
Decree No. 108

[28th December 1992] *Commencement

THE FEDERAL MILITARY GOVERNMENT herèby decrees as follows:-

1.-(1) As from the commencement of this Decree, no person shall operate a motor fishing craft (in this Decree referred to as a "craft") within the Inland Waters of Nigeria unless a licence in respect of that craft has been issued to the owner or operator of the craft under this Decree. Licensing of fishing craft

(2) A person who operates or causes to be operated a craft in contravention of subsection (1) of this section is guilty of an offence and liable on conviction to a fine not exceeding ₦500 or imprisonment for a term of six months or to both such fine and imprisonment.

2.-(1) An application for a licence under this Decree shall be made in writing to the Commissioner in such form and manner as may be prescribed by the Commissioner and shall - Application for a licence.

(a) contain the particulars and description of the craft in respect of which the application is made;

(b) state in sufficient details -

(i) the method to be employed in fishing, and

(ii) the area within which it is proposed that the craft is to be operated;

(c) be accompanied by such fee as the Commissioner may prescribe.

(3) The Commissioner may, before considering an application, require the applicant -

(a) to satisfy him -

(i) that the craft is properly constructed and equipped; and

(ii) that the form and construction of the fishing nets, fishing gear and other equipment intended for use in fishing are adequate for the purpose of the fishing operation;

(b) to supply such other information as he may require to enable him to reach a decision on the application.

issuance and validity of licence.

3.-(1) The Commissioner shall issue to a successful applicant a licence for the craft subject to such conditions as he may deem necessary.

(2) A licence issued under this Decree shall be valid for one year and expire on 31st December every year.

(3) Where the craft is to be operated in a body of water shared by two or more States, the owner or operator of the craft shall not be required to obtain more than one licence in a particular year.

(4) The holder of a licence under this Decree shall, not later than one month before its expiration, apply to the Commissioner for a licence to take effect from the expiry of the current licence.

Registration mark on fishing crafts.

4.-(1) The owner or operator of a craft shall exhibit the registration number of the craft on both sides of the craft in bold letters with a prefix reflecting the State of registration.

(2) A person who fails to exhibit a registration number on his craft as required under subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦250 or imprisonment for a term of three months or to both such fine and imprisonment.

Restriction on fishing gear etc.

5.-(1) No person shall fish with a gear constructed with net webbing of less than 76 millimetres except where the gear consists of -

(a) pelagic trawl nets used for fresh water sardines, that is, clupeids, which are used with outboard engines of not more than 25 Horse Power capable of operating trawl net with 3 millimetres cod-end; or

(b) lift nets used for fresh water sardines constructed with 3-5 millimetres stretched mesh webbing.

(2) No single fishing unit shall operate with a single net or a combination of nets exceeding 500 metres of 3 millimetres mesh size and above.

(3) A person who contravenes a provision of subsection (1) or (2) of this section is guilty of an offence and liable on conviction to a fine of ₦500 or imprisonment for a term of six months or to both such fine and imprisonment and, in addition, the net and catch shall be forfeited to the Government of the State in which the offence was committed.

Prohibition of unorthodox fishing methods.

6.-(1) Except for electro-fishing and the use of chemicals for the purpose of research, no person shall take or destroy or attempt to take or destroy any fish within the Inland Waters of Nigeria by any of the following methods, that is -

- (a) the use of explosive substance;
- (b) the use of noxious or poisonous matter; or
- (c) the use of electricity.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦3000 or imprisonment for a term of two years or to both such fine and imprisonment.

7.-(1) The operator of a craft in respect of which a licence has been issued under this Decree shall - Declaration of catch, etc.

- (a) declare his catch to a nominated Government Agent when required to do so by the Government Agent;
- (b) permit a Commissioner or a person authorised by him or a Government Agent to inspect the catch either before or after it has been landed; and
- (c) give the Commissioner, person or Government agent, as the case may be, all reasonable facilities in respect of the inspection of the catch.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦500 or imprisonment for a term of three months or to both such fine and imprisonment.

8.-(1) No person shall export or import a live fish or any other aquatic animal without the permission of the Minister. Prohibition of export or import of live fish, etc.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦25,000 or imprisonment for a term of five years or to both fine and imprisonment and, in addition, the fish or aquatic animal shall be forfeited to the Federal Government.

(3) Notwithstanding the provisions of subsection (1) of this section, the Minister may, from time to time, export or import a specialised specie of fish or other aquatic animal for the purpose of exchange of fishery information or for research.

9.-(1) A Commissioner may at his discretion declare as closed, for the purpose of fishing within the jurisdiction of a State, such area or season as he may deem fit and the Minister may at his discretion declare as closed, for the same purpose, a body of water shared by two or more States. Closed areas and seasons.

(2) A person who fishes in a closed area or during a closed season in contravention of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦3,000 or imprisonment for a term of two years or to both such fine and imprisonment.

Construction of dams, weirs, barriers, etc.

10.-(1) The appropriate authority shall regulate and control the building of dams, weirs or other fixed barriers or obstructions to ensure a free movement of fish, and where permission is granted to a person to build a dam, weir or other fixed barrier or obstruction, fish ladders shall be built to ensure free movement of fish.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦50,000 or imprisonment for a term of ten years or to both such fine and imprisonment and, in addition the dam, weir or other fixed barrier or obstruction, if any, shall be destroyed.

(3) In this section, "appropriate authority" means the body charged with the responsibility for matters relating to the construction of dams and other fixed barriers.

Protection of fish or fish products against contamination and infection.

11.-(1) No person shall spray noxious chemicals on fish or fish products and no contaminated, infected or spoiled fish shall be sold or offered for sale.

(2) A person who contravenes a provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of ₦200 or imprisonment for a term of two months or to both such fine and imprisonment and, in addition, the contaminated, infected or spoiled fish or fish product shall be destroyed.

Offences by bodies corporate, etc.

12. Where an offence under this Decree is committed by a body corporate or firm or other association of individuals -

(a) every director, manager, secretary or other similar officer of the body corporate; or

(b) every partner or officer of the firm; or

(c) every trustee of the body concerned; or

(d) every person concerned in the management of the affairs of the association; or

(e) every person who was purporting to act in a capacity referred to in paragraphs (a) to (d) of this section.

is severally guilty of that offence and liable to be proceeded against and punished for that offence in the same manner as if he had himself committed the offence unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

13.-(1) The provisions of this Decree shall be enforced by such officers as may be authorised by the Minister or Commissioner, as the case may be. Enforcement.

(2) An authorised officer may within the Inland Waters of Nigeria for the purposes of enforcing a provision of this Decree -

(a) require the owner or operator of a craft in respect of which a licence has been issued to exhibit his licence, fishing apparatus and catch;

(b) go on board a craft to search and examine the craft and any fishing apparatus that may be there and collect statistical information; and

(c) where there is reason to suspect that an offence under this Decree has been committed, take the alleged offender and the craft, fishing apparatus and catch to the most convenient post or police station.

(3) The power vested in an authorised officer under subsection (2) of this section may be exercised by him without warrant, summons or other legal process.

(4) A craft or fishing apparatus taken from an alleged offender under paragraph (c) of subsection (2) of this section may be detained pending the sale of the catch, and the proceeds of the sale shall be retained pending the trial.

14. Any craft, fishing apparatus or money detained or retained under subsection (4) of section 13 of this Decree shall, unless forfeited under the provisions of this Decree, be returned to the person from whom it was taken or to its lawful owner. Return of craft, apparatus, etc. to lawful owner.

15. Subject to the provisions of this Decree, the Minister may make regulations - Regulations.

(a) to provide guidelines aimed at encouraging persons engaged in the fishing industry to make voluntary arrangements on a comparative or other basis for the selling of fish or the buying of equipment, supplies and other requisites for the fishing industry and to provide for financial or other assistance for bringing the arrangement into operation;

(b) to regulate the handling, processing and storage of fish or fish products on crafts or on-shore and the times and places at and in which the landing of fish may be effected;

(c) for the registration of distributors and retailers of fish or fish products and of any premises used for the distribution or retailing and for the accounting and the records to be kept and the information to be furnished by them in relation to their business;

(d) for the maintenance of good order among the persons engaged in fishing and in the fishing industry and the regulation of any other matter or thing relating to the protection of fish and the administration of the fishing industry;

(e) generally for carrying into effect the provisions of this Decree.

(2) The Minister or Commissioner, as the case may be, shall determine whether enclosures, including pens and cages used for fish shall attract a licence fee or not.

Interpretation.

16. In this Decree, unless the context otherwise requires

"barrier" means an obstruction constructed in the course of a river or lake;

"closed season" means a specific period during which fishing is prohibited;

"Commissioner" means the Commissioner charged with responsibility matters relating to fishery in a State;

"craft" means a fishing craft required to be licensed under this Decree;

"dam" means a permanent structure constructed across a river for the conservation of water;

"fish" means all living aquatic animals, vertebrates and invertebrates, other than plants, which are harvestable for food and other economic purposes;

"fishing" means the catching, taking or harvesting of fish, attempted catching, taking or harvesting of fish and any other activity which can reasonably result in the catching, taking or harvesting of fish;

"fishing gear" means the apparatus used for taking out fish from a body of water;

"fish ladder" means a mechanism for allowing fish movements upstream and downstream through barriers and dams;

"licence" means a permit to operate a motor fishing craft for the act of taking fish;

"Minister" means the Minister charged with responsibility for matters relating to fishery;

"motor fishing craft" means a vessel which is used for or equipped to be used for fishing.

17. This Decree may be cited as the Inland Fisheries Decree 1992.

Citation.

MADE at Abuja this 28th day of December 1992

GENERAL I.B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria.*

EXPLANATORY NOTE

(This note does not form part of the above decree but is intended to explain its purport)

The Decree provides for the licensing of fishing crafts and for the regulation of fishing on the Inland Waters of Nigeria.