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PART IV (A) — PROVINCIAL COUNCILS

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

THE Drafted Statute of the Western Provincial Fisheries and Aquatic Resources is attached herewith.

HON. GAMINI THILAKASIRI,
Minister of Agriculture, Land, Irrigation, Fisheries,
Animal Product & Health and Agrarian Development
of the Western Province.

Ministry of Agriculture, Land, Irrigation, Fisheries,
Animal Product & Health and Agrarian Development
of the Western Province Provincial Council,
Sir Marcus Fernando Mawatha,
Colombo 07,
20th June 2018.

Fisheries and Aquatic Resources Statute of Western Province No. ... of 2018

A statute to allocate provisions for proper management of fisheries industry in coastline and internal tanks of Western Province, to take measures for welfare of fisheries community of Western Province, to supply fish and fish related products at a reasonable price for consumers of Western Province, to establish a post of Provincial Fisheries Director in order to successfully accomplish the aforementioned affairs, to appoint an Advisory Council to maintain fisheries affairs within the province and to allocate provisions for matters related to consequential to such.

Be it enforced by the Western Province Provincial Council of Democratic Socialist Republic of Sri Lanka as follows :-

Short Title and
Date of
Enforcement

1. This statute shall be cited as Fisheries and Aquatic Resources Statute of Western Province No. 2018 and shall enforce from the date of assent of Hon. Governor of Western Province.

PART I

Establishment of Western Provincial Fisheries and Aquatic Resources Department

Establishment of
Western
Provincial
Fisheries and
Aquatic
Resources
Department

2. There shall be a post established as Western Provincial Fisheries Director (hereinafter cited in this statute as Director) to carry on the affairs specifically stated in Section 04 of this statute.

Appointing the
Provincial
Director of
Fisheries and
Aquatic
Resources

3. (1) Director shall be the head of the Western Provincial Department of Fisheries.
- (2) Provincial Director of Fisheries shall implement the provisions of this statute under instructions and supervision of the Secretary.
- (3) A Deputy Fisheries Director and three Assistant Fisheries Directors to work in charge of Colombo, Gampaha and Kalutara districts and other required officers and number of employees may be appointed to accomplish the functions of this statute.
- (4) Provincial Director of Fisheries may assign any of the powers assigned to him under this statute to a Deputy Director, Assistant Director or any other officer of the department.

Functions of the
Fisheries Director

4. The following main functions shall be performed by the Provincial Director of Fisheries subjected to provisions of any other written law, That is :-
 - (1) Taking steps to properly and hygienically maintain fisheries industry in coastline as well as of inland reservoirs of Western Province ;
 - (2) Taking measures for professional and social welfare of fisheries professionals of Western Province ;
 - (3) Taking necessary measures to make available fish and fish products at a reasonable price in necessary quantities to consumers of Western Province ;
 - (4) With the objective of increasing income of fisheries professionals of Western Province, introducing suitable strategies to boost up fish production within the Western Province ;
 - (5) Awareness raising in fisheries community and regulating the use of ice as well as cold rooms in a manner preserving hygiene and quality in fish production of Western Province.
 - (6) Allocating facilities necessary for production of high quality fish and ornamental fish required for importing as well as for local market and introducing a suitable market for such products.
 - (7) Expanding ornamental fish cultivation, domestic fish cultivation in Western Province as a self employment mode ;

- (8) In almost every main city of Western Province, at least maintaining modern and hygienic fish sales centres, creating facilities for ice and cold rooms in fish inbouding coasts and in boats catching fish.
- (9) Conserving aquatic enviornment and aquatic resources and local fish species of Western Province ;
- (10) Preparing programs to safeguard professional and other rights of fisheries professional engaged in fisheries industry of Western Province.
- (11) Creating aquatic cultivation projects with private sector contribution and community participation ;
- (12) Providing infrastucture facilities and other necessary facilities for lagoon related prawn cultivation ;
- (13) Implementing programs to increase fish consumption in urban areas ;
- (14) Make required fingerlings abundant by establishing fish breeding centers ;
- (15) Implementation of training and development programs for fisheries professionals engaged in the fisheries industry ;
- (16) Introducing suitable insurance schemes for fisheries professionals of Western Province.
- (17) By maintaining coordination with National Aquaculture Development Authority and National Aquactic Resources Research and Development Agency, taking measures to provide assistant services required by fisheries community.

PART II

Fisheries and Aquatic Resources Advisory Council

5. An Advisory Council (hereinafter referred to as “Advisory Council”) by the name of Western Provincial Fisheries and Aquatic Resources Advisory Council shall be established by the minister. Establishing the Fisheries and Aquatic Resources Advisory Council of Western Province
6. Advisory Council shall consist of the following mentioned members, that is :- Composition of the Advisory Council
 - (1) The Chairman of the Advisory Council shall be the Secretary of the Western Provincial Ministry of Fisheries ;
 - (2) Provincial Fisheries Director ;
 - (3) The Director General of the National Aquaculture Development Authority established under Fisheries and Aquatic Resources Act, No. 02 of 1996, or a representative nominated by him ;
 - (4) The Diretor General of Aquaculture Development Authority established under Fisheries and Aquatic resources Act, No. 02 of 1996 or a representative nominated by him ;

- (5) Three representatives appointed by the minister representing the fisheries professionals engaged in fisheries industry in Colombo, Gampaha and Kalutara districts ;
- (6) Two persons appointed by the minister from among persons with skill end expertise in fisheries industry ;

Functions and
Duties of the
Advisory Council

7. The following functions shall be performed and implemented by the Advisory Council :-
 - (1) Instructing the provincial minister regarding matters referred to the Advisory Council by the minister in relation to the fisheries affairs and development of fisheries industry of the province.
 - (2) Instructing the Fisheries Director with regard to steps to be taken to develop the fisheries industry of the province.

Provisions
relevant to
members
appointed

8. (1) Every member appointed to the Adivsory Council shall hold the position for three year period unless he/she vacates the post owing to his death, resignation or removal, and be suitable for re-appointment unless removed on disciplinary matters.
- (2) An appointed member may be removed by reasoning out if the provincial minister is in the opinion that such removal is suitable.
- (3) Any appointed member may resign at any time from his post by a letter addressing the minister in that regard and subsequent to acceptance or such resignation by the minister, it shall be enforced.
- (4) In an occasion of death, resignation or removal from post of an appointed member, another person to function on his behalf shall be appointed by the provincial minister by taking into consideration about provisions of this statute. A person appointed thus shall hold officer for the remaining time period of the member whom he succeeded.
- (5) In an occasion where an appointed member is unable to accomplish the duties in his position owing to falling, ill, leaving Sri Lanka or owing to any other reason, the provincial minister shall, considering the province of this statute, appoint another person to function on behalf of him.

Remuneration for
attending
meetings

9. Remuneration for members of the Adivsory Council for attending meetings of the said Advisory Council shall be paid by provincial minister in consultation of the minister in charged of the subject of finance and as decided by them.

Powers to
formulate rules

10. (1) The minister shall formulate rules consequential for functions related to proper maintenance of functions relevant to Fisheries Director stated under this statute.
- (2) Every rule formulated by the minister under this section shall be published in the *Gazette* paper and subsequently shall be presented to the Provincial Council for approval as immediately as possible.
- (3) The rules formulated under this section, subsequent to approval by the Provincial Council and publishing a *Gazette* notification on such approval, shall be enforced.

General Provisions

11. (1) It is legal for a person with the written permission of Provincial Director of Fisheries to enter at any time during day or night to certain premises without prior notice to Investigate whether the provisions of this statute are being followed and :-
- Power to access premises and investigate
- (a) Inspect the said premises ;
- (b) Inspect fish types in the said premises and equipment, obtaining their samples and take into custody if such premises contain certain fish type unsuitable for consumption, other matter or illegal equipment.
- (c) Question any person found there ;
- (d) Inspect any registere or reports maintained within such premises and obtaining copies of the said register or report ; and
- (e) Order a person in charge of the said premises to take suitable action that may be required to act in conformity to provisions of this statute.
12. (1) In order to maintain functions and duties of this statute, the Provincial Director of Fisheries may ask for Police assistance and the Police's role should be to provide such assistance.
- Provincial Director of Fisheries obtaining police assistance

Offences and Penalties

13. (1) No person shall -
- Fishing by deploying toxims or explosive materials to be an offence
- (a) Use or trying to use certain toxic or explosive material or such that may cause unconsciousness when fishing or obtaining other aquatic resource in coastal line or inland reservoirs of Western Province.
- (b) Under research showing the interntion of using toxic, explosive matter or such that cause unconsciousness, carry or keep in his possession any toxic or explosive material or such that may cuase unconsciousness for functions stated in Paragraph (a) ;
- (c) Unload, sell, purchase, accept or keep in his possession or transprot such fish or other aquatic resource consciously being aware that such fish or other aquatic resource has been obtained by using certain toxic, explosive material or such causing unconsciousness, or when there are reasons to believe that fact ;
- (d) Place, deposit, dump or cause to escape any toxic or explosive material, or such that cause unconsciousness in coastal line or inland reservoirs of Western Province.
- (e) Use any prohibited fisheries equipment for fisheries affairs of Western Province or keep such in one's possession or keep such on board of any local fishing boat or use any prohibited method of fishing.
- (f) Fish in any part of inland reservoirs located in Western Province by utilizing a net with less than three and half inches (3 1/2 inches) holes.

- (2) Every person contravening the provisions of this statute shall be an offender and if found guilty subsequent to a Summary Trial held before a Magistrate, shall subject to a penalty not exceeding Ten Thousand Rupees or imprisonment for a period not exceeding six months or both the penalty and the imprisonment.

Selling fish
unsuitable for
consumption to
be an offence

14. (1) Within the Western Province, no person shall,
- (a) Sell, display for selling or produce any type of fish or fish product found to be toxic, expired or unsuitable for human consumption ;
 - (b) Use any toxic material or any such not suitable for human consumption for the purpose of preserving or producing fish or type of fish.
- (2) Any person contravening whatever provision under Sub-section (1) shall become an offender and if found guilty after a Summary Trial before a Magistrate, shall be subjected to a penalty not exceeding Fifty Thousand Rupees or imprisonment for a period not exceeding six months or both penalty and imprisonment.

Various offences

15. (1) (a) A person who, without any justifiable reason, obstructs a person implementing his powers under the rules of this statute ;
- (b) Behave or acting in oppressive manner to others or in a manner enraging others as a person functioning under the authority of this statute while implementing certain powers or duty under this statute ;
- (c) As person functioning under this statute who discloses to another person certain information received by him while implementing his powers under this statute or carrying on his duties other than the task permitted by this statute to disclose such information ;
- (d) Being a person failing to present a particular report or information that conforms to certain order enforced to him under this statute or deliberately making a false statement by any report or information presented by him ;
- or
- (e) Being a person contravening any provision of this statute or any provision of an order formulated under this statute or being unable to follow any order given to him under a provision of this statute ;

shall be an offender under this statute.

- (2) (a) Every person committing an offence under Sub-section (1) or committing an offence for which a penalty has not been stated under this statute or under an order formulated under this statute ;
- (b) shall be subject to a penalty not exceeding One Hundred Thousand Rupees or imprisonment for a period not exceeding three months or both the said penalty and imprisonment when found guilty at a Summary Trial conducted before a Magistrate.

(3) When an offence under this statute is being committed by a board of persons ;

(a) when the said board of persons be a corporation, every Director and relevant officer of that corporation ;

(b) when the said board of persons be a trading business every partner of such business.

shall be considered as an offender for the said offence.

However, if the said Director or officer or partner of the said business proves that the said offence had been committed beyond his knowledge or he functioned with due enthusiasm to prevent the said offence being committed, he shall not be held responsible for that offence.

(4) For legal trials for an offence under this statute regarding an officer or employee with written permission of the Director, he shall be considered as an officer of Public Service as interpreted in Criminal Procedure Code Act, No. 15 of 1979.

16. The penalty ordered by a Court for an offence committed under this statute shall be credited to the Provincial Council Fund.

Penalties to be paid to Provincial Council Fund

17. For the purposes of this statute -

Interpretations

“Minister” means the minister in charge of the subject of Fisheries in Western Province.

“Inland Reserviors” include rivers, tanks, ponds, canals, springs or any other public fresh water reservoirs located within the geographical area of Western Provincial Council.

Western Provincial Fisheries and Aquatic Resources Advisory Council is meant by “Advisory Council”

Living aquatic organisms are meant by “Aquatic Resources” and it also includes seaweed, phytoplankton or any other aquatic flora and non-living substances found in an aquatic medium.

“Aquaculture Cultivation Projects” means cultivation of aquatic plants or organisms in the range of aquatic organisms’ reproduction, guiding up to at least one phase of an aquatic organisms’ living cycle under human control for the purpose of increasing production.

“Fish” means whatever aquatic organism, either belonging or not belonging to fish species, whereas, certain scaled fish, shellfish, pearl oyster, mollusk or aquatic mammalian or such living beings’ off-springs, eggs and plankton.

“Province” means the Western Province.

“Provincial Director of Fisheries” means the Director of Fisheries and Aquatic Resources of Western Province.

“Secretary” means the Secretary of the ministry assigned with the subject of Fisheries in Western Province.