



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**FISHERIES AND AQUATIC RESOURCES
(AMENDMENT)**

A

BILL

**to amend the Fisheries and Aquatic Resources
Act, No. 2 of 1996**

*Presented by the Minister of Fisheries and Aquatic Resources Development
on 26th January, 2016*

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[Bill No. 61]

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 49 of Fisheries and Aquatic Resources Act, No. 2 of 1996 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to impose higher fines in respect of persons who have committed offences beyond the limits of Sri Lanka Waters.

Clause 3 : This clause amends section 52 of the principal enactment and the legal effect of the section as amended is to enable the Director-General to impose a monetary penalty not exceeding one third of the maximum fine that could be imposed under this Act in respect of persons who have committed offences beyond the limits of Sri Lanka Waters.

Clause 4 : This clause amends section 61 of the principal enactment and the legal effect of the section as amended is to regulate export and import of fish and fishery products.

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AN ACT TO AMEND THE FISHERIES AND AQUATIC RESOURCES
ACT, NO. 2 OF 1996

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Fisheries and Aquatic Resources (Amendment) Act, No. of 2016. Short title.

5 2. Section 49 of the Fisheries and Aquatic Resources Act, No. 2 of 1996 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:— Amendment of section 49 of Act, No. 2 of 1996.

10 (1) in subsection (1) of that section, by the substitution for the words and figures “sections 14E, 15, 16, 17 or 22” of the words and figures “sections 15, 16, 17 or 22”; and

 (2) by the insertion immediately after subsection (1) of the following new subsection:—

15 “(1A) Any person who contravenes or fails to comply with the provisions of section 14E of this Act shall be guilty of an offence and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees.”.

20 (3) by the insertion immediately after subsection (6) of the following new subsections:—

25 “(7) Any person who contravenes any regulation made under section 61(1)(t) of this Act beyond the limits of Sri Lanka Waters shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to an imprisonment for a term not exceeding two years or to a fine not less than the amounts specified in Column II of the Schedule hereto based on the length of the fishing

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boat specified in corresponding entry in the Column I of the Schedule or to a fine not less than five times the value of relevant fish catch or whichever is higher.

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SCHEDULE

	<i>Column I</i>	<i>Column II</i>
	Length of a fishing boat	fines
	More than 10.3 and less than 15 meters	Rupees 1.0 Million
10	More than 15 and less than 24.0 meters	Rupees 1.5 Million
	More than 24.0 and less than 45.0 meters	Rupees 15 Million
15	More than 45.0 and less than 75.0 meters	Rupees 25 Million
	More than 75.0 meters	Rupees 50 Million

(8) Any person who contravenes any regulation made under section 61(1)(u) of this Act shall be liable to a fine of not less than five times of the value of relevant fish catch.

20

For the purposes of this section “relevant fish catch” means quantity of fish catch at the time of the offence, valued by a panel of members appointed under section 52E of this Act.”.

25 **3.** The following new sections are hereby inserted immediately after section 52A and shall have effect as sections 52B, 52C, 52D and 52E of the principal enactment :—

“Imposition of a penalty. 52B. (1) Where the Director- General has sufficient evidence to believe that any person being a licensee has acted in contravention of the provision of sections 14A, 14E, 14F or 14G

30

Insertion of new sections 52B, 52C, 52D and 52E in the principal enactment.

5 of this Act or any regulation made under
sections 61(1)(t) or 61(1)(u) of this Act, he may
on the recommendation of the panel appointed
under section 52E of this Act, and in the case of
a first offender, having regard to the
circumstances in which the offence was
committed and if it is appropriate to impose a
penalty cause a notice to be served in the
prescribed form on such person, requiring him
10 to appear within one month of the date of the
receipt of such notice and show cause why a
penalty should not be imposed on him.

15 (2) Where the person on whom the notice is
served admits that he acted in contravention of
the provisions of sections 14A, 14E, 14F or 14G
of this Act or any regulation made under
sections 61(1)(t) or 61(1)(u) of this Act within
one month of the date of receipt of such notice,
the Director-General shall impose on that
20 person a monetary penalty not exceeding one
third of the maximum fine that could be
imposed under this Act to which such person
would be liable if convicted by a court.

25 (3) (a) Where the person on whom the notice
is served, appears within one month of the date
of receipt of such notice and states that he has a
cause to show against the imposition of the
penalty, the Director-General may proceed
forthwith to hear and decide the matter in the
30 manner prescribed.

(b) Where the Director-General is not
satisfied with reasons given he may after
assigning reasons therefor, impose the penalty
specified in subsection (2) of this section.

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5 (4) Where the Director-General imposes a monetary penalty on any person under this section for any contravention of the provisions of sections 14A, 14E, 14F or 14G of this Act or 61(1)(t) or 61(1)(u) of this Act he shall cause a notice in the prescribed form to be served on such person.

10 (5) Any person aggrieved by the decision of the Director-General, may appeal to the Secretary of the Ministry of the Minister to whom the subject of Fisheries and Aquatic Resources Development (hereinafter referred to as “the Secretary”) is assigned, within thirty days from the date of receipt of such decision made under subsection (3).

20 (6) The secretary shall make a decision on any such appeal taking into consideration the decision of the Director-General and the circumstances in which the offence was committed, and may either—

(a) allow, alter or vary the appeal and direct the Director-General to act accordingly;
or

(b) disallow the appeal for reasons stated.

25 (7) The Director-General shall comply with any direction issued to him by the Secretary within fourteen days from such direction and shall communicate the direction of the Secretary to the person aggrieved by his decision.

30 (8) Every notice under this section shall be sent under registered post, and if sent under registered post or exhibited in the last known place of abode, it shall be deemed to have been served on that person.

5 (9) Notwithstanding anything contained in this Act, no suit or prosecution shall lie in any court regarding the same offence, where the alleged offender has admitted the commission of such offence and paid such penalty.

Right of Appeal. 52C. Any person aggrieved by the decision of the Secretary may prefer an appeal to the Court of Appeal within thirty days from the date of communication of such decision, on question of law.
10

Presumption. 52D. Any person engaged in fishing operations fails to link with the Fisheries Monitoring Centre or fails to operate vessel monitoring system during such fishing operation for a period of one hour then it is presumed until the contrary is proved that he has violated the provisions of sections 14A, 14E, 14F or 14G of this Act or any regulation made under sections 61(1)(t) or 61(1)(u) of this Act.”.
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Appointment of panel of experts. 52E. (1) There shall be appointed by the Director-General in consultation with the Secretary to the Ministry of the Minister to whom the subject of Fisheries and Aquatic Resources Development is assigned a panel of experts consisting of three persons who have the knowledge and experience in the fields of marine engineering, law and accountancy.
25

30 (2) It shall be the function of such panel of experts to make recommendations to the Director-General on circumstances under which he shall impose a monetary penalty on any person.

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5 (3) The Minister shall pay such monetary remuneration as he shall determine in consultation with the Minister to whom the subject of Finance is assigned to members of the panel.”.

4. Section 61 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

Amendment of section 61 of the principal enactment.

10 (1) in paragraph (si) of that subsection by the substitution for the words “District and village levels; and” of the words “District and village levels;”

15 (2) in item (iv) of paragraph (t) of that subsection by the substitution for the words “Unregulated Fishing 2009.” of the words “Unregulated Fishing 2009; and”

(3) by the addition of the following paragraph immediately after paragraph (t) of that subsection:—

“(u) the regulation of export and import of fish and fishery products.”.

20 5. In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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