

CHAPTER 388

THE DEEP SEA FISHING AUTHORITY ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 388

THE DEEP SEA FISHING AUTHORITY ACT

An Act to establish a Deep Sea Fishing Authority, to regulate deep sea fishing in the Exclusive Economic Zone and for related matters.

[.....]

Act No. 1 of 1998

PART I

PRELIMINARY PROVISIONS (ss 1-3)

[PCh388s1]1. Short title and commencement

This Act may be cited as the Deep Sea Fishing Authority Act, 1998, and shall come into operation on the date which the Minister may by Notice published in the Gazette appoint.

[PCh388s2]2. Application

(1) This Act shall apply to Tanzania Zanzibar as well as Mainland Tanzania.

(2) This Act shall be construed as being in addition to and not in derogation of the Territorial Sea and Exclusive Economic Zone Act *, and shall for all intents and purposes complement that Act.

[PCh388s3]3. Interpretation

In this Act, unless the context requires otherwise—

"Advisory Committee" means the Advisory Committee established under Section 5(7);

"authorised officer" means officers of the Authority, fisheries officers of the Governments Ministries responsible for fisheries, members of police force, members of defence force, officers of Customs and Revenue department, or any other person approved by the Minister;

"Authority" means the Deep Sea Fishing Authority established under section 4 of this Act;

"Director-General" means the Director-General of the Authority appointed under section 6 of the Act or any person acting in that capacity;

"exclusive economic zone" has the meaning ascribed to it by the Territorial Sea and Economic Zone Act *;

"Executive Committee" means a Committee established by section 5 of the Act to assist the Authority;

"fishing area or Tanzania Fishing Zone" means the seawater contiguous to and beyond the twelve nautical miles of Territorial Sea and its outer limit is two hundred nautical miles from the base lines from which Territorial Sea is measured;

"flag state" means the state in which a vessel is recognised by international law as being registered;

"foreign fishing vessel" means a fishing vessel which is recognised by international law as either registered elsewhere other than in the United Republic or is wholly owned by a person or persons who are not citizens of the United Republic or is owned by a body of persons, society

or association which is established under the laws of another country other than the United Republic;

"licensing authority" means the Director-General of the Authority;

"local fishing vessel" means a vessel which is wholly owned by a person or persons who are citizens of the United Republic of Tanzania; or is wholly owned by a company or society or other association of persons established under the laws of Tanzania and of which fifty one per centum of the voting shares are owned by citizens of the United Republic of Tanzania;

"Minister" means the minister for the time being responsible for fisheries in the government of the United Republic;

"Tanzania" means the United Republic of Tanzania;

"Territorial Sea" has the meaning ascribed to it by the Territorial Sea and Exclusive Economic Zone Act *, Part II;

"United Republic" means the United Republic of Tanzania.

PART II

ESTABLISHMENT OF THE DEEP SEA FISHING AUTHORITY (ss 4-5)

[PCh388s4]4. The Deep Sea Fishing Authority

(1) There is hereby established an authority to be known as the Deep Sea Fishing Authority.

(2) The Authority shall be a body corporate and shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) be capable of purchasing and otherwise acquiring or alienating any movable or immovable property;
- (d) have power from time to time to exercise or perform such other powers and functions which are necessary for the proper performance of its functions or which may be performed under this Act.

(3) The Authority shall consist of the following organs—

- (a) the Executive Committee;
- (b) the Advisory Committee; and
- (c) the Management.

(4) The functions of the Authority shall be—

- (a) to promote, regulate and control fishing in the Exclusive Economic Zone of the United Republic;
- (b) to regulate the licensing of persons and ships intending to fish in the Exclusive Economic Zone;

(c) to initiate, implement and ascertain the enforcement of policies on deep sea fishing vessels;

(d) to formulate and coordinate programmes for scientific research in respect of fishing;

(e) to formulate fisheries policies;

(f) to negotiate and enter into any fishing or other contract, agreement or any kind of fishing co-operation with any government, international organisation or other institution in pursuance of the provisions of this Act;

(g) to do or undertake any other act or thing required or permitted to be done in furtherance of the purposes and provisions of this Act.

[PCh388s5]5. Constitution and functions of the organs of the Authority

(1) The Executive Committee shall consist of the following members—

(a) the Permanent Secretary of the Ministry responsible for fisheries in the Revolutionary Government of Zanzibar;

(b) the Principal Secretary of the Ministry responsible for fisheries in the Revolutionary Government of Zanzibar;

(c) the Permanent Secretary of the Ministry responsible for external affairs and international co-operation.

(2) For the purposes of the smooth, transparent and effective discharging of the functions of the Authority, the Chairmanship of the Executive Committee shall rotate annually amongst the members in the order in which they are set out in subsection (1).

(3) The functions of the Executive Committee shall be as follows, namely—

(a) to appoint the Director-General and other officers of the rank of director or manager, as the case may be, in the Management of the Authority, on the terms and conditions determined by the Committee;

(b) to approve projects and budgets of the Authority;

(c) to receive and deliberate upon reports on the performance by the organs of the Authority of its functions;

(d) to formulate and determine fisheries policies;

(e) to approve applications for licences to be issued by the Director-General.

(4) The Executive Committee shall ordinarily meet at least twice in any year, and may hold an extraordinary meeting if the Chairman, considering the effective discharge of the functions of the Authority, so determines, and shall meet at such times and places as may be set out in writing notifying members of the impending meeting and the Committee shall regulate its own procedure.

(5) Where the Executive Committee fails, for any reason, to reach a decision on any matter within its jurisdiction, the Chairman shall refer that matter to the Minister who, after carrying out appropriate consultations with the Minister responsible for fisheries in the

Revolutionary Government of Zanzibar and the Minister responsible for external affairs and international co-operation in the United Government.

(6) The Advisory Committee shall consist of the following members—

- (a) the Director of Fisheries of the Union Government;
- (b) the Deputy Commissioner for Fisheries of the Revolutionary Government of Zanzibar;
- (c) two lawyers, appointed by the Minister, representing the Attorneys General of the Union Government and of the Revolutionary Government of Zanzibar;
- (d) two economists, appointed by the Minister, one each representing the Planning Commissions of the Union Government and of the Revolutionary Government of Zanzibar;
- (e) two economists, appointed by the Minister, one each representing the Planning Commissions of the Union Government and of the Revolutionary government of Zanzibar;
- (f) two Senior Fisheries Officers, appointed by the Minister, one each from the Union Government and the Revolutionary government of Zanzibar;
- (g) four other members appointed by the Minister, two each, from Mainland Tanzania and Tanzania Zanzibar, being persons whom the Minister is satisfied have knowledge and experience in the fishing industry.

(7) The functions of the Advisory Committee shall be—

(a) to make proposals for fisheries policies to be formulated by the Executive Committee;

(b) to evaluate fisheries projects and submit them for approval by the Executive Committee;

(c) to monitor the inspection of the sea worthiness of ships or other fishing vessels;

(d) to prepare and evaluate reports of performance by the Authority of its functions and consider the budget of the authority proposed by the management and submit it for approval by the Executive Committee.

(8) The Advisory Committee shall ordinarily meet quarterly, and may hold an extraordinary meeting if the Chairman, considering the effective discharge of the functions of the Authority, so determines, and shall meet at such times and places as may be set out in the writing notifying members of the impending meeting, and the Committee shall regulate its own procedure.

(9) The Chairmanship of the Advisory Committee shall alternate annually between the Director of Fisheries of the Union Government and the Deputy Commissioner of Fisheries of the Revolutionary Government of Zanzibar.

(10) The management of the Authority shall consist of the Director-General and other staff appointed to offices in the Authority in accordance with this Act.

PART III

MANAGEMENT OF THE DEEP SEA FISHING AUTHORITY (ss 6-9)

[PCh388s6]6. The Chief Executive Officer

(1) There shall be the Director-General who shall be appointed from either Mainland Tanzania or Tanzania or Tanzania Zanzibar.

(2) The Director-General appointed under subsection (1) of this section shall be highly qualified and experienced in local and international fisheries activities.

(3) The Director-General shall be the Chief Executive Officer of the Authority and shall be responsible to the Executive Committee and to the Minister for—

(a) the issuing of fishing licences applications for which are approved by the Executive Committee;

(b) the preparation of the annual budget of the Authority;

(c) the preparation and submission for approval by the Executive Committee of long and short term plans of the Authority;

(d) the keeping and maintenance of records of—

(i) vessels licensed to carry out fishing activities in the Exclusive Economic Zone of the United Republic;

(ii) catches of fish by vessels licensed to carry out fishing activities;

(iii) illegal practices and defaulters of rules and regulations made under this Act.

[PCh388s7]7. Appointment of directors

(1) The Executive Committee of the Authority may, on such terms and conditions appoint such other directors who may be required by the Authority from time to time.

(2) The functions of the directors appointed in subsection (1) above shall be to assist the Director-General.

[PCh388s8]8. Other staff

(1) The Advisory committee of the Authority may, on such terms and conditions as it may deem necessary, appoint other staff of the Authority.

(2) Notwithstanding the provisions of sections 5, 6, 7 and subsection (1) of this section, the Executive Committee of the Authority may subject to such conditions and restrictions as it may impose, delegate to any person or body of persons the power of appointment of any members or category of scientific researchers or other staff of the Authority.

[PCh388s9]9. Limitation of liability of members and employees

No matter or thing done by member of the Authority, Committee or employees shall, if done bona fide for the purpose of executing any provision of this Act, render that member, employee or any person acting by his direction, personally responsible for any action, liability, claim or demand.

PART IV

FINANCIAL PROVISIONS (ss 10-16)

[PCh388s10]10. Funds of the Authority

- (1) The funds and resources of the Authority shall consist of any sums which—
- (a) may be appropriate by Parliament for the purposes of the Authority;
 - (b) the Authority may from time to time borrow for the purpose of the Authority;
 - (c) may be payable to the Authority by way of donations, gifts, grants, loans or bequests;
 - (d) may in any manner become payable to or vested in the Authority as a result or in the course of discharging its functions under this Act;
 - (e) may be obtained from its own investments.

(2) Any sum of money vested in the Authority as a result or in the cause of discharging its functions under this Act, shall be distributed in the following manner—

- (a) sixty per centum shall be retained with the Authority for the running of operational costs specified in paragraphs (a) to (d) of subsection (3) of section 11;
- (b) the remainder shall be remitted to the Treasury.

[PCh388s11]11. Annual budget and estimates

(1) At least three months before the commencement of any financial year, the Director-General shall prepare or cause to be prepared for the approval of the Executive Committee annual estimates of the revenue and expenditure of the Authority for the ensuing financial year.

(2) The Executive Committee shall consider and approve, subject to any modifications and amendments which it may consider appropriate, the estimates prepared in accordance with subsection (1).

(3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular—

(a) for the payment of salaries, allowances and other charges in respect of the staff, Executive Committee or any Committee;

(b) for the payment of construction, improvement, maintenance and replacement of any building or other immovable property of the Authority;

(c) for the proper maintenance and replacement of furniture and equipment of the Authority;

(d) for the creation of such reserve funds to meet future contingent liabilities as the Executive Committee may think fit;

(e) for the carrying out of surveillance, monitoring and control of fishing activities;

(f) for training of officers and staff and for Scientific Research.

(4) No expenditure shall be incurred for the purpose of the Authority except in accordance with the provisions of the annual budget estimates or any supplementary estimates approved by the Executive Committee.

(5) A copy of annual estimates and of every supplementary estimates approved by the Executive Committee shall, immediately be submitted to the Minister.

(6) For the purposes of this Act, the financial year of the Authority shall be a period of twelve calendar months commencing from the date of commencement of the operations of the Authority, provided that the first financial year may be of a period shorter or longer than twelve months.

[PCh388s12]12. Investment of funds of Authority Act No. 33 of 1967

The Executive Committee with the approval of the Minister shall have the power to invest the funds of the Authority in any investments subject to the conditions which are prescribed by the Trustees Investments Act * in relation to investments of funds by a Trustee.

[PCh388s13]13. Remuneration of members of Committees

The Executive Committee may with the approval of the Minister prescribe emoluments and allowances payable to members of committees from time to time.

[PCh388s14]14. Accounts and audit

(1) The Authority shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of money by and other financial transactions of the Authority and assets and liabilities of the Authority, and shall cause to be made out of

every financial year a balance sheet showing the details of the income and expenditure of the Authority and all its assets and liabilities.

(2) Within not more than three months after the close of each financial year, the accounts, including the balance sheet of the Authority in respect of that financial year, shall be submitted to and audited by the Controller and Auditor-General.

(3) As soon as the accounts of the Authority have been audited, and in any case not later than six months after the close of each financial year, the Executive Committee shall submit to the Minister a copy of the audited statement of accounts, together with a copy of the report made by the Controller and Auditor-General on the statements of the accounts.

[PCh388s15]15. Laying of report before the National Assembly

The Minister shall as soon as practicable after receiving statements of accounts lay them before the National Assembly, and such a report shall contain—

- (a) a copy of the audited accounts of the Authority;
- (b) a copy of the audit report if any; and
- (c) a copy of the Director-General's report on the activities of the Authority in the preceding financial year.

[PCh388s16]16. Director-General's report

The Director-General shall at the end of each financial year prepare a report on the activities of the Authority during that financial year.

PART V

OFFENCES AND PENALTIES (ss 17-19)

[PCh388s17]17. Power to call for information and penalty for refusal

(1) The Authority may, in writing, call upon any person or body of persons in whose custody there is any information which may be relevant to its work, to furnish it with such information or produce such document as the Authority may specify in writing.

(2) Every person who, or body of persons which, is required to furnish information under subsection (1) shall comply with the requirement and any person who, or body of persons which, fails or refuses to comply with that requirement commits an offence and—

(a) if it is a first offence, on conviction that person or body of persons shall be liable to a fine of not less than two hundred and fifty thousand shillings or to imprisonment for a term of not less than six months or to both that fine and imprisonment;

(b) if it is a subsequent offence, that person or body of persons shall on conviction be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than three years or to both that fine and imprisonment;

(c) for any further subsequent offence, the court may in addition to the penalty specified in paragraph (ii), order forfeiture of any vessel, structure, equipment or thing in connection to the offence committed.

[PCh388s18]18. Fishing contrary to this Act

Any person who carries out fishing activities in the Exclusive Economic Zone contrary to this Act or regulations made under this Act, commits an offence and upon conviction is liable to a fine of not less than one billion shillings or to imprisonment for a term of not less than twenty years or to both that fine and imprisonment and in addition to the fine and imprisonment, the Court may order forfeiture of the vessel, structure, equipment or thing in connection to the offence committed.

[PCh388s19]19. General offences

Any person who—

(a) assaults, resists, obstructs or intimidates an authorised officer or any person assisting him in execution of his duty under this act or under the Territorial Sea and Exclusive Economic Zone Act *;

(b) uses indecent, abusive or insulting language to an authorised officer in the execution of his duty;

(c) interferes with or hinders an authorised officer in the execution of his duty;

(d) by any gratuity, bribe, promise or other inducement prevents an authorised officer from carrying out his duty;

(e) contravenes any provisions of this Act for which no penalty is provided in the regulation,

commits an offence and is, upon conviction, liable to a fine of not less than one million shillings or to imprisonment for a term of not exceeding two years, or to both that fine and imprisonment

and, in addition, the Court may order the forfeiture of any vessel, structure, equipment device or thing in connection with which the offence was committed.

PART VI

MISCELLANEOUS PROVISIONS (ss 20-23)

[PCh388s20]20. Authority to hold consultations

The Authority shall in the performance of its functions, hold consultations with the Ministry responsible for Fisheries of the Revolutionary Government of Zanzibar.

[PCh388s21]21. Affiliation

The Authority in performing its functions under this Act may establish and maintain a system of collaboration, affiliation, consultation and co-operation with the Navy, KMKM, Marine Police, Treasury, Planning Commission, Customs, Research Institutions like the Tanzania Fisheries Research Institute, Institute of Marine Science of Zanzibar, the Commission for Science and Technology and any other person or body of persons established by or under any written law and having functions related to those of the Authority.

[PCh388s22]22. Appeals

Any person aggrieved by any decision, order, or any term or condition in the licence issued under this Act, may appeal against that decision, order, or term or condition of licence to the Minister.

[PCh388s23]23. Regulations

(1) The Minister may after consultation with the minister responsible for fisheries in Zanzibar, make regulations for carrying into effect the provisions of this Act and in particular in respect of—

(a) the management of resources in the Exclusive Economic Zone of the United Republic;

(b) conditions and terms upon which any specified facilities or services within the scope of the functions of the Authority may be provided to persons;

(c) fixing the fees, rates and other charges for or in connection with fishing licences or any other matter or service provided by the Authority;

(d) the proper management control and administration of the Authority;

(e) the regulation of discipline amongst staff of the Authority and disciplinary proceeding against them;

(f) for any matter relating to the safety and protection of the marine environment and pollution;

(g) prescribing fees for lodging appeals, the manner of appeals and time within which an appeal may be instituted; and

(h) for any matter which may be prescribed under this Act.

(2) Regulations made under this Act shall be published in the Gazette.