessel on the execution by any suitable person or persons approved by the court for the

purpose of a reasonable bond in favour of the Crown in the prescribed form and condition in accordance with subsection (4) in an amount not less than the aggregate of the maximum penalty to which the defendant may be liable and the costs and expenses that the Government may recover under section 19.

(3) Notwithstanding subsection (2), the court may, where it is satisfied that there are special circumstances to justify it doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

(4) The condition of the bond shall be that if

- (a) the defendant is found not guilty of the offence charged, or
- (b) the defendant, on being convicted of the offence, pays in full within fourteen days after he is convicted the amount of the fine imposed by the court and the amount of all costs and expenses due by him to the Crown under section 19,

then the bond shall be of no effect but that otherwise the bond shall remain in full force and effect.

(5) The amount specified in the bond shall be recoverable in full in any court of competent jurisdiction as a debt due to the Crown jointly and severally by the person or persons by whom the bond is given, unless the person or persons prove the due performance of the condition for which the bond was made.

(6) In this section "fishing vessel" includes all

- (a) equipment on board or used by the vessel; and
- (b) fish that have been seized from the vessel under this Act and are detained on board the vessel in the custody of the Crown.

Disposal of seized fish and other perishables.

13. (1) Where any fish or other things of a perishable nature are seized under section 11, the Chief Conservation and Fisheries Officer may, notwithstanding any other provision of this Act,

- (a) return the fish or other thing to the person from whom it was seized on receiving security that is, in the opinion of the Chief Conservation and Fisheries Officer, adequate for

the equivalent value of the fish or thing by way of bond or other stipulation conditioned for payment of such equivalent value in the event that such amounts shall be adjudged by the court to be forfeited to the Crown; or

- (b) cause the sale of the fish or other thing at its reasonable market value and if court proceedings are instituted, pay the proceeds of sale into court pending an order by the court in respect of the forfeiture or otherwise of the proceeds or if no proceedings are instituted, release the proceeds to the person from whom the fish or thing was seized.

(2) Where fish has been seized in accordance with section 11, it may be released or destroyed at the discretion of the authorised officer seizing it if he considers such act desirable in order to prevent undue suffering, or for other good and sufficient reason.

Disposal of
persons arrested,
vessels and
other things
detained or
seized.

14. (1) Any person arrested and, subject to section 13, any vessel, article or thing arrested, detained or seized shall be brought before a court of competent jurisdiction without undue delay.

(2) Where any person arrested is released without charge or the prosecution of that person is not proceeded with within thirty days of the arrest, any vessel, article or thing arrested, detained or seized when in the possession of or under the control of that person or the proceeds of sale thereof shall, subject to section 15 (2), be returned to that person.

(3) Where the court holds any vessel, article or thing arrested, detained or seized under this Act and a person who has been properly charged with an offence in relation thereto fails, within ninety days of the arrest, detention or seizure, to appear to answer the charge the Chief Conservation and Fisheries Officer may apply to the court for such vessel, article or thing to be forfeited to the Crown and the court shall make such order as it shall consider just.

(4) Where the court fails or refuses to make an order for forfeiture under subsection (3), the Chief Conservation and Fisheries Officer may appeal to the High Court the decision of which shall be final.

(5) Subject to subsection (6) and section 13, where a vessel, article or thing is arrested, detained or seized under this Act and no person is arrested, the vessel, article or thing shall be returned to the owner or the

person having possession, care or control of it at the time of arrest, detention or seizure.

(6) If the lawful owner of a vessel, article or thing arrested, detained or seized under this Act cannot be traced within thirty days of such seizure the vessel, article or thing shall be forfeited to the Crown and be disposed of as the Chief Conservation and Fisheries Officer in his discretion shall consider fit and any proceeds of sale thereof shall be paid into the Consolidated Fund.

(7) Where a vessel, article or thing has been arrested, detained or seized under this Act and the Court does not order the forfeiture of the vessel, article or thing then that vessel, article or thing or any proceeds realised from the disposal of such vessel, article or thing shall be returned to the owner or the person having the possession, care or control of it at the time of arrest, detention or seizure.

(8) Where the owner of a vessel, article or thing or the person having the possession, care or control of it at the time of its arrest, detention or seizure is convicted of an offence under this Act and a fine is imposed,

- (a) the vessel, article or thing may be detained until the fine is paid;
- (b) the vessel, article or thing may be sold in satisfaction of the fine; or
- (c) any proceeds realised from its disposal under this Act may be applied in payment of the fine.

(9) Subject to this Act, the Chief Conservation and Fisheries Officer may cause any fish, vessel or any fishing gear found or seized and at his disposal to be destroyed if he considers it fit to do so.

PART V

PROHIBITIONS AND OFFENCES

Prohibition of activities that undermine the effectiveness of international conservation and management measures.

15. (1) No person operating a fishing vessel that is entitled to fly the flag of the Virgin Islands, whether or not it is required to be licensed under this Act, shall engage such vessel in any activity on the high seas that undermines the effectiveness of international conservation and management measures.

(2) The Minister may, by Regulation, prescribe certain activities as being activities that undermine the effectiveness of international conservation and management measures.

(3) Where a person contravenes subsection (1) he, and the master, owner and charterer of the vessel each commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars.

Obstruction of authorised officers, false information and alteration of licences.

16. (1) A person who
- (a) assaults, resists or wilfully obstructs an authorised officer when acting in the exercise of his powers under this Act,
 - (b) refuses or neglects to comply with any order, requisition or direction lawfully made or given under this Act,
 - (c) fails without reasonable excuse,
 - (i) to answer any question asked by an authorised officer, or
 - (ii) to give any information or produce anything required to be given or produced in pursuance of this Act,
 - (d) fails to allow a search or inspection under this Act, or
 - (e) prevents or attempts to prevent another person from complying with such orders, requisitions or directions or from answering such questions, producing any thing or allowing a search or inspection,

commits an offence and is liable on conviction to a fine not exceeding two thousand dollars.

- (2) A person who,
- (a) for the purpose of obtaining a licence, or
 - (b) for purported compliance with a requirement to furnish any information under this Act,

knowingly or recklessly provides information which is false in a material particular commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

(3) A person who without lawful authority alters a licence granted under this Act commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

Other offences, penalties and proceedings.

17. (1) A person who contravenes, or fails to comply with, a requirement of any provision of this Act in respect of which no offence is specifically provided commits an offence.

(2) A person who commits an offence under this Act for which no penalty is specifically provided is liable on conviction to a fine not exceeding one thousand dollars.

(3) Where a person is convicted of an offence under this Act, the court may, in addition to any other penalty that it may impose, order that any fishing gear, instruments or appliances used in the commission of such offence and any fish on board a fishing vessel or the proceeds of sale thereof, if already sold, shall be forfeited to the Crown and if so forfeited shall be disposed of in such manner as the Chief Conservation and Fisheries Officer may direct.

(4) For the purposes of any proceedings under this Act, any fish found on board a fishing vessel shall, unless the contrary is proved, be presumed to have been caught

- (a) on the high seas; and
- (b) within the vicinity of the vessel at the time the fish is so found where the licence to fish specifying the vessel restricts fishing to a particular area of the high seas.

(5) An attempt to commit an offence under this Act shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

(6) Any master or other person who trans-ships, receives on board a fishing vessel, transports, sells, offers for sale, processes or in any other manner deals with fish caught in contravention of this Act commits an offence.

(7) Any person who aids, abets, counsels or procures an offence under this Act or conspires to commit such offence commits the offence so aided, abetted, counselled or procured or conspired to be committed.

(8) When a person is convicted on a second or subsequent offence under this Act, he is liable to double the penalty stipulated for that offence.

(9) A certificate purporting to be signed by the Chief Conservation and Fisheries Officer or any officer authorised by him for that purpose to the effect that on a date specified in the certificate

- (a) a fishing vessel specified in that certificate was not licensed under this Act,
- (b) the accused person or any other named person was not the holder of a licence under this Act, or

- (c) a named person was the holder of a licence or permit under this Act,

shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate.

PART VI

COURT PROCEEDINGS, PENALTIES AND COMPOUNDING OF OFFENCES

- Jurisdiction of any the court. 18. The prosecution of an offence, and proceedings under this Act shall be made before a Magistrate's Court.
- Forfeiture of licence and disqualifications. 19. Where a person is convicted of an offence under this Act, the court may,
- (a) in addition to any other penalty, order that any licence granted to or fees paid by the convicted person under this Act be forfeited and that such person be disqualified from the day of conviction from holding a licence for a period not exceeding three years; and
 - (b) award the Crown such costs and expenses in relation to the prosecution of the offence as may appear to the court to be proper.
- Administrative penalty. 20. (1) Where the Chief Conservation and Fisheries Officer has reasonable cause to believe that
- (a) an offence under this Act has been committed by a person,
 - (b) the offence is of a minor nature, or
 - (c) having regard to the previous conduct of the person concerned in relation to the use of any vessel, it would be appropriate to impose a penalty under this section,
- he may cause a notice in writing in accordance with subsection (2) to be served on that person.
- (2) A notice under subsection (1) shall specify
- (a) the date and nature of the offence,
 - (b) a summary of the facts upon which the allegation that an offence has been committed is based (being sufficient summary fully and fairly to inform the person of the allegation against him), and

- (c) any other matters (not being previous convictions) that the Chief Conservation and Fisheries Officer considers relevant to the imposition of a penalty,

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

(3) A person on whom a notice under subsection (1) is served may, within thirty days after such service by notice in writing in the prescribed form served on the Chief Conservation and Fisheries Officer, require that proceedings in respect of the alleged offence be dealt with by the court.

(4) Where a person gives notice within the terms of subsection (3),

- (a) no further proceedings shall be taken under this section by the Chief Conservation and Fisheries Officer; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any charge in respect of the alleged offence or the conviction of the person of the offence by the court or the imposition of any penalty or order of forfeiture under this Act.

(5) A person on whom a notice under subsection (1) is served who does not require proceedings in respect of the alleged offence to be dealt with by the court may, by notice in writing served on the Chief Conservation and Fisheries Officer,

- (a) admit the offence; and
- (b) make submissions to the Chief Conservation and Fisheries Officer as to the matters he wishes him to take into account in imposing any penalty under this section.

(6) Where a person on whom a notice under subsection (1) is served does not, within thirty days after the notice is served on him,

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

he shall on the expiration of that period be considered to have admitted the offence.

(7) Where under this section a person admits or is considered to have admitted an offence, the Chief Conservation and Fisheries Officer, after taking into account any submissions by that person under subsection

(5), may impose a monetary penalty on that person in respect of the offence not exceeding one third of the maximum penalty to which the person would be liable if he were convicted of the offence by the court.

(8) Where the Chief Conservation and Fisheries Officer imposes a penalty on a person under this section in respect of an offence he shall cause a notice in writing stating the particulars of the penalty to be served on that person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within thirty days after the notice of the penalty is served on him.

(10) Without prejudice to the requirement of subsection (9), a penalty imposed under this section shall be treated in the same manner as a fine is dealt with under the criminal law on conviction of an offence.

(11) Notwithstanding the provisions of this Act or any other enactment, where an offence has been admitted or is considered to have been admitted under this section no charge may be laid in respect of the offence against any person by whom it has been admitted or considered to have been admitted.

(12) Nothing in this section shall apply

(a) in respect of any offence or alleged offence under section 4;
or

(b) to any offence or alleged offence in respect of which a charge has already been laid.

Detention or forfeiture of fishing vessel on failure to pay or secure fine.

21. (1) If any fine or amount of costs is adjudged to be due by the owner, master or charterer of a fishing vessel in respect of a contravention of a provision of this Act the court may, if no security or if it considers that insufficient security has been given to the Crown, order that in default of immediate payment the defendant shall give security for the payment of the fine or amount of costs due.

(2) Where the security referred to in subsection (1) is not given, the court may order the detention of the fishing vessel concerned with the contravention and such fishing vessel may be detained in the Virgin Islands until the amount due is paid or security is given to the satisfaction of the court.

(3) If a fine is not paid or security is not given within thirty days of the order of the court or such longer period as the court may determine, the court may order that in the case of any offence under section 4 any vessel and its equipment used in the commission of the offence shall be forfeited to the Crown.

OBJECTS AND REASONS

Essentially, the purpose of this Bill is to provide a legal framework for the implementation of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas adopted by the Conference of the Food and Agriculture Organisation of the United Nations on 24th November, 1993 and the Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea of 10th December, 1982 relating to the Conservation of Straddling Fish Stocks and Highly Migratory Fish Stocks.

The Bill is divided into seven Parts, with the first Part outlining in detail the duties of the Chief Conservation and Fisheries Officer, the powers of the Minister in relation to the performance of those duties and the enforcement powers of authorised officers.

The second Part of the Bill deals with the licensing of fishing on the high seas. It makes provision for the mandatory licensing of fishing vessels fishing on the high seas, and in this regard, identifies fishing vessels that are eligible for high seas fishing licences. It then outlines the mode of application for a high seas fishing licence, the contents of the application and payment of fees. The Chief Conservation and Fisheries Officer is empowered to grant high seas fishing licences. However, where he is satisfied that the Virgin Islands will not be able to exercise effectively its responsibilities under the relevant international instruments mentioned above, he may refuse to grant a high seas fishing licence.

Part III of the Bill addresses issues of international co-operation relating to fishing on the high seas. Thus the Chief Conservation and Fisheries Officer may require any person with business in high seas fishing to provide him with information or make specified returns to him. He may also, if so authorised by the Minister, make necessary arrangements for the exchange of information, including evidentiary material, with other States.

Part IV of the Bill deals with enforcement generally. It outlines in detail the general powers of authorised officers on the high seas and within local jurisdiction. Provision is made for the disposal of seized fish and other perishables as well as the disposal of arrested persons, vessels and other things which are detained or seized.

Part V deals essentially with prohibitions and offences. In particular, it prohibits activities that undermine the effectiveness of international conservation and management measures. It also creates offences where authorised officers are obstructed in the performance of their duties, and where a person gives false information or alters a fishing licence.

Part VI addresses court proceedings, penalties and the compounding of offences. It outlines the jurisdiction of the court and makes provision for forfeiture of a licence and disqualifications in respect thereof. The Chief Conservation and Fisheries Officer is empowered to compound offences where an offender does not wish to undergo a litigation process.

The last Part gives the Minister Regulation-making powers, both in general and specific terms, in order to ensure the effective and efficient implementation of the Bill when eventually enacted.