

## PEARL FISHERIES

Repealed and Replaced by Fisheries and Aquatic Resource Act, No. 2 of 1996. The following Chapter Contents are prior to repeal.

### AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE PEARL FISHERIES OF SRI LANKA.

Ordinance Nos,

2 of 1925

3 of 1946

2 of 1996 [ 11<sup>th</sup> January , 1996 ]

[12<sup>th</sup> 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 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 Sri Lanka, or in the bays or inland waters of Sri Lanka;

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

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

Exclusive right of state **3.** The exclusive right of fishing for and taking pearl oysters off the in pearl fisheries. coasts of Sri Lanka and in all bays and inland waters of Sri Lanka is vested in the State.

#### PART II

##### REGULATION OF PEARL FISHERIES

Prohibition of fishing for pearls without a licence. **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.

(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 State.

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 Sri Lanka or in any bay or inland water of Sri Lanka.

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 State 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 for proceeding to her proper destination as wind and weather permit, or is found on or near a pearl bank in circumstances giving rise to reasonable suspicion that she is being or has been used for the unlawful collection of pearl

oysters, any pearl fishery guard specially authorized by a Government Agent, Assistant Government Agent, or the 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 Sri Lanka 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 Sri Lanka, 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 State, unless a fine not exceeding one thousand rupees is paid within a time to be specified in the order, and shall also declare all appliances found in the vessel and appearing to be intended for the collection of pearl oysters and any pearl oysters or pearls found in the vessel to be forfeited to the State.

(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.

Penalty for offences under Part II. **10.** 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.

### PART III PEARL FISHERY CAMPS

Power to declare a pearl fishery camp. **11.**

(1) The Minister may from time to time by notification in the Gazette declare 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 offence under Chapter VII of **12.**

(1) In any inquiry under section 86 of Chapter VII of the

## Code of Criminal

Code of Criminal Procedure Act (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, housebreaker, 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 Code of Criminal Procedure Act, 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.

## Prohibition of the **13.** import of pearls into a camp.

(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.

(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 State, or he may order them to be detained 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 Minister 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 111.

**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 Code of Criminal Procedure Act, 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.

Power to seize articles liable to forfeiture.

**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.

Regulations to be laid before Parliament.

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