

**AQUACULTURE, INLAND AND MARINE
PRODUCTS AND BY-PRODUCTS
(INSPECTION, LICENSING AND
EXPORT) ACT, 1999**

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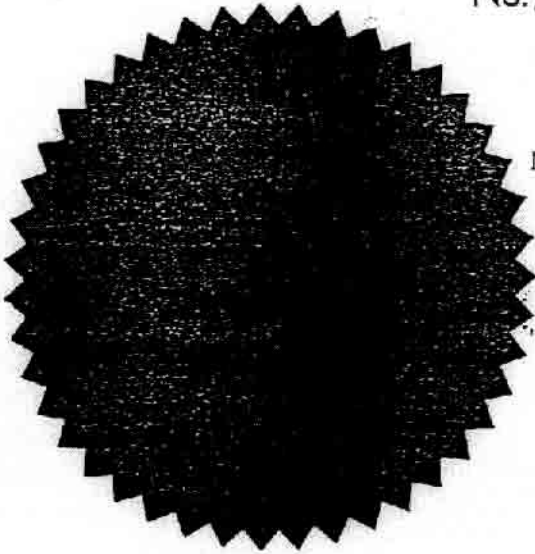
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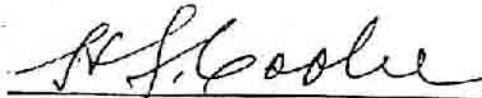
SCHEDULE.

JAMAICA

No. 15—1999



I assent,


Governor-General

26th day of March 1999

AN ACT to Provide for the inspection and certification of various categories of aquaculture, inland and marine products and their by-products intended for export, for the licensing of persons and facilities engaged in the production, harvesting, processing, handling, storage and transport for export of such products and by-products, and for connected matters.

[26th March 1999]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I. *Preliminary*

1. This Act may be cited as the Aquaculture, Inland and Marine Products and By-Products (Inspection, Licensing and Export) Act, 1999.

Short title
and com-
mencement

2.—(1) In this Act, unless the context otherwise requires—

“aquaculture” means the controlled propagation, growth or harvest of aquatic animals or plants, including fish, amphibians, shellfish, molluscs, crustaceans, algae and vascular plants and includes seawater or freshwater fish or crustaceans caught in their natural environment when juvenile;

“article” includes a substance or mixture of substances;

“authorized officer” means—

(a) any member of the Jamaica Constabulary Force or the Jamaica Defence Force;

(b) any public officer designated—

(i) a Fishery Inspector under the Fishing Industry Act;

(ii) a Marine Officer under the Exclusive Economic Zone Act and the Maritime Areas Act;

(c) an Inspector,

and any other person acting in aid of such person acting in the execution of his office or duty shall be deemed to be an officer acting in the execution of his office or duty;

“by-product” means any part of an aquaculture, inland or marine product that is processed in whole or in part for export;

“carrier vessel” means any motorized mother, fishery or fishing boat or ship used only for carriage of aquaculture, inland or marine products or their by-products;

“competent authority” means the Veterinary Services Division of the Ministry responsible for agriculture;

“consignment” means any quantity of aquaculture, inland or marine products or their by-products

harvested or handled in a licensed processing establishment, licensed factory vessel, or licensed carrier vessel and intended for export;

"consignor" means a person who exports aquaculture, inland or marine products or their by-products;

"enter for export" means the presentation of aquaculture, inland or marine products or their by-products, or shipping documents therefor, to a customs officer for the purpose of shipping or to make arrangement for shipping;

"equipment" includes machines, machinery, fixed or moveable devices, implements, apparatus, utensils, appliances, attachments, fittings and fixtures, gears, gadgets, tackles, accessories and contraptions;

"export" means to take or cause to be taken out of Jamaica or the waters thereof;

"export health certificate" means a certificate issued by the competent authority, authorizing the export of a consignment;

"factory vessel" means any motorized mother, fishery or fishing boat or ship on which aquaculture, inland or marine products or their by-products undergo post-harvesting, processing or packaging for export;

"freezer vessel" means any motorized mother, fishery or fishing boat or ship on which only the freezing of aquaculture, inland or marine products or their by-products takes place;

"fit for export" means conforming to the standards for export prescribed by this Act or any regulations made hereunder;

"functions" includes powers and duties;

"handling" means the touching, lifting, managing, carrying or any other activity involving contact with any

aquaculture, inland or marine product or its by-product;

"health mark" means a mark affixed in the prescribed manner to the packaging of aquaculture, inland or marine products or their by-products for export;

"harvesting" means the gathering of any live aquaculture, inland or marine product or its by-product;

"identification number" means the number assigned in the prescribed manner to each licence, operating certificate, licensed establishment or licensed vessel;

"inland product" means any aquatic animal or plant taken from any river, stream, estuarine area or any naturally occurring body of fresh water;

"inspector" means a person designated as an inspector under section 4;

"Jamaica" includes the Exclusive Economic Zone established under section 3 of the Exclusive Economic Zone Act;

"licence" means a licence granted under this Act;

"licensed processing establishment" means a processing establishment operated by a licensee;

"licensed vessel" means a factory vessel, freezer vessel or carrier vessel operated by a licensee;

"licensee" means a person to whom a licence is granted under this Act;

"marine product" includes fish, lobster, conch, bivalve molluscs, marine gastropods, shrimps and all aquatic animals, or the parts thereof, and their roe;

"operator" means the owner, director, controller or other person in charge of or responsible for the operations of a processing establishment, factory vessel, freezer vessel, carrier vessel, and includes a charterer, lessee and master;

“operating certificate” means a certificate issued by the competent authority signifying that a processing establishment, factory vessel, freezer vessel, carrier vessel or consignor is licensed under this Act;

“packaging” means the procedure of protecting aquaculture, inland and marine products and by-products by a wrapper, container or any other suitable device, and “package” shall be construed accordingly;

“post-harvest handling” means gutting, beheading, bleeding, removal of fins and icing;

“processing” means heating, smoking, salting, marinating, dehydration, chilling, filleting, slicing, skinning, mincing, or combinations thereof or any other physical or chemical treatment of any aquaculture, inland or marine product or its by-product but does not include post-harvest handling;

“processing establishment” means any premises in which aquaculture, inland or marine products or their by-products are processed, handled or stored for export;

“production areas” means—

- (a) any sea, river, stream, estuarine or lagoon areas or any naturally occurring body of fresh water, containing natural deposits of inland or marine products; and
- (b) man-made sites used for the cultivation of aquaculture and inland and marine products;

“relay area” means any sea, estuarine or lagoon area or man-made site approved by the competent authority with boundaries clearly marked and indicated by buoys, posts or any other fixed means and used exclusively for the natural purification or bivalve molluscs;

“Veterinary Committee” means the Veterinary Committee established under section 7.

(2) An authorized officer shall, in the execution of his duties under this Act, have, exercise and enjoy all the powers, authority, privileges and immunities of a Constable under the Constabulary Force Act.

Objects of
Act.

3. The objects of this Act shall be—

- (a) to advance public health and safety standards in the export of aquaculture, inland and marine products and their by-products intended for human consumption;
- (b) to specify and maintain international standards of production, harvesting, processing, handling, storage and transport of such products and by-products and to establish systems for ensuring rapid adoption and, where necessary, reinforcement of such standards;
- (c) to monitor the hygiene and sanitary conditions of vessels and establishments engaged in the processing of aquaculture, inland and marine products and their by-products.

Designation
of inspectors.

PART II. *Inspection and Certification of Aquaculture,
Inland and Marine Products and their
By-products.*

4.—(1) The Minister may, from time to time, designate as inspectors for the purposes of this Act, public officers or other persons who, by training and experience, are, in his opinion, qualified to be so designated.

(2) Each inspector shall be furnished with an identification card and shall, on entering any place for the purpose of carrying into effect any of the functions specified in section 5, produce the identification card when required.

Inspector shall

Functions of
inspectors

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(2) Each inspector shall be furnished with an identification card and shall, on entering any place for the purpose of carrying into effect any of the functions specified in section 5, produce the identification card when required.

(3) The designation of any person as an inspector shall be published in the *Gazette*.

5.—(1) The functions of an inspector shall be—

Functions of
inspectors.

- (a) to inspect processing establishments, factory vessels, freezer vessels or carrier vessels in order to—
 - (i) ensure compliance with provisions of this Act or any regulations made hereunder or any condition subject to which a licence is granted;
 - (ii) examine the premises, facilities, equipment and staff in order to determine whether they comply with the requirements of the Public Health Act and this Act or any regulations made hereunder with respect to standards of sanitation and hygiene;
 - (iii) verify whether aquaculture, inland and marine products and their by-products and any equipment, material or other item used or found in any processing establishment, factory vessel, freezer vessel or carrier vessel are handled and treated correctly;
 - (iv) ensure the correct application and functioning of purification and conditioning systems;
 - (v) monitor the use of health marks;
 - (vi) determine the suitability of any processing establishment, factory vessel, freezer vessel or carrier vessel for the processing of aquaculture, inland or marine products or their by-products to be granted a licence and an operating certificate under this Act or any regulations made hereunder;

- (b) to monitor the relay and production areas of aquaculture, inland and marine products for the purposes of—
 - (i) controlling any malpractice with regard to the origin and destination of aquaculture, inland and marine products and their by-products;
 - (ii) determining the microbiological quality of live marine products in relation to such areas;
 - (iii) detecting the presence of toxin-producing plankton, biotoxins and chemical contaminants in aquaculture inland and marine products and their by-products;
- (c) to monitor the implementation of any plans or schemes established by the competent authority;
- (d) to examine any aquaculture, inland or marine product or its by-product;
- (e) to certify for export, any such aquaculture, inland or marine product or its by-product;
- (f) to take samples of any aquaculture, inland or marine product or its by-product or any other article, from any place within a licensed processing establishment or licensed vessel in order to determine whether proper sanitary conditions are being maintained;
- (g) to inspect any container, vehicle, aircraft or vessel which is used or intended to be used for the storage or transportation of aquaculture, inland or marine products or their by-products;
- (h) to open and examine any container, vehicle or other storage device at licensed processing establishments or on licensed vessels which is reasonably believed to contain any aquaculture, inland or marine product or its by-product;

(i) to tag—

- (i) any aquaculture, inland or marine products or their by-products and any container or package in which they are stored, which contravene or which the inspector believes to contravene the requirements of this Act and any regulations made hereunder; and
 - (ii) any equipment which is not in use or should not be used;
- (j) to give directives to the owner, agent or person in charge of any container, vehicle, aircraft, boat or vessel which is used or intended to be used for the storage or transportation of aquaculture, inland or marine products or their by-products;
- (k) to examine and, where necessary, make copies of or take extracts from any records and documents in relation to any aquaculture, inland or marine products or their by-products which consignors are required to keep pursuant to this Act or any regulations made hereunder.

(3) An inspector may—

- (a) in accordance with the provisions and procedures specified in regulations made under section 37—
- (i) detain any aquaculture, inland or marine products or their by-products or any article which is at a processing establishment, factory vessel, freezer vessel or carrier vessel, if he reasonably believes that there is a contravention of any provision of this Act or those regulations;
 - (ii) condemn, seize and destroy any aquaculture, inland or marine products or their by-products that are detained pursuant to subparagraph (i);

- (b) prohibit the receipt, storage or transportation for the purposes of export, or the export or entry for export of any aquaculture, inland or marine product or its by-product that he believes on reasonable grounds were harvested, handled or processed in contravention of this Act or any regulations made hereunder.

PART III. *Administration*

Functions
and duties
of compe-
tent
authority.

6.—(1) For the purposes of this Act, the competent authority shall—

- (a) develop and implement policies and programmes to safeguard the public health of consumers of aquaculture, inland and marine products and their by-products;
- (b) provide appropriate training programmes and consulting services relating to all aspects of the production, harvesting, processing, handling, storage and transport of aquaculture, inland and marine products and their by-products;
- (c) grant licences and operating certificates—
 - (i) in respect of the exportation of aquaculture, inland and marine products and their by-products;
 - (ii) for the operation of processing establishments, factory vessels, freezer vessels and carrier vessels;
- (d) promote public awareness and understanding of issues related to the production, harvesting, processing, handling, storage and transport of aquaculture, inland and marine products and their by-products;
- (e) ensure and verify that only live aquaculture, inland and marine products are harvested exclusively from approved demarcated production areas;

- (f) establish and maintain an official register of all licensed processing establishments, licensed vessels and consignors;
- (g) compile a list of licensed processing establishments, licensed vessels and consignors,
- (h) issue an export health certificate for each consignment in accordance with this Act and any regulations made hereunder;
- (i) operate and maintain appropriate laboratories for the purpose of this Act;
- (j) establish systems for obtaining the assistance of such other laboratories as the competent authority considers necessary;
- (k) assign an identification number to every licensed processing establishment, licensed vessel and consignor;
- (l) demarcate and approve production areas, or make changes to areas so demarcated from which aquaculture and inland and marine products shall be harvested for export;
- (m) compile a list of production areas referred to in paragraph (l) or changes thereof and publish that list in the *Gazette*;
- (n) monitor demarcated production areas to ensure compliance with the provisions of this Act and any regulations made hereunder;
- (o) order the closure of demarcated production areas for the purposes of prohibiting the harvesting of aquaculture, inland and marine products or as the case may be, particular types of aquaculture, inland or marine products or their by-products;
- (p) perform such other functions pertaining to the export of aquaculture, inland and marine products

and their by-products as may be assigned to it,
from time to time, by the Minister.

Establish-
ment of
veterinary
Committee.
Schedule.

7. There is hereby established a Veterinary Committee for the purposes of this Act and the provisions of the Schedule shall have effect as to the constitution of the Veterinary Committee and otherwise in relation thereto.

Functions
and duties of
Veterinary
Committee.

8.—(1) The functions of the Veterinary Committee shall be—

- (a) to determine, after consultation with the competent authority, the method of shipment and packaging necessary for transport of aquaculture, inland and marine products and their by-products;
- (b) to consult with the Competent Authority on matters under this Act requiring such consultation;
- (c) to carry out such investigations as it considers necessary in relation to the operation of any licensed processing establishment, licensed vessel, or any consignor;
- (d) to prepare and submit to the competent authority, annual reports regarding the export of aquaculture, inland and marine products and their by-products;
- (e) to advise the competent authority on general policy relating to the export of aquaculture, inland and marine products and their by-products or any other matters in respect of which advice is sought by the competent authority;
- (f) to initiate, carry out or support, research which, in its opinion, is relevant to any of its functions; and
- (g) to perform such other functions pertaining to the export of aquaculture, inland and marine products and their by-products as may be assigned to it from time to time by the Minister.

(2) The Veterinary Committee shall make recommendations—

- (a) in respect of the grant of licences and operating certificates in respect of processing establishments, factory vessels, freezer vessels, carrier vessels and consignors; and
- (b) the export of aquaculture, inland and marine products and their by-products.

(3) In the exercise of its functions under this Act the Veterinary Committee may—

- (a) summon and examine witnesses;
- (b) require the production of documents; and
- (c) administer oaths.

*PART IV. Restrictions on Export of Aquaculture,
Inland and Marine Products and their
By-products and Operation of Process-
ing Establishments, Factory Vessels,
Freezer Vessels and Carrier Vessels*

9. Except under and in accordance with the provisions of this Act and any regulations made hereunder, no person shall—

Restriction
on export
of aqua-
culture,
etc.

- (a) export or enter for export any aquaculture, inland or marine products or their by-products; or
- (b) operate a processing establishment, factory vessel, freezer vessel or carrier vessel for the production, harvesting, processing, handling, storage or transport of any aquaculture, inland or marine product or its by-product for export.

*PART V. Application, Grant, Refusal, Renewal,
Suspension and Revocation of Licence
and Appeal*

10.—(1) Every person who proposes to export or enter for export any aquaculture, inland or marine product or its

Application
for licence
to export,
aquaculture,
etc.

by-product shall apply in the prescribed form and manner to the competent authority for a licence to do so.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee and such information or document, if any, as the competent authority may require.

Application
to operate
processing
establish-
ment, etc.

11.—(1) Every person who proposes to operate a processing establishment, factory vessel, freezer vessel or carrier vessel shall apply to the competent authority in the prescribed form and manner for a licence to do so.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee and such information or document, if any, as the competent authority may require.

Grant or
refusal of
licence by
competent
authority.

12.—(1) Upon receipt of an application under section 11 the competent authority shall cause an inspector to carry out an inspection of the processing establishment, factory vessel, freezer vessel or carrier vessel to which the application relates.

(2) The inspector shall submit to the competent authority a report in the prescribed form in respect of an inspection carried out pursuant to subsection (1).

(3) The competent authority may—

- (a) grant a licence upon payment of the prescribed licence fee; or
- (b) refuse to grant a licence.

(4) A licence granted under this section shall be subject to such terms and conditions as may be specified therein.

(5) Where the competent authority grants a licence under this section it shall issue an operating certificate to the licensee.

(6) Where the competent authority refuses to grant a licence under this Act, it shall so inform the applicant in writing stating the reasons therefor.

13. A licence granted pursuant to this Act shall not be transferable and shall be valid for such period, not exceeding twelve months as is specified therein.

Non-trans-
ferability
and validity
of licence.

14.—(1) The competent authority may refuse to grant a licence under this Act

Grounds
for refusal
to issue
licence.

(a) where the Veterinary Committee recommends such refusal on the ground that the issue of the licence would not be in the public interest, having regard to such factors as the Veterinary Committee considers relevant;

(b) where an application contains or is based on a false or misleading representation or information which is false in a material particular;

(c) to an individual who—

(i) is under the age of eighteen years;

(ii) is an undischarged bankrupt; or

(iii) has been convicted during the period of ten years immediately preceding the application of an offence specified in subsection (2);

(d) to a body corporate—

(i) in respect of which a resolution has been passed for voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;

(ii) if a receiver has been appointed to manage any of its assets;

(iii) if, during the period of ten years immediately preceding the application any of its directors has been convicted of an offence specified in subsection (2); or

(iv) which has been convicted during the period of five years immediately preceding the application of an offence under this Act.

(2) The offence referred to in subsection (1) is—

- (a) an offence against this Act of any regulation made hereunder;
- (b) an offence involving fraud or dishonesty; or
- (c) an offence under the Dangerous Drugs Act.

Renewal of
licence.

15.—(1) A licence granted pursuant to this Act may be renewed by the competent authority if—

- (a) application for such renewal is made not later than thirty days before the date of expiry or within such longer period as the competent authority may allow;
- (b) the competent authority is satisfied that—
 - (i) the applicant is operating in compliance with the provisions of this Act or any regulations made hereunder;
 - (ii) the equipment in the licensed establishment or licensed vessel is being operated in an efficient and hygienic manner;
 - (iii) only those export operations for which the establishment or vessel is licensed are being carried out by the applicant;
- (c) the applicant has paid—
 - (i) any fee charged by the competent authority for services performed at, or in respect of, the establishment or vessel to which the application relates;
 - (ii) any other fees or charges payable pursuant to this Act or any regulations made hereunder in relation to that establishment or vessel;

- (d) there has been no material change in the circumstances which existed at the time the licence was granted which would justify the application being treated as a new application in accordance with subsection (2);
- (e) the applicant or his servant or agent has not been convicted of an offence specified in section 14 (2).

(2) Where—

- (a) an application for the renewal of a licence is made after the expiration of the period specified in subsection (1) (a); or
- (b) the competent authority is satisfied that a material change of circumstance has occurred since the licence or certificate was granted,

it shall treat the application as a new application, and accordingly, the provisions of sections 10, 11, 12 and 14 shall apply to that application.

16.—(1) Where the competent authority grants a licence for the operation of a processing establishment, factory vessel, freezer vessel or carrier vessel, it shall—

Identification numbers.

- (a) allot an identification number to that establishment or vessel; and
- (b) specify in the licence so granted—
 - (i) the export operations to which the licence relates; and
 - (ii) the identification number allotted pursuant to paragraph (a).

(2) The number so assigned shall be affixed in the prescribed manner to the packaging of any product or by-product which is examined by an inspector and found to be in good condition and fit for export.

Restriction
on grant of
licence
retrospec-
tively.

17. The competent authority shall not issue a licence retrospectively in respect of any aquaculture, inland or marine product or its by-product.

Suspension
of licence.

18 —(1) Subject to subsection (2), the competent authority may suspend a licence if—

- (a) the licensee has failed to pay any fees or other charges required by this Act or any regulations made hereunder;
- (b) the licensee is in breach of—
 - (i) any provision of this Act or any regulations made hereunder; or
 - (ii) any term or condition subject to which the licence is granted;
- (c) it is satisfied that it is not possible to carry out a proper inspection of products and by-products processed by the licensee at an establishment or vessel;
- (d) a licensee notifies the competent authority in writing that he intends to cease the operations for which he is licensed for the period stated in the notice.

(2) Before suspending a licence under subsection (1), (a), (b) or (c), the competent authority shall notify the licensee in writing of the proposed suspension—

- (a) stating the reason therefor;
- (b) requiring the licensee, in the case of a breach, to remedy the breach within the time specified in the notice.

(3) A licensee who is served with a notice under subsection (2) shall, after remedying the breach which gave rise to the suspension, notify the competent authority in writing that the breach has been remedied.

(4) The competent authority shall, upon receipt of a notice referred to in subsection (3), cause an inspection to

be carried out and if on inspection, the inspector is satisfied that the breach has been remedied, he shall report in writing to the competent authority which shall withdraw the notice of suspension.

19.—(1) The competent authority may revoke a licence Revocation
of licence
if it is satisfied that—

- (a) a licensee has ceased to comply with the provisions of this Act or any regulations made hereunder in relation to the licensed processing establishment, vessel or export operations;
- (b) the application for the licence contained any false or misleading information in any material particular;
- (c) the licensee has failed to remedy a breach which gave rise to a suspension of the licence under section 18, within the time specified in a notice under subsection (2) of that section;
- (d) where any fee or other charge payable by the licensee remains unpaid for a period of ninety days after the suspension of the licence.

(2) Where a licence is revoked pursuant to this section—

- (a) any export health certificate issued to an operator or consignor shall cease to be valid;
- (b) the licence shall be returned forthwith to the competent authority.

20.—(1) A person who is aggrieved by the decision of the Appeal.
competent authority not to grant a licence or to suspend or revoke his licence may appeal in writing to the Minister within fourteen days of the date of notification of the decision.

(2) The appeal shall set out the grounds of the appeal and shall be accompanied by copies of any correspondence, documents or statements relevant to the appeal.

(3) Notice in writing of the appeal together with copies of any correspondence, documents or statements referred to in subsection (2) shall be served on the competent authority.

(4) The Minister shall, within seven days of the receipt of an appeal under subsection (1), request the competent authority to furnish him, within seven days, with a statement in writing setting out the reasons for its decision.

(5) The Minister may order that any books, paper, documents or statements relating to the appeal which are in the possession of the person aggrieved or the competent authority be produced at the hearing of the appeal.

(6) The Minister shall cause all parties to the appeal to be informed—

- (a) of the date of the hearing of the appeal;
- (b) that they may appear in person or by their representative; and
- (c) that they may summon witnesses in their cause.

PART VI. *Certificates and Records*

Operating
certificate
to be dis-
played.

21. Every licensee shall display the operating certificate issued to him in a conspicuous place in the licensed establishment or licensed vessel.

Export
health
certificate.

22. Every licensee shall apply to the competent authority for an export health certificate in respect of every consignment of aquaculture, inland and marine products and their by-products.

Records,
etc.

23. Every licensee shall keep such books, documents, records or things as may be prescribed.

PART VII. *Offences and Penalties*

Offence of
exporting
aquaculture,
etc. without
licence.

24. Every person who exports or enters for export any aquaculture, inland or marine product or its by-product without a valid licence or export health certificate under this Act or any regulations made hereunder commits an

offence, and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment and, where the offence is continued after conviction, that person commits a further offence and is liable on summary conviction as aforesaid to a further fine not exceeding fifty thousand dollars per day for each day on which the offence is so continued

25. Every person who—

- (a) exports or enters for export and aquaculture, inland or marine product; or
- (b) operates any processing establishment, factory vessel, freezer vessel or carrier vessel or any other facility or installation for the purpose of harvesting, handling or processing for export, any aquaculture, inland or marine product or its by-product,

Offence of
processing
for export
or operating
plant, etc.
unlawfully.

in contravention of this Act and any regulations made hereunder, commits an offence, and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and where the offence is continued after conviction, he commits a further offence, and is liable on summary conviction as aforesaid to a further fine not exceeding fifty thousand dollars per day for each day on which the offence is so continued.

26. Every person who harvests, handles or processes for export or who exports any aquaculture, inland or marine product or its by-product originating in an area which is not approved by the competent authority under this Act commits an offence, and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, and

Offence of
harvesting,
etc. in un-
approved
area.

where the offence is continued after conviction, that person commits a further offence, and is liable on summary conviction as aforesaid to a fine not exceeding fifty thousand dollars per day for each day on which the offence is so continued.

Offence of
exporting
aquaculture,
etc. without
identifica-
tion num-
ber.

27. Any person who exports or enters for export, any aquaculture, inland or marine product or by-product without an identification number affixed to the packaging thereof as required by this Act and regulations made hereunder, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding four hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offence of
operating
establish-
ment, etc.
without
licence.

28. Any person who operates his business for the purposes of export of aquaculture, inland or marine product or its by-product in any period during which his licence is suspended or revoked, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment, and where the offence is continued after conviction he commits a further offence and is liable on summary conviction as aforesaid to a further fine not exceeding one hundred thousand dollars per day for each day on which the offence is so continued.

Offence of
corruption,
etc. by
authorized
officer.

29. Any authorized officer who in the performance of his functions under this Act—

- (a) accepts a bribe in cash, goods, service or kind; or
- (b) falsifies any record or report,

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

30. Every person who—

- (a) for the purposes of obtaining, whether for himself or for any other person, the issue, grant or renewal of any licence under this Act, makes any declaration or statement which is false or misleading in any particular;
- (b) knowingly furnishes to an authorized officer any document containing information which is false or misleading;
- (c) knowingly utters, produces, or makes use of any such declaration or statement or any document containing any false declaration or statement;
- (d) falsifies or amends any information contained in a licence or operating certificate,

Offence of
making
false or
misleading
statements.

commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

31. Any person who threatens, assaults or obstructs an authorized officer acting in the execution of his duties under this Act commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding twelve months.

Offence of
threatening
etc. author-
ized officer.

32. Every person who—

- (a) fails to keep any records or other documents required by this Act or any regulations made hereunder;
- (b) fails, without reasonable excuse, to produce any such books, records or other documents,

Offence of
failure to
keep records
and docu-
ments.

commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceed-

ing two hundred thousand dollars, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

PART VIII. *Enforcement*

General
powers of
entry,
inspection,
and seizure.

33. (1) An authorized officer (other than a person referred to in paragraph (a) of the definition of "authorized officer" in section 2 (1) may, for the purpose of the execution of this Act; enter at all reasonable times the business premises of any person exporting or suspected of exporting any aquaculture, inland or marine product or its by-product and inspect any book, document, permit, certificate or record or things relating thereto.

(2) An authorized officer referred to in subsection (1) may, during the course of an inspection pursuant to subsection (1), seize and detain—

(a) any product or by-product found therein; or

(b) any equipment or other article found therein,

which the authorized officer reasonably believes is being used in contravention of any provision of this Act.

Vehicles,
etc. may be
seized and
detained.

34.—(1) Where an authorized officer referred to in section 33 has reasonable cause to suspect that—

(a) any aquaculture, inland or marine product or its by-product; or

(b) any vehicle, aircraft, vessel, article, enclosure, container or other storage facility, device or apparatus (hereinafter referred to as "specified equipment"),

is being used or has been used in the commission of an offence against this Act, such authorized officer may, without a warrant, search the specified equipment, and if such search reveals evidence that the specified equipment is being used or has been used for the commission of any offence as aforesaid, the authorized officer may seize and detain the specified equipment.

(2) Where a person is convicted of an offence under this Act in which any specified equipment seized and detained under subsection (1) is used in committing the offence, the Court may, on an application by the Director of Public Prosecutions order that the specified equipment be forfeited to the Crown.

35.—(1) Where the Director of Public Prosecutions proposes to apply to the Court for an order of forfeiture under subsection (2) of section 4 it shall, subject to subsection (4) of this section, notify in writing the owner of and any person (if known) having an interest in the specified equipment that it proposes to apply for such an order.

*Procedures
regarding
application
for forfei-
ture.*

(2) The owner or other person notified under subsection (1) may appear before the court at the hearing of the application and show cause why the specified equipment should not be forfeited.

(3) Where the Director of Public Prosecutions is unable to ascertain the owner of or any person having an interest in any specified equipment to which this section applies, he shall publish a notice in a daily newspaper circulating in Jamaica regarding the intention to apply to the Court for an order for forfeiture, not less than thirty days prior to the application.

(4) Notice shall not be required under subsection (1) if the seizure or detention of the specified equipment was made in the presence of the owner or person having an interest in the specified equipment.

(5) If, upon the application of a person prejudiced by an order made under subsection (2) of section 34, the Court is satisfied that it is just in the circumstances of the case to revoke such order, the Court may revoke such order upon such terms and conditions, if any, as it deems appropriate, and without prejudice to the generality of the fore-

going, may require such person to pay in respect of storage, maintenance, administrative expenses, security and insurance of the specified equipment, such amount as may be charged by the person in whose custody the specified equipment was kept.

(6) An application to the Court under subsection (5) for the revocation of a forfeiture order shall be made within thirty days of the date of the making of such an order or such longer period not exceeding six months, as the Court may allow.

**Search
warrant.**

36. Where a Justice of the Peace is satisfied by information on oath by an authorized officer that there is reasonable ground for suspecting—

- (a) that any aquaculture, inland or marine product or by-product is in the possession or under the control of any person on any premises in contravention of the provisions of this Act or of any regulations made hereunder; or
- (b) that there is in the possession of or under the control of any person on any premises, any document directly or indirectly relating to or connected with any transaction or dealing in any aquaculture, inland or marine product or by-product which, if carried out would be an offence against this Act, or which relates to a transaction or dealing carried out or intended to be carried out in any place outside the Island and which would be an offence against the provisions of any corresponding law in force in that place,

the Justice of the Peace may grant a search warrant authorizing the authorized officer named in the warrant, at any time or times within one month from the date of the warrant, to enter and search the premises, seize and detain

any document, aquaculture, inland or marine product or by-product or detain any person found therein.

PART IX. General

37.—(1) The Minister may make regulations for the purposes of giving effect to the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, such regulations may contain provisions in relation to—

- (a) the carrying into effect of international standards and recommended practices or health requirements for the harvesting, processing, handling, storage and transport of aquaculture, inland and marine products and by-products;
- (b) the procedures for the licensing of processing establishments, factory vessels, freezer vessels or carrier vessels;
- (c) procedures for and the frequency of inspection of licensed processing establishment and licensed vessels;
- (d) procedure for the issuing of and conditions as to the validity of, export health certificates;
- (e) the conditions for and the methods of demarcation, approval and listing of production areas, changes or closure of those areas, and communication of the list or changes to any importing country or any person requesting sample;
- (f) the monitoring and control of production areas in relation to microbiological, chemical, environmental contamination and marine biotoxins;
- (g) the regularity of supply of information to any importing country or person;

- (h) the establishment, operation and maintenance of laboratories or laboratory activities;
- (i) the prohibition of production and harvesting of aquaculture, inland and marine products and their by-products in production areas deemed unsuitable by the competent authority;
- (j) standards required in relation to sanitation and hygiene in respect of licensed processing establishments or licensed vessels;
- (k) requirements as to details of the health checks, including hazard analysis critical control points system for the production, harvesting, handling and processing of aquaculture, inland and marine products and their by-products for export;
- (l) standards and requirements concerning aquaculture, inland and marine products and their by-products intended for export and the methods of giving assurances that such standards and requirements are being complied with;
- (m) the wrapping, labelling and packaging of aquaculture, inland and marine products and their by-products;
- (n) the manner of keeping records;
- (o) the monitoring of water and the sampling, testing and examination of aquaculture, inland and marine products and their by-products and any other matter or thing;
- (p) the use of chemicals, chemical compounds, hormones or additives in the production, harvesting, handling and processing of aquaculture, inland and marine products and their by-products;

- (q) fees payable in respect of the licensing, inspection, sampling and such other service as the competent authority may determine;
- (r) procedures and conditions relating to the microbiological and chemical examination and testing of aquaculture, inland and marine products and their by-products, at production areas, landing sites, processing establishments, factory vessels, carrier vessels and freezer vessels and at all stages of the handling, transportation, processing and export of such products and by-products;
- (s) the conditions under which a register shall be made available for inspection by the public and the fees payable in relation to such inspection;
- (t) any other thing required by this Act to be prescribed.

(2) Notwithstanding section 29 of the Interpretation Act, regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of one million dollars or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

38. This Act binds the Crown.

Act Applies
to the
Crown.

SCHEDULE

(Section 7)

*Constitution and Procedure of the
Veterinary Committee*

Constitu-
tion of
committee.

1.—(1) The Veterinary Committee (hereinafter referred to as the Committee) shall consist of—

- (a) the Director of Veterinary Services;
- (b) a Senior Veterinary Officer of the Veterinary Services Division appointed by the Director of the Veterinary Services;
- (c) the Director of Veterinary Public Health of the Ministry responsible for health;
- (d) the Director of Fisheries Division of the Ministry responsible for agriculture;
- (e) a Director of the Bureau of Standards; and
- (f) a representative of the Attorney General's Department;
- (g) a member appointed by the Minister, (hereinafter referred to as the "appointed member") who shall be a person with not less than five years experience who is registered as a veterinary surgeon under the Veterinary Act.

(2) The appointed member shall, subject to the provisions of this Schedule, hold office, for a period not exceeding three years, as the Minister may determine and shall be eligible for reappointment.

(3) The Director of Veterinary Services shall be Chairman of the Committee.

(4) The Senior Veterinary Officer shall be the Deputy Chairman of the Committee.

(5) In the case of absence or inability of the Chairman, the Deputy Chairman shall perform the functions of the Chairman.

Resignation.

3. The appointed member may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Revocation
of appoint-
ment.

4. The Minister may at any time, if he thinks it expedient so to do, revoke the appointment of the appointed member.

Filling of
vacancy.

5. If a vacancy occurs by reason of the appointed member being no longer a member of the Committee, such vacancy shall be filled by appointment in accordance with paragraph 1 (1) (f).

- Acting appointment. 6. In the case of the appointed member's absence or inability to act the Minister may, in accordance with paragraph 1 (1) (g), appoint any person to act temporarily in the place of the appointed member.
- Gazetting of appointment. 7. The names of all members of the Committee as first constituted and every change in the membership thereof shall be notified in the *Gazette*.
- Remuneration of members. 8. There shall be paid to the Chairman and the other members such remuneration (whether by way of honorarium or fees) and such allowances as the Minister may determine.
- Voting. 9. The decisions of the Committee shall be by a majority of votes of the members, and in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.
- Procedure and meetings. 10.—(1) The Committee shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Committee may determine.
- (2) Minutes of each meeting of the Committee shall be kept in proper form.
- (3) The validity of the proceedings of the Committee shall not be affected by virtue of any vacancy among the members thereof or any defect in the appointment of a member thereof.
- (4) Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.
- (5) The Chairman or, in the case of the inability to act of the Chairman the Deputy Chairman, shall preside at the meetings of the Committee and in the absence of both the Chairman and Deputy Chairman from any meeting, the members of the Committee present shall elect one of their number to preside at that meeting.
- Disclosure of interest. 11. Any member of the Committee who is directly or indirectly interested in any matter which is being dealt with by the Committee—
- (a) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Committee; and
- (b) shall not be present at any meeting of the Committee when the matter in which he has

an interest in being deliberated unless, by unanimous decision of the remaining members of the Committee, he is requested to be so present; and

- (c) shall not take part in any deliberation or decision of the Committee with respect to that matter when he is requested under subparagraph (b) to be present at such deliberation.

Quorum. 12. The quorum of the Committee shall be three members.

Protection of members. 13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Committee is exempt from liability by reason only of the provisions of this paragraph, the Committee shall be liable to the extent that it would be if the said member were an employee or an agent of the Committee.

Passed in the House of Representatives this 3rd day of March, 1999.

MICHAEL PEART,
Deputy Speaker.

Passed in the Senate this 12th day of March, 1999 with two (2) amendments.

SYRINGA MARSHALL-BURNETT,
President.

On the 23rd day of March, 1999, the House of Representatives agreed to the amendments made by the Senate.

MICHAEL PEART,
Deputy Speaker.

This printed impression has been carefully compared by me with the Bill which has passed the House of Representatives and Senate, and has been found by me to be a true and correct printed copy of the said Bill.

Clerk to the Houses of Parliament.