

MARINE FISH (MARKETING) ORDINANCE  
- CHAPTER 291

LONG TITLE

Long title VerDate:06/30/1997

To provide for the control of the landing and wholesale marketing of marine fish, for the control of the importation and exportation thereof, for establishing a Fish Marketing Organization for encouraging co-operative markets, for a scholarship fund for persons who may benefit or be connected with the marine fisheries and fish marketing industries and for matters incidental thereto.

(Amended 14 of 1978 s. 2)

[21 December 1962] G.N.A. 126 of 1962

(Originally 28 of 1956)

SECT 1

Short title VerDate:06/30/1997

This Ordinance may be cited as the Marine Fish (Marketing) Ordinance.

SECT 2

Interpretation VerDate:06/30/1997

In this Ordinance, unless the context otherwise requires-  
"Board" means the Fish Marketing Advisory Board referred to in section 16; (Added 70 of 1992 s. 2)

"Director" means the Director of Marketing;

"manager" means-

(a) a person appointed by the Organization to be the manager of a market; and

(b) a person holding an office styled "senior market manager" (Added 34 of 1973 s. 2)

"marine fish" means any fish or part thereof, whether fresh or processed, in any manner indigenous in sea water or partly in fresh water and partly in sea water, including any product derived therefrom, but excluding all crustaceans or molluscs and fish alive and in water;

"market" means a wholesale marine fish market conducted by the Organization; (Amended 34 of 1962 s. 2)

"Organization" means the Fish Marketing Organization established under section 9;

"wholesale" means sale for re-sale, which includes the sale of marine fish intended for re-sale as part of a cooked meal.

### SECT 3

Landing and sale of marine fish restricted VerDate:06/30/1997

#### PART I

#### CONTROL OF IMPORT, EXPORT MOVEMENT AND SALE OF MARINE FISH

(1) Save with a permit in writing from the Director, or as otherwise provided by regulations, no marine fish may be landed other than at places specified by regulations and no marine fish may be sold, offered or exposed for sale or possessed for the purpose of sale, by wholesale, otherwise than at a market or otherwise than by way of re-sale following a sale at a market. (Amended 34 of 1962 s. 3)

(2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.  
(Amended 8 of 1988 s. 2)

### SECT 4

Regulations VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) The Chief Executive in Council may by regulation provide for-  
(Amended 65 of 1999 s. 3)

- (a) controlling the importation and exportation of marine fish;
- (b) controlling the landing and transport of marine fish within Hong Kong; (Amended 8 of 1988 s. 3)
- (c) the issue of permits and licences in respect of the matters controlled by this Ordinance;
- (d) prescribing conditions and restrictions in connection with the marketing of marine fish wholesale; and
- (e) carrying into effect the provisions of this Ordinance.

(2) Such regulations may prescribe contraventions thereof which shall constitute offences and may prescribe penalties not exceeding \$10000 and imprisonment for 6 months. (Amended 8 of 1988 s. 3)

### SECT 5

Licences and permits VerDate:06/30/1997

(1) The Director may grant a permit or licence, on such conditions as he thinks fit, to any person to do any act which is made subject to his control by this Ordinance and may cancel a permit or licence where this Ordinance or any such condition is contravened. (Replaced 34 of 1973 s. 3)

(2) (Repealed 34 of 1973 s.3)

(3) Any person who-

(a) contravenes or fails to comply with any condition imposed in connection with the grant of any permit or licence; or

(b) when applying for any permit or licence makes any statement or furnishes any information, whether such statement is verbal or in writing, which is false in any material particular or by reason of the omission of any material particular and which he knows or has reason to believe is false, commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months. (Amended 8 of 1988 s. 4)

#### SECT 6

Chief Executive may give directions to the Organization VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) The Chief Executive may give directions both generally and in particular matters to the Organization in the discharge of its functions, and without derogating from the generality of such power he may control by such directions- (Amended 65 of 1999 s. 3)

(a) the fees charged other than those specified in by-laws;

(b) deposits required by way of part-payment for market purchases;

(c) the keeping of lists of persons authorized to make purchases in markets:

Provided that no such direction shall have effect in any manner as to conflict with the provisions of any regulation or by-law made and in force under this Ordinance.

(2) The Organization shall give effect to directions made under this section.

#### SECT 7

Powers of search, seizure and arrest VerDate:06/30/1997

(1) The Director, any police officer, or any manager or public officer authorized by the Director in writing in that behalf either generally or for a particular occasion may where he has reasonable cause to suspect that any offence against this Ordinance or any regulations or by-laws made thereunder has occurred, or in the case of paragraph (a) is about to occur- (Amended 34 of 1973 s.4; 14 of 1978 s.3)

(a) enter and search any place and stop, board, and search any vessel or vehicle which he reasonably suspects of being concerned in such offence;

(b) seize any marine fish and container thereof which he reasonably suspects of being the subject matter of such offence. Where necessary to effect such seizure, he may require the driver of any vehicle to proceed to a market or a police station and may detain any vessel or vehicle until such time as he shall be able to transfer therefrom the articles seized;

(c) arrest and take to a police station any person whom he reasonably suspects of being concerned in such offence. On arrival at such police station the facts shall forthwith be reported to the officer in charge thereof who shall take the action prescribed by section 52 of the Police Force Ordinance (Cap 232) in like manner as if the person has been arrested by a constable without a warrant on reasonable suspicion of being guilty of an offence.

(2) Any person who resists or obstructs any search, seizure, detention or arrest commits an offence and is liable to a fine of \$5000 and to imprisonment for 3 months. (Amended 8 of 1988 s. 5)

(3) Notification of any manager or public officer authorized under subsection (1) shall be published in the Gazette. (Amended 34 of 1973 s.4; 14 of 1978 s.3)

## SECT 8

Sale and forfeiture of goods seized VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) Any marine fish seized under this or any other enactment may be sold wholesale by the Organization and the market proceeds held pending a determination by a magistrate under this section:  
Provided that the Director may in his absolute discretion restore to any person appearing to him to have a right thereto any marine fish or the market proceeds thereof.

(2) On application being made a magistrate shall order to be forfeited to the Government any marine fish seized in accordance with section 7 or the market proceeds where he is satisfied that an offence against this Ordinance or any regulations or by-laws made thereunder has been committed in respect of such marine fish, whether or not any person has been convicted of such offence and whether or not the owner or other interested party is then before him. (Amended 65 of 1999 s. 3)

(3) Within 1 month of the date of any order of forfeiture made under subsection (2), any person claiming and appearing to the magistrate to be the owner or a person otherwise interested in such marine fish, may apply to the magistrate for a review of his order, and the magistrate shall review his order and may rescind his order if he is satisfied that no offence under this Ordinance has been committed in respect of the marine fish.

(4) Where the magistrate makes no order for forfeiture under subsection (2) or rescinds the order for forfeiture under subsection (3), he shall order that the marine fish or the market proceeds shall be returned or paid to the person, as the case may be, who establishes a right thereto.

(5) Where no application for review is made to the magistrate under subsection (3) or where upon review the magistrate confirms the order of forfeiture, the marine fish or the market proceeds shall become the property of the Government free from all rights of any person, and the same shall be delivered up by the Organization to the Government.  
(Amended 65 of 1999 s. 3)

(6) Notwithstanding the earlier provisions of this section, the Chief Executive in Council may in his absolute discretion entertain and give effect to any moral claim to or in respect of any marine fish forfeited thereunder. (Amended 65 of 1999 s. 3)

(7) For the purposes of this section-  
"market proceeds" (ā,ā 'æ"ŕŕŕ) means the proceeds of sale in a market less any commission or fees payable to the Organization.

## SECT 9

Establishment of Fish Marketing Organization VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

## PART II

### ESTABLISHMENT OF FISH MARKETING ORGANIZATION

(1) There shall be established a corporation which shall be known as the Fish Marketing Organization, and which by that name may sue and be sued in the courts of Hong Kong. (Amended 8 of 1988 s. 6)

(2) The Organization shall consist of such officer or persons as the Chief Executive may from time to time appoint.

(3) Where the Organization consists of more than 1 person the Chief Executive may by order provide for the tenure of office and the remuneration of such persons, the delegation of powers by the Organization and other matters incidental thereto.  
(Amended 65 of 1999 s. 3)

## SECT 10

Property vested in the Organization VerDate:06/30/1997

(1) Upon and by virtue of the establishment of the Organization, the rights and obligations under all deeds, contracts, bonds, securities, things in action or moneys vested in or under the control of any person exercising functions analogous to those of the Organization at the time of such person ceasing to hold office, shall be transferred to and vested in the Organization in the same manner as if it had been contracted with instead of such person, and as if its name had been inserted in all such deeds, contracts, bonds or securities instead of the name of such person.

(2) For the purpose of contracts entered into prior to the commencement of this Ordinance by, or on behalf of any person who has been exercising functions analogous to those of the Organization at the time of entering into such contracts, such contracts shall be deemed to have been lawfully entered into by him.

## SECT 11

Functions of the Organization VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) The functions of the Organization shall be to-

(a) establish, regulate and conduct wholesale fish markets, depots and ancillary establishments, including the making of administrative rules for the same; and

(b) furnish the Chief Executive with all such information as he may require for the purposes of section 6 (which empowers the Chief Executive to give directions to the Organization).

(2) In addition to the functions specified in subsection (1) the Organization may-

(a) buy, sell, grade, pack, store, adapt for sale, process, insure, advertise, and transport fishery products;

(b) buy, sell, hire, or let out for hire, anything required in the production, adaptation for sale, or transport of fishery products;

(c) provide such services as may be deemed necessary for the improvement of the marketing of fishery products and the promotion of co-operative enterprise in the fisheries industry;

(d) make provisions for the education, health and welfare of persons employed in the fisheries industry and their families and dependants;

(e) make loans to persons employed in the fisheries industry upon such terms as the Organization shall see fit; and

(f) engage in such other activities (whether similar to those hereinbefore specified or not) as may be sanctioned by order of the Chief Executive.

(Amended 65 of 1999 s. 3)

## SECT 12

Seal of Organization and signification of acts VerDate:06/30/1997

(1) The Organization shall have a common seal which shall be officially and judicially noticed and shall be authenticated by the signature of such person or persons as the Organization may from time to time appoint.

(2) All deeds, documents and other instruments requiring the seal of the Organization shall be signed by such persons as the Organization may from time to time appoint, and such signing shall be taken as sufficient evidence of the due sealing of such deeds, documents and other instruments.

(3) Any act of the Organization may be signified by an instrument signed by any servant of the Organization acting in the course of his duties, and any instrument purporting to have been so executed shall, until the contrary is proved, be deemed to have been so executed.

## SECT 13

Powers of the Organization VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3  
For the purpose of this Ordinance, the Organization may-

(a) acquire, accept leases of, purchase, take, hold and enjoy any lands, places, messuages or tenements of whatever nature or kind and wheresoever situate, also grant, demise, alienate or otherwise dispose of same:

Provided that it shall not acquire any immovable property in Hong Kong without the prior consent of the Chief Executive in Council in each case;  
(Amended 8 of 1988 s. 6)

(b) enter into any contract;

(c) employ such officers, agents and servants on such terms as to remuneration or otherwise, as the Organization may determine;

(d) grant pensions, gratuities and retiring allowances to officers and servants and their dependants;

(e) delegate, subject to any orders made by the Chief Executive under section 9, such of its powers as the Organization may deem expedient for the due conduct and management of its functions;

(f) borrow money on such terms as may be approved by the Chief Executive; and (Amended 34 of 1962 s. 4)

(g) charge such fee or commission as it thinks fit for any service provided by the Organization. (Added 34 of 1962 s. 4)  
(Amended 65 of 1999 s. 3)

#### SECT 14

Financial control VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) All moneys received, including any moneys borrowed, by the Organization shall be brought to account and shall be administered by it for the purposes of this Ordinance, and any moneys so brought to account may be left on current or deposit account with any bank or invested in such mortgages, debentures, stocks, funds, shares or other securities as the Chief Executive may approve.

(2) The Organization shall keep proper accounts and shall prepare a statement thereof for every period of 12 months ending on the 31st March. The accounts and the statement thereof shall be audited by an auditor appointed by the Chief Executive and such auditor shall certify the statement subject to any report which he may think fit to make. The audited statement together with the auditor's report, if any, shall be laid on the table of the Legislative Council not later than the 31st October next following the end of the period to which such statement relates or so soon thereafter as the Chief Executive may in his discretion allow. (Amended 14 of 1978 s. 4)

(3) The Organization shall submit to the Chief Executive annual estimates of income and expenditure and shall not incur expenditure beyond that in the approved estimate without the prior consent of the Chief Executive:  
Provided that nothing in this subsection shall prevent the Organization incurring and making provision for necessary day to day expenses pending the approval of its annual estimate.  
(Amended 65 of 1999 s. 3)

#### SECT 15

By-laws VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) The Organization may make by-laws concerning the wholesale marketing of marine fish for the purpose of-

- (a) regulating the landing, transport and storage of marine fish;
- (b) regulating the conduct of markets, depots and ancillary establishments conducted by the Organization; (Amended 34 of 1962 s. 5)
- (c) providing registers of persons authorized to buy marine fish in markets, the conditions to be observed by such persons and for the removal from registers of the names of persons entered thereon; (Amended 34 of 1962 s. 5)
- (d) requiring persons concerned in the fisheries industry to supply such information as it may require in connection with such wholesale marketing;
- (e) specifying the forms to be used;
- (f) providing for the payment of a commission at such rate as may be prescribed by the Organization-
  - (i) after consulting the Board; and
  - (ii) by notice published in the Gazette, for the services provided by the Organization in respect of the sale of marine fish; and (Replaced 70 of 1992 s. 3)
- (g) carrying out the functions of the Organization set out in section 11.

(2) Such by-laws may prescribe contraventions thereof which shall constitute offences and may prescribe penalties not exceeding \$5000. (Amended 8 of 1988 s.7)

(3) Such by-laws shall be submitted to the Chief Executive, shall be subject to the approval of the Legislative Council and shall take effect subject to any regulations made under section 4. (Amended 65 of 1999 s. 3)

(4) Copies of such by-laws shall be kept at each market and shall be available for public inspection at such times as the market is open to the public.

SECT 16  
Fish Marketing Advisory Board VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) There shall be a Fish Marketing Advisory Board which shall be a consultative body for advising the Chief Executive and the Organization upon any matters referred to it by the Chief Executive or by the Organization. (Amended 70 of 1992 s. 4)

(2) The Board shall consist of the person for the time being occupying the office of Director and such other members as are appointed

by the Chief Executive. (Amended 34 of 1973 s. 5)

(3) The person for the time being occupying the office of Director shall be ex officio the chairman of the Board, but in the event of his absence from any meeting the members present shall appoint any other of its members as chairman.

(4) A member appointed by the Chief Executive shall hold office for 1 year and may be reappointed at the discretion of the Chief Executive.

(5) Three members of the Board shall form a quorum.

(5A) The Director shall appoint a public officer to be the secretary to the Board. (Added 34 of 1973 s. 5)

(6) The secretary shall forward a record of every meeting to the Organization which shall transmit a copy to the Chief Executive, together with any observations it may wish to make thereon. (Amended 34 of 1973 s. 5)  
(Amended 65 of 1999 s. 3)

#### SECT 17

Review of decisions of the Organization VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) Any person adversely affected by a decision of the Organization in the exercise of its discretion in respect of any act, matter or thing which is by this Ordinance made subject to the exercise of such discretion may by notice in writing require such decision of the Organization to be reviewed in manner hereinafter provided. Such notice shall specify the reasons requiring such review.

(2) Upon receipt of a notice under subsection (1) the Organization shall refer the decision complained of to the Board established by section 16 and shall furnish the Board with a copy of such notice.

(3) Upon reference under subsection (2) the Board shall hold an inquiry at which there shall be permitted to appear and be heard the person who has required such decision to be referred for review, the representative of the Organization and other persons whom the Board considers are affected by such decision:  
Provided that if it appears to the Board that no good cause has been shown why an inquiry should be held, it may refuse to hold such inquiry.

(4) The Board shall submit its advice to the Chief Executive with the reasons therefor, stating whether in its opinion the decision complained of should be confirmed, reversed or varied, or that no review of the decision should be granted. Copies of such advice and reasons shall be sent to the person who has required such decision to be reviewed and to the Organization. (Amended 65 of 1999 s. 3)

(5) The Chief Executive may by order confirm, reverse or vary the

decision complained of, or may refuse to review such decision, and such order shall be final. (Amended 65 of 1999 s. 3)

SECT 18  
Interpretation VerDate:06/30/1997

### PART III

#### ESTABLISHMENT OF SCHOLARSHIP FUND

In this Part, unless the context otherwise requires-  
"Committee" means the Marine Fish Scholarship Fund Advisory Committee established by section 24;  
"corporation" means the corporation sole incorporated by section 19;  
"fund" means the Marine Fish Scholarship Fund established by section 19;  
"trustee" means the Director as trustee of the fund.  
(Part III added 14 of 1978 s. 5)

SECT 19  
Establishment and vesting of fund VerDate:06/30/1997

- (1) There is hereby established a trust fund to be known as the Marine Fish Scholarship Fund.
- (2) The trustee shall hold the fund upon the trusts and subject to the provisions contained in this Part.
- (3) The fund shall consist of-
  - (a) the sum of \$1000000 which shall, on the date of commencement of this Part, be paid to the trustee by the Organization from moneys received by it under this Ordinance; and
  - (b) such further moneys and assets as may be-
    - (i) donated, subscribed or bequeathed to, and accepted by, the trustee; or
    - (ii) otherwise acquired by the trustee.
- (4) For the purposes of this Part, the person for the time being performing the duties of the office of the Director shall be the trustee of the fund and shall be a corporation sole and shall have the name of "The Trustee of the Marine Fish Scholarship Fund" and in that name shall have perpetual succession and may sue and be sued in any court.
- (5) The corporation shall have a common seal and the affixing of

the seal shall be authenticated by the signature of the trustee.

(6) Any instrument purporting to be an instrument duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be an instrument so executed.  
(Part III added 14 of 1978 s. 5)

#### SECT 20

Objects of the fund VerDate:06/30/1997

The trustee shall apply the fund for the following objects-

(a) the provision of scholarships, grants and loans for the education and training of persons employed in the marine fisheries and fish marketing industries in Hong Kong and their families and dependants;  
and

(b) the provision of scholarships, grants and loans for the education and training of persons who wish to enter the marine fisheries and fish marketing industries in Hong Kong.  
(Part III added 14 of 1978 s. 5)

#### SECT 21

Cost of administering the fund VerDate:06/30/1997

(1) The cost of the administration of the fund and costs incurred by the Committee in the discharge of its functions under this Part, other than any audit fee paid under section 23(2) which shall be a charge on the fund, shall be borne by the Organization.

(2) The Financial Secretary may direct that an annual supervision fee to be determined by him shall be charged against the income of the fund and paid into the general revenue of Hong Kong.  
(Part III added 14 of 1978 s. 5)

#### SECT 22

Investment VerDate:06/30/1997

The trustee may invest any of the moneys of the fund in investments of any kind whether such investments are permitted for the investment of trust funds or not, subject, in the case of investments which are not so permitted, to the prior approval of the Financial Secretary.  
(Part III added 14 of 1978 s. 5)

SECT 23

Accounts VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) The trustee shall cause proper accounts to be kept of all transactions and shall cause to be prepared for every period of 12 months ending the 31st March in each year a statement of the accounts of the fund, which statement shall include an income and expenditure account and balance sheet and shall be signed by the trustee.

(2) The accounts and the signed statement of the accounts shall be audited by an auditor, appointed from time to time by the Chief Executive, who shall certify the statement subject to such report, if any, as he may think fit.

(3) A copy of the signed and audited statement of accounts together with the auditor's report, if any, and a report by the trustee on the administration of the fund during the period covered by the audited accounts shall be laid upon the table of the Legislative Council not later than the 31st October next following the end of such period or so soon thereafter as the Chief Executive may in his discretion allow.  
(Part III added 14 of 1978 s. 5. Amended 65 of 1999 s. 3)

SECT 24

Establishment of Advisory Committee VerDate:07/01/1997

Adaptation amendments retroactively made - see 65 of 1999 s. 3

(1) There shall be established a committee to be known as the Marine Fish Scholarship Fund Advisory Committee.

(2) The Committee shall advise the trustee on all matters whatsoever touching the administration of the fund and the attainment of the objects thereof.

(3) The Committee shall consist of-

(a) the trustee;

(b) 3 other members of the Fish Marketing Advisory Board to be elected annually by the said Board;

(c) 2 public officers and 2 members of the public to be appointed by the Chief Executive. (Amended 65 of 1999 s. 3)

(4) The trustee shall be ex officio the chairman of the Committee, but in the event of his absence from any meeting the members present shall appoint any other of its members as chairman.

(5) Four members of the Committee shall form a quorum.

(6) The trustee shall appoint a public officer to be the secretary to the Committee.

(7) The Committee may regulate its own procedure.  
(Part III added 14 of 1978 s. 5)