

LEGAL NOTICE No. 245

THE FISH INDUSTRY ACT
(Cap. 378)

IN EXERCISE of the powers conferred by sections 7 and 8 of the Fish Industry Act, the Minister for Tourism and Wildlife hereby makes the following Regulations:—

THE FISH INDUSTRY (LAKE TURKANA)
REGULATIONS, 1976

PART I—PRELIMINARY

1. These Regulations may be cited as the Fish Industry (Lake Turkana) Regulations, 1976. Citation.

2. In these Regulations, except where the context otherwise requires— Interpretation.

“authorized person” means any person authorized in writing by the Director of Fisheries to exercise the powers or perform the duties on behalf of the Director.

"buoy" means a floating object used to mark the position of a net or other obstruction;

"Director of Fisheries" means the person appointed by the Government to perform the duties of the Director of Fisheries;

"to fish" means capture, kill, snare or trap fish, or perform any action related thereto;

"fisherman's licence" means a licence issued under regulation 7 of these Regulations;

"gill net or set net" means a net which is placed into position in the water for some time with the object of fish swimming into it and becoming entangled in it, and then drawn out into a boat;

"the lake" means Lake Turkana;

"rod and line" means a fishing rod or pole to which is attached a line or thread with one hook, or lure incorporating a hook;

"indigenous traditional method of fishing" means any method of fishing used by the indigenous people and includes the El Molo traditional nets but does not include any other type of nets;

"fishing gear" means any net, line, cork, buoy, or other article used for the purpose of fishing;

"mesh" means the openings or spaces in a net enclosed by the thread of a net;

"mesh measurement of a net" means the longer of the two measurements ascertained, when the net is wet, by the following stages—

(a) the net shall be suspended vertically from one corner of any mesh and at least five mesh widths from any edge of the net and stretched by hanging a weight of one kilogramme from a corner of the next but one lower mesh, being the corner of that lower mesh furthest from such point of suspension, and linear measurement shall be taken between the highest and the lowest corners of the intermediate mesh;

(b) the net shall be suspended as before from one corner of the mesh first referred to in subparagraph (a) of this definition, being a corner adjacent to that from which the net was first suspended as aforesaid and stretched by hanging a weight of one kilogramme from one corner of the next but one lower mesh, being the corner of that lower mesh furthest from such point of suspension, and linear measurements shall be taken between the highest and the lowest corners of the intermediate mesh.

"to seine" means to use a net in order to enclose a particular area of water and then to draw such net ashore or on a boat.

PART II—REGISTRATION OF BOATS

3. (1) No person shall use any boat for fishing on Lake Turkana unless there is in force in relation to such a boat a valid certificate of registration.

Fishing boat
to be registered.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

4. (1) A Fisheries Officer or any authorized person may, on application and on payment of the appropriate fee set out in the Second Schedule to these Regulations, issue to the owner of any boat a certificate of registration in the appropriate form set out in the First Schedule to these Regulations:

Issue of
certificate of
registration.

Provided that the Director of Fisheries may in his discretion exempt any owner or class of owners from the payment of the whole or any part of such fee.

(2) The person issuing the certificate of registration shall allot an identification number (which may include letters) to the boat in respect of which the certificate of registration is issued, and shall cause an entry of the issuance of such certificate of registration to be made in a register, to be kept for that purpose.

(3) The owner of any boat to whom a certificate of registration is issued shall—

(a) cause the identification number allotted under paragraph (2) of this regulation to be clearly painted on each side of the bow of such boat as soon as practicable after the issuance of such certificate of registration; and such number shall be painted in black on a white background, and each figure or letter of such number shall be at least two hundred and thirty millimetres in height and forty millimetres in breadth; and

(b) maintain at all time such identification number in a clear, legible and visible condition.

(4) Any owner who contravenes any of the provisions of paragraph (3) of this regulation shall be guilty of an offence.

(5) Where a certificate of registration has been issued to the owner of any boat than on application by such owner, the certificate of registration—

(a) may in the discretion of the Director of Fisheries be cancelled, in which event the certificate of registration shall be returned to the authorized officer;

(b) may be transferred to the name of any other person who proves that he has become the owner of the boat, in which event an endorsement to that effect shall be made on the certificate of registration; and in either case the appropriate entry shall be made in the register.

5. (1) The owner or person in charge of any boat in respect of which a certificate of registration has been issued shall, on demand, produce such certificate of registration to the Director of Fisheries, Fisheries Officer, an Administrative Officer, a Police Officer not below the rank of Assistant Inspector, or an authorized person.

Production of
certificate of
registration
on demand.

(2) Any person who contravenes the provision of this regulation shall be guilty of an offence.

PART III—LICENSING OF FISHERMEN

Fishermen to be licenced.

6. (1) No person shall fish on Lake Turkana unless such person is the holder of a valid fisherman's licence issued to him under the provisions of these Regulations:

Provided that nothing in this regulation shall apply to any person who—

- (a) in the opinion of the Director of Fisheries is under the age of twelve years and is a local resident in the area: or
- (b) is a holder of indigenous fisherman's licence and who uses only indigenous traditional methods of fishing.

(2) Any person who contravenes the provisions of paragraph (1) of this regulation shall be guilty of an offence.

Issue of fisherman's licence.

7. (1) A fisherman's licence in the appropriate form set out in the First Schedule to these Regulations may, on application and on payment of appropriate fee set out in the Second Schedule to these Regulations, be issued to any person by any Fisheries Officer or by any authorized person.

(2) A Fisheries Officer or an authorized person may, on application and free of charge, issue an indigenous fisherman's licence in the form specified in the First Schedule to these Regulations to any person who is a local resident in the area:

(3) A Fisheries Officer or an authorized person may, on application and payment of the appropriate fee specified in the Second Schedule to these Regulations, issue a sport fisherman's licence in the form specified in the First Schedule to these Regulations to any person.

Entry of licences issued.

8. The person issuing a fisherman's licence or any indigenous fisherman's licence or a sport fisherman's licence shall cause an entry of the issue of such licence to be made in a register to be kept for that purpose.

Refusal to issue licence.

9. The Director of Fisheries may in his absolute discretion and without disclosing any reason, refuse to issue a fisherman's licence or a sport fisherman's licence or an indigenous fisherman's licence.

Exemption from payment of fee.

10. The Director of Fisheries may in his discretion exempt any fisherman from the payment of the appropriate fee for a fisherman's licence, and shall issue to such fisherman a certificate of exemption as set out in the First Schedule to these Regulations.

Production of licence on demand.

11. (1) The person to whom a fisherman's licence or an indigenous fisherman's licence or a sport fisherman's licence or an exemption certificate has been issued shall, on demand, produce such licence to the Director of Fisheries, any Fisheries Officer, any Administrative Officer, any Police Officer not below the rank of Assistant Inspector or any authorized person.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

PART IV—USE OF NETS

12. (1) No person shall seine or use a mosquito net on Lake Turkana unless he is the holder of a valid seining permit or mosquito net permit issued to him.

Seining
permit.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

13. A seining permit or mosquito net permit in the appropriate form set out in the First Schedule to these Regulations may, in the discretion of a Fisheries Officer and subject to such conditions as he may impose and on payment of the appropriate fee set out in the Second Schedule to these Regulations, be issued to any licensed fisherman by a Fisheries Officer:

Issue of
seining permits.

Provided that the Director of Fisheries may in his discretion, exempt any such licensed fisherman or class of licensed fishermen from payment of the whole or any part of such fee.

14. (1) Any set net—

(a) the mesh measurement of which is less than one hundred and twenty-five millimetres; or

(b) the length of which, when stretched, is greater than ninety-two metres or the depth of which is greater than thirty meshes,

Prohibited
nets, etc.

shall be, in relation to all fish, a prohibited net.

(2) Any person who—

(a) uses any prohibited net for fishing on Lake Turkana; or

(b) is in possession of any prohibited net, or buys, sells, barter, or exposes for sale or barter, or has in possession for sale or barter any prohibited net, at any place within the Lake Turkana region,

shall be guilty of an offence.

(3) No person shall—

(a) land or dispose of any fish except at places as from time to time authorized by the Director of Fisheries;

(b) land any fish between sunset and sunrise;

(c) smoke, dry, or salt any fish at any place other than one authorized by the Director of Fisheries; or

(d) fish with gill net within ninety-two metres of the shore line:

Provided that this regulation does not apply to the El Molo people.

15. (1) A person to whom any permit has been issued under regulation 13 of these Regulations shall, on demand, produce such permit to the Director of Fisheries, any Fisheries Officer, any Administrative Officer, any Police Officer not below the rank of Assistant Inspector or any authorized person.

Production of
permit on
demand.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

Power to prohibit use of nets, etc.

16. (1) The Director of Fisheries may by notice prohibit or restrict in any specified area, or for any specified period, either generally or in relation to any specified species of fish, the use of any specified nets or the use of any specified method of fishing.

(2) Where any area, period, or net is specified under the provisions of this regulation such area, period, or net shall be a prohibited place, closed period, or prohibited net, as the case may be, either generally or in relation to the specified species of fish as the case may be.

(3) Any person who contravenes the provisions of a notice issued under paragraph (1) of this regulation shall be guilty of an offence.

Buoying of nets.

17. (1) No set net or long line shall be placed in or on the water of Lake Turkana unless it is buoyed in such a manner as to make the position of such net or long line visible on a clear day at a distance of not less than ninety-two metres from a height of two metres, above the water.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

Obstruction to navigation.

18. (1) No fishing gear shall be placed in or on waters of Lake Turkana in such a place or in such a manner as to interfere with free navigation thereof by any boat:

Provided that the placing of any such fishing gear in any area not normally used for the purposes of navigation by any boat other than a fishing boat shall not be deemed to be an interference with the free navigation of the waters of Lake Turkana.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence.

PART V—MISCELLANEOUS

Private marks.

19. (1) Any licensed fisherman may apply to the Fisheries Officer for registration of any private mark to be used to distinguish any fishing gear owned by him and the Fisheries Officer may, if he is satisfied that such a mark is suitable for the purpose and that no private mark is likely to be confused with the one in respect of which the application is being made has been previously registered by any Fisheries Officer, grant the application on payment of the appropriate fee set out in the Second Schedule to these Regulations.

(2) Every private mark shall be registered in a register to be kept for that purpose, and such a registration shall be valid up to the 31st day of December of the year in which it is made.

(3) A notice showing the private mark and the person in whose name it is registered shall be exhibited at a place where the register is kept during the currency of such registration.

(4) The person in whose name the private mark is registered may renew the registration on payment of the appropriate fee set out in the Second Schedule to these Regulations.

(5) The person in whose name the private mark is registered may affix it in such manner as he may consider most convenient, to any fishing gear owned by him.

(6) Any person who affixes to any property any mark which is registered in the name of an authorized person shall be guilty of an offence.

20. Every licence, certificate or registration, or permit issued under these Regulations shall, subject to the provisions of regulation 23 of these Regulations, be valid up to the date stated therein and where no date is stated in the licence, certificate, registration or permit shall be valid up to the 31st day of December, of the year in which it is issued.

Currency of licence, etc.

21. Where under these Regulations the Director of Fisheries may exercise any power by notice, such notice shall be sufficiently published if it is exhibited at each place where a register of boats is kept for the purposes of these Regulations.

Manner of publication of notices.

22. Any person who, being a holder of any licence or permit to fish—

(a) in any particular area;

(b) with any particular net;

(c) for any particular species; or

(d) by means of any particular method of fishing,

fishes in any place or manner or for any species of fish, other than in accordance with the provisions of such licence or permit, shall be guilty of an offence.

Fishing otherwise than in accordance with licence, etc.

23. In all proceedings arising out of the provisions of these Regulations, it shall be presumed, until the contrary is proved that—

Presumption.

(a) the person registered as the owner of a boat used for fishing is the owner of such boat;

(b) any person present in a boat when such boat is being used for fishing, or for transport of fresh fish, is fishing; or

(c) any boat used for fishing is being so used with the consent of the registered owner.

24. (1) Any person convicted of an offence under these Regulations shall be liable—

Penalty.

(a) in the case of a first conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and

(b) in the case of the second or subsequent conviction, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(2) The court before which any person is convicted of an offence under these Regulations may order that in addition to any fine or term of imprisonment imposed, any licence, certificate or permit issued to such person under these Regulations shall be forthwith cancelled.

FIRST SCHEDULE

FORM I

(r. 4)

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

CERTIFICATE OF REGISTRATION OF BOAT

The boat (canoe) of

.....
 has been registered for the purpose of fishing in Lake Turkana and
 has been allocated number

Fee paid

Date of issue, 19.....

Date of expiry, 19.....

.....
Issuing Authority

continued

FORM II

(r. 7 (1))

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

FISHERMEN'S LICENCE

.....
 of
 is hereby licensed to fish in Lake Turkana subject to the provisions of
 the Fish Industry Act and of the Fish Industry (Lake Turkana)
 Regulations.

Fee paid

Date of issue, 19.....

Date of expiry, 19.....

.....
Issuing Authority

FORM III

(r. 7 (2))

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

INDIGENOUS FISHERMAN'S LICENCE

of
is hereby licensed to fish, using only indigenous traditional methods
of fishing, in the Lake Turkana subject to the provisions of the Fish
Industry Act and of the Fish Industry (Lake Turkana) Regulations.

Fee paid

Date of issue, 19.....

Date of expiry, 19.....

.....
Issuing Authority

FORM IV

(r. 10)

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

SEINING PERMIT

of
is hereby permitted to use a seine net of the following description
.....

.....
subject to the provisions of the Fish Industry Act and of the Fish
Industry (Lake Turkana) Regulations, and subject to the following
conditions

.....
(2) The breach of the conditions contained in this permit consti-
tutes an offence against the provisions of the Fish Industry Act and
of the Fish Industry (Lake Turkana) Regulations.

Fee paid

Date of issue, 19.....

Date of expiry, 19.....

.....
Fisheries Officer

FORM V

(r. 7 (6))

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

CERTIFICATE OF EXEMPTION

.....
of
is hereby authorized to fish in Lake Turkana subject to the provisions
of the Fish Industry Act and the Fish Industry (Lake Turkana) Regu-
lations, but by reason of his
.....
is exempted from payment of a fee.
Date of issue, 19.....
Date of expiry, 19.....

.....
Director of Fisheries

FORM VI

(r. 13)

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

MOSQUITO NET PERMIT

.....
of
is hereby permitted to use a mosquito net for fishing of the following
description

(2) The breach of any conditions contained in this permit consti-
tutes an offence under the provisions of the Fish Industry Act and the
Fish Industry (Lake Turkana) Regulations.

Fee paid
Date of issue, 19.....
Date of expiry,

FORM VII

(r. 7 (3))

THE FISH INDUSTRY (LAKE TURKANA) REGULATIONS

SPORT FISHERMAN'S LICENCE

Name

of (address)

is hereby licensed to fish with rod and line only in Lake Turkana subject to the provisions of the Fish Industry Act and the Fish Industry (Lake Turkana) Regulations and to the following conditions

.....

.....

Fee paid

Date of issue, 19.....

Date of expiry, 19.....

.....
*Director of Fisheries/
 Fisheries Officer*

SECOND SCHEDULE

(rr. 4, 7, 13, 19)

FEES	Sh. cts.
On issue of certificate of registration of a boat ...	20 00
On issue of a duplicate of registration of a boat ...	10 00
On issue of duplicate of fisherman's licence ...	5 00
On issue of fisherman's licence	10 00
On issue of seining permit	100 00
On issue of mosquito net permit	50 00
On issue of a duplicate seining permit	20 00
On issue of duplicate mosquito net permit	10 00
On issue of any other permit	10 00
On issue of duplicate of any other permit	5 00
On the registration of a private mark	10 00
On the renewal of registration of a private mark ...	5 00
On issue of sport fisherman's licence for one year ...	150 00
On issue of sport's fisherman's licence for one week or part thereof	50 00

Made this 23rd day of November, 1976.

M. J. OGUTU,
Minister for Tourism and Wildlife.