

**S.I. No. 4 of 2007**

**THE BRITISH INDIAN OCEAN TERRITORY**

**The Fisheries (Conservation and Management) Ordinance 2007**

**The Fishing Regulations 2007**

**IN EXERCISE** of the powers conferred on me by section 21 of the Fisheries (Conservation and Management) Ordinance 2007:

**PART 1  
INTRODUCTORY**

Citation and commencement.

1. (1) These Regulations may be cited as the Fishing Regulations 2007.  
(2) These Regulations shall come into force on 01 January 2008 and replace all Regulations made or deemed to have been made under the Fisheries (Conservation and Management) Ordinance 1998

Interpretation.

2. (1) In these Regulations, unless the contrary intention appears -  
"agent", in relation to the owner or charterer of a licensed fishing boat or a licensed transshipment boat, means the person for the time being engaged as his agent in pursuance of regulation 5;  
"the Convention of 1969" means the International Convention on Tonnage Measurement of Ships, 1969;  
"the Director" means the Director of Fisheries;  
"fee", in relation to a fishing licence or a transshipment licence, means the fee therefor that is prescribed by Regulations made under the Ordinance or, if there are no such Regulations prescribing that fee or subject to any such Regulations, the fee therefor that is determined by the Director;  
"fishing boat notification application" means an application for a fishing boat notification number made in accordance with regulation 4(2);  
"fishing licence application" means an application for a fishing licence made in accordance with regulation 4(1);  
"the International Tonnage Rules" means the Regulations for Determining Gross and Net Tonnages of Ships annexed to the Convention of 1969;  
"Khz" means kilohertz, that is to say, one thousand cycles per second;  
"licence" means a fishing licence or, as the case may require, a transshipment licence;  
"licensed fishing boat" means a fishing boat which is specified in a fishing licence;

"licensed transshipment boat" means a fishing boat which is specified in a transshipment licence (whether or not it is also a licensed fishing boat);

"licensee" means a person granted a fishing licence or, as the case may require, a transshipment licence;

"to lodge", in relation to an application to the Director made under these Regulations, means to cause that application to be actually delivered to the Director at the address specified in regulation 4(3) and in a manner approved by him;

"mhz" means megahertz, that is to say, one million cycles per second;

"the Ordinance" means the Fisheries (Conservation and Management) Ordinance 2007;

"patrol vessel" means a vessel for the time being engaged in the surveillance and policing of the fishing waters for the Government of the Territory;

"period of validity", in relation to a licence, means the period specified in the licence as the period during which the activity authorised by the licence may lawfully be carried out;

"shark" means all species of shark (elasmobranchii taxon)

"surveillance aircraft" means an aircraft for the time being engaged in the surveillance of the fishing waters for the Government of the Territory;

and

"VHF" means very high frequency, that is to say, a single radio frequency or band lying between 300 mhz and 30 mhz.

(2) Where these Regulations require any form or other document or thing or any procedure or other matter to be as approved by the Director, it shall be deemed to be as so approved if it conforms with what is for the time being specified or otherwise indicated in that behalf in or under the relevant Administration Documentation and Guidance or other similar document (by whatever name called) issued by or on behalf of the Director for the purposes of the administration of the Fisheries Management and Conservation Zone (including any guidance issued under regulation 36.)

(3) Where, under these Regulations, any communication or requirement relating to the operation, navigation or other handling of a fishing boat falls to be made by the Director to the master of the boat or by the master to the Director, it may be made by or to any Fisheries Protection Officer on behalf of the Director.

(4) In these Regulations, or in any licence or in other documents issued in pursuance of these Regulations, "prescribed" means prescribed by or under these Regulations and includes specified or otherwise indicated as referred to in paragraph (2) or otherwise specified or indicated by the Director.

## PART II

### FISHING LICENCES AND LICENSED FISHING BOATS

Application of this Part.

3. This Part applies to applications for fishing licences, to the grant, content and incidents of such licences, to operations undertaken under such licences and to the obligations of persons in relation to licensed fishing boats.

Applications for fishing licences and fishing boat notification numbers.

4. (1) Subject to the following provisions of this regulation, every application for a fishing licence shall be made in a form approved by the Director and shall be lodged with the Director, in a manner approved by him, not less than 7 days before the date specified in the application as the date on which the licence is required.

(2) Subject to the following provisions of this regulation, before a fishing licence application is lodged with the Director in respect of any fishing boat, there shall have been lodged with him, not less than 7 days previously and in a manner and form approved by him, an application for a fishing boat notification number specific to that boat; and that number, when notified to the applicant by the Director, shall thereafter be cited in all communications with the Director relating to that boat, including any fishing licence application in respect thereof.

(3) Fishing licence applications and fishing boat notification applications shall be lodged with the Director at the following address:

"The Director of Fisheries,  
British Indian Ocean Territory,  
c/o MRAG Limited,  
18 Queen Street,  
LONDON, W1J 5PN,  
ENGLAND."

(4) The Director may, in his discretion, accept a fishing licence application or a fishing boat notification application that has been lodged with him after the time specified therefor in paragraph (1) or, as the case may be, paragraph (2).

(5) Subject to paragraph (6), each fishing boat notification application shall be accompanied by the International Tonnage Certificate (1969), issued pursuant to the Convention of 1969, relating to the fishing boat in

respect of which the application is made.

(6) If any fishing boat in respect of which a fishing boat notification application is made is not registered in a country whose Government is a Party to the Convention of 1969, the Director may, in his discretion, accept such evidence as he thinks fit of the dimensions and other relevant features of that boat and, using such method of calculation as he thinks fit, calculate therefrom the gross tonnage of that boat; and the tonnage so calculated shall be deemed to be the gross tonnage for the purposes of determining any fee payable for a licence in respect of that boat.

(7) Notwithstanding that the Director has issued a fishing boat notification number in respect of a fishing boat, he may, then or at any time thereafter, require, as a condition of his granting a fishing licence in respect of that boat, that the fishing licence application -

- (a) be lodged with him by a date specified by him; and
- (b) subject to paragraph (8), be accompanied by the deposit of such sum as he may specify.

(8) The sum that is payable by way of deposit under paragraph (7) shall be paid in such manner as the Director may direct, but the Director may instead accept security for such payment either in the form of irrevocable letters of credit or in any other form satisfactory to him.

(9) The sum that has been paid by way of deposit under paragraph (7) (less a processing fee of One Hundred pounds) shall be refunded to the applicant (or the security that has been given therefor shall be returned or cancelled, as the case may require) if no licence is granted; but if a licence is granted, that sum (or the sum so secured) shall be applied towards the payment of the fee for the licence.

Agents.

**5.** (1) The owner or the charterer, as the case may be, of a fishing boat shall, before a fishing boat notification application is lodged in respect of that boat, engage a person as his agent in respect of that boat for the purposes of these Regulations and that person shall be so designated to the Director in the application.

(2) The owner or the charterer of a fishing boat who has, in accordance with this regulation, engaged a person, and designated him to the Director, as his agent in respect of that boat may, at any time thereafter, engage, and designate to the Director, another person as his agent in respect of that boat for the purposes of these Regulations and, if the Director approves that designation, that other person shall, for all such purposes, replace the person previously so designated.

(3) A person who is for the time being designated under paragraph (1) or, with the approval of the Director, under paragraph (2) as the agent of the owner or charterer in respect of a fishing boat shall be deemed for the purposes of these Regulations to have the full and irrevocable authority of his principal in connection with any fishing operations of that boat or any related activity (including any proposed such operations or activity), and such authority shall include, without prejudice to the generality of the foregoing, authority (for the purposes aforesaid) to incur financial or other legal liability on behalf of his principal in connection with any such operations or activity and authority (for the purposes aforesaid) to receive service on behalf of his principal of any notice, summons or other document issued in or for the purposes of any legal proceedings arising out of or otherwise connected with any such operations or activity.

(4) The designation of a person as the agent of the owner or charterer of a fishing boat shall not be effective for the purposes of this regulation unless that person resides or has his place of business in a country approved in that behalf by the Director.

(5) The designation of a person under this regulation as the agent of the owner or charterer of a fishing boat shall be made to the Director in such manner and with such details as may be approved by the Director or otherwise be directed by him.

Bond or security.

**6.** The licensee or the agent of the licensee shall, if so required by the Director before or after the grant of a fishing licence, either -

- (a) execute and maintain a bond, in an amount and form satisfactory to the Director, to guarantee compliance with the Ordinance, with these and any other Regulations made thereunder and with any conditions to which the licence is subject; or
- (b) provide such other financial or other security for that purpose as the Director may approve.

Fishing licences and conditions on licences.

**7.** (1) A fishing licence may be granted in respect of only one named person for fishing other than by a fishing boat, or one fishing boat for fishing by a fishing boat, which name or boat shall be specified in it, and shall not be transferable.

(2) Every fishing licence shall bear its own serial number allocated by the Director, and the holder of a licence for fishing other than by a fishing boat and the master of a licensed fishing boat shall, on demand by any Fisheries Protection Officer, inform him of the number of the licence granted.

(3) The Director may, before granting a fishing licence in respect of a fishing boat –

(a) require that there shall be produced to him the ship's papers of the boat and such drawings and diagrams relating to its construction as he may specify;

(b) require the master to permit a Fisheries Protection Officer to inspect the boat and to take measurements and photographs of it and of any equipment or apparatus carried on board it.

(4) A fishing licence shall be granted for such fixed period or fixed periods as the Director may decide.

(5) A fishing licence, when granted, shall be issued to the named person or to the master of the fishing boat specified in it in London or, at the request of the applicant, in such other place as the Director may agree.

(6) Every fishing licence shall contain, or have endorsed on or annexed to it, or refer to, the conditions subject to which it is granted.

(7) Without prejudice to regulations 5(2) and 5(5), if, at any time when a fishing licence is in force, a change takes place in any circumstance or respect which was required, by or under these Regulations, to be notified to the Director in or together with the application for that licence, that change shall, within 30 days of the day on which it took place (or such longer period as the Director may in any particular case allow), be notified to the Director by the named person or by the owner or charterer of the boat, or by his agent, in a manner and form approved by the Director.

(8) Every fishing licence shall be granted subject to the following conditions-

(1) No person shall on board a fishing boat or elsewhere in the Territory remove fins from sharks;

(2) No person shall keep in the Territory or on board a fishing boat or tranship or land therefrom shark fins removed contrary to condition (1);

(3) The master of a licensed fishing boat shall upon inspection under regulation 12 declare the quantities of shark fins and shark products on board the boat;

(4) The named person in a fishing licence for fishing other than by fishing boat, and the master of a fishing boat shall record all catches of shark in the log book kept by him under regulation 13(2).

Compulsory radio equipment.

**8.** Every licensed fishing boat engaged in fishing in the fishing waters shall be equipped with radio equipment capable of providing radio telephony (voice) communications using maritime frequencies in the High Frequency and VHF bands.

International Code of Signals and flags to be carried and Code to be used.

**9.** (1) Every licensed fishing boat, at all times when it is within the fishing waters, shall carry a copy of the International Code of Signals published by the International Maritime Organisation and an appropriate set of flags and shall at all such times carry persons competent to exchange messages by means thereof with a Fisheries Protection Officer embarked in any vessel or aircraft.

(2) In every communication by radio, flag or light between any licensed fishing boat in the fishing waters and a Fisheries Protection Officer, the signals specified in the International Code of Signals shall be used.

Navigational charts and aids to be carried.

**10.** Every licensed fishing boat, at all times when it is within the fishing waters, shall carry appropriate navigational charts and publications and be fitted with such electronic navigational aids as will enable the master accurately to ascertain its position in the fishing waters.

Notification of entry into and departure from fishing waters, and related matters.

**11.** (1) The master of a licensed fishing boat who intends his boat to enter the fishing waters shall, not more than 48 hours or less than 12 hours before the entry of the boat into the fishing waters, notify the Director of that intention, of the time when his boat will enter the fishing waters and of the purpose for which it will so enter.

(2) The master of a licensed fishing boat who intends his boat to

leave the fishing waters shall, before the boat leaves the fishing waters and in sufficient time for the carrying out, if the Director so requires, of the procedures provided for by regulation 12, notify the Director of that intention; and he shall likewise notify the Director of the time when his boat does leave the fishing waters.

(3) A licensed fishing boat in respect of which the intention notified to the Director in accordance with paragraph (1) is that it is to fish within the fishing waters shall be deemed, for the purpose of the computation of any fees for its licence, to have been engaged in fishing throughout the period beginning with the time notified to the Director as the time when it will enter the fishing waters and ending with the time notified to the Director as the time when it leaves the fishing waters; but any fishing within the fishing waters by that boat outside that period, or by any licensed fishing boat whose master has not notified an intention as aforesaid, shall not be authorised by its licence and is accordingly unlawful.

(4) Notifications required by this regulation to be given to the Director shall be given in such form and manner, and shall be accompanied or supplemented by such further information, as he may, either generally or specifically, prescribe or direct or approve

(5) A prescription made or a direction given by the Director in pursuance of paragraph (4) may provide, and an approval given by him may be so expressed as to have the effect, that notifications and other information required by this regulation to be given to the Director shall be treated as not having been validly so given unless and until their receipt is acknowledged by him and unless his acknowledgement is evidenced in such manner as he may, either generally or specifically, prescribe or direct or approve.

(6) In this regulation "non-fishing day", in relation to a licensed fishing boat, means a day when that boat is engaged in fishing in the fishing waters but does not set gear; and "fishing day" means any such day when the boat does set gear.

(7) Where, whether under the license for a licensed fishing boat or by agreement between the Director and the master, owner or charterer of the boat, the daily fee payable for the boat's licence is to be computed at different rates for fishing days and non-fishing days respectively, the boat may not set gear on any day until the master has notified the Director that he intends it to do so.

(8) The master of every licensed fishing boat that is engaged in fishing in the fishing waters shall, at the conclusion of its fishing operations on each day, notify the Director whether that day has been a fishing day or a non-fishing day.



(9) For the purposes of the computation of the daily fee for a licence as referred to in paragraph (2), any day during the time when a licensed fishing boat is engaged in fishing while within the fishing waters that has not been validly notified as a non-fishing day in accordance with paragraph (3) shall be deemed to be a fishing day.

(10) The provisions of regulation 11(4) apply in relation to notifications required to be given under this regulation as they apply in relation to notifications required to be given under regulation 11, and regulation 11(5) shall have effect accordingly.

Post-fishing  
inspection and  
delivery of log.

**12.** (1) The master of a licensed fishing boat whose boat is about to leave the fishing waters shall, if so required by the Director, bring the boat to such place within the Territory as the Director may designate for the purpose of its being inspected by a Fisheries Protection Officer or other person authorised in that behalf by the Director.

(2) The master of a licensed fishing boat whose boat is about to leave the fishing waters shall, if so required by the Director, deliver to the Director, before leaving the fishing waters, the fishing log referred to in regulation 13(2).

Log books.

**13.** (1) The master of every licensed fishing boat in the fishing waters shall keep a radio log in a form approved by the Director.

(2) The named person in a fishing licence for fishing other than by fishing boat, and the master of every licensed fishing boat engaged in fishing in the fishing waters shall keep a fishing log in a form approved by the Director.

(3) The radio log and the fishing log shall, on demand by a Fisheries Protection Officer, be produced to him for inspection and copies thereof or copy extracts therefrom shall also, on demand, be given to him, without payment.

If radio is  
unusable.

**14.** If the main radio equipment of a licensed fishing boat becomes unusable while the boat is within the fishing waters, the master shall make adequate arrangements for all information which he is required, by or under these Regulations, to furnish to the Director to be relayed to the Director through another vessel.

Display of radio  
call signs.

**15.** (1) The International Radio Call Sign of each licensed fishing boat within the fishing waters shall be prominently displayed on that boat in accordance with international standards as set out in the publication of the Food and Agriculture Organisation entitled "The Standard Specifications for the Marking and Identification of Fishing Vessels."

(2) The letters and numbers of the Call Sign shall be painted in black on a white background or in white on a black background and the paintwork where they are painted shall be maintained in good condition so that they are clearly visible at all times.

English-speaking crew-member.

**16.** The master of each licensed fishing boat shall ensure that, while it is within the fishing waters, there shall be at least one member of its crew who is able to speak English, and understand spoken English, with reasonable fluency.

Radio listening watches.

**17.** The master of each licensed fishing boat shall cause a continuous listening watch to be maintained on VHF marine band Channel 16 and 2182 Khz while the boat is within the fishing waters, but these frequencies shall be used as calling and distress frequencies only and shall not be used for inter-ship communications.

### **PART III**

#### **TRANSHIPMENT LICENCES AND TRANSHIPMENT OF FISH**

Application of this part.

**18.** This Part applies to applications for transhipment licences, to the grant, content and incidents of such licences, to operations undertaken under such licences and to the obligation of persons in relation to licensed transhipment boats.

Each fishing boat taking part in transhipment to be licensed.

**19.** (1) No transhipment of fish shall take place within the fishing waters unless a transhipment licence is in force with respect to each fishing boat taking part in the transhipment, that is to say, the fishing boat from which the fish is passed, the fishing boat which receives the fish and any fishing boat which transports from the territorial sea or internal waters of the Territory any fish previously transhipped.

(2) If (but only if) it purports to do so, a fishing licence may also operate as a transhipment licence and may accordingly include, in addition to conditions or other provisions relating to fishing by the fishing boat specified in it, such conditions or other provisions relating to the transhipment of fish by that boat as are authorised under section 7 of the Ordinance.

Applications for transhipment licences.

**20.** (1) An application for a transhipment licence may be made by the owner or charterer of the fishing boat in respect of which the licence is

required or by the master of that boat on behalf of the owner or charterer.

(2) An application for a transhipment licence shall be made in a form approved by the Director or as otherwise directed by him and shall be lodged with the Director, not less than 72 hours before the date specified in the application as the date on which the licence is required, in a manner approved by him or as otherwise directed by him:

Provided that, unless and until the Director directs otherwise, the lodging of an application may be effected by causing it to be actually delivered to him, at the address specified in paragraph (3), by post, telex, telegram or facsimile transmission.

(3) Applications for transhipment licences shall be lodged with the Director at the following address:

"The Director of Fisheries,  
British Indian Ocean Territory,  
c/o MRAG Limited,  
18 Queen Street,  
LONDON, W1J 5PN,  
ENGLAND."

(4) The Director may, in his discretion, accept an application for a transhipment licence that has been lodged with him after the time specified therefor in paragraph (2).

(5) Without prejudice to the foregoing provisions of this regulation, where the fishing boat in respect of which a transhipment licence is applied for does not already have a fishing boat notification number, the provisions of regulations 4, 5 and 6 (relating to applications for and the grant of such numbers, to the appointment of agents and to the execution and maintenance of bonds or the provision of other security) have effect in relation to the application for and the grant of the transhipment licence as they have effect in relation to an application for and the grant of a fishing licence.

Transhipment  
licences.

**21.** (1) A transhipment licence shall be valid only -

- (a) in respect of the fishing boat specified in the licence;
- (b) for a fixed period or for fixed periods, as specified in the licence;
- (c) for a fixed number or a fixed quantity, or for both a fixed number and a fixed quantity, of transhipments of fish, as specified in the licence; and
- (d) for a fixed place or for fixed places of transhipment, as specified in the licence.

(2) A transshipment licence, when granted, shall be issued to the master of the fishing boat specified in it in London or, at the request of the applicant, in such other place as the Director may agree.

(3) Every transshipment licence shall contain, or have endorsed on or annexed to it, or refer to, the conditions subject to which it is granted.

(4) Every separate transshipment licence (that is to say, a transshipment licence other than a fishing licence which also operates as a transshipment licence by virtue of regulation 19(2)) shall bear its own serial number allocated by the Director, and the master of a licensed transshipment boat shall, on demand by any Fisheries Protection Officer, inform him of the number of the licence (whether a fishing licence or a separate transshipment licence) granted in respect of that boat.

(5) Without prejudice to regulations 5(2) and 5(5), if, at any time when a transshipment licence is in force, a change takes place in any circumstance or respect which was required, by or under these Regulations, to be notified to the Director in or together with the application for that licence, that change shall, within 30 days of the day on which it took place (or such longer period as the Director may in any particular case allow), be notified to the Director by the owner or charterer of the boat, or by his agent, in a manner and form approved by the Director.

Fees.

**22.** Where a fee is payable for a transshipment licence, the Director may, as a condition of his granting the licence, require -

- (a) that the fee is first paid in full; or
- (b) that payment thereof is first secured by irrevocable letters of credit or by other means satisfactory to him.

Application of certain regulations in Part II.

**23.** Without prejudice to regulation 24, regulations 8, 9, 10, 13, 14, 15, 16 and 17 apply to all licensed transshipment boats as they apply to licensed fishing boats.

## **PART IV**

### **PROVISIONS APPLYING TO ALL FISHING BOATS**

Application of this Part.

**24.** This Part applies to the operations of all fishing boats within the fishing waters and to the obligations of persons in relation to all such boats within those waters.

Compliance with instructions from patrol vessels.

**25.** (1) The master of a fishing boat within the fishing waters shall comply with any instruction, order or requirement given from a patrol vessel by or at the direction of a Fisheries Protection Officer.

(2) The instruction that a fishing boat in the fishing waters should stop for boarding and inspection by a Fisheries Protection Officer will be conveyed by VHF radio marine band on the ship-to-ship calling channel (Channel 16) or by the international code signal "SIERRA QUEBEC 3" or by flashing, by a signal lamp from a patrol vessel, the morse code symbol "LIMA" (that is to say, "You should stop your vessel instantly"); but if contact cannot be made by any of these means, the patrol vessel will direct a series of flashing white lights towards the fishing boat and this shall be interpreted as an instruction to the master of the fishing boat that it must forthwith desist from any previous manoeuvre, course or action and follow that patrol vessel.

Compliance with instructions from surveillance aircraft.

**26.** (1) The master of a fishing boat within the fishing waters shall comply with any instruction, order or requirement given from any surveillance aircraft by or at the direction of a Fisheries Protection Officer.

(2) A Fisheries Protection Officer on board a surveillance aircraft who wishes to communicate on Channel 16 of VHF radio marine band with a fishing boat in the fishing waters will cause the aircraft to signal the Morse code symbol "KILOG" with a yellow light or to signal by switching its navigation and landing lights on and off.

(3) If the fishing boat does not make radio contact with the aircraft in response to a signal given in accordance with paragraph (2), the Fisheries Protection Officer will cause the aircraft to waggle its wings from side to side and then to settle on a steady course; and this shall be interpreted as an instruction to the master of the fishing boat that it must forthwith desist from any previous manoeuvre, course or action and immediately proceed in the direction indicated by the aircraft (that is to say, following the course adopted by the aircraft after waggling its wings) and that he must at the same time attempt to make radio contact with a Fisheries Patrol Vessel or the fisheries authorities in the Territory (call sign CHAGOS FISHERIES 5144 mhz).

Accommodation and facilities for observers and Fisheries Protection Officers.

**27.** (1) The master of a licensed fishing boat shall, when requested to do so by the Director, permit one or more official observers (being persons designated as such by the Director in writing) to board the boat and remain on board it, while it is within the fishing waters, for all or any of the following purposes, that is to say: -

(a) recording scientific data and observations;

- (b) inspecting the boat's radio log and fishing log; and
- (c) taking samples;

and he shall permit any such observer to retain and remove from the boat any records, notes and samples taken by him.

(2) Where an official observer is on board a licensed fishing boat for a period of more than four hours, the master shall provide him with food and accommodation of the same standard as is provided to officers on board the boat.

(3) The master of a licensed fishing boat shall also provide the facilities referred to in paragraph (2) to any Fisheries Protection Officer who is compelled for any reason to remain on board the boat for a period of more than four hours.

(4) The master of a licensed fishing boat shall, at the request of a Fisheries Protection Officer or official observer who is on board the boat in pursuance of this regulation -

- (a) arrange for him to be able (to) send or receive messages by means of radiotelegraph or radiotelephone facilities on board the boat; and
- (b) provide all reasonable assistance within his power to enable him to carry out his duties and functions.

Action on receiving instruction to stop for inspection.

**28.** (1) The master of a fishing boat which receives an instruction, in accordance with regulation 25(2), to stop for boarding and inspection shall cause the boat, so far as is consistent with the safety of navigation, to heave to and take all way off and shall, if instructed to permit a Fisheries Protection Officer to board, take such steps as, in accordance with good seamanship, are requisite or most convenient to facilitate such boarding.

(2) A fishing boat which has hove to and taken way off in accordance with paragraph (1) shall not, without the permission of a Fisheries Protection Officer, again put on way.

Powers in relation to stopped fishing boats.

**29.** (1) On instructing a fishing boat to stop in accordance with regulation 25(2), a Fisheries Protection Officer may also require the master -

- (a) to haul in his nets or discontinue the use of fishing gear;
- (b) to take such steps as the Fisheries Protection Officer may specify to desist from taking or catching fish;
- (c) to stow his fishing gear.

(2) Having boarded a fishing boat which has stopped pursuant to an instruction given in accordance with regulation 25(2), a Fisheries Protection Officer may -

(a) require the master -

(i) to cause radio communication to be maintained with a patrol vessel on such frequency or channel as he may direct;

(ii) to permit him to speak, by means of the boat's radio equipment, with a patrol vessel or with the Director or any other person;

(iii) in the case of a licensed fishing boat or a licensed transshipment boat, to produce any document or thing required to be carried on such a boat;

(iv) to produce the boat's navigation log, radio log and fishing log, any charts carried on the boat and any documents relating to its registration and tonnage;

(b) inspect and take copies, or require the master to furnish him with copies, of any documents produced to him pursuant to a requirement imposed under subparagraph (a);

(c) search and inspect and take photographs of the boat, any fish on board it and any fishing gear, apparatus or equipment on board it;

(d) impose any such requirement as, in the circumstances referred to in paragraph (1), might be imposed under that paragraph.

(3) The master of a fishing boat which has stopped pursuant to the instructions of a Fisheries Protection Officer -

(a) shall comply with any requirement imposed on him by a Fisheries Protection Officer under paragraph (1) or paragraph (2);

(b) shall furnish every assistance requisite to enable a Fisheries Protection Officer to do anything which he is authorised to do under paragraph (2);

(c) shall not obstruct or hinder a Fisheries Protection Officer, or cause or permit him to be obstructed or hindered, in the performance of his duties.

Power to direct fishing boat to proceed to place within Territory

**30.** (1) If a Fisheries Protection Officer -

(a) has reason to believe that an offence under the Ordinance, or under these or any other Regulations made under the Ordinance, has been committed in relation to a fishing boat; or

(b) considers it necessary or expedient so to do for the better carrying out of any search, examination or enquiry in relation to a fishing boat;

he may, whether or not he is then on board the boat, direct the master to bring or take it to such place within the Territory as he appoints.

(2) A direction under paragraph (1) may be modified or withdrawn by a Fisheries Protection Officer.

(3) The master of a fishing boat to whom a direction has been given under paragraph (1) shall comply with it or cause it to be complied with and shall cause the crew of the boat to take all steps necessary for that purpose.

Fishing boat brought to Territory under regulation 30 to remain moored as directed.

**31.** (1) The master of a fishing boat that has been brought or taken to a place within the Territory under regulation 30 shall ensure that the provisions of this regulation are complied with.

(2) On arrival at the appointed place within the Territory and at all times thereafter, the boat shall moor, anchor or make fast in such manner and in such anchorage, berth or other position as a Fisheries Protection Officer from time to time directs.

(3) After mooring, anchoring or making fast in accordance with paragraph (2), the boat may not be unmoored or up-anchor, nor may it slip its moorings or anchor or otherwise move from its mooring, berth or position, without the prior consent of a Fisheries Protection Officer.

(4) Paragraph (3) shall not prevent a fishing boat from being moved, without the prior consent of a Fisheries Protection Officer, within the confines of the port or harbour in which it is for the time being directed to moor, anchor or make fast to the extent that such movement is necessary, in accordance with the dictates of good seamanship, by reason of some emergency of tide, wind or water or other like emergency and to the extent that, in those circumstances, the boat or the safety of its crew would be hazarded by the delay attendant on obtaining such prior consent.

(5) Nothing in this regulation shall be construed as authorising any person on or connected with a fishing boat which is moored, anchored or made fast at any place within the Territory to land in the Territory, or in any other way to enter the Territory, unless he is in possession of a permit, or his name is endorsed on a permit, issued under the British Indian Ocean (Immigration) Order 2004.

Saving for powers conferred by the Ordinance.

**32.** The powers conferred on a Fisheries Protection Officer by regulations 29 to 31 are without prejudice to the powers vested in him by the Ordinance.

## **PART V**

### **ADMINISTRATIVE AND GENERAL**



Records etc. to be in English.

**33.** All records (including logs), reports and notifications required to be made or maintained by or under these Regulations shall be made or maintained in English.

Maintenance of records by Director

**34.** (1) The Director shall make and maintain records of the following matters:-

- (a) all licences granted;
- (b) the date on which each licence was granted;
- (c) the name and address of each licensee;
- (d) the conditions, if any, subject to which each licence was granted;
- (e) the name of the fishing boat in respect of which each licence was granted and its country of registry, port of registry, registration number, fishing boat notification number and International Radio Call Sign;
- (f) the type of licence granted in each case;
- (g) in each case where the licence is a fishing licence -
  - (i) any limitation (in terms of species) on the fish that may be caught or taken;
  - (ii) any limitation (in terms of quantity or size) on the amount of fish, or fish of any species, that may be caught or taken;
  - (iii) if the licence is limited to fishing in a part or parts of the fishing waters, a sufficient description of that part or those parts, which description shall be by reference to longitudinal and latitudinal co-ordinates except where the licence is limited to fishing in the internal waters of the Territory in which case the description may be by reference to a chart or map;
  - (iv) the period or periods of validity of the licence;
- (h) in each case where the licence is a transshipment licence (whether or not it is also a fishing licence) -
  - (i) the period or periods of validity of the licence to tranship;
  - (ii) the number or quantity, or (as the case may be) the number and quantity, of transshipments of fish specified in the licence;
  - (iii) the place or places of transshipment specified in the licence;
  - (iv) whether the transshipment that is licensed is the transshipment of fish caught or taken in the fishing waters or is the transshipment of fish caught or taken elsewhere or is the transshipment of fish wherever caught or taken;
- (i) all notifications and communications of any kind made to the Director by or on behalf of any person pursuant to the Ordinance, these Regulations or the conditions of any licence;

- (j) if any licence has been varied, the details of the variation, the date when it was made and the date when it was to take effect;
- (k) if any licence has been revoked, suspended or surrendered, the date when the revocation, suspension or surrender was made and the date when it was to take effect;
- (l) all fines or other penalties imposed on any person by any court or by way of administrative penalty for an offence under the Ordinance or under these or any other Regulations made thereunder,
- (m) all deposits and fees paid or owing by any applicant for a licence or any licensee pursuant to the Ordinance or to these or any other Regulations made thereunder or, where any such fees have not been paid in full, any security that has been given or any arrangements that have been made for the payment of those fees.

(2) The records required by paragraph (1) shall be made and maintained in such manner as the Director may determine and may be so made or maintained wholly or partly on a computer.

Identity documents.

**35.** (1) The Director shall issue to each Fisheries protection Officer an identification document which shall -

- (a) bear the name and a photograph of the person to whom it is issued;
- (b) state that that person is a Fisheries Protection Officer; and
- (c) state its date of issue and period of validity.

(2) Every Fisheries Protection Officer shall produce his identification document whenever any person reasonably requests him to do so in relation to his performance of any of the functions of a Fisheries Protection Officer.

(3) Paragraphs (1) and (2) do not apply to a person who is a Fisheries Protection Officer by virtue of being any of the following, that is to say, a Peace Officer or an Imports and Exports Control Officer or a commissioned officer of any of Her Majesty's ships or the person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

Notes of Guidance.

**36.** (1) The Director may from time to time issue to masters of fishing boats and other persons such written guidance or advice as he thinks fit relating to the observance, implementation and administration of the Ordinance and of these and other Regulations made thereunder or generally for the purposes of the administration of the Fisheries Management and Conservation Zone.

(2) Non-compliance with any such written guidance or advice shall not in itself constitute an offence (unless made an offence by, or by virtue of, some other provision of these Regulations) but the guidance or advice

shall be admissible in evidence in any proceedings before a court and, if it appears to the court to be relevant to any question arising in those proceedings, shall be taken into account in determining that question.

Patrol vessels to be marked.

**37.** (1) Every patrol vessel for the time being operating as such outside the territorial sea or internal waters of the Territory shall be clearly marked on its sides and front with the words "FISHERIES PATROL" or the words "BIOT PATROL VESSEL" in capital letters in a colour contrasting with the colour of the background on which the words appear.

(2) Every patrol vessel for the time being operating as such within the territorial sea or internal waters of the Territory shall either be marked as specified in paragraph (1) or be clearly marked on its sides and front with the words "HARBOUR PATROL" in capital letters in a colour contrasting with the colour of the background on which the words appear.

(3) This regulation does not apply to Her Majesty's ships.

Offence and penalties.

**38.** (1) Any person who contravenes any provision of Parts I to IV or regulation 33 or any of the terms and conditions of a licence commits an offence under these Regulations.

PENALTY - £100,000

(2) Any person who, without reasonable cause (the onus of proof whereof shall lie on him), refuses or fails to provide to the Director or any other Fisheries Protection Officer any information which he is required, by or under these Regulations, to provide or who, in purported pursuance of these Regulations, provides to the Director or any other Fisheries Protection Officer any information -

(a) which he knows to be false in any material particular, or

(b) which, in any such particular, he does not believe to be true; or

(c) which he knows to be misleading in any such particular commits an offence under these Regulations.

PENALTY - £100,000

(3) Paragraphs (1) and (2) are without prejudice to any other law for the time being in force in the Territory (including the Ordinance) by virtue of which any such conduct as is mentioned in either of those paragraphs constitutes an offence or which prescribes the penalty for such an offence.

Administrative penalties: forms.

**39.** (1) The prescribed forms for the purposes of section 18 of the Ordinance (administrative penalties) are those set out as models in the

Schedule to these Regulations and include any form which substantially corresponds to a model there set out.

(2) For the purposes of paragraph (1), a form may substantially correspond to a model set out in the Schedule to these Regulations notwithstanding any minor departure therefrom or minor variation thereof unless that departure or variation is shown, by the person upon whom the form is served, to have misled him, or otherwise prejudiced him, in any material respect.

21 December 2007

Leigh Turner

(Commissioner)

**SCHEDULE**

Regulation 39

**FORM A**

**THE BRITISH INDIAN OCEAN TERRITORY**

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007

No.....of 20...

Notice of Alleged Offence  
(Notice given under section 18(1))

IN THE MATTER of section 18 of the Fisheries (Conservation and Management)  
Ordinance 2007

To: .....

.....

.....

1. TAKE NOTICE that the Commissioner has reasonable cause to believe that on  
..... day, the            day of .....20., at (specify place)

.....

.....

you committed an offence under (specify section or regulation).....

.....

.....

in that you (specify brief details of alleged offence.)

.....  
.....

.....and that it would be appropriate to impose a penalty for that offence under section 18 of the Fisheries (Conservation and Management) Ordinance 2007.

2. The following is a summary of the facts on which this allegation is based:

.....  
.....

(Give a sufficient summary fully and fairly to inform the recipient of the allegation against him)

3. The Commissioner considers the following matters to be relevant to the imposition of a penalty in this case:

.....  
.....

4. This notice is served on you pursuant to section 18 of the Fisheries (Conservation and Management) Ordinance 2007. The provisions of that section are set out in the attachment to this notice. Your attention is drawn to the options open to you under subsections (3) and (4) and to the consequences, under subsection (5), of your failing to exercise either option within 28 days of the service on you of this notice.

Dated this ..... day of .....20....

.....  
(Name and designation of signatory  
of notice)

(Attachment: A legible copy of the full provisions of section 18 of the Ordinance must be attached to Form A when it is served on the alleged offender. The copy may be in any convenient form, including a photocopy of an extract from a copy of the Ordinance.)

**FORM B**

**THE BRITISH INDIAN OCEAN TERRITORY**

**THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007**

Notice Requiring Proceedings to be Dealt with by Court  
(Notice given under section 18(3))

To: The Commissioner

TAKE NOTICE that I require that any proceedings in respect of the alleged offence referred to in your Notice No. ....served on me under section 18(1) of the Fisheries (Conservation and Management) Ordinance 2007, shall be dealt with by the Court.

Dated this ..... day of ..... 20....

.....  
(Signature of person giving this notice)



**FORM C**

**THE BRITISH INDIAN OCEAN TERRITORY**

**THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007**

Notice Admitting Offence  
(Notice given under section 18(4))

To: The Commissioner

1. I refer to the Notice No. .... served on me under section 18(1) of the Fisheries (Conservation and Management) Ordinance 2007. In accordance with section 18(4), I admit the offence specified in that Notice.

2. I wish you to take the following matters into account in imposing a penalty:

.....  
.....  
.....  
.....

Dated this ..... day of .....20....

.....(Signature of person giving this notice)

**FORM D**

**THE BRITISH INDIAN OCEAN TERRITORY**

**THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2007**

Imposition of Administration Penalty No. of 20 . .  
(Notice given under section 18(8))

IN THE MATTER of section 18 of the Fisheries  
(Conservation and Management) Ordinance 2007

To: .....

.....

.....

1. TAKE NOTICE that, in accordance with section 18(6) of the Ordinance, the Commissioner has, on the ..... day of 20. . , imposed on you a monetary penalty of £ ..... in respect of the offence committed by you on the . . . . day of .....20 . . . under (specify section or regulation) .....

.....

.....

.....

.....

.....

2. This penalty must be paid, within 28 days after this Notice is served on you, to the Director of Fisheries either through the Commissioner's Representative in the British Indian Ocean Territory or at the following address:

"The Director of Fisheries,  
British Indian Ocean Territory,  
c/o MRAG Limited,  
18 Queen Street,  
LONDON, W1J 5PN,  
ENGLAND."

Dated this .....day of..... 20...

.....

(Name and designation of signatory of notice)