

Fish Protection (Oysters) Rules (Cap. 378) (as amended)

Article 1. - These Rules may be cited as the Fish Protection (Oysters) Rules, and shall apply to the territorial waters of Kenya.

Article 2. - In these Rules:

"fish for" includes winning or taking, removing or carrying away or exporting by any means whatsoever;

"licence" means a licence issued under these Rules;

"licensee" means any person holding a valid licence issued under these Rules;

"oyster" means any mollusc of any species of the genus ostrea.

Article 3. - (1) Subject to the provisions of paragraph (4) of this rule, no person shall fish for any oyster otherwise than for his own consumption unless he is in possession of a valid licence to do so.

(2) Every application for a licence shall be made in writing to the Chief Game Warden, who may in his absolute discretion grant or refuse the same.

(3) Every licence shall:

- (a) be in the form set out in the First Schedule to these Rules;
- (b) subject to the provisions of paragraph (3) of rule 4 of these Rules, be valid for one year from the date of issue thereof;
- (c) subject to the provisions of paragraph (3) of rule 4 of these Rules, permit the licensee to fish for oysters in unlimited quantities within the area or areas specified therein.

(4) Any licence may permit, in addition to the licensee, the servants, agents or employees of such licensee, to a maximum number to be specified therein, to fish for oysters pursuant to such licence.

Provided that, on every occasion when any such licensee is not present at and supervising such fishing, every such servant, agent or employee shall be in possession of an authority in writing, containing his name and that of the licensee and the number of the licence, correctly dated and signed by the licensee, and such authority shall be produced upon demand to any of the persons specified in section 8 of the Ordinance.

(5) Every licensee shall produce his licence whenever required to do so by any of the persons specified in section 8 of this Ordinance.

(6) There shall be payable for every licence the fee specified in the Second Schedule to these Rules.

Article 4. - (1) The area or areas to be included in any licence shall, before the issue thereof, be demarcated on the ground by the Fisheries Officer or by some person duly authorized by him, in the presence of the person applying for such licence or some other person duly authorized by him in writing in that behalf.

(2) The costs and expenses of any demarcation under paragraph (1) of this rule shall be assessed by the Chief Game Warden, and the amount thereof shall before the issue of any licence be paid to him by the person applying therefor.

(3) If in the opinion of the Fisheries Officer the operations of any licensee become, or may be likely to become, during the currency of any licence, detrimental to the survival of oysters in any area or areas specified in such licence or in any adjacent or neighbouring area or areas, the Fisheries Officer may in his absolute discretion, by notice in writing to the licensee, forthwith cancel such licence, or amend the same by deletion therefrom of any area or areas or any part or parts of any area or areas included therein.

Article 5. - (1) Any person who commits any breach of these Rules or fails to comply with any provisions thereof or of any licence thereunder shall be guilty of an offence.

(2) In any case where any person is convicted of any offence under paragraph (1) of this rule, the Fisheries Officers may, if such person is either:

- (a) a licensee; or
- (b) a servant, agent or employee of any licensee having the authority provided for by paragraph (4) of rule 3 of these Rules.

forthwith cancel the licence of such licensee.

Article 6. - Any person who is aggrieved by anything done by the Fisheries Officer pursuant to these Rules may, within thirty days of the notification thereof by the Fisheries Officer, appeal in writing to the Provincial Commissioner of the Coast Province, whose decision will be final.

FIRST SCHEDULE

[r.3(3)]

LICENCE TO FISH

No.

Licensee (full name in block capitals)
(address in block capitals)
.....

1. The above-named is licensed to fish for oysters in the area or areas specified hereunder for a period of one year from the date hereof.

2. Pursuant to this licence, the servants, agents or employees of the licensee, to the maximum number of may, in addition to the licensee, fish for oysters.

Fee paid
Date of issue
Date of expiry

.....
Chief Game Warden

I am aware of the conditions attached to this licence and of those imposed by the Fish Protection Ordinance and the Fish Protection (Oysters) Rules, under which it is issued.

.....
Licensee

AREA/AREAS
[Full description in words]

- *As shown on the sketch map attached hereto
- *Delete if inappropriate