

MYANMA MARINE FISHERIES LAW

State Law and Order Restoration Council Law No. 9/90 (25 April 1990)

The State Law and Order Restoration Council hereby enacts the following Law:

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the **Myanma Marine Fisheries Law**.
2. The following expressions contained in this law shall have the meanings given hereunder:
 - a. **Minister** means the Minister of Livestock Breeding and Fisheries;
 - b. **Department** means the Department of Fisheries;
 - c. **Director General** means Director General of the Department of Fisheries;
 - d. **Officer-in-charge of the Department** means the Officer-in-charge of the Fisheries Department of the State/Division, the Township Zone or the Township;
 - e. **Inspector** means State, Division, Zone and Township Officers-in-charge of the Department, any officer of the Department assigned the duties of an Inspector by the Director General, and any individual assigned the duties of an Inspector by the Ministry from time to time;
 - f. **Myanma Marine Fisheries Waters** means the waters along the sea coast of Myanmar from the high tide mark toward the open sea, the waters on the seaside of the straight line drawn from one extreme end of one bank to the extreme end of the other bank of the river and creek mouths, the waters from the said high tide mark to the end of the Exclusive Economic Zone;
 - g. **Fish** means all aquatic organisms spending the whole of or a part of their life cycles in the water, their spawns, larvae, fries and seeds. This expression also includes aquatic plants, their seedlings and seeds;
 - h. **Fishery** means carrying out operations relating to fish in a systematic manner, production on a commercial scale, conservation of seeds and for development. This expression also includes catching, breeding, exploring, researching, seeding, propagating, processing, transporting, storing and selling of fish etcetera;
 - i. **Fishing** means catching, collecting, inducing, pursuing, stupefying and killing of fish. This expression also includes works in support of and preparatory to fishing operations;
 - j. **Inshore Fishery** means fishery carried out in the inshore area along the Myanmar coast as determined by the Director General as inshore fishery area;
 - k. **Offshore Fishery** means fishery carried out in the Myanma Marine Fisheries Waters as determined by the Director General as offshore fishery area;
 - l. **Fishing Implement** means things and equipment used in fishing;
 - m. **Fishing Ground** means the fishery waters in the Myanma Marine Fisheries Waters or place specified by the Department for the purpose of fishery. This expression also includes Myanma Marine Fisheries waters or place, where fishery can be carried out;
 - n. **Fishing Vessel** means any vessel engaged in fishing. This expression also includes crafts in support of the same;
 - o. **Local Fishing Vessel** means a fishing vessel belonging to any citizen and which is registered in the country;
 - p. **Foreign Fishing Vessel** means a vessel belonging to a foreigner which is registered in any foreign country;

- q. **Master of the Vessel** means a person who controls and takes charge or maintains a fishing vessel either permanently or temporarily. This expression does not include a pilot;
- r. **Marine Products** means fishes obtained from the sea, aquatic organisms, their excreta, scales, bones, skins, plants, non-living things. This expression also includes marine turtle and eggs, crocodile and eggs, crab, ambergris, oyster shell, clam shell, mussel, coral, sea sponge, sea weed, moss, algae etcetera;
- s. **Site for collecting Marine Products** means waters or place determined by the Department for collecting marine products contained in sub-section r;
- t. **Fisherman** means a person who takes part in fishing, processing or collecting marine products;
- u. **Licence** means a licence issued by the Department for fishery within the Myanmar Marine Fisheries Waters or collecting Marine products for sale, or establishing fishery on commercial scale for sport fishing or carrying out other enterprises relating to fish;
- v. **Licence Holder** means a person who has obtained a licence for carrying out the enterprises contained in sub-section u;
- w. **Licence Fee** means fee payable for carrying out those enterprises contained in sub-section u. This expression includes fee payable for fishing implement, fee payable for fishing vessel, fee where tenders are floated for specified fishing area, fee for collecting of marine products for sale, fee for collecting oysters for culturing pearls, fee for collecting fries, seeds, larvae, plant seedlings and fee for other enterprises relating to fish etcetera;
- x. **Citizen** includes an associate citizen or a naturalized citizen. The said expression also includes an economic organization formed with local investment only and Cooperative Societies formed under the Cooperatives Societies Law;
- y. **Foreigner** means a person who is not a citizen. The said expression also includes an economic organization formed with foreign investment only.

CHAPTER II APPLICATION FOR LICENCE

- 3. A person desiring to carry out inshore fishery, shall apply for a licence to the Officer-in-charge of the Department of the respective Township in the prescribed application form.
- 4. A person desiring to carry out offshore fishery, shall apply for licence to the Officer-in-charge of the Department of the respective State/Division in the prescribed application form.
- 5. A person desiring to carry out fishery under the Union of Myanmar Foreign Investment Law or for joint ventures in fishery shall apply for a licence to the Director General in the prescribed application form.
- 6. A person desiring to collect marine products for sale shall apply for a licence to the Officer-in-charge of the Department of the respective Township in the prescribed application form.
- 7. A person desiring to establish fishery on commercial scale for sport fishing shall apply for a licence to the Officer-in-charge of the Department of the respective Township in the prescribed application form.

CHAPTER III PAYMENT OF DUTIES AND FEES

- 8. A person who has obtained a licence shall pay the following duties and fees in the manner prescribed by the Department:

- a. Licence Fee;
- b. Registration Fee;
- c. Fines;
- d. Late Fees;
- e. Other duties and fees payable.

9. If the licence holder liable to pay the duties and fees is a citizen shall pay the duties and fees in Myanmar currency and if it is a joint venture carried on with a foreigner they shall be paid in foreign currency as specified by the Department.

CHAPTER IV REGISTRATION

10. Fishing vessels carrying out fishery in the offshore, shall register in the manner prescribed by the Department.

11. A person desiring to work as a fisherman in a fishing vessel shall register in the manner prescribed by the Department.

12. In registering under section 10 and section 11, registration fee shall be paid in the manner prescribed by the Department.

CHAPTER V DETERMINATION OF FISHING GROUND

13. Fishing grounds shall be determined as required by the Department and fishing rights shall be granted to citizens. But preference shall be given to citizens in the fishing grounds between the baselines and the coast, as declared in the Territorial Sea and Maritime Zones Law.

14. Fishing grounds shall be determined as required, in the Myanma Marine Fisheries Waters beyond the baselines and fishing rights may be granted by the Department in the following order:

- a. joint venture enterprise formed between state economic organization and foreigner;
- b. joint venture enterprise formed between citizen and foreigner.

15. Fishing grounds shall be determined as required, in the Myanma Marine Fisheries Waters beyond the baselines, and fishing rights shall be granted by the Department for any one of the following purposes:

- a. carrying out fishery by a foreign fishing vessel after registering in the country;
- b. carrying out fishery by a foreigner, with a hired local fishing vessel;
- c. carrying out joint venture fishery with a foreigner, using a fishing vessel registered in the country.

16. In determining the fishing grounds under section 14 or section 15 the Director General in exceptional circumstances may grant fishing rights in the fishing grounds between the baselines and the coast.

CHAPTER VI DUTIES AND RIGHTS OF A LICENCE HOLDER

17. The licence holder:

- a. shall pay the duties and fees payable, in the manner specified by the Department;
- b. shall comply with the regulations and directives prescribed by the Department;
- c. shall take prior permission from the Director General for carrying out research in fishery in the Myanma Marine Fisheries Waters, excepting the exclusive economic zone. If it is desired to carry out research in fishery in the exclusive economic zone, an application shall be made in accordance with section 20 of the territorial Sea and Maritime Zones law;
- d. shall provide necessary services free of charge to persons who have been assigned duties to conduct research on a fishing vessel to observers and to trainees;
- e. shall appoint on board his vessel only those fishermen who are registered in the Department.

18. The licence holder has the right to carry out the fishery in accordance with the terms prescribed in the licence.

CHAPTER VII POWERS OF THE DEPARTMENT AND THE DIRECTOR GENERAL

19. The Officer-in-charge of the Department of the Township may, after scrutiny of the application submitted under section 3, issue a licence if it is in conformity with the terms prescribed by the Department.

20. If the Officer-in-charge of the Department of the Township after scrutiny of the application submitted under section 6 or section 7, finds that it is in conformity with the terms prescribed by the Department, shall issue a licence only after obtaining the approval of the Officer-in-charge of the Department of the State or Division.

21. If the Officer-in-charge of the Department of the State or Division after scrutiny of the application submitted under section 4, finds that it is in conformity with the terms prescribed by the Department, shall issue a licence but only after obtaining the approval of the Director General.

22. The Director General shall determine the following:

- a. type of fishery, volume of business and duties and fees;
- b. method of catching fish, period of fishing, species of fish permitted to catch, size of fish, fishing implement and fishing grounds;
- c. licence conditions.

23. The Director General may, for the purpose of carrying out the fishery systematically, and for the conservation and protection of the fish, issue conditions, prohibitions, orders, and directives relating to fishery.

24. If there is reasonable ground or if it is necessary in the interest of the State, the Director General may suspend, revoke, terminate or cancel any licence. Further, the conditions and fishing grounds originally determined may also be revised.

25. Notwithstanding anything contained in the existing laws, the Director General may, where action is taken for violation of any provisions of this Law, act as follows:

- a. confiscating, disposing and administering as may be necessary the fishing vessel, fishing implement, fishes and other articles and money;
- b. returning the fishing vessel or implement and permitting resumption of the operation, on the licence holder or the owner furnishing sufficient security;

- c. allowing the licence holder or owner to redeem the fishing vessel and fishing implement, on payment of reasonable fine;
 - d. causing the proceeds of sale under sub-section a and the fines to be deposited in the bank.
26. Relating to duties and fees payable by the licence holder, the Director General:
- a. shall determine the payment, in Myanmar currency in the case of a citizen, in foreign currency in the case of a foreigner from abroad or where a foreigner participates in a joint venture;
 - b. may determine, in exceptional cases, payment of duties and fees payable by a foreigner in Myanmar currency.
27. The Director General, may delegate his powers conferred under this Law, to any officer of the Department or any Officer-in-charge of the Department.
28. Where a licence holder applies for a copy of the licence upon the licence issued by the Department being destroyed or lost, the Department may issue a copy of the licence after causing the prescribed fee to be paid.
29. If it is found on inspection that a licence holder has transferred the licence which has been issued to him to any other person:
- a. if the licence has been issued for inshore fishery, the Officer-in-charge of the Department of the Township shall withdraw it;
 - b. if the licence has been issued for offshore fishery, the Officer-in-charge of the Department of the State or Division may withdraw it. Such withdrawal shall be submitted to the Director General and his concurrence obtained.

CHAPTER VIII DUTIES AND POWERS OF THE INSPECTOR

30. In conformity with the manner laid down in the procedure, the Inspector shall carry out the following:
- a. inspecting the fishing vessel and fishing implement, fish and fishery within the area assigned to him, or anywhere within the Myanma Marine Fisheries Waters specifically assigned by the Director General;
 - b. stopping, boarding, accompanying, inspecting and searching any fishing vessel in the Myanma Marine Fisheries Waters without a warrant;
 - c. requisitioning, examining and taking copies of the licence, registration certificate, ship's log-book and other papers required to be kept on the fishing vessel;
 - d. interrogating, directing the master, crew and fishermen as may be necessary;
 - e. in the case of violations of any of the prohibitions under this Law seizing the fishing vessel and materials found therein;
 - f. arresting and prosecuting any person who violates any of the provisions of this Law;
 - g. seizing explosive substances, poison, chemicals, and other things not permitted to be used in fishing;
 - h. depositing in the bank after the proceeds of the sale of the fish and other things seized which are subject to speedy decay;
 - i. while discharging his duties soliciting and taking the assistance of the People's Police Force, whenever required;

- j. carrying out duties, specifically assigned from time to time by the Director General relating to fishery.

CHAPTER IX DUTIES OF THE MASTER OF THE VESSEL

31. Master of the fishing vessel:
 - a. shall abide by the terms and conditions contained in the licence;
 - b. shall hang the licence and registration certificate prominently at the wheel house of the vessel;
 - c. shall maintain ship's log-book and fishing data book as prescribed by the Department;
 - d. shall hoist the flag of the Union of Myanmar on the fishing vessel, when it is in the Myanmar Marine Fisheries Waters;
 - e. shall be responsible for the safety of the inspector, researchers, observers and trainees who are on board the vessel;
 - f. shall comply with orders and directives prescribed by the Department from time to time.

CHAPTER X APPEALS

32.
 - a. If dissatisfied with the order or decision of the Officer-in-charge of the Department, an appeal may be filed with the Director General within 30 days on the receipt of such order;
 - b. No further appeal shall lie on the decision of the Director General relating to inshore fishery;
 - c. If dissatisfied with the order or decision of the Director General relating to offshore fishery under sub-section a except the case mentioned under sub-section b, an appeal may be filed with the Minister within 30 days of the receipt of the order. The decision of the Minister shall be final.

CHAPTER XI PROHIBITIONS

33. No person shall without a licence, engage in inshore fishery.
34. No person shall without a licence, engage in offshore fishery.
35. The holder of the licence shall not violate any of the conditions contained in the licence.
36. The holder of the licence shall not transfer his licence.
37. No person shall engage in the industry with the licence obtained by way of transfer under section 36.
38. No person shall keep on board the fishing vessel, explosive substances, poisons, chemicals and such other dangerous substances not permitted for use in fishing.
39. No person shall dispose of living aquatic creatures or any material into the Myanmar Marine Fisheries Waters to cause pollution of water or to harass fishes and other marine organisms.
40. No person shall search for and collect any marine products without a licence.

41. No person shall establish a fishery on commercial scale for sport fishing in the Myanmar Marine Fisheries Waters without a licence.
42. No person shall harass, assault the Inspector while discharging his duties.
43. No person shall serve as fisherman on board a fishing vessel registered under this Law, without registering in the Department.

CHAPTER XII OFFENCES AND PENALTIES

44. Whoever is found guilty of violating any of the provisions of section 33, section 41 or section 42 shall be liable to be punished with fine which may extend to kyats 5,000 or with imprisonment which may extend to 6 months or with both.
45. Whoever is found guilty of violating any of the provisions of section 34, section 37, section 39 or section 40, shall be liable to be punished with fine which may extend to kyats 10,000 or with imprisonment which may extend to 1 year or with both.
46. If a licence holder is found guilty of violating any of the provisions of section 35 or 36, he shall be liable to be punished with fine which may extend to kyats 5,000 or with imprisonment which may extend to 6 months or with both.
47. Whoever is found guilty of violating any of the provisions of section 38 shall be liable to be punished with fine which may extend to kyats 50,000 or with imprisonment which may extend to 3 years or with both.
48. Whoever is found guilty of violating any of the provisions of section 43, shall be liable to be punished with fine, which may extend to kyats 500 or with imprisonment which may extend to 1 month or with both.
49. If the Court finds one guilty of an offence under section 44, section 45, section 46 or section 47 the exhibit brought before the Court may be administered as may be necessary or it may be confiscated.
50. Whoever abets or attempts or acts in common intention in the commission of an offence under this Law shall be punished with the punishment provided for that offence in this Law.

CHAPTER XIII MISCELLANEOUS

51. With respect to rights to carry on fishery under this Law, the Minister, of his own accord may make the following orders:
- a. permitting to carry on fishery in the Myanmar Marine Fisheries Waters;
 - b. in the interest of the State suspending, revoking, terminating or cancelling the licence issued by the Department, permitting after scrutiny on re-application, if any.
52. If the master of the vessel fails to keep the fishing implement in the prescribed manner while traversing the waters outside the fishing area shall be deemed to be engaged in fishing.
53. The Department is entitled to appropriate only the amount necessary for research, development and conservation of species of fish for the fishery, out of the fund not exceeding five per cent of the

duties and fees collected from the fishery.

54. In sending up a case for violation of this Law it shall not be necessary to produce the exhibits which are not feasible to be produced before the Court or those exhibits for which the Director General has taken action under section 25, but shall submit a report to the Court as to the manner the exhibits have been disposed of and other supporting documentary evidence.

55. Provisions contained in sub-section (I) of 403 of the Criminal procedure Code that any offence for which an order for conviction or acquittal has been made shall not be tried again, shall not apply to actions taken by the Director General under this Law.

56. Notwithstanding anything contained in any other law for the time being in force, the order passed by any court under this Law shall not affect any action taken by the Director General under this Law.

57. Prior sanction shall be obtained from the Department for building a fishing vessel or for importing only from abroad to be used in offshore fishery.

58. Cases sent up for trial under this Law, shall be deemed to be cognizable cases.

59. No prosecution or suit shall lie against any public servant for anything which is done in good faith in pursuance of this Law.

60. Relating to marine fishery, provisions of the Fisheries Act, Rules and Directives shall be in force only in so far as they are not inconsistent with this Law.

61. For implementing the provisions of this Law, the Ministry concerned:

- a. may with the approval of the Government, issue necessary procedures;
- a. may issue necessary orders and directives.

(signed) Saw Maung
Senior General
Chairman, The State Law and Order Restoration Council