

LAWS OF BRUNEI

REVISED EDITION 1984

CHAPTER 61

FISHERIES

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

ADMINISTRATION

3. Director and Deputy Director of Fisheries
4. Powers of officers

PART III

PROVISIONS FOR PROTECTION OF FISHERIES

5. Regulations

PART IV

INCIDENTAL AND SUPPLEMENTARY PROVISIONS

6. Licences
7. Validity of licence
8. Partners

PART V

OFFENCES

9. Wilful damage to fishing implements
 10. Prohibition of use of poison or explosives
 11. Penalty
 12. Forfeiture
 13. Sale of fish pending result of prosecution
 14. Confiscation of vessels etc.
 15. Responsibility of partners
 16. Power to compound offences
 17. Offence committed by a servant
 18. Exemptions
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FISHERIES ACT

An Act to consolidate and amend the law relating to fisheries and to make provision for matters incidental thereto 13 of 1972

Commencement: 5th March 1973

PART I

PRELIMINARY

1. This Act may be cited as the Fisheries Act. Short title
2. In this Act unless the context otherwise requires — Interpretation
 - “Authorised Officer” means any officer authorised by the Director of Fisheries to carry into effect the provisions of this Act;
 - “Brunei waters” means all waters whether navigable or not within Brunei and that part of the seas adjacent to Brunei both within and outside territorial waters, within which citizens of Brunei have by international law the exclusive right of fishing; and where such part is defined by the terms of any convention, treaty or arrangement for the time being in force between Brunei and any other State, includes the part so defined;
 - “Director” means the Director of Fisheries;
 - “fish” includes any of the varieties of marine, brackish water or fresh water fishes, crustacea, aquatic mollusca, marine sponges, trepang and other aquatic life, but does not include turtles or their eggs;
 - “fish dealer” includes any person engaged in buying (except for personal consumption), selling

or consigning fish whether fresh or preserved in any manner;

“kilong” means any device used for fishing which is made up of poles or other supports fixed into the ground and enclosed by rattan, wire or other screening material, so designed as to lead fish into such enclosure;

“licensing officer” means any person authorised to issue licences under this Act;

“master” means any person in command, or having charge, of a vessel;

“other fishing appliance” means any net, trap, line, hook or any other appliance, other than a kilong, tugu or spear gun, used for the purpose of catching or killing fish;

“spear gun” means any device fired with the aid of compressed air, springs or any other means and made for the purpose of catching or killing fish;

“tugu” means a structure of poles fixed to the ground in the tidal zone for the purpose of attaching one or more conical trap nets to such structure and includes these nets.

PART II

ADMINISTRATION

Director and
Deputy
Director of
Fisheries

3. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Director of Fisheries and a Deputy Director of Fisheries for the purpose of carrying into effect the provisions of this Act.

(2) The Director shall have the general supervision of all matters relating to fisheries throughout Brunei.

(3) The Director may delegate the exercise of any or all of the powers conferred upon him by this Act to such persons as he may think fit.

4. (1) Any Authorised Officer and any police officer not below the rank of corporal, may without warrant — Powers of Officers

(a) stop, search and detain any vessel or vehicle which he has reason to believe is being used for fishing, or for carrying fish or fishing materials, contrary to the provisions of this Act or any regulations made thereunder, and may seize such vessel or vehicles, and any engine, fish, nets, instruments, fishing materials or other appliances found therein;

(b) search and examine any kilong, nets, instruments, materials and appliances used in catching fish and effect the removal of any unlicensed kilong the ownership of which cannot be determined;

(c) arrest any person found committing or attempting to commit or abetting the commission of an offence against this Act or any regulations made thereunder.

(2) An Authorised Officer and any police officer not in uniform when acting under this Act, shall on demand declare his office and produce to any person against whom he is taking action such identification card as the Director or the Commissioner of Police respectively shall prescribe.

(3) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any Authorised Officer or any police officer (not in uniform), if such Authorised Officer or police officer refuses on demand being made by such person to declare his office or produce his identification card.

PART III

PROVISIONS FOR PROTECTION OF FISHERIES

Regulations 5. The Minister may make regulations relating to fishing and fisheries —

(a) to regulate or prohibit the erection, maintenance, working, repair and lighting of kilong;

(b) to regulate or prohibit any method of fishing or the use of traps or fishing nets;

(c) to provide for the licensing control and supervision and protection of any fishery and of the cultivation of fish or any particular species of fish;

(d) to prescribe the species or the minimum weights and sizes of fish which may be captured or taken for the purposes of sale, processing, consumption, consignment or sport;

(e) to prescribe the areas and the periods of time in the year within which fish or any particular species or size of fish may be killed or captured;

(f) to prescribe the areas and the period of time in the year within which any particular method of fishing is prohibited or restricted;

(g) to prohibit except in accordance with the terms and conditions of a licence the killing or capture of fish or any particular species or size of fish in any specified areas;

(h) to require the supply by any person concerned in the capture or cultivation of fish or by any fish dealer of such information as may be

necessary to determine the measures to be taken to improve the fishing industry and trade;

(i) to prescribe persons by name or by office to be licensing officers for the purposes of this Act;

(j) to prescribe the powers to be exercised by Authorised Officers;

(k) to prohibit or control the importation, exportation, transit, sale, cultivation or keeping of fish or any particular species of fish;

(l) to regulate or prohibit the deposit or discharge of any solid or liquid substance into the water;

(m) to regulate the leasing of the foreshore or sea-bed for the cultivation of fish, oysters, mussels or any other molluscs and to control the collection of any molluscs;

(n) to regulate the taking or killing of whales, dolphins or porpoises;

(o) to regulate the capture or killing of turtles and the collection of their eggs;

(p) to control the methods of curing fish;

(q) to control the marketing and distribution of fish;

(r) to prescribe areas where fish may be landed;

(s) to control fish landing areas and to appoint such Boards as are required to effect such control;

(t) to prescribe fees for any licence to be issued or for any other service performed under this Act or any regulations made thereunder.

PART IV

INCIDENTAL AND SUPPLEMENTARY PROVISIONS

Licences

6. (1) A licensing officer may, subject to the provisions of this Act and of any regulations made thereunder, issue to any person a licence, on such terms and conditions as he may specify, exempting him from any prohibition or obligation imposed by the provisions of this Act or any regulations made thereunder.

(2) A licensing officer may attach to a licence such conditions as the Director or any Authorised Officer may deem to be appropriate.

(3) A licensing officer may, with the approval of the Director, refuse to issue a licence under this section or may revoke any licence already issued.

Validity of licence

7. (1) Every licence issued under this Act or any regulations made thereunder shall, unless the contrary is stated in such regulations or in the licence, expire on 31st December of the year in which it is issued.

(2) A licence issued under this Act shall not be transferable.

Partners

8. (1) Two or more persons carrying on business in partnership shall not be required to obtain more than one licence under this Act in respect of such partnership.

(2) In the case of a licence issued under this Act in respect of partnership, the names of all the partners and,

from time to time, the names of new partners, shall be disclosed to the licensing officer and shall be entered in the licence, and a licence to 2 or more persons shall not expire on the death or retirement from business of any one or more of the partners.

PART V

OFFENCES

9. Any person who wilfully damages or destroys kilongs, nets, lures or fishing implements shall be guilty of an offence against this Act.

Wilful
damage to
fishing
implements

10. (1) Any person who, except under the authority of a licence issued under this Act, uses any poisonous or explosives substance with intent to stupefy, poison or kill fish shall be guilty of an offence.

Prohibition
of use of
poison or
explosives

(2) Any person who is found in possession of fish which has been captured with the aid of any explosive or poisonous substance and who does not give satisfactory account as to how he came to be in possession thereof, shall be guilty of an offence.

11. (1) Any person who does or attempts to do an act contrary to, or fails to comply with, the provisions of this Act or any regulations made thereunder shall be guilty of an offence, if no special penalty is provided, be liable to a fine of \$2,500 and to imprisonment for one year.

Penalty

(2) Where an offence is continued after conviction or where an order made under this Act is not obeyed within the time required, there shall be payable by the offender for each day that the offence or failure to obey is continued, a fine of \$50; and where such offence is continued for a period

exceeding 10 days after conviction, the offender shall be liable to imprisonment for 6 months.

Forfeiture

12. Any vessels, vehicles, kilongs, nets, instruments or appliances used in the commission of any offence against this Act or of any regulations made thereunder and any fish caught in contravention of the provisions of this Act or of any regulations made thereunder may be forfeited to the Director of Fisheries and, if so forfeited, shall be disposed of in such manner as the Director of Fisheries may direct.

Sale of fish
pending
result of
prosecution

13. Any fish seized by an Authorised Officer or police officer in accordance with the provisions of this Act may be sold forthwith, and the proceeds of sale thereof shall be held to abide the result of any prosecution or claim or, where there is no prosecution or claim, shall be paid to the person from whom the fish was seized.

Confiscation
of vessels etc.

14. (1) A magistrate may order the confiscation of any vessels, vehicles, kilongs, nets, instruments or appliances used in the commission of any offence.

(2) A magistrate may order the removal of any offending kilongs or part thereof, and any costs incurred by an Authorised Officer in effecting such removal shall be borne by the owner of the kilongs so removed.

Responsibility
of partners

15. When a licence is granted to 2 or more persons carrying on business in partnership every such person shall be liable for any act and omission of the other or others of them unless he proves to the satisfaction of the court that he has no knowledge of, or that he in no way directly or indirectly contributed to, the commission of the act or the making of the omission by such other or others.

Power to
compound
offences

16. The Director may compound any offence against this Act or any regulations made thereunder for a sum of money not less than one-fifth of the maximum fine provided for such offence.

17. Where an offence under this Act or any regulations made thereunder is committed by a servant, the master in the course of whose employment the servant so committed the offence shall also be guilty of the offence unless the said master proves to the satisfaction of the court —

Offence
committed by
a servant

(a) that he used due diligence to secure compliance with this Act or the regulations made thereunder; and

(b) that the offence was committed without his knowledge, consent or connivance.

18. The Director may in writing exempt from the provisions of this Act and all regulations, either absolutely or conditionally, any person attached to a scientific institution who fishes only for the purposes of scientific research.

Exemptions

