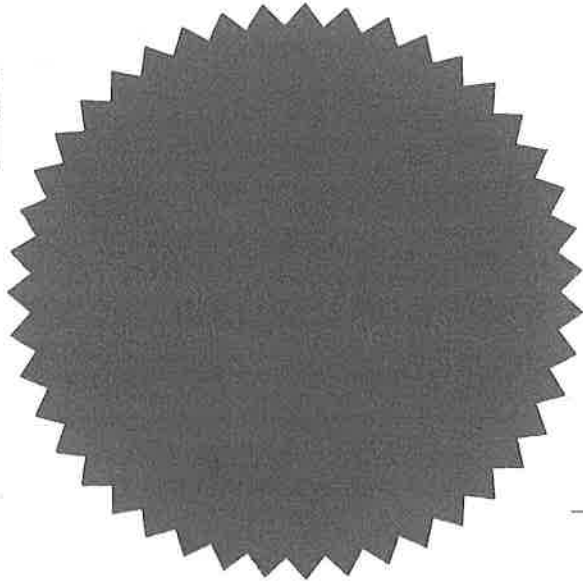


JAMAICA

No. 21 - 2015



I assent,

P. Allen

Governor-General.

6th day of October 2015

AN ACT to Amend the Fishing Industry Act.

[*7th day of October 2015*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Fishing Industry (Amendment) Act, 2015, and shall be read and construed as one with the Fishing Industry Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title and construction.

2. The principal Act is amended in the manner specified in the Schedule.

Amendment of principal Act

SCHEDULE

(Section 2)

Amendments to the Fishing Industry Act

Provisions

Amendment

Section 2.

1. Delete the definitions of “fish”, “Fishery Inspector” and “fishing”.

2. Insert the following definitions in the appropriate alphabetical sequence—

“conveyance” includes a vessel, motor vehicle and any other means of transport;

“equipment” in relation to fishing, means any implement or other thing that can be used in the course of fishing, including any net, rope, line, float, trap, hook, tackle, winch, item, device, machine, spear gun, hawaiian sling, underwater diving apparatus, gear, aircraft, boat or other craft carried on board a boat or other conveyance;

“fish” means any aquatic plant or animal, whether piscine or not, (including their eggs and all juvenile stages thereof) and by-products and includes any aquatic mammal;

“Fishery Inspector” means an individual who is—

- (a) a game warden approved as such under the *Wild Life Protection Act*;
- (b) a Marine Officer as defined in the *Exclusive Economic Zone Act* or the *Maritime Areas Act*;
- (c) an authorized officer under the *Natural Resources Conservation Authority Act* or the *Aquaculture Inland and Maritime Products and By-Products (Inspection, Licensing and Export) Act*;
- (d) a member of the Jamaica Constabulary Force or the Jamaica Defence Force;

Provisions

Amendment

- (e) any person designated as a Fishery Inspector by the Minister by notice published in the *Gazette*;

“fishing” means—

- (a) locating, catching, taking or harvesting of fish;
- (b) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
- (c) placing, searching for or recovering any radio beacons, fish aggregating devices or associated equipment;
- (d) any operation in support of or in preparation for any activity described in paragraph (a), (b) or (c); or
- (e) using an aircraft, a boat, submarine or any other conveyance in relation to any activity described in paragraph (a), (b), (c) or (d),

but does not include the locating, catching or taking of fish that are farmed in an aquaculture facility;

“kraal” means a device of any construction, submerged within water and used to hold live fish.”.

Section 3

1. In subsection (1), delete the words “, using any of the methods specified in the Schedule,”.

2. In subsection (3), delete all the words appearing after the words “subsection (2)” and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three

Provisions	Amendment
	million dollars or to imprisonment for a term not exceeding two years;
	(b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding two years .”.
Section 5	<p>1. In subsection (1), delete the words “using any method specified in the Schedule”.</p> <p>2. In subsection (4), delete the words appearing after the words “period of” and substitute therefor the words “one year, or until such date as may be specified in the licence”.</p>
Section 7	<p>1. In subsection (1), delete the words, “using any of the methods specified in the Schedule,”.</p> <p>2. In subsection (2), delete the word “twenty” and substitute therefor the words “one hundred thousand”.</p>
Section 8(3)	<p>Delete all the words appearing after the words “who so uses it,” and substitute therefor the words—</p> <p>“commits an offence and shall be liable—</p> <p>(a) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding twelve months;</p> <p>(b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”.</p>
Section 11(6)	Delete the word “twenty” and substitute therefor the words “five hundred thousand”.
Section 14(5)	Delete the word “fifty” and substitute therefor the words “five hundred thousand”.
Section 16	<p>1. Delete subsection (3) and substitute therefor the following—</p> <p>“ (3) The cancellation or suspension of a licence shall not take effect until the expiration of the period of thirty days aforesaid or, if any appeal made is unsuccessful, on the determination of the appeal; however, the licensing Authority may, in prescribed circumstances, issue a cease and</p>

Provisions

Amendment

desist order requiring the licensee to discontinue with immediate effect the particular offending activity specified therein pending the determination of the appeal, and a breach of the requirements of a cease and desist order issued under this subsection shall be an offence.”.

2. In subsection (4), insert the word “immediately” after the words “licence shall”.

Section 18(2)

Delete all the words appearing after the words “fish sanctuary” and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years;
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”.

Section 19(2)

Delete all the words appearing after the words “disturbs such fish,” and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding twelve months;
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”.

Section 20(2)

Delete all the words appearing after paragraph (e) up to the proviso and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three

ProvisionsAmendment

million dollars or to imprisonment for a term not exceeding twelve months;

- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”.

Section 21

Delete the section and substitute therefor the following—

“ Fishery Inspector may seize equipment being used illegally.

21. Any Fishery Inspector may, with or without warrant, seize any—

- (a) fish or catch which is in the possession of;
- (b) boat, net, gear, tackle or other equipment that is being used by,

any person who is found committing any offence against this Act or any regulations made under this Act.”.

Section 22

1. In subsection (1), delete all the words appearing after the words “mark connected thereto” and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars and in default of payment, to imprisonment for a term not exceeding twelve months;
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”.

Provisions

Amendment

2. Delete subsection (3) and substitute therefor the following—

“ (3) For the purposes of the *Larceny Act*, any fish in a fish-pot, net or kraal shall be deemed to be in water in the private property of the owner of the pot, net or kraal.”

Section 23

Delete all the words appearing after the words “any regulation under this Act” and substitute therefor the words—

“commits an offence and shall be liable—

- (a) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding two years;
- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years.”

Section 24

Delete subsection (2) and substitute therefor the following—

“ (2) Any person who contravenes subsection (1), commits an offence and shall be liable—

- (a) in the case of an offence under paragraph (a) of subsection (1), on summary conviction before a Resident Magistrate, to a fine not exceeding five hundred thousand dollars and in default of payment, to imprisonment for a term not exceeding three months;
- (b) in the case of an offence under paragraph (b) of subsection (1), on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars and

ProvisionsAmendment

- in default of payment, to imprisonment for a term not exceeding twelve months;
- (c) in the case of an offence under paragraph (c) of subsection (1)—
- (i) on summary conviction before a Resident Magistrate, to a fine not exceeding three million dollars and in default of payment, to imprisonment for a term not exceeding two years;
 - (ii) on conviction on indictment in a Circuit Court, to a fine and in default of payment, to imprisonment for a term not exceeding five years; and
- (d) in the case of an offence under paragraph (d) of subsection (1)—
- (i) on summary conviction before a Resident Magistrate, to a fine not exceeding the higher of one million dollars or twice the amount of the unpaid fine or penalty and in default of payment, to imprisonment for a term not exceeding twelve months;

<u>Provisions</u>	<u>Amendment</u>
	(ii) on conviction on indictment in a Circuit Court, to a fine and in default of payment to imprisonment for a term not exceeding five years.”.
Section 25	<p>1. Renumber the existing section as subsection (1).</p> <p>2. In subsection 1, as renumbered, renumber paragraph (o) as paragraph (p) and insert next after paragraph (n) the following as paragraph (o)—</p> <p>“ (o) prescribing the standards, conditions and requirements for the licensing and operation of fishing boats and conveyances to be used for fishing;”.</p> <p>3. Insert next after the renumbered subsection (1), the following as subsections (2) and (3).</p> <p>“ (2) Notwithstanding section 29 of the <i>Interpretation Act</i>, regulations made under this section may provide for the imposition of penalties not exceeding a fine of one million dollars or for a term of imprisonment not exceeding six months.</p> <p>(3) The Minister may, by order subject to affirmative resolution, amend the maximum monetary penalty specified in subsection (2).”.</p>
Section 26	Delete the section.
Section 27	Insert the words “fish, catch” next after the words “fishing equipment”.
Section 29	<p>Delete all the words appearing after the words “shall be liable on” and substitute therefor the words—</p> <p>“ (a) summary conviction before a Resident Magistrate, to a fine not exceeding</p>

ProvisionsAmendment

three million dollars and in default of payment, to imprisonment for a term not exceeding twelve months; or

- (b) conviction on indictment in a Circuit Court, to a fine and in default of payment to imprisonment for a term not exceeding five years.”.

New sections

Insert next after section 29, the following as sections 30 and 31—

“Amendment of monetary penalties.

30. The Minister may, subject to affirmative resolution, by order published in the *Gazette*, amend any monetary penalty specified in this Act.

Offence by body Corporate.

31.—(1) Where an offence under this Act or any regulations made under this Act is committed by a body corporate and is proved—

- (a) to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in that capacity; or
- (b) to be attributable to the failure of any such director, manager, secretary or other similar officer or person to exercise all such reasonable diligence

Provisions

Amendment

as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions and all the circumstances,

the director, manager, secretary or other similar officer or person as aforesaid, as well as the body corporate commits the offence and may be proceeded against and be punished accordingly.

(2) For the purposes of this section, a person shall be deemed to be a director of a body corporate if the person occupies in relation to the company thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions the directors and the body corporate or any of them act.”.

Schedule. Delete the Schedule.

Passed in the House of Representatives this 7th day of July, 2015.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 11th day of September, 2015 with six (6) amendments.

FLOYD E. MORRIS
President.

On the 15th day of September, 2015 the House of Representatives agreed to the amendments made by the Senate.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Heather E. Cooke
Clerk to the Houses of Parliament.