

The State Law and Order Restoration Council

The Myanmar Pearl Law

(The State and Order Restoration Council Law No 7/95)

The 14th Waxing of Waso, 1375 ME

(10th July, 1995)

The State Law and Order Restoration Council hereby enacts the following Law-

CHAPTER I

Title and Definition

1. This Law shall be called the Myanmar Pearl Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) Pearl means naturally formed pearl or cultured pearl obtained from various oysters. This expression also includes blister pearl derived from culturing;
 - (b) Pearl Production includes oyster fishing and collecting, artificial breeding of oyster, rearing of oyster, pearl culturing and pearl harvesting;
 - (c) Oyster Fishing and Collecting means collecting of virgin oysters from natural fishing grounds by using divers and vessels equipped with any kind of specified diving equipment;
 - (d) Artificial Breeding of Oyster means the fertilization of male and female seeds of oyster in a laboratory and rearing the spat till it reaches to 4 inches size;
 - (e) Oyster Rearing means nursing and rearing of any oyster spat or any fished and collected oyster in one's keeping;
 - (f) Pearl Culturing means underwater rearing of oysters which have been operated on and inserted with nuclei;

- (g) Pearl Harvesting means extraction of pearls from inserted oysters in accordance with pearl harvesting techniques. This expression also includes extracting naturally formed pearls and oysters;
- (h) Oyster means pearl bearing seawater and freshwater shellfish having two labial palpi in its body and having lustrous smooth inner surface;
- (i) Shell means hard outer case and enclosing an oyster obtained from operated and killed oyster or from underwater dead oyster;
- (j) Marketing of Shell means marketing of shell from mother of pearl oyster, as raw material. This expression does not include marketing of shell of other shellfish, clam or mussel;
- (k) Oyster Fishing Ground means water area and waterbed where oysters breed, procreate, live and exist;
- (l) Oyster Diving Vessel means a vessel equipped with or carrying any kind of specified diving equipment, intended for fishing oysters;
- (m) Permit means a permit issued under this Law for carrying out any or more operations for fishing and collecting of oyster, artificial breeding of oysters, rearing of oysters, pearl culturing, pearl harvesting and marketing of shell;
- (n) Registration Certificate means a registration certificate issued under this Law for carrying out any operation contained in section 9;
- (o) Ministry means the Ministry of Mines;
- (p) Managing Director means the Managing Director of the Myanmar Pearl Enterprise.

CHAPTER II

Objectives

3. The objectives of this Law are as follows:-

- (a) to implement the policy of the Government relating to pearl production and marketing;
- (b) to encourage and supervise the development of pearl production;

- (c) to protect and conserve water area of oyster fishing grounds from destruction and oysters from extinction;
- (d) to conduct scientific research works relating to pearl production.

CHAPTER III

Application for Permit and Granting Thereof

4. A person or an organization desirous of carrying out any or more of the following operations shall apply to the Ministry in accordance with stipulations for obtaining a permit:-

- (a) oyster fishing and collecting, artificial breeding of oyster, oyster rearing, pearl culturing, pearl harvesting or marketing of shell with foreign investment;
- (b) artificial breeding of oyster, oyster rearing, pearl culturing or pearl harvesting with local investment.

5. The Ministry may, after scrutinizing the application submitted under section 4 issue a permit with the approval of the Government if it is in conformity with the stipulations.

6. A person or an organization desirous of carrying out oyster fishing and collecting, or marketing of shell with local investment shall apply to the Managing Director in accordance with the stipulations for obtaining a permit.

7. The Managing Director may, after scrutinizing the application submitted under section 6 issue a permit if it is in conformity with the stipulations.

CHAPTER IV

Duties of the Holder of a Permit

8. The holder of a permit shall:-

- (a) abide by the provisions of this Law, rules, procedures, orders and directives made thereunder;
- (b) abide by the conditions contained in the permit;

- (c) pay the fees prescribed by the Ministry for the permit in Myanmar currency or foreign currency or in both Myanmar and Foreign currencies.

CHAPTER V

Application for Registration and Granting Thereof

9. A person or an organization desirous of carrying out any of the following operations shall apply to the Managing Director in accordance with the stipulations, for permission to register:-

- (a) utilizing a vessel as an oyster diving vessel;
- (b) working as a pearl culturing technician.

10. The Managing Director shall after scrutinizing the application submitted under section 9 and if it is in conformity with the stipulations:-

- (a) permit registration to the applicant;
- (b) cause the applicant to pay the registration fee and other fees prescribed by the Ministry, for the registration certificate;
- (c) issue registration certificate prescribed for each type of operation to the applicant.

11. (a) In the case of expiry of tenure of the registration certificate, a person desirous of extending the tenure of the same may apply to the Managing Director in accordance with the stipulations;

- (b) The Managing Director may, after scrutinizing the application for extension of tenure of the registration under sub-section(a) extend the tenure if it is in conformity with the stipulations.

CHAPTER VI

Duties of the Holder of a Registration Certificate

12. The holder of a registration certificate shall:-

- (a) abide by the provisions of this Law, rules, procedures, orders and directives made thereunder;

- (b) abide by the conditions contained in the registration certificate;
- (c) pay the registration fee and other fees prescribed by the Ministry for the registration certificate in Myanmar currency or in foreign currency or in both Myanmar and Foreign currencies.

CHAPTER VII

Designation of Fishing Ground

13. The Ministry:-
 - (a) may, after co-ordinating with the Ministry of Live-stock Breeding and Fisheries, designate oyster fishing grounds by notification, with the approval of the Government;
 - (b) shall make prior co-ordination with the respective Government department or Government Organization if it is desirous of designating the oyster fishing ground under sub-section (a) in the territorial waters which is administered by any Government department of Government organization, before so designating;
 - (c) shall form a committee consisting of experts headed by the Managing Director in order to carry out demarcation of the boundaries with respect to the designation of the oyster fishing ground.
14. The Ministry may, with the approval of the Government, redesignate or cancel the whole or part of the designated oyster fishing ground.
15. The Ministry may issue necessary prohibitions to protect and conserve oyster fishing grounds from destruction and oysters from extinction.
16. A pearl formed in a naturally bred oyster found in the Myanmar territorial sea, contiguous zone, continental shelf and exclusive economic zone shall be deemed to be owned by the State.

CHAPTER VIII

Duties and Functions of the Myanmar Pearl Enterprise

17. The duties and functions of the Myanmar Pearl Enterprise are as follows:-
 - (a) implementing the policy relating to pearl production and marketing;

- (b) supervising pearl production in accordance with this Law.
- (c) training personal concerned with pearl production to acquire on job skills by giving training within the country and causing to acquire higher technology abroad;
- (d) finding ways and means and implementing for the increase of pearl production and improvement of quality of pearl;
- (e) finding ways and means to prevent destruction of water area of oyster fishing ground;
- (f) submitting matters relating to designation of oyster fishing ground, redesignation and cancellation thereof to the Ministry, after scrutiny as may be necessary;
- (g) finding ways and means for the prevention from extinction of oysters and obtainment of sufficient quantity thereof;
- (h) implementing scientific research works in respect of pearl production;
- (i) co-ordinating and co-operating with Government departments, organizations and international organizations concerned for implementing pearly production and marketing.

CHAPTER IX

Duties and Powers of the Chief Inspector

- 18. The Managing Director shall be the Chief Inspector for the purpose of this Law.
- 19. The duties and powers of the Chief Inspector are as follows:-
 - (a) inspecting as to whether or not the provisions of this Law and the rules, procedures, orders and directives made thereunder and the relevant conditions are complied with by the holders of the permit and the registration certificate;
 - (b) inspecting matters relating to health, sanitation, safety, prevention of accident, welfare and disciplinary measures of the workers employed at the place of work under a permit;

- (c) supervising the duties and functions of inspectors.

CHAPTER X

Duties and Powers of an Inspector

20. The Chief Inspector may assign a suitable officer of the Myanmar Pearl Enterprise as an inspector for the purpose of this Law.
21. The Ministry may assign a suitable officer from any Government department or organization as an inspector for the purpose of this Law. In such assignment prior co-ordination shall be made with the relevant Ministry.
22. The duties and powers of an inspector are as follows:-
- (a) inspecting the oyster diving vessel, diving equipment and oysters or oyster fishing and culturing, in the oyster fishing ground assigned to him or in other oyster fishing ground specially assigned to him by the Chief Inspector;
 - (b) stopping, boarding, accompanying, inspecting and searching without warrant any suspicious vessels found in the oyster fishing ground;
 - (c) requesting and examining documents and references required to be kept on board the vessel and taking copies thereof;
 - (d) interrogating and giving directives as may be necessary to the master, crew and divers of the oyster diving vessel;
 - (e) seizing the oyster diving vessel and materials found thereon if the vessel violates any of the provisions of this Law;
 - (f) seizing prohibited explosive substances, poisons, chemicals and other similar dangerous substances;
 - (g) arresting and taking action against a person who commits any of the offences under this Law;
 - (h) exercising powers delegated and carrying out duties assigned from time to time by the Chief Inspector.

CHAPTER XI

Taking of Action by Administrative Means

23. If the holder of a permit or a person managing on his behalf or any worker violates any condition contained in the permit or fails to comply with any order or directive issued under this Law, the person issuing the permit may pass any of the following administrative orders:-

- (a) causing suspension of all or part of the operations carried out under the permit;
- (b) allowing continuation of the operation after causing payment of fine to be made;
- (c) cancelling the permit;
- (d) cancelling the permit and confiscating the security deposit and advance payment and also causing payment of fine to be made if deemed necessary.

24. The Managing Director may pass any of the following administrative orders if the holder of a registration certificate violates any condition contained in the registration certificate or fails to comply with any order or directive issued under this Law:-

- (a) revoking the registration certificate subject to a time limit;
- (b) cancelling the registration certificate.

CHAPTER XII

Offences and Penalties

25. Whoever carries out any of the following operations with-out obtaining a permit shall, on conviction, be punished with imprisonment for a term which may extend to 7 years or with fine which may extend to Kyats 300,000 or with both:-

- (a) oyster fishing and collecting;
- (b) artificial breeding of oyster;
- (c) oyster rearing;

- (d) pearl culturing;
- (e) pearl harvesting;
- (f) marketing of shell.

26. Whoever carries out any of the following operations with-out obtaining a registration certificate shall, on conviction, be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to Kyats 30,000 or with both:-

- (a) utilizing a vessel as an oyster diving vessel;
- (b) working as a pearl culturing technician.

27. Whoever commits any of the following acts within the oyster fishing ground designated under section 13 sub-section (a) shall, on conviction, be punished with imprisonment for a term which may extend to 3 year or with fine which may extend to Kyats 100,000 or with both:-

- (a) fishing by upheaval of the soil at the waterbed by using any type of fishing implements with sharp edges, hooks or rakes;
- (b) emitting disposing, spilling, or spreading of lubricating oil, fuel oil or other waste substances from a vessel which may cause pollution to the water mass;

28. Whoever commits any of the following acts within the oyster fishing ground designated under section 13 sub-section (a) shall, on conviction, be punished with imprisonment for a term which may extend to 10 years or with fine which may extend to Kyats 500,000 or with both:-

- (a) using explosive substances, poisons, chemicals or such other similar dangerous substances ;
- (b) keeping on board the vessel substances mentioned in sub-section(a)

29. Whoever, while the inspector is inspecting in the discharge of his duty, conceals oysters, diving equipment or any material related to the offence or discards them

without the permission of the inspector shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to Kyats 100,000 or with both.

30. Any public servant who commits any of the following acts while exercising his power and carrying out the duties assigned to him under this Law, shall, on conviction, be punished with imprisonment for a term which may extend to 7 years:-

- (a) replacing any other person for the offender or concealing the offender without taking any action;
- (b) causing to disappear, altering by wrongful means, substituting or misappropriating the exhibit relating to the offence.

31. Whoever violates any of the prohibitions issued under section 15 shall, on conviction, be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to Kyat 10,000 or with both.

32. The Court in imposing a punishment of fine on the convicted person under this Law, shall cause the fine to be paid in foreign currency equivalent to the amount in Myanmar currency as determined by the Government if the accused is a foreigner.

33. The Court shall, if found guilty of any offence prosecuted under this Law, impose punishment for the relevant offence and also pass an order for confiscation of the exhibits relating to the offence.

CHAPTER XIII

Miscellaneous

34. Notwithstanding anything contained in any law for the time being a force, at the time of enactment of this Law, operations regarding oyster fishing and collecting, artificial breeding of oyster, oyster rearing, pearl culturing, pearl harvesting or marketing of shell shall be carried out in accordance with the provisions of this Law.

35. The Ministry may exempt any Government department or organization from complying with any provisions of this Law.

36. An unexpired permit issued under any existing law before the enactment of this Law in respect of oyster fishing and collecting, artificial breeding of oyster, oyster

rearing, pearl culturing, pearl harvesting or marketing of shell shall be valid until the date of expiry of the tenure of such permit.

37. If an exhibit relating to any legal proceeding instituted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However a report or other relevant documentary evidence as to the manner of custody of the same may be submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with Law.

38. For the purpose of carrying out the provision of this Law:-

- (a) the Ministry may, with the approval of the Government, make such rules and procedures as may be necessary;
- (b) the Ministry of the Myanmar Pearl Enterprise may issue such orders and directives as may be necessary.

(Sd)Than Shwe

Senior General

Chairman

The State Law and Order Restoration Council