

CHAPTER 240

FISHERIES

*Ordinance* AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO FISHERIES  
 No. 24 of 1940, AND TO THE TAKING AND PROTECTION OF FISH IN SRI LANKA FISHERIES  
*Acts* WATERS. TO PROVIDE FOR THE REGISTRATION OF LOCAL FISHING BOATS, K)R  
 Nos. 17 of 1950. FHF BETTER REGULATION OF THE FISHING INDUSTRY AND FOR PURPOSES  
 25 of 1952, INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.  
 30 of 1956.  
*Laws*  
 Nos. 20 of 1973,  
 46 of 1973,  
 7 of 1976.  
*Act*  
 No. 59 of 1979. [1st June. 1941.]

Short title. 1. This Ordinance may be cited as the Fisheries Ordinance.

OFFICERS. ADVISORY BOARD. &c.

Appointment of Director and other officers.

2. (1) There may be appointed —
- (a) a person, by name or by office, to be or to act as Director of Fisheries;
  - (b) one or more persons, by name or by office, to be or to act as Deputy Directors of Fisheries ; and
  - (c) such other officers as may from time to time be required for the purposes of this Ordinance.

(2) Subject to the general direction and control of the Minister, the Director shall be responsible for the administration of the provisions of this Ordinance-

[§2, Law 46 of 1973.]

(3) Any person appointed under subsection (1) to be or to act as a Deputy Director of Fisheries may, subject to the control of the Director, exercise all or any of the powers conferred on the Director by or under this Ordinance.

(4) All officers appointed under this section shall be deemed to be public servants within the meaning of the Penal Code.

(5) All officers (not below the rank of Preventive Sergeant) appointed under this

section are hereby declared to be peace officers within the meaning and for the purposes of the Code of Criminal Procedure Act.

3. (1) There shall be a Fisheries Advisory Board which shall consist of—

Establishment of Fisheries Advisory Board.

- (a) the Director as chairman ;
- (aa) one or more Deputy Directors of Fisheries appointed by the Minister; [§3, Law 46 of 1973.]
- (b) the persons for the time being holding the offices of Director of Commerce, Commissioner for the Development of Marketing, Master Attendant of the port of Colombo\* and Registrar of Co-operative Societies; [§3, Law 46 of 1973.]
- (c) two officers from the Ministry charged with the subject of Industries appointed by the Minister in charge of that subject; and
- (d) such other unofficial members, not less than ten in number, as the Minister may from time to time appoint.

(2) Any of the officers mentioned in paragraphs (a), (b) and (c) of subsection (1) who is unable to attend any meeting of the board may authorize any other officer of his

\* See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act.

department to be present on his behalf at such meeting; and the officer so authorized shall be deemed for the purposes of the meeting to be a member of the board.

(3) Subject as hereinafter provided, each member of the board who is appointed under subsection (1) (d) shall ordinarily hold office for a period of three years unless he is appointed to be a member of the board for some shorter period :

Provided that any member of the board may at any time resign from the board or be removed therefrom by order of the Minister;

Provided further that an unofficial member of the board appointed under paragraph (d) of subsection (1) shall, if he absents himself from three consecutive meetings of the board without notifying a reasonable excuse to the chairman, cease to be a member of the board.

(4) Regulations may be made providing for the conduct of the business of the board and the procedure to be observed at meetings of the board :

Provided that the board may regulate its own procedure in any matter not provided for by regulation.

Duties, powers and functions of the board.

4. It shall be the duty of the board—

(a) to advise the Director on all such matters relating to fisheries and the fishing industry in Sri Lanka, or to the administration of this Ordinance, as the Director may refer to the board for advice ;

(b) to perform and exercise such duties and powers as may be prescribed or entrusted to it by or under this Ordinance:

Provided, however, that nothing hereinbefore contained shall be deemed to preclude the board from making any recommendation to the Director on any

matter referred to in paragraph (a), notwithstanding that it may not have been referred to the board for advice.

REGISTRATION OF LOCAL FISHING BOATS

\*9. Regulations may be made providing for the registration of local fishing boats used for the purpose of taking fish in Sri Lanka fisheries waters, and of the owners of such boats.

Registration of local Fishing boats.

10. On or after such date as may be prescribed, no person shall use any local fishing boat for the purpose of taking fish in Sri Lanka fisheries waters, unless the boat has been registered under this Ordinance.

Prohibition of use of unregistered local Fishing boats in Sri Lanka fisheries waters.

11. (1) On or after such date as may be prescribed, no person shall, except under the authority of a permit issued in that behalf by a prescribed officer, land at any port or place in Sri Lanka any fish taken outside Sri Lanka fisheries waters unless—

Regulation of landing of fish taken outside Sri Lanka fisheries waters.

(a) such fish was taken by a fishing boat duly registered under this Ordinance; or

(b) such fish was, before being brought to land in Sri Lanka, previously landed at a port or place outside Sri Lanka.

(2) Regulations may be made exempting any specified class or classes of persons from the operation of the provisions of subsection (1).

(3) A prescribed officer may, in such circumstances and upon such grounds as may be prescribed, refuse to issue to any person a permit under this Ordinance to land in Sri Lanka fish taken outside Sri Lanka fisheries waters. An appeal shall lie to the Minister from any such refusal, and the decision of the Minister upon such appeal shall be final.

! Sections 5, 6, 7 and S are repealed by Act No. 59 of 1979.

\* The expression "Sri Lanka fisheries waters" has replaced the expression "Ceylon waters" throughout this Chapter, relying on section 7 of the Fisheries (Regulation of Foreign Fishing Boats) Act, which reserves the exclusive right of fishing for local fishing boats in prescribed areas of Sri Lanka waters.

**PROTECTION OF FISH**

Restriction of exportation of specified fish, eggs, &c.

**12.** (1) No person shall, except under the authority of an export permit issued by the Director in that behalf, export from Sri Lanka any live fish, or the eggs, roe or spawn of any fish, which is of a species for the time being included in the First Schedule\*.

(2) The provisions of the First Schedule\* may from time to time be added to or otherwise amended by regulation.

(3) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

Restriction of importation of non-indigenous fish.

**13.** (1) Subject to the provisions of subsection (2), no person shall, except under the authority of an import permit issued by the Director in that behalf, import into Sri Lanka any live fish or the eggs, roe or spawn of any fish.

(2) No import permit shall be required to authorize the importation into Sri Lanka of any live fish of any species for the time being included in the Second Schedule! or the eggs, roe or spawn of any such fish.

(3) This section shall have effect as though it formed part of the Customs Ordinance, and the provisions of that Ordinance shall apply accordingly.

Prohibition of use of poison, explosives, &c.

**14.** No person shall in Sri Lanka fisheries waters use any poisonous, explosive or stupefying substance for the purpose of poisoning, killing or stupefying any fish.

Prohibition of possession, sale and transport of fish taken by poison, &c. [§2, Law 20 of 1973.]

**15.** No person shall possess, sell, expose for sale or transport, any fish which has been taken by the use of any poisonous, explosive or stupefying substance, whether such fish has been taken in Sri Lanka fisheries waters or outside Sri Lanka fisheries waters;

Provided that it shall be a defence for a person prosecuted for the possession or transport of any fish, to prove that he did

not know, or had no reasonable cause to believe, that such fish had been taken by the use of any poisonous, explosive or stupefying substance.

**16.** No person shall

(a) wilfully damage or destroy any fishing stakes, nets or other fishing equipment belonging to any other person;

(b) manufacture, sell, expose for sale or have in his possession, any instrument serving only or intended to damage or destroy fishing slakes, nets or other fishing equipment.

Prohibitions as to damage to or destruction of fishing equipment.

**17.** (1) Where the Director is satisfied that adequate arrangements have been made by any club or association for the preservation and protection, in any stream or inland water, of any fish of any species for the time being included in the Second Schedule,! the Director may, with the approval of the Minister, by writing under his hand, grant to such club or association the exclusive right to take such fish in such stream or inland water within such limits and for such period and subject to such conditions as the Minister may determine.

Grant of exclusive right to take specified non-indigenous fish.

(2) The provisions of the Second Schedule! may from time to time be added to or otherwise amended by regulation.

(3) Where the exclusive right to take any fish in any stream or inland water is granted to any club or association under subsection (1), such club or association may make rules for the preservation and protection in such stream or inland water, of the fish to which the right relates and for the regulation of the time and manner of taking such fish, and such rules may, without prejudice to the generality of the powers hereinbefore conferred, provide for all or any of the following matters :—

(a) the issue by the club or association of licences authorizing the taking of such fish, the conditions subject to which such licences may be issued,

! First Schedule is not reproduced in this Edition - See List of Enactments omitted from the Revised Edition.

+ Second Schedule is not reproduced in this Edition - See List of Enactments omitted from the Revised Edition.

the fees payable therefor, and the purposes for which such fees shall be applied ;

(b) the prohibition or restriction of the taking of such fish during specified seasons.

(4) No rule made under subsection (3) shall have effect unless it is approved by the Minister and published in the Gazette.

(5) Any exclusive right granted or deemed to be granted under this section may be withdrawn in such manner and in such circumstances as may be prescribed.

Breach of rules under section 17.

**18.** No person shall take any fish in any stream or inland water in contravention of any rules made under section 17 relating to the taking of such fish in such stream or water.

Section 10 not to apply in cases referred to in section 17.

**19.** The provisions of section 10 shall have no application in the case of any person who takes any fish, or of any fishing boat used for the purpose of taking fish, in any stream or inland water, if the exclusive right of taking any fish in such stream or water is granted to any club or association under section 17.

FISHING DISPUTES

Fishing disputes.

**20.** (1) Where any fishing dispute arises or is apprehended, the Minister may, if he considers it expedient so to do, refer the dispute and all matters relating thereto, connected therewith or arising therefrom for public inquiry and report to any person or to a committee of not more than three persons appointed by him for the purpose. Where a committee is so appointed, one of the members nominated by the Minister in that behalf shall be the chairman.

(2) A reference made to any person or committee under subsection (1) shall specify the subject-matter of the fishing dispute to which it relates and shall require that person or committee to hold a public inquiry into and report on not only the subject-matter of that dispute but also all such matters relating to, connected with or arising from that dispute as may be mentioned in any representations that may be made in

accordance with the provisions of this section to that person or committee. The Minister shall publish a copy of the reference in the Gazette, and judicial notice shall be taken by all courts in Sri Lanka of the reference so published.

(3) It shall be the duty of the person or committee to whom a dispute is referred under subsection (1)—

(a) to cause notice to be published in the Gazette—

(i) specifying the subject-matter of the dispute;

(ii) calling upon all persons desiring so to do to make written representations regarding the dispute or any matter relating thereto, connected therewith or arising therefrom, to the office of the Director before such date as may be specified in the notice ; and

(iii) appointing a time and place for the commencement of a public inquiry into the subject-matter of the dispute and any matters relating thereto, connected therewith or arising therefrom ; and

(b) to cause copies of the notice in Sinhala and in Tamil to be posted at the police stations, post offices and other suitable places in the area in which persons interested in the subject-matter of the dispute are believed to reside.

(4) Any person who is affected by a fishing dispute regarding which a notice is published under subsection (3) or by any matter relating to, connected with or arising from such dispute shall be entitled to be present and to make representations relating to such dispute or matter and to tender evidence, whether oral or documentary, in support of his representations at the public inquiry into such dispute.

(5) It shall be lawful for the person or committee holding a public inquiry into a fishing dispute under this section by order to require any person to give evidence at the public inquiry and to produce thereat any such document in his custody or possession as is relevant to the subject-matter of that dispute or to any matter relating to, connected with or arising from that dispute.

(6) The person or committee holding a public inquiry under this section may in his or their discretion require that oral evidence given at the inquiry shall be given on oath.

(7) Any person who fails or refuses to comply with any order made under subsection (5) or who gives false evidence at any public inquiry held under this section shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(8) Regulations may be made providing for the procedure to be followed at public inquiries held under this section. Subject to the provisions of any such regulation, the person or the committee to whom a dispute is referred under subsection (1) may determine the procedure to be followed at the public inquiry.

(9) It shall be the duty of the person or committee to whom a dispute is referred under subsection (1), after considering such representations as may have been made and such evidence as may have been given regarding the subject matter of the dispute and any matters relating thereto, connected therewith or arising therefrom, to prepare a report containing the findings upon the matters inquired into and such recommendations as that person or committee may consider necessary in regard to those matters and the rights, restrictions or prohibitions which should be conferred or imposed with respect to the taking of fish in the waters in relation to which the dispute arose or is apprehended.

Such report shall be read out at the conclusion of the public inquiry or on a

date to which the inquiry shall be adjourned for the purpose, and shall be published in the Gazette.

(10) Any person who is affected by any fishing dispute into which a public inquiry is held under this section or by any matter relating to, connected with or arising from that dispute may, before the expiration of a period of one month from the date of the publication in the Gazette of the report prepared under subsection (9) in relation to that dispute, make representations in writing to the Minister with respect to any matter dealt with in the report.

(11) The Minister, after considering the report published under subsection (9) in respect of any fishing dispute and any representations made to him under subsection (10) with reference to that report, may make regulations regarding the subject-matter of that dispute or any matter relating thereto, connected therewith or arising therefrom, including regulations for the purpose of—

[§ 3. Law 20 of 1973.]

- (a) prohibiting, restricting or regulating the taking of fish in any specified part of Sri Lanka fisheries waters by persons not belonging to any specified group or section of persons; or
- (b) fixing different days or times during which different groups or sections of persons engaged in fishing may take fish in any specified part of Sri Lanka fisheries waters, or
- (c) cancelling the registration of any fishing net and of the owner thereof and registering, in place of such fishing net and owner, any other fishing net and the owner thereof.

(12) Nothing in the preceding provisions of this section shall be deemed or construed to authorize the reference thereunder of any dispute in relation to the subject-matter of which any civil action or other civil proceeding is pending before any court of competent jurisdiction.

(13) Where a fishing dispute has been referred for public inquiry and report under the preceding provisions of this section,

then, notwithstanding anything in any other law, no civil action or other civil proceeding shall in respect of any matter constituting or comprised in the subject-matter of the dispute be instituted or maintained in any civil court at any time before the expiration of a period of three months from the date of the publication in the Gazette of the report prepared under subsection (9) in relation to that dispute.

(14) In this section "fishing dispute" means any dispute, between two or more groups or sections of persons engaged in fishing, in regard to the right to take fish, or to the time or manner of taking fish in any part of Sri Lanka fisheries waters.

Interim Orders in respect of Fishing disputes. [§ 4, Law 20 of 1973.]

**20A.** (1) Where the Minister apprehends that any fishing dispute which has been referred for public inquiry and report under section 20 is likely to result in a breach of the peace, the Minister may, by Order published in the Gazette, make all such provisions in respect of the matters referred to in paragraph (a) or paragraph (b) or paragraph (c) of subsection (11) of that section as he may deem necessary to prevent such breach of the peace.

(2) Any Order made by the Minister under subsection (1) in respect of any fishing dispute shall come into force on the date of its publication in the Gazette and shall cease to be in force on the date of the coming into force of regulations made by the Minister under section 20 in respect of that dispute:

Provided that the Minister may, before the coming into force of such regulations, revoke the said Order by Order published in the Gazette.

[§ 2, Law 7 of 1976.]

POWERS OF OFFICERS. OFFENCES, REGISTRATION OF MORTGAGES, REGULATIONS, &C.

Power of inspection, &c.

**21.** The Director or any prescribed officer, or any person authorized in writing by the Director either generally or specially in that behalf, may—

- (a) go on Board any fishing boat which is for the time being within Sri Lanka fisheries waters and may make such examination of the boat,

the personnel of the crew thereof, the nets and other equipment carried therein and the fish found therein, as may be necessary for the purpose of ascertaining whether any provision of this Ordinance or of any regulation has been contravened ;

- (b) examine any fishing nets, fishing kraals, fishing stakes or other fishing equipment, which may be found in Sri Lanka fisheries waters ;

- (c) enter any premises in which fish is stored, kept or cured for profit, or in which any aquarium is maintained for profit, and examine any fish found therein for the purpose of ascertaining whether any provision of this Ordinance or of any regulation has been contravened.

**22.** (1) Any officer appointed under section 2(1) may, if he has reason to believe that any offence under this Ordinance has been committed, seize and detain any local fishing boat, or any fishing net or stake, or other equipment or instrument or any vehicle used in or in connexion with the commission of the offence, or any fish in respect of which the offence is believed to have been committed.

Power to seize nets, &c. [§5, Law 20 of 1973]

(2) Where any article is seized under subsection (1), the officer by whom the article was seized shall, as soon as possible, produce that article before or make it available for inspection by a Magistrate's Court of competent jurisdiction; and the court shall make such order as it may deem fit relating to the custody of the article pending its disposal under subsection (3).

(3) Where any article is seized under subsection (1) from the possession of any person—

- (a) it shall be returned to that person forthwith upon the expiration of fourteen days after the seizure, unless a prosecution for the alleged offence is instituted before the end of that period ; or

(b) it shall, forthwith after the final determination of the prosecution, be returned to that person or to such other person as is considered by the court to be entitled to its possession unless it is duly declared to be forfeited to the State under subsection (2) of section 30.

used in such waters, that person shall be presumed, until the contrary is proved, to have used such substance for the purpose aforesaid.

(2) Where any poisonous, explosive or stupefying substance, which can be used for the purpose of poisoning, killing or stupefying fish, is found in the possession or control of any person in a fishing boat in Sri Lanka fisheries waters, that person shall be presumed, until the contrary is proved, to have attempted to use such substance for the purpose aforesaid.

Presumption as to the taking of fish.

**23.** (1) For the purpose of this Ordinance it shall be presumed until the contrary is proved

(a) that where any fish is found at any time in any fishing boat at any place in Sri Lanka or in Sri Lanka fisheries waters, such fish ' was taken

(i) by the owner of that boat, if he is in the boat at that time or if no person is found in the boat at that time, or

(ii) by the person for the time being in the boat and in charge thereof, if the owner is not in the boat at that time;

\*(c) that where any fishing boat which has not been registered is at any time within Sri Lanka fisheries waters, any fish found in that boat at that time was taken for profit in Sri Lanka fisheries waters;

(d) that any fish which is not taken for sport, scientific research or for any other prescribed purpose, is taken for profit.

**25.** Where any net, the use of which in any specified part of Sri Lanka fisheries waters is prohibited by any regulation made under this Ordinance, is found in the possession or under the control of any person within a distance of a quarter of a mile from such waters, then, for the purposes of any prosecution for a contravention of that regulation that person shall be presumed, until the contrary is proved, to have used such net in such waters.

Presumption as to use of net in prohibited waters.

**26.** (1) Any person who acts in contravention of any provision of this Ordinance shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Offences and penalties.

(2) Any person who acts in contravention of any provision of any regulation or of any Order made under section 20A or of any condition lawfully inserted in any fishing licence or permit granted under this Ordinance, shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees.

[§ 7, Law 20 of 1973.]

[§ 6, Law 20 of 1973.]

(2) In any prosecution for a contravention of any of the provisions of section 14 in respect of any fish, it shall be presumed, until the contrary is proved, that such fish was taken in Sri Lanka fisheries waters.

Presumptions as to use of poison, &c.

**24.** (1) Where any poisonous, explosive or stupefying substance, which can be used for the purpose of poisoning, killing or stupefying fish, is found in the possession or control of any person in the neighbourhood of any Sri Lanka fisheries waters, shortly after such substance is proved to have been

(3) A person who acts in contravention of any provision of any regulation or of any Order made under section 20A shall, in addition to any other penalty which may be imposed under subsection (2), be liable to a fine of one hundred rupees for each day during which the contravention is continued after conviction thereof.

[§ 7, Law 20 of 1973]

• Paragraph (b) is repealed by Act No. 59 of 1979.

(4) Any person who attempts or conspires to commit any offence under this Ordinance shall be deemed to be guilty of that offence.

Special penalties for certain offences. [§ 8, Law 20 of 1973.]

27. (1) Any person who acts in contravention of any of the provisions of section 14 or section 15 shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than two thousand five hundred rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment or on a second or subsequent conviction to a fine not less than three thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(2) Any officer appointed under section 2 (1) who shall—

- (a) be guilty of cowardice, or
- (b) wilfully fail in his duty to report any offence against this Ordinance, or
- (c) connive at the commission of any offence against this Ordinance,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred rupees.

(3) The preceding provisions of this section shall have effect notwithstanding anything in section 26.

Offence under section 14 to be non-bailable.

28. Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act, an offence under section 14 of this Ordinance shall be a non-bailable offence within the meaning and for the purposes of that Act.

Offences to be cognizable.

29. Notwithstanding anything in the First Schedule to the Code of Criminal Procedure Act, every offence under this Ordinance shall be a cognizable offence within the meaning of that Act.

Cancellation of licences and permits. forfeiture of boats, fish, &c.

30. (1) Where the holder of a fishing licence or of a permit granted or issued under this Ordinance is convicted by a Magistrate of any offence under this

Ordinance, the Magistrate may make order cancelling the licence or permit.

(2) The Magistrate may, on the conviction of any person of any offence under this Ordinance, make order declaring that any fishing boat, or any fishing net or stake, or other equipment or instrument or any vehicle used in or in connexion with the commission of the offence, or any fish in respect of which the offence was committed shall be forfeited to the State :

[§ 9, Law 20 of 1973.]

Provided that in the case of a conviction of an offence under section 14 or section 15, the Magistrate shall make order as aforesaid unless it is proved that the fishing boat, fishing net or stake, or other equipment or instrument or vehicle belongs to a person other than the person convicted and that the owner thereof had no knowledge that it would be used in or in connexion with the commission of the offence.

31. Where any offence under this Ordinance is committed by any person in any part of the sea which is within Sri Lanka fisheries waters, the Magistrate's Court having jurisdiction—

Jurisdiction over offences committed at sea.

- (a) over that part of the coast nearest to the place at which the offence was committed ; or
- (b) over the place at which the person comes ashore after the commission of the offence,

shall have jurisdiction to try the offence.

32. No action shall lie against the Government of Sri Lanka or against any officer appointed under section 2 (1) for damages in any civil court for any act bona fide done or ordered to be done in pursuance of this Ordinance; and no prosecution of any such officer and no action which may be lawfully brought against any such officer, in respect of anything done in pursuance of this Ordinance, shall be entertained by any court unless it is instituted within six months from the date of the act complained of.

Bar of actions.

32A. (1) Every instrument creating a mortgage of a fishing boat (hereinafter referred to as an " instrument of mortgage ") whether executed before, on or after the

Registration of instruments of mortgage. [§3, Law 7 of 1976.]

relevant date, shall be presented to the Director for registration.

(2) Each instrument of mortgage shall, in the order in which it is presented, be registered by the Director in the prescribed manner—

- (a) in the case of a mortgage of a fishing boat registered prior to the relevant date, in the prescribed register of mortgages; and
- (b) in the case of a mortgage of a fishing boat registered on or after the relevant date, in the prescribed register of fishing boats.

**32B.** Where there are more instruments of mortgage than one registered in respect of the same fishing boat, such instruments shall be entitled to priority one over the other, according to the date on which each instrument is registered and not according to the date of the execution of each instrument:

Provided that fraud or collusion in securing the prior registration of any instrument of mortgage shall defeat the priority of the person claiming thereunder.

**32C.** Notwithstanding anything in any other law, where an instrument of mortgage of a fishing boat is registered under section 32A any sale or other disposition of the fishing boat by or against the mortgagor shall not, so long as the mortgage continues in force, extinguish or be deemed to extinguish the mortgage of the fishing boat which shall remain subject to the mortgage in the hands of the transferee or other person in whose favour such disposition is effected.

**32D.** Where a registered mortgage of a fishing boat is discharged the Director shall, on production of the instrument of mortgage with a receipt for the payment of the mortgage money endorsed thereon, duly signed and attested, make an entry in the register in which the mortgage is registered to the effect that the mortgage has been discharged.

**32E.** A registered mortgage of a fishing boat shall not be affected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the mortgagor at the commencement of his

bankruptcy had the fishing boat in his possession, order or disposition or was reputed owner thereof; and the mortgage shall be preferred to the right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

**32F.** (1) A registered mortgage of a fishing boat may be transferred to any person and the instrument effecting the transfer (hereinafter referred to as an "instrument of transfer") shall be in the prescribed form. Every instrument of transfer whether executed before, on or after the relevant date shall be presented to the Director for registration.

(2) Every instrument of transfer shall be registered by the Director in the prescribed manner in the register in which the mortgage is registered,

(3) The person to whom any such mortgage has been transferred shall enjoy the same priority as was enjoyed by the transferor.

**32G.** (1) Where the interest of a mortgagee in a fishing boat is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, the person to whom the interest is transmitted shall—

- (a) make a declaration to the Director stating his name and the manner in which the property has been transmitted ; and
- (b) produce to the satisfaction of the Director evidence of the transmission of the interest of the mortgagee in the fishing boat.

(2) The Director shall, on receipt of the declaration and on production of the evidence referred to in subsection (1) enter in the register in which the mortgage is registered the name of the person entitled under the transmission as mortgagee of the fishing boat.

(3) The person to whom the interest of a mortgagee is transmitted by bankruptcy, death or by any lawful means, other than by a transfer under section 32F, shall enjoy the same priority as was enjoyed by such mortgagee.

Transfer of mortgages and Registration. [§ 3, Law 7 of 1976.]

Transmission of interest in mortgage on bankruptcy, &c. [§ 3, Law 7 of 1976.]

Priority of instruments of mortgage. [§ 3, Law 7 of 1976.]

Registered mortgage of fishing boat to subsist notwithstanding sales. &c., to third parties. [§ 3, Law 7 of 1976.]

Entry of discharge of mortgage. [§ 3, Law 7 of 1976.]

Mortgage not affected by bankruptcy- [§ 3, Law 7 of 1976.]

Searches and copies. [§ 3. Law 7 of 1976]

**32H.** All registers, books and documents kept under this Ordinance may be searched and examined by any person claiming to be interested therein or by his attorney-at-law or agent duly authorized thereto in writing, and certified copies or extracts from any such register, book or document may be obtained from the Director if required.

of different classes of boats or boats used for different purposes or in different areas), and the marking of registered boats and of the fishing nets and other fishing equipment carried therein;

Evidence. [§ 3. Law 7 of 1976.]

**32J.** A copy or extract purporting to be certified under the hand of the Director to be a true copy of or extract from any register, book or document kept pursuant to this Ordinance shall be admissible in evidence without proof of the signature or appointment of the Director, and shall be prima facie evidence of the contents of such register, book or document for all purposes and in all proceedings, civil or criminal.

(dd) all matters relating to mortgages of fishing boats and the registration of mortgages, discharge of mortgages, transfer of mortgages and the transmission of the interest of mortgages, including the fees to be paid for registration, the form of registers to be, used for registration and the manner in which registration is to be made; [§ 4. Law 7 of 1976.]

Other written law not to apply. [§ 3, Law 7 of 1976.]

**32K.** The provisions of any written law, other than this Ordinance, requiring the registration under that law of any instrument creating the mortgage of movable property shall not apply to an instrument of mortgage.

\*(h) the issue of export and import permits, the fees payable therefor, the conditions to be attached thereto, and the circumstances in which or the grounds upon which such permits may be refused ;

Regulations.

**33.** (1) The Minister may make regulations for the regulation and control of the fishing industry, for the protection of fish in Sri Lanka fisheries waters, and generally for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(i) the prohibition or restriction of the taking of fish during any specified period, and the establishment of close seasons;

(j) the prohibition of the use of any specified equipment, device or substance for the purpose of, or in connexion with, the taking of fish, and the regulation of the time and manner of taking fish;

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations for or in respect of all or any of the following matters:—

(k) the registration of fishing nets or other specified fishing equipment used in Sri Lanka fisheries waters or any part of such waters and of the owners thereof, including the circumstances in which such registration may be refused, the officers and servants by whom such nets or other specified fishing equipment shall be registered, the fees payable for such registration (including different fees in respect of different kinds of nets or other specified fishing equipment or of nets or other equipment used for different purposes or in different areas), and the marking of registered fishing nets or other registered fishing equipment;

(a) all matters stated or required in this Ordinance to be prescribed or for which regulations are authorized or required to be made under this Ordinance;

\*(b) the registration of local fishing boats used in Sri Lanka fisheries waters and of the owners thereof, including the officers or persons by whom such boats shall be registered, the fees payable for such registration (including different fees in respect

• Paragraphs (b), (c), (e), (f) and (g) are repealed by Act No. 59 of 1979.

- (l) the regulation of the kind of fishing nets or other fishing equipment to be used, and the prohibition or restriction of the possession or use of fishing nets or other fishing equipment of any specified description, for the purpose of taking fish in Sri Lanka fisheries waters or any part thereof, and where such regulation or restriction is by means of licences, the charging of fees for such licences;
- (m) the regulation of the exercise of the powers conferred by section 21;
- (n) the prohibition, regulation or control of the erection and use of fishing stakes, fish kraals, stake-nets and other such appliances for taking fish;
- (o) the charging of fees in respect of fishing and of the use of fish kraals in Sri Lanka fisheries waters, and the disposal of such fees;
- (p) the prohibition or restriction of the taking or sale of fish of a smaller size than such size as may be prescribed ;
- (q) the returns and information to be furnished by persons who take fish for profit in Sri Lanka fisheries waters;
- (r) the detention and disposal of any fish, or of any boats, nets, instruments or other equipment or any vehicle declared to be forfeited to the State under this Ordinance;
- (s) all matters incidental to or connected with the matters specifically referred to in this subsection.

(3) Any regulation made for or in respect of any of the matters referred to in paragraphs (i) to (p) of subsection (2) may be limited in application to fish of any specified class or description, or in operation to any specified part of Sri Lanka fisheries waters or to the waters in any specified place or area in Sri Lanka.

(4) No regulation made by the Minister shall have effect until it has been approved by Parliament and notification of such approval is published in the Gazette. Every regulation shall upon notification of such approval be as valid and effectual as if it were herein enacted.

**34.** (1) A fund to be called the Fisheries Reward Fund (hereinafter referred to as the "fund") is hereby established. Fisheries Reward fund

(2) There shall be paid into the fund all fines recovered under this Ordinance and all sums of money realized by the disposal of articles forfeited under this Ordinance.

(3) The Director may, in his discretion, pay a reward to any officer appointed under section 2 (1) or informer out of the moneys in the fund :

Provided, however, that no such reward shall exceed fifty rupees unless the Director has obtained the approval of the Secretary to the Ministry charged with the subject of Fisheries (hereinafter referred to as "the Secretary").

(4) Where any witness incurs travelling expenses in attending court for the purpose of giving evidence at any trial in respect of an offence under this Ordinance which are not payable to him under any other law, the Director may pay to such witness out of the moneys in the fund such amount as may be determined by him to cover the cost of the expenses properly so incurred :

Provided that no such payment shall exceed fifty rupees unless the Director has obtained the approval of the Secretary.

(5) The Director shall be responsible for the administration of the fund and accounts of the fund shall be audited annually by the Auditor-General.

**35.** In this Ordinance, unless the context otherwise requires— Interpretation.

"appointed date" means the 1st day of June, 1941;

"board " means the Fisheries Advisory Board established under section 3 ;

"Director" means the Director of Fisheries appointed under section 2;

"fish" means any variety of marine, fluviomarine or fresh-water fishes, *Crustacea* or *mollusca*, and includes every aquatic animal which derives its sustenance wholly or mainly in water, but does not include—

- (a) chanks,
- (b) pearl oysters within the meaning of the Pearl Fisheries Ordinance ;
- (c) whales to which the Whaling Ordinance applies; or
- (d) any reptile for the time being included in Schedule I to the Fauna and Flora Protection Ordinance ;

" fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed for the purpose of taking fish;

" for profit ", when used with reference to the taking of any fish, means the taking of such fish for the purpose of trade or sale ;

" inland or internal waters" means any part of Sri Lanka fisheries waters other than the territorial sea of Sri Lanka;

[§27, 59 of 1979.]

" local fishing boat" has the same meaning as in the Fisheries (Regulation of Foreign Fishing Boats) Act;

" prescribed " means prescribed by regulation;

" registered " means registered under this Ordinance ;

" regulation " means a regulation made by the Minister under this Ordinance;

[§ 5, Law 7 of 1976.]

" relevant date" means such date as may be fixed for the purposes of this Ordinance by the Minister by order published in the Gazette ;

"Sri Lanka fisheries waters " means such areas of Sri Lanka waters as may be prescribed by the Minister under section 7 of the Fisheries (Regulation of Foreign Fishing Boats) Act;

[§ 7, 59 of 1979.]

" take ", with its grammatical variations and cognate expressions, when used with reference to any fish, includes the killing, capture or destruction of such fish.

SAVINGS OF OTHER WRITTEN LAW

36. Notwithstanding the repeal of the Game Protection Ordinance, 1909, \*—

Savings for concessions, regulations, &c., under Game Protection Ordinance, 1909.

(a) any exclusive right of taking any fish in any stream or inland water heretofore conceded to any club or association under that Ordinance may continue to be exercised in like manner as if such right was granted to that club or association under section 17 of this Ordinance, and all rules made by such club or association and in force at the appointed date, shall continue in force in like manner as if they were made under this Ordinance, and may be amended, varied or rescinded by rules made by that club or association and duly approved by the Minister under the said section ;

(b) all regulations made under that Ordinance and in force at the appointed date, shall continue in force in like manner as if they were made under this Ordinance, and may be amended, varied, or rescinded by regulations made under section 33 ;

(c) every notification, establishing a close season in respect of any fish, made under that Ordinance and in force at the appointed date, shall continue in force in like manner as if it were a regulation made under this Ordinance, and may be amended, varied or rescinded by regulation.

## ***FISHERIES***

**[Cap. 240**

Application of Ordinance, **37.** (1) Nothing in this Ordinance shall apply to the taking of fish in any Strict Natural Reserve or National Park within the meaning of the Fauna and Flora Protection Ordinance,

(2) The provisions of this Ordinance shall be in addition to and not in substitution of provision of the Forest Ordinance or of any rule made thereunder relating to the taking of fish or to the manner of the taking of fish in Sri Lanka fisheries waters