

FISHERIES ORDINANCE 1922-1938.⁽¹⁾

An Ordinance to provide for the Regulation of Fishing for Pearl, Pearl-shell, Trochus-shell, and Beche-de-mer, and for other purposes.

1. This Ordinance may be cited as the *Fisheries Ordinance 1922-1938.*⁽¹⁾ Short title.
Amended by
No. 3 of 1934,
s. 50.
2. This Ordinance shall commence on a day to be fixed by the Minister by notice in the *Gazette.*⁽¹⁾ Commencement.
- 2A. This Ordinance shall not apply to any native fishing in the waters adjacent to his home, or in waters in which by native custom he has any rights of fishing, for the purpose of supplying his own domestic requirements or disposing of the fish for cash. Application of
Ordinance.
Inserted by
No. 13 of 1927,
s. 2.
3. In this Ordinance, unless the contrary intention appears— Definitions.
- “Boat” includes any vessel not exceeding two tons burden which is usually hoisted on the ship’s davits, or carried on board of a ship, or attached to a ship, and includes a boat or punt used in any fishing station, and not attached to or used in connexion with a ship, and also a canoe used by any person who is not a native.

(1) The *Fisheries Ordinance 1922-1938* comprises the *Fisheries Ordinance 1922*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwlt. Gaz.</i>	Date on which took effect.
<i>Fisheries Ordinance</i> 1922 (No. 13 of 1922)	22.3.1922	24.3.1922	1.8.1922 (<i>Cwlt. Gaz.</i> of 20.7.1922)
<i>Fisheries Ordinance</i> 1924 (No. 14 of 1924)	2.4.1924	3.4.1924	3.4.1924 (<i>Cwlt. Gaz.</i> of 3.4.1924)
<i>Fisheries Ordinance</i> 1927 (No. 13 of 1927)	24.3.1927	26.3.1927	26.3.1927 (<i>Cwlt. Gaz.</i> of 26.3.1927)
<i>Fisheries Ordinance</i> 1932 (No. 13 of 1932)	4.8.1932	11.8.1932	11.8.1932 (<i>Cwlt. Gaz.</i> of 11.8.1932)

PART II.—ORDINANCE OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of reservation by Administrator.	Date on which assent of Gov.-Gen. in Council published in <i>N.G. Gaz.</i>	Date on which came into operation.
<i>Fisheries Ordinance</i> 1938 (No. 48 of 1938)	24.8.1938	15.11.1938	15.11.1938 (<i>N.G. Gaz.</i> of 15.11.1938)

FISHERIES—

“Collector” means the principal officer of Customs doing duty at the time and place, and any officer of Customs doing duty in the matter, in relation to which the expression is used.

“Fishery” includes fishing for Pearl, Pearl-shell, Trochus-shell and Beche-de-mer, and includes the business of diving for, collecting, preparing, curing, storing, or carrying from any place within the Territory to any other place within the Territory pearl oysters or pearl oyster-shells or trochus-shell or the sea-slug commonly known as “beche-de-mer” or any other prescribed fish or shell or marine product.

“Fishing Station” means any land whatsoever occupied for the purposes of a fishery.

“Inspector” means an inspector appointed for the purposes of this Ordinance.

“Master or Employer” includes any person other than a pilot who is in charge of or for the time being in command of any ship or boat, or who is in charge of a “fishery”.

“Naval Officer” means any Commissioned Officer of the Naval Forces of the Commonwealth on full pay.

“Ship” includes every description of vessel used in navigation or in fishery, and not being a boat.

Inserted by
No. 13 of 1932,
s. 2.

Repeal.

4. All Ordinances and Orders⁽²⁾ in force at the date of the commencement of this Ordinance relating to “Pearl-shell” and “Trochus-shell” and “Beche-de-mer Fishery” or any fish or shell or marine product or “Fishery” within the Territory are hereby repealed.

Saving.

5.—(1.) The repeal of any previous Ordinance or Order shall not, except where it is in this Ordinance in any respect otherwise provided—

(a) affect anything duly done or suffered thereunder;

(b) affect any right, claim, privilege, remedy, obligation, penalty, or liability acquired, accrued, or incurred under any repealed Ordinance.

(2.) All licences and authorities granted under any repealed Ordinance or Order shall continue for the term for which they are granted and be subject to the provisions thereof, but any renewal thereof shall be made under this Ordinance.

(2) Orders in force at the date of commencement of the *Fisheries Ordinance* 1922 include the following:—*Order Revoking Licence to Heinrich Rudolph Wahlen Gesellschaft in respect of fishing in Western Islands*, dated 1.11.1916 and published in *Govt. Gaz.* of 15.11.1916; *Order as to Fishing Industry*, dated 14.5.1917 and published in *Govt. Gaz.* of 15.5.1917; *Fishing Industry Order* 1919, dated 20.12.1919 and published in *Govt. Gaz.* of 24.12.1919.

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(3.) Any officer appointed or office established under any repealed Ordinance or Order shall continue and be deemed to have been appointed or established under this Ordinance.

(4.) Any Proclamation published or regulation or order made or issued under any repealed Ordinance or Order shall continue in force⁽³⁾ until repealed or cancelled as if it had been published or made under this Ordinance.

6. The Collector of Customs or any prescribed officer⁽⁴⁾ may—

- (1) grant a licence in the prescribed form for any ship or boat to be employed in a fishery on payment of the prescribed fee;
- (2) grant a licence to any prescribed person to engage in a fishery on payment of the prescribed fee.

Ships or boat employed in fishery to be licensed.

7.—(1.) If any ship or boat is employed in any fishery without a licence therefor under this Ordinance having been first obtained, the owner or master of any such ship or boat shall be liable to a penalty not exceeding Five hundred pounds which may be recovered in a summary way before a District Court.

Penalty for using unlicensed ship or boat.
Sub-section (1) amended by No. 48 of 1938, s. 2.

(2.) In default of payment of such penalty, the ship or boat, and all things found on board, shall be seized and kept for a period of sixty days unless the penalty is paid, and if at the expiration of sixty days the penalty is still unpaid, then the ship or boat, together with all tackle, apparel, furniture and cargo shall be forfeited to His Majesty.

8. Every ship or boat shall be deemed to be engaged in a fishery if she is used as a depot or place of lodging or refuge for persons employed in a fishery or if she is used for persons to dive from or to collect or store pearl oysters, pearl oyster shells, or beche-de-mer, or any other fish or shell or prescribed product or for carrying or conveying otherwise than as a sea-going vessel under a transire pearl oysters, pearl oyster shells, or beche-de-mer, or any other fish or shell or prescribed product from any one place within the Territory to any other place within the Territory.

When ship or boat to be deemed engaged in fishery.

9. It shall be lawful for any inspector, officer of Customs or naval officer to seize and take any ship or boat which is found employed in a fishery without being licensed under this Ordinance, and to detain such ship or boat until a prosecution for breach of this Ordinance is heard and determined.

Unlicensed ship or boat may be seized.

Amended by No. 13 of 1932, s. 3, and by No. 48 of 1938, s. 3.

(3) No power to make proclamations, regulations or orders is contained in any of the Orders referred to in footnote (2) printed on p. 2154.

(4) By notice dated 4.11.1922 and published in *N.G. Gaz.* of 15.11.1922, the Administrator appointed "the District Officers for the time being of the Districts of Kaewiang, Madang, Manus, Kieta, Namatanai, Eitape, Morobe, Gasmata, and Talasea, to be prescribed officers.

FISHERIES—

Powers of naval officer or inspector.

Q. No. 29, 1891.

Section 10 amended by No. 13 of 1932, s. 4.

10. An inspector or a naval officer may, within the limits of the jurisdiction of New Guinea—

- (a) go on board any ship or boat employed in fishery, or enter upon any fishing station or any buildings thereon;
- (b) require the master or employer, or any person in charge of a fishing station, or ship, or boat to produce any certificate of registry, licence, official log-book, official papers, articles of agreement, muster-roll, or other document relating to the station, ship, or boat, or to any person who is at the station or on board the ship or boat, and which are in possession or control of such master or employer or person;
- (c) take copies of such documents or of any part or parts thereof;
- (d) muster the persons on board the ship or boat or at the station;
- (e) require the master or employer, or the person in charge of the station, ship, or boat, to give any explanation concerning the station, ship, or boat, or any person on board the ship or boat, or at the station, or concerning any such certificate of registry, licence, official log-book, official papers, articles of agreement, muster-roll, or other document;
- (f) examine the sails, lights, boats, anchors, grapnels, and fishing implements belonging to the ship, boat, or fishing station;
- (g) examine the diving-dress, air-pumps, air-tubes, and gear, and all other gear and tackle used in the ship or boat or at the station;
- (h) by order in writing under his hand forbid the further use of any gear or tackle which is, in his opinion, unsafe or insufficient;
- (i) make inquiries or searches that he thinks necessary to ascertain whether any contravention of the provisions of this Ordinance or the regulations thereunder has been committed.

11. Any person who—

- (a) resists or obstructs an inspector or a naval officer in the performance of any of his duties under this Ordinance; or
- (b) being lawfully required, refuses to produce to an inspector or a naval officer anything which the inspector or naval officer is by this Ordinance authorized to require to be produced to him; or

Penalty for obstructing naval officer or inspector.

Paragraph (a) amended by No. 13 of 1932, s. 5.

Paragraph (b) amended by No. 13 of 1932, s. 5.

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(c) refuses to give to an inspector or a naval officer any information which the inspector or naval officer is authorized to require from him; or

Paragraph (c) amended by No. 13 of 1932, s. 5.

(d) gives false information in answer to any lawful inquiry made by an inspector or a naval officer,

Paragraph (d) amended by No. 13 of 1932, s. 5.

shall be liable to a penalty not exceeding Fifty pounds and not less than Twenty pounds.

12. Any person who uses any gear or tackle after an inspector has ordered that it shall not be used and while such order is in force shall be liable to a penalty not exceeding Fifty pounds and not less than Twenty pounds.

Penalty for using condemned tackle.

13.—(1.) The Administrator in Council may make regulations⁽⁵⁾ not inconsistent with this Ordinance prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular for providing for—

Regulations.
Sub-section (1) amended by No. 48 of 1938, s. 4.

(a) the registration of ships or boats engaged in fishery;

(b) the licensing of all ships or boats and persons engaged in fishery;

(c) fixing the term of licences and of the renewals of licences and fixing the fees for licences and for renewals thereof;

(d) the buying from the natives of pearls, pearl-shell, trochus-shell, or beche-de-mer or any other prescribed fish or shell or marine product;

(e) fixing the minimum dimensions of beche-de-mer, live pearl-shell, trochus-shell, or any other prescribed fish or shell or marine product which may be fished or which may be sold or purchased;

Paragraph (e) amended by No. 14 of 1924, s. 2.

(f) prohibiting fishing on certain banks or reefs or in certain districts;

Paragraph (f) amended by No. 14 of 1924, s. 2.

(g) appointing inspectors;

(h) proceedings to be taken for breaches of the regulations;

(i) penalties not exceeding Fifty pounds or, in default, imprisonment not exceeding six months for breaches of the regulations;

Paragraph (i) amended by No. 14 of 1924, s. 2.

(j) the engagement and supervision of natives employed in fishery.

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Sub-sections (2) and (3) omitted by No. 48 of 1938, s. 4.

(5) See the Fisheries Regulations 1924, printed on p. 2158.