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Pearl Fisheries Ordinance

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CHAPTER 214

PEARL FISHERIES

Ordinances
Nos. 2 of 1925,
3 of 1946.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
RELATING TO THE PEARL FISHERIES OF CEYLON.

[12th February, 1925.]

PART I

PRELIMINARY

- Short title.** 1. This Ordinance may be cited as the Pearl Fisheries Ordinance.
- Interpretation.** 2. In this Ordinance, unless the context otherwise requires—
- “inspector of pearl banks” means the person appointed^s to act as such;
 - “pearl bank” means the areas from time to time specified in the First Schedule and includes the bed of any pearl bank. The said Schedule may from time to time be altered by regulation;
 - “pearl fishery guard” means all customs officers, police officers, peace officers, the camp superintendent, the inspector of pearl banks, and every person appointed by the camp superintendent, or the inspector of pearl banks, to act as a pearl fishery guard;
 - “pearl oyster” means pearl-bearing oysters of all descriptions, and includes the mollusc commonly called the “window pane oyster” or “the Tampalakam pearl oyster”, and scientifically known as *Placuna Placenta*, as well as any other pearl-producing molluscs which may be introduced, or laid down, off the coasts of Ceylon, or in the bays or inland waters of Ceylon;

"regulation" means a regulation made by the Minister and published in the Gazette;

"vessel" includes ships, boats, rafts, canoes, and vessels of every description.

3. The exclusive right of fishing for and taking pearl oysters off the coasts of Ceylon and in all bays and inland waters of Ceylon is vested in the Crown.

Exclusive right of Crown in pearl fisheries.

PART II

REGULATION OF PEARL FISHERIES

4. (1) No person shall fish, or dive for, or collect, pearl oysters on, or from any pearl bank, or use a vessel for any such purpose, unless he holds a licence in this Ordinance referred to as a pearl fishery licence) authorizing him so to do.

Prohibition of fishing for pearls without a licence.

(2) A pearl fishery licence shall be issued in the discretion of and by a Government Agent authorized to issue such licences, and shall be in the appropriate form in the Second Schedule. The said Second Schedule may be altered by regulation.

(3) Any penalty imposed by a pearl fishery licence may be recovered on summary conviction before a Magistrate as well as by any means provided by the licence.

(4) Every person, to whom a pearl fishery licence is issued under this section, shall produce it on the demand of and for the perusal by any pearl fishery guard, and shall observe the terms and conditions contained in the licence.

(5) A licence to collect pearl oysters issued by any Government Agent before the commencement of this Ordinance shall be deemed to be a pearl fishery licence issued under this Ordinance.

(6) All pearl oysters or pearls collected otherwise than under the authority of and in accordance with the terms and conditions contained in a duly issued pearl fishery licence are the property of the Crown.

Power to prohibit and regulate fishing for pearls.

5. Regulations may be made regulating the fishing or diving for or collection of pearl oysters under a pearl fishery licence and the use of vessels for such purposes and the forms of and the fees to be charged for pearl fishery licences, and generally for the protection, management, control, development, and improvement of the pearl fisheries off the coasts of Ceylon or in any bay or inland water of Ceylon.

Restriction on fishing on pearl banks.

6. (1) No person shall on any pearl bank use or have in his possession, power, or control for use on such bank any net, dredge, or fishing line, or fishing tackle.

(2) Nothing in this section shall apply to any dredge, net, fishing line, or fishing tackle, the use of which is for the time being permitted by regulation.

Anchoring on a pearl bank.

7. Unless permitted by regulation, no person shall anchor any vessel on a pearl bank except when collecting pearl oysters under the authority of a pearl fishery licence or compelled to do so by necessity.

Unlawful possession of pearls or pearl oysters.

8. If any pearls or pearl oysters are found in the possession, power, or control of any person on a pearl bank, or proceeding from a pearl bank to the shore, or disembarking or immediately after having disembarked, on coming from a pearl bank, and there appears to the Magistrate to be prima facie evidence that the pearls or pearl oysters were obtained in contravention of the provisions of this Ordinance, then such pearls or pearl oysters shall be forfeited to the Crown * unless satisfactory evidence is given that they were lawfully obtained, and that person shall be guilty of an offence unless satisfactory evidence is given that he was not personally concerned in the unlawful obtaining thereof and that they were not dishonestly retained in his possession, power, or control with the knowledge that they had been unlawfully obtained.

Seizure and forfeiture of poaching vessels.

9. (1) If any vessel is found on a pearl bank anchoring or hovering and not proceeding to her proper destination as wind and weather permit, or is found on or near a pearl bank in circumstances giving

... to reasonable suspicion that she is being or has been used for the unlawful collection of pearl oysters, by a pearl fishery guard specially authorized by a Government Agent, Assistant Government Agent, or an inspector of pearl banks to act for the purposes of this section may enter, seize, and search such vessel, and convey the same to some convenient place in Ceylon for adjudication.

2) As soon as may be after the arrival of a vessel seized under this section proceedings shall be commenced before a Magistrate against the person appearing to be in charge of the vessel and the owner thereof, if known and in Ceylon, alleging that the vessel has been used for the unlawful collection of pearl oysters, and in such proceedings, unless satisfactory evidence is given that the vessel had not been used for the unlawful collection of pearl oysters, the Magistrate may declare that the vessel and her gear shall be forfeited to the Crown, unless a fine not exceeding one thousand rupees is paid within a time specified in the order, and shall also declare all offences found in the vessel and appearing to be committed for the collection of pearl oysters and any pearl oysters or pearls found in the vessel to be forfeited to the Crown.

3) If such proceedings are not commenced within one month from the arrival of the vessel, then, unless the delay is accounted for to the satisfaction of the Magistrate, the Magistrate shall, on the application of the owner of the vessel or of the person in charge, order the vessel to be released.

If any person contravenes or attempts to contravene or abets the contravention of any provision of this Part or any regulation made thereunder, he shall be guilty of an offence against this Ordinance, and shall, on conviction by a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penalty for offences under Part II.

PART III

PEARL FISHERY CAMPS

Power to declare a pearl fishery camp.

11. (1) The Minister¹ may from time to time by notification in the Gazette declare that a pearl fishery shall be held on any pearl bank between the dates specified therein, and may by the same or other similar notification declare any place to be a pearl fishery camp for the purposes of the pearl fishery, and may appoint any person to be camp superintendent thereof. A notification under this section may be amended from time to time.

(2) A place declared to be a pearl fishery camp shall be deemed to be a pearl fishery camp within the meaning of this Ordinance for one month before the commencement of, during the continuance of, and for one month after the termination of the fishery for which the camp is established.

Prevention of offences under Chapter VII of Criminal Procedure Code.

12. (1) In any inquiry under section 87 of Chapter VII of the Criminal Procedure Code (which relates to security for keeping the peace or for good behaviour), as respects any person found in or attempting or proposing to enter a pearl fishery camp, the evidence of any member of the police force of the country to which that person belongs, or from which that person has come, that that person is an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property knowing the same to have been stolen, or is an habitual aider in the concealment or disposal of stolen property, or that he is a dangerous character by reason of his having been convicted of a crime of violence, shall be sufficient prima facie evidence of the fact and shall be admissible in evidence if it appears to the Magistrate in all the circumstances of the case and after hearing any evidence given by or on behalf of the person charged to be true, and if the Magistrate is satisfied that in the circumstances it is impracticable to obtain direct evidence as to the fact without an amount of delay or expense which in the circumstances appears to the Magistrate to be unreasonable.

This subsection applies only where the holding of the inquiry has been approved in writing by the camp superintendent.

(2) When any person found in or attempting or proposing to enter a pearl fishery camp and ordered to give security under Chapter VII of the Criminal Procedure Code, does not give such security on or before the date on which the period for which such security is to be given commences, the court may, if it thinks fit, order that that person shall, instead of being committed to prison, refrain from entering or be removed from the camp, and pending and during removal be kept in the custody of the police.

(3) If any person with respect to whom such an order is made subsequently enters the pearl fishery camp, he shall, on conviction by a Magistrate, be liable to imprisonment of either description for any period not exceeding six months.

13. (1) No person shall, without the permit of the camp superintendent, bring into a pearl fishery camp, or into the vicinity of a pearl fishery camp with a view to its being brought into the camp, or have in his possession in a pearl fishery camp, any artificial or cultured pearl or any pearl not being a pearl the product of a pearl oyster lawfully taken from a pearl bank at and during the continuance of the pearl fishery for which the camp is established.

Prohibition of the import of pearls into a camp.

(2) For the purposes of enforcing the provisions of this section every pearl fishery guard specially authorized in writing thereto by the camp superintendent shall have all the powers of search, seizure, and detention possessed by customs officers for the prevention and detection of smuggling.

(3) All pearls seized under the foregoing power or otherwise coming into the hands of a pearl fishery guard and suspected to have been dealt with in contravention of the provisions of this section shall, as soon as possible, be brought before a Magistrate, who, if an offence has been committed in respect of the pearls, may, in his discretion, either in addition to or without inflicting any other punishment, declare them to be forfeited to the Crown,^a or he may order them to be retained until the end of the pearl fishery or until the owner leaves the camp.

Power to make regulations for administration of a pearl fishery camp.

14. Regulations may be made for preserving order, preventing the theft of pearls, accidents, fire, and disease, and regulating food prices within a pearl fishery camp, and as to any other matter or thing whatsoever, whether similar to those before enumerated or not, which the Minister¹ considers necessary or convenient for the proper administration of a pearl fishery camp.

Restriction on rotting pearl oysters in urban area.

15. No person shall bring any pearl oyster to any place within the administrative limits of any Municipality, Urban Council, or Town Council, or transport, store, allow to rot, or otherwise treat any pearl oyster within such limits unless permitted so to do by, and in accordance with, such conditions (including the payment of fees) and directions as may be given by the Mayor of the Municipality, or Chairman of the Council concerned.

Penalty for offences under Part III.

16. Any person who contravenes or attempts to contravene or abets the contravention of any provision of this Part or any regulation made thereunder shall be guilty of an offence against this Ordinance, and, on conviction by a Magistrate, shall be liable to a fine not exceeding one hundred rupees.

PART IV

SUPPLEMENTARY

Offences to be cognizable and bailable.

17. For the purposes of the Criminal Procedure Code, every offence against this Ordinance shall be deemed to be cognizable and bailable.

Saving of powers of customs officers.

18. Nothing in this Ordinance shall affect any power conferred on customs officers by the Customs Ordinance.

19. Any pearls and pearl oysters appearing to be liable to forfeiture under this Ordinance may be seized by any pearl fishery guard and, when seized, shall be conveyed to the nearest police station and there detained until the court having jurisdiction in the matter has determined how the same are to be dealt with.

Power to seize articles liable to forfeiture.

20. All regulations shall, as soon as conveniently may be, be laid before the Senate and the House of Representatives,¹ and may, at any of the next following three meetings be rescinded by resolution of the Senate or the House of Representatives,¹ but without prejudice to anything already done thereunder, and if not so rescinded shall be deemed to be valid.

Regulations to be laid before Senate and the House of Representatives.

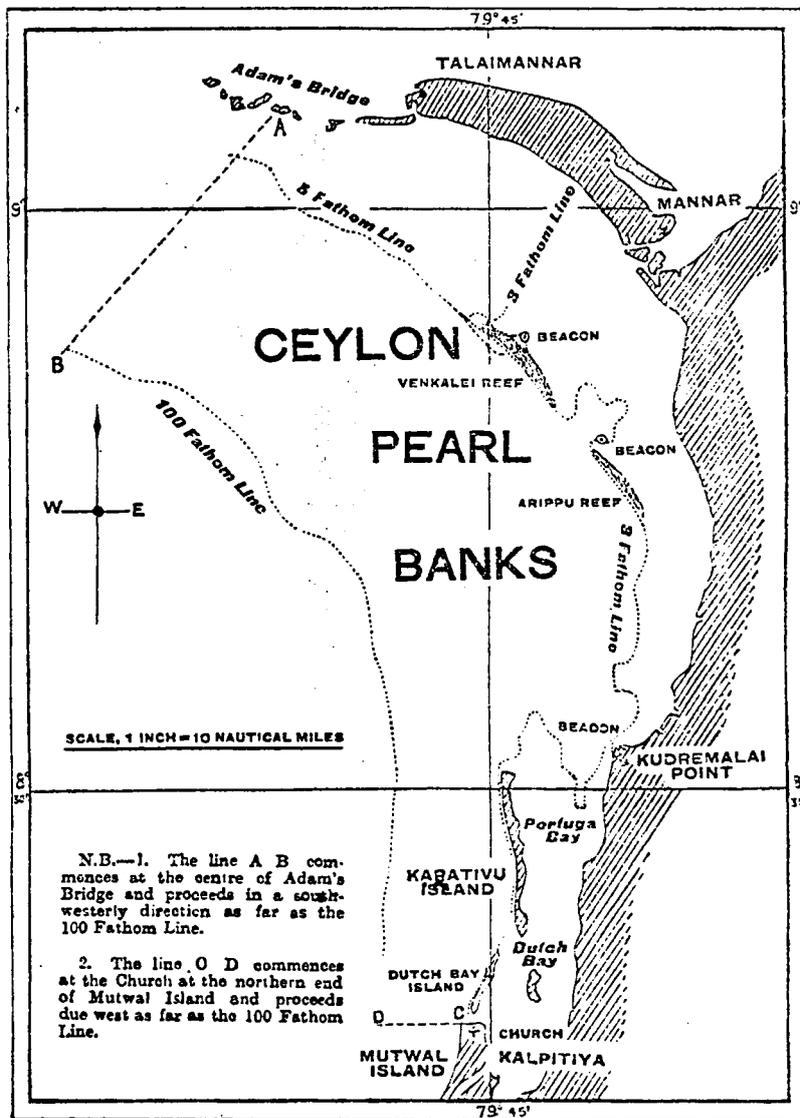
FIRST SCHEDULE

[Section 2.]

PART I

All that area of water enclosed on the plan delineated below by a dotted line in part marked "100 fathom line", in part marked "3 fathom line", in part marked "5 fathom line", in part marked "A B", and in part marked "D C".

Plan above referred to:—



[Section 4.]

SECOND SCHEDULE

Forms of Pearl Fishery Licences

THE PEARL FISHERIES ORDINANCE

LICENCE TO USE A BOAT FOR COLLECTING PEARL OYSTERS

(Not transferable.)

Under the above-mentioned Ordinance, _____ (*name of licensee*) of boat No. _____ is hereby licensed to use the said boat for collecting pearl oysters.

The maximum number of persons to be carried in the boat shall not exceed _____.

This licence to remain in force until _____.

Government Agent's Office,
_____, Ceylon,
_____, 19____.

_____,
Government Agent.

Note.—This licence is issued subject to the conditions inscribed on the back hereof.

Conditions referred to

1. On the issue of this licence the licensee shall deposit with the Government Agent, _____ District, the sum of one hundred rupees as security for carrying out the conditions of this licence, and shall pay a fee equivalent to five rupees per ton or part of a ton on the registered tonnage of his boat for the issue of the licence, but so that the maximum fee shall be one hundred and twenty-five rupees.

2. The licensee and his tindal shall obey all orders received from officers in charge of Government vessels in regard to towage and in regard to taking up a proper position for being taken in tow, and shall facilitate the work of such officers in every way possible. The tindal and each member of the boat's crew shall wear an armlet or badge to be provided by the Government Agent and returned to him at the expiration of the licence.

3. If instructions are received that the boat shall be towed, it shall not be sailed or rowed or paddled instead of being towed.

4. The fishery number placed by orders of the Government Agent on the boat shall not be defaced or concealed from view, and shall always be kept in a legible state.

5. Fishing shall not take place beyond the lines of flag buoys put down on the orders of the inspector of pearl banks to mark the limits of the fishing ground, and fishing shall take place only where white flag buoys shall have been laid down to indicate the centres round which fishing shall take place.

6. Should the licensee or his tindal or both the licensee and his tindal be declared by the Government Agent, or by the inspector of pearl banks, or by the *koddu* superintendent to have infringed or broken any of these conditions, the licensee shall pay such sum of money by way of a penalty as the Government Agent or the *koddu* superintendent shall deem adequate and authorize. For the first infringement or breach of any condition the penalty shall not exceed thirty rupees, or, in lieu of such penalty, the boat may be suspended from

fishing for two days; for a second or subsequent infringement or breach of any condition the penalty shall not exceed fifty rupees, or, in lieu of such penalty, the boat may be suspended from fishing for such time as the Government Agent may consider fitting. Any of the said sums may be deducted from the deposit made by the licensee, or may be recovered by due process of law.

I, _____, hereby accept the licence on the above conditions and hereby agree to perform and observe the same.

At _____, _____, 19____.

Signature of the Licensee.

THE PEARL FISHERIES ORDINANCE

For Arab Divers.

LICENCE TO DIVE FOR PEARL OYSTERS

(Not transferable.)

Under the above-mentioned Ordinance, _____ (name of licensee) of boat No. _____ is hereby licensed to dive from the said boat for pearl oysters.

This licence to remain in force until _____.

Government Agent's Office,
_____, Ceylon,
_____, 19____.

Government Agent.

Note.—This licence is issued subject to the conditions inscribed on the back hereof.

Conditions referred to

1. On the issue of this licence the licensee will be required to deposit with the Government Agent, _____ District, the sum of fifteen rupees as security for carrying out the conditions of this licence.
2. The licensee shall wear conspicuously a numbered badge during the continuance of the fishery, and shall produce it whenever required by any public officer.
3. The licensee shall not carry any knife or cutting instrument in the boat in which he is engaged, and shall be subject to be searched at any time whilst in the boat or in the *addas* by any public officer.
4. The licensee shall not cut open any oyster fished, but shall deliver the whole catch intact to the officer of the Ceylon Government appointed to receive it.
5. The licensee shall not commence diving till the signal to commence fishing is given from the mark vessel by the hoisting of the fishing flag and the blowing of the whistle. He shall not dive anywhere except in the area marked by buoys directed by the inspector of pearl banks. He shall cease diving immediately the signal to cease fishing is given by the hauling down of the fishing flag and the blowing of the whistle.

6. The licensee shall collect and place in bags supplied to him by the Government of Ceylon all the oysters fished by him, and shall permit any officer acting under the orders of the inspector of pearl banks to close and seal each or any bag as soon as it is full or immediately upon the signal to cease fishing being given.

7. The licensee shall obey all orders for the good conduct of the fishery issued by the Government Agent, the inspector of pearl banks, or by the *koddu* superintendent.

8. All the divers working in each boat shall, on landing, bring their catches directly into the *koddu* and deposit them in the compartment of the *koddu* allotted by the *koddu* superintendent. The catches shall be divided by them into heaps of three. One-third share shall be selected by the *koddu* superintendent or his representative and shall be given back to the divers. The other two-thirds shall be retained by the *koddu* superintendent on behalf of the Crown. Failure on the part of the divers to comply with this rule will entail forfeiture of licences to dive, but each diver's deposit or the balance of his deposit shall be returned to him.

9. Should the licensee be declared by the Government Agent, or by the inspector of pearl banks, or by the *koddu* superintendent to have infringed or broken any of the said conditions, the licensee shall pay such sum of money by way of penalty as the Government Agent or the *koddu* superintendent shall deem adequate and authorize. For the first infringement or breach of any condition, the penalty shall not exceed five rupees; for the second infringement or breach of any condition, the penalty shall not exceed ten rupees; and for the third or any subsequent infringement or breach of any condition, it shall be lawful for the Government Agent, in addition to imposing a fine of ten rupees, to confiscate the one-third share of oysters earned by the licensee for that day, or to cancel his licence to dive. Any of the said sums may be deducted from the deposit made by the licensee.

I, _____, hereby accept the licence on the above conditions, and hereby agree to perform and observe the same.

At _____, _____, 19_____.

Signature of Licensee.

THE PEARL FISHERIES ORDINANCE

For Non-Arab Divers.

LICENCE TO DIVE FOR PEARL OYSTERS

(Not transferable.)

Under the above-mentioned Ordinance, _____ (name of licensee) of boat No. _____ is hereby licensed to dive from the said boat for pearl oysters.

This licence to remain in force until _____.

Government Agent's Office,
_____, Ceylon,
_____, 19_____.

Government Agent.

Conditions referred to

1. The licensee shall wear conspicuously a numbered badge during the continuance of the fishery, and shall produce it whenever required by any public officer.

2. The licensee shall not carry any knife or cutting instrument in the boat in which he is engaged, and shall be subject to be searched at any time whilst in the boat or in the *koddus* by any public officer.

3. The licensee shall not cut open any oyster fished, but shall deliver the whole catch intact to the officers of the Ceylon Government appointed to receive it.

4. The licensee shall not commence diving till the signal to commence fishing is given from the mark vessel by the hoisting of the fishing flag and the blowing of the whistle. He shall not dive anywhere except in the area marked by buoys directed by the inspector of pearl banks. He shall cease diving immediately the signal to cease fishing is given by the hauling down of the fishing flag and the blowing of the whistle.

5. The licensee shall collect and place in bags supplied to him by the Government of Ceylon all the oysters fished by him, and shall permit any officer acting under the orders of the inspector of pearl banks to close and seal each or any bag when as it is full or immediately upon the signal to cease diving being given.

6. The licensee shall obey all orders for the good conduct of the fishery issued by the Government Agent, the inspector of pearl banks, or by the *koddu* superintendent.

7. All the divers working in each boat shall on landing bring their catches directly into the *koddu* and deposit them in the department of the *koddu* allotted by the *koddu* superintendent. The catches shall be divided by them into heaps of three. One-third share shall be selected by the *koddu* superintendent or his representative and shall be given back to the divers. The other two-thirds shall be retained by the *koddu* superintendent on behalf of the Crown. Failure on the part of the divers to comply with this rule will entail forfeiture of licences to dive.

Should the licensee be declared by the Government Agent, or by the inspector of pearl banks, or by the *koddu* superintendent to have infringed or broken any of the said conditions, the licensee shall pay such sum of money by way of penalty as the Government Agent or the *koddu* superintendent shall deem adequate and authorize. For the first infringement or breach of any condition, the penalty shall not exceed five rupees; for the second infringement or breach of any condition, the penalty shall not exceed ten rupees; for a third or any subsequent infringement or breach of any condition, it shall be lawful for the Government Agent, in addition to imposing a fine of ten rupees, to confiscate the third share of oysters earned by the licensee for that day and to cancel his licence to dive.

_____, hereby accept the licence on the above conditions and hereby agree to perform and observe the same.

_____, _____, 19____.

_____,
Signature of Licensee.