

RA8550
CHAPTER VI

PROHIBITIONS AND PENALTIES

Sec. 86. Unauthorized Fishing or Engaging in Other Unauthorized Fisheries Activities - No person shall exploit, occupy, pro

duce, breed, culture, capture, or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in Philippine waters without a license, lease or permit.

Discovery of any person in an area where he has no permit or registration papers for a fishing vessel shall constitute a prima facie presumption that the person and/or vessel is engaged in unauthorized fishing: Provided, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

It shall be unlawful for any commercial fishing vessel to fish in bays and in such other fishery management areas which may hereinafter be declared as over-exploited.

Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the above prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or Ten thousand pesos (P10,000.00) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gears, and automatic revocation of license.

It shall be unlawful for any person not listed in the registry of municipal fisherfolk to engage in any commercial fishing activity in municipal waters. Any municipal fisherfolk who commits such violation shall be punished by confiscation of catch and a fine of Five Hundred Pesos (P500.00).

Sec. 87. Poaching in Philippine Waters - It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

An entry of any foreign fishing vessel in Philippine waters shall a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One hundred thousand U.S. Dollars (US\$100,000.00) in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than fifty thousand U.S. Dollars (US\$50,000.00) but not more than Two hundred U.S. Dollars (US\$200,000.00) or its equivalent in the Philippine Currency.

Sec. 88. Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity.-

(1) It shall be unlawful for any reason to catch, take or gather or cause to be caught, taken or gathered, fish or any fishery species in Philippine waters which the use of electricity, explosives, noxious or poisonous substance such as sodium cyanide in the Philippine fishery areas, which will kill, stupefy, disable or render unconscious fish or fishery species: Provided, That the Department, subject to such safeguards and conditions deemed necessary and endorsement from the concerned LGUs, may allow, for research, educational or scientific purposes only, the use of electricity, poisonous or noxious substance to catch, take or gather fish or fishery species. Provided further, that the use of poisonous or noxious substance to eradicate predators in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and grounds shall not be construed as illegal fishing.

It will likewise be unlawful for any person, corporation or entity to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken or gathered.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substances, or equipment or device for electro-fishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat official or fishworker shall constitute prima facie evidence, that the same was used for fishing in violation of this Code. The discovery in any fishing vessel of fish caught or killed with the use of explosive, noxious or poisonous substances or by electricity shall constitute prima facie evidence that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

(2) Mere possession of explosive, noxious or poisonous substances or electro-fishing devices for illegal fishing shall be punishable by imprisonment ranging from six (6) months to two (2) years.

(3) Actual use of explosives, noxious or poisonous substances or electro-fishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

(4) Dealing in, selling, or in any manner disposing of, for profit, illegally caught/gathered fisheries species shall be punished by imprisonment ranging from six (6) months to two (2) years.

(5) In all cases enumerated above, the explosives, noxious or poisonous substances and/or electrical devices, as well as the fishing vessels, fishing equipment and catch shall be forfeited.

SEC. 89. Use of Fine Mesh Net - It shall be unlawful to engage in fishing using nets with mesh smaller than that with which may be fixed by the Department: Provided, That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and alamang and such species which by their nature are small but already mature to be identified in the implementing rules and regulations by the Department.

Violation of the above shall subject the offender to a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) or imprisonment from six (6) months to two (2) years or both such fine and imprisonment at the discretion of the court: Provided, That if the offense is committed by a commercial fishing vessel, the boat captain and the master fishermen shall also be subject to the penalties provided herein: Provided, further, That the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties provided herein: Provided, finally, That the Department is hereby empowered to impose upon the offender an administrative fine and/or cancel his permit or license or both.

SEC. 90. Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas - It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active gears as defined in this Code.

Violators of the above prohibitions shall suffer the following penalties:

(1) The boat captain and master fishermen of the vessel who participated in the violations shall suffer the penalty of imprisonment from two (2) years to six (6) years;

(2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court.

If the owner/operator is a corporation, the penalty shall be imposed on the chief executive officer of the corporation.

If the owner/operator is partnership the penalty shall be imposed on the managing partner.

(3) The catch shall be confiscated and forfeited.

SEC. 91. Ban on Coral Exploitation and Exportation - It shall be unlawful for any person corporation or corporation to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.

Violations of this provisions shall be punishable by imprisonment from six (6) months to two (2) years and shall a fine from Two thousand pesos (P2,000.00), or both such fine and imprisonment, at the discretion of the court, and forfeiture of the subject corals, including the vessel its proper disposition.

The confiscated corals shall either be returned to the sea or donated to schools and museum for educational or scientific purposes or disposed through other means.

SEC. 92. Ban on Muro-Ami, Other Methods and Gear Destructive to Corral Reefs and Other Marine Habitat - It shall be unlawful for any person, natural or juridical, to fish with gear method that destroys coral reefs, seagrass beds, and other fishery marine life habitat as may be determined by the Department. "Muro-Ami" and any of its variation, and such similar gear and methods that require diving, other physical or mechanical acts to pound the coral and other reefs and other habitat to entrap, gather or catch fish and other fishery species are also prohibited.

The operator, boat captain, master fishermen, and recruiter or organizer of fishworker who violate this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The catch and gear used shall be confiscated.

It shall likewise be unlawful for any person or corporation to gather, sell or export white sand, silica, pebbles and any other substances which make up any marine habitat.

The person or corporation who violates this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The substance taken from its marine habitat shall be confiscated.

SEC. 93. Illegal use of Superlights - It shall be unlawful to engage in fishing with the use of superlights in municipal waters or in violation of the rules and regulations which may be promulgated by the Department on the use of superlights outside municipal waters.

Violation of this provision shall be punished by imprisonment from six months (6) to two (2) years or a fine of Five thousand pesos (P5,000.00) per superlight, or both such fine imprisonment at the discretion of the courts. The superlight, fishing gears and vessel shall be confiscated.

SEC. 94. Conversion of Mangroves - It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00): Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender should also require to restore or compensate for the restoration of the damage.

SEC. 95. Fishing in Overfished Area and During Closed Season - It shall be unlawful to fish in overfished area and during closed season.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or fine of Six thousand pesos (P6,000.00) and by forfeiture of the catch and cancellation of fishing permit or license.

SEC. 96. Fishing in Fishery Reserves, Refuge and Sanctuaries - It shall be unlawful to fish in fishery areas declared by the Department as fishery reserves, refuge and sanctuaries.

Violation of the provision of this section shall be punished by imprisonment of two (2) years to six (6) years and/or fine of Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) and by forfeiture of the catch and the cancellation of fishing permit or license.

SEC. 97. Fishing or Taking of Rare, Threatened or Endangered Species - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITIES and such determined by the Department.

Violation of the provision of this section shall be punished by imprisonment to twelve (12) years to twenty (20) years and/or a fine of One hundred and twenty thousand pesos (P120,000.00) and forfeiture of the catch, and the cancellation of fishing permit.

SEC. 98. Capture of Sabalo and other Breeders/Spawners - It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or "sabalo" and such other breeders or spawners of other fishery species as may be determined by the Department: Provided, That catching of "sabalo" and other breeders/spawners for local breeding purposes or scientific or research purposes may be allowed subject to guidelines to be promulgated by the Department.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and/or a fine of Eighty thousand pesos (P80,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

SEC. 99. Exportation of Breeders, Spawners, Eggs or Fry - Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished by imprisonment of eight (8) years, confiscation of the same or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit.

SEC. 100. Importation or Exportation of Fish or Fishery Species - Any importation or exportation of fish or fisheries species in violation of this Code shall be punished by eight (8) years of imprisonment, a fine of Eighty thousand pesos (P80,000.00) and destruction of live fishery species or forfeiture of non-live fishery species in favor of the department for its proper disposition: Provided, That violator of this provision shall be banned from being members or stock holders of companies currently engaged in fisheries or companies to be created in the future, the guidelines for which shall be promulgated by the Department.

SEC. 101. Violation of Catch Ceilings - It shall be unlawful for any person to fish in violation of catch ceilings as determined by the Department. Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Fifty thousand pesos (P50,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

SEC. 102. Aquatic Pollution - Aquatic pollution, as defined in this code shall be unlawful.

Violation of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00) plus and additional fine of Eight thousand pesos (P8,000.00) per day until such violation ceases and the fines paid.

SEC. 103. Other Violations - The following fisheries activity shall also be considered as a violation of this Code:

a. Failure to Comply with the Minimum Safety Standards. – The owner and a captain of a commercial fishing vessel engaged in fishing who, upon demand by proper authorities, fails to exhibit or show proof of compliance with the safety standards provided in this Code, shall be immediately prevented from continuing with his fishing activity and escorted to the nearest port or landing point. The license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with.

b. Failure to Conduct a Yearly Report on all Fishpond, Fish Pens and Fish Cages. - The FLA of the holder who fails to render a yearly report shall be immediately cancelled: Provided, That if the offender be the following penalties: (1) first offense, a fine of Five hundred pesos (P500.00) per unreported hectare; (2) subsequent offenses, a fine of One thousand pesos (1,000.00) per unreported hectare.

c. Gathering and Marketing of Shells Fishes. - It shall be unlawful for any person to take, sell, transfer, or have in possession for any purpose any shell fish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species.

d.Obstruction to Navigation or Flow and Ebb of Tide in any Stream, River, Lake or Bay. – It shall be unlawful for any person who causes obstruction to navigate or flow or ebb of tide.

e.Construction and Operation of Fish Corrals, Traps, Fish Pens and Fish Cages. – It shall be unlawful to construct and operate fish corrals, traps, fish pens and fish cages without a license/permit.

Subject to the provision of subparagraph (b) of this section, violates of the above-enumerated prohibited acts shall subject the offender to a fine ranging from Two thousand pesos (2,000.00) to Ten thousand pesos (P10,000.00) or imprisonment from one (1) month and one (1) day to six (6) months, or both such fine and imprisonment, upon the discretion of the court. Provided, That the Secretary is hereby empowered to imposed upon the offender an administrative fine of not more than Ten thousand pesos (P10,000.00) or to cancel his permit or license, or to impose such fine and cancel his permit or license, in the discretion of the Secretary: Provided, further, That the Secretary, or his duly authorized representative, and law enforcement agents are hereby empowered to impound with the assistance of the Philippine Coast Guard, PNP-Maritime Command Provided, finally, That any person who unlawfully obstructs or delays the inspection and/or movement is authorized under this Code, shall be subject to a fine of not more than Ten thousand pesos (P10,000.00) or imprisonment of not less than two (2) years, or both such fine and imprisonment of not more than two (2) years, or both such fine and imprisonment, upon the discretion of the court.

Every penalty imposed for the commission of an offense shall carry with it the forfeiture of the proceeds of such offense and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed.

SEC. 104. Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk or Crew - The owner/operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker shall be fined Five hundred pesos (P500.00) each for every month that the same has been employed and/or One thousand pesos (P1,000.00) for every month for each unlicensed crew member who has been employed.

SEC. 105. Obstruction of Defined Migration Paths - Obstruction of any defined migration paths of anadromous, catadromous and other migratory species, in areas including, but not limited to river mouths and estuaries within a distance determined by the concerned FARMCs shall punished by imprisonment of seven (7) years to twelve (12) years or a fine from Fifty thousand pesos (P50,000.00) to one hundred thousand pesos (P100,000.00) or both imprisonment and fine at the discretion of the court, and cancellation of permits/license, if any, and dismantling of obstruction shall be at his own expense and confiscation of same.

SEC. 106. Obstruction to Fishery Law Enforcement Officer - The boat owner, master or operator or any person acting on his behalf of any fishing vessel who evades, obstructs or hinders any fishery law enforcement officer of the Department to perform his duty, shall be fined Ten thousand pesos (P10,000.00). In addition, the registration, permit

and/or license of the vessel including the license of the master fishermen shall be cancelled.

SEC. 107. Promulgation of Administrative Orders - For purposes of fishery regulation or other adjustments, the Department in consultation with the LGUs and local FARMCs, shall issue Fishery Administrative Orders or regulations for the conservation, preservation, management and sustainable development of fishery and aquatic resources.