

MARINE FISH (MARKETING) BY-LAWS
- CHAPTER 291B

Empowering section VerDate:30/06/1997

(Cap 291 section 15)

[21 December 1962]

(G.N.A. 116 of 1962)

BYLAW 1

Citation VerDate:30/06/1997

PART I

INTRODUCTORY

These by-laws may be cited as the Marine Fish (Marketing) By-laws.

BYLAW 2

Interpretation VerDate:01/07/1997

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

In these by-laws, unless the context otherwise requires-

"ancillary establishment" means any establishment conducted by the Organization, other than a market or depot;

"authorized representative" in relation to a corporation, means a person appointed in writing by the corporation to represent it either generally or for a particular purpose;

"badge of identity" means any means of identity issued by the manager under by-law 17 for the purpose of identifying registered and nominee buyers at a market;

"corporation" means any person or body of persons incorporated by virtue of any Ordinance of Hong Kong, and also means any company registered under the Companies Ordinance (Cap 32); (65 of 1999 s. 3)

"depot" means a depot conducted by the Organization;

"manager" means the person appointed by the Organization to be the manager of a market;

"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;

"nominee buyer" means a person whose name is entered on the register in accordance with sub-paragraph (b) of paragraph (1) of by-law 14;

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

"person" includes a corporation but does not include an unincorporated body of persons;

"register" means the register which is required to be maintained under by-law 14;

"registered buyer" means a person whose name is entered on the register in accordance with sub-paragraph (a) of paragraph (1) of by-law 14.

BYLAW 3

Delegation of powers of manager VerDate:30/06/1997

The manager may, with the approval of the Organization, in writing, delegate to any employee of the Organization, either generally or for any particular occasion and by name or by reference to a particular post, such of his powers and functions under these by-laws as he considers necessary: Provided that no delegation made hereunder shall preclude the manager from exercising or performing at any time any of the powers or functions so delegated.

BYLAW 4

Notification of markets VerDate:30/06/1997

PART II

PUBLICATION AND DISPLAY OF NOTICES

Whenever the Organization assumes responsibility for the regulation and the conduct of a market, or establishes a market, a notification stating the name and location of any such market shall be published in the Gazette.

BYLAW 5

Notice of depots and ancillary establishments VerDate:30/06/1997

A notice specifying the name and address of any depot and any ancillary establishment shall be conspicuously posted at all markets.

- BYLAW 6

Display of administrative rules VerDate:30/06/1997

Where the Organization has made administrative rules for any market, depot, or ancillary establishment such administrative rules shall be conspicuously displayed both in English and Chinese in every market, depot, or ancillary establishment to which they refer.

BYLAW 7

Display of hours of opening of markets VerDate:30/06/1997

The Organization shall determine the hours during which each market shall be open for the conduct of business, and a notice of the hours of opening shall be conspicuously displayed at each market.

BYLAW 8

Admittance of persons to a market VerDate:30/06/1997

PART III

CONTROL OVER PERSONS ENTERING MARKET

(1) During the hours when a market is open for the conduct of business, it shall be open to any person having a bona fide interest in the business of such market, but the manager may refuse to admit any

person and may order any person to leave a market if he thinks it desirable for the proper conduct of the market.

(2) During the hours when a market is closed, no person shall enter the market without the permission of the manager.

BYLAW 9

Part of a market may be set aside for sorting and weighing VerDate:30/06/1997

The Organization may set aside part of a market to be used for the sorting or weighing of marine fish, and no person shall enter the part of the market set aside for this purpose without the permission of the manager.

BYLAW 10

Power to require vessel or vehicle to be moved VerDate:30/06/1997

The manager may require that any vessel berthed at the waterfront of a market, or any vehicle parked within a market, be moved from the waterfront or any part of the waterfront of a market, or from the market or any part of the market.

- BYLAW 11

Restriction of purchasers at a market VerDate:30/06/1997

PART IV

CONTROL OVER PURCHASERS

(1) No person shall be entitled to bid at an auction in a market or purchase marine fish at a market unless he is-

- (a) a registered buyer;
- (b) in the case of a corporation which is a registered buyer, an authorized representative of the corporation;
- (c) an employee of the Organization, acting on the instructions of the manager and in accordance with by-law 16.

(2) In the absence of a registered buyer, a nominee buyer of such registered buyer shall be entitled to bid at an auction in a market or purchase marine fish at a market, as agent for such registered buyer.

BYLAW 12

Application to become registered buyer VerDate:30/06/1997

(1) Any person may apply to have his name entered on the register as a registered buyer.

(2)An applicant for registration as a registered buyer shall furnished the manager with the following particulars-

- (a) his name, including business name if he carries on business in a name other than his own;
- (b) his business and private addresses;
- (c) in the case of an employee or agent of another person, the name including the business name and the business and private addresses of his employer or principal;
- (d) in the case of a representative of a hospital, institution, or unincorporated body of persons, the name and address of the hospital, institution or unincorporated body of persons that he represents; and
- (e) the nature of his business, or reason for his application.

(3)On the receipt of an application under this by-law the manager may-

- (a) accept an applicant as a registered buyer, subject to the condition that he should observe the provisions of these by-laws and of any administrative rules made by the Organization and duly displayed in accordance with by-law 6; or
- (b) refuse to accept an applicant as a registered buyer on the grounds that he-
 - (i) is not a suitable person; or
 - (ii) has no bona fide interest in the wholesale marketing of marine fish.

(4)The manager shall, if requested to do so, state in writing the grounds for his refusal to accept an applicant as a registered buyer.

BYLAW 13

Application to register nominee buyers VerDate:30/06/1997

(1)A registered buyer may apply to the manager to have the name or names of persons employed or nominated by him entered on the register as a nominee buyer or nominee buyers to act as agents of the applicant.

(2)On receipt of an application under paragraph (1) the manager may-

- (a) accept any such person as a nominee buyer of the applicant, subject to the condition that he should observe the provisions of these by-laws and of any administrative rules made by the Organization and duly displayed in accordance with by-law 6; or
- (b) refuse to accept any such person as a nominee buyer of the applicant, on the grounds that-
 - (i) the person is not a suitable person; or
 - (ii) a sufficient number of nominee buyers are already registered as nominee buyers of the applicant.

(3)The manager shall, if requested to do so, state in writing the grounds for his refusal to accept any person as a nominee buyer of the applicant.

BYLAW 14

Entry on the register VerDate:30/06/1997

(1)The manager shall maintain a register, in which he shall enter-

(a) the name of any person who has been accepted as a registered buyer under paragraph (3) of by-law 12; and

(b) opposite the name of the registered buyer, the name of any person who has been accepted as a nominee buyer of such registered buyer under paragraph (2) of by-law 13.

(2)The register shall be available for inspection free of charge during the hours when a market is open for the conduct of business.

BYLAW 15

Removal from the register VerDate:30/06/1997

(1) The manager may remove the name of any registered buyer from the register in the following circumstances-

(a) at the request of the registered buyer;

(b) on the death of the registered buyer;

(c) when the registered buyer has not used the facilities of the market for a period of 12 months, and having been requested to do so in writing by the manager, has failed within one month from such request to show good cause why his name should remain on the register; or

(d) on the grounds that he has failed to comply with the condition imposed on him under sub-paragraph (a) of paragraph (3) of by-law 12.

(2)The manager may remove the name of any nominee buyer from the register in the following circumstances-

(a) at the request of the nominee buyer himself, or of the registered buyer, opposite whose name the name of the nominee buyer has been entered on the register;

(b) on the death of the nominee buyer;

(c) on the grounds that he has failed to comply with the conditions imposed on him under sub-paragraph (a) of paragraph (2) of by-law 13; or

(d) when the name of the registered buyer, opposite which his name has been entered on the register, has been removed from the register under these by-laws.

(3)When the manager has removed the name of any registered buyer under sub-paragraph (d) of paragraph (1) or the name of any nominee buyer under sub-paragraph (c) of paragraph (2), he shall forthwith notify the registered buyer or nominee buyer of his decision and shall state the grounds on which his decision is based.

BYLAW 16

Employee of Organization acting as agent VerDate:30/06/1997

(1)The manager may appoint an employee of the Organization to bid at an auction in a market, or to purchase marine fish, as agent for any person who is not a registered buyer.

(2)An employee of the Organization who has been appointed under paragraph (1) may not bid at any auction, unless he has, before the bidding has commenced, informed the auctioneer and all other persons present at that time of his intention to bid at the auction.

BYLAW 17

Identification of registered and nominee buyers VerDate:30/06/1997

(1)The manager shall issue a badge of identity to each registered buyer, which shall be returned when the registered buyer ceases to be registered.

(2)A badge of identity shall not be transferable and no person who has been issued with a badge of identity shall permit or suffer it to be carried or used by any other person in a market:
Provided that-

(a) a registered buyer may permit or suffer a badge of identity issued to him to be carried and used in a market by his nominee buyers; and

(b) a corporation that is a registered buyer may permit or suffer a badge of identity issued to it to be carried and used in a market by its authorized representatives.

(3)A badge of identity issued to a registered buyer shall not be carried or used in a market by any person other than a registered buyer, or the nominee buyer of such registered buyer, or the authorized representative of a corporation that is a registered buyer.

BYLAW 18

Sales to be by way of auction VerDate:30/06/1997

PART V

METHOD OF SALES AND PAYMENT

All sales of marine fish at a market shall be by way of auction, except where an alternative method of sale is authorized by the manager with the approval of the Organization.

BYLAW 19

Reserve prices in auctions VerDate:30/06/1997

(1)If, before the bidding has commenced for any marine fish at an auction in a market, the seller or his agent informs the auctioneer and all other persons present at that time, he may place a reserve price on any marine fish to be sold.

(2)When a reserve price has been placed in accordance with paragraph (1) and in the bidding the reserve price is not reached, the auctioneer shall declare the fish not to be sold.

BYLAW 20

Cancellation of sales VerDate:30/06/1997

The manager may, with the approval of the Organization, cancel any sale of marine fish made at a market.

BYLAW 21

Commission for sales VerDate:30/06/1997

(1) There shall be payable to the Organization, for the services provided in respect of sales of marine fish at a market, a commission at the rate prescribed under paragraph (1A). (L.N. 114 of 1993)

(1A) The Organization may after consulting the Board prescribe, by notice published in the Gazette, the rate of commission payable under paragraph (1). (L.N. 114 of 1993)

(2) The commission may be deducted from the purchase price by the manager before payment is made to the seller.

BYLAW 22

Method of payment VerDate:30/06/1997

(1) All payments for the purchase of marine fish at a market shall be made to the manager, who shall be responsible for payment to the seller.

(2) The manager may allow a registered buyer or a nominee buyer to make purchases on credit, subject to such terms and conditions as shall have been approved by the Organization.

(3) The manager may accept cash deposits from any registered buyer or nominee buyer for future purchases at a market.

BYLAW 23

Appeal to the Organization VerDate:01/07/1997

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

PART VI

APPEAL TO THE ORGANIZATION

(1) If any person is dissatisfied with any decision of the manager, acting in the exercise of his discretion under any of the following provisions-

- (a) paragraph (1) of by-law 8;
- (b) by-law 10;
- (c) paragraph (3) of by-law 12;
- (d) paragraph (2) of by-law 13; or
- (e) by-law 15,

he may apply in writing to the Organization appealing against such decision and stating the grounds for his dissatisfaction.

(2) On receipt of an application under paragraph (1), the Organization shall cause such investigation to be made as may appear to be necessary in the circumstances, and if it thinks fit, appoint a place, time and day for hearing the application.

(3) The applicant may, if he so desires, be present at the hearing
(if any) of an application under this by-law and be heard in its support either in person or by his representative.

(4) On determining the application, the Organization may confirm, vary, suspend or cancel the decision in question.

(5) If any person is dissatisfied with the determination of the Organization under this by-law, he may within fourteen days after notification by the Organization of its determination appeal to the Chief Executive in Council by way of petition, and the decision of the Chief Executive in Council shall be final. (65 of 1999 s. 3)

BYLAW 24

Offences and penalties VerDate:30/06/1997

PART VII

OFFENCES AND PENALTIES

Any person who-

- (a) contravenes paragraph (2) of by-law 8, by-law 9, or paragraph (2) or (3) of by-law 17;
- (b) refuses to leave a market when ordered to do so by the manager under paragraph (1) of by-law 8;
- (c) being the owner or person in charge of a vessel or vehicle, refuses to move such vessel or vehicle when required to do so by the manager under by-law 10;
- (d) in a market, bids at an auction or purchases or attempts to purchase marine fish, when he is not authorized to do so under by-law 11;
- (e) wilfully supplies any false information in an application for registration under by-law 12 or 13;
- (f) wilfully supplies any false information for the purposes of obtaining credit under paragraph (2) of by-law 22;
- (g) in a market, obstructs the manager or an employee of the Organization in the performance of his duties; or
- (h) in a market, acts in a disorderly manner, shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars.

