

**CHAPTER 425****FISHERIES CONSERVATION AND  
MANAGEMENT ACT**

*To make provision for the regulation, conservation and management of the fisheries of Malta and matters incidental thereto.*

4th June, 2001

*[ACT II of 2001](#), as amended by [Legal Notice 426 of 2007](#); and Acts [XV of 2009](#), [IV of 2013](#) and [XXXIV of 2014](#), [XXI of 2020](#), [XVII of 2022](#) and [XXXV of 2023](#).*

**PART I  
PRELIMINARY**

**1.** The short title of this Act is Fisheries Conservation and Management Act.

Short title.

**2.** In this Act unless the context otherwise requires -

Interpretation.  
Amended by:  
[XVII.2022.2](#).

"aquaculture" means the rearing and cultivation of fish by virtue of the use of technical means set up in order to increase the production of the organisms concerned beyond their natural environmental capacity, by which the organisms remain property of the natural or legal person throughout the period of rearing and cultivation, up to and including the harvesting thereof;

"aquaculture establishment" means any area, enclosure, impoundment, premises or structure set up or used on land or in water intended for aquaculture;

"Board" means the Fisheries Board established under article 5;

"commercial fisherman" means:

- (a) in the case of an individual, a person who is engaged or who intends to engage in fishing for sale throughout the year or a specified season or part of a season each year and can satisfy the Director that during such time as he engages in fishing for sale he relies on his fishing activities for the whole or for part of his income; or
- (b) in the case of a company, society or association of persons, one that satisfies the Director that it has an appreciable investment in the fishing industry or intends to make a substantial investment in the fishing or ancillary industry;

"commercial fishing" means all fishing operations with the exception of subsistence fishing and recreational fishing;

"convention" means an international treaty, agreement or other arrangement, other than "the Treaty" as defined in the [European Union Act](#);

Cap. 460.

"convention area" means, in relation to any international convention, the area to which the convention relates;

"convention fisheries officer" means a person appointed by the government of another country or having power under the laws of

that country to enforce a convention, to which Malta is a party, and which provides for the safeguarding or conduct of fishing operations or operations ancillary thereto;

"convention fishing vessel" means a fishing vessel registered under the flag of a country which is a party to a convention to which Malta is also a party and the fishing vessels of which have been registered accordingly under such convention;

"coral" means the calcareous skeleton secreted by polypoid coelenterates of the class anthozoa;

"Director" means the Director responsible for fisheries appointed by virtue of article 4 or any person to whom he may delegate any of the functions under article 4(2);

"fish" means any aquatic animal, whether piscine or not, and includes shellfish, crustaceans, sponges, sea urchins, turtles, aquatic mammals and their young, fry, eggs or spawn and shells and parts thereof and fish meal;

"fisheries protection officer" means the Director, any of the fisheries protection officers provided for under article 4(3), and all members of the Malta Police Force and the Armed Forces of Malta acting for the purposes of this Act;

"fishing" means:

- (a) the catching or taking of fish that occur or have grown naturally in the sea;
- (b) any other activity which can reasonably be expected to result in the catching or taking of fish or the farming of fish;
- (c) any operation at sea in support of or in preparation of any activity described in paragraphs (a) and (b);

"fishing licence" means a document conferring on its holder the right to use a certain fishing capacity for the commercial exploitation of living aquatic resources;

"fishing permit" means a fishing permit issued in respect of a fishing vessel in addition to its fishing licence, entitling it to carry out specific fishing activities during a specified period and, or in a given area and, or for a given fishery and to do so under specific conditions;

"fishing vessel" means any vessel of whatever size and in whatever way propelled which is for the time being employed in fishing operations or for the processing, storage or carriage of fish or of any operations (including transshipment of fish) ancillary thereto, or which is registered or authorised for so doing, but does not include any vessel used for the transport of fish or fish products as part of a general cargo;

"fishing waters" means the fishing waters of Malta as defined in article 3;

"fish market trader or *pitkal*" means an operator licensed to carry out wholesale auctions on behalf of a licence holder at the public fish auction hall;

"foreign fishing vessel" means a fishing vessel which is neither a

local fishing vessel nor a convention fishing vessel;

"foreign fishing vessel" means any other fishing vessel that does not fall under the definition of a local fishing vessel;

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

"licensed fishing vessel" means a vessel granted a licence or permit to fish in accordance with the provisions of this Act;

"local fishing vessel" means any vessel -

- (a) wholly owned and controlled by one or more persons ordinarily resident in Malta, or
- (b) wholly owned and controlled by a company, society or association of persons incorporated in or established under the laws of Malta and controlled by one or more persons ordinarily resident in Malta:

Provided that a fishing vessel owned and controlled as provided according to paragraphs (a) and (b) shall in no case be considered a local fishing vessel if it is registered outside the jurisdiction of Malta;

"master" means, in relation to a fishing vessel, the person who for the time being is in command or in charge of the fishing operations on board the vessel;

"Minister" means the Minister responsible for fisheries and aquaculture;

"operator" means any natural or legal person carrying out any activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products;

"person" includes a body or other association of persons whether or not granted legal personality, in accordance with the provisions of the Second Schedule to the [Civil Code](#);

Cap. 16.

"processing", in relation to fish, includes cleaning, filleting, freezing, canning, salting, smoking, cooking, pickling, drying or otherwise preserving or preparing fish by any method;

"record of fishing vessels" means the record of local fishing vessels maintained by the Director under article 7;

"temporary immobilisation order" means an order given by a Director or any other person delegated by him under this Act, ordering a vessel to be seized and detained according to such conditions as the Director may specify in the order;

"transhipment" means the unloading of any fisheries or aquaculture products on board a vessel with the exception of relocation, pair trawling activities and fishing operations involving joint action by two (2) or more local fishing vessels;

"vessel" means a steamer, motor vessel, launch, boat, hovercraft, submersible or floating craft of any description.

**PART II  
FISHING WATERS**

- Fishing.                    3.    The fishing waters of Malta comprise:
- Cap. 226.                    (a) the internal waters;
- (b) the territorial waters declared under article 3(2) of the [Territorial Waters and Contiguous Zone Act](#); and
- (c) any other marine waters over which sovereign rights for the purpose of exploring and exploiting, conserving and managing the living resources therein are claimed by proclamation, law or convention for the time being in force, or having the force of law, in Malta.

**PART III  
ADMINISTRATION**

- Director  
responsible for  
fisheries and  
fisheries  
protection  
officers.  
*Substituted by:  
XVII.2022.3.*
4.    (1)    (1)    This Act shall be administered by the Director who shall be a public officer, appointed by the Prime Minister, and who shall be responsible for:
- (a) the conservation of naturally occurring fish stocks;
- (b) the assessment of fish stocks and the collection of statistics including details of fish catches;
- (c) the development and management of fisheries;
- (d) the maintenance of a register of fishing vessels, their owners, masters, crew and any other person working on them;
- (e) the monitoring, control and surveillance of fishing operations;
- (f) the regulation of the conduct of fishing operations including aquaculture and operations ancillary thereto;
- (g) the issue, variation, suspension and revocation of fishing permits and licences for fishing, and equipment used for fishing, aquaculture, transshipment and other activities for which permits or licences are required under this Act;
- (h) the collection of fees in respect of fishing permits and licences, of entries in the fishing vessels register, and for all other categories of permits and licences mentioned in paragraph (g);
- (i) the making of such reports to the Minister as the latter may require or as the Director shall consider appropriate;

(j) the taking of appropriate measures in consultation with such other authority as may from time to time be responsible for the environment and for the safeguard against extinction of protected species; and

(k) any other matters which shall require administration under this Act.

(2) The Director may authorise in writing any public officer to exercise any or all of the powers of the Director under this Act either concurrently with him or in his absence, subject to such conditions, including those relative to territorial restrictions, as he may stipulate in the authorisation.

(3) This Act shall be enforced by fisheries protection officers as designated by the Director and acting under the direction of the Director, and for that purpose fisheries protection officers shall have the powers set out under this Act..

5. (1) There is hereby established a board to be known as the Fisheries Board.

Fisheries Board.  
Amended by:  
XVII.2022.4.

(2) The Board shall consist of the Director, *ex officio*, as chairman, and of the following members appointed by the Minister -

- (a) a member of the Fisheries Department, after consultation with the Director, who shall be deputy chairman;
- (b) one member from among and nominated by the holders of a fishing licence;
- (c) one member from among and nominated from amongst the members of the *Federazzjoni tas-Sajjieda Dilettanti*;
- (d) one member from among and nominated by fish market traders (*pitkali*);
- (e) one member from among and nominated by fish retailers;
- (f) seven other members from among persons having an interest or knowledge in matters relating to fisheries or the fishing industry, of whom four shall be nominated by fishermen's co-operatives registered under the [Co-operatives Societies Act](#);
- (g) one member from the Environment and Resources Authority nominated by the Minister responsible for the environment;
- (h) one member from the Armed Forces of Malta nominated by the Minister responsible for the armed forces.

Cap. 442.

(3) Members of the Board shall, subject to subarticles (4) and (5), be appointed for a term of three years.

(4) A member of the Board may resign his office at any time

by giving notice in writing to the Minister.

(5) The Minister may at any time remove a member of the Board on grounds of disability to perform his functions, bankruptcy or neglect of duty.

(6) The quorum necessary for meetings of the Board shall be the chairman or, in his absence, the deputy chairman and five other members.

(7) The Director shall designate a public officer in his department to act as the secretary to the Board.

(8) Subject to the other provisions of this Act, the Board may regulate its own procedures and meetings in such manner as it deems proper.

Functions of the Board.

6. It shall be the duty of the Board to advise the Minister on any matter referred to it by the said Minister, and generally in relation to the development, administration and conservation of the fisheries of Malta and in particular shall -

- (a) consider and make proposals for the making of regulations under article 38, or any other legislation which may affect the fishing industry;
- (b) consider and make proposals for the introduction of measures prohibiting or restricting the catching of species of fish or other measures that would lead to the conservation of fish stocks;
- (c) consider and make proposals for agreements or arrangements to be entered into pursuant to article 18;
- (d) consider any matters referred to it by a member of the Board, by a government department or by a member of the public and make its recommendations thereon if and as the Board may consider appropriate;
- (e) submit such proposals to the Government as it shall consider appropriate;
- (f) submit an annual report of its activities to the Minister;
- (g) have such other functions and duties as may be prescribed.

#### PART IV LOCAL FISHING VESSELS

Record of local fishing vessels.  
Amended by:  
XVII.2022.5.

7. (1) The Director shall maintain a record of local fishing vessels including the beneficial owners, licence holders, masters, and crew thereof.

(2) A person who intends to use a local fishing vessel for fishing may apply in the prescribed manner to the Director for registration in the record of fishing vessels.

(3) A vessel shall not be recorded under this article unless -

- (a) it has been registered under the [Merchant Shipping Act](#), if it is so required by law;
- (b) the vessel carries such identification markings as may

Cap. 234.

be prescribed;

- (c) the vessel carries such equipment and complies with such other requirements as shall be prescribed;
- (d) the owner of the vessel has supplied such information or complied with such other requirements or regulations as may be prescribed.

(4) The Director may cancel an entry in the record of fishing vessels under this article if any of the requirements of subarticle (3) cease to be satisfied by the vessel entered in the record, but shall restore such entry on being satisfied that the failure has been remedied.

(5) The certificate of entry in the record of local fishing vessels shall, subject to subarticle (4), be valid for one year and shall be renewable.

**8.** No local fishing vessel shall be used for commercial fishing in -

- (a) the fishing waters; or
- (b) any area outside the fishing waters where a licence or permit to fish is required under this Act;

unless it is entered in the record of fishing vessels under article 7 and it is authorised so to fish by a licence or permit granted under this Act.

**9.** (1) The Minister may, by regulations, require the owners of fishing vessels who desire to fish outside or within the fishing waters to apply to the Director for a permit that allows fishing in areas specified in such permits, and as provided for in the regulations.

(2) Regulations made under subarticle (1) fishing permits which grant exclusive rights to fish in areas specified in such permits, and as provided for in the regulations.

Local fishing vessel licences.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.6.*

Permits for local fishing vessels to fish outside the fishing waters.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.7.*

## PART V FOREIGN FISHING VESSELS

**10.** Fishing by a foreign fishing vessel in the fishing waters is prohibited unless authorised by a licence granted under this Act.

Fishing by foreign fishing vessels prohibited without a licence.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.8.*

**11.** The master of a foreign fishing vessel that has fish on board shall -

- (a) prior to entry of the vessel into the fishing waters; or
- (b) prior to the vessel leaving an area of the fishing waters in which the master, owner or charterer is licensed to fish,

notify a fisheries protection officer of the amounts, descriptions and presentation of fish on board the vessel.

Notification of fish on board by foreign fishing vessels entering fishing waters.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.9.*

**PART VI**  
**ALL FISHING VESSELS**

Licence requirements and conditions relating to local and foreign vessels.

Amended by:  
L.N. 426 of 2007;  
XVII.2022.10.

12. (1) A fishing licence shall be granted to the master, owner or charterer in respect of a specified fishing vessel.

(2) The issue of each fishing licence shall be at the discretion of the Director who may, either authorise fishing generally, or for the purposes of conservation, may confer limited authority in writing by reference in particular to -

- (a) the area in which fishing is authorised;
- (b) the period, times or particular voyages during which fishing is authorised;
- (c) the descriptions, quantities, size and presentation of fish which may be taken;
- (d) the method of fishing.

(3) A fishing licence may authorise fishing either generally or subject to such conditions as may appear to the Director to be necessary or expedient for the regulation of sea fishing, or the conservation or management of fisheries in the fishing waters and in particular a licence may without prejudice to the generality of the foregoing conditions, contain conditions with regard to -

- (a) the landing of fish caught under the authority of the licensee;
- (b) the marking of the licensed fishing vessel;
- (c) the records of fishing operations that shall be kept on board the licensed fishing vessel;
- (d) the navigation equipment and charts to be carried on board the licensed fishing vessel; and
- (e) the place or places where the licensed fishing vessel may carry out transhipment of fish.

(4) A fishing licence may be -

- (a) varied from time to time, or
- (b) revoked or suspended,

if this appears to the Director to be necessary or expedient for the regulation of sea fishing, the conservation or management of fisheries in the fishing waters or for the economic benefit of Malta.

(5) No court may issue a warrant of prohibitory injunction or any other precautionary act, stopping the Director from doing anything which *prima facie* is in his power to do in accordance with this Act, before a final judgement that such action is illegal has been delivered:

Provided that where an appeal is made against the Director's decision in accordance with article 39, and until a final decision is given on such appeal, the Director may not take any action which is directly related with the matter subject to that appeal.

(6) If a fishing licence is varied, revoked or suspended the

Director may, if he considers it appropriate in all the circumstances of the case, refund the whole or any part of the fee charged for the licence.

(7) No action for damages may be instituted against the Director because of the exercise by him of the powers under sub-article (4).

**13.** It shall be an offence for a master to retain or allow to be retained on board a fishing vessel, within the fishing waters, fish which has not been taken in accordance with a fishing licence or fishing permit provided for under this Act or in that quantity that does not exceed that amount permitted by the regulations for the protection of fish stocks.

Illegal holding of fish.  
*Amended by:*  
*XVII.2022.11.*

**14.** At any time when a fishing vessel is in any area of the fishing waters or being a local fishing vessel is also in any area outside the fishing waters and either -

Stowage of gear.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.12.*

- (a) it is prohibited by this Act from fishing in that area; or
- (b) it is covered, by a fishing licence or otherwise, to fish only for certain species or descriptions of fish in that area,

then its fishing gear or so much of the gear as is not required for permitted fishing shall be stowed in such manner that it is not readily available for use for fishing or in such manner as may be prescribed.

**15.** The Director may require the master, the owner or the charterer of the fishing vessel as well as the fish market trader (*pitkal*), to provide him with such statistical information concerning fishing as he may direct.

Statistical information.  
*Substituted by:*  
*XVII.2022.13.*

**16.** (1) The Minister may provide by regulations for the licensing of the transshipment or receiving of fish by fishing vessels in the fishing waters or the transport from the internal waters or territorial seas by any vessel of fish transhipped from any other vessel.

Transshipment and export of fish.

(2) Regulations made under subarticle (1) may apply such restrictions and conditions on the granting of licences or permits as the Minister shall consider appropriate and in particular may provide for -

- (a) the areas in which transshipping may take place;
- (b) the times when fish may be transhipped or transported;
- (c) the numbers of transshipments and transportations that may be undertaken and the quantities and descriptions of fish that may be transhipped or transported.

(3) Regulations made under subarticle (1) shall empower the Director to impose such conditions on the grant of licences or permits thereunder as he shall consider necessary for the regulation of the transshipment or export of fish including conditions as to the treatment on board fishing vessels of fish received on board and different conditions may be imposed in respect of different fishing vessels or fishing vessels of different descriptions.

**PART VII  
SPECIAL ARRANGEMENTS**

Fisheries research permits.  
*Amended by:  
XXI of 2020;  
XVII.2022.14.*

**17.** (1) The Director may, after consultation with the Board, grant a permit to a master, owner or charterer of a specified vessel authorising fishing for scientific research purposes in the fishing waters or specified areas of the fishing waters.

(2) The holder of a permit under subarticle (1) and the vessel specified in such permit shall, subject to the provisions of subarticles (3), (4) and (5), be exempt from the provisions of this Act, as specified in such permit.

(3) The research vessel shall be subject to inspection by the Director and the holder of the permit shall, on demand, submit to the Director a report of operations.

(4) A permit granted under sub-article (1) shall be subject to such conditions, which may include compliance with the provisions of this Act, as specified in the permit.

(5) The Minister may by notice in writing given to the holder of a permit under subarticle (1) -

- (a) revoke the permit;
- (b) vary or revoke the conditions to which the permit is subject or specify further conditions to which the permit shall be subject.

Fisheries access agreements.

**18.** *Repealed by Act [XVII.2022.15](#).*

**PART VIII  
ENFORCEMENT**

General powers of fisheries protection officers.  
*Amended by:  
XVII.2022.16.*

**19.** (1) For the purpose of enforcing the provisions of this Act a fisheries protection officer may exercise the following powers with respect to any fishing vessel or any vessel engaged in fishing in the fishing waters:

- (a) he may stop the vessel;
- (b) he may require the master to stop fishing and take the fishing gear of the vessel back on board;
- (c) he may require the master to facilitate the boarding of the vessel by all appropriate means;
- (d) he may go on board the vessel and take with him such other persons as he may require to assist him in the exercise of his powers;
- (e) he may require the master, the crew or any of them to produce, and the officer may examine and take copies of any certificate of registry, licence, official log book, official paper, article of agreement, record of fish caught and any other document relating to the vessel and to the crew or any member thereof or to any person on board the vessel, which is in their respective possession or control on board the vessel;
- (f) he may muster the crew of the vessel;

- (g) he may require the master to appear before him and give any explanation concerning the vessel and any crew or any person on board the vessel and any document mentioned in paragraph (e);
- (h) he may make any search, examination or enquiry which he shall consider necessary to find out whether any provision of this Act has been contravened;
- (i) if he has reasonable grounds for suspecting that any person has committed an offence against this Act, he may without summons, warrant or other process, take the suspected offender, and take or require the master of the vessel to take the vessel in question together with the crew thereof, to a port or harbour in Malta for the purpose of carrying out any search, examination or enquiry and bring him or them before a competent court and detain him and them and the vessel in Malta until the alleged offence has been adjudicated upon;
- (j) he may, having regard to the safety of the vessel, take steps to immobilise any fishing vessel detained in accordance with this article;
- (k) in the case of any infringement under this Act or regulations made thereunder, he may detain any vessel together with its equipment, stores and cargo if he believes that these have been used in the commission of such an infringement or in respect of which he believes such infringement has been committed, or if the detained objects are the result of an infringement;
- (l) he may seize or detain any fishing gear, instruments or appliances which he believes have been used in the commission of such offence;
- (m) he may seize any fish which he believes have been taken or fish products produced in the commission of such offence;
- (n) he may seize or detain or take copies of any documents which he believes are relevant to any such offence.

(2) In exercising the powers referred to in subarticle (1) a fisheries protection officer may use or employ such force as may be reasonably necessary.

(3) The powers contained in this article may be exercised in respect of a fishing vessel irrespective of whether the vessel is at the time of such exercise engaged in fishing or any activities in any way related to fishing.

**20.** (1) For the purpose of enforcing the provisions of this Act a fisheries protection officer may -

- (a) enter, at any reasonable time, any premises (other than a dwelling) used for carrying on business in connection with the operation of fishing vessels and activities ancillary thereto or with the treatment, storage or sale of fish;

Powers of entry and search on land of fisheries protection officers.  
*Amended by:*  
*XVII.2022.17.*

- (b) require any person on the premises to produce any documents relating to the catching, landing, transhipment, export, import, sale or disposal of fish;
- (c) if he has reasonable grounds for suspecting that an offence under this Act has been committed and that the cause of the offence may be removed or suppressed -
  - (i) enter and search without a warrant, with or without assistance, any premises referred to in paragraph (a), or any vehicle, aircraft, vessel or other means of conveyance and open and search any baggage, pack or other thing;
  - (ii) seize or detain any document or any gear or thing that he believes has been used in the commission of such offence;
  - (iii) seize any fish that he believes has been used, handled or processed in the commission of such offence;
- (d) upon reasonable suspicion, stop and, or examine any vehicle, as well as any other means of storage or conveyance, wheresoever these may be, so as to ascertain that the provisions of this Act are complied with:

Provided that for the purpose of this paragraph it shall be sufficient for reasonable suspicion to exist if the stop and examination is conducted on certain types of vehicles or other means of storage or conveyance that are normally used for the storage and conveyance of fish, fishing gear or any other object in contravention of the provisions of this Act, in particular areas and places, and at particular times of the day, during which such storage and conveyance normally takes place; and

- (e) in the circumstances referred under paragraph (d), he may also seize any document, fish, fishing gear or any other thing found during the examination if he reasonably considers it as possible evidence of a contravention or offence against this Act, or if it otherwise assists in any investigation.

(2) A fisheries protection officer shall not be liable to any action and, or prosecution at law for the fulfilment of his duties under this article, including when the measures taken in fulfilment thereof result in no evidence or in no contravention or offence against this Act.

Powers of fisheries protection officers and convention fisheries officers to enforce conventions.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.18.*

**21.** (1) For the purpose of enforcing the provisions of any convention with respect to the conduct or safeguarding of fishing operations to which Malta is a party, a convention fisheries officer may in relation to a local fishing vessel and a fisheries protection officer may in relation to a convention fishing vessel or a foreign fishing vessel exercise anywhere within the convention area outside the fishing waters the powers under article 19:

Provided that, a fisheries protection officer and a conventions fisheries officer may also impose additional enforcement and complementary measures to safeguard the provisions of any convention.

(2) This article does not authorise a fisheries protection officer or convention fisheries officer to do anything not authorised by the convention he purports to enforce nor authorise him to exercise in relation to a vessel of a country which is a party to the convention any power which the government of that country has informed the other parties to the convention is not to be exercised in relation to its fishing vessels.

(3) Any person who on any fishing vessel within the fishing waters or on a local fishing vessel outside those waters, assaults any such officer while exercising any of the powers conferred on him under article 19 or wilfully obstructs such officer in the exercise of any of those powers, shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not exceeding six thousand euro (€6,000).

(4) The provisions of subarticle (3) shall apply in relation to things done on a local fishing vessel in a convention area outside the fishing waters by or in relation to a convention fisheries officer who is exercising powers to enforce the provisions of the convention relating to that area as it applies in relation to things done on any fishing vessel within those limits by or in relation to a fisheries protection officer.

**22.** No civil or criminal action shall lie against a fisheries protection officer or a convention fisheries officer in respect of any act done or omitted to be done by him in good faith in the purported exercise of his powers under this Act if there shall have been reasonable cause for such act or omission.

Indemnity.

**22A.** (1) Where any fish or any other thing of a perishable nature is seized or detained under article 19 the Director may, after ensuring that all evidence is preserved, notwithstanding any other provision of this Act or any subsidiary legislation made thereunder, either:

Disposal of seized fish and other perishables.  
Added by:  
XVII.2022.20.

- (a) return the fish or other thing to the person from whom it was seized or detained upon receiving sufficient and adequate security in the form of a valid bank guarantee payable upon request of the Director, and which, in the opinion of the Director, is of equivalent commercial value to the fish or other thing so seized or detained; or
- (b) cause the sale by public auction of the fish or other thing and, in the event that court proceedings are instituted, deposit the proceeds of sale in court pending an order by the court in respect of the forfeiture or otherwise of the proceeds or release the proceeds to the person from whom the fish or thing were seized or detained in accordance with this Act; or
- (c) destroy the fish when it is no longer safe for human consumption or when it cannot be marketed according

to law, or when it risks causing a significant distortion in the Maltese market; or

- (d) donate the fish to organisations having a charitable or philanthropic purpose and exclusively for consumption, free of charge and as food, by its members or beneficiaries.

(2) Bank guarantees provided according to sub-article (1)(a) shall be valid throughout any proceeding according to this Act:

Provided that should a bank guarantee fail to remain valid until an administrative decision or until a judgment becomes *res judicata*, and if the Director has not been paid and the fish or other thing has been returned

in accordance with sub-article (1)(a), the amount of said bank guarantee shall *ipso facto* become due by the offender as an executive title in favour of the Director,

without prejudice to any obligation to return any secured amount to whoever they are due to according to law.

Release of vessel or thing if no proceedings instituted.

**23.** *Repealed by Act [XVII.2022.19](#).*

Security for release of fishing vessel.

**24.** *Repealed by Act [XVII.2022.19](#).*

Disposal of seized fish and other perishables.

**25.** *Repealed by Act [XVII.2022.19](#).*

## PART IX AQUACULTURE

Installation and operation of aquaculture establishment.

*Amended by:  
L.N. 426 of 2007;  
XV. 2009.49;  
XVII.2022.21.*

**26.** (1) No person shall install or operate an aquaculture establishment otherwise than under the authority of and in accordance with the conditions of an aquaculture permit granted by the Director under this Act. The issue of such permit shall be subject to consultation by the Director with the Chairman of the Authority for Transport in Malta and the Chairman of the Planning Authority with regard to the allocation of an appropriate site for the aquaculture establishment.

(2) *Repealed by Act [XVII.2022.21](#).*

Aquaculture permit.

**27.** (1) An aquaculture permit shall be granted to the person specified therein and shall not be transferred without the prior written consent of the Director.

(2) An aquaculture permit shall confer on the permit holder exclusive rights to harvest the products of the aquaculture establishment within the area specified in the permit either on land or sea.

(3) An aquaculture permit shall be subject to such conditions as appear to the Director to be necessary or expedient for the regulation of aquaculture, the management of fisheries and the

economic benefit of Malta and in particular a permit may contain, without prejudice to the generality of the foregoing -

- (a) conditions as to the siting, design and materials used in the construction of the aquaculture establishment;
- (b) health conditions of fish;
- (c) measures for the prevention of the escape of species of fish introduced into Malta for aquaculture;
- (d) measures for the prevention of the spread of fish diseases to the wild stocks;
- (e) commercial provisions relating to the marketing of fish and fish products.

**27A.** Without prejudice to any other power and, or proceeding according to law, the Director may order the release into the sea of any live fish held by or for a maritime aquaculture establishment, and he may do so from wherever such fish is located, if he deems that such fish is being held in breach of this Act or of any subsidiary legislation made thereunder.

Release of live fish.  
Added by:  
XVII.2022.22.

## PART X PROHIBITIONS AND OFFENCES

**28.** (1) Any person who in the fishing waters or on a local vessel outside the fishing waters -

- (a) uses any poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish or in any way rendering such fish more easily caught; or
- (b) carries or has in his possession or control, any poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in paragraph (a),

Prohibited fishing methods.  
Amended by:  
L.N. 426 of 2007;  
XVII.2022.23.

shall be guilty of an offence against this article and shall be liable, on conviction, to the penalty established in article 34 of the [Explosives Ordinance](#).

Cap. 33.

(2) Any poison, or other noxious substance found on board any vessel shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in subarticle (1).

**29.** (1) Any person who -

- (a) assaults, resists or wilfully obstructs a fisheries protection officer in the exercise of his powers under this Act; or
- (b) refuses or neglects to comply with any order, requisition or direction lawfully made or given under this Act; or
- (c) without reasonable cause fails to -
  - (i) answer any question asked by a fisheries protection officer; or

Obstruction of fisheries protection officers and false information.  
Amended by:  
L.N. 426 of 2007;  
XXXIV.2014.58.

- (ii) produce anything required to be produced, in pursuance of this Act; or
- (d) fails to allow a search or inspection under this Act; or
- (e) prevents or attempts to prevent another person from complying with such orders, requisitions or directions or from answering such questions, producing anything or allowing a search or inspection,

shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than four hundred and sixty-five euro and eighty-seven cents (465.87) but not exceeding five thousand and eight hundred and twenty-three euro and forty-three cents (5,823.43).

- (2) Any person who -
  - (a) for the purposes of obtaining any licence, permit or entry into the record of fishing vessels; or
  - (b) for the purported compliance with any requirement to provide any information under this Act,

provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular, shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than four hundred and sixty-five euro and eighty-seven cents (465.87) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

**29A.** (1) The licence holder and, or the master of a vessel shall not use the said vessel in connection with any trade, business or calling, whether in the territorial or inland waters of Malta or outside the territorial or inland waters of Malta, for the purpose of carrying on any trade, business or calling for which the said vessel is not licenced.

(2) Whosoever contravenes the provisions of sub-article (1) shall be liable on conviction -

- (a) if the unlicenced activity consists in the carriage of dangerous and polluting products including fuel and other petroleum products, to the punishment of imprisonment of not less than one year and not exceeding three years and to a fine (*multa*) of not less than ten thousand euro (€10,000) but not exceeding two hundred and fifty thousand euro (€250,000) or to both such fine and imprisonment;
- (b) in all other cases, to imprisonment not exceeding two years and to a fine (*multa*) of not less than five hundred euro (€500) but not exceeding ten thousand euro (€10,000) or to both such fine and imprisonment,

without prejudice to any other punishment that may be applicable under any other law.

(3) The provisions of articles 121D, 248E(4) and 328K of the [Criminal Code](#) shall, *mutatis mutandis*, apply to an offence referred to in sub-article (1).

Activities other than those prescribed in the licence.  
Added by:  
IV. 2013.9.

(4) In this article, the word "petroleum" means all natural hydrocarbons whether in liquid or gaseous form, including crude oil, liquefied petroleum gas and natural gas, and whether in a crude or natural state or in a processed or refined form.

**30.** (1) Any person who contravenes any provision of this Act or any subsidiary legislation made thereunder for which no penalty is specifically provided shall, on conviction by a competent court, be liable to a fine (*multa*) of not less than one hundred and fifty euro (€150) but not exceeding eighty thousand euro (€80,000).

Offences, penalties  
and proceedings.  
*Amended by:*  
*L.N. 426 of 2007;*  
*XVII.2022.24.*

(2) Where any person is convicted of an offence against this Act, the Court may, in addition to any other penalty that it may impose, order that any fishing gear, instruments or appliances used in the commission of such offence and any fish on board a fishing vessel or the proceeds of sale thereof, if already sold, shall be forfeited to the Government and if so forfeited shall be disposed of in such manner as the Director, acting in his discretion, may direct.

(3) For the purposes of any proceedings under this Act, any fish found on board a fishing vessel shall, unless the contrary is proved, be presumed to have been caught -

- (a) within the fishing waters or in an area where the vessel is required to have a licence or permit to fish; and,
- (b) within the vicinity of the vessel at the time the fish is so found, where the licence or permit restricts the vessel to fish in a particular area.

(4) An attempt to commit an offence under this Act shall itself constitute an offence and may be dealt with in like manner as if the attempted offence had been committed.

(5) Any master who tranships, receives on board a fishing vessel, transports or in any other manner deals with fish caught or transhipped in contravention of this Act shall be guilty of an offence.

(6) *Repealed by Act [XVII.2022.24](#).*

(7) Notwithstanding the provisions of any other law, proceedings in respect of an infringement against this Act or any subsidiary legislation made thereunder involving a foreign fishing vessel shall be barred by prescription by the lapse of ten (10) years from the commission of the infringement.

(8) The Director may, in respect of prosecutions and proceedings for infringements under this Act or any subsidiary legislation made thereunder produce evidence and participate in the prosecution of the case together with the Police before the Court.

(9) A certificate purporting to be signed by the Director or any officer authorised by him for that purpose, to the effect that on a date specified in the certificate:

- (a) a fishing vessel specified in that certificate was not entered in the register of fishing vessels, licensed or specified in a fishing permit under this Act or any subsidiary

legislation made thereunder; or

(b) the accused person or any other named person was not the holder of a licence or fishing permit under this Act or any subsidiary legislation made thereunder,

shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate.

## PART XI COURT PROCEEDINGS, ADMINISTRATIVE PROCEEDINGS AND PENALTIES

Court proceedings.  
Cap. 9

**31.** (1) Notwithstanding the provisions of article 370 of the [Criminal Code](#), the Court of Magistrates shall be the competent Court to try all offences against this Act.

Cap. 9.

(2) Subject to the provisions of subarticle (1), proceedings against any person for any offence against any of the provisions of this Act shall be taken before the Court of Magistrates as a Court of Criminal Judicature in accordance with the provisions of the [Criminal Code](#):

Cap. 9.

Provided that notwithstanding the provisions of article 376(1)(b) of the [Criminal Code](#), the Court shall, at the request of any of the parties, take down the evidence given by the witnesses in the manner provided for in article 391 of the said Code and in article 3 of the [Electro-magnetic Recording of Proceedings Act](#), or in any law for the time being in force.

Cap. 284.

Cap. 9.

(3) Except where specifically provided otherwise, the provisions of article 23 of the [Criminal Code](#) shall not be applicable to offences against this Act.

(4) In respect of proceedings for offences against this Act the Court may award the Government such costs and expenses, including expenses incurred in exercise of the power under article 19(1)(i) and (j), incurred in relation to those proceedings as it may deem proper.

Cap. 9.

(5) Notwithstanding the provisions of article 413(1)(b) of the [Criminal Code](#) the Attorney General shall always have a right of appeal from any judgement given by the Court of Magistrates, sitting as a court of criminal judicature, in respect of proceedings for an offence against this Act.

Order.  
Amended by:  
*L.N. 426 of 2007.*  
Substituted by:  
*XVII.2022.25.*

**32.** The Minister may by order make such provisions as he may consider appropriate for the enforcement of any restriction or obligation relating to sea fishing contained in a convention to which Malta is a party and may provide in that order that any infringement of any such restriction or obligation shall constitute an offence against this Act or any subsidiary legislation made thereunder.

Administrative  
proceedings.  
Amended by:  
*XXI of 2020.*  
Substituted by:  
*XVII.2022.26.*

**33.** (1) If the Director has reasonable cause to believe that an infringement against this Act or any subsidiary legislation made thereunder has been committed by any person he may cause a notice in writing in accordance with sub-article (2) to be served on that person.

(2) A notice in accordance with sub-article (1) shall specify and provide:

(a) the date or time periods during which the alleged infringement took place, and the nature thereof;

(b) the provisions of the law which were or are allegedly being breached;

(c) a summary of the facts upon which the allegation that the infringement was or infringements were committed is based, being sufficiently detailed to inform the person of the allegation against him;

(d) any other matters that the Director considers relevant to the imposition of a penalty;

(e) the amount of the penalty due, being not less than fifty euro (€50) and not more than sixty thousand euro (€60,000);

(f) if it so appears reasonable to the Director and without prejudice to any other provision of the law, the security to be given for the fish or the forfeiture of the proceeds of the sale thereof *mutatis mutandis* in accordance with article 22A, as well as a seizure and confiscation order in favour of the Director of any fishing implement or any other thing related to the infringement or obtained through it; and

(g) if it so appears reasonable to the Director, and without prejudice to any other provision of the law, a temporary immobilisation order against the fishing vessel and, or the suspension for a time period as may be specified of any licence, and, or permit or other type of authorisation given in accordance with the provisions of this Act or any subsidiary legislation made thereunder, and the notice shall include a declaration that such notice is being issued under this article.

(3) Any person on whom a notice under sub-article (1) is served may, within thirty (30) days after such service, by notice in writing served on the Director require that proceedings in respect of the alleged infringement shall be dealt with by the Court, in which case the following provisions shall apply:

(a) no further administrative proceedings relating to that particular infringement shall be taken under this article by the Director; and

(b) nothing in this article shall be construed as preventing the institution of any proceedings in respect of the alleged infringement or the conviction of that person by the

court or, following such conviction, the imposition of any punishment or other enforcement or complementary measures under this Act or any subsidiary legislation made thereunder upon such conviction.

(4) Any person on whom a notice under sub-article (1) is served, who does not wish that proceedings in respect of the alleged infringement shall be dealt with by the court may by notice in writing served on the Director:

(a) admit the infringement; and

(b) agree in writing to pay to the Director the amount of the penalty set by the Director:

Provided that payment should be effected in full within thirty (30) days after the notice of the penalty is served, and in case of default the provisions of sub-article (6) shall apply.

(5) Where a person admits an infringement pursuant to the preceding sub-article, the Director shall impose an administrative penalty on that person in respect of the infringement and in determining the amount of the penalty which is to be imposed, the Director shall also take into account the following criteria, as applicable:

(a) the nature and the extent of the damage caused to fishing resources and the marine environment;

(b) the objective circumstances in which the infringement was committed; and

(c) the economic situation of the offender.

(6) Any penalty imposed under sub-article (5) shall be due as a civil debt enforceable by the competent court of civil jurisdiction in favour of the Government and it shall constitute an executive title according to law in the same manner as if it were a judgement of the competent court of civil jurisdiction.

(7) Notwithstanding any other provision of this Act or any legislation made thereunder, where an infringement has been admitted under this article and the relevant penalty has been paid, no criminal proceedings may be instituted in respect of the same infringement against the person by whom it has been admitted.

(8) Where a person on whom a notice under sub-article (1) is served does not, within thirty (30) days after the notice is served on him, admit the infringement and agree in writing to pay the penalty notified to him by the Director in accordance with sub-article (4), the Director shall institute proceedings or cause proceedings to be instituted before the Court in respect of the alleged infringement.

(9) The provisions of this article shall not apply to any offence in respect of which criminal proceedings have already been instituted.

(10) The Director shall personally and independently exercise his powers under this article, and in the exercise of such powers he shall not be subject to the direction or control of any other person or authority.

34. Repealed by Act [XVII.2022.27](#).

Administrative penalties.

35. Repealed by Act [XVII.2022.27](#).

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

## PART XII GENERAL

36. It shall be in the power of the Director to establish a satellite-based monitoring system to monitor the position of fishing vessels as well as fisheries monitoring centres.

Monitoring system.  
*Amended by:*  
[XVII.2022.28](#).

37. The Director shall have the power to forward any information concerning fishing effort, by any fishing vessels, to any third party, as he shall deem fit.

Information concerning fishing.  
*Amended by:*  
[XVII.2022.29](#).

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

Power to make regulations.  
*Amended by:*  
[L.N. 426 of 2007](#);  
[XVII.2022.30](#).

(2) In particular and without prejudice to the generality of subarticle (1), such regulations may provide for:

- (a) anything which is to be or may be prescribed under this Act;
- (b) the conservation, management and protection of fish resources including the establishment of closed areas and closed seasons, the prescription of the limits on the amounts, sizes and weights of fish caught, retained or traded, the prescription of mesh sizes of nets, the control and use of types of fishing gear, the control and prohibition of methods of fishing and the protection of fish stocks and their habitats from the actual or potential effects of pollution or from the actual or potential effects of measures taken to eliminate or control pollution;
- (c) the establishment and management of marine areas for the preservation of fish stocks, including their means of sustenance;
- (d) the licensing of any kind of fishing including any activity related to fishing and the various registers necessary including the fishing vessel register;
- (e) the regulation of amateur and recreational fishing;
- (f) a quota or total allowable catch for any fish or in respect of any method of fishing in any part of the fishing waters and authorising the Director to allocate any such quota or total allowable catch to such commercial fishermen as he may specify by notice in the Gazette;

- (g) the control of the exploitation of coral and sponge resources;
- (h) the protection of turtles, dolphins and other aquatic animals;
- (i) the regulation of the importation of live marine or freshwater fish and fry, eggs and spawn thereof;
- (j) the promotion and control of the cultivation of fish including the issue by the Director of a code of practice for the maintenance and operation of aquaculture establishments;
- (k) the regulation of the landing of fish including the designation of landing places and the control of the handling and transportation of fish and fish products;
- (l) the regulation of the marketing of fish including the designation of fish markets, the control of fish auctions and the registration of fish buyers and dealers;
- (m) the regulation of market intervention schemes;
- (n) the commercial regulation of the export and import of fish and fish products;
- (o) the control of quality standards and grading of fish sold, exported or imported;
- (p) the payment of fees on applications for permits, licences and registrations and on the issue of permits, licences or registrations; as well as the provision by applicants for licences and licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences;
- (q) the conditions and procedures for applications for any permits, licences or registrations, or other documents and the forms to be used therefor;
- (r) the appointment of local agents for foreign fishing vessels;
- (s) the placing of observers on fishing vessels;
- (t) to regulate any satellite based monitoring systems that may be established under article 36, and to impose such obligations on fishing vessels necessary for the proper operation of such system;
- (u) the control of public fish landing places;
- (v) reports to be made for the purposes of this Act;
- (w) compliance with, and the implementation of, obligations of Malta under any convention and, or treaty, and may include the application to convention vessels of any of the provisions of this Act which do not relate exclusively to foreign fishing vessels with any necessary modifications to provisions relating to any matters including qualifications for ownership of

fishing vessels;

- (x) health and safety regulations as may be deemed proper; and
- (y) the establishment of a point system for any infringement under this Act or any subsidiary legislation made thereunder.

(3) Without prejudice to sub-article (1), the Minister may by regulations prescribe offences, penalties, measures and, or proceedings, be they criminal or administrative, for any provision of this Act if this Act does not provide thereon, and he may also do so for any provision in subsidiary legislation done under this Act.

(4) Without prejudice to any penalty point system established by the Minister, any regulations made by the Minister according to this article which provide for administrative proceedings shall be without prejudice to article 33 and such regulations shall follow the requirements of article 33.

**38A.** Without prejudice to any provision of this Act granting the Minister the power to make regulations, and without prejudice to article 3 and the related exercise of sovereign rights, the Minister may, subject to the provisions of the [Exclusive Economic Zone Act](#), from time to time, make, amend, substitute or repeal regulations for the purpose of regulating, prescribing or otherwise providing for any matters regulated by or under this Act or by or under any subsidiary legislation made thereunder, in respect of an exclusive economic zone area or an environment protection area as defined in the [Exclusive Economic Zone Act](#) or any activities therein including, but not limited, to the applicability or otherwise of this Act and, or of any subsidiary legislation made thereunder.

Power to make regulations with respect to exclusive economic zone area or environment protection area.  
Added by: XXXV.2023.57.  
Cap. 625.

**39.** Repealed by Act [XVII.2022.31](#).

Revision of Director's decisions.  
Amended by: XXI of 2020.

### PART XIII SAVINGS

**40.** Repealed by Act [XVII.2022.31](#).

Savings.

Cap. 10.

**41.** (1) The Administrative Review Tribunal established by article 5 of the [Administrative Justice Act](#) shall be competent to hear and determine appeals made by any person aggrieved by any decision of the Director under article 33, as well as decisions not to grant or renew, or to suspend or revoke an authorisation, a licence or a permit, or to impose conditions, limitations or exclusions therein:

Administrative Review Tribunal.  
Added by: XVII.2022.32.  
Cap. 490.

Provided that, unless otherwise specified by law, an appeal lodged in terms of this sub-article before the Administrative Review Tribunal shall be filed within twenty (20) days from the notification of the Director's decision.

Cap. 490.

(2) There shall be a right of appeal in accordance with the provisions of Part IV of the [Administrative Justice Act](#), from decisions of the Administrative Review Tribunal delivered pursuant to the preceding sub-article, to the Court of Appeal (Inferior Jurisdiction).

**PART XIV  
TRANSITORY PROVISION**

Saving.  
*Added by:*  
*XVII.2022.32.*

Bill no. 10 of 2022

**42.** The provisions of this Act shall remain in force for the purpose of any act, decision or proceedings taken prior to the coming into force of the Fisheries Conservation and Management (Amendment) Act, 2022, in respect of any offence under this Act that was committed prior to the said date.