THE AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING) ACT

ARRANGEMENT OF SECTIONS

PART I. Preliminary

- 1. Short title.
- 2. Interpretation.
- 3. Objects of Act.

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

- 4. Designation of inspectors.
- 5. Functions of inspectors.

PART III. Administration

- 6. Functions and duties of competent authority.
- 6A. Laboratory, diagnostic or monitoring services.
 - 7. Establishment of Veterinary Committee.
 - 8. Functions and duties of Veterinary Committee.

PART IV. Restrictions on the Import and Export of Aquaculture,
Inland or Marine Products or their By-Products
and the Operation of Cold Storage Facilities,
Processing Establishments, Factory Vessels,
Freezer Vessels, Carrier Vessels,
Housing Vessels, Dories and Canoes

9. Restriction on export of aquaculture, etc.

PART V. Application, Grant, Refusal, Suspension and Revocation of Licences, Certificates, Permits and Appeal

- Application for licence to export, import, harvest, etc. aquaculture, etc.
- 11. Application to operate processing establishment, etc.
- 12. Grant or refusal of licence by competent authority.
- 13. Non-transferability and validity of licence.

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

- 14. Grounds for refusal to issue licence,
- 15. Renewal of licence.
- 16. Identification numbers.
- 17. Restriction on grant of licence retrospectively.
- 18. Suspension of licence, certificate or permit.
- 19. Revocation of licence, certificate and permit.
- 19A. Cancellation and reissuing of licence for correction, etc.
- 20. Appeal.
- 20A. Minister may delegate appeal adjudication to a tribunal.

PART VI. Certificates and Records

- 21. Operating certificate to be displayed.
- 22. Export health certificate.
- 23. Records, etc.

PART VII. Offences and Penalties

- 24. Offence of exporting aquaculture, etc., without licence.
- 25. Offence of processing for export or operating plant, etc., unlawfully.
- 26. Offence of harvesting, etc., in unapproved area.
- 27. Offence of exporting aquaculture, etc., without official identification number.
- 28. Offence of operating establishment, etc., without licence.
- 29. Offence of corruption, etc., by authorized officer.
- 30. Offence of making false or misleading statements.
- 31. Offence of threatening, etc., authorized officer.
- 32. Offence of failure to keep records and documents.

PART VIII. Enforcement

- 33. General powers of entry, inspection and seizure.
- 34. Vehicles, etc., may be seized and detained.
- 35. Procedures regarding application for forfeiture.
- 36. Search warrant.

PART IX. General

- 37. Regulations.
- 37A. Minister may amend monetary penalties, etc. by order.
 - 38. Act applies to the Crown.

SCHEDULE.

THE AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING) ACT

Acts 15 of 1999. 20 of 2013.

[26th March, 1999.]

PART I. Preliminary

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

S. 2.

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

Interpretation.

"aquaculture" means the controlled propagation, growth or harvest of aquatic animals or plants, including fish, (other than ornamental fish), amphibians, shellfish, 20/2013 molluscs, crustaceans, algae and vascular plants and S. 3(a). includes seawater or freshwater fish or crustaceans caught in their natural environment when juvenile;

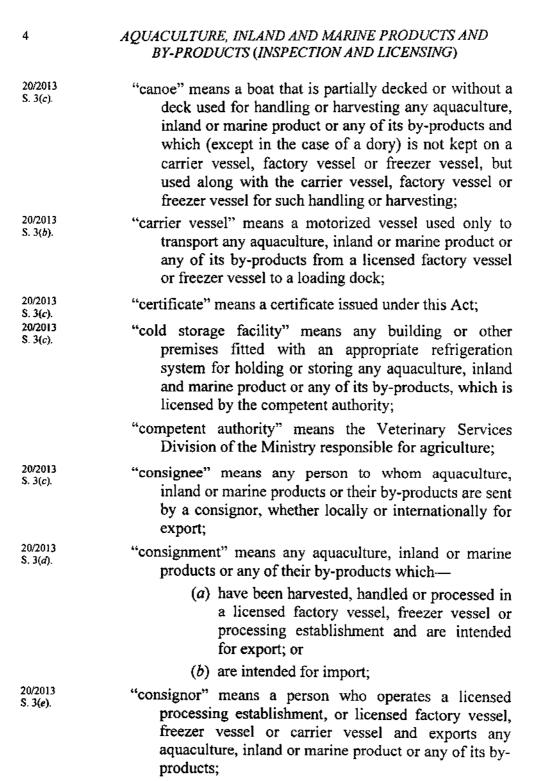
"article" includes a substance or mixture of substances;

"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;



"demarcated" means prescribed in relation to any production area or relay area;	20/2013 S. 3(c).
"designated" means prescribed by order published in the Gazette;	20/2013 S. 3(c).
"dory" means a small canoe kept on board a factory vessel or freezer vessel and used for handling or harvesting queen conch;	20/2013 S. 3(c).
"enter for export" means the presentation of any aquaculture, inland or marine product or any of its by-products to the competent authority for the purpose of export;	20/2013 S. 3(f).
"equipment" includes machines, machinery, fixed or moveable devices, implements, apparati, utensils, appliances, attachments, fittings and fixtures, gears, gadgets, tackles, accessories and contraptions;	20/2013 S. 3(g).
"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;	20/2013 S. 3(h). 20/2013 S. 3(i).
"freezer vessel" means any motorized mother, fishery or fishing boat or ship on which the handling, freezing and storage of any aquaculture, inland or marine product or any of its by-products takes place;	
"fit for export" means fit for human consumption and conforming to the standards for export prescribed by this Act or any regulations made hereunder;	20/2013 S. 3(<i>j</i>).
"fit for import" means fit for human consumption and conforming to the standards for import prescribed by this Act or any regulations made hereunder;	20/2013 S. 3(k).

AQUACULTURE, INLAND AND MARINE PRODUCTS AND
BY-PRODUCTS (INSPECTION AND LICENSING)

"functions" includes powers and duties;

20/2013 S. 3(*l*).

6

- "handling" means the touching, lifting, general managing, carrying, packaging or any other activity involving contact with any aquaculture, inland or marine product or any of its by-products;
- "harvesting" means the gathering of any live 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;

20/2013 S. 3(m).

- "housing vessel" means any vessel which meets the standards for housing crew and equipment at sea as may be prescribed by the competent authority;
- "identification number" means the number assigned in the prescribed manner to each licence, operating certificate, licensed establishment or licensed vessel;

20/2013 S. 3(n).

- "import" means to take into or cause to be taken into Jamaica or the waters thereof;
- "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;

20/2013 S. 3(o).

- "licensed" in relation to-
 - (a) a vessel, means a factory vessel, freezer vessel, carrier vessel, housing vessel, canoe or dory, as the case may be operated by a

licensee holding a licence for operating as such;

- (b) a cold storage facility or processing establishment means such a facility or establishment operated by a licensee holding a licence for operation as such:
- "licensee" means a person to whom a licence is granted under this Act:
- "marine product" includes fish, lobster, conch. bivalve 20/2013 molluses, marine gastropods, shrimps and all other aquatic animals, or the parts thereof including their roe:
- "operator" means the owner, director, controller or other 20/2013 person in charge of or responsible for the operations of a cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe, and includes a charterer, lessee and master:
- "operating certificate" means a certificate issued by the 20/2013 competent authority pursuant to this Act stating that a cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe or consignor is licensed under this Act;
- "packaging" means the procedure of protecting aquaculture, inland and marine products and byproducts 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

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20/2013

S. 3(s).

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 byproducts are processed, handled or stored;

"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 bi-valve molluscs;

20/2013 S. 3(t).

- "trading" means importing, exporting, buying or selling on the Jamaican market, whether for monetary value or exchange;
- "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-

20/2013 S. 4.

 (a) to advance public health and safety standards for any aquaculture, inland and marine product or any of its 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.

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 Designation 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.
- (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 cold storage facilities, processing establish- 20/2013 ments, factory vessels, freezer vessels, carrier vessels, housing vessels, dories and canoes in order to-

S. 5(a)(i).

- (i) tag any—
 - (A) aquaculture, inland or marine product or any of its by-products and any room, 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;

- (b) equipment which is not in use or should not be used;
- (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 cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe, intended to be used for the harvesting, handling or processing of any aquaculture, inland or marine product or any of its 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;

20/2013 S. 5(a)(ii). (ii) determining the microbiological quality of any aquaculture, inland or marine product or any of its by-products in relation to such areas:

S. 5(a)(iii),

- (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;
- such 20/2013 (e) to certify for human consumption, anv aquaculture, inland or marine product or its byproduct;

S. S(a)(iv).

- (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 room, container, vehicle or 20/2013 storage device at licensed other processing establishments or on licensed vessels which is reasonably believed to contain any aquaculture. inland or marine product or its by-product;

S. 5(a)(v).

- (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;

- 20/2013 S. 5(a)(vi).
- (j) to give directives to the owner, agent or person in charge of any building or other place, cold storage facility, 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 operators and consignors are required to keep pursuant to this Act or any regulations made hereunder.

20/2013 S. 5(b).

20/2013 S. 5(a)(vii).

- (2) An inspector may—
- (a) in accordance with the provisions and procedures specified in regulations made under section 37—

20/2013 S. 5(c).

- (i) detain any aquaculture, inland or marine product or any of its by-products or any article which is at any processing establishment, cold storage facility, building or other place or on any factory vessel, freezer vessel, carrier vessel or housing vessel, dory or canoe, container, vehicle or aircraft, if he reasonably believes that there has been a contravention of any provision of this Act or any regulations made hereunder;
- (ii) condemn, seize and destroy any aquaculture, inland or marine products or their byproducts that are detained pursuant to subparagraph (i);

AOUACULTURE. INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

(b) prohibit the landing, trade, sale, receipt, storage, transportation, import or export of any aquaculture. inland or marine product or any of its by-products that he reasonably believes was harvested. handled. processed, stored or transported in contravention of this Act or any regulations made hereunder.

S. 5(d).

(3) An inspector shall report to the competent authority in writing, any findings and actions in respect of his duties under this Act

20/2013

PART III. Administration

6. For the purposes of this Act, the competent authority—

Functions and duties of compeauthority. 20/2013

- (a) shall develop and implement policies and proto safeguard the public health of consumers of aquaculture, inland and marine $S_{0}(a)(b)(c)$ products and their by-products;
 - S. 6(d).
- (b) may 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:

S. 6(e).

- (c) shall grant licences, permits, export health certi- 20/2013 ficates and certificates—
 - (i) in respect of the harvesting, handling or processing of any aquaculture, inland or marine product or any of its by-products;
 - (ii) for the operation of cold storage facilities, processing establishments, factory vessels, freezer vessels, carrier vessels, housing vessels, dories or canoes or for import of any aquaculture, inland or marine product or any of its by-products;

- 20/2013 S 6(*o*)
- (m) shall compile a list of production areas and designated ports for landing referred to in paragraph (l) or changes thereof and publish that list in the Gazette;

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

(n) shall monitor, as far as practicable, demarcated 20/2013 production areas and designated ports for landing, to ensure compliance with the provisions of this Act and any regulations made hereunder;

S 6(p)

- (o) shall order the closure of a designated port for the purpose of landing fishery products, where the conditions are such as to compromise the sanitary condition of the products;
- (p) shall perform such other functions pertaining to the monitoring of harvesting, handling, processing and transportation of any aquaculture, inland or marine product or any of its by-products as may be assigned to it, from time to time, by the Minister;
- (q) may carry out such investigations as it or the Veterinary Committee considers necessary in relation to the operation of any licensed cold storage facility, processing establishment, vessel or any consignor;
- (r) shall prepare and submit to the Veterinary Committee annual reports regarding the production, export and import of any aquaculture, inland or marine product or any of its by-products;
- (s) may initiate, carry out or support research which, in its opinion or that of the Veterinary Committee, is relevant to any of its functions:
- (t) shall determine, after consultation with the Veterinary Committee, the method of shipment and packaging necessary for the transport of any aquaculture, inland or marine product or any of its by-products.
- 6A. Every person or operator who uses the laboratory, diagnostic or monitoring services of the competent authority shall pay the charges for the cost of provision of those services as are determined by the competent authority.

Laboratory, diagnostic monitoring services 20/2013 S 7.

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

Establishment of Veterinary Committee Schedule

Functions and duties of Veterinary Committee

- 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.
 - **8.**—(1)The functions of the Veterinary Committee shall be—
 - (a) [Deleted by Act 20/2013, S. 8(a)(i).]
 - (b) [Deleted by Act 20/2013, S. 8(a)(i).]
 - (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) [Deleted by Act 20/2013, S. 8(a)(i).]
 - (e) to advise the competent authority on general policy relating to the monitoring, production, transport, import and 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) [Deleted by Act 20/2013, S. 8(a)(i).]

20/2013 S 8(a)(111)

20/2013

S = 8(a)(11)

(g) to perform such other functions pertaining to the harvesting, handling, processing, transport, import and export of aquaculture, inland and marine products and their by-products as may be assigned to it from time to time by the Minister.

20/2013 S 8(b)

- (2) The Veterinary Committee shall consider and where satisfied that it is appropriate to do so, make recommendation in respect of—
 - (a) the grant of licences and operating certificates for cold storage facilities, consignors, processing establishments, factory vessels, freezer vessels, carrier vessels, housing vessels, dories and canoes; and
 - (b) the monitoring, production, import and export of aquaculture, inland or marine products or their byproducts.

- (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;

20/2013 S. 8(c)(i).

(c) administer oaths; and

20/2013 S. 8(c)(ii).

(d) utilize such experts or other technical or professional 20/2013 assistance as it considers necessary.

S. 8(c)(iii).

PART IV. Restrictions on the Import and Export of Aquaculture, Inland or Marine Products or their By-Products and the Operation of Cold Storage Facilities, Processing Establishments, Factory Vessels, Freezer Vessels, Carrier Vessels, Housing Vessels, Dories and Canoes.

20/2013 S. 9.

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

of aquaculture, etc.

(a) import, export, enter for export or trade locally in any aquaculture, inland or marine product or any of its by-products; or

20/2013

(b) operate a cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe for the production, harvesting, processing, handling, storage or transport of any aquaculture, inland or marine product or any of its by-products.

PART V. Application, Grant, Refusal, Suspension and Revocation of Licences, Certificates, Permits and Appeal.

20/2013 S. 11.

10.—(1) Every person who proposes to export any aquaculture, inland or marine product or any of its by-products shall apply in the prescribed form and manner to the competent import, authority for a licence to do so.

Application for licence to export. harvest, etc. aquaculture, etc. 20/2013

(2) Every person who proposes to export a consignment of any aquaculture, inland or marine product or any of its

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

- (3) Every person who proposes to harvest, handle or process any aquaculture, inland or marine product or any of its by-products, shall apply in the prescribed form and manner to the competent authority for a licence to do so.
- (4) Every person who proposes to import any aquaculture, inland or marine product or any of its by-products, shall apply in the prescribed form and manner to the competent authority for a permit to do so.
- (5) An application under this section, shall be accompanied by the prescribed application fee and inspection fees and such information or documents, if any, as the competent authority may require.
- (6) Upon the grant of a licence, permit or certificate under this section, the applicant shall pay the appropriate prescribed fee.

Application to operate processing establishment, etc. 20/2013 S. 13(a).

- 11.—(1) Every person who proposes to operate a cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe for the harvesting, handling, processing, transportation or storage of any aquaculture, inland or marine product or any of its byproducts, 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.

20/2013 S. 13(b). (3) Upon the grant of a licence, the applicant shall pay the prescribed licensing fees.

Grant or refusal of licence by competent authority. 20/2013 S. 14.

12.—(1) Within twenty-one days of receipt of an application under section 11, the competent authority shall cause an inspector to carry out an inspection of the cold storage facility, processing establishment, factory vessel, freezer vessel,

carrier vessel, housing vessel, dory or canoe 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, permit or a certificate granted pursuant to Non-transthis Act shall not be transferable and shall be valid for such period, not exceeding twelve months as is specified therein.

and validity of licence. 20/2013 S. 15.

- 14.—(1) The competent authority may refuse to grant a Grounds licence, permit or certificate under this Act—
- for refusal to issue licence.
 - (a) where the Veterinary Committee recommends such 20/2013 refusal on the ground that the issue of the licence S. 16(a). 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;

20/2013 S. 16(b)(ii). 20/2013 S. 16(b)(ii).

20/2013 S. 16(b)(i).

- (e) where the relevant application is incomplete;
- (f) where the applicant has been operating in contravention of this Act or any regulation made hereunder.
 - (2) The offence referred to in subsection (1) is-
- (a) an offence against this Act or any regulations 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 shorter period as the competent authority may allow;
 - (b) the competent authority is satisfied that—

20/2013 S. 17(a). (i) the applicant is operating the cold storage 20/2013 facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe, as the case may be, 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 operations for which the establish- 20/2013 ment or vessel is licensed are being carried S. 17(b)(ii). 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 cold storage facility, processing establish- 20/2013 ment, factory vessel, freezer vessel, carrier \$.17(b)(ii). vessel, housing vessel, dory or canoe 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.

Identification numbers. 20/2013 S. 18. 16.—(1) Where the competent authority grants a licence for the operation of a cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel, dory or canoe, it shall—

20/2013 S. 18.

- (a) allot an identification number to that cold storage facility, processing establishment, vessel, dory or canoe; and
- (b) specify in the licence so granted—
 - 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 retrospectively. 20/2013 S. 19 17. The competent authority shall not grant a licence or permit or issue a certificate retrospectively in respect of any aquaculture, inland or marine product or its by-product.

S. 19.
Suspension of licence, certificate or permit. 20/2013
S. 20(a),(b)(i).

- 18.—(1) Subject to subsection (2), the competent authority may suspend a licence, certificate or permit at any time 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 a cold storage facility or processing 20/2013 establishment or on a vessel, dory or canoe;

- (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 suspension of a licence, certificate or permit 20/2013 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 and reinstate the licence, certificate or permit, 20/2013 as the case may be.

(5) The competent authority may suspend a licence, 20/2013 certificate or permit without notice where the competent authority considers the breach to be so serious as to warrant immediate suspension.

(6) Where the competent authority suspends a licence 20/2013 under subsection (5), all certificates or permits issued pursuant

to the licence shall also be automatically suspended, and the competent authority shall not re-issue any such certificates or permits until the licence is reinstated.

20/2013 S. 20(e).

- (7) Where a licence is suspended pursuant to this section—
 - (a) any certificate or permit issued to an operator or consignor, pursuant to the licence shall cease to be valid;
 - (b) the licence or certificate shall forthwith be returned to the competent authority.

Revocation of licence, certificate and permit. 20/2013 S. 21(a). 20/2013 S. 21(b)(i),(ii).

- 19.—(1) The competent authority may revoke a license, permit or export health certificate at any time, 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 cold storage facility, processing establishment, vessel import or export operations;

20/2013 S. 21(b)(iii). (b) the application for the licence, certificate or permit contained any false or misleading information in any material particular;

20/2013 S. 21(b)(iv).

- (c) the licensee has failed to remedy a breach which gave rise to a suspension of the licence, certificate or permit under section 18, within the time specified in a notice under subsection (2) of that section;
- (d) 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.

19A. The competent authority may cancel and reissue a Cancellation licence, certificate or permit, where an administrative error has occurred and it is necessary to correct that error in for correction, relation to the licence, certificate or permit.

20/2013 S. 22.

- 20.—(1) A person who is aggrieved by the decision of Appeal. the 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.
 - (7) The Minister, on hearing an appeal, may—

20/2013 S. 23.

- (a) dismiss the appeal;
- (b) allow the appeal; or

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

(c) set aside the decision and in substitution therefor, give or make such other decision as the competent authority could have originally made, as he considers appropriate.

Minister may delegate appeal adjudication to a tribunal. 20/2013 S. 24.

- **20A.**—(1) The Minister may delegate all or any of his powers under section 20, to a tribunal.
- (2) The tribunal to which powers are delegated pursuant to this section, shall include persons whom the Minister thinks, by their profession and experience, are competent to adjudicate on an appeal.
- (3) The Minister may, by order published in the *Gazette*, appoint members of the tribunal.
- (4) The tribunal shall consist of no less than three nor more than seven persons, and shall meet at such time as is required.
- (5) A member of the tribunal who is directly or indirectly interested in any matter which is being dealt with by the tribunal shall—
 - (a) disclose the nature of his interest at a meeting of the tribunal; and
 - (b) not take part in any deliberation or decision of the tribunal with respect to that matter.
- (6) The tribunal shall hear an appeal at the earliest time and at such place as it shall determine.

PART VI. Certificates and Records

Operating certificate to be displayed.

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.

23. Every licensee shall keep for inspection as required Records, by the competent authority such books, documents, records or things as may be prescribed.

etc. 20/2013 S. 25.

PART VII. Offences and Penalties

24. Every person who trades, imports, exports or enters Offence of for export in any manner any aquaculture, inland or marine exporting aquaculture, product or any of its by-products without a valid licence, permit, certificate, and in the case of imports, the accompanying 20/2013 country-of-origin health certificate under this Act or any \$.26. 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) trades, imports, exports or enters for export any aquaculture, inland or marine product or any of its byproducts; or
- (b) operates any cold storage facility, processing establishment, factory vessel, freezer vessel, carrier vessel, housing vessel or any dory or canoe or any other facility or installation for the purpose of harvesting, handling, processing or trading in any aquaculture, inland or marine product or any of its by-products,

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 an imprisonment, and where the offence is continued after conviction, he commits a

Offence of processing for export plant, etc., unlawfully. 20/2013 S. 27(a),(b). 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.

Offence of harvesting, etc., in unapproved area. 20/2013 S. 28.

26. Every person who harvests, handles, processes or trades in 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 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 identification number. 20/2013 S. 29.

27. Any person who trades in 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 establishment, etc., without licence. 20/2013 S. 30(a),(b).

28. Any person who operates his business for the purposes of harvesting, handling, processing, importing, exporting or trading in any aquaculture, inland or marine product or its by-product in any period during which his licence, permit or certificate 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.

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

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

corruption, etc., by authorized officer.

- (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 false or or for any other person, the issue, grant or renewal of any licence, permit or certificate under this Act, makes any declaration or statement which is false or misleading in any particular;

Offence of making mislcading statements. 20/2013 S. 31(a).

- (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 20/2013 licence, permit or certificate issued,

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 Offence of authorized officer acting in the execution of his duties under etc., authorthis Act commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term 20/2013 not exceeding twelve months.

threatening, ized officer.

S. 32.

Offence of failure to keep records and documents.

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,

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 six months or to both such fine and imprisonment.

PART VIII. Enforcement

General powers of entry, inspection, and seizure.

20/2013 S. 33(a).

- 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 importing, exporting, trading in or suspected of importing, exporting or trading in 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

20/2013 S. 33(b). (b) any book, licence, permit, certificate or other document, 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 byproduct; or

(b) any vehicle, aircraft, vessel, article, enclosure, container or other storage facility, device or apparatus (hereinafter referred to as "specified equipment, 20/2013 building or room"),

S. 34(a).

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 take possession 20/2013 of such room, building or enclosure as the case may be, and \$.34(b). 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 relation to 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 pro-Procedures poses to apply to the Court for an order of forfeiture under subsection (2) of section 34 the Director of Public Prosecutions 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 he proposes to apply for such an order.

regarding application

- (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 foregoing, 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 byproduct 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 byproduct or detain any person found therein.

PART IX. General

37.—(1) The Minister may make regulations for the Regulations. 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 cold storage 20/2013 facilities, processing establishments, factory vessels, freezer vessels, carrier vessels, housing vessels, dories and canoes:

(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 20/2013 the validity of, export certificates, permits or export health certificates:

(e) the conditions for and the methods of demarcation, approval and listing of production areas, landing ports S. 35(c)(i).

20/2013 S. 35(c)(ii).

- or sites, changes or closure of those areas, ports or sites and communication of the list or changes to any importing country or any person requesting same;
- (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, cold storage facilities 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;
- (I) standards and requirements concerning aquaculture, inland and marine products and their by-products 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 byproducts;
- (n) the manner of keeping records;

20/2013 S. 35(d).

20/2013 S. 35(e).

- (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 any aquaculture, inland and marine product and
 any of its by-products, at production areas, landing
 sites, cold storage facilities, processing establishments, factory vessels, carrier vessels and freezer
 vessels, dories and canoes 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.

37A. The Minister may, by order subject to affirmative resolution, amend or vary any monetary penalty prescribed by this Act.

Minister may ame may ame monetary penalty prescribed by this Act.

Minister may amend monetary penalties, etc. by order. 20/2013 S. 36.

Act applies to the Crown.

38. This Act binds the Crown.

SCHEDULE

(Section 7)

Constitution and Procedure of the Veterinary Committee

Constitution 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;
 - (f) a representative of the Attorney General's Department; and

20/2013 S. 37(a)(i).

- (g) two members appointed by the Minister (hereinafter referred to as the "appointed members") one of whom shall be a person with not less than five years experience as a veterinary surgeon and who is registered as such pursuant to the Veterinary Act:
- (h) the senior legal officer in the Ministry responsible for agriculture;

20/2013 S. 37(a)(ii).

- (2) The appointed members 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 re-appointment.
- (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. 20/2013 S. 37(b)(i)(ii). 2. The appointed members may at any time resign their 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.

SCHEDULE, cont'd.

3. The Minster may at any time, if he thinks it expedient so to do, revoke Revocation the appointment of an appointed member.

of appointment. 20/2013

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

S. 37(c). Filling of vacancy. 20/2013 S. 37(d).

5. In the case of an 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 an appointed member.

Acting appointment. 20/2013 S. 37(e).

6. The names of all members of the Committee as first constituted and every change in the membership thereof shall be notified in the Gazette.

Gazetting of appointment.

7. 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.

Remuneramembers.

8. The decision of the Committee shall be by a majority of votes of Voting. 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.

9.—(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.

Procedure and meet-

- (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.
- 10. Any member of the Committee who is directly or indirectly interested Disclosure in any matter which is being dealt with by the Committee-

of interest.

AQUACULTURE, INLAND AND MARINE PRODUCTS AND BY-PRODUCTS (INSPECTION AND LICENSING)

SCHEDULE, cont'd.

- (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 is 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 sub-paragraph (b) to be present at such deliberation.

Quorum.

11. The quorum of the Committee shall be three members.

Protection of members.

- 12.—(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.