

# SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

(No: 3 of 1993)

## The Fisheries (Conservation and Management) Ordinance 1993

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*Coming into force:* 1993

### An Ordinance

to make fresh provision for the regulation, conservation and management of the fishing waters of South Georgia and the South Sandwich Islands and matters incidental thereto.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows :

#### PART I INTRODUCTORY

##### *Short title, commencement and interpretation*

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 1993 and shall come into force on such day as the Commissioner may by notice in the Gazette appoint and the Commissioner may appoint different days for the coming into force of different provisions. *Short title and commencement.*

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

"Convention" means the Convention on the Conservation of Antarctic Marine Living Resources made in Canberra on 20th May 1980, as amended from time to time, and includes any Protocol to that Convention and any Agreement or Measure adopted pursuant to that Convention between State Parties to that Convention which is for the time being in force;

"Director of Fisheries" means the Director of Fisheries provided for by section 4(1);

"Fisheries Protection Officer" means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);

"fish" means any sea fish and any marine animal other than a bird;

"fishing boat" means any vessel of whatever size, and in whatever way propelled, which is for the time being employed in fishing operations;

"fishing licence" means a licence provided for under section 5;

"fishing operations" means -

- (a) the taking of fish;
- (b) the processing, storage, carriage or trans-shipment of fish aboard any vessel; and
- (c) any other operations at sea ancillary to any of the foregoing;

"fishing waters" means the fishing waters of the South Georgia and the South Sandwich Islands provided for in section 3;

"internal waters" means those seawaters on the landward side of the baseline from which the territorial sea is measured;

"Maritime Zone" means the zone of that name established by and defined in the Proclamation by the Commissioner as amended by any subsequent proclamation defining the zone;

"this Ordinance" includes any regulations made under section 23 of this Ordinance which are for the time being in force;

"processing" (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

"master" includes, in relation to a fishing boat, the person appearing to be the person who is for the time being in command or in charge of the boat or the person in charge of fishing operations on board the fishing boat;

"sea fish" includes

- (a) any fish found in the fishing waters or in any specified area, and include salmon and migratory trout and any shellfish; and
- (b) any part of any sea fish as defined in (a)

"shellfish" includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish;

"specified area" means any area of the fishing waters for the time being the subject of an Order under section 5(1);

"take", and its correlatives, in relation to fish, include the catching or capturing of fish;

"trans-shipment licence" means a licence so described provided for in section 6;

"trans-shipment of fish" includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed.

*Administration*

3. The fishing waters of South Georgia and the South Sandwich Islands comprise-

*Fishing waters.*

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the Maritime Zone.

4.(1) This Ordinance shall be administered by the Director of Fisheries appointed by the Commissioner and such Director shall be responsible for-

*Director of Fisheries and  
Fisheries Protection Officers.*

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing operations;
- (e) the regulation of the conduct of fishing operations and operations ancillary thereto;
- (f) the issue, variation, suspension and revocation of licences for fishing, trans-shipment, export and ancillary operations;
- (g) the collection of fees in respect of licences;
- (h) the making of such reports to the Commissioner as the latter, acting in his discretion, may require;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of such of his duties as relate to the prosecution or non-prosecution of offences arising under this Ordinance he shall act in accordance with such directions as the Attorney General may give to him.

(3) This Ordinance and regulations made hereunder shall be enforced by Fisheries Protection Officers acting (except as provided in subsection (2)) subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 10.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every Police Officer, Customs Officer, Marine Officer or Harbour Master of any harbour in South Georgia and the South Sandwich Islands, commissioned officers of any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

(5) In the performance of their several duties under this Ordinance the Director of Fisheries and every Fisheries Protection Officer shall have regard to the provisions of the Convention but the question as to whether the Director of Fisheries or any Fisheries Protection Officer has done so in any particular instance shall not be inquired into in any court.

*Restriction of fishing and trans-shipping*

5.(1) The Commissioner may by Order provide that in any area of the fishing waters lying to the north of sixty degrees south of latitude specified in the Order (a "specified area") fishing is prohibited unless it is authorised by a licence granted by the Director of Fisheries or is permitted under subsection (14).

*Licensing of fishing boats.*

(2) Such an Order may apply to fishing generally in the specified area or to fishing-

- (a) for a specified description of fish;
- (b) by a specified method; or
- (c) during a specified season of the year or other period.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an Order under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(4) An Order under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence-

- (a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;
- (b) any such fee may be expressed so as to be variable in relation to all or any of the following matters-
  - (i) the size of the fishing boat;
  - (ii) the equipment in relation to fishing affixed to or employed upon the fishing boat;

(iii) the facilities aboard the fishing boat for the storage, freezing or processing of fish;

(iv) the area within which fishing is authorised;

(v) the periods, times or particular voyage during which fishing is authorised;

(vi) the description and quantities of fish which may be taken; and

(vii) the method or methods of fishing authorised to be used.

(6) A Order under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence under this section may authorise fishing either unconditionally or subject to such conditions-

(a) as the Director of Fisheries may have been directed by the Commissioner to impose;

(b) as may in the opinion of the Director of Fisheries be necessary or expedient to regulate the conduct of fishing operations by the licensee under the authority of licence;

(c) as to the use to which the fish taken may be put;

(d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or mammal to be found or likely to be found in the area to which the licence relates;

(e) as to the disposal of any waste, effluvia or deleterious matter by the fishing boat to which the licence relates; and

(f) otherwise as in the opinion of the Director of Fisheries may be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention,

as are contained in or specified in the licence, and the conditions subject to a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(8) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions can be imposed.

(9) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(10) The Director of Fisheries-

(a) may from time to time vary a licence granted under this section;

(b) may revoke or suspend such a licence if he considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee, and whether that conduct was within a specified area or elsewhere.

(11) Where the Director of Fisheries varies, revokes or suspends a licence, he may, if he considers it appropriate in all the circumstances of the case, refund the whole or any part of any fee paid in respect of that licence.

(12) If a licence condition is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence each commit an offence under this subsection and are each liable on conviction of that offence to a fine not exceeding £100,000.

(13) Any person who-

(a) for the purpose of obtaining a licence under this section; or

(b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries any person on his behalf of statistical information,

furnishes information which he knows to be false or recklessly furnishes information which is false in a material particular, commits an offence under this section and is liable on conviction of that offence to a fine not exceeding £100,000 and where a person other than the owner or charterer (if any) of the fishing boat in question furnished that information in question that owner and that charterer as well as the person who actually furnished the information shall be deemed to have furnished it and also to have committed the offence and shall be liable to be dealt with in relation to it unless he or they shall prove that the person who actually furnished the information was not authorised to act on his or their behalf.

(14) Nothing in the foregoing provisions of this section or of any Order under it shall apply to fishing which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat provided for by the Convention.

6.(1) In the subsequent provisions of this section, "fish" includes fish products.

*Receiving and trans-shipping  
of fish.*

(2) The Commissioner may by Order provide that in any specified area (that is to say an area to which an Order under section 5(1) relates) or any part of any specified area described in the Order under this section the receiving by any vessel of fish trans-shipped from any other vessel is prohibited unless authorised by a licence granted by the Director of Fisheries.

(3) With effect from the commencement of this section, and until they are revoked by an Order made under this section, the Fisheries (Trans-shipment and Export) Regulations 1990, in so far as they make provision which could be made by an Order under this section, shall continue to have effect as if they had been made as an Order under this section and except as hereinbefore provided, in so far as they make provision which could be made as regulations under section 23 of this Ordinance, they shall continue to have effect as if they had been made as regulations made under that section.

(4) An Order made under this section may apply to the receiving of fish generally or to the receiving of-

- (a) a specified description of fish; or
- (b) fish taken by a specified method;
- (c) fish taken in an area described in the Order (and whether within the fishing waters, the area to which the Convention relates or otherwise); or
- (d) fish taken or trans-shipped during a specified season of the year or other period,

but it shall not prohibit the receiving of fish in circumstances to which subsection (12) applies and may provide for exemptions from the prohibitions contained in it.

(5) An Order made under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(6) Where an Order made under this section authorises the charging of a fee for a licence-

(a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;

(b) any such fee may be expressed so as to be variable in relation to all or any of the factors-

(i) the size of the vessel;

(ii) the facilities aboard the vessel for the storage, freezing, processing or other treatment of fish;

(iii) the area in which (and whether within the fishing waters, the area to which the Convention relates or otherwise) the fish were taken or the place within a specified area (that is to say an area to which an order under section 5(1) relates) in which the fish is trans-shipped;

(iv) the periods, times or particular voyages during which the fish was caught or is trans-shipped;

(v) the descriptions and quantities of fish that may be received; or

(vi) the description of the fishing boat or method by which the trans-shipped fish was caught.

(7) An Order made under this section may be amended, modified, revoked or replaced by a further Order under this section.

(8) A licence granted under this section may authorise the receiving of fish either unconditionally or subject to such conditions-

- (a) as the Director of Fisheries may have been directed by the Commissioner to impose;
- (b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the receiving of fish by, or the processing or treatment of fish aboard, the receiving vessel;
- (c) as to the use to which fish received may be put;
- (d) prohibiting or restricting the use of any equipment or apparatus which might kill or harm any aquatic bird or mammal to be found or likely to be found in or in the vicinity of any place where receiving of fish is authorised;
- (e) as to the disposal of any waste, effluvia or deleterious matter by the vessel to which the licence relates; and
- (f) otherwise as may in the opinion of the Director of Fisheries be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention.

(9) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions may be imposed.

(10) Subsection (10), (11), (12) and (13) of section 5 apply in relation to a licence granted under this section as they do in relation to a licence granted under section 5, substituting in those subsections wherever appropriate a reference to this section for any reference to that section.

(11) Where any vessel is used in contravention of any provision imposed by an Order under this section or of any condition of any licence granted under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(12) Section 5(14) applies in respect of trans-shipping of fish (with which this section deals) as it does in relation to fishing (with which section 5 deals), and with the substitution for the purposes of this section of the words "trans-shipping of fish" for the word "fishing" in section 5(14).

7.(1) In relation to such parts of the fishing waters as are not for the time being the subject of an Order under section 5(1) (that is to say, are not for the time being part of a specified area, with the effect that no licence under this Ordinance is required in relation to the undertaking of any fishing operation in them), the Commissioner may take or concur or assist in the taking of such measures for the conservation, increase or improvement of marine living resources therein as may be required so as to give effect to the Convention or so as to meet any obligation under, or objective of, the Convention.

*Fishing waters outside specified areas.*



(2) Nothing in subsection (1) shall be construed so as to permit the Commissioner to do, concur or assist in doing anything which, if subsection (1) had not been enacted, would be invalid or unlawful under the laws of South Georgia and the South Sandwich Islands.

(3) The Commissioner may exercise in such manner as he considers necessary or expedient to give effect to any obligation under, or objective of, the Convention such of his powers under section 23 to make regulations as are not solely related to the licensing of fishing boats and other vessels.

PART II  
PROVISIONS APPLYING IN OR IN RELATION TO  
SPECIFIED AREAS OF THE FISHING WATERS  
*Introductory*

8.(1) The provision of this Part (that is to say, this section and sections 9 to 16 of this Ordinance) apply only in respect of- *Application and interpretation of this part.*

(a) every area which is a specified area that is to say, an area of the fishing waters in respect of which an Order under section 5(1) is for the time being in force (in the subsequent provisions of this Part called "a specified area")

(b) fishing operation within a specified area; and

(c) fishing boats licensed to fish within a specified area under section 5 and vessels licensed to receive fish within a specified area under section 6.

(2) In this Part, "fish", where the context so admits, includes fish products.

*Powers of Fishery Protection Officers*

9.(1) For the purposes of enforcing and administering the provisions of this Part or any regulations under section 23 so far as such regulations apply to any matter to which by virtue of section 8(1) the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 10(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any Order section 5 or under section 6. *Powers of Fishery Protection Officers: introductory provisions.*

(2) So far as is in accord with international law and practice, the powers referred to in subsection (1) may be exercised outside, as well as within, South Georgia and the South Sandwich Islands and the fishery waters and irrespective of the whether the vessel is for the time being in question engaged in fishing operations.

(3) In exercising the powers conferred by section 10(1), a Fisheries Protection Officer may-

(a) use such force as may reasonably be necessary; and

(b) engage the assistance of any person who may have been assigned to assist him in the exercise of those powers, provided that in such a case the Fisheries Protection Officer shall, subject to subsection (4), be liable for any thing done by any such person if he would be liable had he himself done it.

(4) A Fisheries Protection Officer shall not be liable in any civil or criminal proceedings for any thing done in the purported exercise of any of the powers conferred upon him by this Part, if the court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

10.(1) The powers referred to in section 9(1) are-

*Powers referred to in section 9 and provisions related to those powers.*

(a) a power to stop any fishing boat or any other vessel which it reasonably appears to him has been or may have been engaged in any fishing operation in a specified area;

(b) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;

(c) a power to board any such fishing boat or other vessel accompanied by such person or persons as may have been assigned to assist him as may he may engage to accompany him ;

(d) a power to require the attendance of the master and other persons aboard any such fishing boat or other vessel;

(e) a power to make any examination and inquiry which appears to him to be necessary for any of the purposes mentioned in section 9(1) and, in particular-

(i) to examine any fish aboard the fishing boat or other vessel concerned and the equipment thereof, including the fishing gear and any other equipment related to, or possibly related to, any fishing operation and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him to be necessary for facilitating the examination;

(ii) to require any persons on board the fishing boat or other vessel concerned to produce any document relating thereto, to its fishing operations or to the persons on board which is in that person's custody or possession and to take copies of any such document;

(iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or may have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to him to be necessary for facilitating the search;

(iv) where the fishing boat or other vessel is one in relation to which he has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence,

but nothing in subparagraph (iv) shall permit any document required, or appearing to be required, by the law of fishing boat's or other vessel's State of registry to be carried on board it to be seized and detained except where the boat is detained in a port;

(f) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (e)(iv) has been committed, the following powers-

(i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in South Georgia and the South Sandwich Islands or the Falkland Islands;

(ii) to detain or require the master to detain the fishing boat or other vessel in that place;

(iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or another Fisheries Protection Officer may permit and until such time as it may be released by him or another Fisheries Protection Officer or by a court;

(iv) to seize and detain any fishing gear, instruments or appliances which appear to him to have been, or may have been used in the commission of the offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court;

(v) to seize and detain any fish which appear to him to have been taken as a result of such offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court.

(2) It shall not be an excuse or reason for any person to refuse to answer, or fail to answer, any question, or to refuse to do, fail to do to or to prevent another person from doing anything required by a Fisheries Protection Officer in the exercise of his powers under subsection (1) that to answer that question or to do that thing might or would tend to incriminate that person or any other person.

(3) Any information document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of his powers under subsection (1) shall not be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

(4) Any person who on any fishing boat or other vessel-

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a Fisheries Protection Officer in the exercise of his powers under subsection (1);

(b) prevents, obstructs or attempts to prevent or obstruct, any other person from complying with any such requirement or answering any such question;

(c) assaults any Fisheries Protection Officer, or any person engaged to assist him, while that Officer is exercising any of those powers,

commits an offence under this subsection and is liable on conviction of that offence to a fine not exceeding £50,000.

(5) For the purposes of paragraph (a) of subsection (4), an excuse is not reasonable if it is an excuse or reason of a kind referred to in subsection (2).

*Release of things seized or detained*

11.(1) Where a fishing boat, other vessel or thing has been seized or detained under any power conferred by section 10(1), a Fisheries Protection Officer may at any time release it if no proceedings have been commenced in relation to any offence in respect of which that fishing boat, other vessel or thing could lawfully have been seized or detained under any power conferred by section 10(1).

*Release of fishing boat, other vessel or thing if no proceedings are instituted.*

(2) In any case where-

(a) a fishing boat, other vessel or thing has been seized or detained under a power conferred by section 10(1); and

(b) no proceedings in respect of such an offence have been commenced within fourteen days of the arrival of that fishing boat or other vessel at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands to which it has, in accordance with section 10(1) (f) (i) been required to proceed or, in the case of any other thing, within fourteen days of its arrival in South Georgia and the South Sandwich Islands or the Falkland Islands, or at any earlier time at which the Director of Fisheries is satisfied that no such offence has been committed,

the Director of Fisheries shall release the fishing boat, other vessel or thing.

(3) Where a fishing boat, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 10(1) and-

(a) has been brought to a place in South Georgia and the South Sandwich Islands or in the Falkland Islands; and

(b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within fourteen days of its arrival in South Georgia and the South Sandwich Islands or in the Falkland Islands,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that it be released, whereupon it shall be released.

(4) In subsection (3), "a court" means a court having jurisdiction under section 18(1) to try and determine proceedings in respect of an offence under this Ordinance.

12.(1) Where proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, other vessel or thing seized or detained under a power conferred by section 10(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

*Security for and release of fishing boat, other vessel or thing by court.*

(2) The court may order the release of the thing in question-

(a) on being satisfied by the applicant that adequate security has been given to the Crown in respect of the aggregate of any fine that the court is likely to impose in the event that the defendant is convicted of the offence and of any costs and expenses that the Crown may recover under section 18(2), or

(b) on being satisfied that a person or persons approved by the court for the purpose has or have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4) and in an amount or amounts equivalent to the aggregate of the maximum fine that the court is likely to impose in the event that the defendant is convicted and of any costs and expenses that the Crown may recover under section 18(2), or

(c) on being satisfied that there are special circumstances justifying it in proceeding under this paragraph, a bond or bonds, satisfying the requirements of paragraphs (b), but in a lesser amount or amounts than that thereby required, have been executed and delivered to the court.

(3) The Director of Fisheries shall be the respondent in relation to any application under this section and shall be entitled to be heard in relation thereto.

(4) The conditions of the bond or bonds referred to in subsection (2)(b) and (c) shall be that if-

(a) the defendant to the proceedings is not convicted or the charge or information is not proceeded with; or

(b) the defendant, on having been convicted and sentenced, pays in full within 14 days, or such greater period as the court may allow at the time of sentencing the defendant, the full amount of any fine imposed by the court together with the full amount of any costs and expenses he has under section 18(2) been ordered to pay to the Crown,

then the bond shall be of no further effect and is discharged, but otherwise shall remain in full force and effect, and may be enforced accordingly.

*Miscellaneous offences relation to specified areas*

13.(1) A fishing boat or other vessel shall not within a specified area-

*Unstowed fishing gear.*

(a) if it is not licensed under section 5 to fish within that specified area; or

(b) if it is licensed under section 5 to fish within that specified area and

(i) it is not licensed to fish within the part of the specified area in which it for the time being happens to be, or

(ii) it is not authorised by that licence, to use a net, line or other device directly employed in the taking of fish of any particular type, dimensions or specification mentioned in the licence,

carry unstowed aboard it any fishing net, line or other device directly employed in the taking of fish which it is not authorised by the licence under that section to use in that specified area or, as the case may be, the part of the specified area in question.

(2) Where subsection (1) is contravened, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) In subsection (1) "unstowed" means not stored or secured in such a manner as to be not readily capable of use within a reasonable period of time, and in any proceedings for an offence under subsection (2) it shall be for the defendant to prove that the thing in question was not unstowed.

14.(1) Before proceeding into any specified area in which it is authorised by a licence granted under section 5 to fish (or in the case of such a licence authorising fishing only in a part of a specified area, before proceeding into that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3).

*Report of entry.*

(2) If subsection (1) is contravened, the master, owner and charterer (if any) each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made at such time before such entry as the Director of Fisheries may approve of the following or such of the following as he may require-

(a) the name, port of registry, international radio call sign and licence number of that fishing boat;

(b) the quantity of fish aboard that fishing boat of every species, and in relation to each species a general description of the locations and dates at or which they were taken;

(c) the fishing boat's last port of call and the date on which it left that port; and

(d) the expected time and date of the fishing boat's such entry.

(4) Before proceeding to any place in a specified area at which it is authorised by a licence under section 6 to receive fish the master, owner or charterer (if any) of the vessel concerned shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened, the master, owner and charterer (if any) of the vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made at such time before entry into the specified area as the Director of Fisheries may approve of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of the vessel;
- (b) the quantity of fish aboard that vessel of every species, and in relation to each species particulars of the locations and dates at which they were received by the vessel;
- (c) the vessel's last port of call and the date on which it left that port; and
- (d) the expected time and date of the vessel's arrival at that place.

15.(1) Before departing from the specified area in which it was authorised by a licence under section 5 to fish (or in the case of such a licence authorising fishing only in part of a specified area before proceeding from that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3). *Reports on departure.*

(2) If subsection (1) is contravened the master, owner and charterer (if any) of the fishing boat each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made as nearly as possible immediately before departure of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of that fishing boat;
- (b) the quantity of fish aboard that fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a specified area or a part of a specified area in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;
- (c) if any fish of any species was, while the fishing boat was within a specified area trans-shipped to any other vessel or in any other manner disposed of particulars-
  - (i) of the name, port of registry, international radio call sign of any vessel to which any fish was trans-shipped;
  - (ii) of the date or dates of the trans-shipping and the place at which it occurred;
  - (iii) in relation to each species so trans-shipped, of the quantity trans-shipped on every occasion and, in relation to each occasion, the quantity of that species trans-shipped which was taken under authority of the licence and the quantity of that species of it which was not;

(d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same licence;

(e) as to the expected next port of call of the fishing boat and its expected date of arrival thereat; and

(f) as to the place or places it is expected that the fishing boat will discharge or trans-ship the fish aboard the vessel;

(g) if the fishing boat has discharged any fish other than by trans-shipping, of the quantity of fish of each species discharged and particulars of the reasons for its discharge or circumstances in which it was discharged.

(4) Before proceeding from any place in a specified area at which it is authorised by a licence under section 6 to receive fish, the master, owner or charterer (if any) of the vessel shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened the master, owner and charterer (if any) of the vessel each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made as nearly as possible before departure of the following or such of the following as he may require-

(a) the name, port of registry, international radio call sign and licence number of the vessel;

(b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a specified area, a statement in relation to each species the quantity of it which was received under the authority of the licence and the quantity of it which was not;

(c) in relation to fish of any species received under the authority of the licence-

(i) the quantity of it received from any fishing boat from which it was received;

(ii) the date or dates on which it was received;

(iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;

(d) whether or not it is expected that the vessel will return to receive fish under the authority of the same licence;

(e) the expected next port of call of the vessel and its expected date of arrival at that port;

(f) the place or places at which it is expected that the vessel will discharge the fish aboard the vessel.



(7) The preceding provisions of this section have effect without prejudice to any obligation under the conditions of any licence granted under section 5 or section 6 and to any obligation under any regulations made under section 23 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he directs, and where a person contravenes any provision of this section and has also contravened or thereafter contravenes any such obligation in such a manner as to constitute an offence he may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

16.(1) For the sake of avoidance of doubt it is hereby declared that where a fishing boat has departed from a specified area or part thereof or, in the case of a vessel licensed to receive fish, from the place it was authorised to receive fish, and thereafter returns to undertake further operations under the same licence, the provisions of section 14 and 15 apply to it on each occasion of entry or departure of that vessel.

*Supplementary to sections 14 and 15.*

(2) If any person, in purported compliance with any obligation under section 14 and 15, provides any information which to his knowledge is false or misleading or is incomplete, or recklessly as to its truth, falsehood, misleading nature or incompleteness, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

PART III  
GENERAL  
*Provisions as to offences*

17.(1) Unless the contrary is proved any fish found on board a fishing boat shall for the purposes of this Ordinance be presumed to have been taken-

*Further provisions as to offences.*

(a) within a specified area; or

(b) where a licence has been granted under section 5 restricting fishing to a part of a specified area and the fishing boat is outside that part, within the vicinity in which the fishing boat is found.

(2) Unless the contrary is proved, any fish found on board a fishing boat of a species in respect of which that fishing boat is not authorised by a licence under section 5 to take shall be deemed to have been taken within a specified area, but it shall be a defence in relation to an offence to which this subsection relates for the defendant to prove that the fish taken, if taken within a specified area, were taken inadvertently at a time when the fishing boat was seeking to take fish of a species it was authorised by such a licence to take.

(3) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate-

(a) that the fishing boat or vessel was not licensed under section 5 or (as the case may be) section 6; or

(b) that the defendant or any other named person was not the holder of the licence; or

(c) that by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish produce in a particular place,

shall, unless the contrary be proved, be sufficient evidence of the matter stated in the certificate.

(4) Where the owner or charterer of a fishing vessel is prosecuted in relation to an offence under this Ordinance, it is not a defence for him to show that the offence-

(a) was committed without his knowledge; or

(b) contrary to any instructions he may have given to any person.

(5) An attempt to commit an offence under this Ordinance constitutes an offence under this section and is punishable in respect of all persons who could have been prosecuted in respect of the offence which was attempted in the same manner as if that offence had been completed.

(6) Notwithstanding any provision or rule of law to the contrary a prosecution in respect of an offence under this Ordinance may be commenced at any time within twelve years of the date on which that offence appears to have been committed.

(7) Where any offence under this Ordinance or under regulations made under section 23 committed by an owner or charterer of a fishing boat or other vessel is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate (or, in the case of a body corporate existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

18.(1) All penalties, offences and proceedings under this Ordinance or any regulation may be recovered, prosecuted and taken before any court of summary jurisdiction in South Georgia and the South Sandwich Islands or, pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the Magistrate's Court of the Falkland Islands, and those courts have jurisdiction to try and determine any offence under this Ordinance or any regulation made thereunder.

*Jurisdiction of Summary  
and Magistrate's Courts.*

(2) In respect of such offences and notwithstanding any provision of law to the contrary, any court before which, pursuant to subsection (1), any such offence is tried has jurisdiction to impose any fine provided for under this Ordinance and may award to the Crown such costs and expenses (including expenses incurred in exercise of any power under section 10(1) and costs and expenses incurred in relation to the prosecution of any such offence) as may appear to it to be proper.

19.(1) Subject to subsection (2), every person who is convicted of an offence under this Ordinance or any regulation made under this Ordinance and is again convicted of such an offence shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence and for a period of three years from the day of the later conviction shall be incapable of holding any such licence.

*Forfeiture of licence.*

(2) Notwithstanding subsection (1), the Commissioner may in the circumstances of any particular case, and upon application being made to him by the person concerned within 30 days from the date of the later conviction or such extended period as the Commissioner may allow, direct that in relation to that person the provisions of that subsection shall be varied or are not to apply.

20.(1) Where the Commissioner has reasonable cause to believe that-

*Administrative penalties for minor offences.*

- (a) an offence against this Ordinance has been committed by any person in respect of any fishing boat;
- (b) the offence is of a minor nature; and
- (c) having regard to the previous conduct of the boat and the person concerned it would be appropriate to impose a penalty under this section;

he may, unless the Attorney General has given a direction which has not been withdrawn to the Director of Fisheries that a prosecution in respect of the offence shall be brought, cause a notice in writing in accordance with subsection (2) in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify-

- (a) the date and nature of the offence;
- (b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and
- (c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

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

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by a court having jurisdiction to try and determine that offence, in which case the following shall apply-

- (a) no further proceedings shall be taken under this section by the Commissioner; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information charge in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by a court may by notice in writing served on the Commissioner-

(a) admit the offence; and

(b) make submission to the Commissioner as to the matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on him-

(a) require that proceedings in respect of the alleged offence shall be dealt with by a court; or

(b) admit the offence;

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

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding in amount one third of the maximum fine to which the person would be liable if he were convicted of the offence by a court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 19.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) A penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence and without prejudice to the foregoing may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

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

(12) Nothing in this section shall apply-

(a) in respect of any offence or alleged offence under section 5(3) or 6(10); or

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

21.(1) In relation to section 5(3) and 6(10), the power thereby conferred to sentence an offender against these provisions to pay a fine without limit is a power enabling the court, subject to subsection (2) of this section, to order the offender to pay a fine of any amount it sees fit without any limitation on the maximum amount it may order the offender to pay by way of fine.

*Provisions as to amounts of fine which may be imposed.*

(2) Before ordering a person to pay a fine after convicting him of an offence under this Ordinance the court shall inquire into and take into account the means of the offender to pay that fine within a reasonable time.

22.(1) Where a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under this Ordinance to pay a fine or costs and expenses, the court may, if no security has been given to the Crown for payment thereof or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the person so ordered shall give security for payment of the amount due, and if such security to the satisfaction of the court is not given, the court may order the detention of the fishing boat concerned in the offence in South Georgia and the South Sandwich Islands or the Falkland Islands (according as to where the court so ordering usually sits) until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.

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

(2) Where a person is convicted of an offence under section 5(3) or (12) or section 6(10) and is ordered to pay a fine and that fine is not paid or security given within 30 days of the date of the order of the court, or such longer period as the court may determine, the court may order that the fishing boat concerned in that offence and its equipment concerned in the commission of it shall be forfeited to the Crown and if so forfeited shall be disposed of in such a manner as the Commissioner, acting in his discretion, may direct.

23.(1) The Commissioner may make regulations for the better carrying into effect of the purposes of this Ordinance.

*Regulations.*

(2) In particular, and without prejudice to the generality of subsection (1) of this section, such regulations may provide for-

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that shall apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishing waters and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;

(i) any matters in relation to which under section 5 or section 6 a condition may be imposed on the grant of a licence thereunder;

(j) the designation by applicants for licences and licensees of authorised agents in South Georgia and the South Sandwich Islands or in the Falkland Islands in respect of fishing boat operations and otherwise for the purposes of this Ordinance;

(k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;

(l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(m) a fine of such amount as may be prescribed therein in respect of any offence under any such regulations (but so that no such fine shall exceed £100,000 and, subject to that limitation, so that different fines may be prescribed in relation to different offences);

(n) any other purpose related to any obligation under, or objective of, the Convention.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters, different specified areas, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

24.(1) Where an agent for the licensee under a licence is named in that licence-

*Service of proceedings  
and notices.*

(a) any summons or to the owner, charterer or master of the boat to which such licence relates to attend before any court to answer to that summons shall be deemed to be duly served if it is shown that the summons was delivered to or received by that agent;

(b) any administrative penalty notice under section 20(1) shall be deemed to have been duly served on the owner, charterer or master of the boat (as the case may be) if it is shown that it was delivered to or received by that agent;

(c) the agent may, on behalf of the owner, charterer or master of the boat, give to the Commissioner any notice or notification which the owner, charterer or master of the boat could give under any provision of this Ordinance; and

(d) any notice which the Director of Fisheries is empowered under this Ordinance or any regulations made under section 23 to give or serve upon the owner, charterer or master of the boat shall be deemed to have been duly given to or served upon that person if it is shown that it was delivered to or received by the agent.

(2) Subsection (1) has effect whether the summons or notice is delivered, served or given to the agent in South Georgia and the South Sandwich Islands, the Falkland Islands or elsewhere.

25.(1) Subject to this section, the Fisheries Ordinance of the Falkland Islands in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance shall cease to apply to the fishing waters of South Georgia and the South Sandwich Islands on the commencement of this section.

*Partial disapplication of Cap. 27, Laws of the Falkland Islands, under Cap. 1 (DS) and savings as to regulations.*

(2) Notwithstanding subsection (1), the Fisheries (Trans-shipment and Export) Regulations 1990 shall continue to have effect to the extent provided by section 6(3).

26. The Application of Colony Laws Ordinance is amended by deleting from the Schedule thereto the numerals and words "62. Seal Fishery Ordinance" and "76. Whale Fishery Ordinance" appearing therein and so that-

*Amendment of Schedule to Application of Colony Laws Ordinance (Cap. 1 (DS)).*

(a) the said Seal Fishery Ordinance and the said Whale Fishery Ordinance (which were applied to South Georgia and the South Sandwich Islands by the Application of Colony Laws Ordinance) shall cease on the commencement of this section to apply to South Georgia and the South Sandwich Islands; but

(b) the provisions of this Ordinance shall have effect in relation to any fishing operations to which either of the said Ordinances related prior to the commencement of this section.

Enacted the 23<sup>rd</sup> day of July 1993



Commissioner.

