

ORDINANCE 3 OF 2005

**AN ORDINANCE
TO CONSOLIDATE AND AMEND THE FISHERIES
(CONSOLIDATION) ORDINANCE 1982**

**P. T. C. Pearson CBE
ADMINISTRATOR**

11th February 2005.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

1. This Ordinance may be cited as the Fisheries (Consolidation) Ordinance 2005. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“amateur fishing licence” means a licence permitting the taking of fish for non-profit purposes issued in accordance with section 4 and includes, so long as it remains unexpired, any special permit issued under regulations made under section 10(2)(i), permitting the use of any sea going craft for fishing for non-profit purposes;

“deep-sea trawler” means a vessel which, for the purpose of taking fish, draws a net or other apparatus along the bottom of the sea;

“fish” means any aquatic animal including molluscs and crustaceans, but does not include sponge, coral or mammalians;

“fishing licence” means, except in the expressions “amateur fishing licence” and “special fishing licence”, a licence permitting the taking of fish for the purpose of profit issued in accordance with section 4;

“fishing vessel” means any vessel which is equipped for the commercial exploitation of fish, including fishing, storage, transportation or processing of fish and any related activity, but does not include cargo ships;

“owner” in relation to any vessel includes any charterer of the vessel;

“Republican vessel” means—

- (a) any ship registered in the Register of Cypriot Ships maintained by the Republic and flying the flag of the Republic under section 6 or 53 of the Merchant Shipping (Registration, Sale and Mortgage of Ships) Law 1963 of the Republic; or
- (b) any vessel registered in the Register of Small Fishing Craft under section 6 of the Fishing Craft (Registration, Sale, Transfer and Mortgage) Law 1971 of the Republic;

Law No. 45/63
(Republic).

Law No. 77/71
(Republic).

“special fishing licence” means a licence issued in respect of a Republican vessel by a country other than the Republic or by an international organisation permitting such vessel to take fish from the territorial waters, the fishing zone or the exclusive economic zone of such country, or, as the case may be, from an area where fishing is controlled by such an organisation;

“vessel” includes a ship, boat, lighter, craft or floating structure of any kind.

References to
Republican Laws.

3. Any reference in this Ordinance to any provision of a Republican Law shall be construed as a reference to that provision as it may from time to time be amended or substituted.

Fishing Licences
and amateur
fishing licences.

4.—(1) Subject to subsection (2), a person shall not use any vessel for the purpose of taking fish in the Areas, unless a fishing licence or an amateur fishing licence has been issued by the Fiscal Officer in respect of that vessel under the provisions of this Ordinance, or unless a licence has been issued in respect of that vessel under the provisions of the law of the Republic corresponding to the provisions of this Ordinance and the regulations made under it.

Ordinance 2/82 as
amended by 3/91,
5/94 and 1/02.

(2) The holder of any licence issued in accordance with the Fisheries (Consolidation) Ordinance 1982 may continue to take fish in accordance with the terms of that licence until its expiry.

(3) No fishing licence shall be issued in respect of any vessel, unless the Fiscal Officer is satisfied that -

- (a) the vessel is a Republican vessel and over half of the beneficial interest in the vessel is held by a citizen of the Republic or by a qualifying company; or
- (b) the vessel is registered in the Register of Cypriot Ships in accordance with sections 23C and 23D of the Merchant Shipping (Registration, Sale and Mortgage of Ships) Law of the Republic and the charterer is a citizen of the Republic or a qualifying company; and, in either case,
- (c) the management and activities of the vessel are directed and controlled from within the Areas or the Republic.

(4) For the purposes of subsection (3)(a) and (b) above, a qualifying company is a company—

- (a) registered in the Republic;
- (b) having at least fifty-one percent of its shares, or, if the vessel concerned is over twenty years old, having at least seventy-five percent of its shares, beneficially owned by citizens of the Republic; and

- (c) at least fifty percent of whose directors, or, if the vessel concerned is over twenty years old, at least seventy-five percent of whose directors, are citizens of the Republic.

(5) The conditions described in subsections (3) and (4) above in respect of a fishing licence are required to be satisfied continuously and at all times up to the expiry of the fishing licence. If any of the said conditions ceases to be satisfied at any time, the Fiscal Officer shall be notified of that fact within 15 days and he shall then have power to revoke the fishing licence. If the Fiscal Officer is not so notified within such time, the licence shall be deemed to be suspended.

(6) It is unlawful for any person to request, obtain or hold a special fishing licence with respect to any Republican vessel, unless there is in force in respect of such vessel –

- (a) a fishing licence issued under this section; or
- (b) a licence issued by the Republic under a provision of the law of the Republic corresponding to this section; or
- (c) a licence issued in accordance with the Fisheries (Consolidation) Ordinance 1982.

(7) Any person using a vessel in contravention of subsection (1), (5) or (6) above, and the owner of such a vessel shall each be guilty of an offence, and on conviction shall be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding £10,000 or to both such penalties.

(8) For the purposes of any proceedings for any offence under this Ordinance or any regulations made under it, the presence of fishing equipment on, in, or drawn by any vessel shall constitute a rebuttable presumption that such vessel is used for the purpose of taking fish.

5.—(1) It is unlawful for any person to construct or import a fishing vessel or convert any vessel into a fishing vessel without the prior consent of the Fiscal Officer.

Unlawful construction, importation etc. of fishing vessel.

(2) Any person who acts in contravention of this section shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding 2 years or to a fine not exceeding £2,000 or to both such penalties.

6.—(1) A fishing licence or amateur fishing licence required under the provisions of section 4 shall be issued by the Fiscal Officer or any officer duly authorised by him upon payment of any fee that may be prescribed by regulations made under section 10 in relation to such a fishing licence or amateur fishing licence.

Fees.

(2) Any licence issued under the provisions of this section shall be for such period as the Fiscal Officer shall determine not exceeding 3 years.

7.—(1) The owner of a Republican vessel in respect of which a fishing licence has been issued, shall notify the Fiscal Officer within 30 days of the issue of any special licence issued in respect of that vessel. The notification shall be in writing and shall be accompanied by a photocopy of such licence.

Informing Fiscal Officer when obtaining special fishing licence.

(2) Failure to give notice as required by subsection (1) above, may constitute grounds for non-renewal of the fishing licence issued by the Fiscal Officer in respect of that vessel.

Use of explosives or poisons.

8. Any person who—

- (a) takes, stupefies or kills or attempts to take, stupefy or kill any fish by the use of dynamite or other explosive substance or by the use of any noxious or poisonous matter; or
- (b) is found in possession of dynamite or other explosive substance or of noxious or poisonous matter in such circumstances as to satisfy the Court before which he is tried that he intended to use the dynamite or other explosive substance or the noxious or poisonous matter for the purpose of taking, stupefying or killing fish; or
- (c) sells, exposes for sale or hawks or knowingly possesses or transports, fish which has been taken by the use of dynamite or any other explosive substance or by the use of any noxious or poisonous matter,

shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 2 years or to a fine not exceeding £5,000 or to both such penalties.

Prohibiting use or passage of any fishing vessel.

9. The Chief Officer may, for reasons of security or public safety or where he considers it is in the public interest to do so including for the purposes of protecting fishing resources and any aquatic animals, by order published in the Gazette, prohibit for such period of time as may be specified in the order—

- (a) the use of any fishing vessel in such part of the territorial waters of the Areas as may be specified in the order; or
- (b) the passage of any fishing vessel through such part of the territorial waters of the Areas as may be specified.

Regulations.

10.—(1) The Administrator may make regulations to be published in the Gazette for the better carrying out of the purposes of this Ordinance. Any such regulations may make different provision for different cases or classes of cases and may contain such incidental, transitional and supplementary provisions as appear to the Administrator to be necessary or expedient for the purposes of this Ordinance or the regulations.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may—

- (a) prescribe the areas and seasons within which the taking of fish is prohibited or restricted;
- (b) restrict the size of fish which may be taken, landed or sold;
- (c) prohibit or regulate any practices or methods or the employment of equipment, instrument or any other device or material for taking fish;
- (d) prescribe the size of nets or size of the mesh of nets which may be used for taking fish in the Areas or in any specified part of the Areas;
- (e) regulate the licensing of, and the conditions to be observed by, vessels licensed under the provisions of this Ordinance;

- (f) regulate any matter relating to the conservation, protection and maintenance of a stock of fish;
- (g) provide for the imposition of fees for the grant of any licence issued under this Ordinance or any regulations made in pursuance of this section;
- (h) provide for the issue of licences and the imposition of conditions to be attached to such licences (in addition to licences and conditions specifically referred to in this subsection) so as to enable the powers which may be conferred under the Ordinance or regulations to be exercised more effectively;
- (i) prohibit the use of any sea going craft for fishing for non profit purposes or regulate the granting of a special permit for the conducting of such fishing;
- (j) provide for the establishment of a system of surveillance and control of the fishing activities of vessels to which this Ordinance applies, within and without the territorial waters of the Areas;
- (k) provide for the inspection and control (including sanitary control) of vessels to which this Ordinance applies and their equipment, and for the manner, time and place in which such inspection or control may be carried out and for the fees payable in respect of such inspection and control;
- (l) regulate any matter concerning the keeping of the Register provided for in section 13;
- (m) require the issue of a fishing licence or amateur fishing licence in relation also to any means of navigation which does not constitute a vessel;
- (n) determine the categories of cases in which the administrative penalties provided for by subsection (5) may be imposed and establish the procedure to be followed in imposing such penalties.

(3) Any person contravening any regulation made under the provisions of this section, except for one relating to matters of water pollution, shall be guilty of an offence and shall on first conviction for such offence, be liable to a fine not exceeding £5,000 and on subsequent conviction for such an offence shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both such penalties.

(4) Any person contravening any regulation made under the provision of this section which relates to matters of water pollution, shall be guilty of an offence and shall on first conviction for such an offence be liable to a fine not exceeding £30,000 and on subsequent conviction for such an offence shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding £30,000 or to both such penalties.

11. The Fiscal Officer may, in accordance with regulations made under subsection (2)(n), impose on any person who has contravened any regulation made under section 10, such of the following administrative penalties as he deems appropriate –

Administrative penalties.

- (a) the revocation of that person's fishing licence or amateur fishing licence;

- (b) the suspension of that person's fishing licence or amateur fishing licence for a period not exceeding 6 months;
- (c) the prohibition of the use by that person of any fishing vessel for a period not exceeding 3 months;
- (d) the seizure of any nets or other fishing implements belonging to that person.

(2) Without prejudice to the provisions of subsection (5) above, where any fishing implements are found on board any vessel in respect of which no fishing licence or amateur fishing licence is in force, the Fiscal Officer may prohibit the sailing of such vessel until such time as a fishing licence is obtained.

(3) Any decision taken in accordance with subsection (5) or (6) and the reasons for such decision shall be recorded in writing by the Fiscal Officer and a copy given to the person to whom the penalty is applied.

Powers of police officers or Customs officers.

12. Any police officer or Customs officer may, where he has reasonable grounds to suspect that an offence has been or is likely to be committed under the provisions of this Ordinance or any regulations made under it, without warrant—

- (a) enter any premises, other than a dwelling house, during the hours of daylight, or stop any vehicle or board any vessel and search such premises, vehicle or vessel and examine any catch, equipment, instrument or other device or material which may be used for taking fish and measure any fishing net found in such premises, vehicle or vessel;
- (b) seize and detain for the purposes of an investigation as to whether there has been any contravention of this Ordinance or any regulations made under it, any vessel, catch, equipment, instrument, other device or material or any other object which may be used in contravention of this Ordinance or any regulations made under it:

Provided that the catch may be sold and the proceeds be detained pending the decision.

Register of fishing vessels.

13. The Fiscal Officer shall keep a Register of Fishing Vessels ("the Register") in which he shall enter the name of each vessel in respect of which a fishing licence has been issued in accordance with this Ordinance and such other particulars as may be prescribed by regulations.

Vessel to call annually at a port or fishing shelter in the Island of Cyprus.

14.—(1) The person in charge of, and the owner of any vessel in respect of which a fishing licence has been issued under this Ordinance shall each be responsible for ensuring that the vessel calls at a port or fishing shelter in the Island of Cyprus at least once each year for inspection and for sanitary control as prescribed by regulations.

(2) Where the person in charge of any vessel and its owner has failed to comply with subsection (1) above they shall each be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding £10,000 or to both such penalties.

Powers of court.

15. In addition to or in substitution for any punishment for any contravention of this Ordinance or any regulations made under it, upon conviction of the offender—

- (a) any vessel, equipment, instrument or any other device or material, which in the opinion of the Court was used or was intended to be used by him for taking, stupefying, killing or poisoning fish, may be adjudged by the Court to be forfeited; and
- (b) any fish in his possession seized under the provisions of this Ordinance, which in the opinion of the Court was taken, stupefied, killed or poisoned in contravention of the provisions of this Ordinance or any regulations made under it, or the proceeds from the sale of such fish, shall be adjudged by the Court to be forfeited.

16. The Fiscal Officer may compromise and compound any action or proceeding which shall at any time be necessary or commenced by his authority or under his control against any person for the recovery of penalties incurred under the provisions of this Ordinance on such terms and conditions as he shall in his absolute discretion think proper with full power for him or any of his officers or agents by him duly authorised, in that behalf to accept the penalties so incurred or alleged to have been incurred or any part thereof without action or proceedings brought or commenced for the recovery thereof.

Compounding actions.

17. The powers conferred on the Chief Officer by section 9 and the power conferred on the Administrator by section 10(2)(f) are in addition to any powers which may be conferred on such person or any authorised official under any Ordinance which has as its aim the protection and management of nature and wildlife.

Powers of Chief Officer and Administrator.

18.—(1) Subject to subsection (2), the Fisheries (Consolidation) Ordinance 1982 is repealed without prejudice to anything done or left undone under it.

Repeal.

(2) The provisions of that Ordinance shall continue to apply in respect of any licence issued under such Ordinance until that licence expires.

19. This Ordinance shall come into force on the date of its publication in the Gazette.

Commencement.

11th February 2005

(128/68)

J. E. Stainton,
Acting Chief Officer.
