

10.1.3 Marine Fisheries

THE MARINE FISHERIES ORDINANCE, 1983 (Ordinance No.XXXV of 1983)

An Ordinance to make provisions for the management, conservation and development of marine fisheries in the Bangladesh fisheries waters and to deal with certain matters connected therewith.

2. Definitions.- In this Ordinance, unless there is anything repugnant to the subject or context,-

- (a) "Bangladesh Fisheries Waters" means the territorial waters and economic zone of Bangladesh as declared by the Government under the Territorial Waters and Maritime Zones Act, 1974 (XXVI of 1974), and any other marine waters over which has, or claims to have, jurisdiction under law with respect to the management, conservation and development of the marine living resources;
- (c) "fish" means any aquatic animal, whether piscine or not, and includes any shellfish, crustacean, turtle or aquatic mammal, and the young, fry, eggs and spawn thereof;
- (d) "fishery" means one or more stocks of fish that can be treated as unit for the purposes of conservation and management;
- (e) "fishing" means catching, taking or killing fish by any method and includes attempting to catch, take or kill fish by any method;
- (f) "fishing vessel" means any vessel used for fishing or for processing, carriage or storage of fish, and includes any vessel used in support of or ancillary to, fishing operations but does not include an vessel carrying fish as part of a general cargo unless that vessel is

engaged in operations in support of, or ancillary to, fishing operations;

- (g) "foreign fishing vessel" means any fishing vessel other than a local fishing vessel;
- (i) "local fishing vessel" means any fishing vessel-
 - (i) wholly owned by one or more persons who are citizens of Bangladesh; or
 - (ii) wholly owned by any company, society or other association of persons established under the law of Bangladesh of which at least 51 percent of the shares are held by citizens of Bangladesh and includes any fishing vessel registered in Bangladesh and operating under Bangladesh flag under joint venture or any other approved arrangements;
 - (iii) wholly owned by the Government or by a statutory corporation established under a law of Bangladesh;
- (k) "skipper", in relation to a fishing vessel, means the person for the time being having command or charge of the vessel.

3. Provisions regarding non-mechanized local fishing vessels and local fishing with limited horsepower.-(1) The Government may, by notification in the official Gazette, exempt, subject to such conditions, if any, as may be specified therein, any local fishing vessel or class of vessels from the provisions of Part III for such period as may be specified in the notification.

(2) The Government may, by notification in the official Gazette, declare zone in which only non-mechanized local fishing vessels or mechanized local fishing vessels of such tonnage as the Government may, by notification in the official Gazette, determine may engage in fishing operation or in which fishing operations by other fishing vessels may be restricted.

5. Director responsible for management, etc.- The Director shall have responsibility for the management, conservation, supervision and development of marine fisheries and the implementation of the objectives of this Ordinance.

7. Types, classes and numbers of fishing vessels.- Having regard to the requirement of fisheries management and development plans, the Government may, by notification in the official Gazette, specify types, classes and number of fishing vessels that can be deployed in the Bangladesh fisheries waters:

Provided that the Government may exempt fishing vessels already permitted to operate prior to the coming into force of this Ordinance.

8. Director to issue licences.- The Director shall be responsible for issuing licences in respect of all marine fishing in the Bangladesh fisheries waters.

13. Matters for which licence is valid.- Each licence shall be valid only with respect to the species of fish and the type of fishing gear or the method of fishing or the location specified in the licence.

14. Duty to provide information regarding catches.- The holder of any licence shall keep detailed information of catches as well as sales in such form as may be prescribed and a copy of this information shall be furnished to the Director.

15. Fishing vessels not to interfere with navigation.- No fishing vessels shall be operated so as to interfere with navigational aids or with shipping in established shipping routes.

16. Licence to be subject to certain conditions.-(1) Each licence shall be subject to such conditions as may be specified in this Ordinance and in any rules made thereunder, and as may be otherwise endorsed upon such licence by the Director.

(2) In particular, and without limiting the generality of the foregoing sub-section, the Director may attach all or any of the following terms and conditions to any licence, namely:-

- (a) the areas within which, and the period during which, fishing is authorised;
- (b) the species, size, sex, age and quantities of fish may be caught or taken;
- (c) the methods by which fish may be caught or taken;
- (d) the types, size and amount of fishing gear that may be used by the fishing vessel;
- (e) statistical and other information required to be given by the skipper to the Government, including statistics relating to catch and effort and also reports as to the position of the vessels;
- (f) the keeping on board the fishing vessel and other means for its identification;
- (g) the marking of the fishing vessel and other means for its identification;

(h) such other matters as the Director may consider necessary or expedient for the management, conservation and development of fisheries resources of Bangladesh.

(3) In addition to the terms and conditions which may be imposed on any licence under sub-section (2), the Director may make applicable to foreign fishing vessels all or any of the following terms and conditions, namely:-

- (a) entry by foreign fishing vessels into Bangladesh ports for the inspection of its catch which is subject to customs formalities and for any other purpose;
- (b) the specification of points of entry into, and departure from, the Bangladesh fisheries waters;
- (c) the protection of local fisheries;
- (d) the execution of bonds or other forms of security for the duration of the licence;
- (e) the reporting of the position by the foreign fishing vessel while within, or about to enter, the Bangladesh fisheries waters;
- (f) the directions and instructions given by the authorised officers from the Government ships or aircrafts to the foreign fishing vessel that shall be complied with by the skipper;
- (g) the installation and maintenance in working order of a transponder or other equipment on the foreign fishing vessel for the identification and location of the vessel and of adequate navigational equipment to enable its position to be fixed from the vessel;
- (h) the carriage on board the foreign fishing vessels of specified communication equipment, specified nautical charts, nautical publications and nautical instruments;
- (i) the placing of observers on the foreign fishing vessel and the reimbursement to the Government of the costs of doing so;
- (j) the training of citizens of Bangladesh in the methods of fishing employed by the foreign fishing vessel and the transfer to Bangladesh of technology relating to fisheries;
- (k) the conduct by the fishing vessel of specified programmes of fisheries research.

17. Local fishing vessels to be registered.- No licence shall be issued in respect of a local fishing vessel that is required to be registered

under any law for the time being in force unless the vessel has been registered.

18. Local fishing vessel to hold valid certificate of inspection.- No licence shall be issued in respect of a local fishing vessel that is required to hold a valid certificate of inspection under any law for the time being in force unless such a certificate is issued in respect of that vessel.

19. Grounds for refusing to issue licenses, etc., to local fishing vessels.- The Director may, by order in writing, refuse to issue a licence in respect of local fishing vessel, or he may likewise suspend, cancel or refuse to renew any licence that has been issued in respect of a local fishing vessel, where he is satisfied that-

- (a) it is necessary to do so in order to allow for the proper management, conservation and development of any particular fishery in accordance with any fisheries management, conservation and development plan;
- (b) it is otherwise in the best interest of marine fisheries industry to do so; or
- (c) the vessel in respect of which the licence has been used in contravention of the provisions of this Ordinance or of any rules made thereunder or of any conditions of the licence; or
- (d) the person applying for or holding the licence is unfit to hold a licence.

20. No entry for foreign fishing vessels in Bangladesh fisheries waters except with licence.- No foreign fishing vessel shall, without a licence,-

- (a) enter the Bangladesh fisheries waters except for any purpose set out in section 21; or
- (b) within the Bangladesh fisheries waters,-
 - (i) fish or attempt to fish; or
 - (ii) load, unload or tranship any fish.

21. Entry by unlicensed foreign fishing vessels into Bangladesh Fisheries waters.-(1) Subject to the provisions of sub-section (2), a foreign fishing vessel may enter the Bangladesh fisheries waters without a licence for the purpose of-

- (a) passage through such waters in the course of a voyage to destination outside such waters;
- (b) averting imminent danger where the vessel is in distress, to the safety of the vessel or of its crew; or
- (c) rendering assistance to persons, ships or aircraft in danger or distress; or
- (d) obtaining emergency medical assistance for a member of the crew; or
- (e) for any other purpose recognised by international law.

(2) Any foreign fishing vessel entering the Bangladesh fisheries waters for any purpose set out in sub-section (1) shall-

- (a) observe such rules as may be prescribed; and
- (b) return outside such waters as soon as the purpose for which it entered has been fulfilled.

22. Foreign fishing vessels liable to fine and forfeiture if found in Bangladesh fisheries waters illegally.-(1) Where any foreign vessel enters the Bangladesh fisheries waters except in accordance with section 21 or except in accordance with the terms of a licence, the skipper, owner and charterer, if any, of such vessel shall be guilty of an offence and shall be liable to rigorous imprisonment for a term not exceeding three years and to a fine not exceeding taka one lakh.

(2) Any foreign vessel entering Bangladesh fisheries waters except in accordance with section 21 or except in accordance with the terms of a licence shall be deemed to be forfeited to the Government.

26. Use of explosives, etc.-(1) Any person, other than a person authorised in writing by the Director, who in the Bangladesh fisheries waters,-

- (a) uses, or attempts to use, any explosive, poison or other noxious substances for the purpose of killing, stunning, disabling or catching fish, or in any other way rendering such fish more easily caught; or
- (b) carries, or has in his possession or control, any explosive, poison or other noxious substances with the intention of using such explosive, poison or other noxious substance for any of the purposes referred to in clause (a); or

- (c) uses, or attempts to use, any prohibited methods of fishing as may be prescribed, or carries, or has in his possession or control, on board any vessel, any fishing gear prohibited under any rule made under this Ordinance; or
- (d) knowing, or having reasonable cause to believe, that any fish has been caught or taken in contravention of the provisions of this section or any rules made under this Ordinance, receives, or is found in possession of, such fish without lawful excuse,

shall be guilty of an offence and shall be liable to a fine not exceeding taka one lakh or fifteen times the value of the fish, whichever is greater.

(2) Any explosive, poison or other noxious substance or fishing gear referred to in sub-section (1) found on board any vessel shall be presumed to be intended for the purposes referred to in that sub-section unless the contrary is proved.

27. Small meshes, etc.- Any person who uses or has in his possession or has on board any vessel within the Bangladesh fisheries waters any fishing net which has a mesh size specified for that type of net or any other nets or fishing gear or fishing appliances that have been prohibited under any rules made under this Ordinance shall be guilty of an offence and shall be liable to a fine not exceeding taka one lakh.

28. Government may declare marine reserves.- The Government may, by notification in the official Gazette declare any area of the Bangladesh fisheries waters and, as adjacent or surrounding land, to be a marine reserve where it considers that special measures are necessary-

- (a) to afford special protection to the aquatic flora and fauna of such areas and to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to flora and fauna in danger of extinction; or
- (b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted; or
- (c) to promote scientific study and research in respect of such areas; or
- (d) to preserve and enhance the natural beauty of such areas.

29. Fishing, dredging, etc., prohibited in marine reserves.-(1) Any person who, in any marine reserves declared under section 28, without permission granted under this section,-

- (a) fishes or attempts to fish; or

- (b) dredges, extracts sand or gravel, discharges or deposits waste or any other polluting matter, or in any other way disturbs, alters or destroys fish or their natural breeding grounds or habitats; or
- (c) constructs or erects any buildings or other structures on or over any land or waters within such reserve,

shall be guilty of an offence and shall be liable to a fine not exceeding taka one lakh.

(2) The Director may give permission to do any of the things prohibited under this section where the doing of such things may be required for the proper management of the reserve or for any of the purposes referred to in section 28.

31. Authorised officers.-(1) The officers of the Directorate of Fisheries not below the rank of Assistant Inspector of Marine Fisheries, members of the Bangladesh Navy not below the rank of petty officer, any officer of the customs and any other persons or class of persons appointed by the Government shall be authorised officers.

32. An authorised officer may stop, examine etc., any fishing vessel.- For the purpose of enforcing the provisions of this Ordinance and the rules made thereunder, any authorised officer may, without a warrant,-

- (a) stop and board any fishing vessel within the Bangladesh fisheries waters and make any examination concerning that vessel, its equipments, fishing gear, nets, fishing appliances, crew or fish carried on board that vessel; or
- (b) stop and inspect any vehicle transporting fish; or
- (c) require any person to produce any licence or other document required under this Ordinance or any rules made thereunder for examination and, if necessary, for taking copies thereof.

34. Power to stop vessel.- Where it becomes necessary for an authorised officer to stop any vessel for the purpose of enforcing the provisions of this Ordinance and the rules made thereunder, it shall be lawful for any vessel or aircraft under the command of an authorised officer to summon such vessel to stop by means of an international signal, code or other recognised means, and if it fails to do so, the vessel may be pursued even beyond the Bangladesh fisheries waters and if after a gun is fired as a warning to the vessel to stop, and if it fails to stop after such warning, it may be fired upon.

41. Obstruction of authorised officer, etc.- Any person who

wilfully obstructs any authorised officer in the exercise of any of the powers conferred on him by or under this Ordinance shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding taka one lakh, or to both.

42. Wilful damage of fishing vessels, etc.- Any person who wilfully and unlawfully damages or destroys any fishing vessels, fishing stakes, fishing gear or fishing appliances shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding taka one lakh, or to both.

43. Contravention of conditions of licence.- Any person who contravenes any condition of any licence shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding taka one lakh, or to both.

44. Destruction to avoid seizure or detection.- Any person who destroys or abandons any fish, fishing gear or fishing appliances, explosives, poison or other noxious substances or any other thing with intent to avoid their seizure or the detection of any offence against the provisions of this Ordinance or any rules made thereunder shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding three years, or to a fine not exceeding taka one lakh, or to both.

45. Failure to mark vessel.- Any person who owns or operates a fishing vessel in the Bangladesh fisheries waters which is not marked in the prescribed manner shall be guilty of an offence and be liable to a fine not exceeding taka twenty-five thousand.

46. Skipper liable for offence committed by persons on board the vessel.- Where an offence against any provision of this Ordinance or any rules made thereunder has been committed by any person belonging to or on board a fishing vessel, the skipper of such vessel shall also be guilty of such offence and shall be liable to a fine not exceeding taka five thousand.

47. Compounding of offence.- Any authorised officer may compound any offence against the provisions of this Ordinance or any rules made thereunder for a sum of money not less than one-tenth of the maximum fine provided for such offence provided that in no case shall the sum be less than taka five thousand.

48. Forfeiture of vessels etc., seized.-(1) Any vessel, fishing gear or fishing appliances, explosives, poison or other noxious substance or apparatus seized under sub-section (1) of section 33 or the proceeds of sale under section 38 shall, subject to the provisions of sub-section (3),-

- (a) if a prosecution is to be brought under this Ordinance, be held in such custody as may be prescribed pending the outcome of such prosecution; or
- (b) if no prosecution is to be brought under this Ordinance, be held in the custody as aforesaid for a period of one month at the end of which period they shall be deemed to be forfeited to the Government unless, during such period, any written claim is received from the skipper, owner or charterer, if any, contesting such forfeiture.

(2) Where any written claim contesting forfeiture is received under clause (b) of sub-section (1), either-

- (a) the subject matter of the claim shall be released and delivered to the claimant forthwith; or
- (b) the claim shall be referred to the Court for its decision.

(3) Notwithstanding anything contained in this section, the Court may order the release of any fishing gear or fishing appliances seized under section 33 on receipt of a satisfactory bond or other security from any person claiming such property.

49. Court may order forfeiture in addition to any other penalty imposed.- Where any person is convicted of an offence against any provision of this Ordinance or any rules made thereunder, or where the Court finds that an offence has been committed against any provision of this Ordinance or any rules made thereunder, the court, in addition to any other penalty imposed,-

- (a) may order that any fishing vessel (including its furniture, appurtenances, stores and cargo), fishing gear, nets or other fishing appliances used in the commission of such offence shall be forfeited to the Government or that the licence shall be suspended for such period of time as the Court may think fit or be cancelled; and
- (b) shall order that any fish caught in the commission of such offence or the proceeds of sale of any such fish under section 38 and any explosives, poison or other noxious substances used in the commission of such offence shall be forfeited to the Government.

51. Fish found on board a fishing vessel committing an offence presumed to be caught illegally.- All fish found on board any fishing vessel which has been used in the commission of an offence

against any provisions of this Ordinance or any rules made thereunder shall, unless the contrary is proved, be presumed to have been caught illegally in the Bangladesh fisheries waters.