



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**FISHERIES AND AQUATIC RESOURCES
(AMENDMENT) ACT, No. 22 OF 2006**

[Certified on 16th August, 2006]

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Fisheries and Aquatic Resources (Amendment)
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L.D. — O. 33/2005.

AN ACT TO AMEND THE FISHERIES AND AQUATIC RESOURCES
ACT, No. 2 OF 1996

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Fisheries and Aquatic Resources (Amendment) Act, No. 22 of 2006. Short title.

2. Sections 39, 40, 41, 42 and 43 of the Fisheries and Aquatic Resources Act, No. 2 of 1996 (hereinafter referred to as the “ principal enactment”) are hereby repealed and the following sections substituted therefor :— Replacement of sections 39, 40, 41, 42 and 43 of Act, No 2 of 1996.

“Licensing of aquaculture operations. 39. (1) No person shall set up, operate or engage in any aquaculture operation except under the authority of a licence issued by the Director-General for that purpose.

(2) The Director-General shall have the power to delegate in writing to any Licensing Officer appointed under section 40, his authority under subsection (1) to issue licences in respect of aquaculture operations.

Appointment of Licensing Officers. 40. (1) The Director-General shall appoint in respect of each Administrative District, one or more persons as Licensing Officers, from among persons who are nominated for that purpose under section 14A of the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998, by the Director-General of the Authority.

(2) An officer appointed as a Licensing Officer under subsection (1) shall perform such duties as may be delegated to such officer in

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writing by the Director-General under subsection (2) of section 39. The Licensing Officer shall in the performance of his duties, be subject to the general direction and supervision of the Director-General.

Application for licence and the processing of such application.

41. (1) Every application for the issue of a licence under section 39 shall be made in the prescribed form to the appropriate Licensing Officer appointed for the Administrative District within which the aquaculture operation is proposed to be set-up, operated or engaged in.

(2) Every application submitted under subsection (1) shall contain complete and accurate information of all required particulars and be accompanied by the prescribed fee.

(3) The Licensing Officer may, having considered the information and particulars contained in an application submitted under subsection (1), and where the applicant has fulfilled the requirements as prescribed pertaining to suitability to be issued with a licence under section 39, issue such licence to the applicant.

(4) An application found to contain false, misleading or incorrect information or particulars shall be rejected.

Form and duration of a licence.

42. A licence issued under section 41, shall—

- (a) be in such form as the Director-General may determine in consultation with the Authority;

- (b) be subject to such terms and conditions as specified in the licence;
- (c) become operative from such date as shall be specified in the licence; and
- (d) unless earlier revoked, be in force for the period as specified in the licence.

Renewal of a licence.

43. (1) A licence issued under section 41 may be renewed upon an application being submitted for that purpose in the prescribed form to the appropriate Licensing Officer, accompanied by the prescribed renewal fee, not less than thirty days prior to the date of expiration of the licence previously issued.

(2) The Licensing Officer may renew a licence on receipt of an application under subsection (1), where—

- (a) the licensee has not violated or done anything in contravention of the terms and conditions of the licence issued;
- (b) the licensee has not contravened any provisions of this Act or any regulations made thereunder;
- (c) the licensee has not contravened any provisions of the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made thereunder; or
- (d) the continuation of the aquaculture operation concerned will not have any adverse impact on the environment.

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(3) The provisions of section 42 shall apply in respect of a licence issued on renewal under this section.”.

Insertion of new sections 43A, 43B, 43C, 43D, 43E and 43F in the principal enactment.

3. The following new sections are hereby inserted immediately after section 43 of the principal enactment and shall have effect as sections 43A, 43B, 43C, 43D, 43E, and 43F of that enactment.

“Suspension of a licence.

43A. (1) A licence issued under section 41 may be suspended by the Director-General, where—

- (a) it becomes necessary in order to implement any aquaculture conservation or management measures adopted in consequence of a determination made by the Authority ;
- (b) the licensee has been charged for the commission of an offence under this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made under those Acts; or
- (c) the licensee has contravened any provisions of this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 or any regulations made under those Acts, and the severity of such contravention does not warrant a cancellation of the licence.

(2) Where a licence is suspended under paragraph (a) of subsection (1), the licensee shall be entitled to a *pro rata* refund of the fee paid by him for the issue of the licence.

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Cancellation of a licence. 43B. (1) A licence issued under section 41 shall be cancelled by the Director-General, where—

- (a) it is found that the licence had been obtained by providing false, misleading or inaccurate information;
- (b) the licensee has been convicted of an offence under this Act or the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998 ;
- (c) the licensee has been convicted for an offence relating to any fishing or aquaculture activity under any written law;
- (d) the licensee has contravened any provision of this Act or the National Aquaculture development Authority of Sri Lanka Act, No. 53 of 1998 or any regulation made under those Acts ;
- (e) the licensee has acted in contravention or in violation of any terms or conditions subject to which such licence was issued ; or
- (f) the continuation of the aquaculture operation would have an adverse impact on the environment.

(2) Where a licence issued is suspended or cancelled as the case may be under section 43A or this section, it shall be the duty of the Director-General to forthwith inform the licensee of such suspension or cancellation, by a written communication sent under registered post to the address given by the licensee.

Reasons to be communicated. 43C. Where an application for the issue or renewal of a licence under section 41 or section 43, as the case may be, has been refused, the

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reasons for such refusal shall be recorded by the Licensing Officer to whom such application for the issue or the renewal was made. It shall be the duty of such Licensing Officer to inform the person making such application, by a written communication sent under registered post to the address appearing in the application, of the reasons for such refusal.

Appeals. 43D. (1) Any person aggrieved by a decision refusing the issue or renewal, as the case may be, of a licence or the suspension or cancellation of a licence issued, may, within thirty days of the date of receipt of the written communication informing such person, of the refusal or the suspension or cancellation, as the case may be, appeal against such decision to the Secretary to the Ministry of the Minister.

(2) The decision on any appeal submitted under subsection (1) shall be made within sixty days of the receipt of such appeal and the person making such appeal shall be informed of the decision made on it, forthwith.

(3) Where the Secretary to the Ministry of the Minister considers it appropriate, he may hold such inquiry as deem necessary in the circumstances of the case, prior to arriving at any decision on any appeal made to him under subsection (1).

(4) The decision of the Secretary to the Ministry of the Minister on any appeal made under this section, shall be final.

Complaints
against
Licensing
Officer. 43E. (1) Any person who is dissatisfied with the actions of a Licensing Officer may forward a complaint in writing to the Director-General and it shall be the duty of the Director-General

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to take all such action as is appropriate to inquire into such complaint and recommend to the Authority the steps that may be taken in regard to the same.

(2) Notwithstanding the provisions of subsection (1), the Director-General shall have the power after inquiring into any complaint made against a Licensing Officer and where it appears to be appropriate in the circumstances, to remove such Officer from the post of Licensing Officer.

Crediting of fees collected to the Authority.

43F. It shall be the duty of the Director-General to credit monthly to the Fund of the Authority, all sums collected as fees for the issue and renewal of any licences under section 41 and section 43, as the case may be.”.

4. The heading appearing in Part VII immediately preceding section 44 of the principal enactment is hereby repealed and the following heading substituted therefor :—

Replacement of Heading of Part VII of the principal enactment.

“SETTLEMENT OF DISPUTES”

5. The following new section is hereby inserted immediately after section 45 of the principal enactment and shall have effect as section 45A of that enactment :—

Insertion of new section 45A in the principal enactment.

“Aquaculture disputes.

45A. (1) Where any dispute arises or is apprehended relating to an aquaculture operation, such dispute shall be referred by the Director-General for inquiry and settlement to an authorized officer nominated for that purpose. An authorized Officer may in the conduct of an inquiry be assisted by any Licensing Officer.

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(2) The provisions of the section 44 and section 45 shall *mutatis mutandis*, apply to and in respect of the conduct and settlement of a dispute referred to in subsection (1).”.

Insertion of new section 49A in the principal enactment.

6. The following new section is hereby inserted immediately after section 49 of the principal enactment and shall have effect as section 49A of that enactment:—

“Offences relating to aquaculture operations.

49A. Every person who—

- (a) carries on any aquaculture operation without a valid licence;
- (b) being a licensee discharges, dumps, deposits, releases or permits the discharging, dumping, depositing or releasing of any poisonous, noxious or harmful material or substance or waste water to any inland waters or to any land in such a manner as will affect the environmental quality of that land;
- (c) being a licensee does any act which would have adverse effect on the environment;
- (d) carries on any aquaculture operation and refuses when lawfully required by a Licensing Officer to give information or gives information which is false, incorrect or misleading in any material respect;
- (e) uses abusive or threatening language or makes insulting gestures or behaves in a threatening manner towards a Licensing Officer who is carrying out his duties or exercising his powers under this Act;

- (f) assaults or obstructs a Licensing Officer in the performance of his duties under this Act;
- (g) fails, refuses or neglects to immediately and fully comply with every lawful instruction or direction given by a Licensing Officer ;
- (h) impersonates or falsely represent himself to be a Licensing Officer; or
- (i) interferes in any way with a Licensing Officer in the performance of his duties,

shall be guilty of an offence under this Act, and shall on conviction after a summary trial before a Magistrate be liable to imprisonment of either description for a term not less than eighteen months and not exceeding thirty six months or to a fine not less than twenty five thousand rupees and not exceeding one hundred thousand rupees, or to both such fine and imprisonment.”.

7. The following new section is hereby inserted immediately after section 57 of the principal enactment and shall have effect as section 57A of that enactment :—

Insertion of new section 57A in the principal enactment.

“Fifty *per centum* of fines imposed to be credited to the Authority.

57A. Notwithstanding anything to the contrary in any other law, fifty *per centum* of every fine imposed by a court for the commission of an offence under section 49 of this Act, shall be credited to the Fund of the Authority.”.

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Insertion of new section 58A in the principal enactment.

8. The following new section is hereby inserted immediately after section 58 of the principal enactment and shall have effect as section 58A of that enactment :—

“Licensing Officers required to produce proof of identification.

58A. (1) A Licensing Officer in the performance of his duties under this Act, shall be required to declare his office and produce such identification as may reasonably be sufficient to prove that he has been appointed as a Licensing Officer for the purposes of this Act.

(2) The refusal by any person to comply with a request, demand or order made by a Licensing Officer shall not be an offence under this Act, if such Officer fails to declare his office or produce such identification as may reasonably be sufficient to prove that he has been appointed as a Licensing Officers under this Act.”.

Amendment of section 61 of the principal enactment.

9. Section 61 of the principal enactment is hereby amended in subsection (1) of that section, by the repeal of paragraph (q) of that subsection.

Amendment of section 66 of the principal enactment.

10. Section 66 of the principal enactment is hereby amended as follows :—

(1) by the repeal of the definition of the expression “aquaculture” and the substitution therefor of the following definition :—

““aquaculture” means the cultivation, propagation or farming of fish or other living aquatic resources, and includes cultivation, propagation or farming from

eggs, spawn, spat or seed, or by rearing fish or aquatic plants or aquatic resources lawfully taken from the wild or lawfully imported into the country or by other similar process;”;

- (2) by the repeal of the definition of the expression “aquaculture enterprises”;
- (3) by the insertion immediately after the definition of the expression “aquatic medium”, of the following new definition:—

““aquaculture operation” means the conduct of aquaculture in any area, enclosure, pond, impoundment, premises or structure set up or used for the cultivation of aquatic plants or organisms including fish for commercial purposes and includes any bed or raft or other structure used for the cultivation of pearl oyster and other shellfish;”;

- (4) by the insertion immediately after the definition of the expression “aquatic resources”, of the following new definition :—

“ “Authority” means the National Aquaculture Development Authority of Sri Lanka established by the National Aquaculture Development Authority of Sri Lanka Act, No. 53 of 1998;”;

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- (5) by the repeal of the definition of the expression “fish” and the substitution therefor of the following definition :—

“fish” means any water dwelling aquatic or marine animal, alive or not, and includes their eggs, spawn, spat and juvenile stages, and any of their parts, and includes all organisms belonging to sedentary species;” and

- (6) by the insertion immediately after the definition of the expression “sale”, of the following new definition :—

“ “sedentary species” means any marine or aquatic organisms which, at the harvestable state, are immobile on or under the bed of the sea or water, or unable to move except in constant physical contact with subsoil or bed of the sea or water, as the case may be;”.

Sinhala text to prevail in case of inconsistency.

11. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

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