

FRESHWATER FISHERIES LAW

The State Law and Order Restoration Council

Freshwater Fisheries Law

(The State Law and Order Restoration Council Law

No. 1/91)

The 5th Waning Day of Tabaung 1352 M.E

(4th March, 1991)

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

CHAPTER I

Title and Definition

1. This Law shall be called the Freshwater Fisheries Law.
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) **Officer-in-charge of the Department** means the State Divisional, Township Zone or Township Officer-in-charge of the Department of Fisheries;
 - (e) **Freshwater Fisheries Waters** means waters, pond, course, river, stream and lake which is of a permanent or temporary nature and in which fish live and thrive and which is situated within the inland boundary along the sea coast of Myanmar. This expression also includes a lessable fishery, reserved fishery, fisheries waters in which rights of fishery are permitted under a license, reservoirs, waters in an area belonging to any Government department, inland tidal places, waters on an island, crocodile nets and turtle banks in which crocodile and turtle lay their eggs and brackish waters. Furthermore, waters on the inland-side of the straight line drawn from one extreme and of one bank to

the extreme end of the other bank of the river mouths and creek mouths contiguous to the sea are freshwater fisheries waters;

- (f) **Fish** means all aquatic organisms living the whole 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;
- (g) **Fishery** means carrying out operations relating to fish for the purpose of systematic management, production on a commercial scale, conservation and for development. This expression also includes operation such as fishing, collecting, aquaculturing, exploring, research, stocking, propagating, processing, transporting, storing and marketing;
- (h) **Fishing** means catching, collecting, attracting, pursuing, stupefying and killing of fish. This expression also includes works in support of and preparatory to fishing operations;
- (i) **Fishing Implement** means things and equipment used in fishing;
- (j) **Fishing vessel** means any vessel engaged in fishing. This expression also includes vessels carrying out fishing operation and crafts in support of the fishing vessel;
- (k) **Leasable Fishery** means fisheries waters in which fishing rights are granted under a lease by the Department, subject to stipulations relating to the area, specie, fishing implement, period and fishing method etcetera;
- (l) **Reserved Fishery** means fisheries waters in which fishing operations are prohibited from time to time or in which fishing rights are granted subject to stipulations by the Department, in order to prevent the extinction of fish and to propagate the same;
- (m) **Fisheries Waters in which Fishing Rights are granted under a License** means fisheries waters in which fishing rights are permitted by issue of fishing implement license or by floating tenders after specifying the fishing ground or in any other manner in other freshwater fisheries waters, with the exception of places specified by the Department as a leasable fishery or a reserved fishery;
- (n) **Lease** means a lease issued by the Department for operating a fishery in any leasable fishery;

- (o) **License** means a license issued by the Department for operating a fishery in any freshwater fisheries waters with the exception of a leasable fishery;
- (p) **Refund** means fees and duties which should be refunded in respect of the remaining portion of the fishery season, out of the fees and duties paid by the lessor or the tender licensee, if permission to operate a fishery is suspended or revoked in the interest of the State or if the production of fish has suffered reverses due to natural disaster or to any other valid cause, but not for violation of the term of the lease or tender license;
- (q) **Person who has obtained permission to Operate a Fishery** means a person who has obtained a lease, tender license or fishing implement license issued by the Department.

CHAPTER II

Objectives

- 3. Freshwater fishery shall be carried out in accordance with the following objectives:
 - (a) to further develop the fisheries;
 - (b) to prevent the extinction of fish;
 - (c) to safeguard and prevent the destruction of freshwater fisheries waters;
 - (d) to obtain duties and fees payable to the State;
 - (e) to manage the fisheries and to take action in accordance with the Law.

CHAPTER III

Application for Lease and license and Issue Thereof

- 4. A person desirous of operating a fishery in any leasable fishery shall purchase by a system of competitive bidding in an auction in the manners prescribed.
- 5. A person desirous of operating a fishery in any freshwater fisheries waters other than a leasable fishery shall operate in the manners prescribed by payment of the fishing implement license fee or in the case of a floated tender by obtained a license after submitting sealed tender price.

6. In a case of selling a leasable fishery by auction and in a case of granting a tender license in any freshwater fisheries waters, the Township Zone Officer-in-charge concerned shall sell by auction or grant a tender license in the manners prescribed.
7. In a case of selling a leasable fishery by auction and in a case of granting a tender license, the Township Zone Officer-in-charge shall obtain the approval of the State or Divisional Officer-in-charge concerned.
8. After obtaining the approval under section 7, the Township Zone Officer-in-charge shall issue a lease or a tender license.
9. If an application is made to operate a fishery with any type of fishing implement in any freshwater fisheries waters, other than a case of granting a lease or a tender license the Township Officer-in-charge may issue a fishing implement license in the manners prescribed.

CHAPTER IV

Application for Permission to Operate a Fishery in Foreign Currency and Permission Thereto

10. Upon application by the following persons desirous of operating a fishery in the manners prescribed, the Director General may, with the approval of the Minister grant a lease or a tender license:-
 - (a) a foreigner residing abroad who is desirous of operating a fishery in foreign currency.
 - (b) any person or any organization desirous of operating with foreign capital in accordance with the Union of Myanmar Foreign Investment Law.
11. If the case applied for under section 10 is permitted, the Director General:-
 - (a) shall determine the fishery rent, tender fee and license fee in foreign currency;
 - (b) may stipulate the terms and conditions as may be necessary.
12. A person applying for permission to operate a fishery under section 10 shall comply with the following on obtaining permission:-

- (a) paying the fishery rent, tender fee and license fee due;
- (b) abiding by the terms and conditions of the lease or license;
- (c) abiding by the existing laws of Myanmar.

CHAPTER V

Payment of Fishery Rent, Tender Fee and License Fee

13. A person who has purchased the leasable fishery by auction shall pay the fishery rent which is the auction fee and a person who has been granted a tender license shall pay the tender fee and license fee in full on a cash down basis.

14. The Director General may permit the payment of fishery rent by installment as prescribed in respect of leasable fisheries in remote areas.

15. A person who has obtained a fishing implement license in any freshwater fisheries waters other than a leasable fishery shall pay the license fee due in full on a cash down basis.

16. In a case where the fishery rent is permitted to be paid by installment under section 14, a person who has failed to do so shall pay the fishery rent due and also fine as may be prescribed.

17. The Director General may exempt the payment of fishery rent, tender fee and license fee in respect of the following operations:-

- (a) fishery research conducted with the permission of the Department;
- (b) fishery operated by any Government department or any Government organization not as an economic enterprise, but for the consumption of the employees of its department or organization.

CHAPTER VI

Duties and Rights of a Person who has obtained

Permission to Operate a Fishery

18. The duties of a person who has obtained permission to operate a fishery are as follows:-

- (a) Payment in full of the fishery rent, tender fee and license fee due;
- (b) abiding by the terms and conditions of the lease or license and directives issued by the Department;
- (c) carrying out free of charge in fishery research conducted with the permission of the Department.

19. The rights of a person who has obtained permission to operate a fishery are as follows:-

- (a) being entitled to operate the fishery in accordance with the terms and conditions of the lease or license;
- (b) being entitled to apply for refund.

CHAPTER VII

Powers of the Minister

20. The Minister may, under this Law carry out the following in respect of the permission to operate a fishery, when necessary in the interest of the State:-

- (a) granting permission to operate a fishery in any freshwater fisheries waters under a lease or a tender license;
- (b) suspending, revoking or cancelling any lease or tender license;
- (c) passing any other reasonable order.

21. The Minister-

- (a) may exempt any fishery from any provision of this Law;
- (b) shall determine the amount of refund which the Director General, State, Divisional or Township Zone Officer-in-charge is entitled to make.

CHAPTER VIII

Duties and Powers of the Director General

22. The duties of the Director General are as follows:-

- (a) managing and supervising the fisheries in order to implement the objectives contained in section 3;
- (b) determining the rates of license fee according to the type of fishing implement;
- (c) determining the prohibited species of fish, size, fishing season, place, fishing implement and method of fishing;
- (d) determining the duties and powers of the Officers-in-charge of the Department.

23. The powers of the Director General are as follows:-

- (a) permitting payment by installment of fishery rent in respect of leasable fisheries in remote areas and determining the installment period and rates;
- (b) classifying altering or cancelling fisheries waters in which a leasable fishery, reserved fishery or a fishery permitted to be operated under a license is permitted;
- (c) directing the grant of lease to be continued with a limit on the term to a person who has purchased by action any leasable fishery, if there is sufficient reason;
- (d) if it is found that any lease or tender license has been obtained in an improper manner, cancelling such lease or tender license.

24. In a case where action is taken for violation of any provision of this Law, the Director General may act as follows:-

- (a) suspending revoking or cancelling the lease or tender license;
- (b) confiscating, disposing of or administering as may be appropriate the fishing vessel, fishing implements, fish and other exhibits;
- (c) returning to the person who has obtained permission to operate the fishery or to the owner, on furnishing sufficient security, the fishing vessel and fishing implements or permitting the resumption of the operation;
- (d) permitting the person who has obtained permission to operate the fishery or the owner to redeem the fishing vessel and fishing implements on payment of appropriate fine;

(e) causing the proceeds of the sale and the fines to be deposited in the bank.

CHAPTER IX

Application for Refund

25. If any of the following events occur, a person who has obtained a lease or a person who has been granted a tender license may apply for refund to the Township Zone Officer-in-charge concerned in accordance with the manner prescribed:-

- (a) having had the lease or tender license suspended or revoked in the interest of the State;
- (b) having suffered reverses in the production of fish due to natural disaster or any other valid cause.

26. If application is made under section 25, the Township Zone Officer-in-charge concerned shall continue to take measures in accordance with the procedures.

27. If the director General State, Divisional or Township Zone Officer-in-charge finds on investigation that the application made under section 25 is true and correct, he shall pass orders for the amount of refund to be made to the person who has obtained a lease or a person who has been granted a tender license, entitled thereto, in accordance with the power conferred by the Minister under section 21 sub-section (b).

28. The Minister shall give a decision on applications for refund, the amount of which is beyond the pecuniary limit of the Director General and the State, Divisional or Township Zone Officer-in-charge.

29. If an order is passed for the refund to be made under section 27 or section 28, the Township Zone Officer-in-charge concerned shall make a refund in accordance with the procedures to the person who has obtained a lease or the person who has been granted a tender license.

CHAPTER X

Invalidation of Permission to Operate a Fishery

30. When any of the following events occur, permission to operate a fishery is invalidated:-

- (a) expiry of the term permitted;
- (b) revocation or cancellation of the lease, tender license or fishing implement license;
- (c) the Officer-in-charge of the Department finding on investigation that the fishery has been abandoned;
- (d) surrender of the lease, tender license or fishing implement license by the person who has been permitted to operate a fishery when he desires to discontinue his operation.

CHAPTER XI

Appeals

- 31. (a) If dissatisfied with an order or decision passed by the Township Officer-in-charge in respect of a fishing implement license, an appeal may be filed with the Township Zone Officer-in-charge within 30days of the receipt of such order or decision;
 - (b) The Township Zone Officer-in-charge may confirm, set aside or alter the order or decision passed by the Township Officer-in-charge;
 - (c) If dissatisfied with an order or decision passed by a Township Zone Officer-in-charge under sub-section (b), an appeal may be field with the State or Divisional Officer-in-charge concerned within 30days of the receipt of such order or decision;
 - (d) In an appeal field under sub-section (c), the State or Divisional Officer-in-charge may confirm, set aside or alter the order or decision passed by the Township Zone Officer-in-charge. No further appeal shall lie on the order or decision passed by the State or Divisional Officer-in-charge.
-
- 32. (a) If dissatisfied with an order or decision passed by the Township Zone, State or Divisional Officer-in-charge in respect of a lease, tender license or administrative matter concerning a fishery, an appeal may be filed with the Director General within 30days of the receipt of such order or decision;

- (b) The Director General may confirm, set aside or alter the order or decision passed the Township Zone, State or Divisional Officer-in-charge under sub-section (a);
- (c) No further appeal shall lie if the order or decision passed by the Director General under sub-section (b) covers any of the following matters:-
 - (i) administrative matter concerning a fishery;
 - (ii) a lease or a tender license to the value of up to kyats 300000;
- (d) If dissatisfied with an order or decision passed by the Director General concerning a lease or tender license to the value of over kyats 300000, an appeal may be filed with the Minister within 30 days of the receipt of such decision or order;
- (e) The decision of the Ministry in respect of the matter contained in sub-section (d) shall be final and conclusive.

CHAPTER XII

Prohibitions

- 33. No one shall operate a fishery without a lease license or permission issued under this Law.
- 34. No one shall do the following in any freshwater fisheries waters:-
 - (a) catching fish or causing mischief with explosive substance, poison, chemicals and dangerous material of a like nature;
 - (b) catching fish by a prohibited method and fishing implement;
 - (c) catching fish of a prohibited species and size;
 - (d) catching fish during a prohibited period and at a prohibited place.
- 35. No one shall, after purchasing by fishery auction or after being granted tender license fail to pay within the prescribed period fishery rent, tender fee, license fee and fines due, without the permission of the Department.

36. No one shall erect, construct, place, maintain or use any obstruction such as a dam, bank or weir in a fresh water fisheries waters without the permission of the Department.
37. A person who has obtained permission to operate a fishery shall not violate any condition contained in a lease, tender license or fishing implement license.
38. No one shall do the following within the boundary of a fishery or fishery creek:-
- (a) cutting undergrowth or setting on fire habitate of fish;
 - (b) impairing the natural condition of a fishery so as to disrupt the flow of water in the main fishery.
39. No one shall cultivate agricultural crops within the boundary of a fishery creek.
40. No one shall cause harassment of fish and other aquatic organisms or pollution of the water in a freshwater fisheries waters.
41. No one shall alter the quality of water, volume of water or the water-course in a leasable fishery, reserved fishery and creeks contiguous thereto or in water-courses.

CHAPTER XIII

Penalties

42. Whoever violates the provision of section 33 shall, on conviction:-
- (a) if it is a case of operating a fishery without a fishing implement license be punished with a fine which may extend to kyats 5000 or with imprisonment for a term which may extend to 6 months or with both;
 - (b) if it is a case of operating a fishery without a lease or a tender license be punished with a fine which may extend to kyats 20000 or with imprisonment for a term which may extend to 2 years or with both.
43. Whoever violates any provision of sections 35, 36, 38 ,39, 40 or 41 shall, on conviction be punished with fine which may extend to kyats 10000 or with imprisonment for a term which may extend to 1 year or with both.

44. If a person who has obtained a lease or who has been granted a tender licence or who has obtained a fishing implement license violates the provision of section 37, he shall, on conviction:

- (a) if it is a case of violation of any condition of the fishing implement licence be punished with fine which may extend to kyats 3000 or with imprisonment for a term which may extend to 3 months or with both;
- (b) if it is a case of violation of any condition of the lease or tender licence, be punished with fine which may extend to kyats 10000 or with imprisonment for a term which may extend to 1 year or with both.

45. Whoever violates any provision of section 34 shall, on conviction be punished with fine which may extend to kyats 30000 or with imprisonment for a term which may extend to 3 years or with both.

46. Whoever abets, attempts or conspires in the commission of any offence under this Law shall be liable to the punishment provided in this Law for such offence.

47. If a person convicted of any offence under this Law commits the same offence again, he shall be punished with twice the quantum of punishment prescribed.

CHAPTER XIV

Miscellaneous

48. The provision contained in section 403 sub-section (1) of the Code of Criminal procedure to the effect that any offence for which an order for conviction or acquittal has been passed shall not be tried again, shall not apply to action taken by the Director General under this Law.

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

50. Cases sent up for trial under this Law are prescribed as cognizable offences.

51. The Officer-in-charge of the Department may, if necessary request the assistance of the Peoples' police Force concerned in the discharge of his duties and powers.

52. The granting of lease and license and permission to operate a fishery in respect of the freshwater fisheries waters shall only be made by the Department.
53. The Department shall, in consultation with the Government department concerned prepare maps demarcating the limits of the leasable fishery and reserved fishery.
54. The fishery rent, tender fee, license fee and fines due under this Law shall be recovered by the Officer-in-charge of the Department as if they were arrears of land revenue.
55. No suit or prosecution shall lie against any public servant for anything which is done in good faith under this Law.
56. The existing Fisheries Act, Rules and Directives made there under in respect of the freshwater fishery shall be in force only in so far as they are not inconsistent with this Law.
57. For the purpose of carrying out the provisions of this Law, the Ministry concerned :-
- (a) may, with the approval of the Government issue such procedures as may be necessary;
 - (b) may issue such orders and directives as may be necessary.

(Sd) Saw Maung

Senior General

Chairman

The State Law and Order Restoration Council