



## COLONY OF NORTH BORNEO

*Not disallowed  
C.N. 400/62.*

*Modified by:  
GWS 166/62.*

LS

I assent,

W. A. C. GOODE,  
Governor.

28th JUNE, 1963.

No. 8 of 1963

*Repealed by P.U.(A) 274/72 as from 1.12.72*

An Ordinance to consolidate and amend the law relating to,  
fisheries and provide for matters incidental thereto.

*1st March, 1964*  
[To be notified] Date of  
commence-  
ment.

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## SECTION

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ENACTED by the Legislature of North Borneo as follows:—

Short title.

*CNS 34/64*

1. This Ordinance may be cited as the Fisheries Ordinance, 1963 and shall come into operation on such date as the Governor may, by notice in the *Gazette*, appoint.

Interpretation.

2. In this Ordinance unless the context otherwise requires—

“Director” means the Director of Agriculture;

“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;

“Fishery Officer” means any officer appointed as such under section 3;

“fishing stakes” means any device used for the capture of fish which is made up of poles or other supports permanently fixed into the ground and enclosed by ramie, rattan, wire or other screening material, so designed as to lead fish into such enclosures, or any device using a net or other screening material that is anchored permanently or impermanently in maritime waters;

“licensing officer” means any person appointed as such under section 3;

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

"Ordinance" in relation to this or any other Ordinance includes subsidiary legislation.

3. (1) The Director shall have the general supervision of Officers. all matters relating to fisheries in North Borneo.

(2) The Governor may appoint Fishery Officers, licensing officers and such other officers he may consider necessary for the proper carrying out of the provisions of this Ordinance. *LN 282/64 9d/69*

4. (1) A licensing officer may, subject to the provisions of this Ordinance 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 Ordinance. *Licences.*

(2) A licensing officer may attach to a licence such conditions as the Director or a Fishery 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.

5. (1) Every licence issued under this Ordinance shall, unless the contrary is stated in such regulations or rules or in the licence, expire on the thirty-first day of December of the year in which it is issued. *Validity of licence.*

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

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

(2) In the case of a licence issued under this Ordinance in respect of a 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 two or more persons shall not expire on the death or retirement from business of any one or more of the partners.

7. (1) Any Fishery 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 Ordinance, 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 fishing stakes, nets, instruments, materials and appliances used in catching fish and effect the removal of any unlicensed fishing stakes 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 Ordinance.

(2) Any Fishery Officer or police officer having reasonable grounds for believing that any person has committed an offence against this Ordinance and—

(a) that each person is unlikely to attend the Court in answer to a summons addressed to him; or

(b) upon being asked for his name and address fails to satisfy such officer thereof,

may arrest such person without warrant.

(3) A Fishery Officer, and any police officer not in uniform when acting under this Ordinance, 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.

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

Offence.

8. (1) Any person who—

(a) wilfully damages or destroys fishing stakes, nets, lures or fishing implements;

(b) except under the authority of a licence issued under this Ordinance uses any poisonous or explosive substance with intent to stupefy, poison, or kill fish;

(c) is found in possession of fish which has been captured with the aid of any explosive or poisonous substance and who does not give a satisfactory account as to how he came to be in possession thereof

shall be guilty of an offence and shall be liable to a fine of one thousand dollars and to imprisonment for one year.

(2) Where any offence under this Ordinance is continued after conviction or where an order made under this Ordinance 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 not exceeding fifty dollars; and where such offence is continued for a period exceeding ten days after conviction, the offender shall be liable to a term of imprisonment not exceeding six months.

9. Any vessels, stakes, nets, instruments or appliances used in the commission of any offence against this Ordinance and any fish caught in contravention of the provisions of this Ordinance may be forfeited and, if so forfeited, shall be disposed of in such manner as the Director may direct. Forfeiture.

10. Any fish seized by a Fishery Officer or police officer in accordance with the provisions of this Ordinance shall 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. Sale of fish pending result of prosecution.

11. (1) A magistrate may order the confiscation of any vessels, vehicles, stakes, nets, instruments or appliances used in the commission of any offence. Confiscation of vessels, etc.

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

12. When a licence is granted to two 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. Responsibility of partners.

13. A Fishery Officer may compound any offence against this Ordinance for a sum of money not less than one-fifth of the maximum fine provided for such offence. Power to compound offences.

14. Where an offence under this Ordinance is committed by a servant, the master in the course of whose employment the servant so committed the offence shall also be guilty of Offence committed by a servant.



the offence unless the said master proves to the satisfaction of the Court—

- (a) that he used due diligence to secure compliance with this Ordinance; and
- (b) that the offence was committed without his knowledge, consent or connivance.

Service of documents.

**15.** (1) Where for the purpose of this Ordinance any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served;
- (b) if the document is to be served on the master of a ship or on a person belonging to a ship, by leaving the same for him on board that ship with the person who is or appears to be in command or charge of the ship;
- (c) by fixing a copy of the documents to any conspicuous part of his house; or
- (d) by registered letter addressed to his last place of abode.

(2) A document which is to be served on the master of a ship registered or licensed in North Borneo, if the master cannot be found, be served on the managing owner of the ship or, if there is no managing owner, on some agent of the owner residing in North Borneo or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Regulations.

GNS 35/64  
116/66

**16.** The Governor in Council may make regulations relating to maritime, estuarine and riverine fishing and fisheries—

- (a) to regulate or prohibit the erection, maintenance, working, repair and lighting of fishing stakes;
- (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 periods 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) regulate or prohibit the deposit or discharge of any solid or liquid substance whether beneficial or detrimental to fish;
- (j) to prescribe the powers to be exercised by Fishery Officer;
- (k) to prohibit or control the importation, sale, cultivation or keeping of live fish or any particular species of fish which are not natives of North Borneo;
- (l) to control the methods of curing fish;
- (m) to control the marketing and distribution of fish;
- (n) to prescribe areas where fish may be landed;
- (o) to control fish landing areas and to appoint such Boards as are required to effect such control;
- (p) to prescribe fees for any licence to be issued or for any other service performed under this Ordinance.

17. The <sup>Minister for Agriculture and Fisheries</sup> ~~Chief Secretary~~ may by order exempt from the provisions of this Ordinance either absolutely or conditionally, any person attached to a scientific institution who fishes only for the purposes of scientific research. G.N.S. 166/63  
Exemption.

18. The Fisheries Ordinance is hereby repealed.

Repeal.  
Cap. 16.

Passed this 6th day of June, 1963.

F. C. NEUBRONNER,  
*Clerk of Legislative Council.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the Legislative Council and found by me to be a true and correct copy of the said Bill.

F. C. NEUBRONNER,  
*Clerk of Legislative Council.*