

FISHERIES (AMENDMENT) ACT, 2014

Act 880

ARRANGEMENT OF SECTIONS

Section

1. Section 45A of Act 625 inserted
2. Section 88A of Act 625 inserted
3. Section 139 of Act 625 amended
4. Section 140 of Act 625 amended

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ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

FISHERIES (AMENDMENT) ACT, 2014

AN ACT to amend the Fisheries Act, 2002 (Act 625) to give effect to international conservation and management obligations, to empower the Minister to make Regulations to combat Illegal, Unreported and Unregulated fishing in accordance with the international obligations of the Republic and to provide for related matters.

DATE OF ASSENT: *9th December, 2014.*

PASSED by Parliament and assented to by the President:

Section 45A of Act 625 inserted

1. The Fisheries Act, 2002 (Act 625) referred to in this enactment as the principal enactment is amended by the insertion after section 45 of a new section 45A as follows:

“Giving effect to international conservation and management obligations

45A. (1) The Minister shall, by notice in the *Gazette*, publish the list of international fisheries conservation and management measures which are binding on the Republic.

(2) The Minister may, on the recommendations of the Commission impose additional conditions on fishing licences and authorisations issued under this Act that the Minister may consider necessary for the purpose of giving effect to any international conservation and management measures included in the *Gazette* Notice published under subsection (1).

(3) The master, owner, charterer or operator of a fishing vessel entitled to fly the flag of Ghana or a fishing vessel fishing in the fishery waters of the Republic in accordance with an access agreement that contravenes a condition imposed under subsection (2) commits an offence and is liable on summary conviction to a fine of not less than one million United States Dollars and not more than two million United States Dollars.”

Section 88A of Act 625 inserted

2. The principal enactment is amended by the insertion after section 88 of a new section 88A

“Illegal, Unreported and Unregulated fishing

88A. (1) For the purpose of this Act, a fishing vessel is presumed to be engaged in Illegal, Unreported and Unregulated fishing if it is shown that, contrary to the conservation and management measures applicable in the fishing area concerned

- (a) the fishing vessel has been used to fish without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State;
- (b) the owner, operator, charterer or master of the fishing vessel has not fulfilled the obligations to record and report catch or catch-related data, including data to be transmitted by a vessel monitoring system;
- (c) the fishing vessel has been used to fish in a closed area, during a closed season, without or after attainment of a quota or beyond a closed depth;
- (d) the owner, operator, charterer or master of the fishing vessel has falsified documents in relation to the fishing vessel;

- (e) the fishing vessel has engaged in fishing a stock which is subject to a moratorium or for which fishing is prohibited;
- (f) the fishing vessel used prohibited or non-compliant fishing gear;
- (g) the fishing vessel has falsified or concealed its markings, identity or registration;
- (h) the owner, operator, charterer or master of the fishing vessel has concealed, tampered with or disposed of evidence relating to an investigation concerning the fishing activities of the fishing vessel;
- (i) the owner, operator, charterer or master of the fishing vessel has obstructed the work of officials in the exercise of duties in inspecting the fishing vessel for compliance with the applicable conservation and management measures or the work of observer in the exercise of duties under this Act;
- (j) the fishing vessel has taken on board, transhipped or landed undersized fish in contravention of this Act or Regulations made under this Act or the conditions of licence in force;
- (k) the fishing vessel has engaged in transhipment with other fishing vessels identified as having engaged in activities that may be characterised as Illegal, Unreported and Unregulated fishing under this section;
- (l) the fishing vessel has carried out fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation and is flagged to a State not party to that organisation, or not cooperating with that organisation as established by that organisation;

- (m) the fishing vessel is used for fishing but has no nationality and is a stateless fishing vessel, in accordance with international law;
 - (n) the fishing vessel engaged in a fishing activity with another fishing vessel which is on the Illegal, Unreported and Unregulated list or register of a regional fishing management organisation; or
 - (o) the owner, operator, charterer or master of the fishing vessel conducted business directly connected with Illegal, Unreported and Unregulated fishing including trading in or the importation of fishery products.
- (2) A person who undertakes any of the activities identified as Illegal, Unreported and Unregulated fishing under subsection (1) commits an offence and is liable on summary conviction to
- (a) a fine of not less than one million United States Dollars and not more than two million United States Dollars for a first time contravention;
 - (b) a fine of not less than two million United States Dollars and not more than four million United States Dollars for a second contravention and in addition, a licence or authorisation issued in respect of the fishing vessel is considered to be suspended for six months from the date of conviction; and
 - (c) a fine of not less than two million United States Dollars and not more than four million United States Dollars for a third contravention and in addition, the Commission shall revoke any licence or authorisation granted in respect of the fishing and take immediate steps to delete the name of the fishing vessel from the Ghana Shipping Registry by the competent Authority.
- (3) A fish processing establishment which exports fish and fishery products and undertakes any of the activities identified as Illegal,

Unreported and Unregulated fishing under subsection (1) commits an offence and is liable on summary conviction

- (a) to a fine of not less than one million United States Dollars and not more than two million United States Dollars for a first time contravention; and
- (b) for subsequent contraventions, to a fine of not less than two million United States Dollars or five times the value of the export, whichever is greater."

Section 139 of Act 625 amended

3. The principal enactment is amended in section 139 by the substitution for subsection (3) of new subsections (3), (4) and (5) as follows:

"(3) The Minister may, on the recommendations of the Commission, by legislative instrument, make Regulations for the purpose of promoting international cooperation to promote the effectiveness of international conservation and management measures adopted by a regional fisheries management organisation to which the Republic is a member and to combat Illegal, Unreported and Unregulated fishing.

(4) In furtherance of subsection (3), the Regulations may prescribe for

- (a) the designation and publication of ports in the Republic to which foreign fishing vessels may be permitted access;
- (b) the designation of port inspectors;
- (c) the training and qualification of port inspectors;
- (d) the establishment of procedures, the contents of and the results to be obtained from a port inspection framework, including the implementation of port measures adopted by regional or global fisheries organisations, or pursuant to a treaty;
- (e) the powers of inspectors, the mode of conduct of an inspection, including the power to inspect the catch, whether processed or not, any fishing gear, equipment or other gear and document which the inspector considers necessary to verify compliance with relevant conservation and management measures;

- (f) the requirement for the provision of any assistance or information as may be needed in order to undertake inspections under this Act;
 - (g) the requirements of a fishing vessel before allowing port access to the fishing vessel,
 - (h) the regulation of the landing, transshipment, packaging or processing of fish, or refuelling or resupplying a fishing vessel;
 - (i) the regulation of the port access of a fishing vessel that has been included on the list of fishing vessels maintained by regional fisheries management organisations that are believed to have engaged in Illegal, Unreported and Unregulated fishing;
 - (j) the authorisation of the cooperation and exchange of information, including inspection results with other States and regional fisheries management organisations;
 - (k) the provision of a system of appeal against decisions taken in respect of fishing vessels under this Act; and
 - (l) the provision of any other measures that may be agreed to by regional fisheries management organisations or pursuant to a treaty binding on the Republic.
- (5) Regulations made under subsections (1), (3) and (4) may
- (a) impose, in respect of a contravention of a provision of the Regulations by a local industrial or semi-industrial fishing vessel and foreign fishing vessels, a fine of not less than one million United States Dollars and not more than four million United States Dollars;
 - (b) impose, in respect of a contravention of a provision of the Regulations by a canoe or any other artisanal operator, a fine of not less than thirty thousand penalty units and not more than fifty thousand penalty units;
 - (c) provide for the suspension or revocation of a licence or authorisation; and

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(d) provide that the catch, fishing vessel, fishing gear or apparatus or any other item involved in the contravention may be forfeited.”

Section 140 of Act 625 amended

4. The principal enactment is amended in section 140 by the addition of the following new words:

“closed area” means any area or depth of the sea where fishing activities are not permitted for a specified period;

“international conservation and management measures” means measures to conserve or manage fish that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea, either by global, regional or sub-regional organisations, or by treaties or arrangements to which the Republic is a party;

“port” means a place which is designated as a port in accordance with the Ports and Harbours Authority Act, 1986 (P.N.D.C.L. 160);

“regional fisheries management organisation” means an inter-governmental fisheries organisation that has the competence to establish conservation and management measures in an area to manage specific fish stocks or a group of fish stocks; and

“vessel monitoring system” means a system that is installed on a fishing vessel to monitor the position and activities of the fishing vessel for the purpose of effective management of fisheries.”

Date of *Gazette* notification: 12th December, 2014.