

# INTEGRATED CO-MANAGEMENT OF ZAMBEZI / CHOBE RIVER FISHERIES RESOURCES PROJECT

Project No.: WWF –9F0792  
WWF-Norway –Norad – 5012 - GLO-08/449-29

## Recommendations for modifications to the Inland Fisheries Resources Act, 2003 and associated regulations October 2011



Monofilament gillnets, a destructive fishing gear



Use of illegal dragnet (Photo: T. Næsje)



Abundant small fish species on floodplain



Bashing to frighten fish into nets (Photo: T. Næsje)

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Field Document no. MFMR/NNF/WWF/Phase II/4



# PREPARATION OF THIS DOCUMENT

As discussed in the reports of Phase 1 of the MFMR/NNF/WWF Zambezi/Chobe Fisheries Project, and elaborated in the project document for Phase 2, the Inland Fisheries Resources Act and associated regulations need minor revision. This revision aims to strengthen the capacity of Caprivan fishing communities, particularly established and emerging conservancies, to take on management roles in the fisheries, as mandated under national government policy to empower communities in management of natural resources. The Act was formulated before conservancies became major entities in the fisheries areas, and thus there is a need for the acts pertaining to fisheries and to conservancies to be harmonised so that they work closely together. Successful harmonisation will facilitate the role of the MFMR in providing guidance to fishing communities in establishing management systems for each fishery area to ensure optimal utilisation of the fish stocks in each area.

This Field Document reflects the contribution of the project towards the establishment of a revised Act and regulations that recognise the importance of the conservancies, and that empower the communities to develop local bye-laws for the widely divergent fisheries that occur in Caprivi. These range from major river fisheries for valuable cichlid fish species that need careful management and prohibition of destructive fishing gears, through lagoons and lakes with diverse fish communities that can be harvested by a variety of methods, to intermittent shallow floodplains occupied by highly prolific, small pioneer fish species that can be harvested intensively using fine-meshed nets whenever they are present.

Versions of the Act and Regulations supplied to the project by the MFMR Directorate of Aquaculture and Inland Fisheries included the outcome of workshops held by the Directorate locally and at KIFI. The proposed amendments to the Act and Regulations were incorporated using Track Changes. These documents are included here with those changes still highlighted. The approach taken here is to use the Comments facility in Track Changes to indicate where the project has a contribution to make, by inserting a series of numbered “Notes”.

For the Act and the Regulations, two separate series of explanatory notes are included here. The majority of interventions are aimed at empowering conservancies by inserting the word conservancy wherever Traditional Authority or Regional Council are mentioned. The only important addition is to allow communities to develop bye-laws in consultation with the MFMR in situations where existing Fisheries regulations are inappropriate for the particular environmental circumstances. The only other interventions listed here are suggestions to greatly simplify certain sets of regulations, particularly for recreational angling where conservation attitudes and approaches have changed rapidly in recent years, rendering existing regulation unnecessary and obsolete.

## CONTENTS

**Part 1, pages 2-4.** Comments on the Act, referring to Track Changes Notes in Part 2.

**Part 2, pages 5-22.** The Act, incorporating both amendments proposed in MFMR workshops and Project notes elaborated on in Part 1 above.

**Part 3, pages 23-26.** Comments on the Regulations, referring to Track Changes Notes in Part 4.

**Part 4, pages 27-48.** The Regulations, incorporating both amendments proposed in MFMR workshops and Project notes elaborated on in Part 3 above.

## **COMMENTS BY MFMR/NNF/WWF PROJECT ON PROPOSED AMENDMENTS TO THE NAMIBIA INLAND FISHERIES ACT**

The Inland Fisheries Act of 2003 is an excellent piece of legislation. It requires very little in the way of amendments. The only area that needs addressing is the recognition of conservancies as legitimate custodians of their natural resources, which in the case of the Caprivi conservancies includes their very valuable fish stocks. By adding conservancies to the sections of the Act covering other protected areas such as National Parks and Game Reserves, the rights of the conservancies will be recognised and the Act will then effectively be harmonised with the Conservancies Act so that there is no conflict or ambiguity between the Acts.

The other important note to make is that regulations are formulated under the Act, and the wording of the Act must therefore facilitate the construction of the regulations. The separate proposed amendments to the regulations refer to conservancies and therefore this has to be reflected in the Act itself, along with Traditional Authorities, etc.

In the notes below on proposed changes to that act, therefore, the great majority simply entail the addition of conservancies as recognised custodians of fisheries as natural resources. Government policy promotes the empowerment of communities. These proposed changes are aimed at achieving that aim.

**Notes 1, 2, 3, 4, 6, 8, 9, 10, 13, 15, 16 and 17** below all simply add conservancies to the recognised authorities under the Act.

**Other notes 4, 7, 9 and 14** are designed to empower the communities, particular conservancies, to allow, in collaboration with the MFMR, for the development and introduction of local **byelaws** (defined later in this paragraph) in specific cases for the harvesting of fish stocks using methods that would not be permissible on a broader scale, e.g. to harvest the numerous very small species on floodplains away from the main river channels and lakes. **Byelaws** are laws of local or limited application made by local councils or other bodies, using powers granted by an Act of Parliament, and so are a form of delegated legislation. In order to facilitate the enactment of byelaws, the Inland Fisheries Act therefore needs to explicitly allow for their presence.

**The remaining notes 5, 11 and 12** entail deleting unnecessary phrases in order to remove ambiguity and confusion in the existing Act.

### **NOTES ON SPECIFIC SECTIONS OF THE ACT**

**Note 1.** Page 3 – contents Part V control of fishing activities, change 18. to:  
18. Fishing in game park, nature reserve or conservancy.

**Note 2.** Page 4. can this definition of “local authority council” be extended to include conservancy management? Alternatively add in a definition of “Conservancy management committee”.

**Note 3.** Page 5. Part II, 2,(1) is very important as it gives the minister the authority to formulate policy surrounding empowerment of fishing committees (conservancy, village, etc.) to manage their own resources

**Note 4.** Page 6. Part 2(2)(2) currently reads “In determining the general policy to be applied in a particular area, the Minister must consult with the regional council and any local authority councils or traditional authorities in that area.” This needs to be extended to include conservancies as particular areas are more and more included in conservancies. This section should be numbered (2)(20(a) to accommodate **AN ADDITIONAL CLAUSE, NUMBERED 2.(2)(b), WHICH SHOULD READ:** “In determining specific local authority byelaws to be applied to a fishery in a particular area, the Minister may promote community empowerment through consultation between the ministry and local authorities including regional councils, local authority councils, traditional authorities or conservancy offices.”

**Note 5.** Page 12. Part V 17(2)(a) needs to be changed. I suggest deleting this entirely. The reason for this is that on floodplains culverts form very important fishing grounds during the floods for the numerous small, very prolific species that provide a highly important food source at a very difficult time of year for the local population. The next section part (b) effectively prohibits total blocking of culverts with fixed nets as it stipulates nets cannot cover more than half the width of the watercourse.

**Note 6.** Page 12. Change heading as highlighted to **Fishing in game park, nature reserve, conservancy, or on land owned or controlled by statutory institutions**

**Note 7.** Page 12. Part V, 18, add “(c) to fish in conservancy controlled waters without the approval of the conservancy management.” This is a vitally important addition to the act as it empowers the community to manage its resources through controlling effort. The Conservancy and Inland Fisheries Acts need to be harmonised.

**Note 8.** Page 13, modify Part VI, section 22.(1) as follows, highlighted. “The Minister, on his or her own initiative, or in response to an initiative of any regional council, local authority council, traditional authority or conservancy, and in consultation with the regional council, local authority council or traditional authority concerned, may by notice in the *Gazette* declare any area of inland waters as a fisheries reserve if the Minister considers that special measures are necessary”

**Note 9.** Page 13, change section 22. (2)(a) as follows, highlighted: (a) engage in any activity for fishing other than as agreed in the approved reserve management plan developed by the relevant regional council, local authority council, traditional authority or conservancy

**Note 10.** Page 14, Part VII, section 24.(2). Add to the proposed new section 2.(C) the word conservancy. Also include conservancy in the following paragraph about designating a staff member as an honorary inspector.

**Note 11.** Page 15, Part VII, section 26.(b). Reword to remove the current ambiguity caused by the term “reason to believe”. The inspectors currently interpret this to mean that they have to catch the fishermen in the act of using an illegal gear. This needs to change to make possession of an illegal gear an offence. I therefore suggest splitting (b) into two parts as follows: “(b) seize any vessel which is being or has been used for fishing contrary to this Act or a condition of the fishing licence; (c) seize any illegal fishing gear;” Similarly delete “reason to believe” in the current parts (c) and (d)

**Note 12.** Page 16, Part VIII, 28(2) Surely these prescribed penalties should be in regulations, not the Act, to allow for easier updating?

**Note 13.** Page 17, Part IX, 30.(2)(c) Modify wording as highlighted here: “provide for the establishment of inland fisheries committees, including committees set up within recognized conservancies, for purposes of managing the fisheries in particular water bodies or in particular areas or conservancies and define the functions, powers and duties of such committees;

**Note 14.** Page 17, Part IX, 30.(2) Add new section (d) as follows: (d) provide for recognition of byelaws established through recognised inland fisheries committees, conservancies or other local management bodies for the control of fisheries in specific water bodies under the jurisdiction of such recognised formal bodies.

**Note 15.** Page 18, 31(1)(b) Modify wording as highlighted here: “by notice in the *Gazette*, and on such conditions as may be specified therein, delegate either in general or in respect of a particular species of fish or in respect of a defined area, any power conferred on the Minister by or under this Act, except the power to make regulations, to an inspector who is not a staff member in the Ministry or to a person employed by a regional council, local authority council or conservancy management committee.

**Note 16.** Page 18, 31(3). Modify to include conservancy management committee as in Note 15 above.

**Note 17.** Page 19. 33(a) Modify last phrase to “a game park, nature reserve or conservancy”



# GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

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WINDHOEK - 23 April 2003

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## GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

### CONTENTS

*Page*

#### GOVERNMENT NOTICE

No. 91 Promulgation of Inland Fisheries Resources Act, 2003 (Act No. 1 of 2003), of  
the Parliament .....

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### Government Notice

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#### OFFICE OF THE PRIME MINISTER

No. 91  
2003

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 1 of 2003: Inland Fisheries Resources Act, 2003.

## **ACT**

**To Act to provide for the conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources; to provide for the control and regulation of inland fishing; and to provide for related matters.**

*(Signed by the President on 3 April 2003)*

### **ARRANGEMENT OF SECTIONS**

#### **PART I INTERPRETATION**

1. Definitions

#### **PART II POLICY FOR CONSERVATION AND UTILIZATION OF INLAND FISHERIES RESOURCES**

2. Minister determines policy

#### **PART III INLAND FISHERIES COUNCIL**

3. Establishment of Council
4. Constitution of Council
5. Disqualification for appointment as member of Council
6. Term of office of members of Council
7. Vacation of office and filling of vacancies
8. Meetings of Council
9. Committees of Council
10. Remuneration and allowances of members of Council and other persons

#### **PART IV FISHING LICENCES AND REGISTRATION OF NETS**

11. Fishing licence required for fishing
12. Fees and duration of fishing licence
13. Conditions applicable to a fishing licence
14. Cancellation of fishing licence or refusal to renew
15. Fishing licence not transferable
16. Marking of fishing nets

#### **PART V CONTROL OF FISHING ACTIVITIES**

17. Prohibited fishing methods
18. Fishing in game park or nature reserve

Comment [d1]: Note 1

**PART VI  
CONSERVATION AND PROTECTION MEASURES**

19. Introduction, import or export of fish
20. Construction of dams or other structures or works in rivers or streams
21. Endangered species of fish
22. Fisheries reserves and limitation of licences

**PART VII  
ENFORCEMENT**

23. Inspectors
24. Remuneration
25. Powers of inspectors
26. Disposal of fish and other seized articles

**PART VIII  
OFFENCES AND PENALTIES**

27. Offences and penalties
28. Forfeiture

**PART IX  
GENERAL**

29. Regulations
30. Delegation of powers
31. Exemptions and application
32. Amendment of the Nature Conservation Ordinance, 1975
33. Short title and commencement

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:-



**PART I  
INTERPRETATION**

**Definitions**

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

“Council” means the Inland Fisheries Council established by section 3;

“designated officer” means a person designated under section 1(2);

“fish” means any freshwater vertebrate or crustaceans and the larvae or eggs of such vertebrate or crustaceans, but excludes amphibians, reptiles, birds and mammals;

“fishing” means an act directed at the taking, killing or injuring of fish;

“fishing licence” means a fishing licence issued under section 11;

“inland waters” means a river, stream, watercourse, lake, swamp, pond, dam, reservoir or any other freshwater body, excluding a freshwater body situated on private property, other than property owned or controlled by any board, institution or other authority established by any law;

“inspector” means an inland fisheries inspector designated or appointed under section 23;

“local authority council” means a municipal council, town council or village council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

Comment [d2]: Note 2

“Minister” means the Minister responsible for inland fisheries;

“Ministry” means the Ministry responsible for the administration of inland fisheries;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“prescribed” means prescribed by regulation;

“recreational fisheries” means fisheries conducted by individuals primarily for sport but with a possible secondary objective of catching fish for domestic consumption but not for onward sale;

“regional council” means a regional council established by section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“regulated fishing gear” means -

(a) a rod, reel, line and hook; or

(b) a net.

“shared resources” means shared aquatic ecosystem, shared fishery and shared fish stock;

“subsistence fisheries” means those fishing activities whose fishers regularly catch fish using traditional fishing gear for personal and household consumption and engage from time to time in the local sale or barter of excess catch;

“this Act” includes any regulation or notice made or issued under this Act;

“traditional authority” means a traditional authority established in terms of section 2 of the Traditional Authorities Act, 2000 (Act No. 25 of 2000);

“traditional fishing gear” means gear manufactured by the local population in an artisanal manner making use of natural materials available from the local environment;

“vessel” means any water-navigable craft of any description, whether self-propelled or not.

(2) The Minister may by notice in the *Gazette* designate -

- (a) any staff member of the Public Service;
- (b) any officer of a regional council;
- (c) any officer of a local authority council; or
- (d) any other person,

to perform all or any specified functions assigned to a designated staff member or officer by this Act, and subject to such conditions as the Minister may determine in the notice.

## PART II POLICY FOR CONSERVATION AND UTILIZATION OF INLAND FISHERIES RESOURCES

### Minister determines policy

2. (1) The Minister must from time to time, taking into account relevant economic, social and environmental factors and on the basis of the best scientific information available, formulate the general policy with regard to the conservation and utilization of the Namibian inland fisheries resources with a view to –

Comment [d3]: Note 3

- (a) the management, protection and conservation of inland aquatic ecosystems;
- (b) the promotion, sustainable utilization and protection of inland fisheries resources;

Act No. 1, 2003

### INLAND FISHERIES RESOURCES ACT, 2003

(c) the promotion of co-operation with other countries for research, management and development of shared resources.

(2) In determining the general policy to be applied in a particular area, the Minister must consult with the regional council and any local authority councils or traditional authorities in that area.

Comment [d4]: Note 4

- (3) The Minister must promote sustainable harvesting, management, conservation and protection arrangements for freshwater fish and their ecosystems in accordance with international law, international agreements and arrangements to which Namibia is a party.

### **PART III INLAND FISHERIES COUNCIL**

#### **Establishment of Council**

3. There is established a council, known as the Inland Fisheries Council, which shall advise the Minister in relation to any matter on which the Minister is required to consult the Council under this Act and any matter which the Minister refers to the Council for investigation and advice.

#### **Constitution of Council**

4. (1) The Council consists of the Permanent Secretary and such other persons as the Minister may appoint, including -
- (a) one staff member of the Ministry;
  - (b) two persons nominated by the Association of Regional Councils;
  - (c) one person nominated by the Association of Local Authorities;
  - (d) three persons nominated by the Council of Traditional Leaders;
  - (e) four persons who, in the opinion of the Minister, have knowledge in matters relating to inland fisheries and ecosystems, recreational fisheries or any other expertise of relevance to the issues on which the Minister is required to consult the Council under this Act.
- (2) The Minister may from time to time and for such period and on such terms and conditions as the Minister may determine, appoint any person to assist the Council in an advisory capacity.
- (3) The Minister may appoint a staff member as secretary to the Council to perform such tasks as the Minister may determine.

Act No. 1, 2003

#### **INLAND FISHERIES RESOURCES ACT, 2003**

- (4) The Permanent Secretary is the chairperson of the Council and the Minister must appoint one other member of the Council to be the vice-chairperson thereof.
- (5) In making appointments under subsection (1), the Minister must take gender balance into consideration.

#### **Disqualification for appointment as member of Council**

5. A person does not qualify for appointment as a member of the Council if he or she -
- (a) is an unrehabilitated insolvent;

- (b) has been declared mentally ill under any law; or
- (c) has during the period of ten years immediately preceding the date of the commencement of this Act, or at any time after that date, been convicted of a criminal offence and sentenced to imprisonment without the option of a fine.

#### **Term of office of members of Council**

- 6. A member of the Council, other than the Permanent Secretary, holds office for a period of three years and is at the expiry of that period eligible for re-appointment.

#### **Vacation of office and filling of vacancies**

- 7. (1) A member of the Council, other than the Permanent Secretary, ceases to hold office if he or she –
  - (a) becomes subject to a disqualification referred to in section 5;
  - (b) resigns that office by written notice to the Minister;
  - (c) is absent from three consecutive meetings of the Council without its leave;
  - (d) is convicted of an offence under this Act or of any other offence for which he or she is convicted to a term of imprisonment without the option of a fine; or
  - (e) is removed from office under subsection (2).
- (2) The Minister may, by notice in writing, remove a member of the Council from office if the Minister, after giving the member a reasonable opportunity to be heard, is satisfied that such member –
  - (a) is incapacitated by physical or mental illness; or
  - (b) for any other good reason is unfit or unable to discharge the functions of a member or to represent the interests which he or she is required to represent.

Act No. 1, 2003

#### **INLAND FISHERIES RESOURCES ACT, 2003**

- (3) If a member of the Council dies or his or her office becomes vacant in accordance with subsection (1), the Minister must appoint a person to fill the vacancy for the unexpired portion of the term of office of the member in whose stead he or she is appointed.

#### **Meetings of Council**

- 8. (1) The first meeting of the Council must be held at such time and place as the Minister may determine, and thereafter, meetings of the Council are held at such times and places as the Council may determine, but the Council must hold at least one meeting every year.
- (2) The chairperson must convene a special meeting of the Council when –
  - (a) the Minister in writing requests him or her to do so; or
  - (b) at least four members in writing request him or her to do so.

- (3) The chairperson, or in his or her absence, the vice-chairperson or in the absence of both the chairperson and the vice-chairperson, such other member as the members present may elect presides at a meeting of the Council.
- (4) A majority of the members of the Council forms a quorum at a meeting of the Council.
- (5) A decision of a majority of the members present at a meeting of the Council constitutes the decision of the Council and, in the event of an equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote.
- (6) A decision of the Council, or an act performed under the authority of such a decision, is not rendered invalid by reason only of a vacancy on the Council or the fact that a person who is not entitled to sit as a member of the Council did so sit when the decision was taken, if such decision was taken by the requisite majority of the members of the Council who were present at the time and entitled to vote.
- (7) The Council may permit any person, other than a member of the Council, who has an interest in any matter to be considered at any meeting, or any representative of that person, to attend and to take part in such discussions of the Council as in the opinion of the Council relate to such matter, but such person or representative is not entitled to vote.
- (8) The chairperson of the Council must cause a record to be kept of the proceedings of its meetings, and must cause that record to be submitted to the Minister as soon as possible after a meeting of the Council.
- (9) The Council may make rules relating to procedure at its meetings and at meetings of committees established under section 9.

**Committees of Council**

9. (1) The Council may from time to time establish committees to perform, subject to the directions of the Council, such of the Council's functions as the Council may determine.
- (2) The Council may appoint as a member of a committee any person who is not a member of the Council, but at least one member of the committee must be a member of the Council.
- (3) The chairperson of a committee must be appointed by the Council from amongst members of the Council.

**Remuneration and allowances of members of Council and other persons**

10. (1) There must be paid to a member of the Council, to a member of a committee established under section 9 and to a person appointed as an advisor under section 4(2), who is not in the full-time employment of the State, such remuneration and allowances as the Minister, with the approval of the Minister responsible for finance, may determine.
- (2) Different allowances may be determined under subsection (1) according to the different offices held by the persons concerned or the work performed by them.

**PART IV**  
**FISHING LICENCES AND REGISTRATION OF NETS**

**Fishing licence required for fishing**

11. (1) A person may not engage in fishing in any inland waters by means of any regulated fishing gear –
- (a) without being the holder of a fishing licence issued by the Minister or a designated officer authorising fishing by means of the particular type of regulated fishing gear which the person is using or intends using;
- (b) contrary to any condition applicable to the licence in terms of section 13.
- (2) An application for a fishing licence must be made in the prescribed manner to the Minister or a designated officer and can be made, at the election of the applicant, for a fishing licence authorising fishing by means of –

| \_\_\_\_\_ (a) a rod, reel, line and hook only;

| \_\_\_\_\_ (b) a net only; or

| \_\_\_\_\_ (c) both a rod, reel, line and hook and a net.

| \_\_\_\_\_ (d) longline [new – to cater for long line fishing gear that was recently developed in Oshana region. This is a longline, to which more than one hook is attached, put on the surface of an inland water body]

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- (3) A person who holds a fishing licence must make it available for inspection at the place where he or she fishes when required to do so by an inspector.

**Fees and duration of fishing licence**

**12.** A fishing licence –

- (a) is issued only on payment of the prescribed fee; and
- (b) is valid for such period as may be prescribed.

**Conditions applicable to fishing licence**

**13.** (1) A fishing licence is subject to such conditions –

- (a) as are prescribed; and
- (b) as the Minister or a designated officer may impose in a particular case.

(2) Conditions prescribed or imposed under subsection (1) may relate to -

- (a) bag limits;
- (b) fishing gear;
- (c) areas in which fishing is restricted or prohibited;
- (d) closed seasons when fishing is not permitted;
- (e) furnishing of catch reports; and
- (f) any other matter which the Minister deems appropriate.

**Cancellation of fishing licence or refusal to renew**

**14.** (1) The Minister, or a designated officer, may cancel or refuse to renew a fishing licence if -

- (a) the licence holder has failed to comply with a condition applicable to the licence;

- (b) the licence holder is convicted of an offence in terms of this Act; or

- (c) the sustainable utilization of any species of fish or inland fisheries resources in general is threatened.
- (2) The Minister or a designated officer, instead of cancelling or refusing to renew a fishing licence in a case referred to in subsection (1)(a), may in writing vary any condition applicable to the licence or impose any further condition.

**(3) A fishing licence holder may deregister a licence at the relevant licensing authority. [new – to allow licence holder to deregister a permit on voluntary basis, because currently only the Minister or designated officer may deregister a licence]**

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#### **Fishing licence not transferable**

15. A fishing licence authorises fishing only by the holder thereof and is not transferable.

**(1) A person other than the licence holder may use another person's net provided that he is in the possession of the holder's fishing licence. [new – to provide for licence holder to create employment]**

#### **Marking of fishing nets**

16. A person may not for the purpose of fishing use or have in his or her possession a net, unless the net -
- (a) is a net of which the use is authorised by a fishing licence;
- (b) is marked in the prescribed manner; and
- (c) conforms to the prescribed requirements.

### **PART V CONTROL OF FISHING ACTIVITIES**

#### **Prohibited fishing methods**

17. (1) A person may not use for fishing -
- (a) any chemical, poison, poisonous plant or any noxious or other injurious substance;
- (b) any explosive, firearm or electrical device; or
- (c) any light at night to lure or attract fish.

**(d) Monofilament gillnet**

Act No. 1, 2003

**INLAND FISHERIES RESOURCES ACT, 2003**

- (2) A person who uses a net for fishing may not use the net -
- (a) within 100 meters of a bridge, culvert or spillway when water is flowing through such structures; or
- (b) in a manner that obstructs more than one half of the width of any watercourse where fishing is carried out.

**Comment [d5]:** Note 5



**Fishing in game park or nature reserve or on land owned or controlled by statutory institutions**

Comment [d6]: Note 6

18. A fishing licence does not authorise the holder of the fishing licence –
- (a) to fish in an area which has been declared as a game park or a nature reserve under section 14(1) of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975), except if the holder of the fishing licence is permitted under the provisions of that Ordinance to fish in such area;
  - (b) to enter any land owned by or under the control of any board, institution or authority established by any law for the purpose of fishing in the inland waters extending over that land without the permission of that board, institution or other authority.

Comment [d7]: Note 7

**PART VI  
MANAGEMENT, CONSERVATION AND PROTECTION MEASURES**

**Introduction or transfer of fish and import or export of fish**

19. A person may not without written permission granted by the Minister -
- (a) introduce or cause to be introduced into any inland water system, or transfer from one water system to another, any species of fish;
  - (b) import into Namibia any live fish;
  - (c) export from Namibia any live fish declared as endangered species under section 21;

**Construction of dams or other structures or other works in rivers or streams**

20. Any power conferred by any law on an authority to grant permission for the construction of a dam, or the erection or installation of any structure in a river or stream must be exercised after consultation with the Minister.

**Endangered species of fish**

21. (1) The Minister may by notice in the *Gazette* declare any species of fish as an endangered species for the purpose of protecting or regenerating such species.

Act No. 1, 2003

**INLAND FISHERIES RESOURCES ACT, 2003**

- (2) A person may not -
- (a) catch and retain;
  - (b) kill or injure; or
  - (c) without the written permission of the Minister remove from its environment or possess, any fish belonging to a species declared under subsection (1) to be an endangered species.

**Fisheries reserves and limitation of licences**

22. (1) The Minister, on his or her own initiative, or in response to an initiative of any regional council, local authority council or traditional authority, and in consultation with the regional council, local authority council or traditional authority concerned, may by notice in the *Gazette* declare any area of inland waters as a fisheries reserve if the Minister considers that special measures are necessary -

Comment [d8]: Note 8

- (a) to preserve the aquatic environment;
- (b) to protect, preserve or rehabilitate the natural environment of fish, related ecosystems including wetlands, lakes, lagoons, nursery and spawning areas, which are essential to maintaining the integrity of an ecosystem, species or assemblages of species;
- (c) to promote the regeneration of fish stocks;
- (d) to protect fish resources and their environment from destruction, degradation, pollution and any other adverse impacts through human activities that threaten their health and viability.

(2) A person may not in a fisheries reserve declared under subsection (1), without the written permission of the Minister -

- (a) engage in any activity for fishing; or
- (b) dredge or extract any material or discharge or deposit any waste or other polluting matter or in any other way destroy, disturb or interfere with the natural environment of fish and related ecosystems.
- (3) If the Minister is of the opinion that the sustainable utilization of fish is threatened, the Minister may by notice in the *Gazette* prohibit or limit the number of licences that may be issued in respect of any one or both the types of regulated fishing gear either in general or in respect of a particular area or for a specified period.

Comment [d9]: Note 9

### **23: Closed Fishing Season [new – to cater for declaration of closed season]**

**(1) The Minister may by public notice declare a portion on a river, a channel, or an entire inland water body closed for fishing if he/she considers that special measures are necessary-**

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Act No. 1, 2003

INLAND FISHERIES RESOURCES ACT, 2003

- (a) to enhance sustainable management and conservation of aquatic living resources, and after the consideration of scientific information received from inland fishery scientists;
- (b) to protect humans, fish and aquatic environment from the outbreak of diseases or harmful bio toxins, and after the consideration of scientific results from the competent authority.

23(2) The regional council, local authority council or traditional authority concerned, on their own initiatives, or in response to the requests from their communities, and in consultation with the relevant stakeholders may request the Minister in writing to declare any area or a portion of an enclosed inland water body under their jurisdiction closed for fishing-

(a) to mitigate aquatic use conflicts;

(b) to prevent fishermen from catching contaminated fish; [i.e. fish caught from dams/sewerage systems administered by the Municipality, Village Council, Hospitals]

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## PART VII ENFORCEMENT

### Inspectors

24.(1) Subject to the Public Service Act, 1995 (Act No. 13 of 1995), the Minister may designate any staff member in the Ministry as an inspector for the purposes of this Act.

(2) The Minister may, by notice in the *Gazette*, with the concurrence of -

(a) the Minister responsible for environmental affairs;

(b) ~~(b)~~ the Minister responsible for rural development; or

(c) A regional council or local authority council.

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Comment [d10]: Note 10

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Designate a staff member or officer holding any post in that Ministry, regional council or local authority council, as the case may be, as an honorary inspector for the purposes of this Act.

(30) The Minister, after consultation with a traditional authority, may by notice in the *Gazette* appoint a person nominated by that traditional authority as an honorary inspector.

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Act No. 1, 2003

### INLAND FISHERIES RESOURCES ACT, 2003

(4) The Minister may at any time, after consultation with the relevant Minister referred to in subsection (2)(a) or (b) or the regional council or local authority council or traditional authority concerned, withdraw or alter a designation or appointment made under subsection (2) or (3).

### Remuneration

25: The Minister, with the concurrence of the minister responsible for finance and after consultation with the traditional authority concerned, may determine the remuneration, if any, payable to an honorary inspector appointed under section 23 (3).

### Powers of inspectors

26. An inspector may -

(a) stop and board any vessel which is used or suspected of being used for fishing and perform any act necessary to ascertain whether the provisions of this Act have been or are being complied with;

(b) seize any vessel or fishing gear which the inspector has reason to believe has been used for fishing contrary to this Act or a condition of a fishing licence;

- (c) seize any fish that the inspector has reason to believe has been caught or is being possessed in contravention of this Act or a condition of a fishing licence;

**Act No. 1, 2003** **INLAND FISHERIES RESOURCES ACT, 2003**

- (d) seize any equipment, article or substance that the inspector has reason to believe has been used for fishing in contravention of this Act or a condition of a fishing licence.

**Comment [d11]:** Note 11

#### **Disposal of fish and other seized articles**

**27.** (1) An inspector who seizes a vessel or other article under section 25 may remove the vessel or article to a place determined by the Minister for safekeeping pending the conclusion of any criminal proceedings concerning such vessel or article and a determination by a court in terms of section 28 as to the forfeiture of the vessel or article concerned.

(2) Notwithstanding subsection (1), any fish seized under section 25 that is likely to perish may be disposed of in such manner as may be prescribed.

### **PART VIII OFFENCES AND PENALTIES**

#### **Offences and penalties**

**28.** (1) A person is guilty of an offence who -  
(a) contravenes any of the provisions of sections 11(1) or (3), 16, 17(1) or (2), 19, 21(2) or 22(2);

**Act No. 1, 2003** **INLAND FISHERIES RESOURCES ACT, 2003**

(b) without the required permission fishes or attempts to fish in any waters referred to in section 18(a) or (b);

- (c) catches or attempts to catch fish by a method other than a prescribed method or by a method which is prohibited by or under this Act;
- (d) dumps or allows to enter or permits to be dumped or discharged in inland waters anything which is or may be injurious to fish, or which may disturb or alter the ecological balance in such waters, or hinders the catching of fish;
- (e) assaults, obstructs, threatens or intimidates an inspector in the exercise or performance of the inspector's powers or duties in terms of this Act;
- (f) uses a forged licence.
- (2) A person convicted of an offence -
- (a) for a contravention of section 19 or an offence referred to in subsection 1(b) or (f), is liable to a fine not exceeding N\$1000 or imprisonment for a period not exceeding 3 months;
- (b) for a contravention of section 17(1) or (2), or an offence referred to in subsection (1)(c), is liable to a fine not exceeding N\$10 000 or imprisonment for a period not exceeding 12 months;

(c) for a contravention of section 21(2), section 22(2), or an offence referred to in subsection (1)(d) or (e), is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment.

(3) A person who commits a second or subsequent offence under this Act is on conviction liable to a penalty not exceeding N\$20 000 in addition to any other penalty which may be imposed in respect of that offence.

### **Forfeiture**

**29.** A court convicting a person of an offence under this Act may, in addition to any other penalty it may impose -

(a) order that any vessel, fishing gear, explosive, firearm, poison, poisonous plant, electrical device, substance or any other object used in or in connection with the commission of the offence, or any fish caught in the commission of the offence, be forfeited to the State;

(b) order that any fishing licence held by the person under this Act be cancelled and that the person may not be issued with any further licence for such period, not exceeding 6 months, as the court may consider appropriate;

(c) declare a holder of a fishing licence with previous convictions unfit to be issued with a further licence for such period, less than 12 months, as the court may consider appropriate.

Act No. 1, 2003

## **INLAND FISHERIES RESOURCES ACT, 2003**

### **PART IX GENERAL**

#### **Regulations**

**30.** (1) The Minister may make regulations in relation to any matter which is permitted or required to be prescribed in terms of this Act or which the Minister considers necessary or expedient to prescribe for achieving the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under subsection (1) may -

(a) prescribe conditions under which recreational fisheries may be undertaken, including conditions as to methods and fishing gear that may be used or may not be used;

(b) prescribe conditions under which subsistence fisheries may be undertaken, including conditions as to methods or traditional fishing gear that may not be used;

(c) provide for the establishment of inland fisheries committees for purposes of managing the fisheries in particular water bodies or in particular areas and define the functions, powers and duties of such committees;

**Comment [d12]:** Note 13

**Comment [d13]:** Note 14

(d) prescribe conditions on which (d) prohibiting the catching of fish in general or within a specified area;

(e) prescribe the requirements with which vessels or fishing gear to be used for fishing must comply;

- (f) prescribe the size of fishing nets to be used, the minimum mesh sizes of such nets and the manner by which the mesh sizes must be measured;

Act No. 1, 2003

**INLAND FISHERIES RESOURCES ACT, 2003**

- (g) prohibit the catching of fish by a particular method or otherwise than by a stipulated method;
- (h) prescribe the minimum sizes of fish caught that may be retained and the manner by which such sizes must be measured;
- (i) prescribe the manner in which registered fishing nets must be marked;
- (j) prescribe conditions under which angling competitions may be held to protect fish and their environment and for the safety of competition participants;
- (k) prescribe conditions and restrictions for stocking or undertaking fisheries;
- (l) prescribe the method in which any fishing gear may be used;
- (m) provide for the making of surveys and gathering of information regarding
  - (i) requirement and demand in respect of any fish;

Act No. 1, 2003

**INLAND FISHERIES RESOURCES ACT, 2003**

- (ii) the state and potential of any fish; and
  - (iii) the harvesting, processing, transportation, disposition and marketing of fish.
- (3) Regulations made under subsection (2) may -
  - (a) be made to apply to fish in general or to a particular species of fish or may differentiate between different species of fish in different areas or in respect of any other matter which the Minister deems necessary;
  - (b) prescribe penalties for any contravention of or failure to comply with their provisions not exceeding a fine of N\$1000 or imprisonment for a period not exceeding 3 months.

**Delegation of powers**

**31.** (1) The Minister may -

- (a) on conditions determined by the Minister, delegate to any staff member of the Ministry any power conferred upon the Minister by or under this Act, except the power to make regulations; and
- (b) by notice in the *Gazette*, and on such conditions as may be specified therein, delegate either in general or in respect of a particular species of fish or in respect of a defined area, any power conferred on the Minister by or under this Act, except the power to make regulations, to an inspector who is not a staff member in the Ministry or to a person employed by a regional council or a local authority council.

Comment [d14]: Note 15

- (2) A person to whom a power has been delegated under subsection (1)(a) may, with the prior approval of the Minister, delegate that power to any other person to whom the Minister could have delegated such power.
- (3) The Permanent Secretary may, on conditions determined by the Permanent Secretary, delegate to a staff member of the Ministry or to an inspector who is not a staff member in the Ministry or to a person employed by a regional council or a local authority council, any power conferred upon the Permanent Secretary by or under this Act.

Comment [d15]: Note 16

### Exemptions and application

32. (1) The Minister may, subject to such conditions as the Minister may determine, exempt in writing and application -
- (a) any person who conducts any scientific investigation, experiment or research; or
- (b) any category of persons permitted or required by law to perform a particular act, from any or all the provisions of this Act, and may at any time cancel or amend an exemption so granted.

Act No. 1, 2003

### INLAND FISHERIES RESOURCES ACT, 2003

- (2) The provisions of PART IV do not apply to subsistence fisheries by means of traditional fishing gear.

### Amendment of the Nature Conservation Ordinance, 1975

33. The Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975) is amended -
- (a) by the insertion in subsection (1) of section 18 of the following paragraph: “(fA) in any waters in a game park or nature reserve -
- (i) catch or attempt to catch fish, whether or not such person is the holder of a fishing licence issued under any law governing inland fisheries resources; or
- (ii) place or release any fish;
- (iii) place or dump any explosive or any poison or other noxious material or substance which may be harmful to fish or their environment?”;
- (b) by the deletion of paragraphs (n), (o) and (p) of subsection (1) of section 84; and
- (c) by the repeal of sections 65, 66, 67, 68, 69, 70 and 71.

Comment [d16]: Note 17

### Short title and commencement

34. This Act is called the Inland Fisheries Resources Act, 2003, and shall come into operation on a date fixed by the Minister by notice in the *Gazette*.

## **NOTES BY MFMR/NNF/WWF ZAMBEZI/CHOBE FISHERIES PROJECT ON PROPOSED AMENDMENTS TO FISHERIES REGULATIONS UNDER THE INLAND FISHERIES ACT**

The Zambezi/Chobe Fisheries Project Executants were unable to attend the meetings on proposed amendments to the Inland Fisheries Act and regulations held in June 2011. Extensive consultation has revealed that the key stakeholders in the Caprivi Floodplain Fisheries, i.e. the Conservancies, and even some indunas from the floodplains, were also not represented at the workshops.

The Project Executant was provided with draft amendments to the regulation by the MFMR in Windhoek in August 2011. It is not clear at this stage whether these amendments are the current final version. We are pleased to note that the amendments contain many of the project's recommendations. In the opinion of the project, however, and after consultation with all MFMR staff in Katima Mulilo, we do not consider that all key issues are yet fully addressed. We stand to be corrected if it turns out that the version we are reviewing is incomplete, but based on the available version we have several observations to make.

A key recommendation from the project, made at various project meetings at both Ministerial and Trans-boundary level and in correspondence with the Director of Aquaculture and Inland Fisheries, is that the regulations should be simple, clear, meaningful, and unambiguous. It is essential that those gears that are most destructive are banned and that the ministry's Inspectorate should focus all of its efforts on stopping the use of such gears. These gears are:

- (a) Drag netting;
- (b) Drifting gill nets;
- (c) Monofilament gill nets;
- (d) Bashing as a fishing method;
- (e) Poisons, explosives or electricity as fishing methods except as provided for under permission for scientific research.

Other gears may also be damaging in some areas but of great value elsewhere, e.g. the use of very small-meshed nets during the floods on floodplains away from main river channels for the very small, prolific fish species that make use of such areas. Such fisheries should be governed by specific agreements made between the communities harvesting such stocks and the MFMR. Our separate comments on the Inland Fisheries Act make provision for the establishment of byelaws in agreements between MFMR and communities.

We therefore argue that the amendments to the regulations as proposed are still unnecessarily restrictive on gears that can be used, and that gears that may be locally damaging can be prohibited by local byelaws agreed by the communities.

We further note that there is some ambiguity, inconsistent terminology, and poor definitions in the draft on which we are commenting.

We also make comments on some issues that are not directly related to the project, but where we feel that the MFMR can greatly simplify its own tasks (**Notes 9-13 below**). These specifically surround the angling regulations, which we consider can be reduced to a few very simple and easily understood rules. At present, they are extensive and because of improved taxonomic knowledge they are now biologically incorrect. These notes should be considered



separately to the issues covered in **Notes 1-8** that directly impact the project area and its purpose and goals

## **NOTES ON THE PROPOSED REGULATIONS AMENDMENTS**

**Note 1.** Page 4, 2(2) Excellent amendment.

**Note 2.** Page 6, 11. This states that no consensus was reached. We suggest: “A certificate of registration issued under these regulations authorizes fishing only by the holder of that certificate **or his/her employee** and is not transferable”. You might have to stipulate the existence of a written contract of employment, alternatively the fisher must have a certified copy of the registration holder’s certificate. This is an area where the establishment of formal fishermen’s groups and fishermen’s registers, such as that in place at Muyako, has massive benefits in terms of control of fishers.

**Note 3.** Section 15 needs to be re-worked. We disagree with some of the proposed additions for reasons given below. We suggest the following rewording:

**15.** A person shall not use -

- (f) Drag netting, except as stipulated under section 16 below;
- (g) Drifting gill nets;
- (h) Monofilament gill nets;
- (i) Bashing as a fishing method;
- (j) A cluster of fish hooks designed to hook the body of a fish;
- (k) Poisons, explosives or electricity as fishing methods except as provided for under permission for scientific research.
- (l) Any net in the Orange River.

Our reasons for excluding the other gears suggested in the amendments being reviewed here are as follows:

15(d) new – tending gears at night. This is premature. We are keen to see it but there must be a strong consensus in the fishing communities first. We have started including it in our discussions with fishing committees and fishermen are generally in favour but they do have some concerns that we need to address. We suggest delaying this until we have consensus after thorough consultation.

15(e) Spear and bow and arrow fishing are traditional gears that have been used since time immemorial and do not have any serious adverse impact on fish stocks. They are only effective against large, mature fish. Spears are the best way to harvest catfish in drying lagoons. Such gears should be controlled at the local level and not through national legislation.

15(f) We consider that gears made with very small meshes are very valuable fishing methods in certain areas on the floodplains and need to be covered with very specific rules rather than a blanket ban. The rules must cover formal agreements with specific fishing communities. We will attempt to address this issue later in these notes.

**Note 4.** Section 16(b). Include in this new section conservancy offices.

**Note 5.** Page 8, Section 17(2) new. Delete this. It is contradictory. A dragnet is the same as a seine net and it is prohibited above so why include it here? The definition of a scoop net is inadequate, e.g. what is the 0.5 mm for and why? Definitions for the numerous small, very useful floodplain fishing gears are unworkable and unnecessary. Floodplain gears should be agreed at a local level through recognised committees/councils and the regulations should reflect this.

**Note 6.** Page 8, Section 18(1)(a) Under no circumstances should 76 mm mesh size be allowed in the Zambezi River. It is extremely destructive to immature large bream species and tigerfish and does not catch any other species. There should be an outright ban on any mesh size between 55 mm and 90 mm. We have attached as an appendix a graph showing the catches of experimental gillnets in comparison with the size at maturity of njinji, *Oreochromis andersonii*. This is conclusive proof that the minimum mesh size should be increased. Mesh sizes less than 55 mm should not be allowed in the main river channels but should be allowed in lagoons and temporary water bodies on the floodplains, in agreement with relevant recognised committees/councils, to allow exploitation of abundant smaller species. For instance, increasing exploitation of *Schilbe intermedius* will improve recruitment of large breams as *Schilbe* is the major predator on juveniles of the breams.

**Note 7.** Page 8, Section 18(1)(c) This 45 mm mesh size restriction is wrong. 45 mm is the optimum mesh size for *Schilbe intermedius* and smaller meshes will also yield good catches. In the main channel there should be a minimum restriction of 90 mm as in the Zambezi, but this will need careful thought and agreements with fishing communities.

**Note 8.** Page 8. section 18(2). This is unnecessarily restrictive. All that is needed is agreements with the floodplain community councils/committees on places and times when fishing with small meshed nets is allowed, and a ban on the use of new bed mosquito nets that have been impregnated with insecticide. Reword as follows: “With the proviso that formal agreements reached between Ministry and local councils/committees on the gears to be allowed are adhered to, a person may use any such approved gear for the purposes of harvesting fish from any floodplains, excluding any perennial inland water bodies.”

**Note 9.** Page 10, section 26. Aren't there daily, weekly and monthly angling licences also?

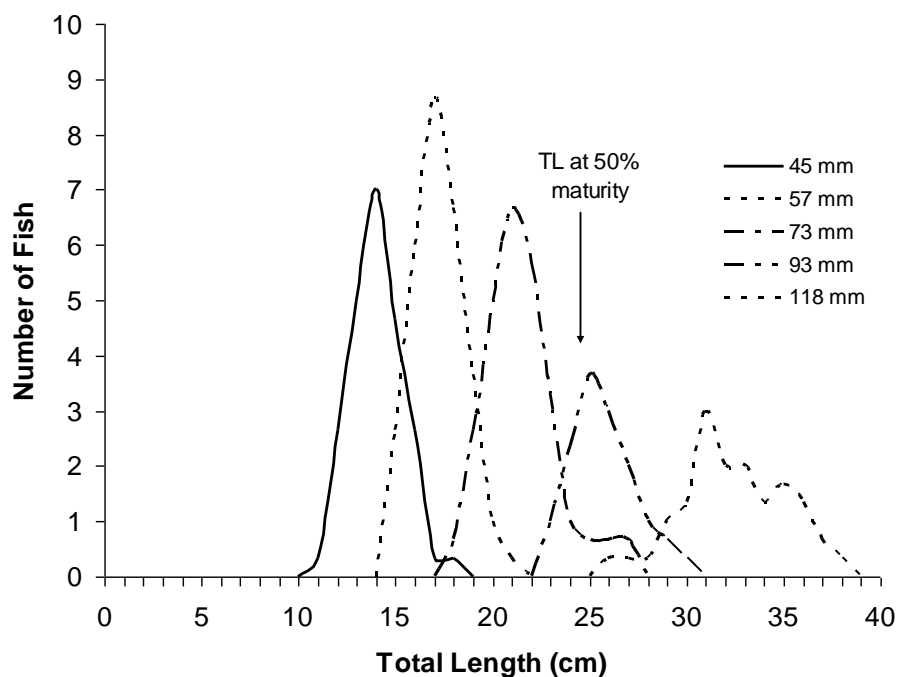
**Note 10.** Page 11, sections 30 and 31. these restrictions are unnecessarily complicated. Simply replace by: **30. A recreational fishing licence holder is not allowed to keep more than 10 fish in total in one day.** We have discussed this with several anglers and all are in agreement. With a bag limit in place there is absolutely no point in having size limits per species, in fact it is preferable for anglers to keep smaller fishes as the larger specimens are much more valuable for the ecosystem. Angling clubs are then free to impose their own restrictions in tournaments.

**Note 11.** Pages 13-14, sections 37-42. Is it really necessary for the Ministry to be involved in angling tournaments? Surely this should be an informal arrangement? Angling tournaments have strict rules and police themselves. All this seems unnecessary and can be replaced with a section stating that "Organisers of angling competitions must inform the Ministry (i.e. Permanent Secretary and head of local Ministry offices) of the dates, times and rules of such competitions three months in advance of each competition date."

**Note 12.** Page 15. Delete penalties regarding bag limit and size limit offences except for regulation 30(3), which should become simply regulation 30.

**Note 13.** Page 15 delete regulations 37 and 39 (what happened to 38?).

#### **APPENDIX: mesh selectivity for *O. andersonii* in relation to length at maturity**



Gillnet mesh selectivity for *Oreochromis andersonii* from relevant mesh sizes of experimental gillnets in Caprivi waterbodies, 2010-11; data smoothed using moving average of three 1 cm length groups. Total length at 50% maturity was calculated for catch data from Lake Liambezi, males and females combined. This shows that nets with mesh sizes less than about 90 mm catch almost entirely immature fish.



# GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

N\$3.20

WINDHOEK - 6 June 2003

No.2992

## CONTENTS

	<i>Page</i>
<b>GOVERNMENT NOTICES</b>	
No. 117      Commencement of the Inland Fisheries Resources Act, 2003 .....	1
No. 118      Inland Fisheries Resources Regulations: Inland Fisheries Resources Act, 2003 (Act No. 1 of 2003) .....	2

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## Government Notices

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### MINISTRY OF FISHERIES AND MARINE RESOURCES

No. 117 2003

#### COMMENCEMENT OF THE INLAND FISHERIES RESOURCES ACT, 2003

Under section 33 of the Inland Fisheries Resources Act, 2003 (Act No. 1 of 2003), I determine that the said Act shall come into operation on 6 June 2003.

**A. IYAMBO**  
**MINISTER OF FISHERIES**  
**AND MARINE RESOURCES**

\_\_\_\_\_ Windhoek, 27 May 2003

## MINISTRY OF FISHERIES AND MARINE RESOURCES

No. 118

2003

### INLAND FISHERIES RESOURCES REGULATIONS: INLAND FISHERIES RESOURCES ACT, 2003 (ACT NO. 1 OF 2003)

The Minister of Fisheries and Marine Resources has under section 29 of the Inland Fisheries Resources Act, 2003 (Act No. 1 of 2003) made the regulations set out in the Schedule.

#### SCHEDULE

##### Definitions

1. In these regulations any expression to which a meaning has been assigned in the Inland Fisheries Resources Act, 2003 bears that meaning, unless the context otherwise indicates, and -

“bashing” means using any device to hit the surface of the water in order to move or chase fish into a net or a fishing gear;

“dragging” means the moving of any net or gear other than the traditional fishing gear, through the inland waters;

“flood plain” means low lying area extending from the river to inland where water overflows in times of seasonal flooding.

“gill net” means a type of a gear in which the fish are gilled, entangled or enmeshed in netting;

“hook and line” means a single line to which not more than two hooks are attached;

“honorary fisheries inspector” means a person appointed as honorary fisheries inspector under section 24

“long line” means a fishing gear with baited hooks attached at intervals by means of branch lines called “snoods” (i.e. short length of line) attached to the main line.

“monofilament” means a single untwisted synthetic material such as nylon used for fishing nets and line.

“peace officer” means a public official appointed to perform functions in terms of Criminal Procedure Act, 1977 (Act No.51 of 1977) and who is charged with keeping peace and granted certain powers which they can utilize to fulfill their duties, including the power to make arrest.

“perennial inland water bodies” (definition pending)

“recreational fishing charter boat” means a boat or a vessel chartered for the purposes of leisure related fishing activities;

“small water body” means, ponds, flood plains, including man made impoundment on communal lands;

“the Act” means the Inland Fisheries Resources Act, 2003 (Act No. 1 of 2003);

“Zambezi River System” means the Zambezi, Kwando, Linyanti, Chobe Rivers; Lake Liambezi, and other inland water systems covering all rivers in the Caprivi;

### **Registration**

2. (1) Only Namibian Citizens and Permanent Residents who are of the age 18 and above can register nets within Namibia.

(2) The regional council, traditional authority, conservancy office, institutions or designated person charged with the registration of nets shall register -

Comment [d1]: Note 1

- (a) the name and address of the owner;
- (b) the length, strand diameter, height and mesh size of the net;
- (c) registration number; and
- (d) any other particulars deemed necessary by the regional council.

### Application for registration of nets

3. (1) An applicant must make an application for the registration of a net on a form which corresponds substantially with Annexure A. [\(please note: the latest version of Annexure A of 2004 should be attached\)](#)
- (2) Every application submitted in terms of subregulation (1) of regulation (2) must be signed by the applicant.
- (3) Where the owner of a net wishes to use his or her net in more than one region, he or she shall apply to the regional council of each region in which he or she intends to use the net, and the relevant fees will be payable in each of the regions in which the net will be registered for use.

### Documents to be furnished by the applicant

4. All the application forms for the purposes of registration of a net must be accompanied by a copy of the applicant's National Identification document or valid national passport.

### Register of nets

5. (1) Institutions charged with the registrations of nets as per regulation 2 (2) shall keep a register at their offices and such register shall lie open for inspection during office hours.
- (2) Information relating to the registration of nets as referred to in regulation 5 (1) shall be contained in a [main](#) register which is kept in the office of each regional council, and such register shall lie open to inspection during office hours.

### Fees payable for the registration of nets

6. An applicant who applies for the registration of a net shall pay the amount of N\$~~50,00~~ [100,00](#) per year on approval to the regional council of the region in which the applicant intends to use his or her net.

### **Form of certificate of registration**

7. A certificate of registration must substantially correspond with Annexure B([note: latest version \(2004 as amended\) to be attached](#)).

### **Duration of certificate of registration**

8. The certificate of registration [shall be is](#) valid for a period of twelve months starting from the date of issue.



### Renewal of the certificate of registration (of a net)

9. The certificate of registration shall within 30 days prior to its expiration be submitted to the regional council, traditional authority, conservancy office, institutions or designated person which shall renew it within 30 days.

### Cancellation or refusal to grant or renew a certificate of registration

10. (1) The regional council traditional authority, conservancy office, institutions or designated person may at anytime cancel, refuse to grant or renew a certificate of registration if -

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- (a) the applicant or the owner of the registered net is convicted of an offence in terms of the Act or the provisions of these regulations;
- (b) the inland fisheries resources are threatened; or
- (c) the fisheries management deems such measures of significance and warranted.

(2) If the regional council, traditional authority, conservancy office, institutions or designated person exercises its powers in terms of regulation 10, the applicants shall be informed of the reasons for decision by the regional council, **traditional authority, conservancy office, institutions or designated person** and such decision shall be made known to the applicant by means of a registered mail.

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(3) If the regional council, traditional authority, conservancy office, institutions or designated person cancels a certificate of registration or refuses to grant a certificate of registration or refuses to renew a certificate of registration, the aggrieved applicant or the owner may appeal in writing to the Minister, within 30 days from the date of notification of the decision, for redress by the Minister who shall after close examination of the Regional Council's, **traditional authority's, conservancy office's, institutions' or designated persons'** decision, decide to reverse or uphold the decision.

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### Transfer of certificate of registration

11. A certificate of registration issued under these regulations authorizes fishing only by the holder of that certificate and is not transferable. **(no consensus was reached)**

Comment [d2]: Note 2

### Loss or destruction of registered net

12. If a registered net is lost or destroyed, the owner shall for the purposes of cancellation of the relevant net inform the regional council, traditional authority, conservancy office, institutions or designated person within seven days from the date of such destruction or loss.

### Restriction on number of gill nets to be registered

13. A person is not allowed to register more than four gill nets.

### Tagging of gill nets

14. (1) The holder of a certificate of registration shall attach to the float line of the gill net a metal tag furnished by the Ministry bearing the registration number of the net.

(2) The holder of the certificate of registration shall obtain the prescribed metal tag of the gill net from regional council, traditional authority, conservancy office, institutions or designated person ~~the Ministry~~.

(3) Failure to comply with the requirement under subregulation (2) shall warrant the confiscation of the relevant net, in terms of the provisions of the Act.

(4) The illegal removal of the tag from the net constitutes an offence. (new sub-regulation 4 to provide an offence for tag theft. The current sub-regulation 4 should become sub-regulation 5)

(5)~~4~~Sub regulation (2) shall come into effect after six months from the date of the publication of these regulations.

### Prohibited fishing Methods of fishing

15. A person shall not use -

(a) bashing as a fishing method;

(b) a cluster of fish hooks designed to hook the body of a fish;

(c) any net in the Orange River.

(d) tend gears at night (new)

(e) drag netting, panga, bow and arrow, spear or any sharp object that may injure fish

(f) monofilament gillnet, mosquito net, drift net, shade net, purseine net or any net which is not prescribed.

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**Comment [d3]:** Note 3

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### Dragging of nets

16. (a) A person is not allowed to use the method of dragging of nets or any other fishing device through the water to catch fish, except in the flood plains in consultation with the relevant ~~traditional~~ authority or for research purposes.

~~(b) A person is not allowed to drag nets in dams, canals or inland water bodies owned or administered by local authority councils, regional councils, or statutory bodies without a written consent from these institutions~~

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Comment [d4]: Note 4

## Netting

17. (1) ~~Only~~ gill nets ~~are~~ to be used in Namibian inland waters ~~and such nets~~ shall not be -

- (a) more than four in number per fisher;
- (b) more than 100 metres in length;
- (c) more than 3 metres in height.

### (2) Other authorised nets

- (a) flood plain - scoop net of 0.5 mm in size
- (b) seine net
- (c) drag net

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Comment [d5]: Note 5

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### Mesh size of gill netsMesh size and manner of setting gill net

18. (1) A gill net shall not be set within 100 metres of another net and the mesh size thereof shall not be less than -

- (a) 76 mm in the Zambezi River system;
- (b) 76 mm in the Kunene River;
- (c) 45 mm in the Kavango River;

Comment [d6]: Note 6

(2) A person may use any kind of a net ~~other than mosquito net~~ for the purposes of ~~removing~~ harvesting fish from any floodplains ~~in the regions of Omusati, Oshana, Ohangwena and Oshikoto, excluding any perennial inland water bodies.~~

Comment [d7]: Note 7

Comment [d8]: Note 8

## Method of mesh measurement

19. (1) The measurement of a mesh shall be made while the net -

- (a) is still wet after it has been immersed in fresh water for at least 10 minutes; and
  - (b) is stretched from inside of knot to inside of knot.
- (2) Only a gauge shall be used for the measurement of the mesh size and such gauge shall-
- (a) be 2 mm thick, flat or durable or non-corrodible material and capable of retaining its shape;

- (b) have tapering edges with a taper of one to eight;
  - (c) have a hole at the narrowest extremity; and
  - (d) have the width inscribed at regular intervals.
- (3) The measurements by means of a gauge shall be at least 10 meshes from any lacing or ropes and shall be taken by inserting the gauge by its narrowest extremity into the mesh opening in a direction perpendicular to the plan of the net.
- (4) The millimeters in which the mesh size shall be expressed shall be deemed to be the average of one or more series of twenty consecutive meshes lengthwise of that net.
- (5) The meshes shall not be measured if –
- (a) mended;
  - (b) or broken; or
  - (c) have attachments of the net fixed to them.

#### Maintenance of mesh openings

20. No person shall use for fishing purposes any device of which -
- (a) the meshes are obstructed;
  - (b) the meshes are drawn together while fishing;
  - (c) the selectivity of the meshes are reduced.

#### Prohibited fishing areas

21. ~~(1)~~ No person is allowed to fish in any canal used for the purposes of -
- (a) bulk water supply;
  - (b) irrigation;
  - (c) hydroelectricity.

~~(2)~~ No person is allowed to fish in any sewage ponds.

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#### Closed and open ~~seasons~~ fishing sign at in inland water bodies

22. (1) A person is not allowed to fish in any ~~small inland~~ -water body or on the shore of such ~~small inland~~ water body ~~unless where a an-closed fishing open season~~ sign is displayed ~~by the relevant traditional authority or the regional council.~~

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(2) Vandalism or illegal removal of fishing signs constitutes an offence

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~~Signs for closed seasons~~ **Description of closed and open fishing signs**

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~~23. (1) A person is not allowed to catch fish where a prohibitory sign indicative of a closed season is displayed by the relevant traditional authority or the regional council.~~

~~(2)(1)~~ The prohibitory sign indicative of a closed season shall -

- (a) be circular in shape;
- (b) be 600 millimetres in diameter;
- (c) (i) be a red border, ~~and blue background and~~ diagonal (closed);  
(ii) red border and blue background (open)
- ~~(d) be of blue background; and~~
- ~~(e)-(d)~~ be a black symbol (closed and open).

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**Application for recreational fishing licence**

24. The Minister shall for the purposes of an application for recreational **fishing** licence provide forms, which substantially corresponds with Annexure C **as amended**.

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**Form of recreational fishing licence**

25. The recreational **fishing** licence issued by the regional council, traditional authority, conservancy office, institutions or designated person must substantially correspond with Annexure D **as amended**.

**Duration of recreational fishing licence**

26. A recreational **fishing** licence shall be valid for the period of twelve months from the date on which it was issued.

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Comment [d9]: Note 9

**Duty to possess and show recreational fishing licence**

27. A recreational **fishing** licence holder shall at all times of engagement to recreational activities keep in possession the recreational licence for the purposes of presentation to an inland water fishery inspector.

**Fees for recreational fishing licences (???????? possible increase to be discussed)**

28. The fees payable for a recreational **fishing** licence are as follows -

- (a) Namibians: N\$ 20,00 - monthly licence  
N\$ 240,00 - yearly licence; and
- (b) Non-Namibians N\$ 240,00 - monthly licence  
N\$2 500,00 - yearly licence.

### Fishing gear restrictions

29. A recreational **fishing** licence holder is not allowed to use more than 2 rods and 2 lines with 2 hooks attached.

### Bag limit

30. (1) A recreational **fishing** licence holder is not allowed to fish more than 10 fish in the aggregate of any species in one day.

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(2) A person is not allowed to catch more than 2 tiger fish in one day for recreational purposes.

(3) Total bag limit per day per recreational fishing license holder must not exceed 30 fish.

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### Size limit

31. Any angler shall not possess -

(a) a Tiger Fish or Hydrocynus Vittatus less than ~~50~~ 30 cm in length;

(b) a Sharptooth Catfish or Clarias Gariepinus less than 41 cm in length;

(c) a Green Head or Oreochromis Macrochir less than 22 cm in length;

(d) a Three Spots or Oreochromis Andersonii less than 30 cm in length;

(e) a Nembwe or Serranochromis Robustus less than 34 cm in length;

(f) a Silver Catfish or Schilbe Intermedius less than 22 cm in length;

(g) a Banded Tilapia or Tilapia Sparrmanii less than 13 cm in length;

(h) a Redbreast Tilapia or Rilapia Rendalli less than 23 cm in length;

(i) an African Pike or Hepsetus Odeo less than 28 cm in length;

(j) a Purpleface Largemouth or Serranochromis Macrocephalus not less than 20 cm in length;

(k) a humpback Largemouth or Serranochromis Macrocephalus not less than 30 cm in length;

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- (l) Thinface Largemouth or *Serranochromis Angusticeps* not less than 33 cm in length;
- (m) a Bluntnose Catfish or *Gloria Ngamensis* not less than 37 cm in length;
- (n) a Green Happy or *Sargochromis Codringtonii* not less than 24 cm in length;
- (o) a Pink Happy or *Sargochromis Giardi* not less than 24.36 cm in length;
- (p) a Longfin Largemouth or *Serranochromis Longimanus* not less than 16 cm in length;
- (q) a Brownsnout Largemouth or *Serranochromis Thumbergi* not less than 14 cm in length;
- (r) a Rainbow Happy or *Sargochromis Cariotta* not less than 20 cm in length;
- (s) a Orange River Mudfish or *Labeo Capensis* not less than 28 cm in length;
- (t) a Moggel or *Labeo Capensis* not less than 28 cm in length;
- (u) a Smallmouth Yellowfish or *Barbus Aeneus* not less than 21 cm in length;
- (v) a Largemouth Yellowfish or *Barbus Kimberleyensis* not less than 30 cm in length.

#### Sale of fish

- 32. A recreational **fishing** licence holder is not allowed to sell any fish which was caught under a recreational licence.

Comment [d10]: Note 10

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#### **Form of licence for recreational fishing charter boat and private use boat**

- 33. (1) A licence for a purpose of using the recreational **fishing** charter boat must substantially correspond with Annexure E **as amended**.

(2) A person is not allowed to operate a recreational fishing charter boat without a valid licence. (new)

(3) A foreign recreational fishing boat is not allowed to operate in any river or inland water body without a valid licence. (new) – to cater for fishing boats brought in from Botswana, South Africa, Zambia, Zimbabwe etc.)

- (4) A license for the purpose of using recreational fishing charter boat must substantially correspond with Annexure E **as amended**.

An annual recreational fishing license fee of N\$ 750, 00 for a private use boat and N\$1500, 00 for a charter boat shall be payable.

#### **Daily catch report for recreational fishing charter boat**

- 34. The owner or operator of a recreational fishing charter boat shall submit daily catch report to the Ministry on or before the 15th day of the following month.

### Fishing from a recreational charter boat

35. 1. A person who is not in possession of a valid recreational fishing licence is not allowed to fish from a recreational charter boat.
- (2) The owner of a recreational charter boat shall not allow a person to fish from the boat without a valid licence for recreational fishing [new].
- (3) Fishing from a recreational charter boat without a valid licence constitutes an offence. [new]

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### False information

36. A person is not allowed to give false information in relation to any provision of the Regulations, which requires the revelation of facts known, only by him or her.

### Competitions to be authorized by the Ministry

37. (1) The National Freshwater Angling Association shall in respect of the recreational fishing competition to be held in Namibia inland waters submit for approval by the Minister a calendar of recreational fishing competitions, at least three months in advance.
- (2) A calendar of the recreational fishing competitions shall specify -
- (a) the date and place of each competition;
  - (b) the number of participants to participate in each competition;
  - (c) the name of the host of the competition.
  - (d) the number of boats;
  - (e) the rules governing the contemplated recreational fishing competition;
  - (f) the number of rods;
  - (g) the contemplated individual catch records;
  - (h) the species which the participants contemplate to catch.

### Hosts of angling competitions



38. (1) A person who is not duly affiliated to the National Freshwater Angling Association shall not be allowed to host an angling competition in Namibian inland waters, **except competition on board artisanal canoes.**

(2) For the purpose of this regulation the term “person” means any angling club, a lodge or any other person that may be affiliated to the National Freshwater Angling Association.

#### **Fees for hosting angling**

39. The amount of ~~NS1500.00~~ ~~NS200.00~~ is payable to the Ministry within 30 days from the date of approval, for the hosting of an approved recreational fishing competition.

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#### **Rules governing recreational fishing competitions**

40. Every person hosting recreational fishing competitions shall at least three months in advance submit the rules governing the contemplated recreational fishing competition to the Minister who shall consider such rules for approval.

## Restrictions

41. (1) A person is not allowed to participate in a recreational fishing competitions unless he or she is in possession of an appropriate licence.

(2) The owner or operator of a recreational fishing charter boat shall not allow a person to fish from that boat unless that person has, in his or her possession a valid recreation fishing licence.

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Comment [d11]: Note 11

## Offences and Penalties

42. (1) Penalties, which an inspector or a designated officer can impose for breach of the provisions of the regulations stipulated in the table, are set out below:

REGULATION	OFFENCES	PENALTY
Regulation 3(3)	Failure to register in all regions in which the net is intended to be used	N\$ 300,00 or imprisonment for a period not exceeding three months
Regulation 8	The use of expired certificate of registration	N\$ 300,00 or imprisonment for a period not exceeding three months
<del>Regulation 9</del>	<del>Failure to renew certificate of registration</del>	<del>N\$ 800,00 or imprisonment for a period not exceeding three months</del>
Regulation 11	Transfer of certificate of registration	N\$ 800,00 or imprisonment for a period not exceeding three months
Regulation 14(1)	Failure to attach the metal tag to the float line of the gill net	N\$ 300,00 or imprisonment for a period not exceeding three months
Regulation 14(2)	Failure to obtain or prescribed metal which is bearing the number of the gill net	N\$ 300,00 or imprisonment for a period of not exceeding three months
<del>Regulation 14(4)</del>	<del>Illegal removal of the tag from the net</del>	<del>N\$ 300,00</del>
Regulation 15	Fishing contrary to permissible method of fishing	N\$ <del>600,00</del> 450,00 or imprisonment for a period not exceeding three months
<del>Regulation 16</del>	<del>Fishing by means of drag netting a gill net to catch fish in inland water bodies</del>	<del>N\$ 1000,00 or imprisonment for a period not exceeding six months</del>
Regulation 17	Failure to use a gillnet which complies with prescribed requirements	N\$ 300,00 or imprisonment for a period not exceeding three months
Regulation 18 (1)	<del>Setting a net within a distance of less than 100 m from another net Failure to comply with the prescribed requirements of mesh size measurement</del>	N\$ 300,00 or imprisonment for a period not exceeding three months
<del>Regulation 18 (1)(a-d)</del>	<del>Failure to comply with the prescribed requirements of mesh size measurement</del>	<del>N\$ 300,00 or imprisonment for a period not exceeding three months</del>
Regulation 19	Failure to comply with the prescribed requirements of mesh size measurement	N\$ 300,00 or imprisonment for a period not exceeding three months
Regulation 20	Failure to maintain required mesh opening	N\$ 300,00 or imprisonment for a period not exceeding three months
<del>Regulation 21(1)</del>	<del>Fishing in prohibited fishing areas</del>	<del>N\$ 500,00 or imprisonment for a period not exceeding three months</del>
<del>Regulation 21(2)</del>	<del>Fishing in sewage ponds</del>	<del>N\$ 800,00 or imprisonment for a period not exceeding six months</del>
<del>Regulation 22</del>	<del>Vandalism and illegal removal of fishing signs</del>	<del>N\$ 1000,00 or imprisonment for a period not exceeding six months</del>
Regulation 23	Failure to comply with the prohibitory sign indicative of a closed <u>season and area</u> <del>season</del>	N\$ <del>500,00</del> 300,00 or imprisonment for a period not exceeding three months
Regulation 25	Being in possession of a recreational licence	N\$ <del>1000,00</del> 300,00 or imprisonment

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	which does not comply with the prescribed form	for period not exceeding tree months
<a href="#">Regulation 26</a>	<a href="#">Use of expired recreational fishing licence</a>	<a href="#">N\$ 500,00 or imprisonment for period not exceeding tree months</a>
Regulation 27	Failure to be in possession of a recreational <a href="#">fishing</a> licence	N\$ <del>500,00</del> <del>300,00</del> or imprisonment for a period not exceeding three months
Regulation 29	Contravention of fishing gear restriction relating to the recreational <a href="#">fishing</a> licence holder	N\$ <del>500,00</del> <del>400,00</del> per any non complying fishing gear or imprisonment for a period not exceeding three months
<a href="#">Regulation 30(1)</a>	Fishing of more than 10 fish in the aggregate of any species in one day	N\$ <del>100,00</del> <del>50,00</del> per fish or imprisonment for a period not exceeding three months
<a href="#">Regulation 30(2)</a>	Catching of more than two tiger fish in one day	N\$ 150,00 <a href="#">per extra tiger fish</a> or imprisonment for a period not exceeding <del>five</del> <del>three</del> months
<a href="#">Regulation 30(3)</a>	<a href="#">Exceeding bag limit</a>	<a href="#">N\$ 50,00 per fish extra or imprisonment for a period not exceeding five months</a>
Regulation 31	Being in possession of fish which is of the size less than the prescribed length	N\$ 100,00 per-fish or imprisonment for a period not exceeding three months
Regulation 32	Selling of fish which was caught under a recreational fishing licence	N\$ <del>300,00</del> <del>400,00</del> <del>per fish sold</del> or imprisonment for a period not exceeding three months
<a href="#">Regulation 33</a>	<a href="#">Failure by a owner to sign his or her recreational charter boat licence</a>	<a href="#">N\$ 900,00 or imprisonment for a period not exceeding three months</a>
<a href="#">Regulation 33</a>	<a href="#">Operating a foreign charter boat without a valid licence</a>	<a href="#">N\$500,00 or imprisonment for a period not exceeding three months</a>
<a href="#">Regulation 33</a>	<a href="#">Failure to register a private boat used for recreational fishing</a>	<a href="#">N\$500,00 or imprisonment for a period not exceeding three months</a>
<a href="#">Regulation 33</a>	<a href="#">Failure to register a recreational charter boat</a>	<a href="#">N\$500,00 or imprisonment for a period not exceeding three months</a>
Regulation 34	Failure to provide a daily catch report	N\$ <del>500,00</del> <del>300,00</del> or imprisonment for a period not exceeding three months
<a href="#">Regulation 35(1)</a>	<a href="#">Fishing without a valid recreational fishing licence from a recreational charter boat</a>	<a href="#">N\$ 500,00 or imprisonment for a period not exceeding three months</a>
<a href="#">Regulation 35(2)</a>	<a href="#">Allowing a person by the owner to fish from a charter boat without a valid licence</a>	<a href="#">N\$1000,00 or imprisonment for a period not exceeding three months</a>
Regulation 36	Provision of false information	N\$ <del>1000,00</del> <del>900,00</del> or imprisonment for a period not exceeding three months
<a href="#">Regulation 37</a>	<a href="#">Hosting of recreational competition which is not approved by the Minister</a>	<a href="#">N\$ 1000,00 or imprisonment for a period not exceeding six months</a>
Regulation 39	Failure to pay fee for hosting an approved recreational angling competition	N\$ <del>1000,00</del> <del>900,00</del> or imprisonment for a period not exceeding three months
<a href="#">Regulation 40</a>	<a href="#">Failure to submit rules governing the recreational competition</a>	<a href="#">N\$ 900,00 or imprisonment for a period not exceeding three months</a>

Comment [d12]: Note 12

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Comment [d13]: Note 13

- (2) A person who commits an offence for which no penalty is provided for, shall be guilty of an offence and liable for conviction to a fine not exceeding N\$ 800,00 or imprisonment for a period not exceeding 3 months.

Coming into force

Amendments of these regulations shall come into effect 6 months from the date of the publication.

**Note:** Regulation 33 as they are statements therefore there is need to adjust them later.

ANNEXURE A



REPUBLIC OF NAMIBIA

MINISTRY OF FISHERIES AND MARINE RESOURCES
INLAND FISHERIES RESOURCES REGULATIONS, 2003

APPLICATION FORM FOR THE REGISTRATION OF NETS

New application: [ ] Renewal: [ ]
Year: [ ] Date: [ ]
(Please mark with X in the correct box)

Name of the applicant: .....

Postal address:.....

Nationality or Citizenship: .....

Residential address:.....

Telephone number: .....Facsimile: .....

Business address:.....

Telephone number: .....Facsimile: .....

Area of license: .....

Length of the net:.....

Strand Diameter of stretched mesh: .....

Height of the net: ..... Number of net: .....

Mesh size of the net: .....

Signature of the traditional authority: .....

Declaration by the applicant

I, the undersigned declare that the information supplied in this application is to the best of my knowledge and belief.

**Signature**

*Place*  
**ANNEXURE B**

*Date*



**REPUBLIC OF NAMIBIA**

**MINISTRY OF FISHERIES AND MARINE RESOURCES  
INLAND FISHERIES RESOURCES REGULATIONS, 2003**

**CERTIFICATE OF REGISTRATION**

Name of the owner: .....

(Indicate the name of the licence holder)

Full address of the owner: .....

Registration number of the net:.....

Licence valid from: ..... to: .....

Length of the net:..... mt.

Strand diameter of stretched mesh:.....

Height of the net: .....

Mesh size of the net: .....

**Particulars of issuing authority:**

Name: .....

Postal address:.....

Telephone numbers: ..... Facsimile: .....

Date of issue: ..... Place of issue: .....

Stamp and signature: .....

**ANNEXURE C**



**REPUBLIC OF NAMIBIA  
MINISTRY OF FISHERIES AND MARINE RESOURCES  
INLAND FISHERIES RESOURCES REGULATIONS, 2003  
APPLICATION FORM FOR A RECREATIONAL LICENCE**

New application:

Renewal

*(Please mark with X in the correct box)*

Name of the applicant: .....

Residential address of the applicant:.....

Telephone number of the applicant:.....

Citizenship: .....

Business address of the applicant: .....

Telephone number of the applicant: .....

Date of application: .....

Name of angling club of affiliation: .....

Passport or identification number of the applicant: .....

***Declaration by the applicant***

*I, the undersigned declare that the information supplied in this application is to the best of my knowledge and belief.*

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Place**  
**ANNEXURE D**

\_\_\_\_\_  
**Date**



**REPUBLIC OF NAMIBIA**

**FISHERIES AND MARINE RESOURCES  
INLAND FISHERIES RESOURCES REGULATIONS, 2003**

**RECREATIONAL LICENCE**

Name of the angler: .....

Residential address of the angler: .....

License number:.....

The name of the issuing authority: .....

The address of the issuing authority: .....

Telephone number of the issuing authority: .....

Stamp and signature of the issuing authority: .....

License valid from: .....to: .....



**ANNEXURE E**



**REPUBLIC OF NAMIBIA  
MINISTRY OF FISHERIES AND MARINE RESOURCES**

**INLAND FISHERIES RESOURCES REGULATIONS, 2003**

**LICENCE FOR USE OF RECREATIONAL FISHING CHARTER BOAT**

Name of owner or operator: .....

State whether the applicant is the owner or an operator: .....

Residential address:.....

Identity or passport number: .....

Sex: .....

Telephone number:.....

Business address:.....

.....

Telephone number:.....

Company registration number: ..... Facsimile: .....

License number: .....

License valid from: .....to: .....

Name of the boat: .....

The registration number of the boat:.....

Country where the boat is registered:.....

Owner: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Place

\_\_\_\_\_  
Date

Signature and stamp of the using authority: .....