

Brief on Fisheries and Marine Resources Act 1998 (Revised)

1 The Fisheries and Marine Resources Act 2007 was proclaimed and came into operation on 8 May 2008.

2 The Act is a complete revision of the Fisheries and Marine Resources Act of 1998.

3 The object of the Act is to amend and consolidate the law providing for the management, conservation and protection of the fisheries and marine resources and protection of the marine ecosystems.

4 The measures provided for in the Act reflect principles and measures embodied in international instruments such as the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Stocks and Highly Migratory Fish Stocks (the United Nations Fish Stocks Agreement), the Food and Agricultural Organisation Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement) and the International Plan of Action (IPOA) on Illegal, Unreported and Unregulated (IUU) Fishing.

5 New provisions have been made relating to:

- (i) Monitoring, control and surveillance;
- (ii) Custody/disposal of picked up items and return of seized fish and fish products;
- (iii) Compounding; and
- (iv) Use of new technologies.

6 The provisions for monitoring, control and surveillance include:

- (i) prohibition of import and export of any fish taken contrary to the law of one or more states with which Mauritius has entered into an agreement for management of fisheries;
- (ii) prevention of licensing of boats/vessels with a history of IUU fishing;
- (iii) markings of fishing boats and vessels to be as per the FAO standard specifications and guidelines for marking of fishing vessels or such markings as specified by the flag state of the boat or vessel;
- (iv) taking action against vessels which have failed to abide by international conservation and management measures;
- (v) port inspection of boats or vessels regardless of their being licensed or not;
- (vi) prevention of transshipment at sea except with prior authorization;
- (vii) boarding and inspection of vessels under international law and agreements;
- (viii) requirements for giving access to the Mauritian port by foreign boats/vessels such as prior notice and transmission of relevant documentations; and
- (ix) notice of entry into and exit from the maritime zones

7 The Act also provides for this Ministry to register fishing boats less than 24 metres since the Ministry responsible for shipping no longer registers such boats. The procedures for registration and cancellation of registration of fishing boats have been made more explicit. In addition, provisions have been made to deal with cases of abandoned fishing boats which may present public health and navigational hazards or eyesores.

The Act makes provisions for: (i) distinguishing offences relating to small-scale fishing operations from those fishing operations undertaken by large boats and vessels, (ii) ensuring that all offences established are reflected in the offences and penalties schemes and (iii) ensuring the

coherence of the penalty scale by grading penalties in relation to the seriousness of the offences.

The imposition of penalties for first, second, third or subsequent convictions have been deleted and instead penalties have been provided for up to a maximum amount leaving it to the Court to decide on the matter. Penalties for coastal fisheries range from Rs 100,000 to Rs 500,000 whilst foreign fishing boats and vessels may be fined up to one million US dollars.

The Act does not provide for terms of imprisonment except for the use of any poisonous substance or any explosive for fishing purposes which is viewed to be a very serious offence.

8 The range of issues for making regulations has been increased to include, amongst others:

- (i) prescribing management and conservation measures and requiring vessels to be equipped with observation devices;
- (ii) procedures to be observed by fishing vessels while entering the maritime zones;
- (iii) providing for and placing observers on board of fishing boats and vessels; and
- (iv) providing for manning, surveying and certification of fishing boats.