

REGULATION I OF 1938

A

REGULATION TO

Provide for the control of sea fishing in the waters surrounding the Andaman and Nicobar Islands

Where as it is expedient to provide for the control of sea fishing in the waters surrounding the Andaman and Nicobar Islands; It is hereby enacted as follows :-

1. SHORT TITLE, EXTENT AND COMMENCEMENT:

- 1) This Regulation may be called the Andaman and Nicobar Islands Fisheries Regulation, 1938.
- 2) It extends to the Chief Commissioner's Province of the Andaman and Nicobar Islands.
- 3) It shall come into force on such date as to the Chief Commissioner may by notification in the official Gazette appoint:

2. DEFINITIONS: In this regulation, unless there is anything repugnant in the subject or context :-

- 1) Fish includes turtle, estuary tortoises, sea-slugs (beche de-mer) and shell-fish and 'fishing' with its grammatical variations includes the catching of turtle estuary tortoises or the collecting of their eggs, and the collecting of sea slug (beche de mer), Shell-fish or nacre including trochus and turbo shells;
- 2) "Fishery Officer" means -
 - a) any Officer Commanding a ship of His Majesty's Royal Navy or Royal Indian Navy and
 - b) any person appointed by or under the authority of the Chief Commissioner to be a Fishery Officer for the purpose of this Regulation;"fishing implement" means any implement, weapon or contrivance, movable or stationery, used in or adapted for the use in fishing.

3. LICENCE TO FISH :- No person shall fish in the waters surrounding the Andaman and Nicobar Islands unless he possess a licence issued by or under the authority of the Chief Commissioner entitling him to do so, nor otherwise than in accordance with the conditions contained in the licence. Provided that the Chief Commissioner may, by notification in the official Gazette exempt any person, or any specified class of persons, either absolutely or subject to specified conditions from the provisions of this section.

4. **POWER TO LEASE OUT RIGHT TO FISH :-** Subject to control of the Chief Commissioner, the Deputy commissioner, port Blair may in accordance with the rules made under section 12 grant to any person a lease of the right to fish for any specified kind or kinds of any part of the waters surrounds the Andaman and Nicobar Islands.

5. **PENALTIES :-**

Whoever contravene the provisions of section 3 shall be punishable with imprisonment, which may extend to six months or with fine which may extend to one thousand rupees or with both.

Whoever not being a person exempted from taking out licence, without the permission of the leasee fishes in any waters for fish in respect of which a lease has been granted under section 4 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or with both.

6. **Duty and powers of Fishery officers in preventing offences :-**

- i) A Fishery Officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of an offence punishable under section 5.
- ii) A Fishery Officer knowing of a design to commit an offence punishable under section 5 may arrest without orders from a Magistrate and without warrant the person so designing, if it appears to him that the commission of the offence cannot otherwise be prevented.

7. **Power to arrest without warrant in certain cases :-**

- i) A fishery Officer may without an order from a magistrate and without a warrant arrest any person who has been concerned in an offence punishable under section 5 or whom he reasonably suspects of having been so concerned if such person refuses to give his name and address or gives a name and address which the Fishery Officer believes to be false or if the Fishery Officer has reason to believe that he will abscond.
- ii) A Fishery Officer making an arrest under section 6 or under Sub-Section (i) of this section shall without necessary delay take or send the person arrested before a Magistrate having jurisdiction in the case.

8. **Power to inspect and seize :-**

- i) A Fishery Officer may inspect any fishing implements or any fish in the possession of or under the control of any person whom he reasonably suspects of being or having been concerned in fishing in contravention of this Regulation, and may for such purposes enter any premises, building or vessel owned or occupied

by such persons; and, if he has reason to believe that any vessel or fishing implements have been used or that any fish has been obtained in the course of the commission of any offence against this Regulation, he may seize such vessel, implements or fish.

- ii) A Fishery Officer making a seizure under Sub-Section (i) shall as soon as may be report such seizure to the Magistrate having jurisdiction to try the offence in connection with which the seizure was made, and shall unless the property seized is perishable or not easily transportable, at the same time send the property to the Magistrate.
- iii) Whoever obstructs a Fishery Officer in the exercise of his powers under this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

9. POWER TO CONFISCATE :

Where any person is convicted of an offence punishable under section 5, the Chief Commissioner may in addition to any penalty imposed by the Court trying the offence make an order forfeiting to His Majesty any vessel or fishing implements used in and any fish obtained in the course of, the commission of the offence.

10 SPECIAL RULE OF PROCEDURE :

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898) or in the Indian Evidence Act 1872 (I of 1872) a written report made or a telegraphic report sent by a Fishery Officer, being the Commanding Officer or a ship of His Majesty's Royal Navy or Royal Indian Navy, any be admitted in evidence in any trial of an offence punishable under section 5, without such officer being examined as a witness or called to prove such report.

11. JURISDICTION :

No offence punishable under section 5 shall be tried by any Magistrate except a Magistrate of the First Class.

12. POWER TO MAKE RULES :

- i) The Chief Commissioner may by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this regulation.
- ii) In particular and without prejudice to the generality of the foregoing power, rules made under this section may provide for:
 - a) the issue of licences under section 3, the conditions to be contained therein and the charges to be made thereof;
 - b) the granting of leases under section 4;
 - c) the disposal of property seized under section 8, when perishable or not easily transportable.

- d) the manner in which effect shall be given to forfeitures ordered under section 9,
- e) the prohibition of the catching of certain kinds of fish, either wholly or by particular methods or implements, or in certain localities.

In exercise of the powers conferred by section 96 of the Government of India Act, 1935, I hereby made this Regulation.

The 19th day of
November, 1938.

LINLITHGOW
Governor General

PROVINCIAL GOVERNMENT
NOTIFICATION

Dated at Port Blair, the 30th March, 1939

No. 10 of 1939 Under Sub-section (3) of section 1 of the Andaman and Nicobar Islands Fisheries Regulation, 1938 (1 of 1938), I declare that the said Regulation shall come into force on the 1st April, 1939.

No. 11 of 1939 - Under sub-section 2 (b) of Section 2 of the Andaman & Nicobar Islands Fisheries Regulation, 1938 (1 of 1938), I appoint the following persons to be Fishery Officers for the purposes of the said Regulation :-

The Engineer & Harbour Master, Port Blair

The Commandant Military Police, Port Blair

The Chief Forest Officer, Port Blair

The Asst. to the Chief Forest Officer, Port Blair

The Officer Incharge North Andaman Division, Stewart Sound.

The Officer Incharge South Andaman Division, Long Island

The Deputy Commissioner, Port Blair

The Asst. Commissioner of the Nicobars, Car Nicobar

The Tahsildar, Nancowrie.

C. F. WATERFALL
Chief Commissioner
A & N Islands

PROVINCIAL GOVERNMENT
NOTIFICATION

DATED AT PORT BLAIR, THE 30th MARCH, 1939

No. 12 of 1939 Under section 3 of the Andaman and Nicobar Islands Fisheries Regulation 1938 (1 of 1938) I exempt the following classes of person subject to the conditions indicated against them from taking out fishing licences under the said section :-

- i) Members of the aboriginal tribes of the Andaman and Nicobar Islands when fishing with their customary implements for sports or for their own consumption or use
- ii) All residents in the Andaman and Nicobar Islands, all officers and crews of ships of His Majesty's Royal Navy or Royal Indian Navy and of ships chartered by government and all government officials visiting the Andaman and Nicobar Islands on duty when fishing with rod and line or with hand line for sport or for their own consumption or use and
- iii) All talabdar convicts in Port Blair when fishing under the orders of the Deputy Commissioner.

C. F. WATERFALL
CHIEF COMMISSIONER
A. & N ISLANDS

Ordy. Gazette. No. 3 dated 5.4.1956

NOTIFICATION

Port Blair, the 13th March, 1956

No. ANIEF/3/1 - In exercise of the Powers conferred by the provision to section 3 of the Andaman and Nicobar Islands Fisheries Regulation, 1938 (Regulation 1 of 1938) and in supersession of his notification No. 12 of 1939, dated the 30th March, 1939 the Chief Commissioner of the Andaman and Nicobar Islands is pleased to exempt the following classes of persons from the provision of the said section subject to the conditions specified therefore and also subject to the provisions of sub-rule (2) of rule 5 of the Andaman and Nicobar Islands Shell Fishing Rules, 1955, namely.

- a) Members of the aboriginal tribes of the Andaman and Nicobar Islands when fishing with their customary implements for sport or for their own consumption or use.
- b) All residents of the Andaman and Nicobar Islands, all officers and crews of ships belonging to or chartered by government and all government servants visiting the Andaman and Nicobar Islands on duty, when fishing with rod and line or with hand line for sport or for their own consumption or use.
- c) All residents of the Andaman and Nicobar Islands when fishing by net for sport or for their own consumption or use provided that the catch does not exceed (10 pounds) 10 lbs per net per day.
- d) All prisoners when fishing under the orders of the Supdt. of Jail.

Sd/-
S. N. MITRA
CHIEF COMMISSIONER
A & N Islands (F. No. 28-20/54)

NOTE : The forms under the rules are under preparation and will issue in due course.
The scales of fee under the rules will be intimated later.