

Law N. 5 of 3 Jan. 1987

Translation of the Law No. 23 of 30th November 1985.

SOMALI FISHERY LAW

SOMALI DEMOCRATIC REPUBLIC

THE PRESIDENCY

TAKING NOTE: the approval of the standing Committee of the People's Assembly.

HEREBY PROMULGATES:

The following Law:

Article 1

Definitions

Unless the Context otherwise requires the terms herein set forth have respectively the following meanings:-

1. Aquatic Animals : shall mean all animals living in the sea water and inland water including Oyster, crustacean, plankton & Algae.
2. Licence : shall mean the permission granted anybody requested fishing processing or merchandising.
3. Fishing : The art of Practice of catching aquatic animals.
4. Tradditional Fishing : shall mean Fishing in the coastal areas by using small boats dhows etc.
5. Modern Fishing : shall mean Fishing in the high seas by using ship and modern technology such as trawlers.
6. Administrative Decision : shall mean any administrative resolution or Decision taken by the Ministry for solving a Problem or correcting a default.
7. Minister : shall mean the Minister of Ministry of Fisheries and Marine Resources.

8. Royalty : shall mean the part of the fees or goods paid by the owner of the Ships for fishing in the Somali water.
9. Inland water : shall mean river water and reservoirs in which the aquatic animals can live as mentioned in the first para of this article.

Article 2

Management

The Ministry shall be responsible for the necessary safeguarding development of the Fisheries and the proper implementation of the general control and administration of this Law.

The Minister may delegate in writing his powers under this law to any officer or any employee of this Ministry.

Article 3

Fishing Dates

The Ministry shall compile statistical datas and other related informations regarding fishing; co—ordinate and administer and publish informations regarding Somali Fishery activities.

Article 4

Fishery Development

The Ministry is deemed to implement the Development of Fishery activities in the Country.

Article 5

Prohibitions

1. It is forbidden to anybody to carry out any activity or use any equipment or material which may cause death, pollution, injury, to the aquatic animals.
2. It is also forbidden to anybody to possesequipment or materials which can cause damage to aquatic animals in the fishing area.

3. It is also forbidden to merchandise or exchange fish or other aquatic animals caught as stated in para 1 of this article.

Article 6

Seasonal closing Period

The Minister may give a written order closing the fishing Season indicating the areas type of the fishing equipment and fish or other aquatic animals. The order shall state the starting Period and the closing Period. The Minister may also decrease or increase the Limitation period when it becomes necessary.

Article 7

**Fishery Licence
General Provisions**

1. The Ministry may grant Fishing Licence for the sea water and inland water.
2. Anyone who is interested in fishing or rearing of Fish in inland water shall have a fishing Licence and an entrance permit of the Country. This Licence shall not concern persons who are not using Marine transports.
3. The Ministry shall grant the applicant the necessary fishing Licence and shall make a separate register for the Licence granted by this law.
4. The application for fishing Licence may be submitted and shall state briefly the following:
 - a) Name description of the Ship, flag and the register Country.
 - b) Name of the owner, leasee, if any, captain of the Ship.
 - c) Number of the Ship.
 - d) Description of the fishing activities requested by the applicant.
 - i) The type of Fishing.
 - ii) The method of fishing and the equipment.

- iii) Location where the production is to be put and the description of the Marketing, the last destination of the products and the utilization of the products.
 - iv) Location for fishing.
 - v) The number of the Fishes or other aquatic animals which may be caught.
 - vi) The period in which the Licence to be valid.
 - vii) The description of the assistant Captain, the management the name and the Licence of the other assisting Ship.
 - viii) The description of the cooperation or other Somali interests.
 - x) Any information requested by the Ministry.
 - xi) Bank guarantee.
5. The Licenced Ship shall within 30 days notify the Ministry any changes occurred as the transfer of ownership, lease etc.
6. The Number of the Licence, the name of the Ship and the registered Port shall be clearly written and shown on the Ship and on the sides of the ship.

Article 8
Obligations of the Fisherman

Any person granted Fishing Licence shall:

- a) Obey the Laws of the Country and the regulations of the Ministry.
- b) Submit a permanent reports regarding Fishery activities: amount, types, including by-catch, products, the Location and the method of Fishing, the type of the fish and other aquatic animals which can be merchandised or processed.

Article 9
Research

1. The Ministry may, in writing permit any person or any ship who possess an entrance permit to make research on fisheries and other related activities regarding marine resources.

Article 10
Control and Inspection

1. Whoever is practising fishing may be subject to inspection or search whenever it may be necessary. Apart from the specialised agencies. The regional and district authorities or any other authorised person may inspect or search any person doing fishing activities after a prior approval of the Ministry.
2. Anybody who violates the Provisions of this law shall be taken to the nearest Port of the Country.
3. If a ship commits an offence in the Somali Water and crosses to the boundry of other country, the matter will be discussed with concerned authority under the international law.

Article 11
Traditional and Modern Fishing

The Ministry shall promote the development of the traditional and Modern fishing activities and all related matters, with the assistance of the competent Government Agencies. It will ensure that the Modern fishing will not harm or delay the development of the traditional fishing.

Article 12
Penalties

1. Any infringement of articles 8 and 10 of this law shall be punishable:
 - a) With a fine from Sh. So. 1,000 upto Sh. So. 10.000 on the small boats (without agencies).
 - b)
 1. With a fine from Sh. So. 10.000 upto Sh. So. 15.000 on the small boats with agencies, HP 6 upto HP 30.
 2. With a fine from Sh. So. 16.000 upto Sh. So. 30.000 on the small boats with engines, HP 31 upto HP 60.

3. With a fine from Sh. So. 31.000 upto Sh. So. 50.000 on the small engine boats HP 61 upto HP 100.
- c) With a fine from Sh. So. 1.700.000 upto Sh. So. 4.000.000 or equivalent to foreign currency on ship from HP 101 and above.

If the offence is more serious or the offender committs again the same offence, the matter shall be referred to Criminal Courts.

2. Anybody who uses the following, shall be punished with an imprisonment from 3 years to 10 years or a fine from Sh. So. 5.000.000 upto Sh. So. 50.000.000 or both:
 - a) Use an explosive materials
 - b) Fish or possess materials or equipment in prohibited areas
 - c) Fish in the closure period
 - d) Fish the prohibited type of fish or aquatic animals
 - e) Fish with a prohibited materials or equipment.
3. Anybody who rejects to submit the required reports or fails to fulfill the provisions of this law shall be punished with a fine from Sh. So. 20.000 upto Sh. So. 50.000.
4. Anybody who fails to perform his duties and fails to fulfill any of the terms and conditions of the contracts entered into; his Licence shall be withdrawn and cancelled.

Article 13 **P o w e r s**

The Somali Naval Force shall have the powers and the responsibility for the enforcement of this Law.

Article 14 **Confiscation of Property**

1. Whoever committs an offence under this Law, his equipment, engine or any other materials used during the committal of the offence may be forfeited.
2. All fishes and aquatic animals found on the board of the Ship may also be confiscated.
3. All the offences under this law shall come under the competence of the National Security Court.

Article 15

Administrative Resolutions

Unless the offence constitutes a crime punishable more serious penalty, the Ministry shall discuss the matter with the concerned authorities.

Article 16

Regulations

1. The President of the Somali Democratic Republic having heard the proposal of the Ministry of Fishery and Marine Resources, may make regulations for the proper implementation of this law.
2. The Minister of Fishery may, make regulations regarding the proper management and development of the Fishery activities.

Article 17

Repeal and Coming into Force

1. All provisions inconsistent with the present law shall be repealed.
2. This law shall come into force after 15 days from the date of its publication on the official bulletin.

**Mogadishu,
30th November, 1986**

**The President of the S.D.R
Mohamed Siad Barre**