

No. 24 of 1940.

FISHERIES.

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO FISHERIES AND TO THE TAKING AND PROTECTION OF FISH IN CEYLON WATERS, TO PROVIDE FOR THE REGISTRATION OF FISHING BOATS, FOR THE BETTER REGULATION OF THE FISHING INDUSTRY AND FOR PURPOSES INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.

[8th November, 1940.]

[Not in operation on 1st January, 1941.]

TABLE OF SECTIONS.

1. Short title and date of operation.

Officers, Advisory Board, &c.

2. Appointment of Director and other officers.
3. Establishment of Fisheries Advisory Board.
4. Duties, powers, and functions of the Board.

Fishing licences and registration of fishing boats.

5. Licence to take fish for profit.
6. Application for fishing licence.
7. Form of fishing licence.
8. Revocation of fishing licence.
9. Registration of fishing boats.
10. Prohibition of use of unregistered fishing boats in Ceylon waters.
11. Regulation of landing of fish taken outside Ceylon waters.

Protection of fish.

12. Restriction of exportation of specified fish, eggs, &c.
13. Restriction of importation of non-indigenous fish.
14. Prohibition of use of poison, explosives, &c.
15. Prohibitions as to damage to or destruction of fishing equipment.
16. Grant of exclusive right to take specified non-indigenous fish.
17. Breach of rules under section 16.
18. Sections 5 and 10 not to apply in cases referred to in section 16.

Powers of officers, offences, regulations, &c.

19. Powers of inspection, &c.
20. Presumptions as to the taking of fish.
21. Presumptions as to use of poison, &c.
22. Offences and penalties.
23. Offences to be cognizable.
24. Cancellation of licences and permits, forfeiture of boats, fish, &c.
25. Jurisdiction over offences committed at sea.
26. Regulations.
27. Interpretation.

Repeals, amendments and savings of other written law.

28. Repeal of Chapter 326 and savings for concessions, regulations, &c., thereunder.
29. Amendments of Ordinances mentioned in Third Schedule.
30. Application of Ordinance.

FIRST SCHEDULE.

(Section 12).

SECOND SCHEDULE.

(Sections 12 and 16).

THIRD SCHEDULE.

(Section 29).

An Ordinance to amend and consolidate the law relating to fisheries and to the taking and protection of fish in Ceylon waters, to provide for the registration of fishing boats, for the better regulation of the fishing industry and for purposes incidental to or connected with the matters aforesaid.

Short title and date of operation.

1. This Ordinance may be cited as the Fisheries Ordinance, No. 24 of 1940, and shall come into operation on such date as the Governor may appoint by Proclamation published in the *Gazette*.

Appointment of Director and other officers.

Officers, Advisory Board, &c.

2. (1) The Governor may appoint—
 - (a) any person, by name or by office, to be or to act as Director of Fisheries ;
 - (b) any person, by name or by office, to be or to act as Deputy Director 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 Executive Committee, the Director shall be responsible for the administration of the provisions of this Ordinance.

(3) Any person appointed under sub-section (1) to be or to act as 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. Cap. 15.

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

Establishment
of Fisheries
Advisory
Board.

(a) the Director as Chairman;

(b) the persons for the time being holding the offices of Director of Commerce and Industries, Commissioner for Agricultural Marketing, Master Attendant of the Port of Colombo, Deputy Director of Fisheries and Salt Adviser; and

(c) such other unofficial members, not less than ten in number, as the Governor may from time to time appoint.

(2) Subject as hereinafter provided, each member of the Board who is appointed under sub-section (1) (c) 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 Governor.

(3) 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.

4. It shall be the duty of the Board—

Duties, powers,
and functions
of the Board.

- (a) to advise the Director on all such matters relating to fisheries and the fishing industry in Ceylon, 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.

Fishing licences and registration of fishing boats.

Licence to
take fish for
profit.

5. Subject as hereinafter provided, no person shall take, or employ any other person to take, any fish for profit in Ceylon waters except under the authority of a fishing licence granted by a prescribed officer under this Ordinance :

Provided, however, that nothing hereinbefore contained shall apply—

- (a) to a Ceylonese or a Ceylon company ;
- (b) to a person who is employed by, and takes fish on behalf of, a Ceylonese or a Ceylon company or the holder of a fishing licence ; and
- (c) to any person who is a member of a class of persons exempted by regulation from the necessity for obtaining a fishing licence.

Application
for fishing
licence.

6. (1) Every application for a fishing licence shall be made to the prescribed officer in the prescribed form and shall be accompanied by the prescribed fee.

(2) A prescribed officer may, in such circumstances and upon such grounds as may be prescribed, refuse to grant a fishing licence to any person who makes application therefor. An appeal shall lie to the Minister from any such refusal, and the decision of the Minister upon such appeal shall be final.

Form of
fishing licence.

7. Every fishing licence shall—

- (a) be in the prescribed form, and be in force until the thirty-first day of December next following the date on which it is granted ;
- (b) be subject to such conditions as may, in accordance with regulations, be inserted in the licence.

Revocation of
fishing licence.

8. The Director may by order revoke any fishing licence if he is satisfied that the holder thereof has acted in contravention of any provision of this Ordinance or any regulation, or has committed a breach of any condition lawfully inserted

in the licence. An appeal shall lie to the Minister from any such order, and the decision of the Minister upon such appeal shall be final.

9. Regulations may be made providing for the registration of fishing boats used for the purpose of taking fish in Ceylon waters, and of the owners of such boats. Registration of fishing boats.

10. On or after such date as may be prescribed, no person shall use any fishing boat for the purpose of taking fish in Ceylon waters, unless the boat has been registered under this Ordinance. Prohibition of use of unregistered fishing boats in Ceylon 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 Ceylon any fish taken outside Ceylon waters unless— Regulation of landing of fish taken outside Ceylon 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 Ceylon, previously landed at a port or place outside Ceylon.

(2) Regulations may be made exempting any specified class or classes of persons from the operation of the provisions of sub-section (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 Ceylon fish taken outside Ceylon waters. An appeal shall lie to the Minister from any such refusal, and the decision of the Minister upon such appeal shall be final.

Protection of fish.

12. (1) No person shall, except under the authority of an export permit issued by the Director in that behalf, export from Ceylon 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. Restriction of exportation of specified fish, eggs, &c.

(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. Cap. 185,

Restriction of importation of non-indigenous fish.

13. (1) Subject to the provisions of sub-sections (2) and (3), no person shall, except under the authority of an import permit issued by the Director in that behalf, import into Ceylon any live fish of any species which is not indigenous to Ceylon, or the eggs, roe or spawn of any such fish.

(2) No import permit shall be required to authorise the importation into Ceylon 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) No import permit shall, save as may be otherwise provided by regulation in respect of any fish of any particular species, be required to authorise the importation into Ceylon of any live fish or the eggs, roe or spawn of any fish, for the purposes of an aquarium.

(4) In any case of doubt or dispute a certificate, purporting to be signed by the Director or by a prescribed officer, to the effect that any fish belongs to a species which is not indigenous to Ceylon, or that any eggs, roe or spawn of any fish are the eggs, roe or spawn of a fish which is not indigenous to Ceylon, shall for all purposes be final and conclusive as to the facts stated therein.

Cap. 185

(5) 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 Ceylon waters use any poisonous, explosive or stupefying substance for the purpose of poisoning, killing or stupefying any fish.

Prohibitions as to damage to or destruction of fishing equipment.

15. 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 stakes, nets or other fishing equipment.

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

16. (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 Executive Committee, 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 Executive Committee may determine.

(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 sub-section (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 authorising the taking of such fish, the conditions subject to which such licences may be issued, 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 sub-section (3) shall have effect unless it is approved by the Executive Committee 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.

17. No person shall take any fish in any stream or inland water in contravention of any rules made under section 16 relating to the taking of such fish in such stream or water.

Breach of rules under section 16.

18. The provisions of sections 5 and 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 16.

Sections 5 and 10 not to apply in cases referred to in section 16.

*Powers of officers, offences, regulations, &c.*Powers of
inspection, &c.

19. The Director or any prescribed officer, or any person authorised 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 Ceylon 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 Ceylon 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.

Presumptions
as to the
taking of fish.

20. For the purposes 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 Ceylon or in Ceylon 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 ;
- (b) that any person who takes, or is presumed under paragraph (a) (ii) to have taken, any fish from a fishing boat of which he is not the owner, is employed by the owner of that boat for the purpose of taking such fish ;
- (c) that where any fishing boat which has not been registered is at any time within Ceylon waters, any fish found in that boat at that time was taken for profit in Ceylon waters ;
- (d) that any fish which is not taken for sport, scientific research or for any other prescribed purpose, is taken for profit.

21. (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 Ceylon waters, shortly after such substance is proved to have been used in such waters, that person shall be presumed, until the contrary is proved, to have used such substance for the purpose aforesaid.

Presumptions
as to use of
poison, &c.

(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 Ceylon waters, that person shall be presumed, until the contrary is proved, to have attempted to use such substance for the purpose aforesaid.

22. (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 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 one hundred rupees.

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

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

Offences to be
cognizable.
Cap. 16,

24. (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.

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

(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 used in or in connection with the commission of the offence, or any fish taken in the course of such commission, shall be forfeited to His Majesty.

Jurisdiction
over offences
committed at
sea.

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

(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.

Regulations.

26. (1) The Executive Committee may make regulations for the regulation and control of the fishing industry, for the protection of fish in Ceylon waters, and generally for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) the Executive Committee may make regulations for or in respect of all or any of the following matters :—

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

(b) the form of applications for fishing licences and the fees to be paid upon such applications, the form of fishing licences, the officers by whom such licences may be granted, the conditions which may be inserted therein, and the circumstances and grounds upon which such licences may be refused ;

(c) appeals to the Minister under this Ordinance and the fees to be paid upon such appeals ;

(d) the registration of fishing boats used in Ceylon waters and of the owners thereof, including the officers or persons by whom such boats shall be registered, the fees payable for such registration, and the marking of registered boats and of the fishing nets and other fishing equipment carried therein ;

(e) the prohibition of the registration of foreign fishing boats or of fishing boats owned by persons other than Ceylonese, or the circumstances in which and the terms and conditions subject to which such boats may be registered under this Ordinance ;

- (f) the issue of permits authorising the landing in Ceylon of any fish taken outside Ceylon waters by fishing boats which have not been registered under this Ordinance, in cases where such fish has not previously been landed at a port or place outside Ceylon, the officers by whom such permits may be issued, the fees payable therefor and the circumstances in which or the grounds upon which such permits may be refused ;
- (g) the exemption of any class or classes of persons, not being Ceylonese, from the provisions of section 5 (1) or section 11 (1) for the purpose of giving effect to any treaty, convention or agreement for the time being in force between His Majesty and any foreign Power, or between the Government of Ceylon and the Government of any other part of the British Empire, or for any other purpose ;
- (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 ;
- (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 connection with, the taking of fish, and the regulation of the time and manner of taking fish ;
- (k) the regulation of the size or mesh of nets used for the purpose of taking fish ;
- (l) the regulation of the exercise of the powers conferred by section 19 ;
- (m) the prohibition, regulation or control of the erection and use of fishing stakes, fish kraals, stake-nets and other such appliances for taking fish ;
- (n) the charging of fees in respect of fishing and of the use of fish kraals in Ceylon waters, and the disposal of such fees ;
- (o) the prohibition or restriction of the taking or sale of fish of a smaller size than such size as may be prescribed ;
- (p) the returns and information to be furnished by persons who take fish for profit in Ceylon waters ;

(g) the detention and disposal of any fish, or of any boats, nets, instruments or other equipment declared to be forfeited to His Majesty under this Ordinance ;

(r) all matters incidental to or connected with the matters specifically referred to in this sub-section.

(3) Any regulation made for or in respect of any of the matters referred to in paragraphs (i) to (o) of sub-section (2) may be limited in application to fish of any specified class or description, or in operation to any specified part of Ceylon waters or to the waters in any specified place or area in Ceylon.

(4) No regulation made by the Executive Committee shall have effect until it has been approved by the State Council and ratified by the Governor and notification of such approval and ratification is published in the *Gazette*. Every regulation shall upon notification of such approval and ratification be as valid and effectual as if it were herein enacted.

Interpretation.

27. In this Ordinance, unless the context otherwise requires—

“ appointed date ” means the date appointed by Proclamation under section 1 ;

“ Board ” means the Fisheries Advisory Board established under section 3 ;

“ Ceylonese ” means a person domiciled in Ceylon and possessing a Ceylon domicile of origin ;

“ Ceylon company ” means a company incorporated or deemed to be incorporated under any written law for the time being in force in Ceylon ;

“ Ceylon waters ” includes—

(a) the territorial waters of Ceylon ; and

(b) all public bays, rivers, lakes, lagoons, estuaries, streams, tanks, pools, ponds and channels and all other public inland waters ;

“ Director ” means the Director of Fisheries appointed under section 2 ;

“ Executive Committee ” means the Executive Committee of Local Administration ;

“ 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 ; Cap. 170,
or

(d) any reptile for the time being included in
Schedule I. to the Fauna and Flora Protection Ordinance ; Cap. 325,
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 ;

“ fishing licence ” means a licence to take fish in Ceylon
waters granted under section 5 ;

“ 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 water ” means any part of Ceylon waters other
than the territorial waters of Ceylon ;

“ Minister ” means the Minister for Local Administration ;

“ prescribed ” means prescribed by regulation ;

“ registered ” means registered under this Ordinance ;

“ regulation ” means a regulation made by the Executive
Committee under this Ordinance ;

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

“ territorial waters ” means the part of the sea within a
distance of three nautical miles from any point of
the coast of Ceylon measured from low-water mark
of ordinary spring tides.

Repeals, amendments and savings of other written law.

28. The Game Protection Ordinance is hereby repealed :

Provided, however, that—

(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 16 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 Executive
Committee under the said section ;

Repeal of
Chapter 326
and savings for
concessions,
regulations, &c.
thereunder.

- (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 26 ;
- (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.

Amendments of Ordinances mentioned in Third Schedule.

29. The provisions of written law specified in the first column of the Third Schedule are hereby amended in the manner and to the extent specified in the second column of that Schedule :

Provided, however, that all by-laws, rules and regulations, heretofore made under any of the provisions specified in that section and in force at the appointed date, shall, so far as they relate to matters for or in respect of which regulations may be made under this Ordinance, continue in force in like manner as if they were made thereunder, and may be amended, varied or repealed by regulation.

Application of Ordinance.

30. (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.

Cap. 325.

Cap. 311.

(2) The provisions of this Ordinance shall be in addition to and not in substitution of any 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 Ceylon waters.

(Section 12).

FIRST SCHEDULE.

Fishes which may not be exported except under permit.

Scientific Name.	Sinhalese Name.
1. <i>Belontia Signata</i>	.. Pulutta
2. <i>Puntius cumingi</i>	.. Potheya
3. <i>Puntius titteya</i>	.. Lai titteya
4. <i>Puntius nigrofasciatus</i>	.. Bulath sapeya
5. <i>Rasbora vaterifloris</i>	.. Hal mal dandiya

SECOND SCHEDULE.

(Sections 12 and 16).

Fishes in respect of which exclusive rights may be granted.

Trout	Tench
Perch	Gourami

THIRD SCHEDULE.

(Section 29).

I.	II.	
Short title and Chapter.	Nature and extent of amendment.	Cap. 193.
The Municipal Councils Ordinance	In section 110(24), for the words "sewage and the regulation and control of fishing generally within Municipal limits", there shall be substituted the word "sewage".	
*The Local Government Ordinance	In section 168(11)— (1) paragraph (e) shall be omitted; and (2) in paragraph (f), for the words "fish, game, and wild birds", there shall be substituted the words "game and wild birds".	Cap. 195.
The Local Boards Ordinance	In section 56— (1) paragraph (k) shall be omitted; and (2) in paragraph (s), for the words "fish, game, and wild birds", there shall be substituted the words "game and wild birds".	Cap. 196.
The Small Towns Sanitary Ordinance	In section 16(2), paragraph (h) shall be omitted.	Cap. 197.
The Village Communities Ordinance	In section 49(2) (x)— (1) paragraph (e) shall be omitted; and (2) in paragraph (f), for the words "fish, game, and wild birds", there shall be substituted the words "game and wild birds".	Cap. 198.

* Note.—The Local Government Ordinance has been repealed by the Urban Councils Ordinance, No. 61 of 1939.