



LAWS OF KENYA

FISHERIES ACT

CHAPTER 378

Revised Edition 2012 [1991]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 378

FISHERIES ACT

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CHAPTER 378

FISHERIES ACT

[Date of assent: 23rd August, 1989.]

[Date of commencement: 25th August, 1989.]

An Act of Parliament to provide for the development, management, exploitation, utilization and conservation of fisheries and for connected purposes

[Act No. 5 of 1989.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Fisheries Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**authorized officer**” means a fisheries officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or other armed force or a person appointed by the Minister, by notice in the *Gazette*, to be an authorized officer for the purposes of this Act;

“**dealing in fish**” means collecting, transporting, storing, trans-shipping, exposing or offering fish or fish products for purposes of trade;

“**Director**” means person appointed to the office in the public service of Director of Fisheries;

“**fish**” means any aquatic animal, whether alive or dead, and includes any part, and the spat, brood, fry, spawn, ova and young thereof;

“**Fisheries Officer**” means the Director and any person in the public service of or above the rank of Assistant Fisheries Officer;

“**fishing**” means fishing for, catching, taking or killing fish, by any method;

“**fishing gear**” means any instrument, equipment, net, cork, buoy or other article including part thereof used for purposes of fish finding, congregating fish or fishing;

“**fishing operations**” includes fishing, supply of provisions to the fishing vessels and the handling and processing of fish up to the time it is first landed;

“**fishing port**” means a place on a lake shore or sea front where fishing vessels may resort for shelter, servicing, loading and off-loading of fish and fishing equipment;

“**fish processing**” means any action (including icing, freezing and canning) taken to alter the shape, appearance or form of fish from that in which the fish is when first taken from its natural habitat;

“**fish product**” means any product or part thereof (including oil) obtained by fish processing and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;

“**fishing vessel**” means any vessel or craft used in fishing operations including sport fishing;

“**foreign fishing vessel**” means any fishing vessel other than a local fishing vessel;

“**Kenya fishery waters**” means the inland waters and the waters of the maritime zones described in the Maritime Zones Act (Cap. 371) and for the purposes of this Act excludes Government fish ponds and fish farms and any private fish ponds or fish farms not established for commercial purposes;

“**local fishing vessel**” means a fishing vessel which is—

- (a) wholly owned by a person or persons who are citizens of Kenya;
- (b) wholly owned by the Government of Kenya;
- (c) wholly owned by any company, society or other association of persons established under the laws of Kenya and of which at least fifty-one percent of the voting shares are owned by the Government or citizens of Kenya; or
- (d) wholly owned and crewed by residents of Kenya or by other persons recognized by the Director by notice in the *Gazette* as persons who traditionally fish in Kenya fishery waters and which meets such other conditions as the Minister may by regulations prescribe.

PART II – ADMINISTRATION

3. Director

(1) The Director shall, subject to the directions of the Minister, be responsible for the administration of this Act.

(2) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon him by this Act to such authorized officers as he may think fit.

4. Fisheries development measures

The Director shall, in co-operation with other appropriate agencies and other departments of Government, promote the development of traditional and industrial fisheries, fish culture and related industries through such measures as—

- (a) providing extension and training services;
- (b) conducting research and surveys;
- (c) promoting co-operation among fishermen;
- (d) promoting arrangements for the orderly marketing of fish;
- (e) providing infrastructure facilities; and
- (f) stocking waters with fish and supplying fish for stocking.

5. Fisheries management measures

(1) The Director may with the approval of the Minister, by notice in the *Gazette*, impose any of the following measures that are necessary for the proper management of any fishery—

- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods of gear, including mesh sizes of nets, that may be used for fishing;
- (d) limitations on the amount, size, age and other characteristics and species or composition of species, of fish that may be caught, landed or traded;
- (e) regulate the landing of fish and provide for the management of fish landing areas; and
- (f) control of the introduction into, or harvesting or removal from, any Kenya fishery waters of any aquatic plant.

(2) Where the use of any gear is prohibited in any area, the Director may also, by notice in the *Gazette*, prohibit the possession of the gear in that area.

(3) Any person who contravenes the provisions of a notice issued under this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

6. Limitation of fishing

(1) Where proper management of fisheries requires limitation of the number of persons or of vessels, nets or areas or other means employed in a fishery, the Director may by notice in the *Gazette* limit such means and the limitation may include—

- (a) refusal to issue or renew licences;
- (b) imposition of special licence and catch fees;
- (c) preferential licensing in other fisheries.

(2) A party aggrieved by the action taken by the Director under subsection (1) may in writing appeal to the Minister whose decision shall be final.

PART III – REGISTRATION OF FISHING VESSELS**7. Registration of fishing vessels**

(1) No person shall use any vessel for fishing in Kenya's fishery waters unless there is in force in relation to the vessel a valid certificate of registration.

(2) A certificate of registration in the prescribed form may on application and on payment of the prescribed fee be issued by an authorized officer to the owner of the vessel.

(3) Every vessel in respect of which a certificate of registration is issued under this Act shall be marked in such manner as the Director may require.

(4) The Director shall cause to be kept a register of all vessels registered under this Act.

(5) Any person who uses any vessel for fishing in Kenya fishery waters without a valid certificate of registration for that vessel shall be guilty of an offence.

(6) Any person who is guilty of an offence under this section shall be liable—

- (a) in the case of a first conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both; and
- (b) in the case of a second conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART IV – LICENSING PROVISIONS

General Licensing Provisions

8. General licensing provisions

(1) Without prejudice to any regulations made under this Act, no person other than persons fishing for their own consumption, shall catch or assist in catching fish in Kenya fishery waters otherwise than under and in accordance with the terms and conditions of a valid licence issued to him under this Act:

Provided that the Minister may by order published in the *Gazette* determine the quantity of fish which may be deemed to be fish for own consumption under this section, and different orders may be made for different areas of Kenya.

(2) Subsection (1) shall not apply to a person employed by a licensee, or, subject to section 23 of the Penal Code (Cap. 63), to a company which is a licensee, in respect of any act done by the person or company as licensee.

(3) Each licence issued under this Act shall be valid for such species of fish, type of fishing gear, method of fishing and area as may be specified in the licence.

(4) It shall be a general condition of any licence issued under this Act or regulations made thereunder that the licensee shall comply with such requirements as the Director may establish concerning the making of statistical returns and the collection of information.

(5) Any person who catches fish in Kenya fishery waters without a licence, or in contravention of the conditions imposed on a licence, issued under this Act shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Licensing of Local Fishing Vessels

9. Local fishing vessel licence

(1) An application for a licence for a local fishing vessel shall be made in the prescribed form to the fisheries officer designated by the Director to receive that application or applications of that description, or, if no such officer has been designated, the Director.

(2) Upon receipt of an application under subsection (1) and on payment of the prescribed fee, a fisheries officer shall, subject to any licensing instructions of the Director, issue a licence for the local fishing vessel.

(3) A licence issued under this section shall be subject to such conditions as may be prescribed by or under this Act or as may be endorsed upon the licence by the issuing officer.

(4) The master and owner of a local fishing vessel which any person uses or attempts to use in fishing or any fishing operation without a licence issued under this section, shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

(5) The master and owner of a local fishing vessel whose licence conditions under this section are contravened shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

10. Validity of local fishing vessel licence

(1) A local fishing vessel licence shall, unless earlier revoked or suspended, expire on the 31st December of the year in which it is issued and shall cease to be valid at any time that the vessel ceases to be a local fishing vessel.

(2) The Director may revoke or suspend a licence in respect of a local fishing vessel at any time before it expires if the holder of the licence is convicted of any offence under this Act or if in the judgement of the Director the action is necessary for the proper management of fisheries.

Licensing of Foreign Fishing Vessels

11. Fishing and entry into Kenya fishery waters by foreign fishing vessels

(1) No foreign fishing vessel shall fish, attempt to fish or participate in fishing operations in Kenya fishery waters without a licence issued under section 12.

(2) Where any foreign fishing vessel enters Kenya fishery waters without a licence issued under section 12, the fishing gear or the vessel shall, at all times while it is in such waters, be kept stowed in the prescribed manner.

(3) Where any foreign fishing vessel is used in Kenya fishery waters contrary to this section, the master and owner of the vessel shall each be guilty of an offence and liable to a fine of not less than fifty thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a period of not less than six months and not more than two years or to both.

12. Issue of foreign fishing vessel licence

(1) An application for a licence for a foreign fishing vessel shall be submitted to the Director in the prescribed form.

(2) The Director may issue a foreign fishing vessel licence if—

- (a) he has determined that there are fishery resources surplus to the Kenya fishing industry which may be harvested under the licence;
- and

- (b) he has determined the quantity of the surplus that may be harvested and indicates that quantity as a condition of the licence.

(3) A foreign fishing vessel licence shall be subject to a condition requiring it to comply with any management measures that may be in force from time to time under sections 4 and 5 and to the payment of prescribed fees, royalties or charges.

13. Validity of foreign fishing vessel licence

(1) A foreign fishing vessel licence shall, unless earlier revoked or suspended, be valid for such period as the Director may specify.

(2) The Director may revoke or suspend a foreign fishing vessel licence at any time—

- (a) for failure to comply with the provisions of this Act, regulations or management measures thereunder, or any condition of the licence; or
- (b) where he is satisfied that such action is necessary for the proper management of fisheries.

(3) If a licence is revoked or suspended under this section for the proper management of fisheries, the proportion of any fees paid for the unexpired term of the licence shall be refunded to the licensee.

(4) A party aggrieved by the suspension of a licence under subsection (2) may appeal in writing to the Minister whose decision shall be final.

Other Licences

14. Other Licences

(1) The Minister may, in addition to licences for fishing vessels, make regulations requiring a licence for any fishery activities including sport fishing or the use of any gear or method of fishing with or without the use of a vessel, or fish processing or dealing in fish.

(2) Any person who engages in any activity for which a licence is required by section (1) otherwise than under the authority of such a licence, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART V – OFFENCES AND ENFORCEMENT

15. Prohibited methods of fishing

Any person who uses any explosives, poisonous or noxious substances or electric shock device for the purpose of killing, stunning, or disabling fish so as to render them more easily caught shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

16. Receiving fish in respect of which offence has been committed

Any person who for purposes of trade and commerce receives or retains any fish knowing or having reason to believe that an offence under this Act has been

committed in respect of that fish shall be guilty of an offence and liable to a fine of not less than five thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a term of not less than six months and not more than two years or to both.

17. Obstruction of officers

Any person who—

- (a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Act; or
- (b) fails to comply with any lawful enquiry or requirement made by any authorized officer under section 18,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

18. Powers of officers

(1) For the purpose of enforcing this Act and any regulations made thereunder, any authorized officer may, without a warrant—

- (a) stop and board any fishing vessel in Kenya fishery waters, and any local vessel outside such waters, and he may inspect such vessel, its cargo, supplies, fishing gear and equipment;
- (b) stop and inspect any vehicle or vessel transporting fish;
- (c) require to be produced, examine and take copies of any licence, log or other document required under this Act or regulations made thereunder;
- (d) require to be produced and examine any fish, net or any other fishing gear; or
- (e) impound any fish to be taken as samples and issue a receipt in the prescribed form.

(2) An authorized officer may, if he believes that an offence has been committed under this Act or regulations made thereunder, without a warrant—

- (a) enter any premises which he has reason to believe have been used in the commission of the offence, or in respect of which the offence has been committed;
- (b) arrest any person whom he has reason to believe has committed the offence; or
- (c) seize any fish, fishing gear, vessel, vehicle or other article which he has reason to believe has been used in the commission of the offence, or in respect of which the offence has been committed.

(3) Any person arrested under this section shall be brought before a court as soon as reasonably practicable.

(4) A fisheries officer who seizes anything under this section shall, at the time of the seizure, issue to the person in whose custody or possession it then is a written receipt for the thing seized.

(5) Anything seized under this section where practicable, be brought before a court, and except where otherwise provided by this Act, shall be dealt with according to the Criminal Procedure Code (Cap. 75).

(6) Where any fish or other article seized under this section is of a perishable nature, an authorized officer may dispose of it by sale or otherwise and any proceeds shall be held in place of the article disposed of.

(7) Any local fishing vessel or vehicle or fishing gear seized under this section may upon application to the court and subject to the deposit in court of adequate bond or other security for the reasonable value thereof, be released to the person entitled thereto.

19. Forfeiture

A court which convicts any person of an offence under this Act may, in addition to any penalty otherwise imposed—

- (a) order anything other than immovable assets used in connection with the offence, including any vessel so used together with its fishing gear, stores and cargo, as well as anything in respect of which the offence has been committed to be forfeited; or
- (b) order all fish found on board any vessel or vehicle used in connection with the offence to be forfeited, except that any fish that are proved not to have been caught in the commission of an offence shall not be forfeited.

20. Compounding of offences

(1) The Director may, with the approval of the Minister, if he is satisfied that a person has committed an offence under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section—

- (a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence; and
- (b) order the release of any vessel or any other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing.

(2) Any sum of money received under this section shall be dealt with as if it were a fine imposed by the court.

(3) If proceedings are brought against any person for an offence under this Act, it shall be a good defence if the person proves that he has compounded the offence under this section.

PART VI – GENERAL PROVISIONS

21. Power to act as public prosecutor

Any authorised officer may, subject to the direction of the Attorney-General, conduct any prosecution for any offence under this Act or the regulations made thereunder and shall for that purpose have all the powers conferred upon a public prosecutor by the Criminal Procedure Code (Cap. 75).

22. Marine mammals

(1) No person or vessel in Kenya fishery waters shall, without the prior written authority of the Minister, fish for marine mammals or use a port in Kenya for the purpose of equipping or supplying a vessel intended to be used for fishing for marine mammals.

(2) Where any vessel is used in contravention of subsection (1), the master and owner thereof shall each be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

23. Minister's power to make regulations

(1) The Minister may make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for any or all of the following purposes—

- (a) presenting the conditions to be fulfilled by foreign participation in fisheries, including conditions of licensing foreign fishing vessels;
- (b) establishing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;
- (c) prescribing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;
- (d) regulating the handling, storage and processing of fish by prescribed methods of handling, storage and processing of fish;
- (e) providing for inspection of fish trading and processing establishments and fish products in accordance with established standards;
- (f) management and control of fishing ports and waters;
- (g) for licensing of any person to engage in any form of fishing, or of handling, transporting, processing or selling of fish products;
- (h) organizing and regulating the marketing and distribution of fish;
- (i) providing for the registration of private marks to be used to distinguish the ownership of fishing gear;
- (j) prohibiting or control the importation, exportation and introduction into Kenya of live fish of any kind or species;
- (k) promoting and regulate or control the cultivation of live fish of any kind or species;
- (l) exempting any type of fishing gear or vessel or any person from any provision of this Act.

(3) Regulations made under this section may provide that the contravention of any provision shall constitute an offence and may prescribe penalties for any offence of a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

24. Schemes of loans to fishermen

(1) For the purpose of promoting modern fishing methods, the Minister may prepare a scheme, with approval of the Treasury, providing for financial assistance by way of loans to fishermen and fish farmers in respect of expenditure incurred in the acquisition of fishing vessels or their gear, fishing nets and other equipment, development of fish farms or purchase of inputs, and may provide financial assistance in accordance with the scheme upon the conditions contained in the scheme.

(2) An approved scheme shall be published in such manner as the Minister thinks fit, and may be varied or revoked by him at any time.

(3) For the purpose of administering an approved scheme, the Minister may appoint one or more loans committees, and confer upon them such functions as he thinks necessary or expedient for that purpose.

(4) The Minister may give to a loans committee directions of a general or special character as to the exercise and performance of its functions (including its procedure), and the loans committee shall give effect to any such directions.

(5) Where the Minister has, with the approval of the Treasury, prepared a scheme of the kind described in subsection (1) which is in force immediately before the commencement of this Act and has appointed a committee to administer it, that scheme shall upon such commencement, be deemed to be an approved scheme, and the committee shall be deemed to be a loans committee.

(6) The Minister may, with the consent of the Treasury—

- (a) make to a loans committee such grants as may be necessary to enable it to discharge its functions under this Act;
- (b) pay to the members of a loans committee (other than a member who is a public officer in receipt of a salary) such remuneration and travelling and other allowances as he may, with the approval of the Treasury, determine;
- (c) make such other payment as may be necessary to give effect to the provisions of this section.

25. Repeal of Cap. 378, Cap. 379, Cap. 380 and revocation of Groups 20 and 21 of United Kingdom Orders-in-Council applied to Kenya.

The Fish Industry Act, the Government Fisheries Protection Act and the Trout Act are repealed, and the Seal Fisheries (Crown Colonies and Protectorates) Orders in Council, 1913 and Whaling Industry (Regulation) Act (Newfoundland, Colonies, Protectorates and Mandated Territories) Order, 1936 and the Whaling Industry (Regulation) Act (Newfoundland, Colonies, Protectorates and Mandated Territories) Order, 1941 are revoked in so far as they apply to Kenya.

26. Replacement of section 278B of Cap 63

Section 278B of the Penal Code is repealed and replaced by the following new section—'

278B. Stealing fishing gear

If the thing stolen is fishing gear within the meaning of the Fisheries Act, 1988, the offender is liable to imprisonment for five years together with corporal punishment.

CHAPTER 378

FISHERIES ACT

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FISHERIES (GENERAL) REGULATIONS

[L.N. 34/1991, L.N. 351/1993, L.N. 18/1996, L.N. 40/1997, L.N. 18/2001, L.N. 88/2006, L.N. 128/2007, L.N. 77/2010.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as Fisheries (General) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**ambergris**” means a fatty substance with an odour originating from the intestines of sperm whale (*Physeter macrocephallus*);

“**anadromous**” means fish which migrate from open water bodies to river systems to spawn;

“**aquarium**” means artificial pond or tank used for keeping or displaying live fish aquatic plants as pets or for decorative, ornamental or entertainment purposes;

“**aquarium fish**” means any fish including brood, fry or ova thereof which are or may be intended for capture by or sale to any person for the purpose of display in a tank or aquarium;

“**artificial lure**” means any bait or lure furnished with a hook and containing no edible substance;

“**authorized examiner**” means a person designated by the Director to inspect a vessel to determine if it is seaworthy;

“**beche-de-mer**” means an *Enchinoderm* of the class *Iloothuroidea*;

“**berried fish**” means fish with eggs;

“**bivalve**” means mollusc of the class *Pelecypoda*;

“**breeding area**” means an area in Kenya fishery waters which the Director has, by notice in the *Gazette*, designated to be a fish breeding area and includes the nurseries for ova, fry, spawn, brood, spat and young of fish thereof;

“**by-catch**” means any species taken and any mortalities incidental to the target species in respect of which the license has been granted;

“**catadromous**” means fish which migrate from river systems into open water-bodies to spawn;

“**catchment area**” means a given area of the country where all surface water run off are, as a consequence of land formation, restricted to draining from; and for the purposes of these Regulations the country is divided into four major catchment areas: Lake Victoria basin, Kerio Valley basin, Uaso Nyiro basin and Indian Ocean;

“**coral**” means a calcareous skeleton secreted by polypoid coelenterates of the class *Anthozoa* or *Hydrozoa*;

“**cowrie**” means mollusc of the family *Gastropoda*;

“**crustacea**” means all species of aquatic *Arthropods* including shrimps, prawns, lobster, crayfish and crabs, their brood, spawn, ova and young thereof;

“**dealing in fish**” means acquiring, holding, selling or distributing fish or fish products for purposes of trade;

[Subsidiary]

“**distribution**” means movement of fish products from one area to another for the purposes of trade;

“**electric fishing**” means fishing by using electric current;

“**employee of a licensee**” means a person in receipt of wages or remuneration paid to him for services rendered by him to the licensee, who has been issued an employment card by the licensee, and whose name is entered on the employment register of the licensee;

“**fish culture**” means propagating, breeding or raising of fish under confinement by man;

“**fisherman**” means a person fishing in Kenya fishery waters;

“**fisherman’s licence**” means a licence issued under regulation 9;

“**fish farmer**” means a person engaged in fish culture;

“**fishing camp**” means an established area or building designated by the Fisheries Department for use by sport fishermen;

“**fishing ground**” means all fishery waters of Kenya together with the shorelines thereto except the points designated as fish landing stations under regulation 42;

“**fish landing station**” means a point on the shore of any waters or coastline of which the Director has, by notice in the *Gazette*, designated as a point to land fish;

“**fish trader**” means any person other than a fisherman or fish farmer who deals in fish;

“**Fish traders licence**” *deleted by L.N. 88/2006, s.2;*

“**gill net**” means a net which is placed into position in water with the object of fish swimming into it and becoming caught therein;

“**inland waters**” means any public river, lake, estuary, stream, tank, pool, pound, channel, lagoon and any other public areas of fresh or blackish water in Kenya;

“**landing fish**” means displaying or offering of fish for sale by a fisherman;

“**licensing officer**” means the Director and any person in the public service in the Fisheries Department of above the rank of Assistant Fisheries Officer, or any other officer in the public service appointed in writing by the Director to be a licensing officer;

“**long lining**” means fishing with several hooks attached to a long line;

“**marine mammal**” means any animal of the class *Mammalia* living in an aquatic environment and includes their young;

“**marine turtle**” means any animal of the family *Testudinæ* living in the aquatic environment and includes eggs and young thereof;

“**marketing fish**” means acquiring or offering fish or fish products for purpose of trade;

“**master**” means the person for the time being having command or charge of the fishing craft;

“**mother of pearl**” means the pearl-bearing shell;

“**Nyanza Gulf**” means all the water body of Lake Victoria east of Rusinga Island;

“**oyster**” means any mollusc of any species of the genus *Ostrea*;

“**pearl**” means an abnormal concretion of nacre formed inside a mollusc shell round a foreign body such as a sand particle or a parasite;

[Subsidiary]

“**private land**” means land which is held under conveyance, lease or licence from the Government or local authority but does not include land held under temporary occupation licence under the Government Lands Act (Cap. 282);

“**rod and line**” means a single rod or pole to which is attached a line or thread with hook or lure fastened on the line for fishing;

“**sea weed**” means aquatic plant;

“**seining**” means the use of a net to enclose an area of water and subsequently drawing the net ashore or on to a vessel;

“**shell**” means whole part of the hard outer cover of a mollusc;

“**special licence**” has the meaning ascribed to it in regulation 27;

“**sport fisherman**” means any person holding and using as authority for his fishing a licence issued under regulation 12 or 13;

“**sport fishing**” means angling or fishing for recreation;

“**sport fishing club**” means a person or institution which offer sport fishing facilities;

“**sport fishing facility**” means vessel or fishing gear used for sport fishing;

“**trawl net**” means a fishing net rigged in such manner as to have a wide opening and fitted with warps and otter boards, which is dragged along in the water behind a motorised boat for purposes of fishing;

“**trawler**” means a boat, whether motorised or not, which is built in such manner as to allow for the attachment of a trawl net;

“**trawling**” means casting of a net into water and subsequently towing the net by a fishing vessel;

“**trolling**” means fishing with hook fixed on a line which is towed by a vessel;

“**trout**” means any fish of the family *Salmonidae* commonly known as trout and includes eggs and young thereof.

[L.N. 18/2001, s. 2, L.N. 88/2006, s. 2, L.N. 77/2010, s. 2.]

PART II – REGISTRATION OF LOCAL FISHING VESSELS

3. Registration of fishing vessels

(1) Pursuant to section 7 of the Act, person shall use any vessel for fishing in Kenya fishery waters unless there is in force in relation to that vessel a valid certificate of registration.

(2) A certificate of registration of a fishing vessel in Form DF/CR 1 in the First Schedule may, on application to and approved by the Director, be issued on payment of the fee prescribed in the Second Schedule.

(3) With the approval of the Minister, the Director may, in writing, exempt any owner of a vessel from payment of the whole or part of the registration fee.

(4) For purposes of ascertaining whether or not a vessel complies with the provisions of the Act, a licensing officer may direct that before any vessel is registered under these Regulations, the owner shall produce the vessel for inspection by an authorized officer.

(5) The licensing officer shall allot an identification number, which may include letters, to the vessel in respect of which a certificate of registration is issued, and shall cause an entry of the allotted identification number of registration to be made in a register to be kept for that purpose.

[Subsidiary]

(6) Any person who contravenes this regulation shall be guilty of an offence and shall be liable to the penalties set forth in section 7 of the Act.

4. Identification of registered vessels

(1) The owner of a vessel for which a certificate of registration has been issued shall—

- (a) cause the identification number allotted under regulation 3(5) to be clearly painted on each side of the bow of the vessel within seven days after issue of the certificate of registration; and the number shall be painted in black on a white background, or in white on a black background, and each figure or letter shall be at least 250mm. in height, 150mm. in breadth and 40mm. thickness;
- (b) at all times maintain the identification in a clear legible and visible condition.

(2) The owner of a fishing vessel operating in Kenya fishery waters which is not marked in the manner prescribed in this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

5. Concealment of numbers

(1) No person using any vessel registered under these Regulations shall cause or permit the identification marks of the vessel to be defaced, covered or concealed in any manner whatsoever.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

6. Transfer of certificate of registration

(1) Where the ownership of a registered fishing vessel transfers from one person to another, the person from whom the ownership has transferred together with the person to whom the ownership has been transferred shall jointly submit to the Director an application seeking the transfer of the certificate of registration.

(2) The application shall contain—

- (a) the names and addresses of both parties;
- (b) documentary evidence of the transfer and acquisition of the certificate of ownership;
- (c) signature of both parties;
- (d) attestation by an independent witness.

(3) Upon approval of the application, the Director shall cancel from the register the name of the person from whom the certificate of registration of fishing vessel has transferred and in lieu thereof enter in the register the name of the person to whom ownership of the same has been transferred and shall accordingly change the name of the owner on the certificate of registration.

7. Unseaworthy vessel not allowed to sail

(1) No fishing vessel registered under regulation 3 shall proceed on a fishing voyage unless it is seaworthy.

(2) Where a fisheries officer, upon inspection of any licensed fishing vessel which is being prepared to proceed on a fishing voyage, considers that the vessel is unseaworthy, he may detain the vessel until it is made seaworthy and a certificate of seaworthiness from an authorized examiner is produced to him.

[Subsidiary]

(3) The owner or master of a vessel who wilfully allows an unseaworthy or unfit vessels to proceed on a voyage knowing it to be unseaworthy, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

8. Vessel licence not required

Any vessel registered under regulation 3 is deemed to have a licence required for a local fishing vessel under section 9 of the Act.

PART III – LICENSING OF FISHERMEN, ETC.

9. General fisherman's licence

(1) No person shall fish in Kenya fishery waters unless—

- (a) he is a holder of a valid fishing licence issued to him under these Regulations and is fishing in accordance with the terms and conditions of the licence;
- (b) he is an employee of a licensee and is fishing in accordance with the terms and conditions of the applicable licence; or
- (c) he is fishing for his own consumption and in accordance with the Minister's order published in the *Gazette*.

(1A) A licence issued under this regulation shall entitle the holder to—

- (a) fish for aquarium fish in Kenya fishery waters;
- (b) collect or culture any oyster;
- (c) fish for trout in Kenya fishery waters.

(2) A fisherman's licence as set out in Form DF/L1 in the First Schedule may on application to and approval by the Director be issued to the applicant, on payment of the fees specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

10. Deleted by L.N. 128/2007, s. 2.

11. Deleted by L.N. 128/2007, s. 3.

12. Sport fisherman's licence

(1) No person shall participate in sport fishing in Kenya fishery waters unless—

- (a) he is a holder of a valid sport fishing licence issued to him under this regulation and is fishing in accordance with the terms and conditions of the licence; or
- (b) he is a holder of a valid trout licence described in regulation 13 and is fishing in accordance with the terms and conditions of the licence.

(2) A sport fisherman's licence as set out in Form DF/L2 in the First Schedule may on application to and approval by the Director be issued to the applicant by the licensing officer, on payment of the fee set out in the Second Schedule.

[Subsidiary]

(3) A sport fisherman's licence shall entitle the holder to catch fish with only a rod and line for his own consumption or personal trophies and not for sale.

(4) A licence which shall remain in operation for two years from the date which it was issued.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

[L.N. 128/2007, s. 6.]

13. Deleted by L.N. 128/2007, s. 4.

14. Fish processing licence

(1) No person shall, for the purpose of trade, engage in the processing of fish by any means unless he is in possession of a valid fish processing licence issued to him under these Regulations and is operating in conformity with the terms and conditions of the licence.

(2) paragraph (1) shall not apply to—

- (a) the icing of fish;
- (b) sun-drying or smoking of fish without using electric power or motorised plant machinery; or
- (c) catering institutions which sell or serve fish already prepared as food for eating by their patrons.

(3) Upon application to and approval by the Director, a fish processing licence as set out in Form DF/L4 in the First Schedule, may be issued in respect of each processing premises on payment of the fees specified in the Second Schedule.

(4) The validity of the licence shall remain restricted to the premises named thereon.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

15. Deleted by L.N. 88/2006, s. 4.

16. Deleted by L.N. 88/2006, s. 5.

17. Deleted by L.N. 88/2006, s. 6.

18. Deleted by L.N. 88/2006, s. 7.

19. Shell collector's licence

(1) No person shall collect shells unless he is in possession of a valid licence issued to him under this regulation and is operating in conformity with the terms and conditions of the licence.

(2) A licence in the form set out in Form DF/L7 in the First Schedule, may on application to and approval by the Director, be issued on payment of a fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

20. Shell dealer's licence

(1) No person shall engage in wholesale or retail trade in shells unless he is in possession of a valid licence issued to him under these Regulations and is operating in conformity with the terms and conditions of the licence.

(2) A licence as set out in Form DF/L8 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

21. Deleted by L.N. 88/2006, s. 8.

22. Deleted by L.N. 88/2006, s. 9.

23. Deleted by L.N. 88/2006, s. 10.

24. Disposal of aquarium fish

(1) Any licensee wishing to dispose of or transfer ownership other than by export of aquarium fish for which he has been issued a licence to fish, culture or keep shall, before disposing of the aquarium fish, notify the Director in writing of how and where he proposes to transfer the fish.

(2) When ownership of the fish is to be transferred to another person or institution, except where such transfer of ownership occurs from export of aquarium fish, the newowner shall apply for and obtain the necessary licence before taking possession of the aquarium fish.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

25. Live fish movement permit

(1) No person shall move live fish from one water catchment area to another unless he is in possession of a permit issued to him under this regulation and he is operating in conformity with the terms and conditions of the permit.

(2) A permit as set out in Form DF/P4 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

26. Import and export permit

(1) No person shall export from or import into Kenya any fish or fish product unless he is in possession of a permit issued under this regulation.

(2) A person seeking a permit under this regulations shall submit an application in Form DF/P3 set out in First Schedule to the Director and shall, where the application is in respect of live fish, provide a proper description of the fish giving both its scientific and common names.

[Subsidiary]

(3) The Director shall consider every application submitted under paragraph (2) and shall forward the application together with his recommendations thereon to the Permanent Secretary for the time being responsible for matters relating to fisheries for approval.

(4) Where an application under this regulation is approved, a permit in Form DF/P3A set out in the First Schedule may be issued to the applicant, subject to payment of the prescribed fee.

(5) Any person who contravenes the provisions of this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

[L.N. 18/1996, s. 2(a).]

27. Special licence

(1) Notwithstanding anything contained in these Regulations, the Director may in writing grant to any person or institution, authority to be called special licence, which shall entitle the holder to engage in fishing and to do such other things as may be specified therein for any of the following purposes—

- (a) scientific research;
- (b) educational purposes;
- (c) the supply of food in case of emergency;
- (d) collection of brood stock for breeding purposes;
- (e) any other purpose the Director deems appropriate.

(2) Any special licence shall be valid for the period specified therein.

(3) Any person who contravenes this regulation or any terms or conditions of a special licence shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

28. Registration of sport fishing clubs

(1) No person or club shall operate any sport fishing facility unless there is in force in relation to that person or club a valid certificate of registration of the sport fishing club issued under this regulation.

(2) A certificate of registration of the sport fishing club in Form DF/CR2 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person or institution who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART IV – ADMINISTRATION OF LICENCES, PERMITS AND CERTIFICATES OF REGISTRATION**29. Application**

Any person requiring a licence, permit or certificate of registration under these Regulations shall apply in writing to a licensing officer on the appropriate form as set out in the First Schedule or in such other form as the Director shall specify.

30. Power to refuse a licence or permit

(1) Any licensing officer may without disclosing any reason, refuse to issue any licence or permit required under these Regulations and where such refusal is made by a licensing officer other than the Director, the licensing officer shall report every case in writing detailing reasons for refusal to the Director.

[Subsidiary]

(2) Any person aggrieved by the decision of the licensing officer may, within thirty days of communication to him of such refusal, appeal in writing to the Director.

(3) The Director may confirm, vary or reverse the decision and shall accordingly issue instructions to the licensing officer.

31. Power to attach conditions

(1) The Director may attach to any licence or permit issued under these Regulations any conditions which in his opinion are necessary or expedient for carrying into effect the objects and purpose of the Act and of these Regulations, which conditions shall not be inconsistent with the provisions of the Act or regulations made thereunder.

(2) Without prejudice to the generality of the provisions of paragraph (1), the Director may impose conditions as to—

- (a) the stock, size, sex, weight and quantities of fish to be harvested or any matter relating thereto; or
- (b) the methods used in fishing and disposal of fish or particular species of fish and use of any equipment, appliance, instrument, net, fishing weir or any other means whatsoever.

32. Power to modify licence, etc.

(1) The Director may modify a licence, permit or certificate of registration if he determines that such modification is for the proper management of the fishery, and shall accordingly inform the licensees of such modification.

(2) Where the Director has modified a licence, permit or certificate of registration the licensee shall be required to deliver the instrument to a licensing officer for endorsement accordingly within seventy-two hours after delivery of a written notice of modification.

(3) Where any licence, permit or certificate of registration against which the Director has issued a variation order shall not have been surrendered for endorsement seventy-two hours after delivery of notice for variation, such licence, permit or certificate of registration shall be deemed to have been revoked and fallen invalid.

(4) After a licence has been endorsed under paragraph (2) of this regulation, it shall be returned to the licensee.

33. Power to suspend or cancel licences, etc.

(1) The Director may suspend a licence or permit if he determines—

- (a) that such a suspension is necessary or expedient for proper management of the fishing industry for such period as he deems fit in the whole or in specified parts of the country; or
- (b) that the licence or permit has been used in contravention of any regulation or any conditions therein.

(2) Any licence or permit suspended under paragraph (1) shall be invalid during the period the suspension is in force.

(3) The Director may cancel or revoke any licence or permit granted under this regulation if he is satisfied that the holder has contravened any of the provisions made thereunder.

(4) Where the Director has suspended, cancelled or revoked a licence or permit as provided for under paragraphs (1) and (3), the Director of fisheries or an officer authorized by him in writing shall repossess the instrument.

[Subsidiary]

(5) Where the instrument is repossessed on grounds of suspension, the Director, if he is satisfied that the circumstances which mitigated suspension no longer apply, may authorize that the instrument be returned to the licensee.

34. Appeals

(1) Any person aggrieved by—

- (a) the refusal of the Director to issue a licence or permit to him;
- (b) the suspension or revocation of a licence or permit by the Director; or
- (c) any condition or restriction attached or imposed on a licence or permit, may, within thirty days of communication to him of such refusal, suspension, revocation, condition or restriction, appeal in writing to the Minister.

(2) A petition of appeal lodged under paragraph (1) need not be in any standard form, but the appellant shall—

- (a) prepare the petition in duplicate;
- (b) adequately describe the matter to which the appeal relates;
- (c) set forth concisely the grounds of appeal;
- (d) sign the petition;
- (e) serve the original on the Minister; and
- (f) serve the duplicate on the Director.

(3) On receipt of the duplicate referred to in paragraph (2), the Director shall without delay forward to the Minister a written statement setting out such particulars relating to the subject matter of the appeal together with his own comments thereon which in his opinion are useful towards a just determination of the appeal.

(4) The decision of the Minister in an appeal shall be final and shall be communicated in writing to the appellant with a copy to the Director.

35. Validity

Every licence, permit or certificate of registration issued under the Act or these Regulations, shall, unless invalidated pursuant to provisions of the Act or any regulations made thereunder, remain valid up to the date stated therein or where no such date is specified up to 31st December of the year in which it is issued.

36. Licence not transferable

A licence or permit issued under these Regulations shall not be transferable.

37. Replacement of licence

(1) When any licence, certificate of registration or permit which has been issued under the Act or any regulation made thereunder has been lost, become defaced or mutilated, the person to whom it was issued may upon application to and approval by the Director, be issued with a duplicate upon payment of the fee specified in the Second Schedule.

(2) On issue of the duplicate licence, certificate of registration, or permit pursuant to this regulation, the original shall cease to be valid.

38. Register

The Director shall cause to be kept and maintained a separate register for each type of licence, permit and certificate of registration issued under the Act or any regulations made thereunder.

39. Effect of conviction

(1) The conviction of the holder of a licence, permit or certificate of registration or his authorized agent for any offence under the Act or any regulation made thereunder shall, unless the Director in writing otherwise directs, have the effect of cancelling the licence, permit or certificate of registration and such instrument shall cease to be valid from the moment of conviction.

(2) Any person convicted of an offence under the Act or these Regulations shall, unless the Director in writing otherwise directs, stand disqualified from holding a licence, permit or certificate of registration related to the provisions under which he has been convicted, for a period of two years from the moment of conviction.

(3) The holder of any licence, permit or certificate of registration which is cancelled pursuant to paragraph (1) shall, within fourteen days from the date of conviction, surrender the licence, permit or certificate of registration or any document evidencing permission or authority to engage in business for which authority is required under the Act or these Regulations to a licensing officer.

(4) The licensing officer shall record the surrender of the instrument in the appropriate register kept under regulation 38.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

PART V – NOTICES IN THE GAZETTE**40. Manner of publication of notice**

Where under the Act or these Regulations the Director may exercise any power by notice, the notice shall be—

- (a) published in the *Gazette*; or
- (b) exhibited at each place where a register of licences, permit or certificate of registration is kept pursuant to these Regulations.

PART VI – GENERAL MANAGEMENT MEASURES**41. Fishing in inland waters**

(1) No person shall fish in the inland and territorial waters of Kenya except—

- (a) a citizen of Kenya; or
- (b) a non-citizen of Kenya holding a valid sport fishing licence or trout licence; or
- (c) a resident of Kenya or other persons recognized by the Director by notice in the *Gazette* as persons who traditionally fish in Kenya fishery waters.

(2) Any person contravening this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding two years or to both.

42. Landing of fish

(1) No person, other than a sport fisherman, shall land any fish at any point except at a fish landing station and for purposes of this regulation, the fish landing stations shall be those specified in the Fourth Schedule.

[Subsidiary]

(2) Any fisherman who lands fish at a fish landing station shall—

- (a) at the request of a fisheries officer, cause the fish to be weighed by the officer; and
- (b) keep or store the fish in a hygienic manner pending sale.

(3) No fisherman or fish dealer shall have in his possession for sale, any fish which is unfit for human consumption.

(4) Where a fisheries officer is satisfied that fish in possession of a fisherman or trader is unsuitable for human consumption on account of its poor state of preservation or of its toxic nature, he shall refuse the sale and may impound the fish; or demand production of a certificate issued by a fisheries officer or public health officer confirming suitability of the fish, for human consumption, before allowing the sale.

(5) Where the certificate of suitability referred to in paragraph (4) is not produced for up to forty eight hours, the fisheries officer may order the fish destroyed and the Government shall not be held liable.

(6) Any person contravening this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

43. Prohibited fishing methods and gear

(1) Trawling is a prohibited fishing method—

- (a) in the waters of Lakes Victoria;
- (b) *deleted by L.N. 18/2001, s. 2(b)(i)*;
- (c) in Kenya waters of Lake Turkana;
- (d) within three nautical miles of the coast of Kenya within the territorial waters of Kenya described under the Maritime Zones Act:

Provided that the Director may determine, by notice in the *Gazette*, the number, type and size of vessels that may be permitted in any area where trawling is allowed under these Regulations or the Act.

(1A) It is prohibited to own or be in possession of a trawler or trawl net at any point within the Kenya waters of Lake Victoria or within a radius of ten kilometres landward from any point on the entire shoreline of the Kenyan waters of Lake Victoria.

(1B) Any person who contravenes the provisions of paragraph (1A) shall be guilty of an offence.

(1C) An authorised officer may, in the exercise of his powers and the performance of his duties under the Act, seize and detain any trawler or trawl net found within any of the areas specified under this regulation in respect of which he has reasonable cause to believe that an offence has been or is about to be committed.

(1D) Any trawler or trawl net which is seized under paragraph (1C) in respect of which an offence is found to have been committed shall be forfeited to the Government.

(2) A seining net whose mesh sizes are less than 50mm when diagonally stretched shall be prohibited fishing gear except for fishing for *Rastrineobola (Omena)*.

(3) Seining for *Rastrineobola (Omena)* with any net whose mesh sizes are less than 10mm. when diagonally stretched is prohibited.

(4) Any gill net the mesh sizes of which measures less than 127mm. diagonally when stretched is a prohibited fishing gear in all Kenya waters of Lakes Victoria and Turkana,

[Subsidiary]

and any gill net the mesh sizes of which measure 102mm. diagonally when stretched is a prohibited fishing gear in Lake Naivasha, Lakes Baringo, Challa and Jipe and the dams of Tana and Turkwell rivers.

(5) It is prohibited—

- (a) to land from Lakes Victoria and Turkana fish whose standard length is less than 25 centimetres;
- (b) to land from Lakes Naivasha, Baringo, Jipe, Challa and the dams of Tana and Turkwell rivers any Tilapia fish whose standard length is less than 18 centimetres;
- (c) to acquire, possess, buy, sell or expose for sale or barter any Tilapia fish the landing of which is prohibited under subparagraphs (a) and (b).

(6) The standard length in relation to this regulation is the linear measurement of the distance between the tip of the upper lip of the fish mouth and the foot of the caudal fin of the fish as shown in the diagram in the Fifth Schedule.

(7) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding two years or to both.

[L.N. 351/1993, s. 2, L.N. 18/2001, s. 2(b), L.N. 77/2010, s. 3.]

44. Buoying of fishing gear

(1) Any fishing gear set or placed in or on water shall be marked with a clearly visible buoy so that it can be seen both during the day and night by a vessel a hundred and fifty metres away from the position of the gear.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding six months or to both.

45. Harvesting of oysters

(1) No person shall use any mechanical apparatus to take oysters from natural or cultured oyster beds in Kenya fishery waters.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding one year or to both.

46. Coral gathering prohibited

(1) No person shall gather coral, either alive or dead, from Kenya fishery waters.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding two years or to both.

47. Protection of *anadromous* and *catadromous* fish

(1) No person shall fish for *anadromous* or *catadromous* fish species in the river systems or within a three kilometre radius of the river delta and estuary during the period designated by the Director by notice in the *Gazette*.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

[Subsidiary]

48. Berried crustacea

(1) Subject to paragraph (2), no person shall fish for or have in his possession any lobster, crab or crayfish in berried state.

(2) The Director may, subject to such terms and conditions as he considers appropriate, authorize in writing the capture of lobster, crab or crayfish in berried state.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

49. Prohibition on use of explosives and poison

(1) No person shall use any explosives, poisonous or noxious substances, or electric shock device in order to render fish more easily caught.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

50. Protection of breeding areas

(1) No person shall disturb any spawn or spawning fish in a breeding area.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

51. Protection of marine mammals and turtles

(1) The maritime zones of Kenya are declared to be a marine mammal and turtle sanctuary.

(2) No person shall—

- (a) kill any marine mammal or turtle;
- (b) chase any marine mammal or turtle with intent to kill;
- (c) harass any marine mammal or turtle so as to disturb its behaviour or breeding habits; or
- (d) take any marine mammal or turtle, alive or dead, including any marine mammal or turtle stranded on land.

(3) Where any marine mammal or turtle is caught or taken unavoidably during fishing, such marine mammal or turtle shall, whether it is alive or dead, be released immediately into the waters.

(4) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

52. Prohibition relating to licences and permits

(1) No person shall—

- (a) unlawfully alter or endorse, transfer or lend a licence or permit issued to him, to any other person;
- (b) possess or attempt to operate pursuant to a licence or permit issued to another person; or

[Subsidiary]

- (c) having been disqualified from holding a licence or permit under the Act or these Regulations, apply for a licence without disclosing to the licensing officer the disqualification.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

53. Requirement to provide data

(1) The holder of any licence, certificate or permit issued under the Act or these Regulations shall submit at any time as the Director may specify, data or information in respect of his business in the form prescribed by the Director.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART VII – TROUT FISHING

54. Powers to regulate trout fishing

(1) The Director may from time to time, by notice in the *Gazette*—

- (a) declare any water or part thereof to be open for the purpose of trout fishing either generally by any person, or exclusively by members of a specified club or association; provided that any exclusive right granted under this regulation may be withdrawn in such manner and in such circumstances as the Director may prescribe;
- (b) declare a closed season for the purpose of trout fishing in any water, or part thereof, which has previously been declared open for trout fishing under subparagraph (a);
- (c) specify the maximum number of trout, which may be taken from the water by any person, during a specified period;
- (d) stipulate the minimum size below which a trout taken from the water shall not be killed but be returned to the water;
- (e) stipulate the type and size of hook or lure which may be used in any water for the purpose of fishing for trout;
- (f) stipulate the maximum number of persons who may fish for trout in any water during a specified period; and
- (g) control the entry into, and the use and occupation of, a fishing camp by any person and prescribe the fees to be paid therefore.

(2) For the purpose of this regulation—

- (a) the waters presently declared open for trout fishing shall be those specified in the Third Schedule; and
- (b) the number of trout presently authorised to be taken under paragraph (1)(c) is five trout per day by any licensee.

55. Prohibited trout fishing activities

(1) No person shall—

- (a) fish for trout unless he is in possession of a valid licence issued to him under these Regulations;

[Subsidiary]

- (b) fish for trout, except with a rod and line held in the hand and furnished with an artificial lure provided that—
 - (i) where more than one lure are fixed on the same line to be used simultaneously, the lure shall not be fixed at less than one metre centres from each other; and
 - (ii) nothing in this regulation shall prohibit the use of a landing net to remove from the water any trout being lawfully taken under this regulation;
- (c) in any water fish for any trout unless that water has been declared by the Director to be open for the purpose of trout fishing exclusively by members of a club or association, no person other than members of that club or association or those authorized by the club or association shall fish trout in that water;
- (d) fish for trout in violation of any provision published by notice in the *Gazette*;
- (e) enter, use or occupy a fishing camp in contravention of any provision published by notice in the *Gazette* under regulation 54 or refuse to pay any prescribed fee when requested to do so by an authorized officer.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

56. Offence to damage fishing camp and property

(1) No person shall damage, alter or obliterate any dam, bridge, structure or river improvement work, fishing camp, mark, sign, notice board lawfully constructed, erected or issued by or under the authority of the Director.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART VIIA – CRUSTAE FISHING

56A. The Director may, from time to time and on the basis of scientific evidence, by notice in the *Gazette*—

- (a) declare any fishery water or part thereof to be open for the purpose of fishing for crustacean;
- (b) specify the times between which prawn fishing may be carried out;
- (c) prescribe the gears or methods to be applied during fishing for crustaceans in order to reduce by-catch;
- (d) prescribe the Monitoring Control and Surveillance system(MSC) mandatory use of Vessel including Monitoring System(VMC) and other surveillance systems;
- (e) specify total allowable catch (T AC) and determine the fee to be paid as royalty;
- (f) specify the most suitable and economical methods of disposal of by-catch, if any, that may be obtained during crustacean fishing;
- (g) declare a closed season for crustacean fishing in any water which had previously been declared open for crustacean fishing under paragraph (a).

[L.N. 77/2010, s. 4.]

[Subsidiary]

56B. No person shall fish for crustaceans—

- (a) unless he is in possession of a valid crustacean fishing licence issued under these Regulations;
- (b) unless he has paid the fees prescribed in the First Schedule to these Regulations;
- (c) in contravention of any directions or conditions issued by the Director under regulation 56A.

[L.N. 77/2010, s. 4.]

56C. (1) The owner of a fishing vessel shall, for the purpose of collection scientific data and carrying out such other management and enforcement activities—

- (a) cause the vessel to proceed to such places and at such times as may be designated by the Director for the purpose of embarking and disembarking the observers;
- (b) provide, at no cost to the observer or the Government of Kenya, accommodation and food for the observer aboard the fishing craft, equivalent to those provided to the officers of the fishing craft;
- (c) allow the observer to use the craft's communications equipment and personnel as necessary for the transmission and receipt of messages; and
- (d) provide all other reasonable assistance to enable the observer to carry out his duties.

(2) A person who contravenes this regulation commits an offence is liable on conviction to a fine of not less than ten thousand shillings or to imprisonment for a term not exceeding two years or to both.

[L.N. 77/2010, s 4.]

PART VIII – IMPORTATION OF LIVE FISH

57. Importation of live fish

(1) Any person importing live fish shall, on arrival of the fish in Kenya, present the fish to a fisheries officer at the port of entry for inspection for verification of declaration identity and certification of being free from any disease; and the fisheries officer may order such fish to be placed under quarantine for such period as he may determine for purpose of confirming the fish free from any disease.

(2) Where on arrival fish is confirmed diseased, the fisheries officer shall refuse such fish entry into the country and order the same destroyed immediately; and where the disease is discovered when the fish is in quarantine, the fisheries officer shall refuse the release of such fish to the importer and order the fish to be destroyed.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

PART IX – RESTRICTION ON PURCHASE OF FISH

58. Restriction on purchase of fish

(1) No person shall buy fish from any person other than—

- (a) *Deleted by L.N. 88/2006, s. 11;*
- (b) a licensed fisherman;
- (c) *Deleted by L.N. 88/2006, s. 11*
- (d) a fisherman's co-operative society.

[Subsidiary]

(2) Paragraph (1) shall not apply to a person buying from a catering institution fish already prepared for eating.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART X – PREVENTION OF POLLUTION AND PROTECTION AND
CONSERVATION OF FISHERY WATERS

59. Pollution prevention zone

For purposes of protecting the aquatic environment and ecology the Kenya fishery waters are hereby declared to be a pollution prevention zone.

60. Pollution and abandoned fishing gear

(1) Except in the cases of emergency involving safety of a fishing craft or crew, no person shall intentionally or negligently place or discharge into Kenya fishery water, any article, including abandoned fishing gear, or pollutant which may—

- (a) cause harm to any fisheries resource or marine mammal;
- (b) interfere with fishing or obstruct fishing gear or vessels; or
- (c) become a hazard to navigation.

(2) In the event of an accidental placing or discharge of such articles or pollutant into the fishery water or in the event of encountering such articles, the person involved or master of the craft shall immediately report the incident to the Director giving the following information—

- (a) the name of the reporting person and the name and call sign of his craft, if any;
- (b) the nature of the article disposed or encountered;
- (c) the location of the article or pollutant spill; and
- (d) the time and date of the incident.

(3) All fishing gear which is set or otherwise deployed so that it may entrap or otherwise catch fish shall be attended at all times.

(4) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

61. Movement of boat or gear to other waters

(1) Any person who intends to move a boat or fishing gear from a body of water into another body of water within inland waters of Kenya, or anything else already placed in that body of water, shall notify a fisheries officer under whose charge the waters from which the vessel or equipment is to be moved fall.

(2) The fisheries officer shall inspect the vessel or equipment to be sure that the necessary action has been taken to prevent unauthorized spread of weeds, fish or other organisms to other fishery water bodies from the vessel or equipment that is moved.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

62. Fish stocking

(1) No person shall place or by act of omission cause to be placed any species of fish in any body of water without authority issued in writing by the Director, except where—

- (a) the fish species being so placed previously occurred in the same body of water prior to being fished thereon; or
- (b) a fish farmer is stocking his pond with fish obtained from another fish farmer with whom he shares the same water catchment area.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

PART XI – PRIVATE MARKS FOR FISHING GEAR**63. Assignment of private mark**

(1) The Director may assign to each fisherman in an area a private mark for the purpose of identifying fishing gear belonging to the fisherman.

(2) Each fisherman to whom a private mark has been assigned for the purpose of identification of his fishing gear shall pay to the Director the fee specified in the Second Schedule.

(3) The Director shall cause to be kept a register of private marks assigned to the fishermen for the purpose of identification of fishing gear.

(4) A notice showing the private mark and the person in whose name it is registered shall be exhibited at a place where the register is kept during the currency of the registration.

(5) Assignment and registration of a private mark shall be current until 31st December of the year in which it is registered, and may be renewed each year by payment of the fee specified in the Second Schedule.

(6) No private mark shall be registered in the name of more than one person.

64. Transfer of private mark

(1) When a fisherman wants to transfer his registered private mark to another fisherman, the person from whom the private mark shall be transferred together with the person to whom the same shall be transferred, shall jointly submit to the Director, an application signed by both parties requesting entry in the register of change of the name of the person to whom the private mark is assigned.

(2) Upon approval of the application, the Director shall cancel from the register the name of the person from whom the private mark has transferred and in lieu thereof enter in the register the name of the person to whom the same has been transferred.

65. Prohibition relating to private marks

(1) No person who has been assigned a private mark under regulation 63 shall use for fishing in Kenya fishery waters any fishing gear which is not clearly and distinctively marked with the private mark.

(2) No person shall affix to any fishing gear or craft a private mark which is registered in the name of another.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

[Subsidiary]

66. Reporting of loss or finding of marked gear

(1) Any person who loses fishing gear or article or any person who finds fishing gear or article bearing the private mark of another person shall within forty-eight hours, report the loss or findings thereof to a fisheries officer or police officer, having jurisdiction over the area where the loss or finding has occurred.

(2) The officer shall cause such report to be entered into the occurrence register kept for purposes of recording lost or found articles and immediately thereafter publish by circulating to various landing stations, the details of information relating to the lost or found gear.

(3) Any person who fails to report to a fisheries officer or police officer within forty-eight hours, the finding of the fishing gear or article bearing the private mark of another person shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART XII – ENFORCEMENT PROVISIONS**67. Production of licence**

(1) Any licence issued pursuant to the provisions of the Act or these Regulations shall, on demand, be produced to an authorised officer.

(2) Where the person from whom the licence is demanded claims to have been issued with a licence but he is unable to produce it on demand, the authorized officer may, at his discretion, impound and detain the item in respect of which the licence is demanded until the licence is produced and where the items are of perishable nature, the authorized officer may dispose of them as provided for under section 18(6) of the Act.

(3) Any cost accruing or consequential to holding of items impounded under paragraph (2) shall be charged to and paid by the owner of the items or his agent before the items are released.

68. Obstruction

(1) No person shall—

- (a) wilfully delay or obstruct an authorized officer in the exercise of his powers under the Act or in accordance with the provisions of these Regulations; or
- (b) refuse or fail to answer any questions, or furnish any information, or produce any document or furnish any means of inspection, when requested to do so under the Act, or these Regulations.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

69. Presumptions

In all proceedings arising out of the provisions of these Regulations, it shall be presumed, until the contrary is proved, that—

- (a) the person registered as the owner of a vessel used for fishing is the owner of that vessel;
- (b) a person present in a vessel when the vessel is being used for fishing, or for the transport of fresh fish, is fishing;
- (c) a vessel being used for fishing is being so used with the consent of the registered owner thereof; and

Fisheries

[Subsidiary]

FIRST SCHEDULE, FORM DF/A1—continued

- (vii) Intended fishing area
- (viii) Proposed fishing methods
-
-

*Delete whichever is inapplicable.

- (b) (i) Will the boat be exclusively used by you or will it be shared by the other licenced fishermen
Will/Will not be shared.
- (ii) If boat will be shared with other licenced fishermen, please state the number of those fishermen
- (c) Details of crew:
 - (i) Total Number of Crew
 - (ii) Name of Master of Vessel
 - (iii) Nationality of Master of Vessel
 - (iv) ID or Passport No. of Master of Vessel
 - (v) Number of Crew who are not Kenyan Citizens
- 5. Details to be supplied by corporate body applicants
 - (a) (i) Name of company
 - (ii) Number of certificate of incorporation or registration of business (Please attach copy)
 - (b) State:
 - (i) Nominal Share of the Company
 - (ii) Issued Shares

Name	Nationality Citizenship	Passport ID/No.	No. of Shares Held

(d) Details of directors

Name	Nationality Citizenship	Passport No. ID/No.

- 6. Details for sport fishing clubs
 - (a) (i) Name of sport fishing club
 - (ii) Mailing address
 - (iii) Telephone No.

FIRST SCHEDULE, FORM DF/A1—continued

(b) Location of the club: Name of Building/Place
L.R. No. Town
District

(c) Details of office bearers

Table with 4 columns: Position, Name, Nationality Citizenship, Passport No. ID/No. Rows include Chairman, Vice-Chairman, Secretary, Asst. Secretary, Treasurer.

7. Details for Mode of Transporting Fish

(a) Specify the form of transport you will use to move fish. Own motor vehicle/own vessel/public transport vehicle/any other means
(b) If mode of fish movement is own vehicle/own vessel supply:
(i) Make of vehicle
(ii) Registration mark and No.
(iii) Load capacity (kg.)

8. I/We declare that the particulars and information as supplied by me/us herein are true, accurate and correct in every respect. I/We understand clearly that discovery of any false information provided by me/us will render this application invalid.

Signature Date
NAME (of Signatory)
POSITION (in the business)

NOTES

The licence, registration or permit for which this application form may be used to apply include:

- 1. Deleted by L.N. 88/2006, s. 12
2. Deleted by L.N. 88/2006, s. 12
3. Deleted by L.N. 88/2006, s. 12
4. Fisherman's licence.
5. Deleted by L.N. 88/2006, s. 12
6. Fish Processing licence.
7. Deleted by L.N. 88/2006, s. 12
8. Deleted by L.N. 88/2006, s. 12
9. Registration of fishing vessels.
10. Registration of sport fishing club.
11. Shell collectors licence.
12. Deleted by L.N. 88/2006, s. 12
13. Beche-de-mer.

Fisheries

[Subsidiary]

FIRST SCHEDULE—continued

Form DF/A2

FISHERIES (GENERAL) REGULATIONS

APPLICATION FOR TRANSFER OF CERTIFICATE OR REGISTRATION OF LOCAL FISHING VESSEL/PRIVATE MARK

I/We of address

hereby authorize the transfer of ownership of certificate of registration of local fishing vessel/private mark No. to of address

Reasons for transfer

Signed

Witness

Date

FOR OFFICIAL USE ONLY

Comment/Decision of Licensing Officer

Note.—This application must be submitted together with appropriate application for certificate or registration duly completed by a person or institution to whom the transfer is to be made.

Form DF/L1

(Regulation 9(2).)

FISHERIES (GENERAL) REGULATIONS

FISHERMAN'S LICENCE

Name ID. No. of (address)

is hereby authorised to fish (State Location of Fishery waters)

subject to compliance with the provisions of the Fisheries Act, and the Regulations made thereunder, and contingent to conditions specified hereunder:

Fees paid Date of issue

This fisherman's licence expires on 31st December,

Director

FIRST SCHEDULE—continued

Form DF/L2

(Regulation 12.)

FISHERIES (GENERAL) REGULATIONS

SPORT FISHERMAN'S LICENCE

Name

Address

Class of Licence: Yearly/Monthly/Fortnightly

(delete whichever is inapplicable)

is hereby authorized to engage in sport fishing subject to compliance with the provisions of the Fisheries Act and Regulations made thereunder, and contingent to conditions specified hereunder:

.....
.....

Fees paid Date of issue

Director

NOTE:

- (a) A yearly Sports Fisherman's Licence expires on the 31st December,
- (b) A monthly Sports Fisherman's Licence is valid for 30 consecutive days from the date of issue.
- (c) A fortnightly Sports Fisherman's Licence is valid for fourteen (14) consecutive days, from the date of issue.

Condition

The holder of this licence hereby undertakes to furnish a report either monthly or at the end of the fishing trip in the prescribed manner to the Director.

Form DF/L3

(Regulation 15(2))

FISHERIES (GENERAL) REGULATIONS

FISH TRADER'S LICENCE

[Deleted by L.N. 88/2006, s. 12(b).]

Form DF/L4

(Regulation 14.)

FISHERIES (GENERAL) REGULATIONS

FISH PROCESSING LICENCE

Name

of (address)

is hereby authorized to process fish and fish products at—

Name of Building LR. No.

Street Town District

Fisheries

[Subsidiary]

FIRST SCHEDULE, FORM DF/L4—continued

Subject to the provisions of the Fisheries Act, and to the Regulations made thereunder and contingent to conditions specified hereunder:

.....
.....
.....
.....
.....

Fees paid

Date of issue

Date of expiry: 31st December,

.....
Director

CONDITION

The holder of this licence hereby undertakes to furnish a monthly return in respect of his business, in the form prescribed by the Director.

Form DF/L5

(Regulation 11.)

FISHERIES (GENERAL) REGULATIONS

OYSTER COLLECTOR'S LICENCE

Name of licensee

ID. No./Passport No.

of (address)

is hereby licensed to collect oysters in the area or areas specified hereunder and subject to the Fisheries Act, and any Regulations made thereunder, and contingent to conditions endorsed hereunder and overleaf:

(a) Areas specified for oyster collection:

.....
.....

(b) endorsement:

.....
.....

Fees paid

Date of issue

Date of expiry: 31st December,

.....
Director

[Subsidiary]

FIRST SCHEDULE, FORM DF/L5—continued

I hereby confirm that I am aware of the conditions attached to this licence and to the provisions of the Fisheries Act and the Regulations made thereof under which this licence is issued (see conditions overleaf).

Signature of Licensee

CONDITION

The holder of this licence hereby undertakes to furnish a monthly return in respect of his business, in the form prescribed by the Director.

Form DF/L6

(Regulation 16)

FISHERIES (GENERAL) REGULATIONS

CRUSTACEA DEALER'S LICENCE

[Deleted by L.N. 88/2006, s. 12(c).]

Form DF/L7

(Regulation 19.)

FISHERIES (GENERAL) REGULATIONS

SHELL COLLECTOR'S LICENCE

Name

ID. No./Passport No.

Address

is hereby licensed to collect shells, subject to the provisions of the Fisheries Act 1989, and Regulations made thereunder, and to the conditions endorsed hereunder and overleaf:

.....

.....

Fees paid

Date of issue

Date of expiry: 31st December,

Director

Signature of Licensee

CONDITION

The holder of this licence hereby undertakes to furnish a monthly return in respect of his business, in the form prescribed by the Director.

Failure to supply the required information may cause cancellation of the licence.

Fisheries

[Subsidiary]

FIRST SCHEDULE—continued

Form DF/L8

(Regulation 20.)

FISHERIES (GENERAL) REGULATIONS

SHELL DEALER'S LICENCE

[Deleted by L.N. 88/2006, s. 12(d).]

Form DF/L9

(Regulation 10.)

FISHERIES (GENERAL) REGULATIONS

LICENCE TO FISH FOR AQUARIUM FISH

Name

ID/No./Passport No.

Address

is hereby licensed to fish for aquarium fish, subject to the provisions of the Fisheries Act, 1989 and the Regulations made thereunder and contingent to the conditions endorsed hereunder and overleaf:

.....
.....
.....

Fees paid

Date of issue

Date of expiry: 31st December,

Director

CONDITIONS

The holder of this licence hereby undertakes to furnish a monthly return in respect of his business, in the form prescribed by the Director.

Failure to supply the required information may cause cancellation of the licence.

Form DF/L10

(Regulation 21.)

[L.N. 88/2006, s. 12(e).]

FISHERIES (GENERAL) REGULATIONS

LICENCE TO DEAL IN AQUARIUM FISH

1. (a) Name of Licensee

.....

(b) Nationality ID/Passport No.

(c) Mailing address

FIRST SCHEDULE, FORM DF/L10—continued

- (d) Business location: Name of Building/Place
- L.R. No.
- Street/Rd Town
- District

has been authorized to deal in aquarium fish subject to compliance with the provisions of the Fisheries Act, 1989 and the Regulations made thereunder and contingent to conditions specified hereunder:

.....
.....

Fees paid (KSh.) Date issued

Date of expiry: 31st December,

.....
Director

Form DF/L11

(Regulation 22.)

FISHERIES (GENERAL) REGULATIONS

LICENCE TO KEEP AQUARIUM FISH

[Deleted by L.N. 88/2006, s. 12(f).]

Form DF/L12

(Regulation 17.)

[L.N. 88/2006, s. 12(g).]

FISHERIES (GENERAL) REGULATIONS

LICENCE TO COLLECT OR TRADE IN BECHE-DE-MER

Name

of (address)

is hereby licenced to collect/trade in *beche-de-mer* at—

(a) Collector's particulars:

(i) Area of collection

(ii) Where processed

(b) Particulars:

(i) Name of building (Business premises/stores)

(ii) L.R. No.

(iii) Street

(iv) Town

(v) District

subject to provisions of the Fisheries Act, and Regulations made thereunder and contingent to conditions specified hereunder:

.....
.....
.....

Fisheries

[Subsidiary]

FIRST SCHEDULE, FORM DF/L12—continued

Fee paid KSh.

Date of issue

Date of expiry: 31st December,

Director

Form DF/CR1

(Regulation 3.)

FISHERIES (GENERAL) REGULATIONS

CERTIFICATE OF REGISTRATION OF LOCAL FISHING VESSEL

The Vessel

(Name of vessel)

(Name of owner)

address of licensing officer)

has been registered in the local fishing vessels Register at (office and address of licensing officer)

for the purpose of fishing in accordance with the Fisheries Act and the vessel has been allotted the following identification number for the purpose of complying with the provisions of regulation 5(5) of the Fisheries (General) Regulations, No.

Type of vessel (State local Name or other)

Length (overall) Beam (greatest width)

Depth (greatest depth) Tonnage (if known)

Port Registration No.

Method of propulsion (State whether; paddle sail/inboard or outboard/powering fuel.

Fees paid Date of issue

This certificate of Registration expires on 31st December,

Director

Form DF/CR2

(Regulation 28.)

FISHERIES (GENERAL) REGULATIONS

CERTIFICATE OF REGISTRATION OF SPORT FISHING CLUB/ASSOCIATION

1. (a) Name of Club/Association

(b) Address

FIRST SCHEDULE, FORM DF/CR2—continued

- (c) Registrar's of Societies Registration Certificate No.
- 2. Location of Club/Association:
 - District Division/Town
 - Location Village
 - has been registered as Sport Fishing Club/Association for the purpose of hiring boats or fishing gear in accordance with the provisions of the Fisheries Act and Regulations made thereunder and contingent to conditions specified hereunder:
 -
 -
 -
 - Fees paid Date of issue
 - Date of expiry: 31st December,
 -

Director

Form DF/P3

(Regulation 26(2))

FISHERIES ACT

[Cap. 378.]

[L.N. 18/1996, s. 2(b).]

FISHERIES (GENERAL) REGULATIONS

APPLICATION FOR FISH AND FISH PRODUCT IMPORT/EXPORT PERMIT

- 1. I/We hereby apply for Import/Export Permit.
- 2. (a) Name of Applicant
- (b) Nationality
ID No. / Passport No.
- (c) (i) Mailing Address
- (ii) Telephone No.
- (d) Business Location: Name of Building / Place
- L.R. No. Street/Road
- Town District
- 3. (a) Other than the business for which this application is made, are you involved in any other trade in the fishing industry? YES/NO
- (b) If answer to (a) above is in the affirmative, specify nature or type of business(es)
-
-
-
- (c) Specify any other gainful occupation(s) you are engaged in
-
-
-

Fisheries

[Subsidiary]

FIRST SCHEDULE , FORM DF/P3—continued

4. Fish/Fish Products	Quantity	Value

5. Name and Address of Consignee / Supplier

6. I/We declare that the particulars and information supplied by me/us herein are true, accurate and correct in every respect. I/We understand clearly that discovery of any false information provided by me/us will render this application invalid.

Signature Date
Name (of signatory)
Position (in business)

Form DF/P3A

(Regulation 26(4).)

FISHERIES ACT
[Cap. 378.]
[L.N. 18/1996, s. 2.]

FISHERIES (GENERAL) REGULATIONS
FISH AND FISH PRODUCT IMPORT/EXPORT PERMIT

To: The Collector of Customs
Customs and Excise Department

(Port/Airport of Export)

1. This is to confirm that (name)
.....
of (address)
has been authorised to Import/Export* Fish/Fish Products/Live Fish* mentioned herein below to
(country of destination):

2. A—FISH AND FISH PRODUCTS

<i>Fish/Fish Products</i>	<i>Quantity</i>	<i>Value</i>
---------------------------	-----------------	--------------

B—LIVE FISH

<i>Species</i>	<i>Common Name</i>	<i>Number</i>	<i>Value</i>
----------------	--------------------	---------------	--------------

3. Name and address of consignee

*Delete inapplicable word.
Note— See conditions overleaf.

FIRST SCHEDULE , FORM DF/P3A—continued

VALIDITY

The validity of this permit expires on the date specified overleaf or immediately on shipment of the consignment whichever of the two occurs earlier.

.....
Permanent Secretary

Form DF/P4

(Regulation 25.)

FISHERIES (GENERAL) REGULATIONS

LIVE FISH MOVEMENT PERMIT

- 1. Name
- of (address)
- Nationality ID. No./Passport No.
- Occupation
- is hereby authorized to move fish species named hereinbelow:

Zoological name	Common name
(a)	
(b)	
(c)	
(d)	

FROM		TO	
District (Name)	Place	District (Name)	Place
(a)			
(b)			
(c)			

- 2. Reasons for movement/transfer of live fish
-
-
-
- 3. Contingent to the conditions specified hereunder:
-
-
-

.....
Director

Fisheries

[Subsidiary]

FIRST SCHEDULE—*continued*

Form DF/P1

(Regulation 18.)

FISHERIES (GENERAL) REGULATIONS

FISH MOVEMENT PERMIT

[Deleted by L.N. 88/2006, s. 12(h).]

Form DF/P2

(Regulation 23)

FISHERIES (GENERAL) REGULATIONS

AQUARIUM FISH EXPORT PERMIT

[Deleted by L.N. 88/2006, s. 12(i).]

Form DF/SZ

(Section 18.)

FISHERIES (GENERAL) REGULATIONS

RECEIPT OF NOTICE OF SEIZURE OF ITEMS

1. Particulars of items seized
-
-

<i>Name of items seized</i>	<i>Unity of Quantity</i>	<i>Quantity</i>	<i>Estimated value</i>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

2. Particulars of the person from whom the above items have been seized.
-
- Name
- Nationality ID. No./Passport No.
- Date Signature
3. Name of officer impounding items
- Designation P/No.
- Station Signature
- Date

FIRST SCHEDULE , FORM DF/SZ—continued

- 4. (a) Location where seizure occurred.
 - (i) District Town/Location/Sub-location
 Road/Street
 - (ii) Time of seizure a.m./p.m.

Form DF/TL

(Regulation 13.)

FISHERIES (GENERAL) REGULATIONS

TROUT LICENCE

- 1. (a) licence is hereby granted to
 (b) (c) *
- to fish trout within the Republic of Kenya, subject to the provisions of the Fisheries Act and Fisheries (General) Regulations and all Rules and notices thereunder.
- 2. This licence commences on
 and expires on (date)
 Date of issue

.....
Licensing Officer

Fee paid KSh.
Station

.....
Signature of Licensee

- *(a) Kind of licence, e.g. yearly, monthly or fortnightly.
- (b) Name of licensee (in block letters).
- (c) Address of licensee.

NOTICE

Anglers should keep themselves informed as to the rules of or the river they are fishing and return all undersized fish.

Great care should be exercised by the anglers when removing the hook from the trout's mouth. It is very important that the hand holding the fish should be wet, so that the protective slime (on the trout) does not adhere to the hand, otherwise a *fungus growth* is liable to set in, which ultimately kills the trout.

Be careful not to exert unnecessary pressure in holding the undersized trout when removing fly hook. If squeezed unduly hard, the fish's air bladder is ruptured.

Always allow the trout to swim out of your hand when returning it to the water. *Do not throw it in.*

In the interest of trout fishing, of other licence holders and of yourself, you are invited to co-operate with the Fisheries Department in their endeavour to prevent poaching, the use of illicit baits, and other infractions of the trout regulations.

Please help to keep the fishing camp clean and leave no litter on the banks.

Please take exceptional care against starting a forest fire when camping or at any time when in the forest. Always respect crops.

TROUT LICENCE FEE

- 1. Yearly licence KSh.
- 2. Monthly licence KSh.
- 3. Fortnightly or 14 days licence KSh.

Fisheries

[Subsidiary]

SECOND SCHEDULE

[L.N. 88/2006, s. 13, L.N. 128/2007, s. 7.]

FISHERIES (GENERAL) REGULATIONS

FEES FOR REGISTRATION, LICENCE, PERMITS AND OTHER CHARGES

	<i>Sh.</i>
1. Registration of Local Fishing Vessels	200
2. FISHERMEN, SPORT AND TROUT FISHING LICENCES	
2.1 Fisherman's Licence	200
2.2 Sport Fishing Licence	200
2.3 Deleted by L.N. 128/2007, s. 7(e)	
3.0 Miscellaneous Licences/Certificates:	
(a) Aquarium fish dealers' licence	2,000
(b) Deleted by L.N. 128/2007, s. 7(f)	
(c) Deleted by L.N. 88/2006, s. 13	
(d) Beche-de-mer collector's licence	100
(e) Beche-de-mer export fee calculated at 5% (five per cent) <i>ad valorem</i> of market price.	
(f) Camping fee per person per day	50
(g) Deleted by L.N. 88/2006, s. 13	
(h) Fish import fee at 5% (five per cent) <i>ad valorem</i> of market price.	
(i) Deleted by L.N. 88/2006, s. 13	
(j) Fish processing licence	200
(k) Fish export fee at 0.5% (zero point five per cent) <i>ad valorem</i> of market price.	
(l) Deleted by L.N. 88/2006, s. 13	
(m) Deleted by L.N. 88/2006, s. 13	
(n) Live fish movement permit	100
(o) Registration of private mark	300
(p) Renewal of private mark	100
(q) Registration of sport fishing club	1,500
(r) Shell collectors licence	100
(s) Deleted by L.N. 88/2006, s. 13	
(t) Deleted by L.N. 88/2006, s. 13	
(u) Deleted by L.N. 128/2007, s. 7(g).	

THIRD SCHEDULE

[Regulation 54(a).]

FISHERIES (GENERAL) REGULATIONS

WATER DECLARED OPEN FOR PURPOSES OF TROUT FISHING

<i>District</i>	<i>River</i>
1. Embu	Ena, Kapingazi, Rupingazi, Thambana, Thuci
2. Kericho	Itare, Kipsonoi, Kiptiget
3. Kiambu	Gatamaiyu, Karimenu, Ndarugu, Ruwabura, Thiririka

Fisheries

[Subsidiary]

THIRD SCHEDULE—*continued*

<i>District</i>	<i>River</i>
4. Kirinyaga	Kamweti, Kiringa, Mukengeria, Nyamindi Thiba
5. Laikipia	Liki, Nanyuki, Ngare Naro, Ngare Uaso Nyiro, Ngobit, Tingithi
6. Meru	Kazita, Mutonga, Nithi Siremoni
7. Murang'a	Chania, Kimakia, Maragua, Mathioya (North), Mathioya (South), Thika
8. Nakuru	Malewa
9. Nyandarua	Kitiri, Malewa, Mutara Pesi, Turasha, Uaso Nyiro, Wanjohi
10. Nyeri	Burguret, Chania, Bura, Naromoru, Ragati, Sagana, Thego
11. Trans Nzoia	Kabewyan, Kisawai, Koitabus, Little Nzoia, Noigamet
12. Uasin Gishu	Kaptagat, Kipkaren, Moiben, Timboroa
13. Elgeyo/Marakwet	Aror
14. West Pokot	Morun

TROUT DAMS

<i>District</i>	<i>Names</i>
(a) Nyandarua	Sasumua, Olraimutia, Gathanyi, Ya Kiongozi
(b) Uasin Gishu	Elligrin

FOURTH SCHEDULE

[Regulation 42(1), L.N. 40/1997, s. 2.]

FISHERIES (GENERAL) REGULATIONS

DESIGNATED FISH LANDING STATIONS

1. LAKE VICTORIA

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>
(a) Busia	Budalangi	Bunyala South	Mabinju Namabusi Osieko Rukala Runyu
		Bunyala West	Budubusi Bukoma Marenga Rudacho Openyi Nalera Keri Omena

Fisheries

[Subsidiary]

FOURTH SCHEDULE—continued

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>	
(b) Siaya	Funyula	Samia South	Bumbe	
			Buyukha	
			Busembe	
			Busijo	
			Bwolokoma	
			Sio Port	
	Bondo	Sakwa Central	Liunda	
			Uyawi	
			Wagusu	
			Sirongo	
			Sakwa South	Nyamnwa
			Wichlum	
		Sakwa West	Nyammarimba	
			Yimbo Central	Uwaria
			Yimbo East	Oele
			Yimbo West	Hange
			Mahanga and Sike (Mageta Island)	
			Nambo	
	Boro	Alego West	Uhanya	
			Usenge	
	Rarieda	Asembo East	Gangu	
(L. Kanyaboli)				
Asembo West		Kokach		
		Ralayo		
Uyoma Central		Kowange		
		Aram		
Uyoma West		Kogonga		
		Kopiata		
		Lwanda Kotieno		
		Madundu		
	Nyangoe			
	Kamariga			
(c) South Nyanza	Kendu	Misori Kayuaya		
		Osindo		
	Karachuonyo Central ..	Obaria		
		Siara		
		Karachuonyo West	Achuodho	
			Alara	
			Chwowe	
			Dunga	
			Kagwe	
			Kawere	
Rakwaro				

FOURTH SCHEDULE—*continued*

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>
		Karachuonyo North	Kendu Bay
		Karachuonyo North/ West	Awana Mitimbili Sare Wathremo
		Karachuonyo West	Alum Bala Rawi Doho Kaimbo Mainugu Rangombe
	Mbita	Gembe	Kaugege Lwanda Nyamasare Mirunda Misori Kobar Tabla
		Gwasssi Central	Kagoro Kinda Rasira
		Gwasssi North	Kisegi Kitawa Kiwa Nyandiwa Osiri Uterere Gingo
		Kakingri	Kibuogi Nyakwara Sindo Ragwe Ukula
		Mfang'ano	Kasarani Milundu Ringiti (Remba Island) Kamarach (Takawiri Island) Nyakweri Sena Ugina Yokiya Wakula
		Rusinga	Kiumba Lwanda Rombo Misenye

Fisheries

[Subsidiary]

FOURTH SCHEDULE—continued

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>		
(d) Kisumu	Nyakite	Kadem Central	Mwanga		
			Sienga		
			Okowe		
			Nyagina		
			Ufira		
			Utajo		
			Urya (Godhe Island)		
			Kaobe		
			Modi		
			Kadem North	Lwanda-Konyango	
				Kadem West	Aneko
			Got Kachola		
			Lidha		
			Matuso		
			Karungu East	Ngira	
				Karungu West	Ohodi
			Okiro		
			Sori		
			Muhuru	Kibro	
				Mugabo	
			Nyangwenda		
			Sumba		
			Tagache		
			Rangwe	Kanyada East	Lela
				Kanyada West	Kananga
			Koginga		
			Maseno	Kochia	Ngegu
Seme Central	Asat				
Seme East	Kaloka				
Seme West	Arongo				
Nyando	Kano North West	Nyamarwaka			
		Nyamware			
Kano South West	Nduru				
	Oseth				
Nyakach Lower	Nyakach North	Kusa			
Nyakach Upper	Nyakach West	Bala			
Winam	Kisumu East	Koguta			
		Sango Rota			
Paga					
Usare					
Usoma					
Kisumu West	Ogal				
	Kolwa West	Dunga			

FOURTH SCHEDULE—continued

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>
		Town	Tako Block Kichinjio
2. INDIAN OCEAN			
(a) Kilifi	Malindi		Ngomeni Malindi Mayungu Watamu Kilifi Takaungu Mtwapa
(b) Kwale	Matuga	Ngombeni	Tsunza Mbuguni Mkwaju Mwanyerere
		Tiwi	Kikadinu Nyari Tiwi
	Msambweni	Diani	Mwakamba Gomani Mwamombi Trade Winds
		Kinondo	Mwaepe Mvuleni Mgwani Jeza Chale Gazi
		Msambweni	Mwandamu Mkunguni Mwaembe Munge Shirazi Funzi Bodo
		Pongwe/Kidimu	Ramisi Kiwambale Anziwani Shimoni Mkwiro Wasini Kibuyuni Mtimbwani Kijiweni

Fisheries

[Subsidiary]

FOURTH SCHEDULE—continued

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>
			Chiromo Mwanjeni Kivuma Aleni Chete cha Kale
		Vanga	Kiwegu Vanga Jimbo
(c) Lamu	Kiunga	Kiunga	Ishakani Kiunga Kiwayuu
	Faza	Faza	Kizingitini Rasini Shanga
	Amu	Amu	Amu Ndununi Matondoni
		Mokowe	Mokowe
	Mpeketoni	Mkunumbi	Mkunumbi
		Mpeketoni	L. Kenyatta
	Witu	Witu	Bulto Moa
(d) Mombasa	Kisauni	Bamburi	Utange
		Kisauni	Bamburi Nyali Mkomani Mishomoroni
	Island	Island	Mkupe Old Port Market Tudor
	Likoni	Likoni	Mtongwe Likoni Timbwani
	Changamwe	Changamwe	Jomvu ya Vyungu Mikindani Kitanga Juu
(e) Tana River ...	Kipini	Kipini	Kipini
3. LAKE TURKANA			
(a) Turkana	Central		Tondenyang Lawarengak Nachukwi Kataboi Namandak

FOURTH SCHEDULE—*continued*

<i>District</i>	<i>Division</i>	<i>Location</i>	<i>Beach</i>
(b) Marsabit			Kalokol Eliye Spring Kerio Ileret Moite El Molo Bay Loiyangalani

4. LAKE BARINGO

(a) Baringo	Marigat	Njemps	Kambi ya Samaki
	Tungulbel	Korofi	Ngenyin
	Muchongon	Makutano	Komolion
	Nginya	Loyamaruk	Noosuguro Kiserian Loruk

5. LAKE NAIVASHA

(a) Nakuru	Naivasha	Naivasha	Central Landing
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6. LAKE JIPE AND CHALA

(a) Taita Taveta .	Taveta	Jipe	Kajero Kilometre 7 Mkwanjoni
		Chala	Darajani Lesesia

7. MAN-MADE DAMS

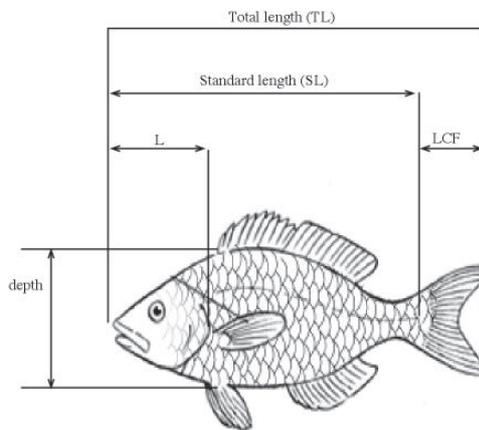
<i>Name</i>	<i>District</i>	<i>Beach</i>
(a) Masinga	Machakos	Ekalakala Mananja Tumutumu
	Embu	Riakanau Tumutumu
(b) Kiambere	Kitui	Katooni
(c) Kamburu	Machakos	Kamburu
(d) Kindaruma	Embu	
(e) Gitaru	Embu	

[Subsidiary]

FIFTH SCHEDULE

[Regulation 43(6).]

FISHERIES (GENERAL) REGULATIONS

Fish Measurements**1. Definitions**

- (a) *Standard length* (SL) is the length from the interior end of upper lip to the root of the caudal fin.
- (b) *Total length* (L) is the sum of standard length and any projecting part of the lower jaw and length of caudal fin.
- (c) Depth of body is the greatest depth, excluding fins.
- (d) LCF length of caudal fin.
- (e) L head length of head.

FISHERIES (FOREIGN FISHING CRAFT) REGULATIONS, 1991

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Interpretation.

PART II – LICENSING OF FOREIGN FISHING VESSELS

3. Licence required.
4. Communication to be made through diplomatic representative.
5. Application for licence.
6. Issuance of licence.
7. Fishing plan.
8. Local representative.
9. Licence fees and other charges.
10. Conditions of licence.
11. Modification of licence.
12. Replacement of licence.
13. Licence not transferable.
14. Licence to be kept on the vessel.
15. Production of licence.
16. Suspension or revocation of licence.
17. Appeal.

PART III – CONTROL OF FOREIGN FISHING VESSELS IN KENYA FISHERY WATERS

18. Fishing in territorial waters prohibited.
19. Stowage of fishing gear.
20. Trans-shipment of catch.
21. Notice of intention to enter zone.
22. Port inspection.
23. Inspection before leaving zone.
24. Exemption from port inspection.
25. Port call.
26. Flags.
27. Markings.
28. Navigational lights and shapes.
29. Communication.
30. Compliance with directions.
31. Records.
32. Reporting.
33. Notification of completion of quota.

[Subsidiary]

Regulation

- 34. Avoidance of set gear.
- 35. Pollution and abandoned fishing gear.
- 36. Navigational customs

PART IV – MARINE FISHERIES SCIENTIFIC RESEARCH

- 37. Consent and permit required for conduct of marine fisheries research.
- 38. Right to withhold consent.
- 39. Application to do marine fisheries research.
- 40. Duty to comply with certain conditions.
- 41. Grant of permit.
- 42. Suspension, and cessation of research.

PART V – MISCELLANEOUS PROVISIONS

- 43. Powers of authorised officers.
- 44. Observers.
- 45. Security.
- 46. Penalties.
- 47. Presumption.

SCHEDULES

- FIRST SCHEDULE – FORMS
 - SECOND SCHEDULE – FEES
-

FISHERIES (FOREIGN FISHING CRAFT) REGULATIONS, 1991

[L.N. 35/1991, L.N. 20/2004, L.N. 16/2009.]

REGULATIONS UNDER SECTION 23

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Fisheries (Foreign Fishing Craft) Regulations, 1991.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**approved fishing plan**” means a fishing plan approved by the Director under regulation 7;

“**by-catch**” means any species taken incidental to the target species in respect of which the licence has been granted;

“**call sign**” means the international radio call sign;

“**diplomatic representative**” means the diplomatic representative of the country or the accredited representative of the inter-governmental organization representing a country;

“**exclusive economic zone**” means the exclusive economic zone of Kenya as described in section 4 of the Maritime Zones Act (Cap. 371);

“**fishing log**” means a fishing log required to be maintained on a licensed craft under regulation 31(2);

“**flag state**” means the state in which the craft is recognized at international law as being registered;

“**high seas**” means all waters beyond the exclusive economic zone of Kenya;

“**inspection port**” means a Kenyan port that the Director has, by notification to the owner or master of a foreign fishing craft, designated as an inspection port for the purpose of these Regulations;

“**Kenya scientific authority**” means the Kenyan authority at the time empowered to grant permission for research;

“**master**” means the person for the time being having command or charge of the fishing craft;

“**owner**”, in relation to a fishing craft, includes any person by whom the craft is owned, and any charterer, sub-charterer, lessee, or sub-lessee of the craft;

“**pollutant**” means any substance or energy, which when introduced into the marine environment, including estuaries, results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for uses of the sea, impairment of quality for use of sea water and reduction of amenities;

“**ship’s log**” means a ship’s log required to be maintained on a licensed craft under regulation 31(1);

[Subsidiary]

“**territorial waters**” has the meaning assigned to it by section 3 of the Maritime Zones Act (Cap. 371).

PART II – LICENSING OF FOREIGN FISHING VESSELS**3. Licence required**

No foreign fishing vessel shall fish, attempt to fish or participate in fishing operations in Kenya fishery waters without a licence issued under regulation 6.

4. Communication to be made through diplomatic representative

Every notice, other document or communication that is to be served on or given to the Minister or the Director in respect of any foreign fishing craft or of any licensee, owner, master or crew member of any foreign fishing craft, shall be served, or given, through the diplomatic representative, unless in any particular case the Minister or Director authorizes another procedure.

5. Application for licence

Every application for a foreign fishing licence shall be—

- (a) in Form 1 set out in the First Schedule; and
- (b) submitted in writing to the Director by the diplomatic representative of the flag state of the craft.

6. Issuance of licence

(1) The Director may grant a licence in Form 2 set out in the First Schedule to the owner of a foreign fishing craft in respect of which an application has been made if—

- (a) the Government of the flag state to which the craft belongs, or an inter-governmental organization to which the craft belongs, has signed a fisheries co-operation agreement with the Government of Kenya;
- (b) the Director has approved a fishing plan, under regulation 7 for the flag state of the craft;
- (c) the licence application is complete;
- (d) the licence application is consistent with the fishing plan;
- (e) a local representative has been appointed for the craft as required by regulation 8; and
- (f) the Director has made the findings required by section 12(2) of the Act;
- (g) the applicant has paid the licence fee specified in the Second Schedule; and
- (h) the applicant has supplied a performance bond in respect of payment of royalties calculated and determined in the manner specified in the Second Schedule.

(2) A licence granted under this section is also deemed to be a registration under section 7 of the Act.

7. Fishing plan

(1) The diplomatic representative of any country in respect of which the Director has made an apportionment of the allowable catch for a foreign fishing craft under section 12(2) of the Act in respect of any fishery in the exclusive economic zone may from time to time submit to the Director a fishing plan that complies with this regulation.

[Subsidiary]

(2) Every fishing plan shall be in English and shall be in the form of a memorandum, and shall outline the proposals for taking from the Kenyan fishery waters the country's apportionment, including the following information—

- (a) the area in the exclusive economic zone in which fishing will be carried out by the craft of the country;
- (b) an exact number of fishing crafts from that country that will be engaged;
- (c) the estimated times for arrival in and departure from the exclusive economic zone of such fishing crafts;
- (d) the proposed duration of the fishing plan;
- (e) an outline of the calls into Kenyan ports to be made by the fishing crafts of that country during the duration of the fishing plan;
- (f) an outline of all other proposed operations in support of the fishing crafts of that country in the exclusive economic zone during the duration of the fishing plan; and
- (g) such information as the Director may require in order to exercise his powers under section 12 of the Act.

(3) The diplomatic representative of any country in respect of which a fishing plan has been submitted shall from time to time submit, in the same manner, any proposal to revise that fishing plan.

(4) The Director may from time to time approve any fishing plan submitted to him or any proposal to revise that plan.

(5) In approval of a fishing plan, or a proposal to revise a fishing plan, the Director may specify the time for which the approval shall remain in force.

(6) The Director may from time to time, of his own motion, revise or suspend any approved fishing plan, or cancel his approval of any fishing plan.

(7) The approval of a fishing plan shall not be construed to limit any power of the Director relating to the licensing of any foreign vessel.

8. Local representative

No licence shall be issued in respect of a foreign fishing vessel unless there is appointed a local representative who is authorized to act on behalf of the owner and master of that vessel and who is able to accept legal responsibility on behalf of the owner and master.

9. Licence fees and other charges

(1) The licence fee and any other charges as may be prescribed from time to time by the Director, shall be paid before the licence is delivered to the applicant.

(2) Payment of licence fees and charges shall be as follows—

- (a) the Director shall issue an order of payment for each applicant specifying the amount due in a nominated foreign currency;
- (b) the applicant shall make the payment in the designated foreign currency to the Central Bank of Kenya, for the account of the Paymaster-General.

10. Conditions of licence

A licence may contain such terms and conditions as the Director, with the approval of the Minister, may determine and may include the following—

- (a) the stock, size, sex, weight and quantities of fish to be harvested or any matter relating thereto;

[Subsidiary]

- (b) the types, size and amount of fishing gear that may be used or carried on board, and the modes of storage of that gear when not in use;
- (c) the activities authorized by the licence shall be carried out only at the times and in the area of Kenya fishery waters as set out in the licence;
- (d) the amount of by-catch that may be retained;
- (e) the requirement to take on board authorized officers or observers;
- (f) the inspection of any fishing or fishing-support vessel at any specified periods;
- (g) the landing of fish in Kenya;
- (h) the provision of statistical and other information required to be given by the foreign fishing vessel to the Director, including statistics relating to catch and effort and reports as to the position of the vessel;
- (i) the training of Kenyan citizens in the methods of fishing employed by the foreign fishing vessel and the transfer to Kenya of technology relating to fisheries;
- (j) the employment of Kenyan citizens in the fishing activities;
- (k) the period during which the licence has effect and the date of commencement of operations under the licence;
- (l) the marking of the fishing vessel and other means for its identification;
- (m) the installation on the fishing vessel and maintenance in working order of a transponder or other equipment for the identification and location of the vessel and of adequate navigation equipment to enable its position to be fixed from the vessel;
- (n) directions, instructions and other requirements given or made by vessels or aircraft of the Kenya Armed Forces or other government vessels to the fishing craft that shall be complied with;
- (o) fees and other related charges to be paid;
- (p) instruction given by the Director, from time to time, to carry out a programme of sampling or observations in connection with fisheries and scientific research in the Kenya fishery waters;
- (q) management measures in force under sections 4 and 5 of the Act; and
- (r) such other matters as the Director considers necessary or expedient for the conservation or management of fisheries resources within the exclusive economic zone.

11. Modification of licence

(1) If the Director modifies a fishing plan of a country under regulation 7 he may modify any licence of a craft with the revised fishing plan.

(2) If the Director modifies a licence he shall notify the local representative of the craft of the terms of the modification and of the person to whom the licence shall be delivered for endorsement.

(3) The modification shall take effect seven days after the local representative is notified.

(4) When a craft's licence has been modified and the craft's local representative has been notified of the modification, within seventy-two hours of when the craft next enters a Kenyan Port the master or owner shall cause the licence to be delivered to the designated person so that the modification can be endorsed on the licence.

[Subsidiary]

(5) After the licence has been endorsed it shall be returned to the owner or master of the craft.

12. Replacement of licence

The Director may issue a duplicate licence to the licensee or master of a foreign fishing vessel on payment of the prescribed fee—

- (a) if he is satisfied that a licence has been accidentally lost, destroyed; or so damaged as to be illegible; or
- (b) for any other reason he deems appropriate.

13. Licence not transferable

A licence issued under regulation 6 is not transferable to any other vessel.

14. Licence to be kept on the vessel

Except as provided in regulations 11 and 16 every licence shall be maintained in good condition on the foreign vessel in respect of which it was issued, in a place where it can be readily inspected by an authorized officer and where it is safe from the elements.

15. Production of licence

Every master of a licensed foreign fishing vessel in Kenyan fishery waters shall, on demand of any authorized officer, produce to that officer for inspection the licence issued in respect of the vessel.

16. Suspension or revocation of licence

(1) The Director may revoke, or suspend for the periods he deems appropriate, a foreign fishing licence at any time—

- (a) if he determines that the owner or master has failed to comply with any provisions of the Act, these Regulations, any management measures issued under the Act or any condition of the licence; or
- (b) if he determines that such action is necessary for the proper management of the fisheries.

(2) The Director shall deliver notice of the revocation or suspension of a licence to the local representative of the vessel for which the licence was revoked or suspended and advise him of the person to whom the revoked or suspended licence shall be delivered.

(3) Within seventy-two hours of his delivery of the notice of revocation or suspension, the owner or master shall cause the licence to be delivered to the designated person.

(4) If a licence is revoked or suspended under this regulation for the proper management of the fisheries, the proportion of the fees paid for any unexpired term of the licence shall be refunded to the licensee.

17. Appeal

(1) Any person aggrieved by an action taken by the Director under regulation 16 may appeal to the Minister within thirty days of the delivery of the notice of revocation or suspension to the local representative.

(2) The appellant shall—

- (a) prepare the petition in duplicate;
- (b) describe the matter to which the appeal relates;
- (c) set forth concisely the grounds of the appeal;

[Subsidiary]

- (d) sign the petition;
- (e) serve the original on the Minister;
- (f) serve the copy on the Director.

(3) The decision of the Minister shall be final and shall be communicated in writing to the appellant or his local representative with a copy to the Director.

PART III – CONTROL OF FOREIGN FISHING VESSELS IN KENYA FISHERY WATERS

18. Fishing in territorial waters prohibited

No person shall undertake fishing from a foreign fishing vessel within the territorial waters of Kenya.

19. Stowage of fishing gear

(1) Any foreign fishing vessel to which this regulation applies shall, while in Kenya fishery waters, keep all fishing gear stowed in such a manner that it is not readily available for fishing and shall comply with the following specific provisions—

- (a) all fishing gear shall be carried wholly inboard and shall be stowed below deck or otherwise removed from the place it is normally used for fishing and placed where it cannot be readily used for fishing;
- (b) all nets, trawl boards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames; and
- (c) all fishing gear carried on deck shall be secured to some part of the superstructure of the vessel;
- (d) in the case of purse seiners the boom shall be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations, helicopter shall be tied down, and launching shall be secured.

(2) This regulation applies to—

- (a) any foreign fishing vessel that is not licensed under regulation 6;
- (b) any licensed foreign fishing vessel before it receives port inspection as required by regulation 22; and
- (c) any licensed foreign fishing vessel after it has been granted clearance to leave the exclusive economic zone under regulation 23.

20. Trans-shipment of catch

(1) No fish shall be transhipped from a foreign fishing vessel in Kenya fishery waters to another vessel except at the port designated by the Director and at a time authorised for the purpose by the Director, and in accordance with such conditions as he may specify.

(2) Paragraph (1) shall not apply to a trans-shipment at the direction of an authorised officer.

21. Notice of intention to enter zone

(1) No foreign fishing vessel to which this regulation applies shall enter the exclusive economic zone from the high seas unless, not less than twenty-four hours before its entry, the Director has been notified of the following matters—

- (a) the name, call sign and flag state of the craft;
- (b) the latitude and longitude of the point at which the craft will enter the zone;

[Subsidiary]

- (c) the port to which the craft will proceed for inspection under regulation 22;
- (d) the species of fish on board the craft, and the quantity and condition of each species.

(2) This regulation applies to—

- (a) any foreign fishing vessel entering the zone in furtherance of or for the purpose of making an application for a licence; and
- (b) any licensed vessel.

22. Port inspection

(1) Every vessel to which regulation 19 applies shall on entering the zone from the high seas proceed directly and immediately to an inspection port.

(2) No licensed craft shall be used for fishing in the exclusive economic zone except in pursuance of clearance to fish in the zone given by an authorized officer at an inspection port.

23. Inspection before leaving zone

(1) No licensed vessel shall enter the high seas from the exclusive economic zone except in pursuance of a clearance to leave the zone given by an authorized officer at an inspection port.

(2) Every licensed vessel in respect of which a clearance has been given under paragraph (1) shall on leaving the inspection port at which clearance is given, proceed expeditiously to the high seas.

(3) No licensed vessel in respect of which clearance has been given under paragraph (1) shall be used for fishing in the exclusive economic zone before it enters the high seas.

24. Exemption from port inspection

The Director may in any particular case or class of cases exempt a licensed vessel from compliance with regulations 22 and 23 on such conditions as he may specify.

25. Port call

Where a licensed vessel wishes to enter a Kenyan port after it has been given clearance under regulation 22 to fish in the exclusive economic zone but before it has been given clearance under regulation 23 to leave the zone, the Director shall be notified not less than twenty-four hours before its intended entry of the following details—

- (a) the name, call sign, and flag state of the craft;
- (b) the intended port of entry; and
- (c) the purpose of the intended entry.

26. Flags

Every licensed vessel shall, at all times while it is in Kenya fishery waters, fly both the flag of Kenya and that of its flag state.

27. Markings

(1) Every licensed vessel shall, at all times while it is in Kenya fishery waters, display its call sign in block Roman alphabet letters and Arabic numerals, in white markings on a black background or in black on a white background, on the port and the starboard side of the hull in such a manner that the markings are clearly visible and legible from the air and at sea level.

[Subsidiary]

(2) Without limiting the requirements of paragraph (1)—

- (a) in the case of a licensed vessel whose overall length exceeds twenty metres, the lettering shall be not less than one metre in height; and
- (b) in the case of a licensed vessel whose overall length does not exceed twenty metres, the lettering shall be not less than half a metre in height.

(3) No licensed vessel shall use for fishing in the zone any fishing equipment that cannot be readily seen to be attached to the vessel unless the equipment is permanently and legibly marked with the call sign of the vessel in such a manner that it can be readily identified as being used by the craft.

(4) The owner or master of a foreign fishing vessel operating in Kenya fishery waters which is not marked as required by this regulation shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand shillings or the equivalent but which amount shall be paid in designated foreign currency.

28. Navigational lights and shapes

Every licensed vessel shall, while it is in Kenya fishery waters, display lights and shapes prescribed by the International Regulations for preventing collisions at sea, 1972 for the craft and the activity in which it is engaged.

29. Communication

(1) Every licensed vessel in Kenya fishery waters shall carry the latest edition of the "International Code of Signals" published by the Inter-governmental Maritime Consultative Organization, Maritime Safety Committee (I.M.C.O., M.S.C.).

(2) Every person who is a master or officer of a licensed vessel shall have a working knowledge of the Code.

(3) In every communication by radio, flag or light between any licensed craft in Kenya fishery waters and Kenyan authorities, the signal specified in the Code shall be used.

(4) For the purpose of commanding a fishing craft to stop immediately to the signal shall be—

- (a) the hoisting of the International Code Flag "L";
- (b) the flashing of the International Morse code letter "L"; or
- (c) the sounding of a horn or whistle to indicate the International Morse Code letter "L".

(5) Where an authorized officer on board a Government vessel intends to board the fishing craft at sea, the signal to be used on board the Government vessel shall be—

- (a) the hoisting of the International Code flag "SQ3";
- (b) the flashing of the International Morse Code letter "SQ3"; or
- (c) the sounding of a horn or whistle to indicate the International Code letter "SQ3".

30. Compliance with directions

(1) The master and each member of the crew of a licensed foreign fishing craft shall, while in Kenya fishery waters, comply with any directions given to him by any authorised officer, and in particular, shall on request by the officer—

- (a) stop the vessel;
- (b) permit an authorized officer to board the vessel and co-operate with him in any inspection; and
- (c) bring the vessel into port.

[Subsidiary]

(2) The master and each member of the crew of a licensed foreign fishing craft who does not understand a signal from a Government vessel or aircraft and who is unable to obtain clarification must consider the signal to be a command to stop the vessel instantly.

31. Records

(1) Every master of a licensed vessel shall maintain in English on board the vessel, at all time while the vessel is in Kenya fishery waters, a ship's log and shall enter in that log a record of the date, time and nature of every instruction, direction or requirement communicated to the master by the Director or an authorized officer while the vessel is in Kenya fishery waters.

(2) Every master of a licensed vessel shall maintain in English, on board the vessel in duplicate, at all times while the vessel is in Kenya fishery waters, a separate fishing log in which he shall enter daily, whenever the vessel is in Kenya fishery waters, the following information relating to the activities of the craft during that day—

- (a) the methods of fishing used;
- (b) the fishing effort of the vessel specified in terms of the number of hauls of trawls or seine nets and in case of the set nets or long lines, the length of netting or number of hooks set per day;
- (c) the area in which fishing was undertaken specified in longitude and latitude position;
- (d) the species of fish taken, and the quantity and average size of fish of each species measured by weight;
- (e) the species of fish returned from the vessel to the sea and the quantity;
- (f) such other information as the Director may require in order to ascertain the fishing activities of the craft in the Kenya fishery waters.

(3) Every fishing log shall be maintained in a form supplied or approved by the Director.

(4) Every master of a licensed vessel shall within 72 hours after each occasion on which the vessel enters a Kenya port, forward so much of the fishing log as is then completed to the Director and maintain a copy on the vessel.

32. Reporting

Every licensed foreign fishing vessel so long as it is in Kenya fishery waters, shall report on a weekly basis, to the Director or to the person designated in the license, the following information—

- (a) the name, call sign and country of registration of the vessel;
- (b) the fishing licence number;
- (c) the precise geographical position of the vessel at the time of reporting in terms of longitude and latitude;
- (d) the quantity, in kilogrammes, of each species of fish in the hold; and
- (e) the quantity, in kilogrammes, of each species of fish caught since the last port inspection or the last weekly radio report, whichever is the latter.

33. Notification of completion of quota

Every diplomatic representative of a country to which an apportionment has been made shall notify the Director forthwith—

- (a) of the completion of taking by vessels of his country of so much of the allowable catch in respect of any fishery in the exclusive economic zone as has been apportioned to the fishing vessel of his country; and

[Subsidiary]

- (b) of the completion of taking of so much of that apportionment as may only be taken in a specified area or by a specified method in the exclusive economic zone.

34. Avoidance of set gear

Every master of a foreign fishing vessel in the exclusive economic zone shall conduct his operations with due regard to the activities of other fishing vessels and shall ensure that a distance of not less than one half of a nautical mile is maintained at all times between the vessel and any fishing gear from other fishing vessels, that—

- (a) has been set in the sea in such a manner that each end of the gear is anchored; and
- (b) has been marked so as to be visible to persons on board any craft navigating within one half of a nautical mile of the set gear.

35. Pollution and abandoned fishing gear

(1) Except in the cases of emergency involving safety of the fishing craft or crew, no fishing craft may intentionally or negligently place or discharge into the fishery waters, any article, including abandoned fishing gear, or pollutant which may—

- (a) cause harm to any fishery resource or marine mammal;
- (b) interfere with fishing or obstruct fishing gear or vessels; or
- (c) become a hazard to navigation.

(2) In the event of an accidental placing or discharge of such articles or pollutant into the fishery waters or in the event of encountering such articles, the master of the vessel shall immediately report the incident to the Director giving the following information—

- (a) the name of the reporting master and the name and call sign of his craft;
- (b) the nature of the article disposed of or encountered;
- (c) the location of the article or pollutant spill; and
- (d) the time and date of the incident.

36. Navigational customs

No licence shall relieve any foreign fishing craft or its master or crew of any obligation or requirement imposed by law concerning navigation, customs, immigration, health and safety or any other matter.

PART IV – MARINE FISHERIES SCIENTIFIC RESEARCH**37. Consent and permit required for conduct of marine fisheries research**

(1) No marine fisheries research shall be conducted in the maritime zones of Kenya without the express consent of and subject to conditions imposed by the Kenyan scientific authority and without a permit granted by the Director.

(2) Subject to regulation 38 Kenyan scientific authority shall give its consent where the marine fisheries research would be carried out by any state or competent international organization for peaceful purposes and to increase scientific knowledge of the marine environment in Kenya fishery waters.

38. Right to withhold consent

The Kenyan scientific authority may withhold its consent to the conduct of a marine fisheries research project by any state or competent international organisation in the maritime zones of Kenya if it has reason to believe that the project—

- (a) is of direct significance to the exploration and exploitation of natural resources, whether living or non-living;

[Subsidiary]

- (b) involves drilling into the sea bed, the use of explosives or the introduction of pollutants into the marine environment;
- (c) involves the construction, operation or use of artificial installations or structures;
- (d) contains information communicated pursuant to regulation 40 regarding the nature and objectives of the project which is inaccurate or if the researching state or competent international organization has an outstanding obligation to Kenya from a prior research project; or
- (e) would interfere with activities undertaken by Kenya in the exercise of its sovereign rights and jurisdiction provided for under the Maritime Zones Act (Cap. 371) and applicable written law or international law.

39. Application to do marine fisheries research

(1) Any state or competent international organization which intends to undertake marine fisheries research in the maritime zones of Kenya shall, not less than six months in advance of the expected commencement date of the fisheries scientific research, provide the Kenyan scientific authority with a comprehensive description of—

- (a) the nature and objectives of the research project;
- (b) the name of the sponsoring institution, its director and the person in charge of the research project;
- (c) the name and curriculum vitae of all scientific personnel expected to be on board the research vessel;
- (d) the methods and means to be used, including the name, tonnage, type and class of the research vessel and a description of scientific equipment on board;
- (e) the precise geographical location in which the research project is to be conducted;
- (f) the anticipated date of first appearance and final departure of the research vessel, or deployment of the equipment and its removal, as appropriate; and
- (g) the extent to which it is considered that Kenyan scientists should be able to participate or to be represented in the research project.

(2) The state or competent international organization shall also apply for a permit from the Director under regulation 5.

40. Duty to comply with certain conditions

(1) Every state or competent international organization undertaking marine fisheries research in the maritime zones of Kenya shall comply with the following conditions—

- (a) ensure the right of the Government of Kenya, if it so desires, to participate or be represented in the research project, especially on board research vessels and other crafts or scientific research installation and without obligation to contribute towards the cost of the research project;
- (b) provide the Director and the Kenyan scientific authority with preliminary reports and with the final results and conclusions after the research project;
- (c) undertake to provide access, at the request of the Director or the Kenyan scientific authority to all data and samples derived from the research project and likewise to furnish either of them or both with data which may be copied and samples which may be divided without detriment to their scientific value;

[Subsidiary]

- (d) provide, at the request of the Director or the Kenyan scientific authority an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;
- (e) ensure, unless otherwise specified by the Director that the collection of the research data is recorded in duplicate and a copy surrendered to the Director before departure, thereafter the results are made available through appropriate national or international channels as soon as practicable;
- (f) inform the Director or the Kenyan scientific authority immediately of any change in the research project; and
- (g) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

(2) This regulation is without prejudice to the conditions established by the Government of Kenya for the exercise of its discretion to give or withhold consent pursuant to regulations 38 and 39 as the case may be, including requiring prior agreement for making internationally available the research results of a research project of direct significance for the exploration and exploitation of the natural resources.

41. Grant of permit

(1) After the research project has been formally approved by the Kenyan Scientific Authority, the Director may grant a permit to such foreign research project under section 12 of the Act.

(2) Where a permit under paragraph (1) is granted, the Director may apply all or any of the terms and conditions prescribed for fishing licence, any conditions required by the Kenyan Scientific Authority as well as such additional conditions as may be specified.

42. Suspension, and cessation of research

(1) The Director, on the advice of the Kenyan Scientific Authority may order the suspension of any fisheries scientific research activities in progress within the maritime zones of Kenya if—

- (a) the research activities are not being conducted in accordance with the information provided under regulation 39 upon which the consent was based; or
- (b) the State or the competent international organization conducting the research activities fails to comply with the provisions of regulation 40.

(2) The Director, on the advice of the Kenyan Scientific Authority may order the cessation of any fisheries scientific activities—

- (a) which are deviating from the information provided under regulation 39 upon which the consent was based; or
- (b) if any of the situations contemplated in paragraph (1) are not rectified within a reasonable period of time as determined by the Kenyan Scientific Authority.

(3) Following notification by the Director of the order of suspension or cessation, the State or the competent international organization shall immediately terminate all or any of the fisheries scientific research activities that are the subject of such a notification.

(4) An order of suspension under paragraph (1) may be lifted by the Director on the advice of the Kenyan Scientific Authority and the fisheries scientific research activities allowed to continue if the researching state of competent international organization complies with the conditions required under regulations 39 and 40, within a period of time, as determined by the Kenyan Scientific Authority.

PART V – MISCELLANEOUS PROVISIONS

43. Powers of authorised officers

(1) For the purpose of enforcing the provisions of the Act, these Regulations, and any condition of a licence issued under these Regulations, any authorized officer may, with or without a warrant—

- (a) stop, board and search any foreign fishing craft within the Kenya fishery waters;
- (b) require to be produced, examine and take copies of, any licence, logbooks, or other documents required to be kept or maintained by or under these Regulations or the conditions stipulated in the licence;
- (c) require to be produced, and examine, any fishing nets or other fishing gear on board, or belonging to the craft, and inspect any fish or aquatic plant on board the craft;
- (d) examine and take samples of any fish on board the fishing craft and open any container found on board the craft;
- (e) take photographs of any part of the vessel, its cargo, equipment and gear and make copies of any books, logs or other documents and papers on board the craft;
- (f) make such enquiries of the master and crew of the boat as may be necessary to ascertain whether any offence has been committed under the Act;
- (g) subject to any other Kenyan law, give to the master such directions as he thinks fit as to the stowing and sealing, or the landing on shore, of any equipment on board the fishing craft that contravenes or is being used in contravention of any conditions of the licence issued in respect of the fishing craft or any Kenyan law that is applicable to the craft;
- (h) give such other directions as are necessary or reasonably expedient to the master or any other crew member of the fishing craft for any purpose specified in these Regulations or to provide for the compliance by the fishing craft or the master or any other crew member with the conditions of the licence or any Kenyan law applicable to the craft.

(2) Any authorized officer, where he has reasonable grounds to believe than an offence has been committed under the Act or these Regulations may, with or without a warrant—

- (a) seize and detain the fishing craft used in, or in connection with, the commission of the offence including any fishing gear, nets or other fishing appliances, which he has reason to believe have been used in the commission of the offence;
- (b) arrest any person whom he has reason to believe has committed such offences;
- (c) seize any fish which he has reason to believe has been caught in the commission of an offence, or is being possessed in contravention of these Regulations, the conditions of the licence, or any other regulations made under the Act;
- (d) seize any explosive, poison or other noxious substance and appliances which he has reason to believe has been used or is being possessed in contravention of section 15 of the Act.

[Subsidiary]

(3) A written notice of seizure shall, wherever feasible, be given for any article or thing seized under paragraph (2) and the grounds for such seizure shall be stated in such notice of seizure.

(4) Any person arrested under paragraph (2) (b) shall be taken as soon as practicable before a court to be dealt with according to the law.

(5) Any fish or other articles of a perishable nature seized under the provisions of paragraph (2) (c) may be sold and the proceeds shall be held in place of the article disposed of.

44. Observers

(1) For the purpose of collecting scientific data and carrying out such other management and enforcement activities as he may authorize, the Director may assign an observer to any foreign fishing craft and the owner and master of any vessel to which such an observer is assigned shall—

- (a) cause the vessel to proceed to such places and at such times as may be designated by the Director for the purpose of embarking and disembarking the observer;
- (b) provide, at no cost to the observer or the Government of Kenya, accommodation and food for the observer aboard the fishing craft, which are equivalent to those provided to the officers of the fishing craft;
- (c) allow the observer to use the craft's communications equipment and personnel as necessary for the transmission and receipt of messages; and
- (d) provide all other reasonable assistance to enable the observer to carry out his duties.

45. Security

Every person who is a master or crew member of a foreign fishing vessel shall take all reasonable precautions for the safety of every authorized officer or observer who is boarding, on board, or disembarking the vessel.

46. Penalties

Any master or owner of a foreign fishing vessel who contravenes any of these Regulations shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand shillings, which amount shall be paid in designated foreign currency.

47. Presumption

In the event of a commission of an offence under these Regulations in relation to fishing activities in the exclusive economic zone, it will be presumed that all fish found on board the fishing craft have been caught in Kenya fishery waters during the commission of the offence, until the contrary is proved.

FIRST SCHEDULE

Form 1

APPLICATION FOR A FOREIGN FISHING LICENCE

- 1. Name and address of applicant
- 2. Name and address of owner (if different from above)
-
-

FIRST SCHEDULE—continued

- 3. Name and address of charterer of vessel if different from above
-
-
-
- 4. Name and address of legal representative or agent in Kenya
-
-
-
- 5. Name of vessel
- 6. Type of vessel
- 7. Country of registration and flag state (details of agreement to be attached)
-
-
- 8. Port and registration number
- 9. Fishing vessel external identification
- 10. International radio call sign and frequency
- 11. Overall length of vessel
- 12. Overall width of vessel
- 13. Engine type and rated horse power
- 14. Gross registered tonnage of vessel
- 15. Net registered tonnage of vessel
- 16. Crew complement
- (list of names, citizenship, passport/ID Nos. to be attached)
- 17. Type of fishing practised and type and quantity of fishing gear to be used
-
-
-
- 18. Proposed target species of fish to be caught
-
-
- 19. Proposed fishing areas
- 20. Period of validity of request
- 21. Details of communications and electronic equipment on board:
 - (a) Radio
 - (b) Auto pilot
 - (c) Depth sounder
 - (d) Sonar
 - (e) Lonar
 - (f) Radar
 - (g) Direction finder
 - (h) Decca navigator
 - (i) Other (specify)
 -
 -
 -

Attach a recent side photograph of vessel if applying for licence for the first time.

Declaration

I affirm that the above particulars are correct and solemnly undertake—

- (a) to abide by the provisions of the Fisheries Act, 1989 and the Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1990;

Fisheries

[Subsidiary]

FIRST SCHEDULE—continued

- (b) to abide by all the instructions of the Kenyan authorities regarding safety precautions to be taken on voyage or while engaged in fishing;
- (c) not to carry any undesirable person on board;
- (d) not to cause any undesirable activity on board the fishing craft;
- (e) to take full responsibility for the crew on board.

Date

Signature

Form 2

FOREIGN FISHING CRAFT LICENCE

- Licence number
1. Name of licensee
 2. Permanent address of licensee
 3. Name and address of owner if different from above
 4. Name and address of agent or legal representative in Kenya
 5. (a) Name and address of master of vessel (copy of work permit to be attached if not a citizen of Kenya)
 - (b) List of names of crew (with work permit numbers in case of non-Kenyans) to be attached.
 6. Name of vessel
 7. Type of vessel
 8. Port and country of registration
 9. Registration number
 10. Fishing craft identification mark
 11. Length
 12. Registered net tonnage
 13. Engine horse power
 14. Radio call sign
 15. Frequency
 16. Areas to be fished
 17. Species of fish to be taken
 18. Tonnage of allowable catch

FIRST SCHEDULE—*continued*

- 19. Requirements concerning disposal of incidental catch
- 20. Reporting requirements
- 21. Authorized landing places
- 22. Special conditions
- 23. Period of validity from to
- 24. Fees paid
- 25. Date of issue

Director of Fisheries

This licence is granted subject to the following conditions:

- 1. The licensee shall comply with and ensure that the fishing craft is used in conformity with the provisions of the Fisheries Act, 1989 and any regulations made thereunder.
- 2. *(Insert any other conditions to which the licence is subject).*

SECOND SCHEDULE

[L.N. 20/2004, s. 2, L.N. 16/2009, s. 2.]

FISHERIES (FOREIGN FISHING CRAFT) REGULATIONS, 1991

FEES

(a) The licence fees for foreign fishing craft operating in the Kenyan waters shall be paid in foreign currency as follows:

(i) Longliner's licence for—

<i>Type of licence</i>	<i>Fee in US\$ (Dollars)</i>
Twelve months	30,000
Three months	20,000
One month	10,000
(ii) Purse seiner's licence for twelve months	50,000

(b) In addition to the licence the licensee shall pay royalties determined in the following manner:

- (i) a percentage of the total catch shall be determined by the Director for each agreement which shall be deemed to have been caught in the Kenya exclusive economic zone;
- (ii) a determined percentage of the value of Tuna fish and by-catch F.O.B. Mombasa is assumed caught in Kenya exclusive economic zone and hence royalties shall be calculated which will be paid at agreed intervals; and
- (iii) a non-reimbursable minimum of US\$ 20,000 per vessel per annum or at agreed intervals, may be paid in advance as deposit.

FISHERIES (PROHIBITIONS) REGULATIONS, 2003

[L.N. 214/2003.]

1. These Regulations may be cited as the Fisheries (Prohibitions) Regulations, 2003.
 2. The Director of Fisheries prohibits the following activities—
 - (a) Fishing for, landing, processing, moving and trading in, Nile Perch fish (*L. nilotica*) of a total length which is less than 50 cm or 85 cm, from the Kenya waters of Lake Victoria.
 - (b) Fishing for, landing, processing, moving or trading in *Rastrineobola argentea* (*Omena*) fish from the Kenya waters of Lake Victoria during the closed season (1st April to 31st July each year).
 - (c) The use of scuba diving gear or spearguns to fish for lobsters and *Beche-de-mer* (sea-cucumber) within the territorial waters of Kenya as described under the Maritime Zones Act, Cap. 371 unless for experimental purposes.
 - (d) Fishing for, landing, processing, moving or trading in fish of any species from the Lake Naivasha fishery waters during the closed season (1st June to 31st September each year) unless approved by the Director.
 - (e) Fishing for, landing, processing, moving or trading in lobsters of a total weight of less than 250 (two hundred and fifty) grams and crabs of a total weight of less than 500 (five hundred) grams.
-

IMPOSITION OF MANAGEMENT MEASURES, 2001

[L.N. 50/2001.]

In Exercise of the powers conferred by section 5 of the Fisheries Act, the Director of Fisheries, with the approval of the Minister for Rural Development prohibits the following activities—

- (a) fishing for all species of fish and the use of any kind of fishing gear in the waters of Lake Naivasha; and
- (b) possession or trading in fish caught from Lake Naivasha.

This notice shall be deemed to have come into operation on 10th February, 2001.

**FISHERIES (SAFETY OF FISH, FISHERY PRODUCTS AND FISH FEED)
REGULATIONS, 2007**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Other written laws to apply.
3. Interpretation.

PART II – DESIGNATED COMPETENT AUTHORITY

4. Establishment of the competent authority.
5. Functions of the competent authority.

PART III – APPROVAL OF FISHERY ENTERPRISES

6. Requirement for approval.
7. Conditions for approval.
8. Conditional approval.
9. Suspension, withdrawal and cancellation of approval or certificate.

PART IV – ADDITIONAL HEALTH CONDITIONS FOR PRODUCTION AND
PLACING ON THE MARKET OF PARTICULAR FISHERY PRODUCTS

10. Prohibited harvest areas for bivalve molluscs.
11. Certificates of origin for bivalve molluscs.
12. Prohibition on placing on the market of certain species.

PART V – CONDITIONS FOR EXPORT AND IMPORT OF FISH, FISHERY
PRODUCTS AND FISH FEED

- 13.

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**FISHERIES (SAFETY OF FISH, FISHERY PRODUCTS AND FISH FEED)
REGULATIONS, 2007**

[L.N. 170/2007, L.N. 15/2009.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Fisheries (Safety of Fish, Fishery Products and Fish Feed) Regulations, 2007.

2. Other written laws to apply

These Regulations shall be in addition to and not in derogation from any other written law for the time being in force related to food safety and public health.

3. Interpretation

In these Regulations, unless the context otherwise requires—

“**batch**” means a quantity of fish or fishery products of the same species collected from the same production area during the same fishing or harvesting operation and accorded a similar identity;

“**bivalve molluscs**” means filter feeding lamellibranch molluscs;

“**chilling**” means the process of cooling fish and fishery products to a temperature approaching that of melting ice;

“**clean water**” means clean sea water and fresh water that does not contain micro-organisms, harmful substances or toxic marine plankton in quantities capable of directly or indirectly affecting the health quality of food;

“**competent authority**” means the authority designated as such under regulation 4;

“**compound feed**” means a manufactured feedstuff containing two or more ingredients blended together;

“**cooking**” means sterilization in hermetically sealed containers or by immersion in boiling water for the period required to raise the internal temperature of the product to not less than 90°C and maintenance of this minimum temperature for a period of not less than ninety seconds, or cooking in an enclosed vessel for at least three to five minutes at a temperature of not less than 120°C and not more than 160°C and a pressure of not less than 2 kg/cm² and not more than 5 kg/cm²;

“**diseased fish**” means a fish on or in which pathological changes or other abnormalities are apparent;

“**disinfection**” means the application of hygienically satisfactory chemical or physical agents and processes to clean surfaces with the intention of eliminating micro-organisms;

“**export**” means commercial trade with a natural or legal person outside the territory of Kenya;

“**factory vessel**” means any vessel on board which fish and fishery products undergo shelling, shucking, mincing or any other processing followed by wrapping or packing if necessary;

[Subsidiary]

“fish consignment” means fish, fishery products or fish feed on transit from one point to another either locally or overseas and assigned one set of authorization document(s);

“fish culture” has the meaning assigned by the Fisheries (General) Regulations and **“fish culture premises”** shall be construed accordingly;

“fish culture products” means all fishery products produced in controlled conditions until placed on the market as foodstuffs and includes fish and seaweeds harvested in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption;

“fish feed” means any substance or product, including additives, whether processed, partially processed or unprocessed, intended to be used for oral feeding in fish culture systems producing fish for human and animal consumption;

“fish inspector” means a person appointed under regulation 15;

“fish meal” means any milled, minced, fermented fish and fishery product intended for use as an animal feed or as a raw material for production of animal feed;

“fish processing establishment” means any premises where fish and fishery products are prepared, processed, chilled, frozen, packaged or stored, but does not include fish landing stations, auction or wholesale markets or catering premises;

“fishery enterprise” means any premises, public or private and whether for profit or not, where operations related to production, culture, handling, manufacture, processing, storage, packaging, transport or distribution and marketing of fish, fishery products and fish feed for human and animal consumption are undertaken;

“fishery products” includes products that are primarily composed of sea water and fresh water animals, either wild or cultured, or parts thereof, including their roes, but does not include aquatic mammals, reptiles and frogs;

“freezer vessel” means any vessel on board which freezing of fish and fishery products is carried out where appropriate after preparatory work such as bleeding, heading, gutting and removal of fins and where necessary followed by wrapping or packaging;

“fresh products” means unprocessed fish and fishery product, whether whole or prepared, including live fish, fishery products packaged under vacuum or in a modified atmosphere that have not undergone any treatment to ensure preservation other than chilling;

“frozen product” means any fish and fishery product which has undergone a freezing process to reach a core temperature not exceeding minus 18°C;

“hazard” means biological, chemical or physical agent in, or condition of fish, fishery products or fish feed which can cause an adverse effect on human and animal health;

“internal control system” means all those actions undertaken by a fishery enterprise aimed at ensuring and demonstrating that a fishery product satisfies the requirements of product safety as laid down in these Regulations;

“marine biotoxins” means poisonous substances accumulated by fish and bivalve molluscs in particular as a result of feeding on plankton containing toxin;

“means of transport” means the parts set aside for fish and fishery products in road vehicles and rail wagons and aircraft, holds of vessels and containers for transport of fish or fishery products by land, sea or air;

[Subsidiary]

“**mechanically separated fishery product**” means any product obtained by removing flesh from fishery products using mechanical means resulting in the loss or modification of the flesh structure;

“**official control**” means any form of control that the competent authority performs for the verification of compliance with these Regulations;

“**packaging**” means the procedure of protecting fish and fishery products by a wrapper, a container or any other suitable material or device;

“**placing on the market**” means the holding, displaying or offering of fish or fishery products for the purpose of sale locally and for export or any other form of transfer undertaken as provided for under these Regulations;

“**potable water**” means water suitable for human consumption and all water used in any fishery enterprise for the manufacture, processing, preservation or marketing of products or substances intended for human consumption;

“**processed products**” means any fishery products which have undergone the processing as defined in the Act;

“**prepared fish and fishery products**” means unprocessed fish or fishery products that have undergone an operation affecting their anatomical wholeness such as gutting, heading, slicing, filleting and chopping;

“**public health officer**” means a public health officer within the meaning of the Public Health Act (Cap. 242);

“**relaying**” means moving bivalve molluscs from polluted waters to areas approved by the competent authority;

“**risk**” means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard;

“**risk analysis**” means a process consisting of three interconnected components: risk assessment, risk management and risk communication;

“**risk assessment**” means a scientifically based process consisting of four steps: hazard identification and characterisation, exposure assessment and risk characterisation;

“**risk characterisation**” means the estimation of the incidence and severity of the adverse effects likely to occur in a population or environmental compartment due to actual or predicted exposure to a substance. These may include risk estimation, i.e. quantification of that likelihood. It serves as a summary and description of the results of a risk analysis or a risk manager or the public and other interested parties;

“**risk communication**” means the interactive exchange of information and opinion throughout the risk analysis process as regards hazards and risk, risk related factors and risk perceptions among risk assessors, risk managers, consumers, enterprises, the academic community and other interested parties including the explanation of risk assessment findings and the basic risk management decisions;

“**risk management**” means the process distinct from risk assessment of weighing policy alternatives in consultation with interested parties considering risk assessment and other legitimate factors and if need be selecting appropriate prevention and control options;

“**seaweed culture**” means propagating, breeding or raising of aquatic plants under confinement by man;

[Subsidiary]

“traceability” means the ability to trace and follow fish, fishery product, fish feed, materials in direct contact with fishery product or any other substance intended, or expected to be incorporated into a fishery product or fish feed, through all stages of production, processing and distribution;

“traditional preservation” means hot smoking, sun drying, salting, fermentation or any other method undertaken to prolong the shelf life under controlled storage conditions;

“transhipment” means transfer of fish and fishery products from one vessel to another;

“verification” means checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled;

“veterinary drug” means any substance applied or administered to any food-producing animal whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behaviour;

“veterinary health officer” means a veterinary officer within the meaning of the Animal Diseases Act (Cap. 364) and Public Health Act (Cap. 242);

“viscera” means the internal organs of fish or fishery products and includes the heads of crustaceans;

“withdrawal period” means the duration of time between the last dose given to the fish and the time when the level of residues in the tissues or products falls below the maximum residue levels.

PART II – DESIGNATED COMPETENT AUTHORITY

4. Establishment of the competent authority

(1) The Ministry responsible for fisheries shall be the competent authority responsible for the official control of the safety of fish, fishery products and fish feed.

(2) The management of the competent authority in matters related to these regulations shall be the responsibility of a standing committee and a technical committee.

(3) The standing committee shall comprise—

- (a) the Permanent Secretary to the Ministry or an appointed by him, who shall be chairman;
- (b) the Director of Fisheries or an officer appointed by him, who shall be the secretary and chairman of the technical committee; and
- (c) the Director of Veterinary Services; and
- (d) any other competent person appointed in writing by the Permanent Secretary to be a member as the need may arise.

(4) The technical committee shall comprise—

- (a) the Director of Fisheries who shall be the chairman and responsible for the routine management of all technical operations of the competent authority;
- (b) the head of fish safety assurance as committee secretary;
- (c) the heads of fish safety assurance responsible for freshwater, marine and aquaculture fisheries; and
- (d) any other competent person appointed in writing by the Director of Fisheries.

5. Functions of the competent authority

(1) The functions of the competent authority shall be to—

- (a) convene on a regular basis the meetings of the standing and technical committees;
- (b) monitor fish production, fish, fishery products and fish feed with a view to assessing risks to human health;
- (c) control fish handling, landing, transportation, processing and marketing;
- (d) work in collaboration with other Government agencies in matters related to these regulations;
- (e) assess and approve plans and structures of intended fishery enterprises;
- (f) carry out inspection of operational fishery enterprises for compliance with these regulations;
- (g) lay down all the procedures to be followed for compliance with these regulations;
- (h) specify conditions for the placing on the market of fish, fishery products and fish feed;
- (i) maintain a register of fishery enterprises approved under these regulations;
- (j) issue health certification of fish, fishery products and fish feed subject to the consignment meeting the requirements of these regulations;
- (k) grant approval for the fishery enterprises that meet applicable requirements specified in the First Schedule of these regulations; and
- (l) perform such other functions as may be necessary or expedient for safety assurance of fish, fishery products and fish feed in accordance with these Regulations.

(2) The control and nature of the measures applied by the competent authority under this regulation shall be based on an assessment of the food safety risks and shall be effective, equitable and proportionate to the risk or on other appropriate measures where circumstances and nature do not allow risk assessment.

(3) Assessment of the food safety risks as specified in paragraph (2) shall be scientifically conducted and undertaken in an independent, objective and transparent manner.

(4) Where there are reasonable grounds to suspect that any products to which these Rules relate may present a risk to human or animal health, then the competent authority shall take appropriate steps to inform the general public of the nature of the risk to health, identifying as far as possible the fish, fishery product or fish feed, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

(5) Without prejudice to the requirement to protect public health specified in paragraph (4) of this subparagraph, information which is obtained by the competent authority during the course of the performance of its functions under these Regulations regarding any individual business, or of risk analysis shall not be disclosed without the consent in writing of the person carrying on the business, except—

- (a) in accordance with specific directions of the Minister, so far as may be necessary for the purposes of these Regulations; or
- (b) for the purposes of any legal proceedings for an offence under these Regulations or any other law.

[Subsidiary]

(6) Any person who discloses any information in contravention of subparagraph (5) shall be guilty of an offence and liable to a penalty in accordance to provisions of regulation 28 of these Regulations.

PART III – APPROVAL OF FISHERY ENTERPRISES**6. Requirement for approval**

(1) No person shall establish or use a fishery enterprise for the purpose of production, culture, keeping, processing, storage, packaging, transporting or placing on the market of fish or fishery products intended for human or animal consumption unless he has applied for and obtained prior approval to do so from the competent authority.

(2) An approval under this regulation shall be granted on application in the prescribed form upon payment of the prescribed fee and subject to specific conditions and requirements as provided for under the Eleventh Schedule or such other conditions as the competent authority may determine.

(3) The competent authority, where it considers it expedient for ensuring the safety of fish, fishery products and fish feed, may at any time vary the conditions referred to in subparagraph (2).

(4) An approval issued under sub paragraph (1) of this regulation in respect of any means of transport for fish, fishery products and fish feed shall have the same effect as a fish movement permit issued under Regulation 18 of the Fisheries (General) Regulations.

(5) Export oriented fishery enterprises shall require a certificate of compliance with these Regulations per product line, issued by the competent authority and applied for in Form DF/A4 set out in the Twelfth Schedule.

(6) The certificate of compliance shall be in a Form prescribed by the competent authority and shall be issued on payment of such fees as prescribed in the Eleventh Schedule subject to conditions as the competent authority may determine.

(7) A certificate of compliance issued under this regulation shall be renewable annually after national inspection and approval by the competent authority, or—

- (a) every time there is a resumption of processing after a lapse for any reason in the operations of the fishery enterprise to which it relates;
- (b) when there is a change in the method of fish processing used; or
- (c) when there is a change in the kind of raw material used in the fish processing plant.

(8) Notwithstanding subparagraph (6), the competent authority may withdraw a certificate of compliance where—

- (a) the owner or operator of the fishery enterprise to which it relates carries out activities other than those for which the enterprise is established; or
- (b) investigations by the competent authority reveal non-compliance with the provisions of these Regulations or any other written law.

(9) Where a certificate of compliance is withdrawn under subparagraph (8) all operations in the fishery enterprise to which it relates shall cease forthwith.

(10) An approval issued under this regulation shall be a prior condition for gazetting a fish landing station.

(11) Where the competent authority refuses to grant approval or certificate under this Regulation it shall communicate its decision to the applicant within thirty days stating the grounds for refusal, and the applicant may reapply after fulfilling the requirements thereby stated by the competent authority.

7. Conditions for approval

(1) The competent authority shall consider every application made to it under regulation 6(2) and may refuse to issue such authority where it is satisfied that—

- (a) the raw material available is not adequate to support such establishment; or
- (b) such establishment shall have an adverse effect on the fisheries resources, biodiversity and the environment.

(2) Every fishery enterprise shall be subject to the conditions regarding the general operating requirements as prescribed in the Schedules to these Regulations.

8. Conditional approval

(1) The competent authority may issue conditional approval to a fishery enterprise which meets some of the infrastructure and equipment requirements as provided for in the Schedules of these Regulations.

(2) A conditional approval under this regulation shall be issued to a fishery enterprise for a period of not less than 3 months and not exceeding 6 months.

(3) A conditional approval under this regulation shall be construed to be a fish processing licence issued under Regulation 14 of the Fisheries (General) Regulations.

9. Suspension, withdrawal and cancellation of approval or certificate

(1) Any approval granted in accordance with Regulations 6 and 8 may be suspended, withdrawn or cancelled by a written order of the competent authority signed by the secretary at any time without notice where—

- (a) an establishment has been used in contravention of this regulation or in contravention of any of the conditions attached thereto; or
- (b) such action is deemed necessary or expedient for the purpose of protecting human and animal health.

(2) The competent authority shall, upon suspending approval under subparagraph (1), notify the establishment concerned accordingly and give notice of revocation thereof unless the establishment fulfils such conditions as may be specified in the notice, within such period as may be prescribed.

(3) The competent authority may confirm, vary or cancel an approval granted to an establishment under these Regulations upon expiry of the period prescribed under subparagraph (2).

(4) Where there is an imminent risk to public health any approval granted in accordance with Regulations 6 and 8 may be suspended at any time and without notice by a written order of a fish inspector and the action communicated to the competent authority within 12 hours.

(5) The fishery enterprise upon suspension under paragraph (2) of this regulation shall stop the operations immediately and shall within 24 hours confirm with the competent authority whether the action taken by the inspector has been communicated.

(6) On issuance of the suspension order in paragraph (4) of this regulation, the inspector shall recommend the withdrawal of approval.

(7) In the event that the order has not been complied with, the inspector shall recommend the withdrawal of approval.

(8) The suspension of an approval under paragraph (2) of this Regulation which shall not be reported within the stipulated time shall be considered null and void.

[Subsidiary]

(9) Where an approval is suspended under paragraph (2) or a recommendation for withdrawal has been made under paragraph (5) of this regulation, the competent authority shall formally confirm or rescind the inspector's decision within 5 working days, giving reasons for the decision.

(10) Where a decision has been made to withdraw the approval under paragraph (7) of this regulation, the competent authority shall initiate process for withdrawal of the approval.

**PART IV – ADDITIONAL HEALTH CONDITIONS FOR PRODUCTION AND
PLACING ON THE MARKET OF PARTICULAR FISHERY PRODUCTS**

10. Prohibited harvest areas for bivalve molluscs

(1) No person shall harvest bivalve molluscs and shellfish for human and animal consumption from any area other than those specified by the competent authority and which meet the conditions set down in Fourth Schedule.

(2) The competent authority may from time to time in the *Gazette* publish the name, location and boundary co-ordinates of designated harvest areas for purposes of paragraph (1) and the permissible uses of the bivalve molluscs harvested therefrom.

(3) The competent authority shall by order published in the *Gazette* notice prohibit the harvest of bivalve molluscs from any defined area or areas where such action is deemed necessary for conservation of the fishery or the protection of public health.

11. Certificates of origin for bivalve molluscs

(1) No person shall consign or transfer any batch of bivalve molluscs to another person unless they are accompanied by a certificate of origin prescribed and issued by the competent authority upon payment of such fees as prescribed in the Eleventh Schedule.

(2) The certificate of origin shall accompany the batch of bivalve molluscs during its distribution, transportation and placing on the market.

(3) No person shall be in possession of any batch of bivalve molluscs unless the batch is subject to and accompanied by a certificate of origin.

(4) The fisherman as defined under the Fisheries (General) Regulations and any person to whom the batch is transferred shall keep an original of the certificate of origin for a period of twelve months from the date of the issue thereof or transfer thereof.

(5) Any person who contravenes the provisions of paragraph (1) of this Regulation shall be guilty of an offence.

12. Prohibition on placing on the market of certain species

No person shall place on the market—

- (a) fish species of the families *Tetradontidae*, *Molidae*, *Diodontidae*, *Canthigasteridae*, *Gempylidae*; or
- (b) fishery products commonly containing biotoxins of marine origin.

**PART V – CONDITIONS FOR EXPORT AND IMPORT OF FISH, FISHERY
PRODUCTS AND FISH FEED**

13. (1) The competent authority shall specify the conditions for export and import of fish, fishery products and fish feed under these Regulations with due regard to—

- (a) the law relating to fish, fishery products and fish feed in Kenya;

[Subsidiary]

- (b) the organization of the competent authority and the competence of its authorized fish inspectors, the powers of such inspectors and the supervision to which they are subject, as well as their facilities for effectively verifying the implementations of the legislation in force;
- (c) the actual health conditions during the production, storage and dispatch of fishery products intended for export;
- (d) the assurance on the compliance with the standards laid down in the Second Schedule.

(2) The export conditions referred to in paragraph (1) shall include—

- (a) the procedure for obtaining a health certificate which shall accompany the consignment of fishery products when forwarded to the importing country; and
- (b) the placing of marks identifying the fishery products, with the registration number of the fish processing plant of origin, including imported frozen fishery products, landed immediately for canning and bearing the certificate provided for under subparagraph (a) from the country of origin.

(3) The provisions of the foregoing subregulations shall apply *mutatis mutandis* to fish and fishery products imported into the country.

PART VI – OFFICIAL CONTROL OF FISH, FISHERY PRODUCTS AND FISH FEED

14. Official control of fishery product and feed

(1) The competent authority shall be responsible for official control of fish, fishery products and fish feed.

(2) In exercising its powers of official control under these Regulations the competent authority may authorize the persons appointed under Regulation 15 in such a manner as it may deem appropriate to carry out the following functions—

- (a) inspection and approval of intended and operating fishery enterprises;
- (b) monitoring of approval conditions;
- (c) audit and verification of good hygiene practices and Hazard Analysis Critical Control Point (HACCP) procedures;
- (d) auditing conditions as set out in the Schedules to these Regulations;
- (e) conducting the detailed health controls and monitoring of production conditions described in the Fourth Schedule; and
- (f) certifying on request in writing the health conditions relating to any batch of fishery products.

PART VII – FISH INSPECTORS

15. Appointment of fish inspectors

(1) The competent authority shall appoint such number of suitably qualified fisheries officers, public health officers and veterinary officers as it may deem sufficient to act as fish inspectors.

(2) The competent authority shall issue to every fish inspector a certificate of identification as set out in Thirteenth Schedule to carry out the inspection of fish and fishery products placed on the market and other official control in accordance with these Regulations.

[Subsidiary]

16. Functions of fish inspector

(1) A fish inspector appointed under regulation 15 shall be responsible to the competent authority for the performance of the functions of the competent authority as set out in regulation 5.

(2) All records maintained under paragraph (1) shall be preserved by the competent authority for a period of thirty-six months.

(3) A fish inspector shall for the purpose of the exercise of his functions as specified in this regulation and regulation 14 have access to all parts of a fishery enterprise.

(4) A fish inspector shall ensure that the owner of a fishery enterprise applies procedures continuously and properly as provided for in these Regulations with respect to—

- (a) Hazard Analysis Critical Control Point (HACCP) system;
- (b) good hygiene practices;
- (c) traceability;
- (d) training in hygiene and in work procedures;
- (e) water quality;
- (f) written records of the observation of the matters specified in (a) and (e) above and that the same are preserved for a period of thirty-six months; and
- (g) records maintained as provided for under these Regulations, which should be readily available for verification.

17. Powers of fish inspectors

(1) In the performance of the functions under these Regulations, a fish inspector may—

- (a) at any reasonable hour, or whenever work is in progress in any fishery enterprise in which fish, fishery products or fish feed are believed to be produced, handled, processed, packaged and stored or kept, enter and search those premises for the purposes of determining the existence, nature and extent of any trade or business in fish, fishery products or fish feed;
- (b) examine any fish, fishery product or fish feed in any fishery enterprise to which this Regulation applies, take samples thereof and examine anything believed to be used or capable of being used for the preparation of any fish, fishery product or fish feed;
- (c) stop, search or detain any vehicle, vessel or aircraft in which it is believed that any fish, fishery product or fish feed to which this Regulation applies is conveyed, and examine the fish, fishery products or fish feed and take samples thereof;
- (d) open and examine any receptacle, package or any other area believed to contain any fish, fishery product or fish feed to which this Regulation applies, and examine the products and take samples thereof;
- (e) require to be produced, examine and take copies of any book, document, equipment or tools or any other record in any form believed to contain any information relevant to the enforcement of this Regulation;
- (f) issue a notice of seizure as provided for under section 18 of the Fisheries Act;

[Subsidiary]

- (g) issue a suspension order as provided for under regulation 9(2) of these Regulations; and
- (h) exercise any other functions assigned to him by the competent authority.

(2) A fish inspector shall in the exercise of his powers under paragraph (1), if required to do so by any person affected thereby, produce his certificate of identification issued to him under regulation 15(2).

(3) A fish inspector shall, upon request and examination of any batch of fish, fishery products or fish feed in accordance with these Regulations, issue a certificate in such form and language as may be prescribed by the competent authority attesting to—

- (a) the conditions in which the batch was produced, processed, stored, packed, transported or placed on the market;
- (b) whether the batch satisfies the standards prescribed by these Regulations; and
- (c) the fitness of that batch for the purpose for which it is intended.

18. Obstruction

The owner or occupier or person in charge of any fishery enterprise or any employee found therein, or any person who, when requested to give information or any assistance to a fish inspector pursuant to section 18 of the Act and Regulation 17 of these Regulations fails to do so, or any person who wilfully obstructs a fish inspector in the performance of his functions, shall be guilty of an offence and liable to a penalty as provided for under Regulation 28 of these Regulations.

19. Frequency of inspections

(1) Inspections for official control of fish, fishery products and fish feed shall be carried out—

- (a) regularly and according to priorities determined by risk assessment carried out by the competent authority;
- (b) when non-compliance is suspected; and
- (c) when required for the purpose of certification.

(2) Inspection shall cover all stages of production, culture, handling, manufacture, processing, packaging, storage, transport, distribution, retail and wholesale trade, and the export and import of fish, fishery products and fish feed from and into Kenya.

(3) Whenever practicable, inspections shall be carried out without prior warning.

20. Investigation by fish inspectors

(1) Inspections for official control of fish, fishery products and fish feed shall include an investigation of—

- (a) the state and use of the site intended or occupied by a fishery enterprise, offices, plant surroundings, means of transport, machinery and equipment, fish and business operators dealing in fishery products and fish feed;
- (b) the raw materials, ingredients, technological aids and other products used for the preparation and production of fishery products and fish feed;
- (c) semi-finished fishery products;
- (d) finished fishery products and fish feed;
- (e) the materials, surfaces and items intended to come into contact with fish, fishery products and fish feed;

[Subsidiary]

- (f) the products and processes used for cleaning and maintenance, and also pesticides used for pest control;
- (g) the processes used for the manufacture and processing of fish, fishery products and fish feed;
- (h) labelling and presentation of fish, fishery products and fish feed; and
- (i) preservation methods.

(2) The operations enumerated in paragraph (1) may, where necessary, be supplemented by—

- (a) interviews with persons dealing in fish, fishery products or fish feed, and their employees;
- (b) the reading of values recorded by calibrated measuring instruments installed in the fishery enterprise;
- (c) measurements carried out by the competent authority, with its institutional calibrated instruments, or with calibrated instruments installed by the fishery enterprise; and
- (d) information contained in documentary and electronic materials held by fishery enterprises.

21. Annual inspection programme and report

(1) The competent authority shall prepare an annual inspection programme of official control activities, specifying—

- (a) the criteria applied in drawing up the programme; and
- (b) the number and type of inspections to be carried out in the ensuing year.

(2) The competent authority shall at the end of each year prepare an annual report on official control activities, specifying—

- (a) the number and type of inspections carried out;
- (b) the number and type of infringements identified; and
- (c) actions taken in cases of non-compliance.

(3) An annual programme on official control of safety of fish, fishery products and fish feed prepared by the technical committee shall be presented to the standing committee for approval.

PART VIII – OFFICIAL LABORATORIES**22. Laboratory analysis of samples**

(1) The competent authority may designate in writing suitable laboratories for analyzing samples collected for purposes of official control.

(2) The competent authority may designate a laboratory for a particular test or group of tests.

(3) All samples collected under these Regulations shall be taken and transmitted to the designated laboratory.

(4) The competent authority shall maintain a list of designated laboratories for different types of analysis in connection with official control.

23. Standard for designated laboratories

(1) The laboratories designated under Regulation 22 shall comply with the requirements laid down in International Organization for Standardization (ISO) Standard 17025 or its updated versions, or in such standards as the competent authority may from time to time prescribe.

(2) The testing laboratories designated by the competent authority under regulation 22(1) shall from time to time participate in appropriate proficiency testing programmes.

(3) The designated testing laboratories shall use methods of analysis and performance criteria specified by the competent authority from time to time.

24. Nomination of reference laboratories

(1) For each test required for the purposes of official control of fish, fishery products or fish feed the competent authority shall designate one laboratory as a reference laboratory for each type of test required for purposes of official control.

(2) A reference laboratory designated under this Regulation shall be responsible for—

- (a) advising the competent authority on the designation nomination of official laboratories whose task is to conduct analyses for the purpose of official control;
- (b) co-ordinating and supporting the activities of official laboratories in respect of the technical standards and methodologies of the testing services for which they are appointed;
- (c) offering training to technical personnel of the official testing laboratories;
- (d) organizing and participating in comparative tests of standardised samples, on a national and international basis, with a view to monitoring the proficiency of official laboratories;
- (e) ensuring that all official laboratories maintain internal systems of quality assurance including method validation, record keeping, reagent storage, safety, and routine calibration of equipment;
- (f) disseminating information from the reference laboratories to the competent authority and other laboratories carrying out the testing of fish, fishery products and fish feed, whether or not for the purposes of official control;
- (g) providing scientific and technical assistance to the competent authority for the implementation of coordinated control plans.

PART IX – MONITORING PROGRAMMES FOR THE SAFETY OF FISH, FISHERY PRODUCTS AND FISH FEED

25. (1) The competent authority shall design and implement annual monitoring programmes for fish, fishery products and fish feed with the objective of assessing the nature and extent of the safety hazards associated with these products.

(2) Without prejudice to the generality of the provisions of paragraph (1) of this Regulation, the competent authority shall also design and implement a monitoring programme for the harvest areas of bivalve molluscs as provided for in Regulation 10 and as set out in the Fourth Schedule of these Regulations.

(3) The monitoring programmes described in paragraph (1) shall take into account the hazards and criteria described in the Fifth and Ninth Schedules and shall include monitoring the presence of the following hazards in the fish, fishery products, fish feed and production areas—

- (a) heavy metals;

[Subsidiary]

- (b) residues of veterinary medicines whose use in fish culture is permitted under the terms of the Pharmacy and Poisons Act (Cap. 244);
- (c) residues of substances whose use in fish culture is banned under the terms of the Pharmacy and Poisons Act;
- (d) residues of pesticides;
- (e) parasites in fish which are of significance to public health; and
- (f) other hazards in fish, fishery products and fish feed which may from time to time arise.

(4) The monitoring programmes shall specify the sampling plan and the methods of analysis to be used, and the performance criteria where applicable.

(5) A report on annual monitoring programmes shall be prepared by the technical committee and presented to the standing committee for approval.

PART X – GENERAL PROVISIONS**26. Fees for inspection and certification**

Upon approval, fees in respect of licences, permits and certificates shall be payable to the competent authority as set in the Eleventh Schedule.

27. Appeals

Any person aggrieved by the action of the competent authority to—

- (a) refuse to approve or issue a licence, permit or certificate;
- (b) suspend or withdraw a licence, permit or certificate under Regulation 9; or
- (c) refuse to grant a conditional approval; or
- (d) attach conditions to a licence, permit or certificate may appeal as provided for under Regulation 34 of the Fisheries (General) Regulations.

28. Offences

(1) Any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and liable to a fine not less than twenty thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) The effect of conviction of any person in these Regulations shall be dealt with as provided for under Regulation 39 of the Fisheries (General) Regulations.

29. Revocation of L.N. 100 of 2000

The Fisheries (Quality Assurance) Regulations, 2000 are revoked.

FIRST SCHEDULE

[Regulation 5(1)(k).]

CATEGORY OF FISHERY ENTERPRISES TO WHICH APPROVAL
CONDITIONS APPLY

<i>Category of fishery enterprise</i>	<i>Schedules containing approval conditions</i>
Factory vessels	2 (I, III), 5, 7, 8, 9, 10
Freezer vessels	2 (I, II), 7, 8, 9, 10
Other fishing vessels	2 (I)
Vehicles and fish transport vessels	6
Landing stations, auctions and wholesale markets	2 (IV)
Processing establishments	2 (V, VI), 7, 8, 9, and 10 inclusive
Other processing establishments with a capacity of < 25 employees	2 (V, VI), 7, 8
Processing establishments for smoked and dried fish	2 (VI), 8 (section 1 (1), (4) and section 2), 9 (section (6), (7) and (8))
Fish culture premises	5, 12 and 13

SECOND SCHEDULE

[Regulation 13(1)(d).]

I. HEALTH CONDITIONS FOR FISHING VESSELS

PART 1 – DESIGN AND CONSTRUCTION OF FISHING VESSELS

A *General hygienic design*

1. The fishing vessel shall be constructed and made of such materials as to minimise any damage or contamination of the catch and shall be designed for rapid and efficient handling (and if appropriate, freezing) of fish and to ease cleaning and disinfection.
2. Fishing vessels, and in particular their water intake and discharge systems, shall be designed and constructed so as to avoid contamination of fish with sewage, smoke, fuel, oil, grease, bilge water and other objectionable substances.
3. Toilet facilities and all waste disposal lines and discharge points shall be so constructed as not to contaminate the fish or sea or lake water which could come into contact with fish.
4. All surfaces with which the fish might come into contact shall be of suitable corrosion-resistant material which is smooth and easily cleanable. Wooden decks are permissible, provided they are kept clean and in good condition.
5. Cleaning materials, disinfectants and chemicals used in the treatment or processing of fish and fishery products shall be stored separately from any area in which fish is handled.

[Subsidiary]

6. Vessels which spend more than twenty-four hours at sea shall be provided with adequate sanitary facilities, including a flush toilet and hand-wash basin supplied with water, and an adequate supply of soap.

7. A legible notice shall be prominently displayed adjacent to the flush toilet instructing personnel to wash their hands after use.

B *Fresh fish storage facilities*

1. Fish holds and other rooms in which fish is handled, processed or stored shall be constructed in such a manner as to facilitate cleaning, and if constructed of wood they shall be lined with a suitable impervious, non-toxic material which is easy to clean and to disinfect.

2. Where pounds on deck or in the hold are used for the bulk storage of fish, dividing boards shall be constructed with a suitable impervious, non-toxic material, other than wood, which is easy to keep clean and to disinfect. They shall be fitted in such a way that they can be easily removed and cleaned. Pound boards shall be designed to permit the drainage of water from the pound.

3. All equipment used for handling, processing or storage of fish and ice on board fishing vessels shall be designed to facilitate cleaning and disinfection, and constructed so as not to cause contamination of the catch.

4. Containers used for the transfer of fish or for storage on board shall be made of corrosion-resistant material with smooth waterproof surfaces which are easy to clean and disinfect. The use of wood or galvanised steel is not permitted.

5. The fishing vessels shall be equipped with suitable equipment and materials for washing and disinfecting the vessel and fish handling equipment.

PART 2 – GENERAL HYGIENE CONDITIONS**A *General***

1. Effective measures shall be taken to protect the fishing vessels against infestations by rodents, insects and other vermin.

2. Dogs, cats and other animals are not permitted on board the fishing vessels.

3. Fish carried as bait shall be kept in a separate area from fresh fish for human consumption, or in special containers kept exclusively for this purpose.

4. Only potable water or clean sea or lake water shall be used for the washing of fish and surfaces which come into contact with fish.

5. Potable water shall be used in cleaning and hosing operations while the vessel is in port.

6. Ice which comes into contact with fish shall be made from potable water or clean sea or lake water.

7. The vessel shall be provided with a first aid box, which shall contain as a minimum, a sufficient quantity of impermeable dressings, antiseptic cream, cotton wool and adhesive tape, and a suitable wound disinfectant.

B Hygiene conditions for personnel

1. Persons who handle fish or materials which come into contact with fish or who enter rooms or areas in which fish is handled shall maintain a high level of personal hygiene, and keep themselves and their clothes clean.
2. Personnel handling fish in any area in which fish is handled or stored shall be prohibited from—
 - (a) using any form of tobacco;
 - (b) spitting;
 - (c) blowing or picking the nose;
 - (d) eating or drinking.
3. Before commencing the handling of fish, all crew shall wash their hands with soap or detergent and water and shall be provided with protective clothing.
4. After going to the toilet, all personnel shall wash their hands with soap or detergent and clean water.
5. Any person who has an open wound or cut shall cover it with an impermeable dressing that is food safe, i.e. visually and metal detectable.
6. Any member of the crew who suffers from, or shows symptoms of any of the following conditions shall report the fact to the master, and shall not handle fish or any materials which come into contact with fish—
 - (a) food poisoning;
 - (b) diarrhoea and vomiting;
 - (c) dysentery;
 - (d) intestinal parasites;
 - (e) infected wounds;
 - (f) throat infection;
 - (g) contagious skin conditions.
7. All crew shall take all reasonable precautions to prevent contamination of the fishery products and to maintain their quality, by—
 - (a) conducting themselves in a responsible manner with respect to the product and equipment to ensure compliance with the provisions of this Schedule; and
 - (b) informing the master of any failure in hygienic practices or the existence of any risk of contamination.

C Deck preparation

1. Areas of the vessel where fish are unloaded and handled, or the fish hold where fish are stowed, shall be used exclusively for these purposes. All such areas shall be readily capable of being maintained in a clean condition and shall be cleared of unnecessary equipment before the catch is brought on board.
2. After the catch is sorted and stowed, decks, boards and all deck equipment which come into contact with the fish shall be hosed down with clean water, followed by cleaning with detergent and disinfectant.

[Subsidiary]*D Landing, sorting and stowing of fish*

1. Line caught fish should, wherever practicable, be stunned and bled.
2. Large fish shall be landed by hooking under the gills rather than gaffing in the body or lifting by the tail.
3. Handling the catch shall be undertaken rapidly and as soon as it comes on board. The fish shall be separated from the parts of the catch unsuitable for human consumption as soon as possible after coming on board.
4. Fish on board shall be protected against physical damage, exposure to high temperatures and the drying effects of the wind and sun.
5. The fish shall, as quickly as possible, be carefully cleaned and cooled down to the temperature of melting ice (0°C). If not frozen it shall be maintained at this temperature until landing.
6. Any fish which is diseased or has deteriorated or which has become unfit for any reason shall be discarded.
7. Cod ends of trawl nets shall be completely emptied of all fish and debris before the net is returned for the next haul.

E Gutting

1. Where the fish is to be gutted or gilled, this shall commence as soon as the catch is brought to the deck.
2. Gutting and gilling shall be complete and carried out with care to avoid contaminating the fish with gut contents.
3. Fish guts shall be disposed off immediately to avoid contamination of other fish on deck, the deck or other equipment.
4. Immediately after gutting, fish shall be thoroughly washed with clean water or potable water to remove all blood, slime and pieces of guts before being chilled.
5. Harbour water shall never be used for washing fish, and if fish is gutted in harbour it shall be washed with potable water.
6. On completion of washing the fish, further handling shall be carried out without delay.

F Chilling and icing of fish

1. During stowage and icing of the catch, deck hatches shall not be left open longer than necessary.
2. Fish from different days' catches shall not be mixed together at any stage.
3. After catching, fish shall be maintained at a temperature as near as possible to 0°C at all times until either discharged or loaded into a freezer.
4. Chilling of fish shall be done rapidly using hygienically crushed block ice, flake ice or by immersion in clean refrigerated or chilled sea or lake water.
5. Iced fish shall be surrounded by adequate quantities of ice, sufficient not only to cool the fish but also to maintain it in a chilled condition until discharge. Icing should be heaviest against the vessel sides and bulkheads.

[Subsidiary]

6. If block ice is used it shall be finely crushed in hygienic conditions to ensure a good chilling effect and avoid physical damage to the fish.
7. Fish stored in ice shall be stowed either in boxes or, if in pounds, in shallow layers separated by pound boards.
8. At the end of each fishing trip, all used ice which has not melted shall be discarded.

G *Discharge of the catch*

1. The catch shall be unloaded from the fishing vessel rapidly and carefully.
2. The use of hooks, forks and other such implements for unloading is not permitted.
3. During discharge, no fish shall be allowed to touch the deck, or other fishing vessel surfaces, or the ground at the point of discharge.
4. Fish shall not be exposed to direct sunlight.
5. Care shall be taken that fish are not damaged or contaminated during sorting, weighing and transfer.

H *Cleaning and sanitation*

1. All parts of the vessel and its equipment which come into contact with fish and where fish is handled, processed or stored shall be kept in a clean and sanitized condition.
2. Such parts of the vessel shall be thoroughly cleaned and disinfected at least before and after each fishing trip.

II. HEALTH CONDITIONS FOR FREEZER VESSELS

PART 1 – GENERAL

Design and construction of freezer vessels

1. Where fish is frozen on board, the vessel shall be equipped with freezing equipment of sufficient capacity to permit freezing of peak rates of catch, without unreasonable delay.
2. Brine circulating and refrigeration equipment shall be adequate to maintain the temperature of the fish at or below -12°C .
3. The cold store on board the fishing vessel shall be adequate in size for the intended production, and shall be so constructed as to protect the frozen fish from fluctuation in temperature, dehydration and physical damage.
4. The cold storage facilities for fish shall be capable of maintaining a temperature of -18°C or below.
5. Each cold store shall have a thermometer which indicates the interior temperature at the point furthest away from the coolers. The temperature indicator shall be installed in an easy to read position on the exterior of the cold store next to the door. The instrument shall provide a permanent record of the internal temperature.

PART 2 – HYGIENIC OPERATING REQUIREMENTS

A *Freezing of fish*

1. Fish shall be frozen as soon as possible after capture. Fish which is caught first shall be frozen first. Excess fish that cannot be frozen immediately should be chilled in ice.

[Subsidiary]

2. Precise freezing times for fish shall be determined depending on the size and species. The application of refrigeration shall continue until the temperature at the thermal centre of the fish approaches -18°C .
3. On discharge of the freezer, the frozen fish shall be transferred to cold stores without delay.
4. Where brine freezing is used, the brine shall be replaced at the beginning of each voyage.

B Storage of frozen fish

1. The floor and general structure of the cold and chill stores shall be maintained in good condition.
2. All cold and chill stores and blast freezers shall be kept clean and free from accumulations of ice.
3. Cardboard or other absorbent materials shall not be placed on the floor of the cold store.
4. Cold stores for fish and fishery products shall not be used for storage of any other product.
5. The cold store shall be well organized, with separation of different products and batches. A record of batch locations shall be maintained.

C Cleaning and Sanitation Plan

1. Each freezer vessel shall possess a specific, written cleaning and sanitation plan covering the disassembly, cleaning and disinfection of all equipment, tables, fish boxes, tools, fish hold, deck and other materials and areas which come into contact with fish.
2. The plan shall specify a suitable methodology and frequency of cleaning and identify the individuals responsible for each component.
3. Checklists which reflect the plan shall be maintained by the vessel master to ensure that the cleaning schedule is met.

PART 3 – HEALTH CONDITIONS FOR FACTORY VESSELS*Design and Construction of Factory Vessels**A. Reception area*

1. The fish reception area shall be constructed with easy-to-clean material. It shall be divided into pounds or pens in order to hold each successive catch separately. It shall be designed in such a manner as to protect the fish and fishery products from the sun or the elements and from any source of dirt or contamination.
2. It shall have in it a system which conforms with stipulated health standards for conveying fishery products from the reception area to the work area.

B. Work area

The work areas shall be spacious enough for the preparation and processing of fishery products in proper hygienic conditions. They shall be designed and arranged in such a way as to prevent contamination of the products.

C Storage areas for finished products

1. Storage areas for the finished products shall be spacious enough and designed from material which is easy to clean. A separate hold shall be designated for the storage of by-products where the vessel has a waste-processing unit on board.
2. The vessel shall have a place for storing packaging materials which is separate from the product preparation and processing area.
3. The vessel shall have special equipment for pumping waste or fishery products that are unfit for human consumption either directly into the water or, where circumstances so require, into a water-tight tank reserved for that purpose. If waste is stored and processed on board, separate areas shall be allocated for these purposes.
4. The vessel shall have equipment providing a supply of potable water complying with established standards or pressurized clean sea water. The sea water intake shall be situated in a position where it is not possible for the sea water to be affected by discharges into the sea of water, waste or engine coolant.

D Processing areas

Areas used for the preparation and processing of fishery products shall have—

1. a waterproof non-slip floor that is easy to clean and disinfect, and equipped for easy drainage of water;
2. walls and a ceiling which are impermeable, durable and easy to clean, particularly where there are pipes, chains or conduits;
3. hydraulic circuits arranged or protected in such a way as to ensure that it is not possible for any leakage of oil onto the fishery products;
4. adequate ventilation and, where necessary, proper vapour extraction;
5. adequate artificial lighting;
6. facilities for cleaning and disinfecting tools, equipment and fittings;
7. handwash basins with taps that are not hand-operable and an adequate supply of single use towels or appliances for drying the hands;
8. equipment and tools such as cutting benches, containers, conveyors, gutting and filleting machines, which are resistant to sea water corrosion and are easy to clean and disinfect and are well maintained.

E Hygiene facilities

The vessel shall have an adequate number of changing rooms, wash rooms and toilets, the latter not opening directly onto areas where fishery products are prepared, processed or stored. They shall be equipped with wash basins, and an adequate supply of single use towels or appliances for drying the hands. The wash basin taps shall not be hand-operable.

F Personnel hygiene

Personnel working in processing areas shall wear suitable working clothes, and headgear which completely covers the hair.

PART 4 – GENERAL HEALTH CONDITIONS FOR ISH LANDING STATIONS, AUCTION, WHOLESALE AND RETAIL MARKETS

A. General conditions relating to fish landing stations, auctions or wholesale markets

1. Each fish landing station, auction or wholesale market shall provide working areas which are of sufficient size for work to be carried out under adequate hygienic conditions.

[Subsidiary]

2. The location, design and layout shall be such as to preclude contamination of the products and to allow separation of activities which might give rise to contamination of the fish during landing, sale or storage.
3. In areas where fishery products are handled, displayed or stored there shall be—
 - (a) barriers for protection against the entry of animals and unauthorised personnel to areas where fishery products are handled, held or stored;
 - (b) measures to prevent the fishery products from being exposed to direct sunlight during periods when they are displayed for sale;
 - (c) a waterproof non-slip flooring which is easy to clean and disinfect and laid down in such a way as to facilitate the drainage of water;
 - (d) if work is to be conducted at night, adequate artificial lighting;
 - (e) facilities for hygienic washing and drying of hands;
 - (f) facilities for cleaning and disinfecting tools, equipment and fittings; and
 - (g) facilities for the cleaning and disinfection of transport vehicles, including fishing vessels.
4. All equipment including, *inter alia*, weighing scales, work-tables, fish containers and knives, shall be made of corrosion-resistant materials which are easy to clean and disinfect.
5. Special water-tight, corrosion-resistant, containers shall be provided for fishery products not intended for human consumption, and separate premises shall be provided for the storage of such containers if they are not emptied at the end of each working day.
6. Facilities should be provided to ensure adequate supplies of potable water or alternatively of clean water.
7. There should be provided an adequate hygienic waste water disposal system.
8. The fishery enterprise should have an adequate number of toilet facilities. There should be adequate number of facilities for hygienic washing and drying of hands.

B General conditions of hygiene

1. The floors, and all structures and equipment used at the fish landing site, auction or wholesale market shall be kept in a satisfactory state of cleanliness and repair, in order not to constitute a source of contamination for the products.
2. Rodents, insects and any other vermin shall be systematically exterminated in the area of the fish landing site, auction or wholesale market.
3. Potable water or clean sea water shall be used for cleaning purposes.
4. Detergents, disinfectants and similar substances shall be approved by the competent authority and be used in such a way that they do not have an adverse effect on the machinery, equipment and fish and fishery products.
5. Rodenticides, insecticides, disinfectants and any other potentially toxic substances shall be stored in lockable premises or cupboards in order not to present any risk of contamination of the product.

C Personnel hygiene

1. (1) A high standard of cleanliness is required of all personnel working in the area of the fish landing station, auction or wholesale market areas.

- (2) For purposes of subparagraph (1)—
- (a) personnel assigned to the handling of fishery products shall wash their hands at least each time work is resumed;
 - (b) wounds shall be covered by a waterproof dressing; and
 - (c) smoking, spitting, eating, blowing and picking the nose and drinking in the area of the fish landing site, auction or wholesale market of fishery products shall be prohibited.
2. The operator of the fish landing station, auction or wholesale market shall—
- (a) take all the necessary measures to prevent persons liable to contaminate fish and fishery products from handling such products; and
 - (b) nominate a person to be responsible for ensuring that the conditions set down in this Schedule are applied during working hours.

PART 5 – SPECIAL CONDITIONS FOR HANDLING FISH AND FISHERY PRODUCTS
ON SHORE

A *Conditions for fresh products*

1. Where chilled and packaged products are not dispatched, prepared or processed immediately after reaching a fishery enterprise they shall be stored or preserved with adequate quantities of ice to ensure that the temperature does not rise above the temperature of melting ice. Packaged fresh fish and fishery products may be chilled by mechanical refrigeration.
2. Re-icing shall be carried out as often as is necessary. Ice shall be made from potable water or clean sea water and stored under suitable conditions in receptacles or in an area provided for the purpose and such facilities shall be kept clean and in a good state of repair.
3. Preparation of products on shore shall be carried out under hygienic conditions, and the products shall be washed thoroughly with potable water or clean sea water immediately after such operations.
4. Operations such as filleting and slicing shall be carried out in such a manner as to avoid the contamination or spoilage of fillets and slices, and in an area other than that used for heading and gutting operations. Fillets and slices shall not remain on work tables any longer than is necessary for their preparation. Fillets and slices to be sold fresh shall be chilled as quickly as possible after preparation.
5. Viscera and other parts which may constitute a danger to public health shall be separated from and removed from the vicinity of products intended for human consumption. Containers used for dispatch or storage of fresh fish and fishery products shall be designed to ensure both the protection from contamination and their preservation under hygienic conditions and they shall provide adequate drainage of melt water.
6. Unless special facilities are provided for the continuous disposal of waste, the latter shall be placed in leak-proof, covered containers which are easy to clean and disinfect. Waste shall not be allowed to accumulate in working areas and shall be removed either continuously or as soon as the containers are full and at the end of each working day. Care shall be taken to ensure that waste stored as provided for in this paragraph does not constitute a source of contamination or pollution.
7. Containers, receptacles and premises set aside for waste disposal shall be thoroughly cleaned and disinfected after use.

[Subsidiary]**B Conditions for frozen products**

1. All establishments producing frozen fishery products shall have—
 - (a) refrigeration equipment sufficiently powerful to achieve a rapid reduction in temperature so that the temperatures laid down in these Regulations are obtained;
 - (b) refrigeration equipment sufficiently powerful to keep products in the storage rooms at temperatures not exceeding those laid down in these Regulations.
2. Whole fish frozen in brine shall be stored at temperatures not higher than -9°C .
3. The temperature indicator shall be installed in an easy-to-read position on the exterior of the cold store next to the door while the temperature sensor shall be located in the warmest area of the cold store. The indicator shall provide a permanent record of the internal temperature. Temperature charts shall be available for inspection by the competent authority during the period in which the products are stored.

C Conditions for thawed products

1. Where fishery enterprises carry out thawing operations they shall ensure that—
 - (a) fish and fishery products are thawed under hygienic conditions to avoid contamination and there shall be adequate drainage for melt water;
 - (b) during thawing, the temperature of the product shall not be increased beyond that of melting ice.
2. After thawing, the fish and fishery products shall be handled in accordance with the requirements of these Regulations as spelt out in health conditions of fish processing establishments of the Second Schedule.
3. Where the products are consigned directly to the market without further processing, particulars as to the thawed state of the fish shall be clearly marked on the packaging, in accordance with the legal requirement relating to labelling, presentation and advertisement of foodstuffs as provided for under the Eighth Schedule.

D General conditions for processed products

1. Fresh, frozen and thawed products used for processing shall comply with the requirements of section A, B and C of this Part.
2. The person responsible for a fishery enterprise shall keep a register of the processing operations carried out and the associated processing conditions. Depending on the type of process employed, heating time and temperature, salt content, pH, and water content shall be monitored and controlled. Records shall be preserved for at least thirty-six months and be available to the competent authority.
3. For products which are preserved for a limited period by a treatment such as salting, smoking, drying or marinating, the appropriate conditions for storage shall be clearly marked on the packaging.

E Conditions for canned products

In the case of fish and fishery products subjected to sterilisation in hermetically sealed containers—

- (a) the water used for the preparation of the products shall be potable;
- (b) the process used for the heat treatment shall be appropriate having regard to such major criteria as the heating time, temperature, filling, and the size of container, a record of which shall be kept;

[Subsidiary]

- (c) the heat treatment applied shall be such as will be capable of destroying or inactivating pathogenic organisms and the spores of pathogenic micro-organisms;
- (d) the heating equipment shall be fitted with devices for verifying whether the containers have in fact undergone appropriate treatment;
- (e) potable water shall be used to cool containers after heat treatment;
- (f) chemical additives may be used in cooling water in accordance with good technological practice to prevent corrosion of equipment and containers;
- (g) further checks shall be carried out at random by the manufacturer to ensure that the processed products have undergone appropriate heat treatment, including—
 - (i) an incubation test carried out at 37°C for seven days or at 35°C for ten days, or at any other equivalent combination; and
 - (ii) microbiological examination of the contents and the container;
- (h) samples of finished products shall be taken each day at predetermined intervals to ensure the efficiency of sealing. For that purpose, appropriate equipment shall be made available for examination of cross sections of the can-seams;
- (i) checks shall be carried out in order to ensure that containers are not damaged;
- (j) all containers which have undergone heat treatment under practically identical conditions shall be given a batch identification mark, identifying the lot to which the foodstuff belongs.

F Conditions for smoked products

1. Smoking shall be carried out in separate premises or in an area used specifically for this purpose, equipped, if necessary, with a ventilation system to prevent the smoke and heat from affecting other premises or places where fishery products are prepared, processed or stored.
2. Materials used to produce smoke for the smoking of fish shall be stored away from the place of smoking and shall be used in such a way that they do not contaminate the product.
3. Smoking by burning wood that is painted, varnished, or glued or has undergone any chemical preservation treatment is prohibited.
4. After smoking, products shall be cooled rapidly to the temperature required for their preservation before being packaged. Cooling shall take place in an area with adequate protection against contamination with vermin.
5. Smoked fish shall be packed in suitable packaging material, which provide a suitable degree of protection from contamination.
6. Storage of products shall be in a well ventilated, cool, dry place.

G Conditions for dried products

1. Drying of fishery products shall be carried out in a premises or area used specifically for this purpose.
2. Areas in which fish is dried shall be adequately protected against the entry of animals and unauthorised persons.

[Subsidiary]

3. Fish shall not be dried on the ground.
4. Smoked fish shall be packed in suitable packaging material, which provide a suitable degree of protection from contamination.
5. Storage of products shall be in a well ventilated cool, dry place.

H Conditions for salted products

1. Salting operations shall be carried out in premises or areas used specifically for this purpose.
2. Salt used in treatment of fishery products shall be clean and stored in such a way as to preclude contamination, and shall not be re-used.
3. Any container used for salting or brining shall be constructed in such a way as to preclude contamination during the salting or brining process.
4. Containers or areas used for salting or brining shall be cleaned before use.
5. Salted fish shall be packed in suitable packaging material, which provide a suitable degree of protection from contamination.
6. Storage of products shall be in a well ventilated cool dry place.

I. Conditions for cooked crustacean and molluscan shellfish products

1. Only potable water or clean sea water shall be used for the cooking of crustaceans and molluscan shellfish.
2. Cooking shall be followed by rapid cooling. If no other method of preservation is used, cooling shall continue until the temperature approaching that of melting ice is reached.
3. Shelling or shucking of cooked products shall be carried out under hygienic conditions, avoiding contamination of the product. Where such operations are done by hand, workers shall pay particular attention to the washing of their hands and all working surfaces shall be cleaned thoroughly. If machines are used, they shall be cleaned at frequent intervals and disinfected after each working day.
4. After shelling or shucking, cooked products shall immediately be frozen or kept chilled at a temperature which precludes the growth of pathogens, and shall be stored in appropriate conditions.
5. Every owner of a fishery enterprise shall carry out microbiological checks on his production at regular intervals.

J Conditions concerning parasites

1. During production and before they are released for human consumption, fish and fishery products shall be subjected to a visual examination by the producer for the purpose of detecting visible parasites.
2. Fish or parts of fish which have obviously been infested with parasites shall not be placed on the market for human consumption.
3. The following fishery products shall be frozen at a temperature of not more than 20°C in all parts of the product for not less than twenty-four hours, this treatment shall be applied to the raw product or the finished product—
 - (a) fishery products to be consumed raw, or almost raw;

[Subsidiary]

- (b) fishery products if they are to undergo a cold smoking process at which the internal temperature of the fish is less than 60°C;
- (c) marinated and/or salted fishery products, if the processing is insufficient to destroy nematode larvae.

4. Treatment required under paragraph 3 need not be carried out if epidemiological data is available indicating that the fishing grounds of origin do not present a health hazard with regard to the presence of parasites and the competent authority so authorises.

5. The fishery products listed in paragraph 3 shall when they are placed on the market, be accompanied by a document from the manufacturer stating the type of process they have passed through.

K *Mechanically separated fishery products*

Manufacturing of mechanically separated fishery products shall ensure compliance with the following conditions:

1. The raw materials used shall satisfy the following requirements—
 - (a) only whole fish and bones after filleting may be used to produce mechanically separated fishery products;
 - (b) all raw materials shall be free of guts.
2. Mechanical separation shall take place without undue delay after filleting. Where whole fish is used, these shall be gutted and washed beforehand.
3. After production, mechanically separated fishery products shall be frozen as quickly as possible or incorporated in a product intended for freezing or stabilising treatment.

PART 6 – GENERAL HEALTH CONDITIONS FOR FISH PROCESSING ESTABLISHMENTS

Part 1 *General conditions relating to premises and equipment*

1. Each fish processing establishment shall provide working areas which are of adequate size and space for work to be carried out under adequate hygienic conditions. The location, design and layout shall be such as to preclude contamination of the products and to separate the clean parts of the building from the contaminated areas.
2. In areas where products are handled, prepared and processed there shall be—
 - (a) waterproof non-slip flooring which is easy to clean and disinfect and laid down in such a way as to facilitate the drainage of water;
 - (b) walls which have smooth surfaces and are easy to clean, durable and impermeable;
 - (c) ceilings which are easy to clean and designed to avoid the accumulation of dust;
 - (d) adequate natural or artificial lighting;
 - (e) doors made of durable materials which are easy to clean;
 - (f) adequate ventilation and where necessary, proper vapour extraction facilities;
 - (g) an adequate number of hand wash basins with taps that are not hand-operable and an adequate supply of single use towels or appliances for drying the hands;
 - (h) facilities for cleaning and disinfecting tools, equipment and fittings.

[Subsidiary]

3. Appropriate facilities shall be provided for protection against the entry of pests such as insects, rodents and birds.
4. Instruments and working equipment such as cutting boards, work tables, containers, conveyor belts and knives shall be made of corrosion-resistant materials which are easy to clean and disinfect.
5. Special water-tight, corrosion-resistant containers shall be provided for fishery products not intended for human consumption. Separate premises shall be provided for the storage of such containers if they are not emptied at the end of each working day.
6. Facilities shall be provided to ensure adequate supplies of potable water or alternatively of clean sea water, under pressure and in sufficient quantities for processing and cleaning operations.
7. Where a non-potable water supply is provided for the production of steam, fire fighting or the cooling of refrigeration equipment, the pipes installed for the purpose shall preclude the use of such water for any other purpose and present no risk of contamination of the products. Water pipes for non-potable water shall be clearly distinguished from those used for potable water or clean sea water.
8. There shall be provided an adequate hygienic waste water disposal system.
9. There shall be provided adequate facilities in a separate room for personnel to change their clothes. This room shall have smooth, waterproof, washable walls and floors.
10. The establishment shall have an adequate number of flush toilets, the latter not opening directly onto areas where fishery products are prepared, processed or stored. There shall be an adequate number of wash basins and an adequate supply of single use towels or appliances for drying the hands. The wash basin taps shall not be hand-operable.
11. There shall be provided an adequately equipped lockable room for the exclusive use of fish inspectors in cases where the volume of products processed requires their regular or permanent presence.
12. There shall be adequate facilities for cleaning and disinfecting the means of transport delivering raw material to or taking final products from the establishment.
13. Fish establishments keeping live animals such as crustaceans and fish shall provide water supply of a quality such that no harmful organisms or substances are transferred to the animals.

Part 2 General Conditions of Hygiene

1. Floors, walls and partitions, ceilings and roof linings, equipment and instruments used for working on fishery products shall be kept in a satisfactory state of cleanliness and repair, in order not to constitute a source of contamination for the products.
2. Rodents, insects and any other vermin shall be systematically exterminated in the premises or on the equipment.
3. Equipment used in the processing areas shall be used only for work on fish and fishery products.
4. Potable water or clean sea water shall be used for cleaning purposes.

[Subsidiary]

5. Detergents, disinfectants and similar substances used in the establishment shall be of a type approved by the competent authority and shall be used in such a way that they do not have an adverse effect on the machinery, equipment and fishery products.

6. Rodenticides, insecticides, disinfectants and any other potentially toxic substances shall be stored in lockable premises or cupboards in order not to present any risk of contamination of the product.

PART 3 – PERSONNEL HYGIENE

1. A high standard of cleanliness is required of personnel working in processing areas. In particular—

- (a) personnel shall wear suitable working clothes, and headgear which completely covers the hair;
- (b) personnel assigned to the handling and preparation of fishery products shall wash their hands at least each time work is resumed;
- (c) wounds shall be covered by a waterproof dressing; and
- (d) smoking, spitting, eating, nose blowing and picking, and drinking in work areas and storage premises of fishery products shall be prohibited.

Employers shall take all the necessary measures to prevent persons liable to contaminate fishery products from handling and working on such products until there is evidence that such persons can do so without risk.

THIRD SCHEDULE

[Regulation 5(1)(k).]

CONDITIONS FOR THE CULTURE AND PLACING ON THE MARKET OF FISH CULTURE PRODUCTS

PART 1 – SITE LOCATION AND SELECTION

A General

1. Commercial scale fish culture shall before being undertaken, be subjected to an Environmental Impact Assessment (EIA) by relevant authorities.

2. The management of fish culture systems before constructing, reconstructing or adapting a new technology shall submit to the competent authority for approval, a plan of the establishment and a list of activities to be carried out.

3. Fish culture operations shall be located in areas where the risk of contamination with hazardous chemical effluents is minimal and where sources of pollution can be controlled.

4. Fish culture operations shall be sited at a safe distance from potential sources of water contamination, in order to ensure protection of products from contamination.

5. The immediate vicinity of fish culture operations shall be free from potential sources of water contamination and in particular shall not be located downstream or close to—

- (a) industry and mining;
- (b) intensive agriculture (especially animal husbandry);
- (c) densely populated areas or urban areas;

Fisheries

[Subsidiary]

- (d) hospitals and major laboratories;
- (e) major roads and railways.

6. (1) Before building a land-based fish culture facility a survey of the soil shall be conducted in order to determine the concentration and extent of any parameters which are of importance for the safety of end products, including heavy metals and pesticide residues.

(2) Results of the survey in subparagraph (1) above shall form the basis of issuance of the permit required under Regulation 7.

7. Cages, pens or any other form of fish culture enclosures or water intakes shall be sited away from routes of water-borne traffic, and preferably upstream of any water borne traffic and any natural or man-made discharges of contamination.

B *Fish culture site facilities*

1. All fish culture enterprises must provide reasonably accessible sanitary facilities available for the use by people working in the enterprise.
2. Sanitary facilities under this provision may include earth closet facilities.
3. The minimum number of facilities shall depend on the number of personnel at the site, according to the following table:

<i>Number of employees (counted according to gender)</i>	<i>Minimum number of toilets</i>
01 – 09	1
10 – 24	2
25 – 49	3
50 – 100	5
More than 100	for every 30 persons add 01 more toilet

4. Sanitary facilities shall be located away from the place where fish are held to ensure that there is no risk of contamination of fish ponds with human waste.

C *Fish feed storage*

If fish feed is stored at the fish culture facility it shall be stored in a properly constructed well-ventilated facility, and protected from the entry of vermin.

PART 2 – POND CONDITIONING, FERTILIZER AND FEEDS

A *Pond preparation*

1. Weeds, rubbish and debris shall be removed before preparing fish culture ponds for filling with water.
2. Ponds shall be conditioned with lime and left for a period of at least two weeks before filling and stocking.
3. At least once each year the pond shall be drained, allowed to dry out and re-conditioned with lime.

B Fertilizer

The following materials shall not be used as fertilizer—

1. human waste;
2. pig manure, except where it—
 - (a) is added with an equal weight of lime during pond conditioning;
 - (b) has been adequately composted to eliminate trematode eggs; or
 - (c) is derived from enclosed animals living adjacent to the pond as part of an integrated culture system, and those animals are treated regularly with antihelminthic drug and free from zoonotic diseases.

C Feeds and feed materials

1. Slaughterhouse waste and offal from mammalian food animals may only be used as fish feed if it is first cooked.
2. Compound feed shall not be used for feeding fish unless the user is informed of the composition, including any supplements added by the manufacturer.
3. Compound feed treated with veterinary medical supplements (including hormones and antibiotics) are considered to be veterinary medicines to which Part III below applies.
4. Fish feeds shall be used before the expiry date and any remaining feed disposed of on the supervision of a fish inspector.

PART 3 – VETERINARY MEDICINES AND WITHDRAWAL PERIODS**A Registration and Distribution of Veterinary Drugs**

No veterinary therapeutic-products and medicinal premixes for inclusion in fish feeds may be applied to fish unless they are approved for use under the terms of the Pharmacy and Poisons Act (Cap. 244).

B Handling and Administration of Veterinary Drugs

1. Control of fish diseases in fish culture using drugs shall be carried out only on the basis of a diagnosis by a qualified fish disease specialist.
2. Veterinary medicines for treatment of fish diseases shall only be applied under the supervision of a qualified fish disease specialist.
3. Veterinary drugs shall be used according to the manufacturer's instructions and note shall be taken of all warning statements and contra-indications for use, and in particular instructions in relation to withdrawal periods.
4. Each individual dose and administration of veterinary medicines (including compound feeds containing veterinary supplements) shall be recorded in a special book kept at the facility for that purpose, specifying date and nature of treatment, identification of fish and duration of withdrawal period.
5. The entries in the register are to be signed by the fish disease specialist responsible for administering the drug programme.
6. Fish which are diseased and which are being treated with veterinary medicine shall be isolated and be easy to identify as a separate batch.
7. The health of fish shall be monitored regularly for symptoms of disease or parasitic/fungal infection.

[Subsidiary]

C Harvesting and Withdrawal Period

1. Drugs used for treatment as well as prophylaxis shall not be given to fish for a period of time (withdrawal period) before slaughtering.
2. Withdrawal periods under different conditions shall be established by the supplier of the drug for the fish species and the drug in question, and recorded in the drug register held by the farmer.
3. Fish shall not be harvested before the end of the withdrawal period.
4. The amount of any veterinary drug residue in the harvested fish shall not exceed any maximum residue limit specified under the terms of the Pharmacy and Poisons Act (Cap. 244).
5. If fish which are treated with a veterinary medicine are sold live for on-growing before the end of the withdrawal period, the buyer must be informed in writing by the seller.

D Requirements for marketing

1. If the fish is consigned for placing on the market for human consumption, then the producer shall certify to the processor in writing with a copy to the competent authority that either—
 - (a) no veterinary medicines have been applied; or
 - (b) if they have been applied, that minimum withdrawal periods have been observed for the named medicines.
2. Persons receiving fish culture products for subsequent placing on the market shall undertake their internal controls system in accordance with the Ninth Schedule to ensure that—
 - (a) they do not accept production batches to which undeclared drug treatments have been administered;
 - (b) where veterinary medicines have been applied, minimum withdrawal periods have been observed and maximum residue limits are not exceeded; and
 - (c) no prohibited substances are present.

PART 4 – HARVESTING EQUIPMENT AND MATERIALS

1. Harvesting areas and methods within the fish culture facility shall be designed and constructed for easy, fast and hygienically acceptable operations.
2. All equipment used for the harvesting, catching, sorting, grading, conveying and transportation of fish shall be designed for rapid and efficient handling of fish without causing mechanical damage thereto.
3. Equipment, containers and utensils coming into contact with fish shall be designed and constructed so as to ensure that they can be adequately cleaned, disinfected and maintained to avoid contamination.
4. All surfaces of boxes, implements and other equipment which come into contact with fish shall be of corrosive-resistant material which is smooth and easy to clean, or be designed for a single use only.
5. If re-usable boxes are used to carry fish from the pond, suitable means of cleaning with clean water and detergent followed by disinfection shall be provided.

PART 5 – HYGIENE

A *Personal hygiene*

1. Any person working at a fish culture facility shall maintain a reasonable standard of personal hygiene and shall take all necessary precautions to prevent the contamination of the fish.
2. Any cut or wound shall immediately be covered with a suitable waterproof dressing.
3. Persons suffering from infectious diseases, or from a helminthic parasitic infection, or who have infected wounds, boils or other skin infections, or who are suffering from diarrhoea, shall not be permitted to work in a fish culture operation.
4. Personnel who work in fish culture operations shall, on their appointment and at six month intervals thereafter undertake a health examination to ensure that they do not suffer from any of the above conditions. Health documents of every person shall be kept at the facility and shall be available to the competent authority on request.
5. Any person entering a fish culture facility shall refrain from spitting or eating food, or relieving himself, except in areas designated for these purposes, which must be away from fish production areas.

B *First aid box*

Each fish culture facility shall be provided with a first-aid box, which shall contain sufficient quantities of—

- (a) impermeable dressings;
- (b) antiseptic cream or disinfectant; and
- (c) cotton wool and adhesive tape; or
- (d) any other material or drugs depending on the nature of the culture systems and its surroundings.

C *Exclusion of animals*

Except in integrated fish culture systems where food animals are deliberately introduced, domestic animals shall be excluded from fish culture operations and areas adjacent to ponds.

PART 6 – CLEANING, DISINFECTION AND PEST CONTROL

A. *Cleaning and Disinfection Schedule*

1. Areas around the ponds shall be kept clean and free from rubbish, waste fish and items not associated with the fish culture operation.
2. A cleaning and disinfection schedule bearing the name of the responsible person shall be developed to ensure that all parts of the fish culture facilities and equipment therein are cleaned appropriately and regularly.
3. The schedule shall be made available to the inspector at all times.
4. Fish culture personnel shall be trained in the use of special cleaning tools, and methods of dismantling equipment for cleaning and shall be knowledgeable in the significance of contamination and the hazards involved.
5. The disinfectants applied to fish culture systems shall be approved and applied in accordance with competent authority's and manufacturer's instructions.

[Subsidiary]

B. *Pest Control Systems*

1. A pest control schedule bearing the name of the responsible person shall be developed to ensure that all parts of the fish culture facilities and equipment remain free from infestations by vermin.
2. The schedule shall be made available to the inspector at all times.

PART 7 – RECORD KEEPING AND BATCH IDENTIFICATION

1. The following records of fish culture systems shall be kept—
 - (a) date of construction;
 - (b) number of fingerlings stocked;
 - (c) stocking rate and time;
 - (d) anticipated harvest time;
 - (e) date of harvest and quantities harvested;
 - (f) each batch of fish cultured in each pond, including veterinary drug regimes;
 - (g) feeding methods and quantities;
 - (h) pond fertilization;
 - (i) results of water quality parameters.
2. The records shall be kept for a period of one year after harvest.
3. Each batch of fish leaving the farm for market or for processing shall be allocated a batch number which relates it to the information records described in paragraph 1 above.
4. Each batch of fish leaving the fish culture operation for placing on the market shall be marked to include the following information—
 - (a) approval number of the fish culture enterprise;
 - (b) name and permanent postal and physical address of the enterprise;
 - (c) date of harvesting;
 - (d) species; and
 - (e) batch number.
5. Managers shall ensure effective procedures are in place to effect the complete traceability in accordance with Tenth Schedule, and rapid recall of any lot of fish from the market.

PART 8 – MINIMUM MONITORING REQUIREMENTS FOR THE INTERNAL CONTROL SYSTEM

1. Monitoring programmes shall be developed to ensure that—
 - (a) waste and debris does not build up and is disposed of in a hygienic manner;
 - (b) personal hygiene and health standards are maintained;
 - (c) a pest control programme is implemented;
 - (d) cleaning and disinfecting programmes are implemented;
 - (e) the quality of water and any supplies of ice are maintained; and
 - (f) in fresh water fish culture operations, the farm is maintained free from trematode parasites.

[Subsidiary]

2. The results of all monitoring actions and of any corrective actions taken after monitoring shall be recorded.

FOURTH SCHEDULE

[Regulation 10(1).]

MONITORING OF HEALTH CONDITIONS FOR PRODUCTION AND PLACING ON THE MARKET OF BIVALVE MOLLUSCS

PART 1 – HARVEST AND RELAY AREAS

1. Bivalve molluscs for human consumption shall be harvested from areas designated by the competent authority.
2. Permitted harvest areas shall be classified according to the level of faecal contamination as determined by routine monitoring of the microbiological contamination of the product.
3. Any change in the demarcation of harvest areas or in the classification of harvest areas shall be immediately announced by the competent authority through advertisements in the press and in the Kenya *Gazette*.
4. Harvest areas shall be classified according to the scheme specified in the first and second columns of the following table, and applied for the uses specified in the third column.

<i>Classification</i>	<i>Bacteriological counts* (not more than ...)</i>	<i>Permitted use</i>
A	300 faecal coliforms/100g flesh or 230 E.coli/100g flesh free of salmonella in 25g*	Direct human consumption; Cooking
B	In 90% of samples tested - 6000 faecal coliforms/100g flesh or 4600 E.coli/100g flesh	Direct human consumption after purification or relaying until Class A is achieved; cooking
C	60,000 faecal coliforms/100g flesh 46,000 E.coli/100g flesh	Relaying for at least two months prior to retesting; cooking

* Based on a five tube three dilution mean probable number test or any other equivalent bacteriological procedure.

5. The gathering of shellfish for human consumption shall be prohibited from any area in which the product is found to contain more than the maximum permitted number of coliform bacteria for Class C.
6. The gathering of shellfish for human consumption shall be prohibited from any area in which product is found to contain marine biotoxins with levels greater than those indicated in the following table:

<i>Toxin</i>	<i>Testing method</i>	<i>Limit</i>
Paralytic Shellfish Poison (PSP)	Mouse bioassay or HPLC Saxitoxin	80 microgrammes/100g of Edible portion
Diarrhetic Shellfish Poison (DSP)	Mouse	Not detected in 100g of edible portion
Amnesic Shellfish Poison (ASP)	HPLC for domoic acid	20 microgrammes/gram of edible portion

[Subsidiary]

PART 2 – MONITORING OF HARVEST AREAS BY THE COMPETENT AUTHORITY

1. Harvest areas and samples of fishery products from them shall be monitored on a regular basis by the competent authority, according to a written sampling plan, and with respect to the following parameters:

Parameters to be measured in Water samples	<p>Faecal coliforms</p> <p>E.coli</p> <p><i>Salmonella</i> spp</p> <p><i>Vibrio parahaemolyticus</i></p> <p>Marine phytoplankton which produce the toxins which cause PSP (paralytic shellfish poisoning), DSP (diarrhetic shellfish poisoning) and ASP (amnesic shellfish poisoning)</p> <p>Chemical and physical parameters (temperature, pH, salinity)</p>
Parameters to be measured in product samples	<p>Faecal coliforms</p> <p>E.coli</p> <p><i>Salmonella</i> spp</p> <p><i>Vibrio parahaemolyticus</i></p> <p>Marine biotoxins which cause PSP (paralytic shellfish poisoning), DSP (diarrhetic shellfish poisoning) and ASP (amnesic shellfish poisoning)</p> <p>Heavy metals including lead, cadmium and mercury</p>

2. Samples for the measurement of the parameters listed in paragraph 1 above shall be taken as frequently as necessary to identify the potential development of hazards in advance of the occurrence of any significant risk to human health.

3. The sampling frequency shall take into account any features of the fishery concerned in relation to seasonal or irregular fishing.

4. The sampling plan shall define the sampling points within each defined harvest area.

Sufficient sample points shall be defined by taking into account—

- (a) likely variations in the faecal contamination of the production area; and
- (b) possible variations in the development of marine algal blooms.

5. Detection of potential problems shall be followed by a more intensive sampling regime, until the area is closed, or until the potential hazard recedes.

6. If the results of the sampling programme indicate that the placing on the market of products from the harvest area would constitute a hazard to human health, the competent authority shall close the area and put advertisements in the press and *Kenya Gazette*.

7. Areas which are subject to temporary closure shall be monitored as if the area was not closed, unless they are to be closed permanently.

FIFTH SCHEDULE

[Regulation 13(d).]

REQUIREMENT FOR HEALTH CONTROL AND MONITORING OF
PRODUCTION CONDITIONS

PART 1 – GENERAL MONITORING

1. Arrangements for checking and monitoring shall be made by the competent authority in order to establish whether the requirements laid down in this Regulation are complied with.
2. Such arrangements shall include, in particular—
 - (a) a check on the conditions at landing and first sale;
 - (b) a check on the conditions at fish auctions and wholesale markets;
 - (c) an inspection at regular intervals of fishery enterprises, to undertake the activities defined in regulation 6 of these Regulations, with a view to establishing—
 - (i) whether the conditions for approval are all complied with;
 - (ii) whether the fishery products are handled in accordance with the requirements of these Regulations;
 - (iii) the cleanliness of the premises, facilities and instruments and personnel hygiene;
 - (iv) whether identification marks are affixed correctly; and
 - (v) periodical sampling and testing of products during production or after placing on the market.
3. The selection of the checks to be undertaken and the sampling rate to be applied shall be scientifically justifiable and shall depend on the nature of the hazards involved and the risk of their occurrence.

PART 2 – ORGANOLEPTIC CHECKS

1. On the demand by a fish inspector each batch of fish and fishery products shall be subject to inspection at the time of landing or before first sale to establish whether it is fit for human consumption.
2. This inspection will comprise an organoleptic check carried out by sampling, plus any other checks deemed by the fish inspector to be appropriate including chemical checks or microbiological analyses as defined in Parts 4, 5 and 7 below.
3. If the organoleptic examination reveals that the fish and fishery products are not fit for human consumption, the fish inspector shall withdraw them from the market as provided for in Regulation 17 of these Regulations.

PART 3 – PARASITE CHECKS

1. Before they are released for human consumption, fish and fishery products shall be subject to visual inspection, by way of sample, for the purpose of detecting any parasites that are visible.
2. Fish or parts of fish which are obviously infested with parasites which cannot be readily removed, shall not be placed on the market for human consumption.

[Subsidiary]

FIFTH SCHEDULE—*continued*

3. On the demand of a fish inspector samples from any batch of fish and fishery products may be taken and subjected to laboratory analysis for the measurement of any scientifically established indicator of the degree of deterioration of the fish and fishery products.

PART 4 – TVB

When the organoleptic examination reveals any doubt as to the freshness of the fishery products, samples may be taken and subjected to laboratory tests to determine the levels of Total Volatile Basic Nitrogen (TVB-N) and Trimethylamine Nitrogen (TMA-N).

The method of testing shall be that prescribed by the competent authority.

When the organoleptic examination gives cause to suspect the presence of other conditions which may affect human health, appropriate samples are to be taken for verification purposes.

PART 5 – HISTAMINE

1. On the demand of an authorised fish inspector samples from any batch of fishery products of the following species may be taken and subjected to laboratory analysis for the measurement of histamine—

- (a) *fish of the family Scombridae;*
- (b) *fish of the family Clupeidae;*
- (c) *fish of the families Engraulidae, Coryfenidae, Pomatomidae, Scombrosidae.*

2. Where such samples are taken, nine samples shall be taken from each batch and submitted for analysis.

3. Examinations shall be carried out in accordance with the high-performance liquid chromatography (HPLC) or any other reliable, scientifically recognized methods.

4. The results of the analysis shall fulfil the following requirements—

- (i) the mean value shall not exceed 100 ppm;
- (ii) two samples may have a value of more than 100 ppm but less than 200 ppm;
- (iii) no sample may have a value exceeding 200 ppm.

5. Fish belonging to the above families which have undergone enzyme-ripening treatment in brine are permitted higher histamine levels, but not more than twice the above values.

PART 6 – CONTAMINANTS PRESENT IN THE AQUATIC ENVIRONMENT

1. On the demand by a fish inspector samples from any batch of fish and fishery products may be taken and subjected to laboratory analysis for the measurement of contaminants which may be present in the aquatic environment.

2. Batches of fish and fishery products in which the levels of heavy metal contaminants exceed the maximum residue limits indicated in the manual of Standard Operating Procedures for Inspection and Quality Assurance in Capture Fisheries and Aquaculture in Use in Kenya.

FIFTH SCHEDULE—*continued*

PART 7 – MICROBIOLOGICAL CHECKS

1. On the demand by an authorised fish inspector samples from any batch of fishery products may be taken and subjected to laboratory analysis for the measurement of levels of microbiological agents therein, including protozoan and helminthic parasites, bacteria and viral pathogens.

2. Batches of cooked crustacean which do not meet the following criteria shall be considered to be unfit for human consumption.

<i>Type of bacteria</i>	<i>Standard</i>
<i>Salmonella</i>	Absent in 25g n = 5 c = 0
<i>Staphylococcus aureus</i>	m = 100 M = 1000 N = 5 C = 2
<i>E.coli</i> (on solid medium)	m = 10 M = 100 n = 5 c = 1

Where:

m = limit below which all results are considered satisfactory

M = acceptability limit beyond which the results are considered unsatisfactory

n = number of units comprising the sample

c = number of sample units giving bacterial counts between m and M

PART 8 – CHECKS ON VETERINARY MEDICINES

1. On the demand by a fish inspector samples from any batch of fishery products produced by fish culture systems may be taken and subjected to laboratory analysis for the measurement of levels of residues of veterinary medicines therein.

2. This monitoring will establish compliance with—

- (a) limits on the maximum residue levels of veterinary medicines permitted for use in fish culture, in accordance with the Pharmacy and Poisons Act (Cap. 244);
- (b) prohibition of the use of certain substances as veterinary medicines in fish culture, in accordance with the Pharmacy and Poisons Act.

PART 9 – CHECKS ON ADDITIVES

1. Samples of fish and fishery products shall be taken and subjected to laboratory analyses for control of additives in edible parts of fish and fishery products for the purpose of protecting public health.

2. Batches of fish and fishery products which do not meet the following criteria shall be considered to be unfit for human consumption.

Fisheries

[Subsidiary]

FIFTH SCHEDULE—*continued*

<i>Type of fish and fishery product</i>	<i>Maximum level (mg/kg or mg/l as appropriate) expressed as SO₂</i>
Crustaceans and cephalopods; Fresh, frozen and deep frozen	150
Crustaceans, <i>panaeidae solenoceridae, aristeidae</i> family	
– up to 80 units	150
– between 80 and 120 units	200
– over 120 units	300
Cooked	50

Note:

1. Maximum levels are expressed as SO₂ in mg/kg or mg/l as appropriate and relate to the total quantity available from all sources.
2. An SO₂ content of not more than 10 mg/kg or 10 mg/l is not considered to be present.

PART 10 – MICROBIOLOGICAL AND PHYSICAL CHECKS OF POTABLE WATER

The competent authority shall prescribe microbiological and physical chemical criteria including sampling plans and methods of analysis for potable water used in fishery enterprises for the purpose of protecting public health.

SIXTH SCHEDULE

[Regulation 5(1)(k).]

REQUIREMENTS FOR STORAGE AND TRANSPORT

1. Fishery products shall, during storage and transport, be kept at the prescribed temperature, and, in particular—
 - (a) fresh or thawed fishery products and cooked and chilled crustacean and molluscan shellfish products shall be kept at the temperature of melting ice;
 - (b) frozen fishery products, with the exception of frozen fish in brine intended for the manufacture of canned foods, shall be kept at an even temperature of –18°C or less in all parts of the product, allowing for the possibility of brief upward fluctuations of not more than 3°C during transport;
 - (c) processed products shall be kept at the temperature specified by the manufacturer.
2. Paragraph 1(b) shall not apply where frozen fishery products are transported from a cold storage plant to an approved processing plant to be thawed on arrival for the purpose of preparation or processing and where the journey is shorter than two hours.
3. Products may not be stored or transported together with other fishery products or with any other goods which may contaminate them or affect their quality, unless they are packaged in such a way as to provide adequate protection.
4. Vehicles used for the transportation of fishery products shall be constructed and equipped in such a way that the prescribed temperatures can be maintained through the period of transport. If ice is used to chill the products, adequate drainage shall be provided in order to ensure that water from melted ice does not stay in contact with the products.

[Subsidiary]

5. The inside surfaces of the means of transport shall be smooth and easy to clean and disinfect without contaminating the products.

SEVENTH SCHEDULE

[Regulation 5(1)(k).]

PACKAGING REQUIREMENTS FOR FISHERY PRODUCTS PROCESSING ESTABLISHMENTS

1. Packaging of fish and fishery products shall be carried out under satisfactory conditions of hygiene, to preclude contamination.
2. Packaging materials and products liable to enter into contact with fishery products shall comply with all the rules of hygiene, and in particular—
 - (a) they shall not be such as to impair the organoleptic characteristics of the fishery products;
 - (b) they shall not be capable of transmitting to the fishery products substances harmful to human health;
 - (c) they shall be strong enough to protect the fishery products adequately.
3. With the exception of containers made of impervious, smooth and corrosion-resistant, durable material which may be re-used after cleaning and disinfecting, packaging materials shall not be re-used.
4. Packaging materials used for fresh products held under ice shall provide adequate drainage for melt water.
5. Unused packaging materials shall be stored in premises away from the production area and be protected from dust and contamination.

EIGHTH SCHEDULE

[Regulation 5(1)(k).]

IDENTIFICATION MARKS FOR FISHERY PRODUCTS

Where fishery products are packed and consigned to the market by an establishment, the following information shall appear on the packaging—

1. the name of the country of origin of the products;
 2. the name and official registration number of the establishment in which the products were processed or packed;
 3. a description of the product, including the latin name of the species and its state (fresh, frozen);
 4. the date on which it was consigned from the establishment;
 5. any special storage instructions required to maintain the safety and quality of the fishery product.
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[Subsidiary]

NINTH SCHEDULE

[Regulation 25(3).]

REQUIREMENT FOR AN INTERNAL SYSTEM TO CONTROL FISH AND FISHERY
PRODUCT SAFETY HAZARDS

PART 1 – GENERAL REQUIREMENTS

1. Fish and fishery product business operators shall implement a system of internal controls (an own-checks system) based on the following principles—

- (a) identification of fish and fishery product safety hazards associated with their products and processes, and identification of critical points in their establishment on the basis of the manufacturing processes used;
- (b) establishing and implementing methods for monitoring and checking such critical points, and for taking corrective actions to prevent or minimise the risk of hazards arising;
- (c) taking samples for analysis for the purpose of checking, cleaning and disinfection methods and for the purpose of checking compliance with the fish and fishery product safety requirements established by this Regulation;
- (d) keeping a written record or a record registered in an indelible fashion of the preceding points with a view to making them available to the relevant competent authority. The results of the different checks and tests shall be preserved for a period of at least two years.

2. The persons responsible for the establishment must make provision for a sampling programme which, though not concerning systematically every production batch, nevertheless allows—

- (a) validation of the system of internal controls when first set up;
- (b) if necessary, revalidation of the system in case of a change to the characteristics of the product or to the manufacturing process;
- (c) confirmation, at specified intervals, that all provisions are still appropriate and properly applied.

3. If the results of the internal controls referred to in this Schedule reveal the existence of a significantly elevated risk to the health of consumers in respect of a batch of fish or fishery products, the products concerned shall be deemed not to be in compliance with the requirements of section 3 of the Food, Drugs and Chemical Substances Act (Cap. 254) and shall be treated accordingly.

4. In order to keep a written record or a record registered in an indelible fashion, as referred to in paragraph 1(d) of this Part of the Schedule, the persons responsible for the establishment must document all information relating to the implementation of internal control system and its verification.

5. The documentation referred to in paragraph 1 shall include the following two types of information to be kept for submission to the competent authority on request—

- (a) a detailed and comprehensive document including—
 - (i) a description of the product;

[Subsidiary]

- (ii) a description of the manufacturing process indicating critical points;
 - (iii) for each critical point, identified hazards, assessment of risks and control measures;
 - (iv) procedures for monitoring and checking each such critical point, with an indication of critical limits for parameters that need to be controlled and the corrective action to be taken in case of loss of control; and
 - (v) procedures for verification and review;
- (b) records of the observations or measurements referred to in paragraph 1(b), results of the verification activities referred to in paragraph 3, and reports and written accounts of decisions relating to corrective action when taken. An appropriate document management system must provide, in particular, for the easy retrieval of all documents relating to an identified production batch.

PART 2 – SPECIFIC REQUIREMENTS FOR THE INTERNAL CONTROL SYSTEM

1. The internal control system shall be developed and implemented by persons within the establishment to which it relates.
2. As part of the internal approach referred to in paragraph 1 an establishment may use guides of good manufacturing practice drawn up by appropriate professional organizations and acceptable to the competent authority.
3. The proprietor of the establishment shall ensure that all personnel concerned with the internal control receive adequate training in order to effectively participate in their implementation.
4. In the design of any system for internal control the following general approach shall be adopted—
 - (i) identification of hazards, analysis of risks and determination of measures to control them;
 - (ii) identification of critical points;
 - (iii) establishment of critical limits for each critical point;
 - (iv) establishment of monitoring and checking procedures;
 - (v) establishment of corrective action to be taken when necessary;
 - (vi) establishment of verification procedures;
 - (vii) validation of the system; and
 - (viii) documentation of the system and maintaining records of results.
5. This general approach shall be used with flexibility appropriate to each situation.

PART 3 – IDENTIFICATION OF CRITICAL POINTS

A *General principles*

1. “**Critical point**” means any point, step or procedure at which control can be applied and a food safety hazard can be prevented, eliminated or reduced to acceptable levels.
2. All critical points shall first be identified by a detailed review of the process, based on knowledge of microbiological and other hazards which may potentially arise, undertaken by a person with specialised knowledge and with reference to existing codes of practice.
3. The information generated under paragraph 2 shall be used as the basis of the internal control system to ensure compliance with the hygiene and safety requirements of the process, including those specified in any relevant code of practice.

[Subsidiary]

4. The critical points shall be specific to each establishment, depending on the raw materials it uses and on its manufacturing processes, structure and equipment, end products and marketing system.

5. The sequential steps described below may be followed in order to identify and characterize the critical points in the process.

B Assembly of a multi-disciplinary team

1. A multi-disciplinary team shall be drawn from all parts of the establishment concerned with the product, and shall include a wide range of specific knowledge and expertise appropriate to the product under consideration, its production process, viz manufacture, storage and distribution, its consumption and the associated potential hazards.

2. The team may consist of one or more of—

- (a) a quality control specialist with an understanding of the biological, chemical or physical hazards connected with a particular product group;
- (b) a production specialist with responsibility for, or who is closely involved with, the technical process of manufacturing the product under study;
- (c) a technician who has a working knowledge of the hygiene and operations of the plant and equipment; or
- (d) any other person with specialist knowledge of microbiology, hygiene or food technology.

3. Where necessary, the team may be assisted by external specialists with technical knowledge in areas not adequately covered by the establishment's own personnel.

C Description of the product

The end product shall be described in terms of—

- (a) the composition, viz, species, raw materials, ingredients, and additives;
- (b) the structure and physio-chemical characteristics (eg. whole, portion, Aw, pH);
- (c) the nature and extent of processing, viz. heating, freezing, drying, salting, smoking and the respective process conditions;
- (d) the packaging (viz, hermetic, vacuum, or modified atmosphere);
- (e) the storage and distribution conditions (temperature control);
- (f) the required shelf-life, viz. sell by date and best before date;
- (g) the instructions for use;
- (h) any microbiological or chemical criteria applicable thereto; and
- (i) the normal or expected use of the product by the targeted consumer, including classes of consumers with special needs.

D Description of manufacturing process

1. The establishment shall develop and maintain a detailed description of the premises and all steps involved in the manufacturing process, from the raw material to the finished product including but not limited to—

- (a) the layout and characteristics of the premises and the equipment;
- (b) the sequence of all steps in the manufacturing process, including the incorporation of raw materials;

[Subsidiary]

- (c) the ingredients or additives and delays during or between steps in the process;
- (d) technical parameters of operations in particular time and temperature, and concentrations of solutions;
- (e) the flow of products, including potential cross-contamination;
- (f) the segregation of clean and dirty areas;
- (g) the cleaning and disinfection procedures;
- (h) the hygienic environment of the establishment;
- (i) the personnel routes and hygiene practices; and
- (j) product storage and distribution conditions.

2. The description may be amended at any time when a deviation occurs in the manufacturing process.

E Listing of hazards and multi-disciplinary control measures

1. The multi-disciplinary team of an establishment shall make a list of all potential health hazards relating to the storage, processing and packaging of fishery products.

2. A list prepared under paragraph 1 may include matters which are likely to lead to—

- (a) unacceptable contamination (or recontamination) of a biological, chemical or physical nature of raw materials, intermediate products or final products;
- (b) unacceptable survival or multiplication of pathogenic micro-organisms and unacceptable generation of chemicals in intermediate products, final products, production line or line environment;
- (c) unacceptable production or persistence of toxins or other undesirable products of microbial metabolism.

3. For inclusion in the list of hazards, matters must be of such a nature that their elimination or reduction to acceptable levels is essential to the production of safe fishery products.

4. The multi-disciplinary team shall—

- (a) list all potential biological, chemical or physical hazards that may be reasonably expected to occur at each step of the manufacturing process (including those resulting from acquisition and storage of raw materials and ingredients and delays during manufacture and any other foreseeable eventuality);
- (b) consider and describe what control measures, if any, exist which can be applied to counter each hazard.

5. Where the multi-disciplinary team identifies a critical point for the control of a hazard, it shall take the following steps, viz.—

- (a) ensure that appropriate control measures are effectively designed and implemented. In particular, if a hazard has been identified at a step where control is necessary for product safety and no control measure exists at that step or at any other, then the product or process shall be modified at that step, or at an earlier or later stage, to include a control measure;
- (b) establish and implement a monitoring and checking system at each critical point.

[Subsidiary]

F *Monitoring and checking of critical points*

General principles

1. The following steps shall be taken as the framework for the design of a suitable system for monitoring and checking critical points—

Establishing critical limits

- (a) Each control measure associated with a critical point shall give rise to the specification of critical limits.
- (b) The critical limits shall correspond to the extreme values acceptable with regard to product safety. Critical points are determined for observable or measurable parameters including temperature, moisture level, additive, preservative or salt level, which can readily demonstrate whether the critical point is under control; they shall be based on substantiated evidence that the chosen values will result in elimination of the hazard.
- (c) To reduce the risk of exceeding a critical limit due to naturally occurring process variations, it may be necessary to specify more stringent target levels than are necessary to eliminate the hazard, to ensure that process variables remain within the critical limits in a reasonable majority of cases.
- (d) Critical limits may be derived from a variety of sources. They may be defined by regulatory standards or from existing and validated guides of good manufacturing practices. In all cases the team shall ascertain their validity relative to the control of the identified hazards at the critical points.

Establishing a monitoring and checking system

2. An essential part of an internal control system is a programme of observations or measurements performed at each critical point to ensure compliance with specified critical limits, which describes the methods of measurement, the frequency of observations or measurements and the recording procedures to be followed.

3. Observations or measurements must be able to detect loss of control at critical points and provide information in sufficient time for corrective action to be taken.

4. It is necessary to establish a frequency of observations or measurements (in terms of a defined sampling plan) which provides information which can be validly used for extrapolation of the resulting measurement data to the behaviour of critical variables between observations.

5. Any decision on the periods between observations of critical variables at critical points shall be based on a detailed knowledge of the behaviour of those variables (and in particular their rate of change under all foreseeable circumstances).

6. A written programme of observations or measurements shall properly identify for each critical point—

- (a) the person to perform monitoring and checking;
- (b) the time when monitoring and checking is performed; and
- (c) how monitoring and checking is performed.

7. Observations or measurements may indicate—

- (a) that the parameter monitored is tending towards, although not exceeding, its specified critical limits, indicating a trend toward loss of control. Appropriate corrective action to maintain control must be taken before the occurrence of a hazard; and

[Subsidiary]

- (b) that the parameter monitored has exceeded its specified critical limits, indicating a loss of control. It is necessary to take appropriate corrective action to regain control and decide on an appropriate action with respect to the products subject to the process conditions exceeding the critical limits.

8. Corrective action must be planned and documented in advance by the multi-disciplinary team, for each critical point and for each of the above cases, so that the necessary action may be taken without hesitation when the event is observed.

9. The corrective action plan shall include—

- (a) proper identification of the person(s) responsible for the implementation of the corrective action;
- (b) description of means and action required to correct the observed deviation;
- (c) action to be taken with regard to products that have been manufactured during the period when the process was out of control; and
- (d) written records of measures taken.

10. Although sampling for laboratory analysis may be included in the monitoring and checking of critical points, this specifically does not include verifying that the end product conforms with any standards or set of product criteria either externally or internally determined.

11. If the system of monitoring and control of critical control points is substantially dependent on sampling and laboratory analysis, then a system of internal control must be applied within the laboratory to ensure that the results generated are valid and reliable, including *inter alia*—

- (a) the preparation of a written and defined programme of instrument calibration;
- (b) checking of reagent activity and concentrations; and
- (c) verification that written laboratory methods are followed.

G Verification

General principles

1. “**Verification**” refers to those actions taken for the routine confirmation that the provisions laid down for the operation of the internal control system are being properly applied.

2. Verification is necessary to ensure that the internal control system in routine operation is executed in the manner specified by the multi-disciplinary team. The multi-disciplinary team shall specify the methods and procedures to be used for the verification of the own-checks system.

Implementation of verification programmes

3. The person responsible for the establishment shall implement the verification programme at specified intervals. Government inspectors may also undertake a routine verification as part of any accreditation scheme.

4. On a basic level, verification will entail an audit of the own-checks system and its records. This may include random sampling and analysis to confirm that own-checks are being made, and that sampling, measurement and recording of results are being carried out correctly.

[Subsidiary]

5. Verification procedures may also include—
- (a) inspection of operations;
 - (b) review of deviations and corrective action and measures taken; and
 - (c) additional confirmatory sampling and measurements.

*H Validation**General principles*

1. **“Validation”** refers to those actions taken to ensure that the system has correctly identified—

- (a) the hazards;
- (b) the critical points at which they arise;
- (c) the critical limits to key variables which give rise to the hazard;
- (d) the sampling and measurement methods which detect whether critical limits have been exceeded; and
- (e) corrective action in such cases which will eliminate the hazard or reduce it to acceptable levels.

2. When an internal control system is first introduced the operator of the establishment shall make provision for a programme of sampling and analysis intended to demonstrate the validity of the system following the methods and procedures specified.

3. The validation procedure may include—

- (a) a reinforced sampling and analysis (both more intensive and extensive than the systems established for the routine application of own-checks) of intermediate or final products;
- (b) surveys on actual conditions and product characteristics during storage, distribution and sale, and at the point of actual use of the product.

4. Changes in the system of internal control may arise as a result of—

- (a) a change in raw material or in product, processing conditions (factory layout and environment, process equipment, the cleaning and disinfection programme);
- (b) a change in packaging, storage or distribution conditions;
- (c) a change in consumer use;
- (d) the receipt of any information on a new hazard associated with the product, or any new information on an old hazard.

5. Any change in the system of internal control shall be followed by a re-validation of the internal control system.

6. Any amendments to the internal control system shall be fully incorporated into the documentation and record-keeping system in order to ensure that accurate up-to-date information is available.

Documentation

1. The operator of an establishment shall keep a written record of the complete documentation relating to the design and operation of the system of internal control, which shall at all times be available for inspection.

2. The written record shall include—

- (a) a description of the internal control system including—
 - (i) a detailed physical, chemical and microbiological description of the product;
 - (ii) a detailed description of the process (including process flow diagrams);
 - (iii) an identification and definition of hazards;
 - (iv) an identification of critical points;
 - (v) a definition of critical limits to key variables at critical points;
 - (vi) a definition of sampling periods and frequency for measurement of key variables;
 - (vii) a description of measurement methods and procedures for measurement of key variables;
 - (viii) a description of corrective actions in case critical limits are exceeded;
 - (ix) a definition of validation and verification procedures;
 - (x) the results of the validation activities;
- (b) the results of internal controls, including—
 - (i) the results of all monitoring and checking actions;
 - (ii) a written account of any decisions made relating to corrective action when critical limits have been exceeded; and
 - (iii) the results of the verification activities.

3. The results of monitoring and checking actions shall be maintained for a period of at least two years.

4. The internal control data management system shall provide, in particular, for the easy retrieval of all documents relating to an identified production batch.

TENTH SCHEDULE

REQUIREMENT FOR TRACEABILITY AND RECALL PROCEDURES

1. The traceability of fish, fishery products and fish feed used in fish culture systems, and any other substance intended to be, or expected to be, incorporated into a fish, fishery product or feed shall be established at all stages of production, processing and distribution.

2. Operators of fishery establishments shall be expected to be able to identify any person from whom they have been supplied with fish, fishery products or fish feed, or any substance intended to be, or expected to be incorporated into a fishery product or feed. Such operators shall have in place systems and procedures which allow for this information to be made available to the competent authority on demand.

3. Operators of fishery establishments shall have in place systems and procedures to identify the other businesses to which their products have been supplied. This information shall be made available to the competent authority on demand.

4. Fish, fishery products or fish feed which are placed on the market or are likely to be placed on the market shall be labelled or otherwise identified through relevant documentation or other information to ensure its traceability.

[Subsidiary]

5. Each operator of a fishery establishment shall prepare a written recall plan detailing the procedures to be followed in a case where a batch of fish or fishery products which has left the possession of the operator shall not be placed on the market, or, where it has been so placed, shall be withdrawn therefrom.

ELEVENTH SCHEDULE

[Regulation 6(2), L.N. 15/2009.]

FEEES FOR APPROVALS, HEALTH CERTIFICATION AND OTHER CHARGES REGARDING FISH, FISHERY PRODUCTS AND FISH FEEDS

	KSh.
1. Certificate of Compliance per product	35,000
2. Certificate of Compliance following withdrawal	70,000
3. Certificate of origin for bivalve molluscs	100,000
4. Fish and Fishery Products Export Health Certificate	1,500
5. Local Health Certificate for whole fish at landing sites—	
(a) quantities of fish less or equal to 1000 kgs	50,00
(b) more than 1000 kgs	30,00 for every 1000 kgs

TWELFTH SCHEDULE

Form DF/A4

(r. 6(5))

APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SAFETY OF FISH, FISHERY PRODUCTS AND FISH FEED REGULATIONS, 2007

1. I/We hereby apply for a certificate of compliance with Kenya Standards for handling and processing of fish and fish products.
2. (a) Name of applicant
- (b) Mailing address
- (c) Location L.R. No. Street
- (d) Town District
- (e) (i) Description of premises and details of processing
- (ii) Capacity of the factory/vessel
- (iii) Previous certificate of compliance no.
3. (a) Other than processing of fish for which this application is made, are you involved in any other processing of fish and fish products? Yes/No
- (b) If answer to (a) above is yes, please specify the nature and type of processing
- (c) Do you intend to process fish for local or export market? Yes/No

TWELFTH SCHEDULE , FORM DF/A4—continued

(d) If the answer to (c) is export, please specify the countries you wish to export to
.....

4. Details to be supplied by corporate body applicants

(a) (i) Name of company
(ii) Number of certificate of incorporation of the company
(Please attach copy)

(b) State:
(i) nominal shares of the company
(ii) issued shares

(c) Details of directors
Name No. of shares Nationality/ Citizenship I.D. No./ Passport No.
.....
.....
.....
.....

5. Details for mode of transport of fish and fishery products

(a) Specify the form of transport to be used

(b) If mode of transport is own vehicle, state:
(i) make
(ii) registration mark and no.
(iii) load capacity

(c) If fish processing enterprise is a vessel, state:
(i) name of vessel
(ii) type of vessel
(iii) type of hull overall length
(iv) registration no. district of registration
registration tonnage
(v) prime mover
(vi) engine type make
(vii) Hp
(viii) intended fishing areatarget fish species
(ix) intended processing
(x) number of processing equipment including other details

(d) Details of the crew (attach crew list showing nationality)
.....

6. I/We declare that, the particulars and information as supplied by me/us herein are true, accurate and correct in every respect. I/We understand clearly that discovery of any false information provided by me/us will render this application invalid.

Signature Date

Name (of signatory)

Position (in business)

Fisheries

[Subsidiary]

TWELFTH SCHEDULE , FORM DF/A4—continued

FOR OFFICIAL USE ONLY

Application approved/not approved
Reasons/Conditions

Director of Fisheries/Authorized Fish Inspector

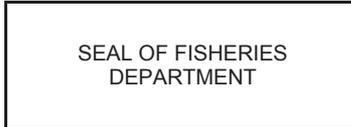
THIRTEENTH SCHEDULE

[Regulation 15(2).]

Form DF/CAI

CERTIFICATE OF IDENTIFICATION

FISHERIES DEPARTMENT



NAME

FISH INSPECTOR

EST. NO.



Signature of Permanent Secretary/
Director of Fisheries
S/NO.

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

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FIRST SCHEDULE

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FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

[L.N. 402/2007.]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Fisheries (Beach Management Units) Regulations, 2007.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**assembly**” means a meeting of registered members of a beach management unit convened pursuant to the provisions of these regulations;

“**authorized fisheries officer**” means a person of or above the rank of assistant fisheries officer appointed in the public service, having administrative jurisdiction over a beach management unit;

“**beach**” means the defined geographical area of jurisdiction of a beach management unit established under regulation 5;

“**beach management unit**” means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders who traditionally depend on fisheries activities for their livelihoods;

“**by-laws**” means the internal administrative rules of a beach management unit approved by the assembly and the authorised fisheries officer;

“**chairman**” means the chairman of the assembly and executive a committee of a beach management unit elected in accordance with these regulations;

“**co-management plan**” means a plan for the co-management of a particular fishery or geographical area adopted pursuant to regulation 7;

“**Director**” means the Director of Fisheries;

“**executive committee**” means a committee of beach management unit members elected in office pursuant to the provisions of regulations 14 and 15;

“**fish landing station**” means a fish landing station established by the director in accordance with the provisions of the Act;

“**member**” means a member of a beach management unit; and

“**presiding officer**” means the authorised fisheries officer or any other person nominated by him in writing to supervise or conduct beach management unit elections.

PART II – BEACH MANAGEMENT UNIT OBJECTIVES STRUCTURE, AREA OF JURISDICTION AND MANDATE IN CO-MANAGEMENT

3. Objectives

(1) The Director shall facilitate the establishment of a beach management unit for each fish landing stations.

[Subsidiary]

Provided that in appropriate cases one beach management unit may be set up for two or more fish landing stations in accordance with administrative guidelines issued by the Director.

- (2) The beach management unit shall be a non-political and nonreligious body.
- (3) The objectives of a beach management unit shall be to—
 - (a) strengthen the management of fish-landing stations, fishery resources and the aquatic environment;
 - (b) support the sustainable development of the fisheries sector;
 - (c) help alleviate poverty and improve the health, welfare and livelihoods of the members through improved planning and resource management, good governance, democratic participation and self-reliance;
 - (d) recognise the various roles played by different sections of the community, including women, in the fisheries sector;
 - (e) ensure the achievement of high quality standards with regard to fish and fishery products;
 - (f) build capacity of the members for the effective management of fisheries in collaboration with other stakeholders; and
 - (g) prevent or reduce conflicts in the fisheries sector.

4. Administrative structure

A beach management unit shall consist of—

- (a) an assembly;
- (b) an executive committee; and
- (c) such sub-committees as may be specified in the by-laws of the beach management unit.

5. Beach management unit's area of jurisdiction

(1) Each beach management unit shall have jurisdiction over the area for which it is established under rule 3.

(2) The Director shall, in consultation with the relevant agencies, prior to the establishment of a beach management unit, cause the relevant land area of a fish landing station to be surveyed and its boundaries clearly delineated and marked.

(3) For the purpose of ensuring safety of fish and fishery products, a specific area of the fish landing station shall be delineated, marked and assigned for the exclusive purposes of landing and selling fish and fishery products.

(4) Activities not directly related to fish landing or trading in fish and fishery products that are, or have been, customarily undertaken at that beach, including, but not limited to—

- (a) the washing of clothes;
- (b) the watering of cattle;
- (c) the abstraction of water for domestic use, and
- (d) the provision of services for the purposes of tourism or recreation,

shall be assigned a separate area of the beach away from the area provided for under paragraph (3) above.

(5) A description of the beach, which shall include a plan and a geo-reference description of any area identified for the exclusive purpose of landing or selling fish and fishery products, shall be included in the by-laws of each beach management unit.

[Subsidiary]

(6) A beach management unit shall be entitled to issue by-laws which shall be binding upon its members and any persons present at or using the beach.

(7) A beach management unit may stipulate in its by-laws that specified activities as its beach may only be undertaken by its members or by members of other beach management units in accordance with any applicable co-management plan.

(8) A beach management unit shall exercise its jurisdiction over a beach in a fair, equitable and non-discriminatory manner.

(9) A beach management unit shall display in a prominent location on the beach—

- (a) a notice stating that the beach is managed by the beach management unit, which shall be identified by name; and
- (b) a copy of its by-laws.

6. Mandate of a Beach Management Unit

(1) A head, management unit shall be responsible to its members and to the Director for ensuring the orderly, safe and effective use, management and operation of the fish landing station over which it has jurisdiction, to which end it shall—

- (a) ensure that the fish landing station, together with any structures or buildings situated thereon, is kept in a clean, tidy and hygienic condition;
- (b) ensure the security of the fish landing station and any fishing vessels, nets or other equipment or structures within its boundaries;
- (c) ensure compliance with applicable hygiene standards in connection with the landing storage and sale of fish and fishery products;
- (d) in conjunction with other relevant agencies maintain safety and order at the fish landing station; and
- (e) maintain and, as necessary, repair any buildings or structure on the fish landing station.

(2) A beach management unit shall gather, analyse, use, store and transmit such information and data as may be specified in writing by the Director from time to time concerning the landing and sale of fish and fishery products, including, but not limited to—

- (a) the quantities of fish and fishery products landed; and
- (b) the prices at which they are sold.

(3) A beach management unit shall seek to ensure the safety of those of its members engaged in fishing, and, to that end—

- (a) shall monitor the seaworthiness of fishing vessels, and shall take measures to ensure that they comply with applicable safety regulations including provisions relating to the use of personal safety equipment; and
- (b) may organise or provide rescue vessel(s) or services.

(4) A beach management unit shall take measures to raise the awareness of its members and their families concerning health risks and measures so minimise and prevent malaria and HIV-Aids and other diseases.

(5) A beach management unit may provide training to its members in fishing techniques, the marketing and processing of fish, personal financial management and other areas relevant to fisheries and shall support the activities of cooperatives and fishers' self help groups within its jurisdiction.

[Subsidiary]

(6) A beach management unit may seek to regulate and promote the marketing of fish including the construction and supply of marketing facilities and the organisation of fish auctions but shall not in any circumstances have the right to determine or dictate the prices at which fish or fishery products are to be sold.

(7) A beach management unit may, with the written permission of the Director, erect such structures or buildings as may be necessary for the discharge of its functions.

(8) A beach management unit may in order to improve the economic situation of its members—

- (a) promote and facilitate investments in the fish landing station and in fishing activities undertaken from there;
- (b) support the development of sustainable alternative livelihood strategies for its members that may reduce pressure on fishery resources including, but not limited to, the provision of sustainable services to tourists.

(9) A beach management unit may—

- (a) organise, or facilitate the supply of fishing gear, ice or other necessary equipment or inputs to its members; and
- (b) provide savings and credit facilities to its members.

but it may not offer these services in competition to similar or equivalent services that are already provided at that beach.

7. Co-management areas

(1) The authorised fisheries officer shall, following a consultative process, designate at respect of each beach management unit a co-management area which shall be an area in which the beach management unit shall undertake fisheries management activities jointly with the Director.

(2) In the case of fisheries or areas in which fishing is undertaken by the members of more than one beach management unit, the authorised fisheries officer shall, following a consultative process, designate a joint co-management area in which more than one beach management unit shall share responsibilities for fisheries management with the Director.

(3) The Director shall in the circumstances specified in paragraph (2) designate areas in which each individual participating beach management unit shall have specific responsibilities particularly as regards the undertaking of patrols.

(4) Following the designation of a co-management area the authorised fisheries officer shall, in consultation with relevant beach management units, develop a draft co-management plan for that co-management area, specifying fisheries management measures that are to be taken to ensure the sustainable utilization of fisheries in that area, including, but not limited to—

- (a) the designation of closed areas in which all fishing activities or specified fishing activities are prohibited;
- (b) the designation of closed seasons either throughout the Co-management area or in respect of specified areas;
- (c) the marking of fishing vessels;
- (d) restrictions on the type of nets or other fishing gears that may be used; and
- (e) restrictions on the number of fishing vessel licences or fishing licences that may be issued.

[Subsidiary]

(5) Each co-management plan shall be agreed upon between the authorised fisheries officer and the beach management unit and shall—

- (a) give effect to applicable national and regional policies and plans, and
- (b) comply with existing fisheries legislation, and
- (c) specify the roles and responsibilities of the concerned beach management unit or units and the Director with regard to its implementation and enforcement.

(6) The authorised fisheries officer shall forward the co-management plan to the Director for approval.

(7) A beach management unit shall give effect to an agreed co-management plan through its by-laws.

(8) A beach management unit shall constitute a patrol sub-committee who shall in collaboration with the Director undertake regular patrols within the co-management area, or within the designated patrol area in the case of a joint co-management area, in order to ensure compliance with the Act and any applicable co-management plan and applicable by-laws.

(9) The authorised fisheries officer and the executive committee(s) of the concerned beach management unit or units shall supervise the implementation of the co-management plan and shall periodically review its contents and revise it as necessary.

(10) If the authorised fisheries officer suspects that a beach management unit is not taking sufficient steps to give effect to a given co-management plan, such officer shall consult with that beach management unit as to the reasons for this.

(11) If, following consultations, the authorised fisheries officer is of the opinion that the relevant beach management unit is still failing to take sufficient steps to give effect to the co-management plan such officer may serve a notice to show cause why that co-management plan should not be revoked and if—

- (a) the relevant beach management unit, fails to show cause within 14 days of the date of receiving the notice; or
- (b) the authorised fisheries officer is not persuaded by the response of the beach management unit,

he may suspend or cancel the co-management plan and after notifying the beach management unit or units concerned in writing he shall forward his decision to the Director who shall within 14 days approve or vary the decision.

(12) A beach management unit that is aggrieved by a decision to suspend or cancel a co-management plan pursuant to paragraph (11) of this regulation may within 14 days of the date of notification appeal to the Director, whose decision shall be final.

(13) The executive committee of a beach management unit whose co-management plan has been cancelled shall stand suspended and an interim Committee put in place pursuant to the provisions of regulation 21.

8. Environmental protection

(1) A beach management unit shall seek to protect the aquatic environment within its co-management area and shall cooperate with the responsible authorities to that effect.

(2) A beach management unit may include in its by-laws provisions concerning the protection of the aquatic environment in its co-management area.

[Subsidiary]

PART III – MEMBERSHIP OF A BEACH MANAGEMENT UNIT AND ELECTIONS

9. Membership

- (1) Membership of a beach management unit shall be open to those persons who—
- (a) depend directly or indirectly for their income or livelihoods on fisheries activities undertaken at the beach within the jurisdiction of that beach management unit;
 - (b) fall within one of the membership categories specified in regulation to; and
 - (c) would be directly adversely affected by the temporary or permanent closure of fisheries activities at that Beach.

(2) A beach management unit may provide in its by-laws that specified activities at the fish landing station over which it has jurisdiction may only be undertaken by its members.

(3) A person shall not be simultaneously a member of more than one beach management unit.

(4) A body corporate, acting through a representative notified in writing to the executive committee, may be a member of a beach management unit.

(5) In the case of a jointly owned fishing vessel, the co-owners shall determine who between them is to be a member of the beach management unit to represent their interests, and shall jointly notify the executive committee accordingly.

(6) Persons below the age of 18 years shall not under any circumstances be eligible to be registered as beach, management unit members and shall not be assigned any duties therefor.

10. Membership categories

- (1) A beach management unit shall have the following categories of members—
- (a) boat owners, meaning the owners of fishing vessels registered at its beach;
 - (b) Crew members meaning such persons other than boat owners whose fishing licences authorise them to fish from its beach; and
 - (c) “**fish traders and input suppliers**” meaning persons routinely involved in fish trading or the supply of inputs and services necessary for fishing at its fish landing station.
- (2) For the purpose of this regulation “persons involved in fish trading include—
- (a) persons who engage in the dealing of fish for sale locally on the basis of a fish trader’s licence;
 - (b) persons who engage in the dealing of fish for sale to a person or persons outside the district on the basis of a fish trader’s licence;
 - (c) persons who supply fishing gears, bait, ice or other inputs to boat owners in return for a first claim on landed fish and fishery products which they then sell on;
 - (d) persons who purchase fish at the beach for processing and sale at the beach or in the vicinity of the beach on the basis of a fish trader’s licence;
 - (e) agents or representatives of persons engaged in the large scale processing; of fish on the basis of a fish traders licence, whether or not employed by such processors; and
 - (f) persons involved, whether as employees or otherwise, in the grading, sorting, valuing, packing, and portaging of fish at that beach.

[Subsidiary]

(3) For the purpose of this regulation “persons involved in the supply of inputs and services necessary for fishing” include fishing vessel builders and repairers and net repairers.

(4) Where a person’s membership of a beach management unit is dependent on that person holding a licence—

- (a) a suspension of that licence shall have effect of his right in membership of the beach management unit for an equivalent period;
- (b) a revocation of that licence shall have the effect of revoking his right to membership of the beach management unit.

11. Joining Procedure

(1) A person who wishes to apply for membership of a beach management unit shall apply in writing to the concerned executive committee.

(2) The executive committee shall forward such applications to the authorised fisheries officer for approval.

(3) If the authorised fisheries officer does not object to the application within 14, an applicant who complies with the criteria set in regulation 10 shall upon payment of the specified fee be admitted to membership of the beach management unit through the inclusion of his name in the register of members and the allocation of a member.

(4) A person not holding a licence whose entitlement to membership of a beach management unit would require him to hold such a licence may apply for provisional membership of a beach management unit.

(5) An applicant shall be entitled to be granted provisional membership unless—

- (a) such person has previously been expelled from that or another beach management unit;
- (b) the relevant co-management plan specifies a maximum limit on the number of licences to be issued at that Beach which maximum limit has been reached; or
- (c) the person has a criminal record.

(6) In the event that there are more applications for provisional membership than there are available licences pursuant to the relevant co-management plan, such applications shall be dealt with on an equitable basis giving priority to the poor and disadvantaged and those with families to support in the BMU jurisdictional area of the beach management unit.

(7) The Director shall not issue a licence to a person that relates to a particular Beach unless that person is a member or a provisional member of the relevant beach management unit.

(8) Following the grant of a licence to a provisional member that member shall notify the executive committee, which shall admit him to full membership through the inclusion of his name in the register of members and the allocation of a member registration number and membership card.

12. Resignation and expulsion of a member of beach management unit

(1) A member of a beach management unit may resign his membership at any time by notifying the executive committee in writing, but such resignation shall not affect the liability of that person to pay any outstanding fees or charges to the beach management unit.

[Subsidiary]

(2) A person may be expelled from membership of a beach management unit by a decision of the assembly on the proposal of the executive committee on one or more of the following grounds—

- (a) he has been convicted in a court of law of a fisheries related offence;
- (b) he has been convicted in a court of law of any other criminal offence and sentenced to imprisonment for a period exceeding six months; or
- (c) he has persistently engaged in behaviour contrary to the objectives of the beach management unit or its by-laws and has ignored three written cautions issued by the executive committee.

(3) The dismissal of a member shall be approved by a simple majority of the beach management unit members in a meeting duly convened by the chairperson.

(4) Following the expulsion of a person from a beach management unit, the Director shall cancel any licence, registration or permit held by him that relates to the relevant beach.

(5) A person who has been expelled from a beach management unit may not be re-admitted to membership for a period of two years from the date of the expulsion.

(6) A person who is aggrieved by a decision to expel him from a beach management unit may appeal in writing to the Director within a period of 14 days of the date of the expulsion, and the decision of the Director shall be final.

13. Rights and obligations of beach management unit members

(1) A member of a beach management unit may—

- (a) participate in the decision making processes of the beach management unit;
- (b) where the member is not in arrears concerning fees or charges due to the beach management unit, stand for office and participate in elections;
- (c) benefit from any services provided by the beach management unit to its members subject to the payment of any fee or charge; and
- (d) inspect the books and records required to be maintained by the beach management unit.

(2) A member of a beach management unit shall—

- (a) comply with the by-laws;
- (b) comply with the provisions of the Fisheries Act (Cap 378);
- (c) ensure that any licences issued to him under the Act are kept up to date;
- (d) comply with the lawful instructions of an authorized fisheries Officer or an official of the beach management unit;
- (e) promptly pay any fees or charges due to the beach management unit;
- (f) not damage any property owned or used by the beach management unit;
- (g) promptly provide information to the beach management unit regarding the landing or sale of fish and fishery products as may be requested.

14. The executive committee

(1) The executive committee of a beach management unit shall have not less than 9, nor more than 15 members as provided for in its by-laws, who shall be elected by the members of the beach management unit.

[Subsidiary]

(2) The composition of an executive committee shall be specified in the by-laws of each beach management unit, which may provide—

- (a) that the membership shall be distributed as follows—
 - (i) boat owners — 30%;
 - (ii) crews — 30%;
 - (iii) traders — 10%;
 - (iv) others 30%.
- (b) that notwithstanding subparagraph (a), in as far as possible at least 3 of the executive committee should be constituted by women.

(3) It shall be the duty of each member of the executive committee to seek to represent the best interests of the beach management unit as a whole in the fulfilment of his duties rather than the interests of the membership category to which he belongs.

(4) The executive committee shall consist of a chairperson, a deputy chairperson, a secretary, a treasurer and committee members.

15. Election to the executive committee

(1) A member of a beach management unit may be nominated to stand for election to the executive committee provided—

- (a) he is a citizen of Kenya and holds a National Identity Card or valid passport or driving licence;
- (b) with the exception of candidates for the elections that take place at the establishment of the beach management unit, he has been a member of the beach management unit for more than one year;
- (c) he is of sound mind;
- (d) he does not have a criminal record;
- (e) he has not been found to have breached the by-laws or rules of the beach management unit;
- (f) he does not owe any outstanding fees or charges to the beach management unit;
- (g) his candidacy is proposed and seconded by ten other members of the beach management unit who shall be in the same membership category in FORM FD/NF/1 as set out in the Third Schedule of these Regulations;
- (h) he is able to read and write, except for the secretary and treasurer who must possess at least a primary education certificate.

(2) The presiding officer shall announce the start of campaign period of not more than seven clear days before the date of the election.

(3) A beach management unit shall specify in its by-laws whether—

- (a) candidates are to stand for direct election to the positions of chairperson, deputy chairperson, secretary and treasurer; or
- (b) whether they are to stand for election to the executive committee with elections to such positions being undertaken by and from among the members of the executive committee.

(4) Elections to the executive committee shall be by secret ballot.

(5) Upon counting and announcing the election results the presiding officer shall immediately submit the results to the Director in FORM FD/ ER as set out in the Fourth Schedule of these Regulations.

[Subsidiary]

- (6) A member of the executive committee—
- (a) shall hold office for one further term;
 - (b) may stand for re-election for a second four-year term;
 - (c) may not stand for re-election immediately at the end of a second term, but may stand again for election since leaving office after four years.

16. Formation of and election to sub-committees

(1) A beach management unit shall, through its by-laws, provide for the establishment of sub-committees depending on its particular requirements.

(2) Ordinary members of the executive committee shall be elected by the executive committee to head the sub-committees so created.

(3) The assembly through a voting method determined by the authorised fisheries officer shall elect members to serve in the sub-committees.

(4) The chairperson of the executive committee shall be an *ex officio* member of all sub-committees

PART IV – ADMINISTRATION OF THE BEACH MANAGEMENT UNIT**17. Meetings of the beach management unit members**

(1) A meeting of the Beach Management Unit members convened pursuant to the provisions of these regulations shall constitute the assembly of the beach management unit.

(2) The assembly shall be held at least once every three months, at an annual general meeting or more frequently as may be specified in the by-laws.

(3) Additional meetings of the beach management unit members may be called by the executive committee when necessary and shall be called at the written request of one tenth of the members of the beach management unit.

(4) The by-laws shall specify whether decision making at the assembly shall take place by—

- (a) show of hands;
- (b) show of hands, save for elections which shall be by secret ballot;
- (c) show of hands, or by secret ballot in particular cases upon the decision of the assembly; or
- (d) secret ballot.

(5) Each participant in the assembly shall be entitled to one vote.

(6) Unless it is otherwise provided for in these regulations, a proposal to the assembly shall be deemed to have been accepted if it is approved by more than half of those present.

(7) The quorum of an assembly shall be half the total numbers of members.

(8) An assembly where quorum is not achieved shall be adjourned for a period of not more than ten days.

(9) The assembly shall be chaired by the chairperson of the executive committee or in his absence the deputy chairperson of the executive committee.

(10) On the decision of the chairperson, persons who are not members of the beach management unit or who are beach management unit members but are not entitled to vote in its meetings may be invited to address the assembly.

[Subsidiary]

(11) The authorized fisheries officer or any person delegated by him shall be entitled to attend the assembly.

18. Convening the assembly

(1) The executive committee shall, at least 30 days before convening the assembly display a notice prominently at the beach, at the offices of the beach management unit and other public places in the vicinity as will enable beach management unit members to be aware of the planned assembly.

(2) A notice of the type referred to paragraph (1) shall indicate the date, time and place of the assembly and the draft agenda of the assembly.

19. Meetings of the executive committee

(1) The executive committee shall meet at least once a month.

(2) The quorum for meetings of the executive committee shall be at least half of the members.

(3) Decisions of the executive committee shall be made by consensus, failing which a vote may be held with each member holding one vote.

(4) Additional meetings of the executive committee may be called by the chairperson when necessary and shall be called at the request of one third of its members.

(5) An authorised fisheries officer or a person nominated in writing on his behalf shall have the right to attend meetings of the executive committee as an observer.

20. Dismissal of executive committee members by the assembly

(1) The assembly may dismiss a member of the executive committee, or any sub-committee, on the grounds that he—

- (a) is proven to be of unsound mind;
- (b) has failed without reasonable cause to attend three consecutive scheduled meetings;
- (c) has engaged in or condoned illegal fishing activities;
- (d) has failed to perform the duties required of his office as specified in these regulations or the by-laws; or
- (e) is convicted of a criminal offence.

(2) An assembly to consider the dismissal of any member of the executive committee shall be convened in response to a written request signed by one-third of the beach management unit members, citing the grounds for dismissal.

(3) A decision to dismiss a member of the executive committee shall be taken by secret ballot requiring a simple majority of votes in favour of dismissal, and shall be confirmed by the authorised fisheries office in writing.

(4) A member of the executive committee who has been dismissed pursuant to subsection (1) of this regulation may within 14 days of the relevant assembly appeal in writing by notice to the Director stating the basis for the appeal.

(5) The Director shall determine any such appeal within 14 days by of receipt of the notice of appeal and shall promptly inform the beach management unit and the authorised fisheries officer.

In the event that or more two-thirds or more of the executive committee is dismissed from office by the assembly, then the entire executive committee shall stand dissolved and the authorised fisheries officer shall appoint an interim committee and call for fresh elections within ninety days of the dismissal.

[Subsidiary]

21. Suspension of the executive Committee by the Director

(1) The Director or an authorized fisheries officer, having reason to believe that an executive committee or any of its members are engaged in or are condoning proscribed fishing practices, shall immediately in writing suspend the committee or the member and in their place appoint an interim committee or an interim committee member.

(2) When an authorized fisheries officer, other than the Director, makes such suspension, the officer shall report the case in writing detailing reasons for the suspension to the Director.

(3) Any committee or committee member aggrieved by the decision of an authorized fisheries officer may, within fourteen days of communication to them of such suspension, appeal so the Director.

(4) The Director may confirm, vary or reverse the decision, and shall accordingly issue instructions to the authorized fisheries officer.

(5) The decision of the Director under paragraph (4) shall be final.

(6) If the Director recommends dismissal then the authorized fisheries officer shall call for fresh elections to replace the committee or committee member so removed within ninety days of the Director's decision.

(7) The dismissed executive committee or individual committee thereof member shall return she authority card issued under these Regulations to the issuing officer.

22. Employees of the beach management unit

(1) A beach management unit may employ such part time or full time staff as it requires in accordance with its approved budget including, but not limited to, a manager, an accountant, a coxswain, security personnel and cleaners.

(2) An employee of a beach management unit shall not be entitled to stand for elected office in that beach management unit

PART V – RESPONSIBILITIES OF THE BEACH MANAGEMENT UNIT ORGANS AND OFFICERS

23. Responsibilities of the assembly

(1) The responsibilities of the assembly of a beach management unit shall be to—

- (a) approve any management plan for the beach;
- (b) approve any draft co-management plan;
- (c) approve the draft badges and work-plan of the beach management unit;
- (d) adopt the annual report and accounts of she beach management unit;
- (e) approve she level of any fees or charges payable by the members of the beach management unit;
- (f) adopt sew by-laws and amend existing by-laws;
- (g) elect the members of any sub-committees;
- (h) as necessary remove from office she members of the executive committee:
and
- (i) undertake such other tasks as may be specified in these regulations or the by-laws.

(2) The assembly of a beach management ant shall not seek, either directly or indirectly, to interfere in, re-order or otherwise modify economic relationships between members who are in different membership categories.

[Subsidiary]

(3) With regard to the adoption and amendment of by-laws—

- (a) any amendments to the by-laws approved at the date of establishment of the beach management unit shall enter into effect only on receipt of the Director's written approval;
- (b) a copy of any additional by-laws, or any amendments thereto, shall within 14 days of the date of adoption be transmitted to the Director for approval;
- (c) if the Director does not respond within 21 days of the date of receipt of the by-laws then the by-laws shall be deemed to have been approved;
- (d) the Director may within 21 days of the date of receipt notify the relevant beach management unit in writing that he does not approve the by-laws or amended by-laws, stating the reasons for his decision, in which case they shall be suspended.

(4) The Director may only refuse to approve by-laws or amended by-laws submitted to him on the grounds that—

- (a) they are not in compliance with the Fisheries Act (No. 5 of 1989), these regulations or any other legislation then in force;
- (b) they in his/her opinion frustrate the objectives of the beach management unit.

(5) Within 14 days of the receipt of a notice pursuant to sub-paragraph (4)(d) of this regulation a beach management unit may appeal in writing to the Minister, whose decision thereon shall be final.

24. Responsibilities of the executive committee

The duties of the executive committee shall be—

- (a) to supervise the general management of the beach management unit's activities and the implementation of its by-laws;
- (b) to approve the minutes of its previous meetings;
- (c) to supervise and review the implementation of the co-management plan;
- (d) to represent the beach management unit in relationships with unit;
- (e) to convene and prepare for the assembly, including the preparation of the agenda;
- (f) to review applications for admission to the beach management unit and resignation from it and to make recommendations to the assembly regarding the expulsion of members;
- (g) to submit the draft co-management plan and any rules to the assembly;
- (h) to submit the draft budget to the assembly;
- (i) to conclude contracts in accordance with the approved budget and plans;
- (j) to employ and as necessary dismiss staff of the beach management unit;
- (k) to maintain accounts and registers as specified in these regulations;
- (l) to exchange information with other beach management units and other relevant agencies to promote the fair and transparent pricing of fish and fish products;
- (m) to formulate funding proposals, make financial reports and present them to the assembly for approval;
- (n) to inspect and record visiting fishing vessels and give permission to land where appropriate;
- (o) to supervise the financial management of the beach management unit;

[Subsidiary]

- (p) to ensure that fishing boats within their areas of jurisdiction have certificates of seaworthiness and are equipped with life-saving equipment; and
- (q) to undertake such other tasks as may specified in these regulations or the by-laws.

25. Powers and duties of the chairperson

(1) The chairperson of a beach management unit shall—

- (a) chair the assembly and meetings of the executive committee;
- (b) act as the official spokesperson of the beach management third parties;
- (c) ensure timely submission of data, information and financial reports by the committee to the assembly and the Director;
- (d) for purposes of implementing the Act and any regulations made there under have powers to arrest any person whom he has reason to believe his committed an offence;
- (e) seize any fish, fishing gear, vessel, or other items which he has reason to believe has been used in the commission of an offence, or in respect of which an offence has been committed;
- (f) hand over to an authorized fisheries officer as soon as is reasonably practicable, any person arrested or item seized under the provisions in this regulation; and
- (g) undertake such other tasks as may be specified in these regulations or the by-laws.

(2) Without prejudice to any provision in these regulations the chairperson's powers shall be limited to his areas of jurisdiction as guided by the Director.

26. Duties of the secretary

The secretary of a beach management unit shall—

- (a) convene meetings of the executive committee consultation with the chairperson;
- (b) act as the minute clerk of the assembly and at meetings of the executive committee;
- (c) maintain the correspondence of the beach management unit;
- (d) compile monthly, quarterly and annual performance reports for submission and presentation to the executive committee.
- (e) maintain and update all records of the beach management unit members, equipment, statistics and other records;
- (f) collect and submit all data and information as may be required by the Director; and
- (g) undertake such other duties as may be assigned by the chairperson.

27. Duties of the treasurer

The beach management unit treasurer shall—

- (a) prepare and make payments authorized by the executive committee;
- (b) maintain the record of financial transactions conducted by the beach management unit;
- (c) receive cash and make deposits to the beach management unit's bank account;

[Subsidiary]

- (d) keep records of assets and liabilities of the beach management unit;
- (e) prepare monthly, quarterly and annual financial reports;
- (f) submit and present financial reports to the executive committee and the assembly for scrutiny and approval; and
- (g) undertake any other duty as may be assigned by the chairperson.

PART V – BEACH MANAGEMENT UNIT FINANCES AND FINANCIAL
MANAGEMENT

28. Beach management unit funding

A beach management unit may with the prior written approval of the Director, levy fees and charges against its members and other users of the beach in respect of services that it provides in connection with the operation and management of the beach and its participation in co-management activities pursuant to regulation 7.

(2) Fees and charges of the type referred in sub-regulation (1) may include—

- (a) membership fee payable by all members;
- (b) an annual registration fee for fishing vessels;
- (c) a joining fee for new members;
- (d) landing fees payable by fishing vessels that land fish or fishery products at the fish landing station;
- (e) charges for the use of facilities and services provided by the beach management unit;
- (f) a rental fee in respect of buildings and constructions located on the fish landing station; and
- (g) a marketing fee payable by persons involved in the trading of fish.

(3) Other sources of income of a beach management unit may include grants or donations from the Government, private persons, non-Governmental organisations or other donor bodies.

29. Management of beach management unit finances and assets

(1) In connection with the management of its finances and assets, a beach management unit shall—

- (a) open one or more bank accounts, the signatories to which shall be the chairperson and the treasurer and such other persons as may be so designated in writing from time to time by the executive committee;
- (b) establish a reserve fund to cover the costs of unforeseen events; and
- (c) under the guidance of the Director, establish an appropriate financial management system to support its financial operations.

(2) A beach management unit shall maintain the following books and records—

- (a) a register of members, which should be reviewed, and, as necessary, updated every three months that should contain the name, address and membership category of each member;
- (b) a register of vessels and gear owned by members of the beach management unit;
- (c) a record of dues, fees and charges owed and paid;
- (d) a record containing the minutes of the assembly;
- (e) a record containing the minutes of the meetings of the executive committee;

[Subsidiary]

- (f) a record of transactions and contracts;
- (g) an inventory of assets owned or used by the beach management unit; and
- (h) financial accounts in accordance with regulation 30.

30. Financial Accounts

(1) A beach management unit shall maintain full accounts of receipts and expenditures and shall prepare an annual balance sheet and income and expenditure statement in a format specified by the Director.

(2) The assembly on the proposal of the executive committee shall adopt the annual balance sheet and income and expenditure statement annually.

(3) The executive committee of each beach management unit shall within 120 days of the end of its financial year file an annual return with the Director, in the specified format, together with a copy of its annual balance sheet and income and expenditure statement together with the stipulated filing fee.

PART VI – ESTABLISHMENT REGISTRATION, SUPPORT AND SUPERVISION,
AND DISSOLUTION OF BEACH MANAGEMENT UNITS

31. Procedure for Establishment and gazettment of a Beach management unit

(1) A group of persons intending to be registered and qualify as a beach management unit shall submit an application for the establishment of a beach management unit to the Director in FORM FD/A5 as set in the First Schedule to these regulations and provided, amongst other category of members, it is signed by at least 30 boat owners.

(2) Following the survey and delineation of the beach pursuant to regulation 5(2) of these regulations, the authorised fisheries officer shall cause to be placed in prominent places on and around the beach notices calling upon potential members of the beach management unit to register their interest in becoming members within a period of 30 days.

(3) Following the expiry of that 30-day period the authorised fisheries officer shall cause to be displayed at the beach a list of persons who consider themselves potential members and shall invite comments on the list.

(4) Based on the comments received the authorised fisheries officer shall finalise the list of potential members.

(5) The authorised fisheries officer shall call a meeting of the potential members from all proposed membership category to elect between five to ten interim representatives.

(6) The authorised fisheries officer shall work with the interim representatives to determine and draft the by-laws of the beach management unit.

(7) Following the preparation of an agreed draft of the by-laws, the authorised fisheries officer shall cause a meeting to be held at which the potential members of the proposed beach management unit shall discuss and approve the draft by-laws.

(8) Following the conclusion of the meeting, the Authorised fisheries officer shall forthwith submit the following documents to the Director—

- (a) the minutes of the potential members' meeting;
- (b) the approved draft by-laws;
- (c) an application for establishment of Beach Management Unit in FORM FDIAS as set out in the First Schedule to these regulations.

[Subsidiary]

(9) The Director shall assess the documents submitted to him under paragraph (8) and may—

- (a) approve the application if he is satisfied that the application and supporting documents are in order;
- (b) return the application and supporting documents to the Authorised fisheries officer with his reasons in writing, if he is not satisfied.

(10) Any party aggrieved by a decision of the Director pursuant to paragraph (9) may appeal to the Minister in accordance with the provisions of Regulation 34 of the Fisheries (General) Regulations.

(11) On granting approval loan application the Director shall by notice in the Kenya Gazette establish the beach management unit and issue a certificate of registration (FORM FD/CR3) as set out in the Second Schedule to these regulations.

32. Registration

(1) The Director shall establish and maintain a register of beach management units which shall contain the following details of each beach management unit—

- (a) the name;
- (b) the principal office;
- (c) the number of members;
- (d) the names, addresses and telephone numbers (if any) of the chairperson and the members of the executive committee; and
- (e) the date of filing of the most recent annual return, together with a copy of that return.

(2) The Register of beach management units shall be open to public examination during normal office hours.

33. Support and supervision of beach management units

(1) The Director shall be responsible for supporting the establishment and operation of beach management units and for supervising their technical, legal and financial performance.

(2) An authorized fisheries officer shall in respect of a beach management unit—

- (a) act as the presiding officer in its elections;
- (b) routinely attend the meetings of the executive committee;
- (c) facilitate the provision of technical and other assistance;
- (d) provide general guidance and support; and
- (e) undertake such other tasks as are specified in these regulations.

(3) An authorized fisheries officer may cause the annual accounts of a beach management unit to be subject to an annual audit by such suitably qualified and responsible person as he may with the approval of the Director appoint.

(4) An authorized fisheries officer may routinely request from a beach management unit—

- (a) copies of the accounts together with copies of books and records required to be maintained in accordance with these Regulations;
- (b) information concerning the discharge by them of their tasks;
- (c) information and documentation concerning the implementation of co-management plans; and

[Subsidiary]

- (d) such other information as he may reasonably require to be able to satisfy himself and that the beach management unit is functioning lawfully.

(5) An authorized fisheries officer may make enquiries into the conduct of the affairs of a beach management unit during the course of which he may inspect its books and records and interview its members—

- (a) on the credible evidence of three or more members of that beach management unit who allege misconduct; or
- (b) if, having reviewed a copy of the annual return and accounts of that beach management unit, there is in the opinion of the Director, *prima fade* evidence of financial malpractice or other irregularities.

(6) If, following the conduct of an audit or such farther enquiries an authorised fisheries officer finds *prima fade* evidence of financial malpractice, misconduct or that the beach management unit has not been operating in accordance with the provisions of these regulations he may require the executive committee to convene the assembly where he may present his findings to the members of the beach management unit.

(7) If the executive committee fails to convene the assembly within 30 days, the authorised fisheries officer may suspend its committee and call such a meeting himself and shall forthwith notify the Director of the suspension.

(8) If the executive committee is suspended or removed in accordance with the foregoing paragraph, the authorised fisheries officer may appoint a temporary manager to run the beach management unit until fresh elections are held.

(9) A member of the executive committee who is aggrieved by a decision of an authorised fisheries officer to remove the executive committee may within fourteen days appeal in writing to the Director, whose decision shall be final

(10) If the Director approves the decision of the authorised fisheries officer, he shall call for fresh elections to replace the committee or committee member(s) so removed within ninety days of the Director's decision.

34. Dissolution of beach management units

(1) The Minister may by notice published in the Kenya *Gazette* dissolve a beach management unit on one or more of the following grounds—

- (a) the tasks of the beach management unit no longer exist;
- (b) the beach management unit is not able to practically fulfil its tasks;
- (c) the beach management unit is insolvent;
- (d) the members of the beach management unit have repeatedly engaged in criminal activity; or
- (e) the continued existence of the beach management unit is no longer required for any other reason.

(2) Following the publication of a decision to dissolve a beach management unit the Minister shall appoint a liquidator to wind up its affairs.

PART VII – GENERAL PROVISIONS**35. Obstruction**

No person shall—

- (a) wilfully obstruct an officer of a beach management unit from carrying out official duties within his area of jurisdiction and in accordance with the provisions of these regulations; or

[Subsidiary]

- (b) refuse or fail to answer any questions or furnish any information or produce any document relevant to the provisions of these regulations when requested to do so by any member of the executive committee or an authorized fisheries officer.

36. Malicious damage to beach management unit documents

No person shall falsify or unlawfully alter, destroy, erase or obliterate any declaration, certificate, identification label or any other document made or issued under these regulations.

37. Penalty

Any person who contravenes the provisions of these regulations shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding two years or both.

FIRST SCHEDULE

THE FISHERIES ACT

[Cap. 378.]

THE FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS

Form FD/A5

(r. 31(1))

APPLICATION FOR THE REGISTRATION OF BEACH MANAGEMENT UNIT

PART I

- 1. We the undersigned hereby apply for the registration of (Name) Beach Management Unit and hereby attach the by-laws for the proposed Beach 4 Management Unit.
- 2. List of applicants (at least 30 of the applicants must be boat owners).

	<i>Name of Applicant</i>	<i>ID Number</i>	<i>Membership Category</i>	<i>Address and Residence</i>	<i>Signature</i>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					

- 3. Mailing address of the proposed Beach Management Unit
.....
Telephone No
- 4 (a) Other than fisheries and beach management activities, is the organization going to be involved in other activities? Yes/No.

Fisheries

[Subsidiary]

FIRST SCHEDULE , FORM DF/A5—continued

(b) If the answer to (a) above is yes, please list the activities:

- 5. Does the applying organization own any movable or immovable assets? Yes/No.
If the answer is Yes please specify the assets here below and insert details of certificates of ownership stating the nature of the person who is keeping the documents (i.e. the custodian):

Name or description of the asset	Official ownership Number	Custodian

- 6. We, whose signatures are appended against our names in paragraph 2 above, declare that the information and particulars supplied by us herein are true, accurate and correct in every respect. We clearly understand that discovery of any false information provided by us will render this application invalid. This declaration is herewith witnessed by;

Signature of Representative Date

Name and Address of the Representative

.....

ID/NO

- 7. This is to certify that the above named persons are known to me and are residents of (Location) and the information given by them is true to the best of my knowledge and I hereby witness their declaration;

Signature of Chief

Name of Chief

Dated this Day of (Month) (Year)

Stamp

- 8. This is to certify that I have studied this application and I am satisfied/not satisfied with this application and therefore recommend/do not recommend the application.

Signature of Authorised fisheries officer

Name of the Officer

Official Stamp

Date

PART II
OFFICIAL USE ONLY

I have studied the application for the registration of Beach Management Unit and I am satisfied/not satisfied with this application and therefore approve/do not approve the application.

Signature Date

Name

.....

SECOND SCHEDULE

FISHERIES ACT
[Cap. 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/CR3

(r. 31(11))

CERTIFICATE OF REGISTRATION FOR THE BEACH MANAGEMENT UNIT (BMU)

- 1. (a) Name of the Beach Management Unit
- (b) Names(s) of landing site(s) covered the BMU
-
-
- (c) Postal Address of the BMU
-

- 2. Physical Location of the offices of Beach Management Unit:
 District Division/Town
- Location Sub-Location Village

This is to certify that Beach Management Unit is duly registered as a beach management unit under the provisions of these regulations and for the purpose of management and development of fishery resources within its area(s) of jurisdiction in accordance with the provisions of these regulations and contingent to the conditions specified hereunder:

.....
.....
.....
.....
.....

Date of Registration:

Signature

Name

Official Stamp

Director of Fisheries

THIRD SCHEDULE

THE FISHERIES ACT
[Cap. 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/NF/1

(r. 15(1)(g))

NOMINATION FOR ELECTIONS FORM

We the undersigned, being registered members, nominate the under mentioned person as a candidate for the position of

Fisheries

[Subsidiary]

THIRD SCHEDULE—*continued*

<i>Candidates Name</i>	<i>ID/ No.</i>	<i>Place of Residence</i>	<i>Occupation</i>	<i>Membership Number</i>	<i>Membership Category</i>	<i>Age</i>	<i>Sex</i>	<i>Marital Status</i>	<i>signature</i>

We, the undersigned, being registered members, support the foregoing nomination.

	<i>Name</i>	<i>BMU/Registration No.</i>	<i>Membership Category</i>	<i>Licence No</i>	<i>Sign</i>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Comments of the Presiding officer

.....

Name of Presiding officer

Signature

Fisheries

[Subsidiary]

FOURTH SCHEDULE

FISHERIES ACT

[Cap 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/ER 1

(r. 15(5))

BMU EXECUTIVE COMMITTEE ELECTION RETURNS FORM

To: The Director of Fisheries

(USE OF CAPITAL LETTERS)

Name of Beach Management Unit

Postal address of the BMU

Name of Water body District

Division Location Village

Name of Main Landing site

Name of subsidiary landing sites (for each landing site provide name and its village in brackets)

Date of BMU Executive Committee Election

Total No. of fishing vessels (includes main & subsidiary landing sites)

..... Total No. of engines

Total No. of BMU members Total No. of men Total No. of women

Total No. of fish processors Total No. of "Other"

DETAILS OF EXECUTIVE COMMITTEE MEMBERS

Name (CAPITALS)	Sex (M/F)	Official position	Category (boat owner, crew, fish trader, others)	ID Number	Signature
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

Fisheries

[Subsidiary]

FOURTH SCHEDULE , FORM DF/ER1—continued

This is to certify that the election for the Executive committee of Beach Management Unit has been conducted in accordance with the provisions of these regulations and the results are as indicated above.

Name of Presiding Officer

Signature Date

For official use only (Director of Fisheries or Authorised fisheries officer with Administrative jurisdiction over the BMU)

(Approved/Not approved) Date

Name Signature

Stamp

PRAWN FISHERY MANAGEMENT PLAN, 2010

[L.N. 20/2011.]

SCHEDULE

1. Citation

This Management Plan shall be cited as 'The Prawn Fishery Management Plan 2010' hereinafter referred to as "The Management Plan".

2. Interpretation

In this Management Plan, unless the contrary intention applies—

"artisanal fishery" refers to the small-scale fishing operations employing boats or hand-held implements;

"bycatch" means any species taken and any mortalities incidental to the target species in respect of which the license has been granted;

"bycatch reduction devices (BRDs)" means a device or an equipment used to exclude non-target species from being caught in the fishing gear;

"closed area" means specified area is closed to prawn fishing for a particular period of time as provided for by the Act;

"closed season" means a specified period of time closed to prawn fishing as provided for by the Act;

"co-management" means a partnership arrangement in which government and the legitimate interested parties in a fishery share the responsibility and authority for the management of a fishery;

"director" means a person appointed to the office in the public service of Director of Fisheries;

"discards" That part of the catch which is returned to the sea as whole fish;

"fisher" means an individual who takes part in fishing conducted from a fishing vessel, platform (whether fixed or floating) or from the shore;

"the fishery" means the Malindi-Ungwana Bays Prawn Fishery;

"marketing data" means information on weight and value of prawn and prawn products sold, purchased, traded, exported or used for any other commercial purpose;

"Maximum Sustainable Yield" means highest catch of fish that can be attained from a fishery without adversely affecting the health and productivity of the stock;

"Minister" means Minister for the time being responsible for fisheries in Kenya;

"quota" means a share of the total allowable catch allocated to an operating unit such as a community, a vessel, a company or an individual;

"semi-industrial prawn fishery" means harvesting of prawns by trawling or other mechanized harvesting methods;

"Stock" means a natural population of fish which is isolated and self perpetuating

[Subsidiary]

“three nautical miles boundary” means the seaward boundary of the three nautical mile zone and extends from every shoreline measured perpendicularly seawards;

“total allowable catch” means the total catch allowed to be taken from a resource in a specified fishing period as defined in the management plan;

“trawling” means dragging of a trawl net at or near the bottom of the sea for the purpose of harvesting prawns;

“turtle excluder device (TED)” means device fitted in trawl nets and used to reduce incidental capture of sea turtles and marine mammals;

“Vessel Monitoring System” means a computer based system used for satellite tracking of positions and movement of fishing vessels;

APPLICATION OF THE MANAGEMENT PLAN

3. Geographical area

(1) The geographical area covered in the Management Plan is the sea area known as Malindi and Ungwana Bay and adjoining waters, which is defined within the following coordinates: Southward boundary; 3nm easting (latitude)- 630336 and northing (Log)- 9646696, 5nm easting (latitude)- 634402 and northing (Log)- 9645190 and Northward boundary 3nm easting (latitude)- 670126 and northing (Log)- 9714515 5nm easting (latitude)- 672850 and northing (Log)- 9709173 as shown in figure 1 below.

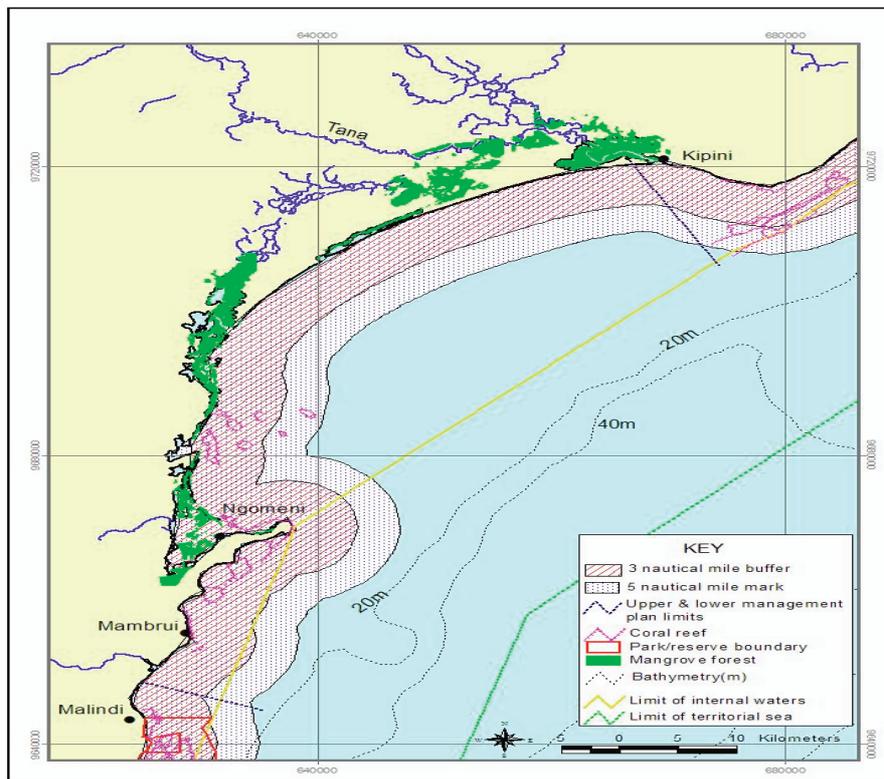


Figure 1: Malindi and Ungwana Bays showing the prawn fishery areas Species.

[Subsidiary]

(2) The Management Plan shall cover all shallow water species of the family Penaeidae including the principal species: the Indian banana prawn (*Penaeus indicus*); the (giant) black tiger prawn (*Penaeus monodon*); the brown tiger prawn (*Penaeus semisulcatus*); Speckled shrimp (*Metapanaeus monoceros*); Kruma prawn *Peneaus japonicus*; and the deep water prawns including: *Heteropcarpus woodmansonii*, *Melicertus marginatus*, *Squilla mantis* and *Panaeopsis balsii* Fishing methods.

(3) The Management Plan covers the method of single vessel otter trawl, stern trawl and paired beam-trawl fishing methods and other approved methods, including prawn seine nets and cast nets by artisanal fishers.

4. Objective of the management plan

(1) The broad objective of the Management Plan is to ensure the continuation of a biologically sustainable and economically viable prawn fishery in order to benefit Kenyans by the creation of employment, wealth, national revenues and foreign exchange earnings, fish products and the protection of the prawn fishery and habitat over the long term.

(2) The specific objectives of the Management Plan are to—

- (a) regulate the prawn harvesting through control of fishing effort so that the fishery is sustainable in the long term;
- (b) minimize the overall amount of bycatch in the prawn fishery;
- (c) minimize resource use conflicts in the prawn fishery;
- (d) minimize ecosystem degradation;
- (e) promote the use of better prawn harvesting technology for prawn fishers;
- (f) establish and define mechanisms for management standards, enforcement and compliance;
- (g) establish a monitoring and evaluation mechanism for the prawn fishery; and
- (h) promote co-management of the fishery.

5. Management approach

(1) Consistent with regional and international management principles and instruments, precautionary approaches shall apply for the Management Plan in accordance with the following provisions—

- (a) In the absence of species specific data and considering that prawn fishery is multi-species, the management plan shall take into account the uncertainties with respect to the size and productivity of the stock, to other management reference points such as maximum sustainable yield, the level and distribution of fishing mortality, and the impact of fishing activities on associated and dependent species, and including climatic, oceanic, environmental and socioeconomic conditions.
- (b) In managing the Prawn fishery, the Director may consider the associated ecosystems on reefs within the Management Area, and may develop data collection and research projects to assess the impact of fishing on non-target species and their environment, adopt plans as necessary to ensure the conservation of non-target species and consider the protection of habitats of special concern.
- (c) The absence of adequate scientific information may not be used as a reason for postponing or failing to make measures to protect the target and non-target species in the Management Plan.

(2) Other management approaches such as ecosystem approach in the Management Plan may be considered as more information and data become available.

[Subsidiary]

(3) The management Plan shall take into account stakeholders' participation and co-management approaches, with a structured form of consultations between the government implementing institutions, resource users and other stakeholders.

6. Management Measures

(1) The Director may employ the following management measures under this Management Plan—

- (a) Zoning of the prawn fishing grounds, where trawling shall not be permitted within the three nautical miles zone;
- (b) Limiting the number of vessels, with a maximum of 300(GRHP) beyond three nautical miles to a maximum of 4 vessels;
- (c) Limiting the number of vessels of more than 300GRHP beyond five nautical miles limit to a maximum of four vessels;
- (d) Specifying the annual total allowable catch for shallow water prawns based on evaluation of stock assessment and monitoring data;
- (e) Making annual provisions, guidelines, conditions and mechanisms for the auctioning of individual transferable quotas;
- (f) enforcing the closed season from the 1st November to the 1st April every year;
- (g) ensuring the reduction of by catch in the prawn trawling fishery through—
 - (i) requiring the mandatory use of Turtle Excluder Devices;
 - (ii) regulating on mesh sizes;
 - (iii) imposing area closures;
 - (iv) restricting trawling time;
 - (v) requiring an applicant an applicant for a prawn trawler licence to provide a detailed proposal for full use of by-catch in the business plans submitted with the application.
- (h) requiring any new applicant who intends to trawl for prawns to carry out an Environmental Impact Assessment as a pre-condition for licensing, and any licensed semi-industrial prawn trawler to submit an Environmental Audit report annually as a requirement for license renewal as provided for under the Environmental Management and Coordination Act.
- (i) Demarcating passage to anchorage areas for semi-industrial prawn trawlers with permanent buoys to reduce incidences of damage to artisanal gears in line and in accordance with the Merchant Shipping Act (No. 4 of 2009) and the Maritime Zones Act (Cap. 371).

(2) For the purposes of this Management Plan the reference points for measuring distances from the shoreline shall, be as specified under the Maritime Zones Act (Cap. 371).

7. Monitoring and evaluation

(1) In accordance with Regulation 53(1) of the Fisheries (General) Regulations, operators of licensed prawn trawlers shall submit data on catch, effort and bycatch for every fishing expedition, as well as marketing data.

(2) The Director shall initiate an observer or research programme and may set up appropriate mechanisms to monitor the fishery.

(3) The Director shall put in place a mechanism for storing, processing and analyzing data for the purpose of assessing performance of the fishery and informed decision-making.

[Subsidiary]

- (4) The monitoring reference limits for shallow water prawns are—
- (a) The Director shall specify the annually based on the best scientific information available.
 - (b) The Director may suspend a prawn trawling license for non-compliance with regulations on turtle exclude devices or any other legal requirements on the use of different types of by-catch reduction devices.
 - (c) The Director may suspend a prawn trawling license for non compliance of the regulation on vessel monitoring and surveillance including tempering and switching off of the equipment
 - (d) The Director may suspend any licensee for infringement of the regulation on engine capacity and any licensee so suspended shall not be eligible to be issued with another licence for a period of 12 months from the date of suspension.
 - (e) The Director may suspend any licensee for a period not less than 12 months, for non compliance in the designated fishing areas.
 - (f) The Director may cancel the licence of any licensee who, after suspension, repeatedly fails to comply with any requirements under this paragraph.
 - (g) The Director shall implement the use of standard log sheets as part of monitoring and control requirements.

8. Special considerations

(1) The Director, in collaboration with key stakeholders, shall identify and promote opportunities to develop a sustainable prawn fishery operated by artisanal fishers using small vessels and low impact fishing gears, and shall encourage communities and individuals to invest in artisanal prawn fishery through public-private partnerships.

(2) The Director, in collaboration with stakeholders, shall promote the formation of fisher associations whereby communities and fishers shall be encouraged to form fisher marketing associations in line with national development strategies and develop marketing strategies for artisanal prawn fishers.

(3) The Director shall involve the participation of civil society organizations, development agencies and other partners on fisheries development and investment to form joint ventures targeting microfinance, marketing infrastructure and opportunities.

9. Equitable distribution of resources benefits

This Management Plan—

- (a) recognizes the need for empowerment of the local people to utilize the prawn fishery through use of artisanal technology;
- (b) encourages employment of locals in the semi-industrial prawn fishery;
- (c) recommends the establishment of a Community Trust Fund, benefits from which shall be distributed through the beach management units;
- (d) recommends an auction system for catch allocation to increase revenue to the Government.

10. Institutional and financing arrangements

(1) The Director shall constitute an *ad hoc* implementation Committee within 14 days of the approval of the management plan to oversee the implementation of the Management Plan, and

(2) The Committee shall be comprised of, key prawn fishery stakeholders including—

- (a) the Ministry of Fisheries;

[Subsidiary]

- (b) Research (one representative);
- (c) The provincial administration;
- (d) The National Environmental Management Authority;
- (e) beach management units
- (f) trawler representatives; and
- (g) civil society organizations.

(3) The Director shall advise the Minister on any policy or legal issue concerning the implementation of the Management Plan based on recommendations of the implementation Committee;

(4) Subject to necessary legal amendments to the Act, the Minister shall, through a trust deed, establish a Community Trust Fund and cause the same to be implemented for the purpose of developing the artisanal prawn fishery.

(5) The Minister shall make available adequate financial resources for the implementation of this Management Plan through annual budgetary provision.

11. Linkages

(1) The Director shall ensure that the implementation of the Management Plan is in compliance with relevant provisions under Environmental Management and Coordination Act 1999, (No. 8 of 1999), the Forests Act 2005 (Cap. 371), the Kenya Maritime Zones Act (Cap. 376), Wildlife (Management and Conservation) Act, (No. 4 of 2009) the Merchant shipping of 2009 and any other relevant laws.

(2) The Director shall ensure that the implementation of the Management Plan is consistent with the National Oceans and Fisheries Policy 2009, Vision 2030 and any other relevant policy.

12. Reviews and amendments

(1) The Director may, with the approval of the Minister, and in consultation with the Committee and stakeholders, review the Management Plan from time to time but in any event, at least once in every two years.

(2) Any amendment to this Management Plan shall be approved by the Minister and published in the Kenya *Gazette*.

13. Implementation plan

(1) The Director shall prepare an implementation strategy for this Plan, which shall contain details on activities, responsibilities, time lines, objectively measurable and verifiable indicators, expected outcomes and the cost implications among other details.

BREEDING AREAS, 2012

[L.N. 86/2012.]

In exercise of the powers conferred by section 5 of the Fisheries Act, the Director of Fisheries, with the approval of the Minister of Fisheries Development declares the geographical areas specified in the first column, within the coordinates specified in the second column, of Part I of the Schedule in the areas of Lake Naivasha described in Figure 1 in Part II of the Schedule as breeding areas and impose the following management measures—

- (a) Fishing is prohibited in the breeding areas specified in the Schedule.
- (b) The breeding areas specified in the Schedule shall be identified by marker buoys.
- (c) In addition to the breeding areas specified in the Schedule, fishing is prohibited in—
 - (i) Any area measuring 100 meters inshore; and
 - (ii) Any point in the lake which is 1 meter or less in depth.

SCHEDULE

PART 1

Name of breeding Area	Coordinates	
	Latitude 0°	Longitude 0°
Malewa River Mouth	-0.72509 S	036.34913 E
	-0.72528 S	036.34976 E
	-0.72308 S	036.34019 E
	-0.72234 S	036.34008 E
	-0.72040 S	036.34511 E
	-0.71454 S	036.34337 E
	-0.72606 S	036.35281 E
	-0.72753 S	036.35992 E
Korongo area	-0.74642 S	036.29071 E
	-0.73276 S	036.29789 E
	-0.75773 S	036.28619 E
Oserian Bay	-0.79190 S	036.31582 E
	-0.79873 S	036.31762 E
	-0.81100 S	036.3165 E
Crescent Island	-0.76230 S	036.41232 E
	-0.76077 S	036.41499 E
	-0.76174 S	036.41958 E

[Subsidiary]

SCHEDULE—continued

PART II

