

KENYA

The Fisheries Act

CHAPTER 378

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CHAPTER 378

THE FISHERIES ACT

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Sections

1. Short title
2. Interpretation

PART II - ADMINISTRATION

3. Director
4. Fisheries development measures
5. Fisheries management measures
6. Limitation of fishing

PART III - REGISTRATION OF FISHING VESSELS

7. Registration of fishing vessels

PART IV - LICENSING PROVISIONS

8. General licensing provisions

9. Local fishing vessels licence
10. Validity of local fishing vessel licence
11. Fishing and entry into Kenya fishery waters by foreign fishing vessels
12. Issue of foreign fishing licence
13. Validity of foreign fishing licence
14. Other licences

PART V - OFFENCES AND ENFORCEMENT

15. Prohibited methods of fishing
16. Receiving fish in respect of which offence has been committed
17. Obstruction of officers
18. powers of officers
19. Forfeiture
20. Compounding of offences

PART VI - GENERAL PROVISIONS

21. Conduct of prosecutions
22. Marine mammals
23. Minister's powers to make regulations
24. Schemes of loans to fishermen

CHAPTER 378

THE FISHERIES ACT

Commencement: 25th August, 1989

An Act of Parliament to provide for the development, management, exploitation, utilization and conservation of fisheries and for connected purposes

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Fisheries Act.

Interpretation

2. In this Act, unless the context otherwise requires -

“authorised officer” means a fisheries officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or other armed force or a person appointed by the minister, by notice in the Gazette, to be an authorized officer for the purpose of this Act;

“dealing in fish” means collecting, transporting, storing, trans-shipping, exposing or offering fish or fish products for purposes of trade;

“Director” means person appointed to the office in the public service of Director of Fisheries;

“fish” means any aquatic animal, whether alive or dead, and includes any part, and the spat, brood, fry, spawn, ova and young thereof;

“Fisheries Officer”, means the Director and any person in the public service of or above the rank of Assistant Fisheries Officer;

“fishing” means fishing, for, catching, taking or killing, fish by any method;

“fishing gear” means any instrument, equipment, net, cork, buoy or other article including part thereof used

for purposes of fish finding, congregating fish or fishing;

“fishing operations” includes fishing, supply of provisions to the fishing vessels and the handling and processing of fish up to the time it is first landed;

“fishing port” means a place on a lake shore or sea front where fishing vessels resort for shelter, servicing, loading and off-loading of fish and fishing equipment;

“fish processing” means any action (including icing, freezing and canning) taken to alter the shape, appearance or form of fish from that in which the fish is when first taken from its natural habitat;

“fish product” means any product or part thereof (including oil) obtained by fish processing and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;

“fishing vessel” means any vessel or craft used in fishing operations including sport fishing;

“foreign fishing vessel” means any fishing vessel other than a local fishing vessel;

Cap. 371.

“Kenya fishery waters” means the inland waters and the waters of the maritime zones described in the Maritime Zones Act and for the purposes of this Act excludes Government fish ponds and fish farms not established for commercial purposes;

“local fishing vessel” means a fishing vessel which is -

- (a) wholly owned by a person or persons who are citizens of Kenya;
- (b) wholly owned by the Government of Kenya;
- (c) wholly owned by any company, society or other association of persons established under the laws of Kenya and of which at least fifty-one per cent of the voting shares are owned by the Government or citizens of Kenya; or
- (d) wholly owned and crewed by residents of Kenya or by other persons recognized by the Director by notice in the Gazette as persons who traditionally fish in Kenya fishery waters and which meets such other conditions as the Minister may by regulations prescribe.

PART II

ADMINISTRATION

Director 3. (1) The Director shall, subject to the directions of the Minister, be responsible for the administration of this Act.

(2) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon him by this Act to such authorized officers as he may think fit.

Fisheries development measures

4. The Director shall, in co-operation with other appropriate agencies and other departments of Government, promote the development of traditional and industrial fisheries, fish culture and related industries through such measures as -

- (a) providing extension and training services;
- (b) conducting research and surveys;
- (c) promoting co-operation among fishermen;
- (d) promoting arrangements for the orderly marketing of fish;
- (e) providing infrastructure facilities; and
- (f) stocking waters with fish and supplying fish for stocking.

Fisheries management measures

5. (1) The Director may with the approval of the minister, by notice in the Gazette, impose any of the following measures that are necessary for the proper management of any fishery -

- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods or gear, including mesh sizes of nets, that may be used for fishing;
- (d) limitations on the amount, size, age and other characteristics and species or composition of species, of fish that may be caught, landed or traded;

(e) regulate the landing of fish and provide for the management of fish landing areas; and

(f) control of the introduction into, or harvesting or removal from any Kenya fishery waters of any aquatic plant.

(2) Where the use of any gear is prohibited in any area, the Director may also, by notice in the Gazette, prohibit the possession of the gear in that area.

(3) Any person who contravenes the provisions of a notice issued under this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Limitation of fishing

6. (1) Where proper management of fisheries requires limitation of the number of persons or of vessels, nets or areas or other means employed in a fishery, the Director may by notice in the Gazette limit such number or means and the limitation may include -

- (a) refusal to issue or renew licences;
- (b) imposition of special licence and catch fees;
- (c) preferential licensing in other fisheries.

(2) A party aggrieved by the action taken by the Director under subsection (1) may in writing appeal to the Minister whose decision shall be final.

PART III

REGISTRATION OF FISHING VESSELS

Registration of fishing vessels

7. (1) No person shall use any vessel for fishing in Kenya's fishery waters unless there is in force in relation to the vessel a valid certificate of registration.

(2) A certificate of registration in the prescribed form may on application and on payment of the prescribed fee be issued by an authorized officer to the owner of the vessel.

(3) Every vessel in respect of which a certificate of reg-

istration is issued under this Act shall be marked in such manner as the Director may require.

(4) The Director shall cause to be kept a register of all vessels registered under this Act.

(5) Any person who uses any vessel for fishing in Kenya fishery waters without a valid certificate of registration for that vessel shall be guilty of an offence.

(6) Any person who is guilty of an offence under this section shall be liable -

(a) In the case of a first conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both; and

(b) in the case of a second conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART IV

LICENSING PROVISIONS

General Licensing Provisions

8. (1) Without prejudice to any regulations made under this Act, no person other than persons fishing for their own consumption, shall catch or assist in catching fish in Kenya fishery waters otherwise than under and in accordance with the terms and conditions of a valid licence issued to him under this Act:

Provided that the Minister may by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under this section, and different orders may be made for different areas of Kenya.

Cap.63

(2) Subsection (1) shall not apply to a person employed by a licensee, or, subject to section 23 of the Penal Code, to a company which is a licensee, in respect of any act done by the person or company as licensee.

(3) Each licence issued under this Act shall be valid for such species of fish, type of fishing gear, method of fishing and area as may be specified in the licence.

(4) It shall be a general condition of any licence issued under this Act or regulations made thereunder that the

licensee shall comply with such requirements as the Director may establish concerning the making of statistical returns and the collection of information.

(5) Any person who catches fish in Kenya fishery waters without a licence, or in contravention of the conditions imposed on a licence, issued under this Act shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or both.

Licensing of Local Fishing Vessels

Local fishing vessel licence

9. (1) An application for a licence for a local fishing vessel shall be made in the prescribed form to the fisheries officer designated by the Director to receive that application or applications of that description, or, if no such officer has been designated, the Director.

(2) Upon receipt of an application under subsection (1) and on payment of the prescribed fee, a fisheries officer shall, subject to any licensing instructions of the Director, issue a licence for the local fishing vessel.

(3) A licence issued under this section shall be subject to such conditions as may be prescribed by or under this Act or as may be endorsed upon the licence by the issuing officer.

(4) The master and owner of a local fishing vessel which any person uses or attempts to use in fishing or any fishing operation without a licence issued under this section, shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

(5) The master and owner of a local fishing vessel whose licence conditions under this section are contravened shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Validity of local fishing vessel licence

10. (1) A local fishing vessel licence shall, unless earlier revoked or suspended, expire on the 31st December of the year in which it is issued and shall cease to be valid at any time that the vessel ceases to be a local fishing vessel.

(2) The Director may revoke or suspend a licence in respect of a local fishing vessel at any time before it expires if the holder of the licence is convicted of any offence under this Act or if in the judgement of the Director the action is necessary for the proper management of fisheries.

Licensing of Foreign Fishing Vessels

Fishing and entry into Kenya fishery waters by foreign fishing vessels

11. (1) No foreign fishing vessel shall fish, attempt to fish or participate in fishing operations in Kenya fishery waters without a licence issued under section 12.

(2) Where any foreign fishing vessel enters Kenya fishery waters without a licence issued under section 12, the fishing gear or the vessel shall, at all times while it is in such waters, be kept stowed in the prescribed manner.

(3) Where any foreign fishing vessel is used in Kenya fishery waters contrary to this section, the master and owner of the vessel shall each be guilty of an offence and liable to a fine of not less than fifty thousand shillings and not exceeding five hundred thousand shillings or to imprisonment for a period of not less than six months and not more than two years or to both.

Issue of foreign fishing vessel licence

12. (1) An application for a licence for a foreign fishing vessel shall be submitted to the Director in the prescribed form.

(2) The Director may issue a foreign fishing vessel licence if -

(a) he has determined that there are fishery resources surplus to the Kenya fishing industry which may be harvested under the licence; and

(b) he has determined the quantity of the surplus that may be harvested and indicates that quantity as a condition of the licence.

(3) A foreign fishing vessel shall be subject to a condition requiring it to comply with any management measures that may be in force from time to time under sections 4 and 5 and to the payment of prescribed fees, royalties or charges.

Validity of foreign fishing vessel licence

13. (1) A foreign fishing vessel licence shall, unless earlier revoked or suspended, be valid for such period as the Director may specify.

(2) The Director may revoke or suspend a foreign fishing vessel licence at any time -

(a) for failure to comply with the provisions of this Act, regulations or management measures thereunder, or any condition of the licence; or

(b) where he is satisfied that such action is necessary for the proper management of fisheries.

(3) If a licence is revoked or suspended under this section for the proper management of fisheries, the proportion of any fees paid for the unexpired term of the licence shall be refunded to the licensee.

(4) A party aggrieved by the suspension of a licence under subsection (2) may appeal in writing to the Minister whose decision shall be final.

Other Licences

Other licences

14. (1) The Minister may, in addition to licences for fishing vessels, make regulations requiring a licence for any fishery activities inducing sport fishing or the use of any gear or method of fishing with or without the use of a vessel, or fish processing or dealing in fish.

(2) Any person who engages in any activity for which a licence is required by section (1) otherwise than under the authority of such a licence, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART V

OFFENCES AND ENFORCEMENT

Prohibited methods of fishing

15. Any person who uses any explosives, poisonous or noxious substances or electric shock device for the purpose of killing, stunning, or disabling fish so as to render them more easily caught shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Receiving fish in respect of which offence has been committed

16. Any person who for purposes of trade and commerce receives or retains any fish knowing or having reason to believe that an offence under this Act has been committed in respect of that fish shall be guilty of an offence and liable to a fine of not less than five thousand shillings and not exceeding five hundred thousand shillings or to

imprisonment for a term of not less than six months and not more than two years to both.

Obstruction of officers

17. Any person who -

- (a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Act; or
- (b) fails to comply with any lawful enquiry or requirement made by any authorized officer under section 18, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Powers of officers

18. (1) For the purpose of enforcing this Act and any regulations made thereunder, any authorized officer may, without a warrant -

- (a) stop and board any fishing vessel in Kenya fishery waters, and any local vessel outside such waters and he may inspect such vessel, its cargo, supplies, fishing gear and equipment;
- (b) stop and inspect any vehicle or vessel transporting fish;
- (c) require to be produced, examine and take copies of any licence, log or other document required under this Act or regulations made thereunder;
- (d) require to be produced and examine any fish, net or any other fishing gear; or
- (e) impound any fish to be taken as samples and issue a receipt in the prescribed form.

(2) An authorized officer may, if he believes that an offence has been committed under this Act or regulations made thereunder, without a warrant -

- (a) enter any premises which he has reason to believe have been used in the commission of the offence, or in respect of which the offence has been committed;
- (b) arrest any person whom he has reason to believe has committed the offence; or
- (c) seize any fish, fishing gear, vessel, vehicle or other article which he has reason to believe has been used in the commission of the offence, or in respect of which the offence has been committed.

(3) Any person arrested under this section shall be brought before a court as soon as reasonably practicable.

(4) A fisheries officer who seizes anything under this section shall, at the time of the seizure, issue to the person in whose custody or possession it then is a written receipt for the thing seized.

(5) Anything seized under this section shall where practicable, be brought before a court, and except where otherwise provided by this Act, shall be dealt with according to the Criminal Procedure Code.

Cap.75

(6) Where any fish or other article seized under this section is of a perishable nature, an authorized officer may dispose of it by sale or otherwise and any proceeds shall be held in place of the article disposed of.

(7) Any local fishing vessel or vehicle or fishing gear seized under this section may upon application to the court and subject to the deposit in court of adequate bond or other security for the reasonable value thereof, be released to the person entitled thereto.

Forfeiture

19. A court which convicts any person of an offence under this Act may, in addition to any penalty otherwise imposed -

- (a) order anything other than immovable assets used in connection with the offence, including any vessel so used together with its fishing gear, stores and cargo, as well as anything in respect of which the offence has been committed to be forfeited; or
- (b) order all fish found on board any vessel or vehicle used in connection with the offence to be forfeited, except that any fish that are proved not to have been caught in the commission of an offence shall not be forfeited.

Compounding of offences

20. (1) The Director may, with the approval of the Minister, if he is satisfied that a person has committed an offence under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section -

- (a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence; and

(b) order the release of any vessel or any other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing.

(2) Any sum of money received under this section shall be dealt with as if it were a fine imposed by the court.

(3) If proceedings are brought against any person for an offence under this Act, it shall be a good defence if the person proves that he has compounded the offence under this section.

PART VI

GENERAL PROVISIONS

Power to act as public prosecutor Cap.75

21. Any authorized officer may, subject to the direction of the Attorney-General, conduct any prosecution for any offence under this Act or the regulations made thereunder and shall for that purpose have all the powers conferred upon a public prosecutor by the Criminal Procedure Code.

Marine mammals

22. (1) No person or vessel in Kenya fishery waters shall, without the prior written authority of the Minister, fish for marine mammals or use a port in Kenya for the purpose of equipping or supplying a vessel intended to be used for fishing for marine mammals.

Minister's power to make regulations

(2) Where any vessel is used in contravention of subsection (1), the master and owner thereof shall each be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

23. (1) The Minister may make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for any or all of the following purposes -

(a) presenting the conditions to be fulfilled by foreign participation in fisheries, including conditions of licensing foreign fishing vessels;

(b) establishing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;

(c) prescribing the conditions of issue of, and procedures of application for, any licence or other authority under this Act or regulations thereunder, the form and the fees payable therefor;

(d) regulating the handling, storage and processing of fish by prescribed methods of handling, storage and processing of fish;

(e) providing for inspection of fish trading and processing establishments and fish products in accordance with established standards;

(f) management and control of fishing ports and waters;

(g) for licensing of any person to engage in any form of fishing, or of handling, transporting, processing or selling of fish products;

(h) organizing and regulating the marketing and distribution of fish;

(i) providing for the registration of private marks to be used to distinguish the ownership of fishing gear;

(j) prohibiting or controlling the importation, exportation and introduction into Kenya of live fish of any kind or species;

(k) promoting and regulating or controlling the cultivation or livefish of any kind or species;

(l) exempting any type of fishing gear or vessel or any person from any provision of this Act.

(3) Regulations made under this section may provide that the contravention of any provision shall constitute an offence and may prescribe penalties for any offence of a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

Schemes of loans to fishermen

24. (1) For the purpose of promoting modern fishing methods, the Minister may prepare a scheme, with approval of the Treasury, providing for financial assistance by way of loans to fishermen and fish farmers in respect of expenditure incurred in the acquisition of fishing vessels or their gear, fishing nets and other equipment, development of fish farms or purchase of inputs, and may provide financial assistance in accordance with the scheme upon the conditions contained in the scheme.

(2) An approved scheme shall be published in such manner as the Minister thinks fit, and may be varied or revoked by him at any time.

(3) For the purpose of administering an approved scheme, the Minister may appoint one or more loans committees, and confer upon them such functions as he thinks necessary or expedient for that purpose.

(4) The Minister may give to a loans committee directions of a general or special character as to the exercise and performance of its functions (including its procedure), and the loans committee shall give effect to any such directions.

(5) Where the Minister has, with the approval of the Treasury, prepared a scheme of the kind described in subsection (1) which is in force immediately before the

commencement of this Act and has appointed a committee to administer it, that scheme shall upon such commencement, be deemed to be an approved scheme, and the committee shall be deemed to be a loans committee.

6. The Minister may, with the consent of the Treasury-

(a) make to a loans committee such grants as may be necessary to enable it to discharge its functions under this Act;

(b) pay to the members of a loans committee (other than a member who is a public officer in receipt of a salary) such remuneration and travelling and other allowances as he may, with the approval of the Treasury, determine;

(c) make such other payment as may be necessary to give effect to the provisions of this section.

SUBSIDIARY LEGISLATION

Regulations under section 14 (1)

THE FISHERIES (GENERAL) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I - PRELIMINARY

Regulation

1. Citation.
2. Interpretation.

PART II - REGISTRATION OF LOCAL FISHERIES VESSELS

3. Registration of fishing vessels.
4. Identification of registered vessels.
5. Concealment of numbers.
6. Transfer of certificate.
7. Unseaworthy vessel not allowed to sail.

PART III - LICENSING OF FISHERIES, ETC.

9. General fisherman's licence.
10. Aquarium fisherman's licence.
11. Oyster collector's licence.
12. Sport fisherman's licence.
13. Trout fishing licence.
14. Fish processing licence.
15. Fish processing licence.
16. Crustacea dealer's licence.
17. Licence for trade in *Beche-de-mer*.
18. Fish movement permit.
19. Shell collector's licence.
20. Shell dealer's licence.
21. Culturing aquarium fish.
22. Keeping aquarium fish.

23. Export of aquarium fish.
24. Disposal of aquarium fish.
25. Live fish movement permit.
26. Import and export permit.
27. Special licence.
28. Registration of sport fishing clubs.

PART IV - ADMINISTRATION OF LICENCES, PERMITS AND CERTIFICATE OF REGISTRATION

29. Application.
30. Power to refuse a licence or permit.
31. Power to attach conditions.
32. Power to modify licences, etc.
33. Power to suspend or cancel licences, etc.
34. Appeals.
35. Validity.
36. Licence not transferable.
37. Replacement of licence.
38. Register.
39. Effect of conviction.

PART V - NOTICE IN THE GAZETTE

40. Manner of publication of notice.

PART VI - GENERAL MANAGEMENT MEASURES

41. Fishing in inland waters.
42. Landing of fish.
43. Prohibited fishing methods and gear.
44. Buoying of fishing gear.
45. Harvesting of oysters.
46. Coral gathering prohibited.
47. Protection of *Anadromous* and *catadromous* fish.

48. Berried crustacea.
49. Prohibition on use of explosives and poison.
50. Protection of breeding areas.
51. Protection of marine mammals and turtles.
52. Prohibition relating to licences or permits.
53. Requirement to provide data.

PART VII - TROUT FISHING

54. Powers to regulate trout fishing.
55. Prohibited trout fishing activities.
56. Offence to damage fishing camp and property.

PART VIII - IMPORTATION OF LIVE FISH

57. Importation of live fish.

PART IX - RESTRICTION ON PURCHASE OF FISH

58. Restriction on purchase of fish.

PART X - PREVENTION OF POLLUTION AND PROTECTION

AND CONSERVATION OF FISHERY WATERS

59. Pollution prevention zone.
60. Pollution and abandoned fishing gear.
61. Movement of boat or gear to other waters.
62. Fishing stocking.

PART XI - PRIVATE MARKS FOR FISHING GEAR

63. Assignment of private mark.
64. Transfer of private mark.
65. Prohibitions relating to private mark.
66. Reporting of loss or finding of marked gear.

PART XII - ENFORCEMENT PROVISIONS

67. Production of licence.
68. Obstruction.

69. Presumptions.

FIRST SCHEDULE - Firms.

SECOND SCHEDULE - Fees.

THIRD SCHEDULE - Water open for trout fishing.

FOURTH SCHEDULE - Designated fish landing stations.

FIFTH SCHEDULE - Fish measurements.

FISHERIES (GENERAL) REGULATIONS

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as Fisheries (General) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires -

“ambergris” means a fatty substance with an odour originating from the intestines of sperm whale (*Physeter macrocephallus*);

“anadromous” means fish which migrate from open water bodies to river systems to spawn;

“aquarium” means artificial pond or tank used for keeping or displaying live fish aquatic plants as pets or for decorative, ornamental or entertainment purposes;

“aquarium fish” means any fish including brood, fry or ova thereof which are or may be intended for capture by or sale to any person for the purpose of display in a tank or aquarium;

“artificial lure” means any bait or lure furnished with a hook and containing no edible substance;

“authorized examiner” means a person designated by the Director to inspect a vessel to determine if it is seaworthy;

“beche-de-mer” means an *Enchinoderm* or the class *Iloothuroidea*;

"berried fish" means fish with eggs;

"bivalve" means mollusc of the class *Pelecypoda*;

"breeding area" means an area in Kenya fishery waters which the Director has, by notice in the Gazette, designated to be a fish breeding area and includes the nurseries for ova, fry, spawn, brood, spat and young of fish thereof;

"catadromous" means fish which migrate from river systems into open waterbodies to spawn;

"catchment area" means a given area of the country where all surface water run off are, as a consequence of land formulation, restricted to draining from; and for the purpose of these Regulations the country is divided into four major catchment areas; Lake Victoria basin, Kerio Valley basin, Uaso Nyiro basin and Indian Ocean;

"coral" means calcareous skeleton secreted by polypoid coelenterates of the class *Anthozoa* or *Hydrozoa*;

"cowrie" means mollusc of the family *Gastropoda*;

"crustacea" means all species of aquatic *Arthropods* including shrimps, prawns, lobster, crayfish and crabs, their brood, spawn, ova and young thereof;

"dealing in fish" means acquiring, holding, selling or distributing fish or fish products for purposes of trade;

"distribution" means movement of fish products from one area to another for the purposes of trade;

"electric fishing" means fishing by using electric current;

"employee of a licensee" means a person in receipt of wages or remuneration paid to him for services rendered by him to the licensee, who has been issued an employment card by the licensee, and whose name is entered on the employment register of the licensee;

"fish culture" means propagating, breeding or raising of fish under confinement by man;

"fisherman" means a person fishing in Kenya fishery waters;

"fisherman's licence" a licence issued under regulation 9;

"fish farmer" means a person engaged in fish culture;

"fishing camp" means established area of building designated by the Fisheries Department for use by sport fishermen;

"fishing ground" means all fishery waters of Kenya to-

gether with the shorelines thereto except the points designated as fish landing stations under regulation 42;

"fish landing station" means a point on the shore of any waters or coastline of which the Director has, by notice in the Gazette, designated as a point land fish;

"fish trader" means any person other than a fisherman or fish farmer who deals in fish;

"fish trader's licence" means the licence described under regulation 15;

"gill net" means a net which is placed into position in water with the object of fish swimming into it and becoming caught therein;

"inland waters" means any public river, lake, estuary, stream, tank, pool, pound, channel, lagoon and any other public areas of fresh or brackish water in Kenya;

"landing fish" means displaying or offering of fish for sale by a fisherman;

"licensing officer" means the Director and any person in the public service in the Fisheries Department of above the rank of Assistant Fisheries Officer, or any other officer in the public service appointed in writing by the Director to be a licensing officer;

"long lining" means fishing with several hooks attached to a long line;

"marine mammal" means any animal of the class *Mammalia* living in aquatic environmental and includes their young;

"marine turtle" means any animal of the family *Testudinae* living in the aquatic environment and includes eggs and young thereof;

"marketing fish" means acquiring or offering fish or fish products for purpose of trade;

"master" means the person for the time being having command or charge of the fishing craft;

"mother of pearl" means the pearl-bearing shell;

"Nyanza Gulf" means all the water body of Lake Victoria east of Rusinga Island;

"oyster" means any mollusc of any species of the genus *Ostrea*;

"pearl" means an abnormal concretion of nacre formed inside a mollusc shell round a foreign body such as a sand particle or a parasite;

Cap. 282

“private land” means land which is held under conveyance, lease or licence from the Government or local authority but does not include land held under temporary occupation licence under the Government Lands Act;

“rod and line” means single rod or pole to which is attached a line or thread with hook or lure fastened on the line for fishing;

“sea weed” means aquatic plant;

“seining” means the use of a net to enclose an area of water and subsequently drawing the net ashore or on to a vessel;

“shell” means whole part of the hard outer cover of a mollusc;

“special licence” has the meaning ascribed in regulation 27;

“sport fisherman” means any person holding and using as authority for his fishing a licence issued under regulation 12 or 13;

“sport fishing” means angling or fishing for recreation;

“sport fishing club” means a person or institution which offer sport fishing facilities;

“sport fishing facility” means vessel or fishing gear used for sport fishing;

“trawling” means casting or a net into water and subsequently towing the net by a fishing vessel;

“trolling” means fishing with hook fixed on a line which is towed by a vessel;

“trout” means any fish of the family *Salmonidae* commonly known as trout and includes eggs and young thereof.

PART II

REGISTRATION OF LOCAL FISHING VESSEL

Registration of fishing vessels

3. (1) Pursuant to section 7 of the Act, no person shall use any vessel for fishing in Kenya fishery waters unless

there is force in relation to that vessel a valid certificate of registration.

(2) A certificate of registration of a fishing vessel in FORM DF/CR 1 in the First Schedule may, on application to and approved by the Director, be issued on payment of the fee prescribed in the Second Schedule.

(3) With the approval of the Minister, the Director may, in writing, exempt any owner of a vessel from payment of the whole or part of the registration fee.

(4) For purposes of ascertaining whether or not a vessel complies with the provisions of the Act, a licencing officer may direct that before any vessel is registered under these Regulations, the owner shall produce the vessel for inspection by an authorized officer.

(5) The licensing officer shall allot an identification number, which may include letters, to the vessel in respect of which a certificate or registration is issued, and shall cause an entry of the allotted identification number of registration to be made in a register to be kept for that purpose.

(6) Any person who contravenes this regulation shall be guilty of an offence and shall be liable to the penalties set forth in section 7 of the Act.

Identification of registered vessels

4. (1) The owner of a vessel for which a certificate or registration has been issued shall -

(a) cause the identification number allotted under regulation 3(5) to be clearly painted on each side of the bow of the vessel within seven days after issue of the certificate of registration; and the number shall be painted in black on a white background, or in white or a black background, and each figure or letter shall be at least 250 mm in height, 150 mm in breadth and 40mm thickness;

(b) at all times maintain the identification in a clear legible and visible condition.

(2) The owner of a fishing vessel operating in Kenya fishery waters which is not marked in the manner prescribed in this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

Concealment of numbers

5. (1) No person using any vessel registered under these Regulations shall cause or permit the identification marks of the vessel to be defaced, covered or concealed in any manner whatsoever.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

Transfer of certificate of registration

6. (1) Where the ownership of a registered fishing vessel transfers from one person to another, the person from whom the ownership has transferred together with the person to whom the ownership has been transferred shall jointly submit to the Director an application seeking the transfer of the certificate of registration.

(2) The application shall contain -

- (a) the names and addresses of both parties;
- (b) documentary evidence of the transfer and acquisition of the certificate of ownership;
- (c) signature of both parties;
- (d) attestation by an independent witness;

(3) Upon approval of the application, the Director shall cancel from the register the name of the person from whom the certificate of registration of fishing vessel has transferred and in lieu thereof enter in the register the name of the person to whom ownership of the same has been transferred and shall accordingly change the name of the owner on the certificate of registration.

Unseaworthy vessel not allowed to sail

7. (1) No fishing vessel registered under regulation 3 shall proceed on a fishing voyage unless it is seaworthy.

(2) Where a fisheries officer, upon inspection of any licensed fishing vessel which is being prepared to proceed on a fishing voyage, considers that the vessel is unseaworthy, he may detain the vessel until it is made seaworthy and a certificate of seaworthiness from an authorized examiner is produced to him.

(3) The owner or master of a vessel who wilfully allows an unseaworthy or unfit vessel to proceed on voyage knowing it to be unseaworthy, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Vessel licence not required

8. Any vessel registered under regulation 3 is deemed to have a licence required for a local fishing vessel under section 9 of the Act.

PART III

LICENSING OF FISHERMEN, ETC.

General fisherman's licence

9. (1) No person shall fish in Kenya fishery waters unless-

- (a) he is a holder of a valid fishing licence issued to him under these Regulations and is fishing in accordance with the terms and conditions of the licence;
- (b) he is an employee of a licensee and is fishing in accordance with the terms and conditions of the applicable licence; or
- (c) he is fishing for his own consumption and in accordance with the Minister's order published in the Gazette.

(2) A fisherman's licence as set out in FORM DF/L1 in the First Schedule may on application to and approval by the Director be issued to the applicant, on payment of the fees specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Aquarium fisherman's licence

10. (1) No person shall fish for aquarium fish in Kenya fisher waters unless -

- (a) he is a holder of a valid aquarium fisherman's licence issued to him under this regulation and is fishing in accordance with the terms and conditions of the licence; or
- (b) he is an employee of the licensee and is fishing in accordance with the terms and conditions of the licence.

(2) A licence to fish for aquarium fish in the form set out in FORM DF/L9 in the First Schedule may on application to and approval by the Director be issued to the applicant on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding two years or to both.

Oyster collector's licence

11. (1) No person shall collect or culture any oyster unless he holds a valid licence issued to him under this regulation.

(2) A licence as set out in FORM DF/L5 in the First Schedule, may on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) No licensee shall use any mechanical apparatus to take oyster from any natural or cultured oyster beds.

(4) The area where the licensee is to collect oysters shall be specified in the licence and may be demarcated on the ground by the Director before the licensee commences collection.

(5) The cost of demarcation under paragraph (4) shall be assessed by the Director and the amount thereof shall, before issue of a licence, be paid to the Director by the applicant.

(6) If in the opinion of the Director the operations of the licensee become or are likely to become detrimental to the proper management of oyster resources in any area specified in the licence, the Director may, by notice in writing to the licensee, forthwith cancel altogether or amend the licence thereby modifying or cancelling all or part of the licensee's operations.

(7) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Sport fisherman's licence

12. (1) No person shall participate in sport fishing in Kenya fishery waters unless -

- (a) he is a holder of a valid sport fishing licence issued to him under this regulation and is fishing in accordance with the terms and conditions of the licence; or
- (b) he is a holder of a valid trout licence described in regulation 13 and is fishing in accordance with the terms and conditions of the licence.

(2) A sport fisherman's licence as set out in FORM DF/L2 in the First Schedule, may on application to and approval by the Director be issued to the applicant by the licensing officer, on payment of the fee set out in the Second Schedule.

(3) A sport fisherman's licence shall entitle the holder to catch fish with only a rod and line for his own

consumption or personal trophies and not for sale.

(4) A sport fishing licence may be issued as follows -

- (a) an annual licence which shall remain in operation up to 31st December of the year in which it is issued;
- (b) a monthly licence which shall remain in operation for a period of thirty consecutive days from the date on which it is issued; or
- (c) a fortnightly licence which shall remain in operation for fourteen consecutive days from the date on which it is issued.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

Trout fishing licence

13. (1) No person shall fish for trout in Kenya fishery waters unless he is a holder of a valid trout fishing licence issued to him under this regulation and is fishing in accordance with the terms and conditions of the licence.

(2) A trout licence as set out in FORM DF/TL in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

Fish processing licence

14. (1) No person shall, for the purpose of trade, engage in the processing of fish by any means unless he is in possession of a valid fish processing licence issued to him under these Regulations and is operating in conformity with the terms and conditions of the licence.

(2) Paragraph (1) shall not apply to

- (a) the icing of fish;
- (b) sun-drying or smoking of fish without using electric power or motorized plant machinery; or
- (c) catering institutions which sell or serve fish already prepared as food for eating by their patrons.

(3) Upon application to and approval by the Director, a fish processing licence as set out in FORM DF/L4 in the First Schedule, may be issued in respect of each process-

ing premises on payment of the fees specified in the Second Schedule.

(4) The validity of the licence shall remain restricted to the premises named thereon.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Fish trader's licence

15. (1) No person shall trade in fish or fish products unless -

(a) he is in lawful possession of a fish trader's licence issued under this regulation and is operating in conformity with the terms and conditions of the licence; or

(b) he is a licensed fisherman; or

(c) he is a fish farmer; or

(d) a fisherman's co-operative society.

(2) Paragraph (1) shall not apply to fish already prepared as food and sold by catering institutions for eating by their patrons.

(3) This regulation shall not apply to trading in crustacea, *beche-de-mer* or shell, for which licenses shall be obtained under these Regulations.

(4) A fish trader's licence, as set out in FORM DF/L3 in the First Schedule, may on application to and approval by the Director be issued on payment of the fee specified in the Second Schedule.

(5) Notwithstanding any authority granted by the licence issued under paragraph 1, no fish trader shall deal in fish before it is landed at a landing station designated under regulation 42.

(6) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Crustacea dealer's licence

16. (1) No person shall for the purposes of trade, deal in crustacea unless -

(a) he is in lawful possession of a crustacea dealer's licence issued to him under this regulation and is op-

erating in conformity with the terms and conditions of the licence; or

(b) he is a fisherman with a licence to take crustacea.

(2) A crustacea dealer's licence, as prescribed in FORM DF/L6 in the First Schedule, may on application to an approval by the Director and on payment of appropriate fee set out in the Second Schedule, be issued to the applicant.

(3) any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Licence to trade in *beche-de-mer*

17. (1) No person shall, for purposes of trade, acquire or sell *beche-de-mer* unless he is in possession of a valid licence issued to him under this regulation and is operating in conformity with the terms and conditions of the licence.

(2) A licence as set out in FORM DF/L12 of the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Notwithstanding the rights conferred on the licensee by the licence issued under paragraph (2), any person wishing to export *beche-de-mer* shall pay royalties at rates prescribed by the Director, based on value and quantities exported.

(4) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

Fish movement permit

18. (1) No person shall, for the purpose of trade, move fish or fish products from one place to another unless -

(a) he is in possession of a valid fish movement permit issued under these Regulations and is operating in conformity with the terms and conditions of such permit; or

(b) he is a licensed fisherman; or

(c) he is a fish farmer.

(2) A fish movement permit as prescribed in FORM DF/P1 in the First Schedule may, on application to and approval by the Director, be issued to a person, vehicle or

vessel conveying fish or fish products, on payment of the fee specified in the Second Schedule.

(3) Where the fish movement permit is to be issued in respect of a vehicle or vessel, identification and registration details of the vehicle or vessel shall be entered in the fish movement permit before the same is issued.

(4) The holder of a fish movement permit shall cause the permit to be carried and exhibited all the times, in the vehicle or vessel.

(5) The fish movement permit shall not be transferred to or used for any other vehicle or vessel.

(6) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Shell collector's licence

19. (1) No person shall collect shell unless he is in possession of a valid licence issued to him under this regulation and is operating in conformity with the terms and conditions of the licence.

(2) A licence in the form set out in FORM DF/L7 in the First Schedule, may on application to and approval by the Director, be issued on payment of a fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shilling or to imprisonment for a term not exceeding one year or to both.

Shell dealer's licence

20. (1) No person shall engage in wholesale or retail trade in shell unless he is in possession of a valid licence issued to him under these regulations and is operating in conformity with and conditions of the licence.

(2) A licence as set out in FORM DF/L8 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Culturing aquarium fish

21. (1) No person shall engage in dealing in or culturing of aquarium fish unless he is in possession of a valid

licence issued to him under these Regulations and is operating in conformity with the terms and conditions of the licence.

(2) A licence as set out in FORM DF/L10 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Keeping aquarium fish

22. (1) No person shall keep aquarium fish for ornamental or pet purposes unless he is in possession of a licence issued to him under these Regulations and he is operating in conformity with the terms and conditions of that licence.

(2) A licence as set out in FORM DF/L11 in the First Schedule may, on application to and approval by the Director, be issued upon payment of the fee set out in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Export of aquarium fish

23. (1) No person shall export aquarium fish unless he is in the possession of a permit issued to him under this regulation and he is operating in conformity with the terms and conditions of the permit.

(2) A permit as set out in FORM DF/P2 in the First Schedule may, on application to and approval by the Director, be issued upon payment of the fee set out in the Second Schedule.

(3) The following conditions shall be attached to every export permit issued under paragraph (1) -

- (a) each permit issued under paragraph (1) shall be surrendered to the collector of customs at the port of export;
- (b) the validity of each permit issued under paragraph (1) shall expire either on the date specified thereon or when the consignment is shipped or whichever of the two events occurs first.

(4) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding

twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

24. (1) Any licensee wishing to dispose of or transfer ownership other than by export of aquarium fish for which he has been issued a licence to fish, culture or keep shall, before disposing of the aquarium fish, notify the Director in writing of how and where he proposes to transfer the fish.

(2) When ownership of the fish is to be transferred to another person or institution, except where such transfer of ownership occurs from export of aquarium fish, the new owner shall apply for and obtain the necessary licence before taking possession of the aquarium fish.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Live fish movement permit

25. (1) No person shall move live fish from one water catchment area to another unless he is in possession of a permit issued to him under this regulation and he is operating in conformity with the terms and conditions of the permit.

(2) A permit as set out in FORM DF/P4 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Import and export permit

26. (1) No person shall export from or import into Kenya any fish or fish product unless he is in possession of a permit issued to him under this regulation and is operating in conformity with the permit.

(2) The permit as set out in FORM DF/P3 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) The validity of the permit issued under paragraph (2) shall expire on the date specified thereon or on shipment

or arrival of the consignment whichever of the two occurs first.

(4) Where the application is in respect of live fish, the applicant shall provide proper description of the fish by giving both scientific and common names in the application.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding one year or to both.

27. (1) Notwithstanding anything contained in these Regulations, the Director may in writing grant to any person or institution, authority to be called special licence, which shall entitle the holder to engage in fishing and to do such other things as may be specified therein for any other following purposes -

(a) scientific research;

(b) educational purposes;

(c) the supply of food in case of emergency;

(d) collection of brood stock for breeding purposes;

(e) any other purpose the Director deems appropriate.

(2) Any special licence shall be valid for the period specified therein.

(3) Any person who contravenes this regulation or any terms or conditions of a special licence shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Registration of sport fishing clubs

28. (1) No person or club shall operate any sport fishing facility unless there is in force in relation to that person or club a valid certificate of registration of sport fishing club issued under this regulation.

(2) A certificate of registration of the sport fishing club in FORM DF/CR2 in the First Schedule may, on application to and approval by the Director, be issued on payment of the fee specified in the Second Schedule.

(3) Any person or institution who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

PART IV

ADMINISTRATIVE OF LICENCES, PERMITS AND CERTIFICATES OF REGISTRATION

Application

29. Any person requiring a licence, permit or certificate of registration under these Regulations shall apply in writing to a licensing officer on the appropriate form as set out in the First Schedule or in such other form as the Director shall specify.

Power to refuse a licence

30. (1) Any licensing officer may without disclosing any reason, refuse to issue any licence or permit required under these Regulations and where such refusal is made by a licensing officer other than the Director, the licensing officer shall report every case in writing detailing reasons for refusal to the Director.

(2) Any person aggrieved by the decision of the licensing officer may, within thirty days of communication to him of such refusal, appeal in writing to the Director.

(3) The Director may confirm, vary or reverse the decision and shall accordingly issue instructions to the licensing officer.

31. (1) The Director may attach to any licence or permit issued under these Regulations any conditions which in his opinions are necessary or expedient for carrying into effect the objects and purpose of the Act and these Regulations, which conditions shall not be inconsistent with the provisions of the Act or regulations made thereunder.

(2) Without prejudice to the generality of the provisions of paragraph (1), the Director may impose conditions as to -

- (a) the stock, size, sex, weight and quantities of fish to be harvested or any matter relating thereto; or
- (b) the methods used in fishing and disposal of fish or particular species of fish and use of any equipment, appliance, instruments, net, fishing weir or any other means whatsoever.

Power to modify licence, etc.

32. (1) The Director may modify a licence, permit or certificate or registration if he determines that such modification is for the proper management of the fishery, and shall accordingly inform the licensees of such

modification.

(2) Where the Director has modified a licence, permit or certificate or registration the licensee shall be required to deliver the instrument to a licensing officer for endorsement accordingly within seventy-two hours after delivery of a written notice of modification.

(3) Where any licence, permit or certificate of registration against which the Director has issued a variation order shall not have been surrendered for endorsement seventy-two hours after delivery of notice for variation, such licence, permit or certificate of registration shall be deemed to have been revoked and fallen invalid.

(4) After a licence has been endorsed under paragraph (2), it shall be returned to the licensee.

Power to suspend or cancel licences, etc.

33. (1) The Director may suspend a licence or permit if he determines -

- (a) that such a suspension is necessary or expedient for proper management of the fishing industry for such period as he deems fit in the whole or in specified parts of the country; or
- (b) that the licence or permit has been used in contravention of any regulation or any conditions therein.

(2) Any licence or permit suspended under paragraph (1) shall be invalid during the period the suspension is in force.

(3) The Director may cancel or revoke any licence or permit granted under this regulation if he is satisfied that the holder has contravened any of the provisions made thereunder.

(4) Where the Director has suspended, cancelled or revoked a licence or permit as provided for under paragraph (1) and (3), the Director of fisheries or an officer authorized by him in writing shall repossess the instrument.

(5) Where the instrument is repossessed on grounds of suspension, the Director, if he is satisfied that the circumstances which mitigated suspension no longer apply, may authorize that the instrument be returned to the licensee.

34. (1) Any person aggrieved by -

- (a) the refusal of the Director to issue a licence or permit to him;
- (b) the suspension or revocation of a licence or permit by the Director; or

(c) any condition or restriction attached or imposed on a licence or permit, may, within thirty days of communication to him of such refusal, suspension, revocation, condition or restriction, appeal in writing to the Minister.

(2) A petition of appeal lodged under paragraph (1) need not be in any standard form, but the appellant shall -

- (a) prepare the petition in duplicate;
- (b) adequately describe the matter to which the appeal relates;
- (c) set forth concisely the grounds of appeal;
- (d) sign the petition;
- (e) serve the original on the Minister; and
- (f) serve the duplicate on the Director.

(3) On receipt of the duplicate referred to in paragraph (2), the Director shall without delay forward to the Minister a written statement setting out such particulars relating to the subject matter of the appeal together with his own comments thereon which in his opinion are useful towards a just determination of the appeal.

(4) The decision of the Minister in an appeal shall be final and shall be communicated in writing to the appellant with a copy to the Director.

Validity

35. Every licence, permit or certificate of registration issued under the Act or these Regulations, shall, unless invalidated pursuant to provisions of the Act or any regulations made thereunder, remain valid up to the date stated therein or where no such date is specified up to 31st December of the year in which it is issued.

Licence not transferable

36. A licence or permit issued under these Regulations shall not be transferable.

Replacement of licence

37. (1) When any licence, certificate of registration or permit which has been issued under the Act or any regulation made thereunder has been lost, become defaced or mutilated, the person to whom it was issued may upon application to and approval by the Director, be issued with a duplicate upon payment of the fee specified in the Second Schedule.

(2) On issue of the duplicate licence, certificate of regis-

tration, or permit pursuant to this regulation, the original shall cease to be valid.

Register

38. The Director shall cause to be kept and maintain a separate register for each type of licence, permit and certificate or registration issued under the Act or any regulations made thereunder.

Effect of conviction

39. (1) The conviction of the holder of a licence, permit or certificate of registration or his authorized agent for any offence under the Act or any regulation made thereunder shall, unless the Director in writing otherwise directs, have the effect of cancelling the licence, permit or certificate of registration and such instrument shall cease to be valid from the moment of conviction.

(2) Any person convicted of an offence under the Act or these Regulations shall, unless the Director in writing otherwise directs, stand disqualified from holding a licence, permit or certificate of registration related to the provisions under which he has been convicted, for a period of two years from the moment of conviction.

(3) The holder of any licence, permit or certificate of registration which is cancelled pursuant to paragraph (1) shall, within fourteen days from the date of conviction, surrender the licence, permit or certificate of registration or any document evidencing permission or authority to engage in business for which authority is required under the Act or these Regulations to a licensing officer.

(4) The licensing officer shall record the surrender of the instrument in the appropriate register kept under regulation 38.

(5) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months or to both.

PART V

NOTICES IN THE GAZETTE

Manner of publication of notice

40. Where under the Act or these Regulations the Director may exercise any power by notice, the notice shall be -

- (a) published in the Gazette; or
- (b) exhibited at each place where a register or licences, permit or certificate of registration is kept pursuant to these Regulations.

PART VI

GENERAL MANAGEMENT MEASURES

Fishing in inland waters

41. (1) No person shall fish in the inland and territorial waters of Kenya except -

- (a) a citizen of Kenya; or
- (b) a non-citizen of Kenya holding a valid sport fishing licence or trout licence; or
- (c) a resident of Kenya or other persons recognized by the Director by notice in the Gazette as persons who traditionally fish in Kenya fishery waters.

(2) Any person contravening this regulation shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for term not exceeding two years or to both.

Landing of fish

42. (1) No person, other than a sport fisherman, shall land any fish at any point except at a fish landing station and for purposes of this regulation, the fish landing stations shall be those specified in the Fourth Schedule.

(2) Any fisherman who lands fish at a fish landing station shall-

- (a) at the request of a fisheries officer, cause the fish to be weighed by the officer; and
- (b) keep or store the fish in a hygienic manner pending sale.

(3) No fisherman or fish dealer shall have in his possession for sale, any fish which is unfit for human consumption.

(4) Where a fisheries officer is satisfied that fish in possession of a fisherman or trader is unsuitable for human consumption on account of its poor state of preservation or of its toxic nature, he shall refuse the sale and may

impound the fish; or demand production of a certificate issued by a fisheries officer or public health officer conforming to the suitability of the fish, for human consumption, before allowing the sale.

(5) Where the certificate of suitability referred to in paragraph (4) is not produced for up to forty eight hours, the fisheries officer may order the fish destroyed and the Government shall not be held liable.

(6) Any person contravening this regulation shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

Prohibited fishing methods and gear

43. (1) Trawling is a prohibited fishing method -

- (a) within five nautical miles from any point on the entire shoreline of Kenya waters of Lake Victoria;
- (b) within the Nyanza Gulf;
- (c) in Kenya waters of Lake Turkana; and

Supra

(d) within five nautical miles of the coast of Kenya within the territorial waters of Kenya described under the Maritime Zones Act.

(2) A seining set whose mesh sizes are less than 50mm when diagonally stretched shall be prohibited fishing gear except for fishing for *Rastrineobola (Omena)*.

(3) Seining for *Rastrineobola (Omena)* with any net whose mesh sizes are less than 10mm when diagonally stretched is prohibited.

(4) Any gill net the mesh sizes of which measures less than 127mm. diagonally when stretched is a prohibited fishing gear in all Kenya waters of Lakes Victoria and Turkana, and any gill net the mesh sizes of which measure 102mm. diagonally when stretched is a prohibited fishing gear in Lakes Naivasha, Baringo, Challa and Jipe and the dams of Tana and Turkwell rivers.

(5) It is prohibited -

(a) to land from Lakes Victoria and Turkana fish whose standard length is less than 25 centimetres;

(b) to land from lakes Naivasha, Baringo, Jipe, Challa and the dams of Tana and Turkwell rivers any Tilapia fish whose standard length is less than 18 centimetres;

(c) to acquire, possess, buy, sell or expose for sale or

SECOND SCHEDULE rr. 3 and 4)

<i>Botanical name</i>	<i>Tugen name</i>
<i>Cordia abyssinica</i>	Samut
<i>Juniperus procera</i>	Tarakwa
<i>Mimusops (Manilkara) usambarensis</i>	Lalon: Lolowa
<i>Mimusops spp.</i>	Anon
<i>Podocarpus gracilior</i>	Ben
<i>Podocarpus milanjianus</i>	Septa
<i>Pygeum africanum</i>	Kunukwa
<i>Malacantha sp. nr. alnifolia</i>	Ng'ejebe
<i>Warburgia ugandensis</i>	Sok

THIRD SCHEDULE (r.5)

<i>Botanical name</i>	<i>Tugen name</i>
<i>Acacia spp.</i>	Sesia
<i>Cussonia spp.</i>	Soyo
<i>Ficus hochstetteri</i>	Simotwa
<i>Ficus spp.</i>	Lokoiwa
<i>Syzygium cordatum</i>	Lemoiwa

THE FORESTS (WEST POKOT) RULES

G.N.1648/1954, L.N.236/1964, 21 of 1966, 2nd Sch.

1. These Rules may be cited as the Forests (West Pokot) Rules, and shall apply to the Tangasia and Kapkanyar Forests as defined by Proclamation No.102 of 1941, and shall be additional to any other rules applicable to those Central Forests under the Act:

Provided that where the provisions of these Rules conflict with any of those rules the provisions of these Rules shall prevail.

2. For the purposes of these Rules -

"District Commissioner" means the District Commissioner, West Pokot;

"the Central Forests" means the Tangasia and Kapkanyar Forests.

3. Any member of the Suk tribe living within the West Pokot District may, within the Central Forests and with the consent in writing of a forest officer, cut and remove without charge any trees, other than those specified in the First Schedule, for building poles for his own personal or domestic use but not for sale or barter:

Provided that were, in the opinion of a forest office, the felling and removal of the trees specified in the First Schedule is compatible with good forest management,

those trees may be cut and removed for similar purposes with the written permission of the forest officer.

4. The Chief Conservator may, with the consent of the Provincial Commissioner, Rift Valley Province, by notice in the Gazette, add to or remove from the First Schedule any species of trees.

5. Any person living in the West Pokot District may without any charge or permit -

- (a) take or collect dead wood for firewood;
- (b) take or collect the bark of dead trees for thatching beehives;
- (c) pick wild berries and fruit for his own consumption;
- (d) cut and remove creepers and lianes for building purposes;
- (e) for the making of honey barrels, fell and utilize any trees specified in the Second Schedule or any dead or fallen trees of any other species;
- (f) cut and utilize bamboo foliage for stockfeed;
- (g) depasture his stock in the open grasslands within the central Forests;
- (h) be in possession of poisoned weapons that may be needed in defence of his stock;

- (i) cultivate such grasslands as may be chosen by the district Commissioner or forest officer.

6. Any person living in the West Pokot District may, with the written permission of the district Commissioner or a forest officer -

- (a) depasture his stock within forest-covered land;
 - (b) construct huts and bomas for his stock within the open grasslands of the said Central Forests;
 - (c) construct and use roads and paths through the Central Forests.
7. No burning shall be allowed within the central Forests except with the permission of the District commissioner

THE FORESTS (KAKAMEGA AND BUNGOMA) RULES

L.N.275/1959, L.N.236/1964

1. These Rules may be cited as the Forests (Kakamega and Bungoma) Rules, and shall apply to the Kakamega Forest declared by Proclamation No.14 of 1933 and the Bungoma Forest declared by Proclamation No.102 of 1941 as amended by Proclamation dated 10th September, 1956, and shall be additional to any other rules applicable to all Central Forests made under the Act:

Provided that where the provisions of these Rules conflict with any other such rules the provisions of these Rules shall prevail.

FIRST SCHEDULE (rr. 3 and 4)

<i>Botanical name</i>	<i>West Pokot name</i>
Podocarpus milanjanus	Ben
Podocarpus gracilior	Sesaito
Polyscias Kikuyuensis	Okun
Sideroxylon adolfi-frederici	Seiti

SECOND SCHEDULE (r. 5)

<i>Botanical name</i>	<i>West Pokot name</i>
Ficus spp.	Makong'we

or a forest officer and between the dates 1st November and 31st December each year.

8. (1) Any person who does any of the acts specified in rule 6 without the consent in writing of the district commissioner or a forest officer, or who burns contrary to rule 7, or who without the consent in writing of a forest officer cuts or removes any of the trees for the time being specified in the First Schedule shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) A person who has been convicted of an offence under these Rules may be ordered to remove his hut and his stock from the Central Forests.

2. Within any Central Forest to which these rules apply no person shall cut or remove any tree except with written permission of a forest officer and on payment of such royalty charges as may be specified from time to time:

Provided that no tree shall be so felled under these Rules unless and until it has been marked for felling by a forest officer or other person appointed for the purpose by him.

3. Any bona fide resident of the Kakamega and Bungoma Districts may, without any charge or permit, in a Central Forest to which these Rules apply -

- (a) take or collect dead fallen wood for firewood for his own personal domestic use only but not for sale or barter;
- (b) take and collect thatching grass;

- (c) pick wild berries and fruits for his own consumption;
- (d) cut and remove creepers and lianes for building purposes;
- (e) place honey boxes and have free access to them, provided no damages done to any trees;
- (f) take stock other than goats to such watering places within the Central Forests as are adjacent to grasslands and along recognized stock routes.

4. Any person referred to in rule 3 may, on payment of the fees specified in the Schedule, graze stock, other than goats, on all open grasslands and on such interior glades as are specified by a forest officer; but access to these shall be confined to routes specified and approved by the forest officer.

5. No burning of vegetation shall be allowed in any forest area except with the permission of a forest officer and under the supervision of a forest guard.

SCHEDULE (r.4)

Bovines - Cents 25 per head per month.

THE FORESTS (MERU) RULES

L.N.502/1959, L.N.236/1964, L.N.303/1964 .

1. These Rules may be cited as the Forests (Meru) Rules.
2. These rules shall apply to the Central Forests specified in the Second Schedule, and shall be additional to any other rules applicable to all Central Forests made under the Act:

Provided that where the provisions of these Rules conflict with any of those rules the provisions of these Rules shall prevail.

3. Any person residing in the Meru Land Unit may -

- (a) take for fuel dead fallen wood for his or her personal domestic use without licence in such parts of the forest areas to which these Rules apply as a forest officer may direct, taking into consideration the proper management and silvicultural treatment of the Central Forests; and fuel may only be cut with a panga or native chopping tool; communal collection of fuel for domestic use in ox-carts or by donkeys may be permitted in areas specified by a forest officer;
- (b) collect and take wild berries and fruits for his own consumption, without licence;
- (c) place and visit honey barrels under a licence issued

by a forest officer, without charge, so that all honey barrel owners may be registered; the right to hang honey barrels shall be limited to members of the Meru tribe and to such other persons resident within the Meru Land Unit as are approved individually by the Meru County Council.

- (d) collect and take Miugu creepers of species other than *Landolphia* species (wild rubber vine), without licence;
- (e) enter and sleep, for a period not exceeding two weeks, within a Central Forest for genuine tribal ceremonies connected with circumcision, handing over of the ruling age grade and certain dances, and at such time take such forest produce as is required by custom for those taking part, without licence;
- (f) cut and take thatching grass at places approved by a forest officer, without licence.

4. Subject to provisions of rule 9, all forest produce taken by any other person either on his own behalf or on behalf of any private firm or body, including the Meru County Council, shall be paid for at the royalty rates at the time in force for that produce (with the exception of poles and withies required for the erection of schools and medical buildings and the requirements of paupers as certified by chiefs or the Meru County Council, on which no royalty shall be paid), and shall be cut and removed under the direction of a forest officer.

5. No grazing of goats shall be allowed in the Central Forests to which these Rules apply.

6. No other cattle as defined in the Act shall be allowed to graze in the Central Forests except under a grazing licence from or under the direction of a forest officer, who shall take into consideration the carrying capacity of any grazeable areas.

7. No burning of vegetation of any kind shall be allowed in the Central Forests, except on the instructions of a forest officer.

8. No cattle as defined in the Act shall enter the Central Forests for the purpose of transit or access to water and salt licks except by the stock routes and to the watering places specified in the First Schedule.

9. Notwithstanding the provisions of rules 4 and 7 -

- (a) in the Njuguni, Munguni and Thuuri Central Forests, the collection and removal of pottery clay and the burning of the pottery at places prescribed by a forest officer and use of dead fallen fuel for the purposes of burning the pottery by Mwimbi members of the Meru tribe, in the case of Njuguni and Munguni, and

- by Tigania members of the Meru tribe, in the case of Thuuri, shall be allowed, without licence;
- (b) in the Nyambeni Central Forest, the extraction and removal of red ochre for use within the Meru Land Unit, but not for export therefrom, shall be allowed, without licence, to members of the Meru tribe from a place near the Muhura spring;
- (c) in the Nyambeni, Ngaia and Kieiga Central Forests, the collection of Mivuno leaves for medicinal purposes shall be allowed, without licence, to members of the Meru tribe.
10. A forest officer who issues permits and licences under these Rules shall keep a register to be kept a register of all permits and licences issued by him.

FIRST SCHEDULE (r. 8)

STOCK ROUTES AND WATERING PLACES WHICH MAY BE USED FOR CATTLE

<i>Central Forest</i>	<i>Stock Routes</i>	<i>Watering Places</i>
1. Upper Imenti Kikongoro kia Mwira Ngombe Kikongoro kia Nkireri Kikongoro kia Nthimbiri Kikongoro kia Karere Njia ya Karinga Njia ya Igoki Njia ya Njoroegoro Njia ya Ntakira	Kikongoro kia Gaithranga Nkunga Mburi ya Nthimbiri Githima kia Njigi	Mburi ya Ntakira
2. Lower Imenti Njia ya Munithu Njia ya Chugu Njia ya Mulanthankari Njia ya Ruiru to Kieru Njia ya Thuura	Njia ya Kikundu Kinyaritha	Kuru
3. Nyambeni Njia ya Kathaiene	Njia ya Kamboo Thangatha	Kioi
4. Ngaia	Antubetwe	Nil
5. thuuri	Nil	Nil
6. Kieiga	Miathene-Mikinduri Road	Kiandui, Karuruno
7. Thunguru	Njia ya Themwe	Nil
8. Kijegge-Kanthakame-Thamantu	Main stock routes between Kijegge and Kanthakame. Stock route between Thamantu and Kanthakame	Muganka, Kiguru Mutwati, Mtendera
9. Mutharanga	Horne's old road on east face of Mutharanga	Nil
10. Kierera	Nil	Nil
11. Ntugi	Nil	Nil
12. Kigingo (and Thamakunge)		Machakuru rock Kwandue Kinyaka during rains Ndungo
13. Maatha (Kiambua)	Stock route between Mathaa and Kiambua	Kithambarumi Wakingo
14. Mutejwa (and Kandutho)	Stock route between Mutejwa and Kandutho. Bingorotaingwa Stock route West to East through Mutejwa to Tana River	Karokwaro
15. Munguni	Stock route between Munguni and Kitunga	Nil
16. Njuguni	Mwilolelo across centre of hill Katabara (if Mwilolelo not sufficient)	Ulii Murarangu Kitunju, Nachoma
17. Kiagu	Nil	Nil
18. Kibithewa	Njia ya Kinjo	Nil

SECOND SCHEDULE (r. 2)

<i>Central Forest</i>	<i>Acres</i>
1. Upper Imenti	28,600
2. Lower Imenti	6,166
3. Ngaia	10,230
4. Nyambeni	14,400
5. Kibithewa	510
6. Kieiga	1,330
7. Thuuri	1,796
8. Kiagu	3,341
9. Thunguru	1,282
10. Kikingo	3,030
11. Maatha	1,580
12. Mutejwa	3,370
13. Ntugi	3,286
14. Njuguni	5,990
15. Mutharanga	715
16. Kijegge	8,081
17. Munguni	470
18. Kierera	1,950
.....	96,127

THE FORESTS (KWALE) RULES

L.N.424/1960 L.N.236/1964

1. These Rules may be cited as the Forests (Kwale) Rules, and shall apply to the following Central Forests, namely, Jombo, Marenje, Mkongani (North) Mkongani (west), together with such other Central Forests in the Kwale District as may from time to time be designated, and shall be additional to any other rules applicable to all Central Forests made under the Act:

Provided that where the provisions of these Rules conflict with those other rules the provisions of these Rules shall prevail.

2. (1) Within any Central Forest to which these Rules apply, no person shall cut or remove any tree except with the permission of a forest officer and on payment of such royalty charges as may be specified from time to time.

(2) Except as provided by rule 4. no person shall fell any tree under these Rules unless and until it has been marked for felling by a forest officer or by any person appointed for that purpose by a forest officer.

3. any person residing in the Kwale District may, without any charge or permit, in any Central Forest to which these Rules apply -

(a) take or collect dead or fallen wood for firewood for his own personal and domestic use only;

(b) take and collect thatching grass or palm leaves for thatching his own buildings;

(c) pick wild berries and fruits, or dig up edible roots, for his own consumption;

(d) cut and remove creepers and lianes for building purposes;

(e) take stock other than goats to such watering places within the forest areas as are adjacent to grassland and along stock routes specified and approved by a forest officer;

(f) graze stock other than goats on all open grassland and on such interior glades as are specified by a forest officer to the limit of a carrying capacity per acre approved by the Divisional Forest Officer Coast, but access to these shall be confined to routes specified by a forest officer; and

(g) collect honey from honey barrels registered free with a forest officer.

4. Any person residing in the Kwale District may, by first obtaining permission from a forest officer, on the rec-

ommendation of the chief of his location, without any charge, in any of the forest areas to which these Rules apply, cut and remove poles not exceeding six inches in diameter at base for the purpose of constructing a house for his own occupation:

Provided that poles of the following species shall not be cut -

Chlorophora excelsa - Mvule.

Alzelia quanzensis - Mbambakofi.

Albizia sp. - Mchani.

Brachystegia sp. - Mrihi

Manilkara cuneifolia - Ngambo.

Trachylobium verrucosum - Mtandarusi.

Bombax rhodognaphalon - Msufi Mwituu.

Brachylaena hutchinsii - Muhuhu.

Any exotic species.

5. No person shall burn grass in any forest area except with the permission of a forest officer and under the supervision of a forest guard.

THE FORESTS (WORKMEN'S RESIDENCES) RULES

L.N.190/1965.

1. These Rules may be cited as the Forests (Workmen's Residences) Rules.

2. These Rules shall apply to all Central Forests and forest areas.

3. In these Rules -

"authorized officer" means a forest officer authorized by the Chief Conservator of Forests in writing to grant licences;

"family", in relation to a forest workman or retired forest workman, means his wife or wives and such of his wife's or wives' children as are under the age of eighteen years and are unmarried;

"family of a deceased retired forest workman" means the family of a retired forest workman who is deceased or the family of a deceased forest workman who would, if he had retired at the date of his death, come within the meaning of retired forest workman;

"forest workman" means any non-pensionable employee of the Forest Department, but does not include a casual labourer, nor a member of the unestablished or subordinate service;

"licence" means a licence granted under these Rules;

"retired forest workman" means a person who has retired after having served for not less than fifteen years as a forest workman and has attained the minimum age of fifty years, or any person, employed as a forest workman before the 29th May, 1963, who has retired after a lesser period of service than fifteen years, but whom the Chief Conservator of Forests deems to be a retired forest workman for the purposes of these Rules.

4. (1) An authorized officer may grant a licence upon such terms and conditions as the Chief Conservator of Forests may from time to time approve, permitting a forest workman and his family, or a retired forest workman and his family, or the family of a deceased retired forest workman, to reside in a specified place and to cultivate a specified plot of land in a specified Central Forest or forest area, and to depasture stock in that Central Forest or forest area (or to do one or more of those things.)

(2) A licence granted under this rule -

(a) shall not exceed 12 months, where the forest workman or retired forest workman is not accompanied by his family; and

(b) shall not exceed 24 months for a family of a deceased retired forest workman or where the forest workman or retired forest workman is accompanied by his family.

5. (1) An authorized officer may renew a licence for any period permitted by rule 4(2), by endorsement signed by him.

(2) An authorized officer may at any time amend a licence by adding or deleting names of members of the licensee's family.

6. There shall be paid by the holder of a licence granted under rule 4 such fees for cultivation and for depasturing stock as the minister may, by notice in the Gazette, prescribe.

7. (1) Where a licensee's contract of service is terminated, an authorized officer may cancel his licence after giving to him notice in writing expiring one month after the date of termination of the contract of service.

(2) Where it is the intention of the authorized officer not to renew a licence at the date of its expiry, the authorized officer shall give one month's notice in writing of his intention to the licensee.

8. (1) Where the licensee has been given notice of the intended cancellation or non-renewal of his licence he shall make the necessary arrangements for removing himself, his family and his moveable property from the Central Forest or forest area as the case may be, and shall

remove himself therefrom before the date on which his licence comes to an end and shall remove his family and his moveable property from the forest area before one month after that date.

(2) A licensee who has removed himself from the Central Forest or forest area in accordance with paragraph (1), may make all necessary arrangements for the harvesting in due course and disposal of any crops planted before the relevant date, and such arrangements may, if the authorized officer so directs, include the return to the Central Forest or forest area of the former licensee or his family or both for such period as the authorized officer specifies.

(3) In paragraph (2), "relevant date" means the date on which a licensee was informed that his licence would be cancelled or not renewed.

(4) In the event of the death of a forest workman or retired forest workman during the currency of his licence, this family shall be permitted to remain in the Central

Forest or forest area for such period, not exceeding nine months, as the authorized officer considers necessary for harvesting any crops planted before the death of the licensee, and during this time to reside in the house formerly occupied by the deceased and to depasture the deceased's permitted stock in the Central Forest or forest area.

9. Any person who -

(a) commits a breach of or fails to comply with any of these Rules; or

(b) commits a breach of or fails to comply with any of the terms and conditions of a licence issued under these Rules,

shall be guilty of an offence and, on conviction before a subordinate court of the first or second class, be liable to a fine not exceeding three thousand shillings or to a term of imprisonment not exceeding six months, or to both, and the court may, in addition to imposing any other penalty, cancel the licence.