

MALTA

ATT Nru XVII tal-2022

ATT maħruġ b'ligi mill-Parlament ta' Malta.

ATT sabiex jemenda l-Att dwar il-Konservazzjoni u l-Amministrazzjoni tas-Sajd, Kap. 425 u biex jipprovdi għat-twaqqif ta' miżuri effettivi u għall-hwejjeg l-oħra kollha li huma anċillari għalihom.

ACT No. XVII of 2022

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Fisheries Conservation and Management Act, Cap. 425 and to provide for the establishment of effective measures and for all other matters ancillary thereto.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

29 ta' Novembru, 2022

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ATT sabiex jemenda l-Att dwar il-Konservazzjoni u l-Amministrazzjoni tas-Sajd, Kap. 425 u biex jipprovdi għat-twaqqif ta' miżuri effettivi u għall-ħwejjeg l-oħra kollha li huma anċillari għalihom.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2022 li jemenda l-Att dwar il-Konservazzjoni u l-Amministrazzjoni tas-Sajd u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Konservazzjoni u l-Amministrazzjoni tas-Sajd, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehħ.

Kap. 425.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru responsabbli għas-sajd u l-akkwakultura jista' b'avviż fil-Gazzetta jstabbilixxi, u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih qabel it-tifsira "area ta' konvenzjoni" għandha tiżdied it-tifsira ġdida li ġejja:

" "akkwakultura" tfisser it-trobbija u l-koltivazzjoni tal-ħut bis-saħħa tal-użu ta' mezzi tekniċi użati sabiex tiżdied il-produzzjoni tal-organizmi kkonċernati lil hinn mill-kapaċità naturali tagħhom fl-ambjent, u li biha l-organizmi jibqgħu proprjetà tal-persuna fiżika jew ġuridika matul il-perjodu tat-trobbija u l-koltivazzjoni, sa u inkluż il-ħsad tagħhom;"

(b) it-tifsira "bastiment barrani tas-sajd" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "bastiment barrani tas-sajd" tfisser kull bastiment tas-sajd ieħor li ma jaqax taħt it-tifsira ta' bastiment tas-sajd lokali;"

(ċ) fit-tifsira "bastiment tas-sajd", minnufih wara l-kliem "(inkluż trasbord ta' ħut) anċillari għal dan," għandhom jiżdiedu l-kliem "jew li huwa reġistrat jew awtorizzat biex jagħmel dan,"

(d) fit-tifsira "bastiment tas-sajd liċenzjat", il-kliem "skont l-artikoli 8, 9 jew 10;" għandhom jiġu sostitwiti bil-kliem "skont id-dispożizzjonijiet ta' dan l-Att;"

(e) fil-paragrafu (b) tat-tifsira "bastiment tas-sajd lokali", il-kliem "li ordinarjament jirrisjedu f'Malta;" għandhom jiġu sostitwiti bil-kliem "li ordinarjament jirrisjedu f'Malta:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda bastiment tas-sajd li jkun proprjetà ta' u kontrollat kif provdut skont il-paragrafi (a) u (b) ma għandu febda każ jiġi kkunsidrat bħala bastiment tas-sajd lokali jekk ikun reġistrat barra l-ġurisdizzjoni ta' Malta;"

(f) it-tifsira "bastiment tas-sajd tal-konvenzjoni" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "bastiment tas-sajd tal-konvenzjoni" tfisser bastiment tas-sajd reġistrat taħt il-bandiera ta' pajjiż li huwa parti f'konvenzjoni li għaliha Malta hija wkoll parti u li l-bastimenti tas-sajd tagħhom ġew reġistrati skont dik il-konvenzjoni;"

(g) it-tifsira "konvenzjoni" għandha tiġi sostitwita bit-

tifsira ġdida li ġejja:

Kap. 460. " "konvenzjoni" tfisser trattat, ftehim jew arrangament ieħor internazzjonali, minbarra "it-Trattat" kif definit fl-Att dwar l-Unjoni Ewropea;"

(h) it-tifsira "liċenza tas-sajd" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "liċenzja tas-sajd" tfisser dokument li jagħti lid-detentur tiegħu d-dritt li juża ċerta kapacià tas-sajd għall-isfruttament kummerċjali tar-riżorsi akkwatiċi ħajjin;"

(i) fil-verżjoni bl-Ingliż, it-tifsira "master" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "master" means, in relation to a fishing vessel, the person who for the time being is in command or in charge of the fishing operations on board the vessel;"

(j) fit-tifsira "Ministru", minnufih wara l-kliem "responsabbli għas-sajd" għandhom jiżdiedu l-kliem "u l-akkwakultura;"

(k) minnufih wara t-tifsira "Ministru" għandu jiżdied it-tifsir ġdid li ġej:

" "negozjant fis-suq tal-ħut jew pitkal" tfisser operatur liċenzjat biex iwettaq irkantijiet bl-ingrossa f'isem detentur ta' liċenzja fis-sala għall-irkant pubbliku tal-ħut;

"ordni ta' immobilizzazzjoni temporanja" tfisser ordni mogħti mid-Direttur jew xi persuna oħra delegata minnu taħt dan l-Att, li jordna li bastiment jiġi maqbud u miżmum skont dawk il-kundizzjonijiet kif id-Direttur jista' jispeċifika fl-ordni;

"operatur" tfisser kull persuna fiżika jew ġuridika li twettaq xi attività relatata ma' kwalunkwe stadju tal-produzzjoni, tal-ipproċessar, tal-kummerċjalizzazzjoni, tad-distribuzzjoni u tal-bejgħ bl-immnut ta' prodotti tas-sajd u tal-akkwakultura;

"persuna" tinkludi korp jew assoċjazzjoni oħra ta' persuni sew jekk mogħtija personalità legali sew jekk le, skont id-disposizzjonijiet tat-Tieni Skeda li tinsab mal-Kodiċi Ċivili;

Kap. 16.

"permess tas-sajd" tfisser permess tas-sajd maħruġ fir-rigward ta' bastiment tas-sajd flimkien mal-liċenzja tas-sajd tiegħu, li jagħtih id-dritt li jwettaq attivitajiet tas-sajd speċifiċi matul perjodu speċifikat u, jew f'żona partikolari u, jew għal sajd partikolari, u dan taħt kondizzjonijiet speċifiċi;"

(l) it-tifsira "sajd kummerċjali" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "sajd kummerċjali" tfisser l-operazzjonijiet kollha tas-sajd bl-eċċezzjoni tas-sajd ta' sussistenza u s-sajd rikreattiv;"

(m) it-tifsira "stabbiliment tal-akkwakultura" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "stabbiliment tal-akkwakultura" tfisser kull area, għeluq, konfini, post jew struttura mibnija jew użata fuq l-art jew fil-baħar li tkun maħsuba għall-akkwakultura;"

(n) it-tifsira "trasbord ta' ħut" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "trasbord" tfisser il-ħatt ta' kwalunkwe prodotti tas-sajd jew tal-akkwakultura minn abbord bastiment bl-eċċezzjoni ta' attivitajiet ta' rilokazzjoni, attivitajiet b'xibka tat-tkarkir tal-par u operazzjonijiet tas-sajd li jinvolvu azzjoni kongunta minn żewġ (2) bastimenti tas-sajd lokali jew aktar;" u

(o) it-tifsira "uffiċjal għat-tħaris tas-sajd" għandha tiġi sostitwita bit-tifsira ġdida li ġejja:

" "uffiċjal għat-tħaris tas-sajd" tfisser id-Direttur, kull wieħed mill-uffiċjali għat-tħaris tas-sajd kif provdut dwarhom taħt l-artikolu 4(3), u l-membri kollha tal-Korp tal-Pulizija ta' Malta u tal-Forzi Armati ta' Malta li jaġixxu għall-għanijiet ta' dan l-Att;"

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

3. L-artikolu 4 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġejj:

"Direttur responsabbli għas-sajd u uffiċjali għat-tħaris tas-sajd.

4. (1) Dan l-Att għandu jkun amministrat mid-Direttur li għandu jkun uffiċjal pubbliku, maħtur mill-Prim Ministru, u li għandu jkun responsabbli:

(a) għall-konservazzjoni ta' stokkijiet ta' ħut li jinsabu fin-natura;

(b) għall-valutazzjoni ta' stokkijiet tal-ħut u l-ġbir ta' statistika, inkluż id-dettalji tal-qabdiet tal-ħut;

(ċ) għall-iżvilupp u l-amministrazzjoni tas-sajd;

(d) għaż-żamma ta' reġistru ta' bastimenti tas-sajd, tas-sidien, tal-kaptani, tal-ekwipaġġ tagħhom u ta' kwalunkwe persuna oħra li taħdem fuqhom;

(e) għall-monitoraġġ, il-kontroll u s-sorveljanza tal-operazzjonijiet tas-sajd;

(f) għar-regolamentazzjoni tat-twettiq ta' operazzjonijiet tas-sajd inkluż l-akkwakultura u l-operazzjonijiet anċillari għaliha;

(g) għall-ħruġ, il-varjazzjoni, is-sospensjoni u r-revoka ta' permessi tas-sajd u liċenzji għas-sajd, u tat-tagħmir użat għas-sajd, għall-akkwakultura, għat-trasbord u attivitajiet oħra li għalihom huma meħtieġa permessi jew liċenzji skont dan l-Att;

(h) għall-ġbir tad-drittijiet fir-rigward tal-permessi tas-sajd u tal-liċenzji, tal-entrati fir-reġistru tal-bastimenti tas-sajd, u għall-kategoriji l-oħra kollha ta' permessi u liċenzji msemmija fil-paragrafu (g);

(i) għat-tfassil ta' dawk ir-rapporti lill-Ministru kif hu jista' jeħtieġ jew kif id-Direttur iqis xieraq li jagħmel;

(j) għat-teħid ta' miżuri xierqa b'konsultazzjoni ma' dik l-awtorità oħra li minn żmien għal żmien tista' tkun responsabbli għall-ambjent u għas-salvagwardja kontra l-estinzjoni ta' speċijiet protetti; u

(k) għal kull haġa oħra li teħtieġ li tigi amministrata taħt dan l-Att.

(2) Id-Direttur jista' jawtorizza bil-miktub kwalunkwe uffiċjal pubbliku biex jeżerċita kwalunkwe mis-setgħat jew is-setgħat kollha tad-Direttur taħt dan l-Att jew fl-istess hin miegħu jew fl-assenza tiegħu, soġġett għal dawk il-kondizzjonijiet, inkluż dawk relattivi għal restrizzjonijiet territorjali, kif huwa jista' jistipula fl-awtorizzazzjoni.

(3) Dan l-Att għandu jiġi infurzat mill-uffiċjali għat-tħaris tas-sajd kif maħtura mid-Direttur u li jaġixxu taħt id-direzzjoni tad-Direttur, u għal dak il-għan l-uffiċjali għat-tħaris tas-sajd għandu jkollhom is-setgħat stabbiliti taħt dan l-Att."

Emenda tal-artikolu 5 tal-Att prinċipali.

4. Is-subartikolu (2) tal-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) membru wieħed minn fost u nominat mid-detenturi ta' liċenzja tas-sajd;" u

(b) il-paragrafu (g) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(g) membru wieħed mill-Awtorità għall-Ambjent u r-Riżorsi nominat mill-Ministru responsabbli għall-ambjent;"

Emenda tal-artikolu 7 tal-Att prinċipali.

5. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "s-sidien u l-kaptan" għandhom jiġu sostitwiti bil-kliem "s-sidien benefiċjarji, id-detenturi ta' liċenzji, il-kaptani"; u

(b) fis-subartikolu (2) tiegħu, il-kliem "Sid ta' bastiment tas-sajd lokali li jkun beħsiebu juża l-bastiment għas-sajd jista' japplika" għandhom jiġu sostitwiti bil-kliem "Persuna li għandha l-ħsieb li tuża bastiment tas-sajd lokali għas-sajd tista' tapplika".

Emenda tal-artikolu 8 tal-Att prinċipali.

6. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu 8 tal-Att prinċipali; u

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar.

Emenda tal-artikolu 9 tal-Att prinċipali.

7. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "jistgħu wkoll jipprovdu għal permessi" għandha tiżdied il-kelma "tas-sajd"; u

(b) is-subartikolu (3) tiegħu għandu jiġi mħassar.

- 8.** L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:
- (a) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu 10 tal-Att prinċipali; u
- (b) is-subartikolu (2) tiegħu għandu jiġi mħassar.
- 9.** L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:
- (a) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu 11 tal-Att prinċipali; u
- (b) is-subartikolu (2) tiegħu għandu jiġi mħassar.
- 10.** Is-subartikolu (3) tal-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:
- (a) fil-paragrafu (e) tiegħu, il-kliem "jista' jittrasborda l-ħut;" għandhom jiġu sostitwiti bil-kliem "jista' jittrasborda l-ħut."; u
- (b) il-paragrafu li jinsab minnufih wara l-paragrafu (e) tiegħu għandu jiġi mħassar.
- 11.** Fl-artikolu 13 tal-Att prinċipali, il-kliem "liċenza tas-sajd provduta" għandhom jiġu sostitwiti bil-kliem "liċenzja tas-sajd jew permess tas-sajd provduti".
- 12.** L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:
- (a) is-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu 14 tal-Att prinċipali; u
- (b) is-subartikolu (2) tiegħu għandu jiġi mħassar.
- 13.** L-artikolu 15 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:
- "Informazzjoni statistika. 15. Id-Direttur jista' jeħtieġ li l-kaptan, is-sid jew min jikri l-bastiment tas-sajd, kif ukoll in-negozjant fis-suq tal-ħut (pitkal), jipprovdu dik l-informazzjoni statistika dwar is-sajd kif huwa jista' jordna."
- 14.** Is-subartikolu (4) tal-artikolu 17 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:
- "(4) Permess mogħti taħt is-subartikolu (1) għandu jkun soġġett għal dawk il-kondizzjonijiet, li jistgħu jinkludu konformità mad-dispożizzjonijiet ta' dan l-Att, kif speċifikati fil-permess."

Emenda tal-artikolu 10 tal-Att prinċipali.

Emenda tal-artikolu 11 tal-Att prinċipali.

Emenda tal-artikolu 12 tal-Att prinċipali.

Emenda tal-artikolu 13 tal-Att prinċipali.

Emenda tal-artikolu 14 tal-Att prinċipali.

Sostituzzjoni tal-artikolu 15 tal-Att prinċipali.

Emenda tal-artikolu 17 tal-Att prinċipali.

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Thassir tal-artikolu 18 tal-Att prinċipali.

15. L-artikolu 18 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 19 tal-Att prinċipali.

16. Is-subartikolu (1) tal-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (j) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(j) huwa jista', wara li jikkunsidra s-sikurezza tal-bastiment, jieħu passi biex kwalunkwe bastiment tas-sajd miżmum skont dan l-artikolu ma jkunx jista' jiċċaqlaq;"

(b) il-paragrafu (k) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(k) fil-każ ta' kwalunkwe ksur skont dan l-Att jew skont regolamenti magħmula tahtu, huwa jista' jżomm kwalunkwe bastiment flimkien mat-tagħmir, il-ħażniet u l-merkanzija tiegħu jekk huwa jemmen li dawn intużaw fit-twettiq ta' dak il-ksur jew li fir-rigward tagħhom huwa jemmen li tali ksur ikun twettaq, jew jekk l-oġġetti miżmuma jkunu r-riżultat tal-ksur;"

(ċ) fil-paragrafu (l) tiegħu, minnufih wara l-kliem "jista' jaqbad" għandhom jiżdiedu l-kliem "jew iżomm"; u

(d) fil-paragrafu (n) tiegħu, minnufih wara l-kliem "jista' jaqbad" għandhom jiżdiedu l-kliem "jew iżomm".

Emenda tal-artikolu 20 tal-Att prinċipali.

17. L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu 20 għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1);

(b) il-paragrafu (ċ) tiegħu għandu jiġi emendat kif ġej:

(i) fis-subparagrafu (ii) tiegħu, minnufih wara l-kelma "jaqbad" għandhom jiżdiedu l-kliem "jew iżomm"; u

(ii) fis-subparagrafu (iii) tiegħu, il-kliem "ta' dak ir-reat." għandhom jiġu sostitwiti bil-kliem "ta' dak ir-reat;" u minnufih wara għandhom jiżdiedu l-paragrafi u s-

subartikolu ġdid li ġej:

"(d) fuq suspett raġonevoli, iwaqqaf u, jew jeżamina kull vettura, kif ukoll kull mezz ieħor ta' hażna jew ġarr, kull fejn jistgħu jkunu, sabiex jiġi aċċertat li d-dispożizzjonijiet ta' dan l-Att ikunu mharsa:

Izda għall-finijiet ta' dan il-paragrafu, sabiex jeżisti suspett raġonevoli għandu jkun biżżejjed jekk il-waqfien u l-eżaminazzjoni jitwettqu fuq ċertu tipi ta' vetturi jew mezzi oħra ta' hażna jew ta' ġarr li normalment jintużaw għall-hażna u l-ġarr ta' hut, ta' rkaptu tas-sajd jew ta' kwalunkwe oġġett ieħor bi ksur tad-dispożizzjonijiet ta' dan l-Att, f'żoni u postijiet partikolari, u f'hinijiet partikolari tal-ġurnata li matulhom dik il-hażna u dak il-ġarr normalment isehħu; u

(e) fiċ-ċirkostanzi msemmija taħt il-paragrafu (d), huwa jista' wkoll jaqbad kwalunkwe dokument, hut, irkaptu tas-sajd jew kwalunkwe haġa oħra misjuba matul l-eżaminazzjoni jekk huwa raġonevolment iqishom bħala evidenza possibbli ta' ksur jew reat kontra dan l-Att, jew jekk b'xi mod ieħor jgħinu fi kwalunkwe investigazzjoni.

"(2) Uffiċjal għat-tharis tas-sajd ma għandux ikun soġġett għal ebda azzjoni u, jew prosekuzzjoni skont il-liġi għat-twettiq tad-doveri tiegħu taħt dan l-artikolu, inkluż meta l-miżuri meħuda għat-twettiq tagħhom ma jirriżultaw fl-ebda evidenza jew f'ebda ksur jew reat kontra dan l-Att."

18. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 21 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, il-kliem "l-artikolu 19." għandhom jiġu sostitwiti bil-kliem "l-artikolu 19:" u minnufih wara għandu jizjed il-proviso ġdid li ġej:

"Izda uffiċjal għat-tharis tas-sajd u uffiċjal tas-sajd tal-konvenzjoni jistgħu jimponu wkoll infurzar addizzjonali u miżuri kumplementari sabiex jissalvagwardaw id-dispożizzjonijiet ta' kwalunkwe konvenzjoni."; u

(b) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Kull persuna li fuq xi bastiment tas-sajd fl-ibħra tas-sajd jew fuq bastiment tas-sajd lokali 'l barra minn dawk l-ibħra, tattakka kull uffiċjal bħal dan waqt li jkun qiegħed jeżerċita xi waħda mis-setgħat mogħtija lilu skont

l-artikolu 19 jew li volontarjament tfixkel lil dak l-uffiċjal fl-eżerċizzju ta' xi waħda minn dawk is-setgħat, għandha tkun hatja ta' reat u għandha, meta tinstab hatja, tehel multa ta' mhux inqas minn elf u mitejn euro (€1,200) u mhux aktar minn sitt elef euro (€6,000)."

Thassir tal-artikoli 23, 24 u 25 tal-Att prinċipali.

19. L-artikoli 23, 24 u 25 tal-Att prinċipali għandhom jiġu mħassra.

Żieda ta' artikolu ġdid fl-Att prinċipali.

20. Minnufih wara l-artikolu 22 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

"Disponiment ta' hut maqbud u hwejjeg oħra li jistgħu jithassru.

22A. (1) Meta kwalunkwe hut jew kwalunkwe haġa oħra ta' natura li tista' tithassar tiġi maqbuda jew miżmuma skont l-artikolu 19, id-Direttur jista', wara li jiżgura li l-evidenza kollha tiġi preservata, minkejja kwalunkwe dispożizzjoni oħra ta' dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula tahtu, jew:

(a) jirritorna l-hut jew haġa oħra lill-persuna li mingħandha ġew maqbuda jew miżmuma, hekk kif jircievi sigurtà suffiċjenti u adegwata fil-forma ta' garanzija bankarja valida pagabbli fuq talba tad-Direttur, u li, fl-opinjoni tad-Direttur, hija ta' valur kummerċjali ekwivalenti għall-hut jew haġa oħra li tkun maqbuda jew miżmuma b'dan il-mod; jew

(b) jara li jsir il-bejgħ b'irkant pubbliku tal-hut jew haġa oħra u, fil-każ li jinbdew proċedimenti quddiem qorti, jiddepożita d-dħul minn dak il-bejgħ fil-qorti sakemm issir ordni mill-qorti dwar il-konfiska jew le tar-rikavat, jew tirrilaxxa lill-persuna li mingħandha l-hut jew il-haġa kienu maqbuda jew miżmuma skont dan l-Att; jew

(c) jeqred il-hut meta ma jibqax sikur għall-konsum uman jew meta ma jkunx jista' jitqiegħed fis-suq skont il-liġi, jew meta jkun qiegħed jirriskja li jikkawża distorsjoni sinifikanti fis-suq Malti; jew

(d) jagħti b'donazzjoni l-hut lil organizzazzjonijiet li għandhom skop karitatevoli jew filantropiku, u dan esklussivament għall-konsum, mingħajr hlas u bhala ikel, mill-membri jew il-benefiċjarji tagħhom.

(2) Il-garanzija bankarji kif provdut dwarhom skont is-subartikolu (1)(a) għandhom ikunu validi matul kull proċediment skont dan l-Att:

Iżda jekk garanzija bankarja ma tibqax valida sad-deċiżjoni amministrattiva jew sa meta sentenza *res judicata*, u jekk id-Direttur ma jkunx tħallas u l-ħut jew haġa oħra jkunu ġew ritornati skont is-subartikolu (1)(a), l-ammont ta' dik il-garanzija bankarja għandu *ipso facto* jkun dovut mill-awtur tar-reat bħala titolu eżekuttiv favur id-Direttur, mingħajr preġudizzju għal kwalunkwe obbligu li jingħata lura kwalunkwe ammont garantit lil kull min ikun dovut lilu skont il-liġi."

21. Is-subartikolu (2) tal-artikolu 26 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 26 tal-Att prinċipali.

22. Minnufih wara l-artikolu 27 tal-Att prinċipali għandu jizjed l-artikolu ġdid li ġej:

Zieda ta' artikolu ġdid fl-Att prinċipali.

"Rilaxx ta' ħut haj.

27A. Mingħajr preġudizzju għal kwalunkwe setgħa oħra u, jew proċediment skont il-liġi, id-Direttur jista' jordna r-rilaxx fil-baħar ta' kwalunkwe ħut haj miżmum minn jew għal stabbiliment tal-akkwakultura marittima, u huwa jista' jagħmel dan minn kull fejn jinsab dak il-ħut, jekk iqis li dak il-ħut ikun qiegħed jinżamm bi ksur ta' dan l-Att jew ta' kwalunkwe leġiżlazzjoni sussidjarja magħmula tahtu."

23. Is-subartikolu (3) tal-artikolu 28 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 28 tal-Att prinċipali.

24. L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 30 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(1) Kull persuna li tikser kwalunkwe dispożizzjoni ta' dan l-Att jew ta' kwalunkwe leġiżlazzjoni sussidjarja magħmula tahtu u li għaliha ma tingħata l-ebda piena speċifika għandha, fuq sejbien ta' htija minn qorti kompetenti, tkun soġġetta għal multa ta' mhux inqas minn mija u ħamsin euro (€150) u mhux aktar minn tmenin elf euro (€80,000).";

(b) is-subartikolu (6) tiegħu għandu jiġi mħassar;

(c) is-subartikolu (7) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(7) Minkejja d-dispożizzjonijiet ta' kwalunkwe ligi oħra, proċedimenti fir-rigward ta' ksur kontra dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula taħtu li jinvolvi bastiment tas-sajd barrani għandhom jiġu preskritti fi żmien għaxar (10) snin mit-twettiq tal-ksur.";

(d) is-subartikolu (8) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(8) Id-Direttur jista', fir-rigward ta' prosekuzzjonijiet u proċedimenti għal ksur skont dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula taħtu, jippreżenta evidenza u jipparteċipa fil-prosekuzzjoni tal-każ flimkien mal-Pulizija quddiem il-Qorti."; u

(e) is-subartikolu (9) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(9) Ċertifikat li jiġi ffirmat mid-Direttur jew minn kwalunkwe uffiċjal awtorizzat minnu għal dak il-għan, fis-sens li fid-data speċifikata fiċ-ċertifikat:

(a) bastiment tas-sajd speċifikat f'dak iċ-ċertifikat ma jkunx iddaħħal fir-registru tal-bastimenti tas-sajd, liċenzjat jew speċifikat f'permess tas-sajd skont dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula taħtu; jew

(b) il-persuna akkużata jew kwalunkwe persuna oħra msemmija ma kenitx id-detentur ta' liċenzja jew permess tas-sajd skont dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula taħtu,

għandu, fin-nuqqas ta' prova kuntrarja, ikun evidenza biżżejjed dwar dak dikjarat fiċ-ċertifikat."

Sostituzzjoni tal-artikolu 32 tal-Att prinċipali.

25. L-artikolu 32 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

"Ordni.

32. Il-Ministru jista' b'ordni jagħmel dawk id-dispożizzjonijiet li huwa jista' jikkunsidra xierqa għall-infurzar ta' kull restrizzjoni jew obbligu relatat mas-sajd fil-baħar li jkunu jinsabu f'konvenzjoni li Malta hija parti għaliha u jista' jipprovdi f'dak l-ordni li kull ksur ta' xi restrizzjoni jew obbligu bħal dawn għandu jikkostitwixxi reat kontra dan l-Att jew kull leġiżlazzjoni sussidjarja magħmula taħtu."

26. L-artikolu 33 tal-Att prinċipali għandu jiġi sostitwit bl-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 33 tal-Att prinċipali.

"Proċedimenti amminis-trattivi.

33. (1) Jekk id-Direttur ikollu raġuni valida biex jemmen li ksur kontra dan l-Att jew xi leġiżlazzjoni sussidjarja magħmula tahtu tkun twettqet minn xi persuna huwa jista' joħroġ avviż bil-miktub skont is-subartikolu (2) li għandu jkun notifikat lil dik il-persuna.

(2) Avviż skont is-subartikolu (1) għandu jispeċifika u jipprovdi:

(a) id-data jew il-perjodi ta' żmien li matulhom sar l-allegat ksur u n-natura tiegħu;

(b) id-dispożizzjonijiet tal-liġi li kienu jew li allegatament qegħdin jiġu miksur;

(ċ) sommarju tal-fatti li fuqhom kienet ibbażata l-allegazzjoni li sar il-ksur jew għadd ta' ksur, li tkun dettaljata biżżejjed biex tinforma lill-persuna dwar l-allegazzjoni kontraha;

(d) kwalunkwe haġa oħra li d-Direttur iqis rilevanti għall-impożizzjoni ta' penali;

(e) l-ammont tal-penali dovuta, li ma tkunx inqas minn ħamsin euro (€50) u ma tkunx aktar minn sittin elf euro (€60,000);

(f) jekk ikun jidher raġonevoli għad-Direttur u mingħajr preġudizzju għal kwalunkwe dispożizzjoni oħra tal-liġi, il-garanzija li għandha tingħata għall-ħut jew għat-telfien tad-dhul mill-bejgħ tiegħu *mutatis mutandis* skont l-artikolu 22A, kif ukoll ordni ta' qbid u konfiska favur id-Direttur ta' kwalunkwe rkaptu tas-sajd jew kwalunkwe haġa oħra relatata mal-ksur jew miksuba permezz tiegħu; u

(g) jekk hekk ikun jidher raġonevoli għad-Direttur, u mingħajr preġudizzju għal kwalunkwe dispożizzjoni oħra tal-liġi, ordni ta' immobilizzazzjoni temporanja kontra l-bastiment tas-sajd u, jew is-sospensjoni għal perjodu ta' żmien kif jista' jkun speċifikat ta' kwalunkwe liċenzja, u, jew permess jew tip ieħor ta' awtorizzazzjoni mogħtija skont id-dispożizzjonijiet ta' dan l-Att jew kwalunkwe leġiżlazzjoni sussidjarja magħmula tahtu, u n-notifika għandha tinkludi dikjarazzjoni li tali avviż qiegħed jinħareġ skont dan l-artikolu.

(3) Kull persuna li lilha jiġi nnotifikat avviż taħt is-subartikolu (1) tista', fi żmien tletin (30) jum wara dik in-notifika, b'avviż bil-miktub lid-Direttur, teħtieġ li proċedimenti fir-rigward tal-allegat ksur għandhom isehħu quddiem qorti, f'liema każ għandhom japplikaw id-dispożizzjonijiet li ġejjin:

(a) l-ebda proċedimenti amministrattivi oħra relatati ma' dak il-ksur partikolari ma għandhom jittieħdu skont dan l-artikolu mid-Direttur; u

(b) xejn f'dan l-artikolu ma għandu jinftiehem bhala li jipprekludi l-istituzzjoni ta' xi proċedimenti fir-rigward tal-allegat ksur jew is-sejbien ta' htija ta' dik il-persuna mill-qorti jew, wara dak is-sejbien ta' htija, l-impożizzjoni ta' xi piena jew ta' xi miżuri ta' infurzar jew miżuri kumplimentari magħmula taħt dan l-Att jew taħt xi leġiżlazzjoni sussidjarja magħmula taħtu.

(4) Kull persuna li lilha jiġi nnotifikat avviż taħt is-subartikolu (1), li ma tixtieqx li proċedimenti fir-rigward tal-allegat ksur għandhom isehħu quddiem qorti tista' b'avviż bil-miktub innotifikat lid-Direttur:

(a) tammetti l-ksur; u

(b) taqbel bil-miktub li thallas lid-Direttur l-ammont tal-penali stabbilit mid-Direttur:

Iżda l-ħlas għandu jsir kollu fi żmien tletin (30) jum wara li jkun ġie notifikat l-avviż tal-penali, u fil-każ ta' nuqqas ta' ħlas għandhom japplikaw id-dispożizzjonijiet tas-subartikolu (6).

(5) Meta persuna tammetti ksur skont is-subartikolu preċedenti, id-Direttur għandu jimponi penali amministrattiva fuq dik il-persuna fir-rigward tal-ksur u fid-determinazzjoni tal-ammont tal-penali li għandha tiġi imposta, id-Direttur għandu jqis ukoll il-kriterji li ġejjin, kif applikabbli:

(a) in-natura u l-firxa tal-ħsara kkawżata lir-riżorsi tas-sajd u lill-ambjent marittimu;

(b) iċ-ċirkostanzi oġġettivi li fihom ikun twettaq il-ksur; u

(ċ) is-sitwazzjoni ekonomika tal-awtur ta' ksur.

(6) Kull penali imposta taħt is-subartikolu (5) għandha tkun dovuta bħala dejn ċivili inforzabbli mill-qorti kompetenti ta' ġurisdizzjoni ċivili favur il-Gvern u għandha tikkostitwixxi titolu eżekuttiv skont il-liġi bl-istess mod daqsliekeku kienet sentenza tal-qorti kompetenti ta' ġurisdizzjoni ċivili.

(7) Minkejja kwalunkwe dispożizzjoni oħra ta' dan l-Att jew kwalunkwe leġiżlazzjoni magħmula taħtu, fejn ksur ikun ġie ammess taħt dan l-artikolu u l-piena rilevanti tkun tħallset, ma tista' tinbeda l-ebda proċedura kriminali fir-rigward tal-istess ksur kontra l-persuna li tkun hekk ammettiet.

(8) Meta persuna li lilha jiġi notifikat avviz taħt is-subartikolu (1) ma tkunx, fi żmien tletin (30) jum wara li l-avviz ikun ġie notifikat lilha, ammettiet il-ksur u qablet bil-miktub li tħallas il-piena notifikata lilha mid-Direttur skont is-subartikolu (4), id-Direttur għandu jibda proċedimenti jew jara li jinbdew proċeduri quddiem il-Qorti fir-rigward tal-allegat ksur.

(9) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għal xi reat li dwaru jkunu diġà nbdew proċeduri kriminali.

(10) Id-Direttur għandu personalment u b'mod indipendenti jeżerċita s-setgħat tiegħu taħt dan l-artikolu, u fl-eżerċizzju ta' dawn is-setgħat huwa ma għandux ikun soġġett għad-direzzjoni jew il-kontroll ta' kwalunkwe persuna jew awtorità oħra."

27. L-artikoli 34 u 35 tal-Att prinċipali għandhom jiġu mħassra.

Thassir tal-artikoli 34 u 35 tal-Att prinċipali.

28. Fl-artikolu 36 tal-Att prinċipali il-kelma "Ministru" għandha tiġi sostitwita bil-kelma "Direttur".

Emenda tal-artikolu 36 tal-Att prinċipali.

29. Fl-artikolu 37 tal-Att prinċipali, il-kelma "Ministru" għandha tiġi sostitwita bil-kelma "Direttur".

Emenda tal-artikolu 37 tal-Att prinċipali.

30. L-artikolu 38 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 38 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (u) tiegħu għandu jiġi sostitwit bil-paragrafu gdid li ġej:

"(u) il-kontroll ta' postijiet pubbliċi għall-iżbark tal-ħut;" u

(ii) il-paragrafu (y) tiegħu għandu jiġi sostitwit bil-paragrafu l-ġdid li ġej:

"(y) it-twaqqif ta' sistema ta' punti għal kwalunkwe ksur skont dan l-Att jew kwalunkwe legiżlazzjoni sussidjarja magħmula tahtu."; u

(b) minnufih wara s-subartikolu (2) tiegħu għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(3) Mingħajr preġudizzju għas-subartikolu (1), il-Ministru jista' b'regolamenti jippreskrivi reati, pieni, miżuri u, jew proċedimenti, ikunux kriminali jew amministrattivi, għal kull dispożizzjoni ta' dan l-Att li ma tkunx tippreskrivi għal dan, u huwa jista' jagħmel dan ukoll għal kull dispożizzjoni fil-legiżlazzjoni sussidjarja magħmula taht dan l-Att.

(4) Mingħajr preġudizzju għal kwalunkwe sistema ta' punti penali stabbilita mill-Ministru, kull regolament magħmul mill-Ministru skont dan l-artikolu li jipprovi għal proċedimenti amministrattivi għandu jkun mingħajr preġudizzju għall-artikolu 33 u dawk ir-regolamenti għandhom isegwu r-rekwiżiti tal-artikolu 33."

Thassir tal-artikoli 39 u 40 tal-Att prinċipali.

31. L-artikoli 39 u 40 tal-Att prinċipali għandhom jiġu mħassra.

Żieda ta' artikoli ġodda fl-Att prinċipali.

32. Minnufih wara l-artikolu 38 tal-Att prinċipali għandhom jiżdiedu l-artikoli ġodda li ġejjin:

"Tribunal ta' Reviżjoni Amministrattiva. Kap. 490.

41. (1) It-Tribunal ta' Reviżjoni Amministrattiva stabbilit bl-artikolu 5 tal-Att dwar il-Ġustizzja Amministrattiva għandu l-kompetenza li jisma' u jiddetermina appelli magħmula minn kwalunkwe persuna milquta minn kwalunkwe deċiżjoni tad-Direttur taht l-artikolu 33, kif ukoll minn deċiżjoni li ma tingħatax jew li ma tiġġeddidx, jew li tiġi sospiża jew revokata awtorizzazzjoni, liċenzja jew permess, jew li jiġu imposti kondizzjonijiet, limitazzjonijiet jew esklużjonijiet fihom:

Iżda sakemm ma jkunx speċifikat mod ieħor bil-liġi, appell magħmul skont dan is-subartikolu quddiem it-Tribunal ta' Reviżjoni Amministrattiva għandu jiġi preżentat fi żmien għoxrin (20) jum min-notifika tad-deċiżjoni tad-Direttur.

Kap. 490. (2) Għandu jkun hemm dritt ta' appell quddiem il-Qorti tal-Appell (Ġurisdizzjoni Inferjuri), skont id-dispożizzjonijiet tat-Taqsima IV tal-Att dwar il-Ġustizzja Amministrattiva, mid-deċiżjonijiet tat-Tribunal għar-Revizjoni Amministrattiva skont is-subartikolu preċedenti.

**TAQSIMA XIV
DISPOŻIZZJONI TRANŻITORJA**

Riżervi. 42. Id-dispożizzjonijiet tal-Att għandhom jibqgħu fis-seħh għall-finijiet ta' kull att, deċiżjoni jew proċedimenti li saru qabel id-dhul fis-seħh tal-Att tal-2022 li jemenda l-Att dwar il-Konservazzjoni u l-Amministrazzjoni tas-Sajd, fir-rigward ta' kull reat skont dan l-Att li twettaq qabel id-data msemmija."

Abbozz ta' Liġi Nru 10 tal-2022.

33. Fit-Tieni Skeda li tinsab mal-Att dwar il-Ġustizzja Amministrattiva, minnufih wara l-partita "Att dwar Awtorità ta' Malta dwar ir-Riżorsi" għandha tiżdied il-partita ġdida li ġejja:

Emenda konsegwenzjali. Kap. 490.

"Att dwar il-Konservazzjoni Kap. 425 Kompetenza Inferjuri".
u l-Amministrazzjoni tas-Sajd

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 55 tal-21 ta' Novembru, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

29th November, 2022

ACT No. XVII of 2022

AN ACT to amend the Fisheries Conservation and Management Act, Cap. 425 and to provide for the establishment of effective measures and for all other matters ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and
commencement.
Cap. 425.

1. (1) The short title of this Act is the Fisheries Conservation and Management (Amendment) Act, 2022 and this Act shall be read and construed as one with the Fisheries Conservation and Management Act, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date or dates as the Minister responsible for fisheries and aquaculture may by notice in the Gazette, establish, and different dates may be so established for different provisions and different purposes of this Act.

Amendment of
article 2 of the
principal Act.

2. Article 2 of the principal Act shall be amended as follows:

(a) immediately before the definition "aquaculture establishment" there shall be added the following new definition:

"aquaculture" means the rearing and cultivation of fish by virtue of the use of technical means set up in order to increase the production of the organisms concerned beyond their natural environmental capacity, by which the organisms remain property of the natural or legal person throughout the period of rearing and cultivation, up to and including the harvesting thereof;"

(b) the definition "aquaculture establishment" shall be substituted by the following new definition:

"aquaculture establishment" means any area, enclosure, impoundment, premises or structure set up or used on land or in water intended for aquaculture;"

(c) the definition "commercial fishing" shall be substituted by the following new definition:

"commercial fishing" means all fishing operations with the exception of subsistence fishing and recreational fishing;"

(d) the definition "convention" shall be substituted by the following new definition:

Cap. 460. "convention" means an international treaty, agreement or other arrangement, other than "the Treaty" as defined in the European Union Act;"

(e) the definition "convention fishing vessel" shall be substituted by the following new definition:

"convention fishing vessel" means a fishing vessel registered under the flag of a country which is a party to a convention to which Malta is also a party and the fishing vessels of which have been registered accordingly under such convention;"

(f) the definition "fisheries protection officer" shall be substituted by the following new definition:

"fisheries protection officer" means the Director, any of the fisheries protection officers provided for under article 4(3), and all members of the Malta Police Force and the Armed Forces of Malta acting for the purposes of this Act;"

(g) the definition "fishing licence" shall be substituted by

the following new definition:

" "fishing licence" means a document conferring on its holder the right to use a certain fishing capacity for the commercial exploitation of living aquatic resources;"

(h) immediately after the definition "fishing licence" there shall be added the following new definition:

" "fishing permit" means a fishing permit issued in respect of a fishing vessel in addition to its fishing licence, entitling it to carry out specific fishing activities during a specified period and, or in a given area and, or for a given fishery and to do so under specific conditions;"

(i) in the definition "fishing vessel", immediately after the words "(including transshipment of fish) ancillary thereto," there shall be added the words "or which is registered or authorised for so doing,"

(j) immediately after the definition "fishing waters" there shall be added the following new definition:

" "fish market trader or *pitkal*" means an operator licensed to carry out wholesale auctions on behalf of a licence holder at the public fish auction hall;"

(k) the definition "foreign fishing vessel" shall be substituted by the following new definition:

" "foreign fishing vessel" means any other fishing vessel that does not fall under the definition of a local fishing vessel;"

(l) in the definition "licenced fishing vessel", the words "pursuant to articles 8, 9 or 10;" shall be substituted by the words "in accordance with the provisions of this Act;"

(m) in paragraph (b) of the definition "local fishing vessel", the words "persons ordinarily resident in Malta;" shall be substituted by the words "persons ordinarily resident in Malta:" and immediately thereafter there shall be added the following new proviso:

"Provided that a fishing vessel owned and controlled as provided according to paragraphs (a) and (b) shall in no case be considered a local fishing vessel if it is registered outside the jurisdiction of Malta;"

(n) the definition "master" shall be substituted by the following new definition:

" "master" means, in relation to a fishing vessel, the person who for the time being is in command or in charge of the fishing operations on board the vessel;"

(o) in the definition "Minister", immediately after the words "responsible for fisheries" there shall be added the words "and aquaculture;"

(p) immediately after the definition "Minister", there shall be added the following new definitions:

" "operator" means any natural or legal person carrying out any activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products;"

"person" includes a body or other association of persons whether or not granted legal personality, in accordance with the provisions of the Second Schedule to the Civil Code;"

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(q) immediately after the definition "record of fishing vessels" there shall be added the following new definition:

" "temporary immobilisation order" means an order given by a Director or any other person delegated by him under this Act, ordering a vessel to be seized and detained according to such conditions as the Director may specify in the order;" and

(r) the definition "transhipment of fish" shall be substituted by the following new definition:

" "transhipment" means the unloading of any fisheries or aquaculture products on board a vessel with the exception of relocation, pair trawling activities and fishing operations involving joint action by two (2) or more local fishing vessels;"

3. Article 4 of the principal Act shall be substituted by the following new article:

Substitution of article 4 of the principal Act.

"Director responsible for fisheries and fisheries protection officers.

4. (1) This Act shall be administered by the Director who shall be a public officer, appointed by the Prime Minister, and who shall be responsible for:

(a) the conservation of naturally occurring fish stocks;

(b) the assessment of fish stocks and the collection of statistics including details of fish catches;

(c) the development and management of fisheries;

(d) the maintenance of a register of fishing vessels, their owners, masters, crew and any other person working on them;

(e) the monitoring, control and surveillance of fishing operations;

(f) the regulation of the conduct of fishing operations including aquaculture and operations ancillary thereto;

(g) the issue, variation, suspension and revocation of fishing permits and licences for fishing, and equipment used for fishing, aquaculture, transshipment and other activities for which permits or licences are required under this Act;

(h) the collection of fees in respect of fishing permits and licences, of entries in the fishing vessels register, and for all other categories of permits and licences mentioned in paragraph (g);

(i) the making of such reports to the Minister as the latter may require or as the Director shall consider appropriate;

(j) the taking of appropriate measures in consultation with such other authority as may from time to time be responsible for the environment and for the safeguard against extinction of protected species; and

(k) any other matters which shall require administration under this Act.

(2) The Director may authorise in writing any public officer to exercise any or all of the powers of the Director under this Act either concurrently with him or in his absence, subject to such conditions, including those relative to territorial restrictions, as he may stipulate in the authorisation.

(3) This Act shall be enforced by fisheries protection officers as designated by the Director and acting under the direction of the Director, and for that purpose fisheries protection officers shall have the powers set out under this Act."

4. Sub-article (2) of article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

(a) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) one member from among and nominated by the holders of a fishing licence;"; and

(b) paragraph (g) thereof shall be substituted by the following new paragraph:

"(g) one member from the Environment and Resources Authority nominated by the Minister responsible for the environment;".

5. Article 7 of the principal Act shall be amended as follows: Amendment of article 7 of the principal Act.

(a) in sub-article (1) thereof, the words "owners, captains" shall be substituted by the words "beneficial owners, licence holders, masters"; and

(b) in sub-article (2) thereof, the words "An owner of a local fishing vessel who intends to use the vessel" shall be substituted by the words "A person who intends to use a local fishing vessel".

6. Article 8 of the principal Act shall be amended as follows: Amendment of article 8 of the principal Act.

(a) sub-article (1) thereof shall be renumbered as article 8 of the principal Act; and

(b) sub-article (2) thereof shall be deleted.

7. Article 9 of the principal Act shall be amended as follows: Amendment of article 9 of the principal Act.

(a) in sub-article (2) thereof, immediately after the words "may also provide for" there shall be added the word "fishing"; and

(b) sub-article (3) thereof shall be deleted.

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Amendment of article 10 of the principal Act.

8. Article 10 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be renumbered as article 10 of the principal Act; and

(b) sub-article (2) thereof shall be deleted.

Amendment of article 11 of the principal Act.

9. Article 11 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be renumbered as article 11 of the principal Act; and

(b) sub-article (2) thereof shall be deleted.

Amendment of article 12 of the principal Act.

10. Sub-article (3) of article 12 of the principal Act shall be amended as follows:

(a) in paragraph (e) thereof, the words "transhipment of fish," shall be substituted by the words "transhipment of fish."; and

(b) the paragraph immediately following paragraph (e) of sub-article (3) thereof shall be deleted.

Amendment of article 13 of the principal Act.

11. In article 13 of the principal Act, immediately after the words "fishing licence" there shall be added the words "or fishing permit".

Amendment of article 14 of the principal Act.

12. Article 14 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be renumbered as article 14 of the principal Act; and

(b) sub-article (2) thereof shall be deleted.

Substitution of article 15 of the principal Act.

13. Article 15 of the principal Act shall be substituted by the following new article:

"Statistical information.

15. The Director may require the master, the owner or the charterer of the fishing vessel as well as the fish market trader (*pitkal*), to provide him with such statistical information concerning fishing as he may direct."

Amendment of article 17 of the principal Act.

14. Sub-article (4) of article 17 of the principal Act shall be substituted by the following new sub-article:

"(4) A permit granted under sub-article (1) shall be subject to such conditions, which may include compliance with the provisions of this Act, as specified in the permit."

15. Article 18 of the principal Act shall be deleted.

Deletion of article 18 of the principal Act.

16. Sub-article (1) of article 19 of the principal Act shall be amended as follows:

Amendment of article 19 of the principal Act.

(a) paragraph (j) thereof shall be substituted by the following new paragraph:

"(j) he may, having regard to the safety of the vessel, take steps to immobilise any fishing vessel detained in accordance with this article;"

(b) paragraph (k) thereof shall be substituted by the following new paragraph:

"(k) in the case of any infringement under this Act or regulations made thereunder, he may detain any vessel together with its equipment, stores and cargo if he believes that these have been used in the commission of such an infringement or in respect of which he believes such infringement has been committed, or if the detained objects are the result of an infringement;"

(c) in paragraph (l) thereof, immediately after the words "he may seize" there shall be added the words "or detain"; and

(d) in paragraph (n) thereof, immediately after the words "he may seize" there shall be added the words "or detain".

17. Article 20 of the principal Act shall be amended as follows:

Amendment of article 20 of the principal Act.

(a) article 20 shall be renumbered as sub-article (1);

(b) paragraph (c) thereof shall be amended as follows:

(i) in sub-paragraph (ii) thereof, immediately after the word "seize" there shall be added the words "or detain"; and

(ii) in sub-paragraph (iii) thereof, the words "of such offence." shall be substituted by the words "of such offence;" and immediately thereafter there shall be added

the following new paragraphs and sub-article:

"(d) upon reasonable suspicion, stop and, or examine any vehicle, as well as any other means of storage or conveyance, wheresoever these may be, so as to ascertain that the provisions of this Act are complied with:

Provided that for the purpose of this paragraph it shall be sufficient for reasonable suspicion to exist if the stop and examination is conducted on certain types of vehicles or other means of storage or conveyance that are normally used for the storage and conveyance of fish, fishing gear or any other object in contravention of the provisions of this Act, in particular areas and places, and at particular times of the day, during which such storage and conveyance normally takes place; and

(e) in the circumstances referred under paragraph (d), he may also seize any document, fish, fishing gear or any other thing found during the examination if he reasonably considers it as possible evidence of a contravention or offence against this Act, or if it otherwise assists in any investigation.

"(2) A fisheries protection officer shall not be liable to any action and, or prosecution at law for the fulfilment of his duties under this article, including when the measures taken in fulfilment thereof result in no evidence or in no contravention or offence against this Act."

Amendment of article 21 of the principal Act.

18. Article 21 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, the words "article 19." shall be substituted by the words "article 19:" and immediately thereafter there shall be added the following new proviso:

"Provided that, a fisheries protection officer and a conventions fisheries officer may also impose additional enforcement and complementary measures to safeguard the provisions of any convention."; and

(b) sub-article (3) thereof shall be substituted by the following new sub-article:

"(3) Any person who on any fishing vessel within the fishing waters or on a local fishing vessel outside those waters, assaults any such officer while exercising any of the powers conferred on him under article 19 or wilfully obstructs such officer in the exercise of any of those powers, shall be guilty of an offence and shall, on

conviction, be liable to a fine (*multa*) of not less than one thousand and two hundred euro (€1,200) but not exceeding six thousand euro (€6,000).".

19. Articles 23, 24 and 25 of the principal Act shall be deleted.

Deletion of articles 23, 24 and 25 of the principal Act.

20. Immediately after article 22 of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Disposal of seized fish and other perishables.

22A. (1) Where any fish or any other thing of a perishable nature is seized or detained under article 19 the Director may, after ensuring that all evidence is preserved, notwithstanding any other provision of this Act or any subsidiary legislation made thereunder, either:

(a) return the fish or other thing to the person from whom it was seized or detained upon receiving sufficient and adequate security in the form of a valid bank guarantee payable upon request of the Director, and which, in the opinion of the Director, is of equivalent commercial value to the fish or other thing so seized or detained; or

(b) cause the sale by public auction of the fish or other thing and, in the event that court proceedings are instituted, deposit the proceeds of sale in court pending an order by the court in respect of the forfeiture or otherwise of the proceeds or release the proceeds to the person from whom the fish or thing were seized or detained in accordance with this Act; or

(c) destroy the fish when it is no longer safe for human consumption or when it cannot be marketed according to law, or when it risks causing a significant distortion in the Maltese market; or

(d) donate the fish to organisations having a charitable or philanthropic purpose and exclusively for consumption, free of charge and as food, by its members or beneficiaries.

(2) Bank guarantees provided according to sub-article (1)(a) shall be valid throughout any proceeding according to this Act:

Provided that should a bank guarantee fail to remain valid until an administrative decision or until a judgment becomes *res judicata*, and if the Director has not been paid and the fish or other thing has been returned

in accordance with sub-article (1)(a), the amount of said bank guarantee shall *ipso facto* become due by the offender as an executive title in favour of the Director, without prejudice to any obligation to return any secured amount to whoever they are due to according to law."

Amendment of article 26 of the principal Act.

21. Sub-article (2) of article 26 of the principal Act shall be deleted.

Addition of new article to the principal Act.

22. Immediately after article 27 there shall be added the following new article:

"Release of live fish.

27A. Without prejudice to any other power and, or proceeding according to law, the Director may order the release into the sea of any live fish held by or for a maritime aquaculture establishment, and he may do so from wherever such fish is located, if he deems that such fish is being held in breach of this Act or of any subsidiary legislation made thereunder."

Amendment of article 28 of the principal Act.

23. Sub-article (3) of article 28 of the principal Act shall be deleted.

Amendment of article 30 of the principal Act.

24. Article 30 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be substituted by the following new sub-article:

"(1) Any person who contravenes any provision of this Act or any subsidiary legislation made thereunder for which no penalty is specifically provided shall, on conviction by a competent court, be liable to a fine (*multa*) of not less than one hundred and fifty euro (€150) but not exceeding eighty thousand euro (€80,000).";

(b) sub-article (6) thereof shall be deleted;

(c) sub-article (7) thereof shall be substituted by the following new sub-article:

"(7) Notwithstanding the provisions of any other law, proceedings in respect of an infringement against this Act or any subsidiary legislation made thereunder involving a foreign fishing vessel shall be barred by prescription by the lapse of ten (10) years from the commission of the infringement.";

(d) sub-article (8) thereof shall be substituted by the

following new sub-article:

"(8) The Director may, in respect of prosecutions and proceedings for infringements under this Act or any subsidiary legislation made thereunder produce evidence and participate in the prosecution of the case together with the Police before the Court."; and

(e) sub-article (9) thereof shall be substituted by the following new sub-article:

"(9) A certificate purporting to be signed by the Director or any officer authorised by him for that purpose, to the effect that on a date specified in the certificate:

(a) a fishing vessel specified in that certificate was not entered in the register of fishing vessels, licensed or specified in a fishing permit under this Act or any subsidiary legislation made thereunder; or

(b) the accused person or any other named person was not the holder of a licence or fishing permit under this Act or any subsidiary legislation made thereunder,

shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate."

25. Article 32 of the principal Act shall be substituted by the following new article:

Substitution of article 32 of the principal Act.

"Order.

32. The Minister may by order make such provisions as he may consider appropriate for the enforcement of any restriction or obligation relating to sea fishing contained in a convention to which Malta is a party and may provide in that order that any infringement of any such restriction or obligation shall constitute an offence against this Act or any subsidiary legislation made thereunder."

26. Article 33 of the principal Act shall be substituted by the following new article:

Substitution of article 33 of the principal Act.

"Administra-
tive
proceedings.

33. (1) If the Director has reasonable cause to believe that an infringement against this Act or any subsidiary legislation made thereunder has been committed by any person he may cause a notice in writing in accordance with sub-article (2) to be served on that person.

(2) A notice in accordance with sub-article (1) shall specify and provide:

(a) the date or time periods during which the alleged infringement took place, and the nature thereof;

(b) the provisions of the law which were or are allegedly being breached;

(c) a summary of the facts upon which the allegation that the infringement was or infringements were committed is based, being sufficiently detailed to inform the person of the allegation against him;

(d) any other matters that the Director considers relevant to the imposition of a penalty;

(e) the amount of the penalty due, being not less than fifty euro (€50) and not more than sixty thousand euro (€60,000);

(f) if it so appears reasonable to the Director and without prejudice to any other provision of the law, the security to be given for the fish or the forfeiture of the proceeds of the sale thereof *mutatis mutandis* in accordance with article 22A, as well as a seizure and confiscation order in favour of the Director of any fishing implement or any other thing related to the infringement or obtained through it; and

(g) if it so appears reasonable to the Director, and without prejudice to any other provision of the law, a temporary immobilisation order against the fishing vessel and, or the suspension for a time period as may be specified of any licence, and, or permit or other type of authorisation given in accordance with the provisions of this Act or any subsidiary legislation made thereunder, and the notice shall include a declaration that such notice is being issued under this article.

(3) Any person on whom a notice under sub-article (1) is served may, within thirty (30) days after such service, by notice in writing served on the Director require that proceedings in respect of the alleged infringement shall be dealt with by the Court, in which case the following provisions shall apply:

(a) no further administrative proceedings relating to that particular infringement shall be taken under this article by the Director; and

(b) nothing in this article shall be construed as preventing the institution of any proceedings in respect of the alleged infringement or the conviction of that person by the court or, following such conviction, the imposition of any punishment or other enforcement or complementary measures under this Act or any subsidiary legislation made thereunder upon such conviction.

(4) Any person on whom a notice under sub-article (1) is served, who does not wish that proceedings in respect of the alleged infringement shall be dealt with by the court may by notice in writing served on the Director:

(a) admit the infringement; and

(b) agree in writing to pay to the Director the amount of the penalty set by the Director:

Provided that payment should be effected in full within thirty (30) days after the notice of the penalty is served, and in case of default the provisions of sub-article (6) shall apply.

(5) Where a person admits an infringement pursuant to the preceding sub-article, the Director shall impose an administrative penalty on that person in respect of the infringement and in determining the amount of the penalty which is to be imposed, the Director shall also take into account the following criteria, as applicable:

(a) the nature and the extent of the damage caused to fishing resources and the marine environment;

(b) the objective circumstances in which the infringement was committed; and

(c) the economic situation of the offender.

(6) Any penalty imposed under sub-article (5) shall be due as a civil debt enforceable by the competent court of civil jurisdiction in favour of the Government and it shall constitute an executive title according to law in the same manner as if it were a judgement of the competent court of civil jurisdiction.

(7) Notwithstanding any other provision of this Act or any legislation made thereunder, where an infringement has been admitted under this article and the relevant penalty has been paid, no criminal proceedings may be instituted in respect of the same infringement against the person by whom it has been admitted.

(8) Where a person on whom a notice under sub-article (1) is served does not, within thirty (30) days after the notice is served on him, admit the infringement and agree in writing to pay the penalty notified to him by the Director in accordance with sub-article (4), the Director shall institute proceedings or cause proceedings to be instituted before the Court in respect of the alleged infringement.

(9) The provisions of this article shall not apply to any offence in respect of which criminal proceedings have already been instituted.

(10) The Director shall personally and independently exercise his powers under this article, and in the exercise of such powers he shall not be subject to the direction or control of any other person or authority."

Deletion of articles 34 and 35 of the principal Act.

27. Articles 34 and 35 of the principal Act shall be deleted.

Amendment of article 36 of the principal Act.

28. In article 36 of the principal Act, the word "Minister" shall be substituted by the word "Director".

Amendment of article 37 of the principal Act.

29. In article 37 of the principal Act, the word "Minister" shall be substituted by the word "Director".

Amendment of article 38 of the principal Act.

30. Article 38 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be amended as follows:

(i) paragraph (u) thereof shall be substituted by the following new paragraph:

"(u) the control of public fish landing places;"
and

(ii) paragraph (y) thereof shall be substituted by the following new paragraph:

"(y) the establishment of a point system for any infringement under this Act or any subsidiary legislation made thereunder."; and

(b) immediately after sub-article (2) thereof there shall be added the following new sub-articles:

"(3) Without prejudice to sub-article (1), the Minister may by regulations prescribe offences, penalties, measures and, or proceedings, be they criminal or administrative, for any provision of this Act if this Act does not provide thereon, and he may also do so for any provision in subsidiary legislation done under this Act.

(4) Without prejudice to any penalty point system established by the Minister, any regulations made by the Minister according to this article which provide for administrative proceedings shall be without prejudice to article 33 and such regulations shall follow the requirements of article 33."

31. Articles 39 and 40 of the principal Act shall be deleted.

Deletion of articles 39 and 40 of the principal Act.

32. Immediately after article 38 of the principal Act there shall be added the following new articles:

Addition of new articles to the principal Act.

"Administra-
tive Review
Tribunal.
Cap. 490.

41. (1) The Administrative Review Tribunal established by article 5 of the Administrative Justice Act shall be competent to hear and determine appeals made by any person aggrieved by any decision of the Director under article 33, as well as decisions not to grant or renew, or to suspend or revoke an authorisation, a licence or a permit, or to impose conditions, limitations or exclusions therein:

Provided that, unless otherwise specified by law, an appeal lodged in terms of this sub-article before the Administrative Review Tribunal shall be filed within twenty (20) days from the notification of the Director's decision.

Cap. 490.

(2) There shall be a right of appeal in accordance with the provisions of Part IV of the Administrative Justice Act, from decisions of the Administrative Review Tribunal delivered pursuant to the preceding sub-article, to the Court of Appeal (Inferior Jurisdiction).

**PART XIV
TRANSITORY PROVISION**

Saving. 42. The provisions of this Act shall remain in force for the purpose of any act, decision or proceedings taken prior to the coming into force of the Fisheries Conservation and Management (Amendment) Act, 2022, in respect of any offence under this Act that was committed prior to the said date."

Bill no. 10 of 2022

Consequential amendment. Cap. 490.

33. In the Second Schedule to the Administrative Justice Act, immediately after the item "Malta Resources Authority Act" there shall be added the following new item:

"Fisheries Conservation and Man- Cap. 425 Inferior Compe-
agement Act tence".

Passed by the House of Representatives at Sitting No. 55 of the 21st November, 2022.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives