

THE LAKSHADWEEP MARINE FISHING REGULATION, 2000

ADMINISTRATION OF THE
UNION TERRITORY OF LAKSHADWEEP
SECRETARIAT

KAVARATTI
DATED: -28.11.2000

NOTIFICATION

F.No.19/11/99-FY: The Lakshadweep Marine Fishing Regulation, 2000 (No.3 of 2000) is republished for general information.

ADMINISTRATOR

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st September, 2000/Bhadra 30, 1922 (Saka)

THE LAKSHADWEEP MARINE FISHING REGULATION, 2000

No.3 Of 2000

Promulgated by the President in the Fifty-first Year
of the Republic of India

A Regulation to provide for the regulation of fishing by fishing vessels in the lagoons and sea around the Union territory of Lakshadweep.

In exercise of the powers conferred by Article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Regulation may be called the Lakshadweep Marine Fishing Regulation, 2000.

(2) It extends to the whole of the Union territory of Lakshadweep.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Regulation, unless the context otherwise requires.—

(a) "adjudicating officer" means any officer of the Fisheries Department, not below the rank of an Assistant Director of Fisheries authorised by the Administrator, by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, an adjudicating officer by this Regulation for such area as may be specified in the notification;

(b) "Administration" means the Administration of the Union territory of Lakshadweep;

(c) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(d) "Appellate Board" means an Appellate Board constituted under section 17;

(e) "authorised officer" means such officer as the Administrator may, by notification in the Official Gazette, authorise in respect of the matter to which a reference is made in the provisions of this Regulation in which the expression occurs;

(f) "fishing vessel" means a ship or boat, whether or not fitted with mechanised means of propulsion, which is engaged in sea-fishing for profit and includes catamaran, country craft and canoe engaged in sea-fishing;

(g) "port" means the space within such limits as may, from time to time, be defined by the Administrator, by notification in the Official Gazette, for the purposes of this Regulation;

(h) "prescribed" means prescribed by rules under this Regulation;

(i) "registered fishing vessel" means—

13 of 1972.

(A) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972;

or

(B) a vessel registered as a fishing vessel under section 9;

(j) "specified area" means such area or areas in the sea, or in the lagoon around the Union territory of

Lakshadweep but not beyond the territorial waters, as may be specified by the Administrator, by notification in the Official Gazette.

Authorisation of officers for the purpose of any provision of the Regulation.

3. The Administrator may, by notification in the Official Gazette, authorise,—

(a) any officer of the Administration, not being an officer below the rank of a gazetted officer; or

(b) any officer of the Central Government, not being an officer below the rank of a gazetted officer or a commissioned officer in the Armed Forces of the Union, with the consent of that Government, to exercise the powers conferred on, and discharge the duties imposed upon, an authorized officer under this regulation in such area as may be specified in the notification.

CHAPTER II

REGULATION OF FISHING

Power to regulate or prohibit certain matters within specified areas.

4. (1) The Administrator may, having regard to the provisions of sub-section (2), by order notified in the Official Gazette, regulate, restrict or prohibit—

(a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed; or

(b) the number of fishing vessels which may be used for fishing in any specified area; or

(c) the catching in any specified area of such species of fish and for such period as may be specified in the notification; or

(d) the use of such fishing gear in any specified area as may be prescribed.

(2) In making an order under sub-section (1), the Administrator shall have due regard to the following matters, namely:—

(a) the need to protect the interests of different sections of persons engaged in fishing, particularly those belonging to the Scheduled Tribes;

(b) the need to conserve fish and to regulate fishing on a scientific basis;

(c) the need to maintain law and order in the sea;

(d) any other matter as may be prescribed.

Prohibition of use of fishing vessels in contravention of any order made under section 4.

5. No owner or master of a fishing vessel shall use, or cause to allow such vessel to be used, for fishing in any manner which contravenes an order made under section 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any specified area to, or from, any area other than a specified area for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not, in any manner, cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing raft such as catamaran, country craft and canoe, in accordance with the provisions of this Regulation.

Licensing of fishing vessels.

6. (1) The owner of a fishing vessel may make an application to the authorised officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

(2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed.

(3) The authorised officer may, after making such inquiry as he may deem fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant, to the owner of the fishing vessel a licence for using such fishing vessel for fishing in, the specified area or specified areas as may be mentioned in such licence.

(4) In granting or refusing to grant a licence under sub-section (3), the authorised officer shall have regard to the following matters, namely:—

(a) whether the fishing vessel is a registered fishing vessel or not;

(b) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted;

(c) whether any order that may be made under section 4;

(d) any other matter as may be prescribed.

(5) A licence granted under this section shall be in such form and subject to such conditions, including conditions as to payment of such fees and furnishing such security for the due performance of the conditions, as may be prescribed:

Provided that different fees, and different amounts byway of security, may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section shall be valid for the period specified therein or for such extended period as the authorised officer may think fit to allow in any case.

Prohibition of fishing using fishing vessels which are not licensed.

7. No person shall, after the commencement of this Regulation, carry on fishing in any specified area using a fishing vessel, which is not licensed under section 6:

Provided that nothing in this section shall apply to a fishing vessel which was being used for fishing immediately before the commencement of this Regulation, for such period as may be specified by the Administrator, by notification in the Official Gazette.

Cancellation suspension and amendment of licence.

8. (1) If the authorised officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 6 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Regulation or any order or rule made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this

Regulation, the authorised officer may, after giving the holder of the licence a reasonable opportunity of showing cause, and being heard, cancel or suspend the licence or forfeit the whole or any part of the security, if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorised officer may also vary or amend a licence granted under section 6.

Registration of fishing vessels.

13 of 1972.

9. (1) No owner of a vessel other than a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972, shall use or cause to be used for purposes of fishing in the Union territory of Lakshadweep, unless such vessel is registered as a fishing vessel under this Regulation.

(2) Every application for registration of a vessel as a fishing vessel shall be made by the owner thereof to the authorised officer in such form and in such manner and shall be accompanied by such fees, as may be prescribed,—

(a) before the expiration of three months from the date on which he first became the owner of such vessel; or

(b) before the expiration of six months from the commencement of this, Regulation, Whichever is later:

Provided that the authorised officer may, for reasons to be recorded in writing extend the time limit for registration by such period or periods not exceeding six months at a time, as he may think fit.

(3) The authorised officer shall assign a registration number to the vessel and issue to the owner of the vessel registered by him a certificate of registration in the prescribed form and shall enter in a register to be kept by him, in such form as may be prescribed, the particulars of such certificate:

Provided that the authorised officer may, for sufficient reasons to be recorded in writing, refuse to register the vessel.

(4) Registration once made shall continue to be in force until it is cancelled by the authorised officer:

Provided that where a vessel is required to hold a certificate to be issued by the Mercantile Marine Department of the Central Government for operation, such vessel shall hold such certificate.

(5) Every vessel registered under this section shall carry the registration mark assigned to it by the authorised officer displayed at a conspicuous place on the vessel in the prescribed manner.

(6) No vessel, other than a registered fishing vessel, shall be entitled to apply for a licence under section 6.

Information to be given to authorized officer about movement of fishing vessels.

10. Where a registered fishing vessel moves from the area of one Island port to the area of another Island port, for use in that area the owner of such fishing vessel shall give information to that effect, in the the prescribed manner, to the authorised officer by whom such fishing vessel was registered and also to the port Authority having jurisdiction over the area to which such fishing vessel moves.

Returns to be furnished by owner of registered fishing vessel.

11. (1) Every owner of a registered fishing vessel shall furnish to the authorised officer at such intervals and in such manner, such returns as may be prescribed

(2) The authorised officer may at any time enter upon and inspect any registered fishing vessel to verify the accuracy of any return made under sub-section (1).

Appeal against order refusing grant of licence, registration, etc.

12. (1) Any person aggrieved by an order of the authorised officer refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence or refusing to register a vessel or cancelling the registration of such vessel may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority, not below the rank of Secretary to the Administration, as may be prescribed (hereafter in this section referred to as the adjudicating officer):

Provided that the adjudication officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the adjudicating officer shall, after giving the

appellant a reasonable opportunity of being heard, pass such orders thereon as he deems fit as expeditiously as possible, and in any case before the expiry of three months from the date of appeal.

CHAPTER III

PENALTIES

Power to enter and search fishing vessels.

13. The authorised officer may, if he has reason to believe that any fishing vessel is being, or had been, used in contravention of any of the provisions of this Regulation, or of any order or rule made thereunder or any of the conditions of the licence, enter and search such vessel and impound such vessel and seize fish found in it.

Disposal of seized fish.

14. (1) The authorised officer shall keep the fishing fish. vessel, impounded under section 13, in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of the fish seized, the authorised officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereof in the prescribed manner in the office of the adjudicating officer.

Adjudication.

15. (1) Where any authorised officer, referred to in section 13, has reason to believe that any fishing vessel is being, or has been, used in contravention of any of the provisions of this Regulation, or any order or rule made thereunder of any of the conditions of the licence, he shall make a report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an inquiry, into the matter mentioned in the report, in the prescribed manner, after giving all the parties concerned a reasonable opportunity of being heard.

Penalty.

16. (1) The adjudicating officer, shall, after the inquiry under sub-section (2) of section 15, decide whether any person has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Regulation, or of any order or rule made thereunder or any of the conditions of the licence and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding—

(a) ten thousand rupees, if the value of the fish involved is one thousand rupees or less;

(b) ten times the value of the fish, if the value of the fish involved is more than one thousand rupees; or

(c) five thousand rupees, in any other case, being a case not involving any fish, as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that—

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in the manner referred to in sub-section (1) or the licence, any condition of which has been contravened, shall be—

(i) cancelled or revoked, as the case may be; or

(ii) suspended for such period as the adjudicating officer deems fit; or

(b) the fishing vessel or fish which may be impounded or seized, as the case may be, under section 13 shall be forfeited to the Administration:

Provided that no fishing vessel shall be forfeited under clause (b), if the adjudicating officer after hearing the owner of such vessel or any person claiming any right thereto is satisfied that the owner or such person had exercised due care and caution for the prevention of the commission of such offence.

Constitution of
Appellate Boards and
appeal to Appellate
Board.

17. (1) The Administrator may, by notification in the Official Gazette, constitute one or more Appellate Boards.

(2) Every Appellate Board shall consist of three members of whom one shall be a person who is, or has been, an officer not below the rank of sub-judge who shall be appointed as the Chairperson of the Appellate Board and the other members shall be persons having expertise in fisheries or law and such other qualifications as may be prescribed.

(3) The fees and allowances payable to the Chairperson and other members of the Appellate Board shall be such as may be prescribed.

(4) Where only one Appellate Board is constituted, that Appellate Board shall have jurisdiction throughout the Union territory of Lakshadweep and where more than one Appellate Board is constituted by the Administrator, the Administrator may, by notification in the Official Gazette, define the area of jurisdiction of each Appellate Board.

(5) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date of which the order is communicated, prefer an appeal to the Appellate Board, having jurisdiction to hear such appeal:

Provided that the Appellate Board may entertain any appeal after the expiry of the said period of thirty days of communication of the order but not after the expiry of sixty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(6) No appeal under this section shall be entertained by the Appellate Board unless the appellant has, at the time of filing the appeal, deposited half of the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the Appellate Board may, if it is of the opinion that the deposit to be made under this subsection will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

(7) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such inquiry as it deems fit, and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall be final; and—

(a) if the sum deposited by way of penalty under sub-section (5) exceeds the penalty directed to be paid by the Appellate Board, the excess amount, or

(b) if the Appellate Board sets aside the order imposing penalty, the whole of the sum deposited

by way of penalty, shall be refunded to the appellant.

Revision by Appellate Board.

18. The Appellate Board may call for and examine the records of any order passed by an adjudicating officer under section 16 and against which no appeal has been preferred under sub-section (4) of section 17 for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

5 of 1908.

Powers of the adjudicating officer and the Appellate Board.

19. (1) The adjudicating officer and the Appellate Board shall, while holding an inquiry, have all the powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

a) summoning and enforcing the attendance of witnesses;

b) requiring the discovery and production of any document;

c) requisitioning any public record or copy thereof from any court or office;

d) receiving evidence on affidavits; and

e) issuing commissions for the examination of witnesses or documents.

2 of 1974.

2) The adjudicating officer and the Appellate Board, shall be deemed to be civil courts for the purposes of section 345 of the Code of Criminal Procedure, 1973.

(3) The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Regulation and the rules made by the Administrator, the Appellate Board shall regulate its own procedure.

5 of 1908.

Offences by companies.

20. (1) Where an offence under this Regulation has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of

the business of the company, as well as the company, shall be deemed guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection

(1), where any offence under this Regulation has been committed with the consent or convenience of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER IV

MISCELLANEOUS

Exemptions.

21. (1) Nothing contained in this Regulation shall apply to survey vessels belonging to the Central Government or the Administration.

(2) If the Administrator is of the opinion that, having regard to the purposes of this Regulation, it would not be in the public interest to apply all or any of the provisions of this Regulation to any class or classes of fishing vessels or any specified area or specified areas, he may, by notification in the Official Gazette, exempt, subject to such conditions as he may think fit to impose such class or classes of fishing vessels used for fishing in such specified area or specified areas, as he may specify in the notification, from the operation of all or any of the provisions of this Regulation:

Provided that no notification issued under this subsection shall remain in force for more than six months at a time.

Protection of action taken in good faith.

22. (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Regulation or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Administrator or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Regulation or any order or rule made thereunder.

Power to make rules.

23. (1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the provisions of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the matters to which regard shall be had in making an order under sub-section (1) of section 4;

(b) the form of the application for licence under sub-section (1) of section 6, the particulars which it shall contain and the fees which shall accompany it;

(c) the matters to which regard shall be had in granting or refusing a licence, under clause (d) of sub-section (4) of section 6, the fees payable for the licence and the security for the due performance of the conditions of the licence;

(d) the procedure to be followed in granting or refusing a licence under section 6 or cancelling, suspending, varying or amending such licence or in registering a vessel under section 9 or cancelling such registration;

(e) the form of the application for registration of a vessel as a fishing vessel, the manner of making such application and the fees which shall accompany the application under sub-section (2) of section 9, the form of certificate of registration

and the form of the register referred to in sub-section (3) of that section and the manner in which the registration mark referred to in sub-section (4) of that section shall be displayed;

(f) the manner in which the information referred to in section 10 shall be given;

(g) the time and manner in which the returns referred to in sub-section (1) of section 11 shall be furnished;

(h) the authority to whom appeals shall be preferred under sub-section (1) of section 12;

(i) the place and the manner in which an impounded fishing vessel shall be kept under subsection (1) of section 14 and the manner in which the proceeds of the disposal of the seized fish shall be deposited with the adjudicating officer under subsection (2) of that section;

(j) the procedure of the inquiry by the adjudicating officer under sub-section (2) of section 15;

(k) the qualifications of the members of the Appellate Board other than the Chairperson under sub-section (2) of section 17;

(l) the fees and allowances payable to the Chairperson and other members of the Appellate Board under sub-section (3) of section 17;

(m) the procedure of the Appellate Board under sub-section (3) of section 19;

(l) the fees payable for the supply of copies of documents or orders or for any other purpose or matter involving the rendering of any service by any officer or authority under this Regulation;

(m) any other matter which is to be, or may be provided for by rules under this Regulation.

(3) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K.R.NARAYANAN,
President.

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SUBHASH C.JAIN,
Secy. to the Govt. of India.

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Corrigenda

In the Indian Council of World Affairs Ordinance, 2000 (Ord.3 of 2000) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 1st September, 2000 (Issue No.43),—

1. At page 5,—

- (i) in line 6, *for "standing committee", read "standing committees";*
- (ii) in line 7, *for "power of discharging", read "power or discharging";*
- (iii) in line 39, *for benefications", read "benefactions";*

2. At page 6, in line 31, *for "Government Body", read "Governing Body".*

3. At page 7, in line 1, *for "may extended", read "may extend".*

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Corrigenda

In the Finance (No.2) Act, 1996 (33 of 1996) as published in the Gazette of India, Extraordinary, Part II, Section I, dated the 28th September, 1996 (issue No 62),—

- at page 52, in line 39, *for "10%", read "12%";*
- at page 59, in line 9, *for "6M.M.", read "6MM".*

LGP Kvt.P-122 (1)/8-03/150