

Law relating to Aquaculture

(The State Law and Order Restoration Council Law No. 24/89)
The 8th Waxing Day of Tawthialin, 1351 BE
7th September, 1989

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

Chapter I Title and Definition

1. This Law shall be called The Law relating to Aquaculture.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Minister means the Minister for the Ministry of Livestock Breeding and Fisheries;
 - (b) Department means the Department of Fisheries;
 - (c) Director General means the Director General of the Department of Fisheries;
 - (d) Inspector means the State, Division, Township Zone or Township Officer-in-charge of the Department, any officer of the Department assigned the duties of an Inspector by the Director General or any officer of any Government department;
 - (e) Fish means all aquatic organisms living the whole of or a part of their life cycles in the water; their eggs, larvae and fingerlings. This expression also includes aquatic plants, their seedlings and seeds;
 - (f) Fishery means carrying out operations relating to fishes for the purpose of systematic management, commercial production. Conservation and for development. This expression also includes operations such as fishing, collecting, aquaculturing, exploration, research, stocking, propagation, processing, transporting, storing and marketing;
 - (g) Aquaculture means the propagation of fish species, breeding of fish through different stages of growth in natural or artificial waters by various breeding techniques;
 - (h) Fisheries Waters means waters, pond, course, river, stream and lake which is of a permanent or temporary nature and in which fishes live and thrive.
 - (i) Leased Fisheries Waters means fisheries waters situated within the areas leased by the Department under prescribed conditions for the fisheries enterprise;
 - (j) Reserved Fisheries Waters means fisheries waters in which the Department has permitted the fisheries enterprise with restrictions, in order to prevent the extinction of fish species and to propagate the same;
 - (k) Lease means the granting of a lease in accordance with law by the Department or by any Government department on land or fisheries waters pertaining to them;
 - (l) Licence means a licence issued by the Department, permitting to carry out aquaculture;
 - (m) Land for Aquaculture means the land demarcated and reserved by the Department for the purpose of aquaculture under section II;
 - (n) Any Government Department means any department or any organization under the Government. This expression also includes any organization under any organization subordinate to an organization under the Government.

Chapter II

Application for Lease or Licence

3. A person desiring to carry out aquaculture in the land for aquaculture or in fisheries waters not pertaining to any Government department or in reserved fisheries waters shall apply for a lease to the Department in the prescribed application form.
4. A person who has obtained a lease or a person desiring to carry out aquaculture shall apply for a licence to the Department in the prescribed application form.
5. A person wishing to hatch fish for sale or a person desiring to breed fish for display on a commercial scale shall apply for a licence to the Department in the prescribed application form.
6. A person applying for a licence:
 - (a) has the right to carry out aquaculture only after obtaining a licence;
 - (b) shall comply with the conditions prescribed by the Department;
 - (c) if the fisheries waters or the land in which fish is to be bred pertains to any Government department, the conditions prescribed by such department shall also be complied.

Chapter III

Payment of Duties and Fees

7. A person who has obtained a lease or a licence for aquaculture shall pay duties and fees payable out of the following duties and fees in the manner prescribed by the Department:
 - (a) lease rent;
 - (b) licence fee.
8. The provision of section 7 shall not apply to the following operations:
 - (a) aquaculture operations carried out by the Department, works of research relating to aquaculture or extended development works;
 - (b) works of research relating to aquaculture carried out with the approval of the Department.
9. The Department shall prescribe the term of the lease, term of the licence, lease rent, licence fee and late fee.
10. Payment of fee for fishing implements used in aquaculture shall be exempted.

Chapter IV

Powers of the Department and the Director General

11. In order to develop aquaculture the Department may, with the permission of the Government and in accordance with the existing Land Laws demarcated and reserved lands for aquaculture out of suitable lands from amongst the agricultural lands and waste lands.
12. The Department shall administer the lands demarcated and reserved under section 11 as lands for aquaculture.

13. The Department may lease the lands for aquaculture for a period not exceeding ten years at a time to persons desirous to breed fish under the following conditions:

- (a) at least seventy-five per cent of the leased acreage shall be excavated and worked as acreage for fisheries ponds waters;
- (b) within three years of obtaining the lease, fifty per cent of demarcated fisheries pond acreage shall be engaged in fisheries and the whole acreage of fisheries pond waters shall be engaged in aquaculture on the lapse of the five year term;
- (c) on failure to comply with sub-section (b), acreage not excavated shall revert to the Department. In addition, the person failing to comply shall have no right to claim for the refund of expenditure incurred on the land;
- (d) shall also comply with other conditions prescribed by Department.

14. The Department may grant a licence in the case where an application is made for aquaculture in lands other than the land for aquaculture if it is in accordance with the following conditions:

- (a) obtaining an exemption order for purpose of aquaculture, under the Land Nationalization Act, 1952;
- (b) obtaining consent, for the purpose of aquaculture, from any Government department concerned other than the Department, or a person holding any lease;
- (c) agreeing to abide by the conditions prescribed by the Department.

15. The Department any grant a lease, not exceeding three years at a time to a person desiring to use an aquaculture method other than the method for aquaculture by excavating ponds, in the following fisheries waters:

- (a) fisheries waters unconnected with any Government Department;
- (b) reserved fisheries waters.

16. The Department may issue licence to the following persons desiring to do aquaculture:

- (a) a person granted with a lease under section 13 or section 15;
- (b) a person who has been granted a lease in the fisheries waters;
- (c) a person desirous of aquaculture with the consent of the lease under sub-section (b).

17. If an application is made desiring to do aquaculture in the fisheries waters of any Government department and if the consent of that Government department is obtained, the Department may issue licence on conditions prescribed.

18. The Director General may grant a lease or a licence.

19. It the Director General may issue an order permitting live fish to be imported from outside the country or exported from inside the country.

21. The Director General with the concurrence of the Ministry concerned may assign the duties of an Inspector to any Government servant of the service organization under that Ministry.

22. In a case where action is taken for contravening any provision of this Law, the Director General may confiscate, sell, dispose of the fisheries pond and the exhibits as required.

Chapter V

Cancellation of the Lease or Licence

23. The lease or licence is cancelled on the occurrence of any of the following:

- (a) on the expiry of the term,
- (b) on being revoked,
- (c) on surrendering the lease or the licence to the Department when the fish breeder does not desire to continue his enterprise.

24. The Department may revoke the lease or the licence if on finding after investigation that the fish breeder has ceased to continue to engage in the aquaculture enterprise.

Chapter VI

Inspection and Action to be taken

25. The Inspector shall carry out the following duties:

- (a) inspecting the aquaculture enterprise within the area assigned to him or any area specially assigned to him;
- (b) taking legal action against any person who contravenes any provision of this Law in accordance with the prescribed procedure;
- (c) in taking action under sub-section (b) fishes, fishing implements in other implements in connection with fish breeding seized, be disposed of in accordance with the procedures;
- (d) performing other duties regarding aquaculture enterprise assigned by the Director General.

Chapter VII

Appeals

26. If dissatisfied with the decision or order made by the Director General under sections 18, 19, 20 or 22 of this Law, an appeal may be filed with the Minister within 30 days on receipt of such decision or order.

27. The Ministry may confirm, reject or alter the decision or order of the Director General.

28. The decision of the Minister shall be final.

Chapter VIII

Prohibitions

29. No person shall do the following:

- (a) breeding of fish without licence;
- (b) obstructing navigation and flowing of water or polluting the water within the fisheries water or abetting such acts;
- (c) importing live fish into the country and exporting live fish out of the country, without the prior permission of the Department;
- (d) breeding of fish prohibited by the Department.

30. The holder of licence

- (a) shall not contravene any of the conditions prescribed by the Department;
- (b) shall not transfer the fisheries pond without the prior permission of the Department.

Chapter IX
Offences and Penalties

31. Whoever is found guilty of committing any offence contained in section 29, shall be punishable with fine which may extend to Kyats 10,000 or with imprisonment for a term which may extend to 1 year or with both. In addition, exhibits, fishes and fisheries ponds relating to the offence shall be confiscated.

32. If holder of licence is found guilty of committing any offence contained in section 30, he shall be punishable with fine which may extend to kyats 5,000 or with imprisonment for a term which may extend to 6 months or with both. In addition, exhibits, fishes and fish ponds relating to the offence shall be confiscated.

33. If a person convicted under section 31 or section 32 again commits the same offence he shall be punishable with twice the quantum of punishment prescribed.

Chapter X
Miscellaneous

34. Provision under this Law shall be observed by a Government department in fishing on land and fisheries waters relating to any Government department.

35. Prior approval shall be obtained from the Department regarding import and export of fresh fishes into and out of the country.

36. Exemption from applying for a licence is given to families who carry on aquaculture for personal consumption in a pond where water surface does not exceed 25 feet by 50 feet in dimension.

37. Arrears of fees for the grant of lease or licence and damages for delay shall be recovered as if it were arrears of land revenue.

38. Regarding the fishing enterprise already underway on the day this Law is promulgated:
(a) full particulars shall be submitted to the Department within the period prescribed by the Department;
(b) holders of permit for the purpose of aquaculture, under section 39 of the Land Nationalisation Act, 1953 and holders of permit from a Government department for the purpose of aquaculture on the land or in the fishery waters relating to such department shall apply for a licence at the Department;
(c) the Director General in matters other than those submitted under sub-section (b) may, after scrutiny, administer and direct as may be necessary;
(d) action will be taken under this Law against those who continue to carry on without submitting the particulars under sub-section (a).

39. For the purpose of carrying out the provisions of this Law, the Ministry concerned:
(a) may with the approval of the Government, issue necessary procedures;
(b) may issue necessary orders and directives.

Saw Maung

General
Chairman
The State Law and Order Restoration Council