

**REVENUE DEPARTMENT.**

**Rules Under The Myanmar Fisheries Act, 1905**

**Myanmar Act III of 1905**

**Dated Rangoon, the 24th August 1907.**

**[ Amendment : 18.06.1989 ]**

No. 98.- In exercise of the power conferred by section 32 of the Myanmar Fisheries Act, 1905 (Myanmar Act III of 1905), the Lieutenant-Governor is pleased to make the following rules in supersession of all previous rules under the Myanmar Fisheries Act, 1875 (VII of 1875), and to direct that they shall come into force with effect from November 15th, 1907:-

**CHAPTER I.**

**Introductory.**

**Definitions.**

1. In these rules unless there is anything repugnant in the subject or context.

- (1) “**Ake**” means any screen placed in a fishery to prevent fish from going into any other fishery, whether it admits fish from such other fishery or not, and includes an achokse when used to prevent fish going into any other fishery.

**Explanation.-** An achokse is a feeder of the death traps, whereas an ake is a screen used to the detriment of another fishery.

- (2) “**Awagyokse**” means any se (with or without wins or traps) placed in a fishery to confine fish coming up to stream, and includes an awaberk and a ngamyinyinse.

- (3) “**Bawun**” means any fencing placed along and on to the banks of a creek to take fish either coming over flooded banks or from the creek into the fence, with or without wins or traps, but does not include a ngagyidwin

**Explanation.-** A ngagyidwin is similar to a bawun, but the enclosure is made with two mat fences, the space between which is filled with earth.

- (4) “**Custom**” means the manner in which a fishery has been worked for at least three years consecutively, as modified by the special terms, if any, laid down at the time of disposal or at the close of a working season under Rule 47. Unless so modified the custom does not change until a new practice of working

is adopted and adhered to for the three consecutive years, when that new practice becomes the custom.

- (5) **“Gyan”** means any moveable se which is worked towards a fixed point, and includes the necessary pataing or fixed fence up to which it is worked with or without wins or traps.
- (6) **“Myinwunse”** or **“Shawse”** means a se placed in a creek at the end of the rains or on the fall of the water to capture fish going towards the main pools, creeks and rivers. It has a gap or gaps in the centre or at the sides leading into one or more traps, bag-nets or enclosures in which fish are caught, or to a tray on which fish are stranded, and includes the necessary kaditses, achokses, shawses, thamanuses, or other ses by whatever name called, placed near and above the myinwunse to prevent fish returning to the flooded kwin.

Provided that no se with a dam or matting along its foot shall be deemed to be a myinwunse or shawse.

- (7) **“Net”** includes-

- (i) drag and fixed nets of every description;
- (ii) nets that are floated, such as hmyawbaiks and paiktans; and
- (iii) all casting nets, such as kuns and metkuns.

- (8) **“Pazunbaung”** means any fishing implement used exclusively for the purpose of taking prawns, and includes a taingdaungdamin when used exclusively for this purpose.
- (9) **“Saung”** means a funnel-shaped basket used for capturing fish, and includes the necessary pales and ses (with or without wins or traps) when either or both are used.
- (10) **“Section,”** when used alone, means a section of the Myanmar Fisheries Act, 1905.
- (11) **“Tawgyase”** means and includes any se with wins and traps placed in a creek at the end of the rains or on the fall of the water to take fish going towards the main pools, creeks, and rivers, and includes the necessary kaditses, achokses, shawses, thamanuses or other ses by whatever name called, placed near and above the tawgyase to prevent fish returning to the flooded kwin.
- N.B.- Tawgyase is the term in use in the lower portion of the Irrawaddy delta. Elsewhere this se is called sema kyagyi or monhaungse and may be known by different names in other parts of the Province.
- (12) **“Trap”** means any contrivance other than a tawgyase, myinwunse, gyan, bawun, ake, awagyokse, saung, ngagyidwin, pasunbaung, net or hook, placed in the water to capture fish.

**Examples.-** Hmyons, kadons, zayaiks, sinleins, bonlons, toks, goks, and yagwin.

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### **Classification and Demarcation of fisheries.**

#### **[Section 32 (1), clauses (a) and (b).]**

Demarcation of leasable and reserved fisheries.

2. The limits of every leasable or reserved fishery, of which the existing map is incorrect or insufficient shall be surveyed, as soon as may be, by such officer or officers as may be appointed in this behalf by the Deputy Commissioner.

The plans shall also be revised when necessary owing to a change of boundary or other material alteration of the fishery.

Alteration of limits of leasable and reserved fisheries.

3. (1) With the previous sanction of the Commissioner, the Deputy Commissioner may from time to time alter the limits of any leasable or reserved fishery.

Provided that the limits of a fishery shall not be altered during the currency of a lease without the consent of the lessee thereof.

(2) The limits of every leasable or reserved fishery shall be reduced in extent as much as possible so as to allow of the fishery being worked by the actual lessee or lessees.

Classification of fisheries.

4. The Deputy Commissioner shall, from time to time, determine, subject to the provisions of section 8, in which of the classes specified in that section each fishery shall be placed, and he shall report to the Commissioner, within seven days thereafter, any order which he may pass respecting the classification of a fishery.

List of fisheries and plans, etc., to be kept in certain revenue offices.

5. A list of all leasable, reserved and protected fisheries within his district or under his charge, together with, plans of such fisheries as have been surveyed, shall be kept in the office of the Deputy Commissioner, and copies of the portion of such list and plans relating to fisheries under the charge of, or within the Subdivision or Township of, a Subdivisional or Township Officer shall also be kept in the offices of such officers.

### **CHAPTER II.**

#### **Disposal of fishing rights in leasable fisheries.**

#### **[Section 32 (1), clause (c).]**

Period of leases of exclusive rights to fish, and saving thereunder of rights of kadon lessees.

6. Subject to such rights to fish with traps as may have been or may be granted to other lessees by leases under Rule 24 which shall be declared in the advertisement under Rule II, leases of the exclusive right to fish in leasable fisheries may be granted-

- (i) in the case of leasable fisheries of a fairly constant value, for such term of years not exceeding five as the Deputy Commissioner may in each case think fit; and
- (ii) in the case of leasable fisheries of a fluctuating value, for one year only.

Dates of commencement and termination of leases of exclusive rights.

7. Unless the contrary is distinctly stated at the time of disposal, a lease of rights to fish in a leasable fishery shall be deemed and shall be expressed to be current for the year or number of years specified in the lease, each year beginning on the first decrease of Tagu and ending on the full moon of the following Tagu:

**Prohibition against fishing during a certain period of each year.**

Provided that no fishing of any description shall be carried on between the first decrease of Tagu and the first increase of Tawthalin of any year except in accordance with an express term in the lease or under a license signed by the Deputy Commissioner.

8. The right to fish in leasable fisheries may be disposed of by lease-

**Methods of disposal.**

- (i) after public auction, or a public sale by diminishing offers, such a sale being effected by fixing a price, inviting offers for the fishery at that price and lowering such price again and again until some person present offers to buy the fishery at the price last specified; or
- (ii) after inviting tenders upon such conditions as to the Deputy Commissioner may seem advisable; or
- (iii) for the purpose of giving a further term to a former lessee; or
- (iv) in the case of tanks dug on Government waste land, to the digger;

Provided that the Commissioner may revise the order of the Deputy Commissioner disposing of a lease, and that in cases where the procedure under clause (i) or (ii) has not been adopted, the proceedings shall be submitted for the Commissioner's orders before the lease is issued.

Place and date of auction or sale or for receipt of tenders.

9. Auctions or sales shall be held and tenders when invited shall be received at such towns or villages adjacent to the leasable fisheries and upon such dates as may be fixed by the Deputy Commissioner.

(1) Officers by whom auctions or sales may be conducted or tenders received.

**(2) Selection of method of disposal.**

**(3) Upset prices.**

10. (1) Auctions or sales shall be held or tenders invited by the Deputy Commissioner of the District, or, if he shall so direct, by the Subdivisional Officer or by the Inkunwun, or if the rent usually obtained for the lease to be disposed of does not exceed Rs. 500, by the Township Officer;

Provided that no lease shall be granted except-

(i) by an officer empowered to grant the same under section 10, sub-section (2); or

(ii) by the Deputy Commissioner, to whom the result shall be reported by the officer disposing of the fishery for confirmation or other order.

(2) The Deputy Commissioner shall decide for each leasable fishery which of the methods mentioned in Rule 8 shall be adopted.

(3) When the manner of disposal is by auction, the Deputy Commissioner may fix an upset price.

Advertisement of intended disposal.

11. An advertisement in Myanmar specifying the place at and the date on which each leasable fishery will be disposed of, the other leases for trap fishing in such fishery which have been or are to be granted under Rule 24 and, if possible, any new condition in modification of custom to be laid down at the time of disposal, shall be published in the vicinity of the fishery at least ten days before the time fixed for the disposal thereof:

Provided that shorter notice may be given if action is being taken on account of a default, or death, and immediate sale is necessary because the water is on the point of falling or for other good reason to be placed on record.

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Reading out of new conditions, etc., and procedure in case of objections thereto.

12. (1) In all cases the officer disposing of the fishery shall, before the proceedings are commenced, record and read out to those present any new condition or conditions and shall specify the other leases for trap fishing, which have been or are to be granted:

Provided that no such new condition shall be added if it appears to the officer disposing of the fishery that any other leasable fishery will be injuriously affected and if the lessee of the latter shows to the

satisfaction of such officer that he has by the purchase of material or the hiring of labour, made any preparations to work such fishery in the following season.

- (2) If the Deputy Commissioner decides to retain any new condition which is objected to by a person who has, without notice of the new condition, become the lessee of another leasable fishery which is, in the opinion of the Deputy Commissioner, injuriously affected thereby, such lessee may elect to surrender his lease, but, subject to Rule 13, he shall make such election before the lease containing such new condition has been disposed of.

Procedure in case of new condition not mentioned in the advertisement under Rule 11.

13. In any case in which a new condition is not set out in the advertisement under Rule 11, but is added at the time the fishery is being disposed of, the lessee of any other leasable fishery which will be injuriously affected thereby shall, if he is present when the new condition is read out under Rule 12, then and there make his objection thereto, and be at once put to his election under Rule 12.

If such other lessee is not present, the lease containing the new condition may be disposed of subject to reconsideration on receipt of any objection from the other lessee, and notice shall be issued to any lessee whose lease is so affected and he shall state his objection and make his election under Rule 12 within seven days of receipt of such notice.

Ascertainment of person entitled to lease on a disposal by auction or public sale or on receipt of tenders.

14. Except as hereinafter otherwise provided, the lease shall be granted-

- (i) where the manner of disposal is by auction- to the bidder who offers the highest annual rent;
- (ii) where the manner of disposal is by sale by diminishing offers-to the person who makes the first bid;
- (iii) where the manner of disposal is by inviting tenders-to the person who offers the highest annual rent or with the special sanction of the Commissioner in each case to such other person tendering an annual rent as the Deputy Commissioner may think fit.

Necessary qualification for purchaser of lease.

15. Except with the sanction of the Deputy Commissioner, no person who is not qualified in the manner hereinafter provided, and who does not hold a certificate to that effect signed by some officer appointed by the Deputy Commissioner in that behalf, shall be permitted to purchase. No person shall be qualified to purchase any leasable fishery-

- (i) if any fees, rents, or other moneys are at the date of the disposal due from him to Government in respect of any right of fishing made, granted, or acquired under the Act; or

- (ii) if he shall have at any time within two years made any default in payment of any moneys due to Government in respect of any right of fishing; or
- (iii) unless he is a bona fide fisherman or cultivator and has resided for a period of three years preceding the date of auction within 10 miles of the fishery which he wishes to purchase, or, if he resides on or near the same creek, within 30 miles of the fishery; or
- (iv) if he has purchased or is the lessee of any other fishery of which the rent is Rs. 300 or upwards; or
- (v) if he is a leper; or
- (vi) if he has been convicted of an offence punishable under section 21, clause (d) or section 22, sub-section (1), within five years of the date of the disposal of the lease.

Power to require deposit from bidder or person offering to purchase.

16. The Deputy Commissioner or other officer disposing of the fishery may require any person present to deposit a sum, not exceeding Rs. 100, before he is permitted to bid or offer to purchase. The deposits of such persons as do not purchase a lease shall be returned to them after the fishery has been disposed of.

Power to refuse bid or offer and to prohibit person from bidding.

17. The Deputy Commissioner or other officer disposing of the fishery may refuse to accept any bid or offer and may prohibit any person from making a bid or an offer to purchase without assigning any reason to such person, but he shall record his reason for such refusal or prohibition in a memorandum to be submitted forthwith to the Commissioner or, if the officer disposing of the fishery is not the Deputy Commissioner, to the Deputy Commissioner.

Surrender by auction purchaser.

18. If the accepted bidder for any lease disposed of by auction wishes to surrender the same without penalty, he must do so on the day on which his bid was accepted and before the office closes. The officer conducting the sale may, for reasons to be recorded by him refuse to accept the surrender; but if he accepts, the next highest bidder may be offered the lease. If such next highest bidder refuse the lease shall be disposed of again at some date and place to be notified by the Deputy Commissioner or by such other officer as he directs.

Payment of earnest money.

19. The purchaser of a lease of any fishery shall, within such time as may be fixed by the Deputy Commissioner, and if no time is fixed, within one week of the date of the sale, pay as earnest money a sum equal to 5 per cent. of the rent offered by him, provided that the sum so fixed shall not, except with

the previous sanction of the Commissioner, exceed Rs. 100, or be less than Rs. 5, which amount shall be taken as part payment of the first instalment of rent.

Any sum deposited under Rule 16 shall be credited as the earnest money or part thereof; and if it is more than the earnest money, the balance shall be credited as part of the first instalment.

Security and security bond.

20. Every purchaser of a lease shall within such time as may be fixed by the Deputy Commissioner, and if no time is fixed, then within seven days of the disposal, offer such security as may be demanded by the Deputy Commissioner, not exceeding-

- (i) one year's rent, if a lease for more than one year is to be granted; or
  - (ii) one year's rent, less earnest money or any sum paid in advance, if the lease is to be for one year only;
- and shall execute and cause to be executed by the sureties a security bond within such time as may be fixed by the Deputy Commissioner; and if no time is fixed within 30 days of the date of disposal.

When right to lease accrues and execution of lease.

21. When the purchaser of a lease has paid earnest money as required by Rule 19 and given security as required by Rule 20 he shall, subject to any revision, under section 30, of the Deputy Commissioner's order disposing of the right to fish, be entitled to have a lease granted to him and shall execute the lease within such time as the Deputy Commissioner may consider reasonable.

Number, etc, of instalments of rent.

22. The Deputy Commissioner shall, with respect to each lease, determine by what instalments and upon what dates the rent shall be payable, and the amounts of the instalments and dates for payment thereof shall be entered in the lease.

Disposal of lease on default of purchaser, and liability of such purchaser for loss.

23. If the purchaser of a lease shall fail-

- (i) to pay the whole of the earnest money as required by Rule 19,
- (ii) to offer security or execute and cause to be executed a security bond as required by Rule 20,

the lease may be again disposed of and the aforesaid purchaser shall make good to Government the difference for the first year of the lease between the amount offered by him and that offered by the succeeding purchaser less any sums paid as earnest money or as an instalment of rent.

#### **Trap-fishing in Leasable fisheries in flooded plains (Kadon fisheries).**

Kadon leases for the two months preceding the new moon of Tawthalin.



24. The Deputy Commissioner may grant other leases of the exclusive right to fish with traps during the two lunar months preceding the new moon of Tawthalin in leasable fisheries or portions of such fisheries which consist of flood water over low-lying tracts of country. Each lease shall confer the right over a portion of the leasable fishery of such an extent that one family or household will be able to work the entire area covered by such lease. Such leases may be disposed of each year in accordance with the provisions of Rules 8 to 23, but shall confer the right only for the one period of two lunar months preceding the new moon of Tawthalin.

### CHAPTER III.

#### Conditions applicable to leases of leasable fisheries.

[Section 32 (1), clauses (c) and (h).]

Power to cancel lease under certain circumstances.

25. The Deputy Commissioner may cancel any lease granted under these rules

- (i) if such lease has been obtained by any dishonest, fraudulent, or illegal means, including combinations to procure abstentions from bidding, offering or tendering for such lease, whether money has been paid as an inducement to so abstain or not;
- (ii) if the lessee fails to pay any sum due under the lease on the dates fixed under Rule 22, or to comply with and perform any of the conditions under which it is held or of any of the rules applicable to such lease or fishery;
- (iii) if the lessee fails to execute or cause to be executed a further security bond to the satisfaction of the Deputy Commissioner whenever required to do so under Rule 27;
- (iv) if the lessee, one of several lessees, any sub-tenant or other person working in the fishery is, during the currency of the lease, convicted of any offence punishable by fine or otherwise under any law or rule having the force of law relating to fisheries in Myanmar; or
- (v) if, when there are more lessees than one, disputes arise among the lessees of such a nature as, in the opinion of the Deputy Commissioner, are likely to be detrimental to the proper working of the fishery, and may confiscate thereupon the whole or any portion of any instalment of rent which may have been paid in respect of such lease.

**Recovery of loss on re-sale, etc.**

If a lease is cancelled under this rule, the lease for the remainder of the fishing season shall be disposed of in the manner prescribed by Chapter II of these rules and except in the case mentioned in clause (v) the ex-lessee shall make good to Government any loss arising on the disposal during that year:

**Procedure before cancellation.**

Provided always that no lease shall be cancelled under this rule until notice shall have been served upon the lessee (or if there are more lessees than one, then upon one of them), either personally or by affixing the same to his house or (if that cannot be found) upon some public spot adjacent to the fishery, calling upon him, within a reasonable time, to show cause, if any, why such lease should not be cancelled, and until the said lessee shall have had an opportunity of so showing cause:

**Power to stop working of fishery on a failure to pay sums due.**

Provided also that on any failure to pay any sum due under the lease, the Deputy Commissioner, Subdivisional or Township Officer may, by peremptory written order stop the working of the fishery pending service of the abovenamed notice, such order being issued in the manner prescribed for the service of the said notice.

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Liability of executants of a lease for rent, etc., and performance of conditions. Additional charge if rent, etc., in arrear.

26. All the persons executing a lease shall be jointly and severally liable and responsible for the due payment of the rent thereby reserved, and the performance by themselves, their servants and agents of all the terms and conditions to which it is subject.

And shall be liable to pay such sum as the Deputy Commissioner may direct, not exceeding 1 per cent. on the sum in arrear, for each day or part of a day during which the annual rent or any part thereof is in arrear.

Periodical testing of security and power to require further security.

27. The Deputy Commissioner shall from time to time test or cause to be tested the value of the security given for future instalments of rent, and if at any time he finds such security to be insufficient, he may require the lessee to furnish further security within a time to be fixed by him.

Succession by representatives of deceased lessee, and their power to determine lease at end of year.

28. Upon the death of a sole lessee, or of the survivor of two or more joint lessees, his heirs or other legal representatives shall be entitled to succeed as lessees, provided that they shall within fifteen days after

his death apply to the Deputy Commissioner to be admitted in the place of the deceased, and provided that they are approved of by the Deputy Commissioner as persons qualified under these rules to purchase the lease.

They may give notice that they desire to relinquish the lease at the expiration of the then current year thereof, and may be admitted subject to such notice.

Deputy Commissioner may admit such representatives for remainder of year only.

29. If, in the case of any application made under the last preceding rule, the applicants are not approved of by the Deputy Commissioner as persons qualified to purchase the lease, it shall nevertheless be competent to him to admit them in place of the deceased, subject to the condition that the lease shall terminate at the expiration of the then current year thereof.

Procedure if representatives do not apply or are not approved of, and liability of estate of deceased for loss or resale, etc.

30. If no such application as is mentioned in Rule 28 is made, or if, being made, the applicants are not admitted by the Deputy Commissioner in place of the deceased, the remainder of the term of the lease shall be disposed of.

Restriction on transfer. Power to sublet, etc. Prohibition of lepers.

31. A lease shall be in no way transferable except with the previous sanction of the Deputy Commissioner.

The lessee may nevertheless sublet or permit any other person or persons to exercise, directly or indirectly, all or any of the rights which he holds under the lease: but in such case he shall be responsible for all the acts of such sub-lessee or licensee as if they had been done by himself. No lessee or sub-tenant of any fishery shall permit any person suffering from leprosy to work in the fishery.

Extent to which tawgyase, akes and myinwunses may be used subject to Rules 33 and 34.

32. A lessee may use as many tawgyases in his fishery as he wishes and may place them where he wishes, but he shall only use akes within the limits of his fishery in accordance with custom, and he shall only use myinwunses to the extent to which he may be specifically allowed by his lease.

Dates between which certain fishing implements may be used.

33. (a) Every tawgyase, myinwunse, ake, gyan, awagyokse, and bawun shall be closed at the time fixed by custom, if any, provided that no tawgyase, ake, gyan, awagyokse, or bawun shall be closed before the first increase of Tawthalin, except with the previous sanction of the Commissioner, and that it shall be completely cleared away on or before the first increase of Tagu;

(b) In exceptional circumstances the Deputy Commissioner may permit the use of a myinwunse from the first increase of Wagaung, where it is established that such a use is absolutely necessary for the working of a leased fishery;

(c) The Deputy Commissioner may, where it is established that a pasunbaung is absolutely necessary for the adequate working of a leased fishery, permit its use from the first decrease of Tagu to the first increase of Thadingyut when it shall be completely cleared away.

Whoever commits a breach of this rule shall be punished with fine which may extend to two hundred rupees.

#### Boat-openings.

34. Every tawgyase, myinwunse, ake, gyan, awagyokse and pasunbaung shall have boat-openings according to the usage of the creek or according to custom. Any lessee who commits a breach of this rule shall be punished with fine which may extend to two hundred rupees.

Lessee of lower fishery may work up to lowest tawgyase or myinwunse of upper fishery.

35. When one leasable fishery debouches into another leasable fishery, all below the lowest tawgyase or myinwunse of the former, no matter where placed, shall, for the current year, be deemed to belong to the lessee of the lower leasable fishery.

Duty of lessee of upper fishery to keep tawgyase or myinwunse closed for benefit of lower fishery, and powers of lower lessee in case of breach.

36. The tawgyase or myinwunse of every leasable fishery debouching into another leasable fishery shall, if the lessee of the lower fishery so request, be kept closed while the lessee of the upper fishery is in occupation of the fishery or until the full moon of Tagu.

If the lessee of upper fishery fails to keep the tawgyase or myinwunse closed, the lessee of the lower fishery may close it and keep it closed. If the lessee of the upper fishery abandons the fishery, the lessee of the lower fishery may take possession of it for the remainder of the season.

Restrictions on use of an awagyokse in an upper fishery.

37. (1) When one leasable fishery debouches into another leasable fishery, no awagyokse to take fish coming into the former from the latter shall be used in the former, notwithstanding any custom to the contrary.

(2) When a leasable fishery debouches into a fishery of classes (b), (c), or (d), referred to in section 8, an awagyokse may be used up to the first increase of Tagu.

- (3) An awagyokse may also be used to take fish moving from one part of a fishery to another part of the same fishery, provided that there is a fixed screen between the fishery in which it is used and any leasable fishery into which it may debouch.

Duty of lessee to clear weeds, etc.

38. All weeds (daik and hmaw) in any leasable fishery shall be completely cleared away by the lessee every year.

The clearance may be made at any time, and before the full moon of Natdaw the weeds may be allowed to float down with the current. All left after that date shall before the full moon of Pyatho be dragged on to the banks and shall be completely burnt before the full moon of Tabodwe, care being taken that the neighbouring tree jungle is not destroyed.

If the lessee fails to completely clear away or to completely burn all such weeds, the Deputy Commissioner may cause the work to be done and shall recover the cost from the lessee and his sureties as an arrear of revenue. This rule shall not apply to lessees holding leases granted in accordance with Rule 24.

Duty of lessee to clear away stumps of trees, posts and rubbish.

39. All stumps of trees, posts, and rubbish of every description in any leasable fishery shall be cleared away by the lessee annually by the first increase of Tagu and shall be burnt, care being taken that the neighbouring tree jungle is not destroyed.

If the lessee fails to clear away any such stumps, trees, posts or rubbish, the Deputy Commissioner may cause the work to be done and recover the cost from the lessee and his sureties as an arrear of revenue. This rule shall not apply to lessees holding leases granted in accordance with Rule 24.

Consent of Deputy Commissioner necessary for digging of new channels.

40. (1) No lessee shall dig or cause to be dug or permit the digging of any new channel in or to his leasable fishery unless the same is dug with the permission of the Deputy Commissioner of the District.  
(2) If any new channel dug in contravention of this rule is of such a nature as to affect the fishery in the manner specified in section 12, the offender shall also be liable to conviction under section 23.

Restriction on deepening of existing channels.

41. No lessee shall deepen, or permit any person working with his consent in the fishery to deepen, any existing channel in his leasable fishery without the permission of the Deputy Commissioner in charge of

the fishery, or of the Subdivisional Officer or Inkunwun, but without such permission he may improve any toks or goks at any time of the year.

Any lessee who deepens an existing channel in a leasable fishery in contravention of this rule shall be punishable with fine which may extend to two hundred rupees.

Custom to be followed where rules are silent.

42. Where these rules are silent, every leasable fishery shall be worked according to custom.

Prohibition of fishing near monastery.

43. No fishing implement shall be used within 50 fathoms of the compound of a Buddhist monastery; any one who fishes in contravention of this rule shall be punished with fine which may extend to fifty rupees.

List of fishing implements of which use is permitted, and restrictions as to mode of taking turtle eggs.

44. (1) The following fishing implements may be used under leases of leasable fisheries in addition to tawgyases and awagyokses:-

- (a) Traps,
- (b) Gyans.
- (c) Bawuns, within which stalks of kaing grass may be planted in the bed of a stream, provided that they are removed when the fishing season is over.
- (d) Nets with a diagonal mesh of not less than 1 inch (the diameter of a pice), but in waters adjacent to turtle banks a smaller mesh may be used.
- (e) Saungs.
- (f) Sail-cloths.
- (g) Hooks.

And, with special permission in each case,-

- (h) Pazunbaungs.
- (i) Myinwunes.

(2) On turtle banks eggs shall be taken by hand only.

(3) Nothing contained in this rule shall be deemed to permit the killing, capture or interference in any way whatever with any fish of such species as may be specified in a notification issued under the provisions of section 13 or the taking, opening, or in any way whatever interfering with any nest of eggs laid by any species of turtle or tortoise mentioned in that behalf in a notification under that section.

Prohibited fishing implements and methods of taking fish

45. The use of the following fishing implements and the following methods of taking fish are absolutely prohibited:-

- (a) Bunds of every description including letse and kadeton;
- (b) Baling, except baling water from toks or goks;
- (c) Weeds (hmaw, daik), brushwood, branches of trees or anything which, resting on the bed of a stream, affords shelter to fish, such as old kadons;
- (d) Nets with a diagonal mesh less than 1 inch except in waters adjacent to a turtle bank;
- (e) Ngagyidwins:

Provided that the Deputy Commissioner may permit the methods specified in clauses (a), (b), and (d) with the special sanction, in each case, of the Commissioner.

Provided also that in the case of any fishery in which bunding or baling has been continuously permitted, such bunding or baling shall be deemed to be permitted until the Deputy Commissioner expressly states that it shall be prohibited.

Surrender of lease at end of the year.

46. A lessee may at the close of any fishing season apply to the Deputy Commissioner for the cancellation of his lease if he has paid the full rent for the whole year in which such season falls. When any, such application has been made, the Deputy Commissioner may, with the sanction of the Commissioner, cancel the lease upon such terms as he considers fit:

Provided that such a lease shall not be cancelled, subject to a penalty, until the lessee has been given the option of deciding whether he will retain the lease or surrender it and submit to the penalty.

Power of Deputy Commissioner to impose new conditions, etc., at end of any working season and right of lessee to surrender if injuriously affected.

47. At the close of any working season the Deputy Commissioner may impose a new condition on a lessee and may offer him or the lessee of any other fishery which will be injuriously affected by such change an abatement of rent. Any lessee who is in the opinion of the Deputy Commissioner injuriously affected by any such new term or condition may surrender his lease.

Commissioner may cancel lease at close of any working season and may pay compensation therefor, one year's rent.

48. The Commissioner may, for reasons to be recorded by him, cancel any lease at the close of any working season, and thereupon may offer the lessee an abatement of any rent that may be outstanding or other compensation not exceeding 20 per cent. of one year's rent.

Application of certain other provisions of Chapter III to kadon leases.

49. (1) Rules 25 to 31 shall apply to such leases of the exclusive right to fish with traps in leasable fisheries as may be granted in accordance with Rule 24.

**Class of fishing implements which may be used by kadon lessees and restrictions on user thereof.**

(2) Leases granted in accordance with Rule 24 shall convey rights to fish with traps but not with any other fishing implements, whether fixed or moveable. No traps having meshes of less than 1 inch, or if screens are placed between the traps, no traps having meshes of less than 2 inches shall be used.

(3) When such traps with meshes of less than 2 inches are used they shall be placed at a distance one from the other of not less than 5 cubits.

(4) No watercourse shall be completely closed by any such trap or row or rows of traps.

**CHAPTER IV.**

**Pearl fisheries and collection of green snails, top shells and sea-slugs, etc.**

**[Special rules under section 32 (1), clause (c).]**

Chapter applies only to Mergui District and areas notified in that behalf.

50. This chapter applies only to the Mergui District and to such other areas as may be notified by the Local Government.

Restriction on application of Rule 2 and provisions of Chapters II and III to fisheries leased under this chapter.

51. Except as hereinafter provided nothing in Rule 2 and in Chapter II and III of these rules shall apply to fisheries leased for the collection of pearls, mother-of-pearl shells, green and snails, top shells, sea slugs, or any kind of shell-fish which may be notified by the Financial Commissioner as coming within the provisions of this chapter.

Period, etc., of lease for collection without diving apparatus.

52. The exclusive right of collecting in leasable fisheries pearls or any of the fish specified in Rule 51 without diving apparatus may be leased for one year (Myanmar reckoning) or such longer period as the Financial Commissioner may determine. This lease shall be deemed to run from the first increase of Tawthalin.



<Amendment 18.06.1989>

Division into blocks and methods of disposing of lease.

53. The Deputy Commissioner may, at or before the time of disposal, divide the fishing grounds into blocks, and may lease the rights described in Rule 52 in each block separately. The leases shall be disposed of in accordance with Rule 8, clause (i), (ii) or (iii) of these rules.

Place of disposal, procedure to be followed and conditions of lease.

54. The leases shall be disposed of by the Deputy Commissioner at the headquarters of the District. The provisions of Rule 10, sub-rules (2) and (3) and Rules 14, 16 to 23, 25 to 31, 42, 46 and 47 shall (in addition to the special rules relating thereto in this chapter) apply to such disposals and to leases issued upon them.

Advertisement of auction, etc. At sale terms of lease to be read out.

55. The date and place of the auction or sale or for receiving tenders shall be advertised at the headquarters of the District and in a Rangoon and a Penang newspaper at least one month before the date fixed. The conditions of the lease shall, as far as possible, be specified in the advertisement, and shall in any case be read out before the sale.

License to use implements for pearl fishing and period and cancellation of such licenses.

56. Licenses to use implements for pearl fishing may be granted by the Deputy Commissioner or by any Officer empowered under section 10 (2) on payment of such fees, not exceeding Rs. 1,000 per pump, as may from time to time be fixed by the Financial Commissioner. Every license shall run for one year (Myanmar reckoning), beginning from the first increase of Tawthalin. The Deputy Commissioner may cancel any license for breach of the conditions thereof or of any of the rules applicable thereto.

<Amendment 18.06.1989>

Separate license for each pump and number thereof to be painted on pump and on boat and license to be kept in boat.

57. A separate license shall be taken out for each pump required for pearl-fishing, and its number shall be painted conspicuously upon the pump and also upon the bows of the boat carrying it. The license shall be kept in the boat.

Sanction of Deputy Commissioner necessary for transfer of license.

58. A license for a pump shall not be transferred without the permission in writing of the Deputy Commissioner, who shall endorse upon the license the name of the new licensee.

Pearls and pearl shells to be passed through Customs Office.

59. Licensees and lessees shall pass all mother-of-pearl shells and pearls collected through the Customs Office at a port designated by the Deputy Commissioner or send a copy or copies of the manifest of the vessel by which the same are shipped to the Customs Office at the said port.

Prohibition against taking small pearl shells.

60. No mother-of-pearl shell shall be taken which measures less than 6 inches from hinge to lip, the measurement being taken at right angles to the hinge and as far as the outer edge of the lip:  
Provided that no licensee shall be debarred from taking a shell exceeding one viss in weight including the fish. Any shell brought up and found to be undersized shall at once be returned to the water unopened.

Restriction on moving unlicensed pump.

61. No unlicensed pump shall be taken by a lessee or a licensee outside Mergui harbour or, in other districts to which this chapter may be made to apply, such circumscribed area as may be notified by the Local Government except for export to another District.

Licensee to supply sound pipes to divers.

62. The holder of a license for pearl-fishing shall supply sufficient sound pipes to his divers and shall not permit a diver to descend with an unsound pipe.

Lessees and licensees to furnish information as to value and quantity of shells or pearls and as to the industry.

63. Every lessee under Rule 52 and licensee under Rule 56 shall at all times, when no requested by or under the authority of the Deputy Commissioner, furnish any information in his power regarding the quantity and value of shells or pearls extracted by himself or any other licensee or regarding the pearling industry generally.

Prohibition against capture of Ballistes and Trygon.

64. In fisheries in which the right to collect fish is leased under Rule 52 no person shall take willfully the fishes Ballistes and Trygon. Fishermen accidentally catching the same shall return them at once to the sea.

Penalty for breach of certain rules.

65. Any person who commits a breach of any of the Rules 57, 59, 60 to 64 shall, on conviction before a Magistrate, be liable to imprisonment which may extend to one month, or to fine which may extend to Rs. 200, or to both.

## **CHAPTER V.**

### **Regulation of fishing in Reserved Fisheries.**

#### **[Section 32 (1) clause (d).]**

Leases of right to fish with nets. Prohibition against the use of other fishing implements, etc., in a reserved fishery.

66. In reserved fisheries the Deputy Commissioner may permit the use of every description of net having such mesh between knot and knot (of not less than one and a half inches) as he may specify.

The right of using any nets in any such fishery may be disposed of by any of the methods mentioned in Rule 8, clause (i), (ii) or (iii); and Rules 2, 3, 6, 7 and 9 to 23 shall apply to such fishery and the disposal thereof, and Rules 25 to 31, 41, 43 and 46 shall apply to the lease and fishing when so disposed of.

#### **Prohibition against use of other fishing implements in a reserved fishery.**

- (2) Except a net permitted under the preceding sub-rule no fishing implement, whether fixed or moveable shall be used in a reserved fishery. The use of weeds (hmaw, daik), brushwood, branches of trees, or anything which, resting on the bed of a stream, affords shelter to fish (such as old kadons) is also absolutely prohibited in a reserved fishery.

Special provisions where a pearl or other fishery specified in Rule 51 is reserved.

67. If any fishery, in which the exclusive right of collecting the fish specified in Rule 51 may at any time have been leased, is transferred to the class of reserved fisheries, the restrictions imposed under Rule 66 shall not apply, but no person shall collect pearls, or mother-of-pearl shells, or catch the fish called Ballistes and Trygon in such fishery. Any person unintentionally catching the fish called Ballistes and Trygon in such fishery shall return them at once to the sea.

## **CHAPTER VI.**

### **Regarding licenses for use of Fishing Implements in Open Fisheries and permission to fish free of charge in Open and Protected Fisheries.**

#### **[Section 32 (1), clauses (e), (f) and (h), and (2).]**

Licenses to use fishing implements in open fisheries.

68. The Deputy Commissioner or any Officer empowered under section 10 (2) of the Act may issue licenses to use or erect in open fisheries any fishing implement mentioned in Schedules A and B.

Waters to which a license under Rule 68 applies.

69. Every license issued under Rule 68 shall be valid throughout Lower Myanmar:

Provided that a fishing implement mentioned in Schedule A-

- (i) shall not be used except in the creek or creeks, and within the boundaries mentioned in the license in that behalf; and
- (ii) shall not be worked at the headwaters' of any leasable or reserved fishery or in waters on which any such fishery depends for its supply of fish, or otherwise to the detriment of any such fishery; and
- (iii) shall not be used to the detriment of any other fishing implement for which a license has been granted.

<Amendment 18.06.1989>

Licensee etc., to leave boat openings.

70. Every licensee of a fishing implement issued under Rule 68, and every transferee or person using such license, or working under such license, shall leave boat openings in such fishing implement sufficient to pass boats ordinarily using the waters in which such fishing implement is placed.

Whoever commits a breach of this rule shall be punished with fine which may extend to fifty rupees.

Prohibition against use of weeds, brushwood or other shelter for fish with fishing implements mentioned in Schedule A.

71. No license issued under Rule 68 for a fishing implement mentioned in Schedule A shall authorize the use of weeds, brushwood, branches of trees or anything which, resting on the bed of the stream, affords shelter for fish, such as old kadons; stalks of kaing grass may be planted in the bed of the stream, but must be removed at the close of the fishing season.

Separate license for each fishing implement.

72. A separate license shall be granted for the use of each complete fishing implement or set of implements. Period for which license under Rule 68 is current.

73. No license for a fishing implement completely closing a stream or creek shall be used at an earlier date than the 1st increase of Tawthalin, and such license shall expire on the full moon of Tagu.

Provided that special directions respecting the use of implements 14 and 15 in Schedule A may be issued by the Financial Commissioner.

Every other license referred to in Rule 68 shall run from the 1st increase of Tawthalin in one year to the last day of Wagaung in the next.

License fees.

74. For every license the licensee shall at the time of the issue of the license, or at such time as may be fixed by the Financial Commissioner, pay the amount indicated in the Schedule as the proper fee for the fishing implement covered by the license.

Size of mesh.

75. The size of mesh in all fishing implements which the licensee is licensed to use shall not be less, between knot and knot, than that indicated in the 5th column of the schedule, and shall be entered in the license.

Prohibition of fishing near monastery.

76. No fishing implement shall be used within 50 fathoms of the compound of a Buddhist monastery. Any one who fishes in contravention of this rule shall be punished with fine which may extend to fifty rupees.

Inspection and marking of nets and prohibition of use of unmarked nets.

77. Any person desiring to take out a license for a net shall bring the net to one of the officers empowered to issue licenses, and such officer shall thereupon measure the length of the net and the mesh between knot and knot, and in such manner as may be directed by the Financial Commissioner mark such net, provided that the Commissioner may authorise the Deputy Commissioner to permit licenses for nets to be issued without the applicants for licenses being required to bring their nets to the Officer issuing the license, in which case the licensee shall mark the net before use in accordance with such directions as the Deputy Commissioner may give.

No license shall cover a net without the prescribed mark or marks.

Transfer of licenses.

78. A license for a net duly marked may be transferred together with the net covered by the license by the licensee to any person.

Power of Financial Commissioner to alter Schedules A and B.

79. The Financial Commissioner may, by notification in the Myanmar Gazette, alter either Schedule A or B by adding any new fishing implement, by removing any fishing implement by altering the fee to be levied on

any fishing implement, or by altering the minimum mesh allowed, and upon any such notification the said schedules shall be deemed to be amended accordingly.

<Amendment 18.06.1989>

No license to be issued for fishing implement not specified in schedules.

80. No license shall be issued for any fishing implements other than those specified or described in Schedules A and B.

Restrictions and conditions applicable to free fishing in open or protected fishery.

81. (1) Any person and any member of a class of persons who or which receives permission under section 9, sub-section (3), clause (b) or sub-section (4) or under section 10, sub-section (1), to fish free of charge in any open fishery or in any protected fishery, may fish in such fishery, in any manner whatever, subject to the following conditions and restrictions, namely:-

- (a) No fishing implement named or described in either Schedule A or B shall be used;
- (b) No trap or row or rows of traps or net shall extend completely across any creek or watercourse and no fencing shall be used between any two traps, and no trap shall be nearer than 5 cubits to any other trap;
- (c) No fishing implement shall be used in such a way as to obstruct the traffic ordinarily using the water in which it is placed.
- (d) No fishing implement or method of fishing mentioned in Rule 45 shall be used.

(2) The Financial Commissioner may by notification authorise a Deputy Commissioner to permit the public or any specified class of persons to use in the sea or any part thereof any or all or the fishing implements named or described in Schedule A and B.

## CHAPTER VII.

### Permission to use Weirs, Banks or Dams.

#### [Section 32 (1), clause (g).]

Application for permission to erect weir, etc., and procedure thereon.

82. An application to erect, place, maintain or use a weir, bank or dam otherwise than as permitted by the proviso to section 11 shall be presented in the first instance to the Township Officer, who shall examine the applicant as to the object of the proposed weir, bank or dam, and, after such enquiry as he may

consider necessary, forward the application with a report to the Deputy Commissioner through the Subdivisional Officer.

**Permission shall be free of charge and may impose conditions.**

The Deputy Commissioner, on receipt of the application and report, may permit the use of a weir, bank or dam unconditionally, or may impose terms and conditions on the applicant. Such terms and conditions may provide for the complete removal of the weir, bank or dam by a certain date, or for the clearing of certain waters of weeds or stumps of trees, or for the performance by the applicant of some other work of the same nature. No fee shall be required for such permission.

Purposes for which permission may ordinarily be granted.

83. Ordinarily no application to erect, place, maintain or use a weir, bank or dam other than a fishing implement shall be granted except to enable cultivators to hold up water for drinking purposes or for purposes of irrigation, or for damming salt or brackish water out of cultivated land or for damming any water out of such land at the reaping season, or for some other purpose in connection with cultivation.

**CHAPTER VIII.**

**Loans to Fishermen.**

**[Section 32 (1), clause (i).]**

Purposes for which loans may be made to sea fishermen. Purposes to be specified in the order granting the loan.

84. A loan may be made to a person engaged in sea fishing in accordance with the rules contained in this chapter for the relief of distress, the purchase of boats, nets, salt and other fishing and curing implements, equipment and materials and for other objects connected with his industry.

The purposes for which the loan is granted shall be specified in the order granting the loan.

Application to be made to Township Officer who shall verify facts on the spot.

85. Every application for a loan under these rules shall be made to the Township Officer and shall, as far as may be, be verified by him on the spot.

Particulars required in application for loan.

86. Applications for loans under these rules shall be in writing and shall state:-

- (a) the residence and kind of fishing in which the applicant is engaged;
- (b) the amount of the loan required;

- (c) the purpose for which the loan is required;
- (d) the security which the applicant offers for repayment.

Two or more fishermen of any particular village may make a joint application for the loans they require under these rules.

Procedure of Township Officer on receipt of application. Deputy Commissioner may depute other officers.

87. The Township Officer, after such examination of the applicant as may be necessary and such local verification as he may be able to make, shall, if he is satisfied that the application is bona fide and the security sufficient, forward the application with his recommendation through the Subdivisional Officer to the Deputy Commissioner.

The Deputy Commissioner may direct that such examination of the applicant and local investigation be conducted by the Subdivisional Officer.

Procedure of Deputy Commissioner and payment of loan through Township Officer.

88. The Deputy Commissioner, on receipt of the reports of the Township and Subdivisional Officer and after such further enquiry and verification as he may consider necessary, shall either reject the application or make an order sanctioning a loan and fixing the security to be taken.

If the loan is granted, the money shall be paid to the applicant by the Township Officer.

Sanction of Commissioner if loan to one applicant exceeds Rs. 600 and of Financial Commissioner if it exceeds Rs. 1,000.

89. If the sum which the Deputy Commissioner thinks should be advanced to any one applicant exceeds six hundred rupees, he shall submit the case with his recommendations to the Commissioner, who may grant to any one applicant a loan not exceeding one thousand rupees.

If the sum which the Commissioner thinks should be advanced to any one applicant exceeds one thousand rupees, he shall report the case for the orders of the Financial Commissioner.

Interest.

90. All loans shall bear interest at the rate of 5 per cent. per annum.

Security.

91. The security on which loans may be made under these rules shall be such as the Deputy Commissioner may, by general or special order, declare to be sufficient; and in the absence of any such orders to the contrary, the mutual security of several applicants may be accepted, the security of any available immoveable property being taken in addition.



Dates of repayment.

92. Loans shall be made repayable to the Township Officer within a year of the date on which they are issued. When they are made to damin fishermen they shall be repayable in instalments as follows.
- 30 per cent. on the 15th January,  
40 per cent. on the 15th February,  
30 per cent. on the 15th March,  
and when made to other fishermen they shall be repayable in such instalments and on such dates as may be fixed by the Deputy Commissioner:

**Immediate repayment if loan misapplied.**

Provided that if at any time it is proved to the satisfaction of the Deputy Commissioner that any loan made under these rules to a fisherman of any class has been misapplied in whole or in part, he may record an order to the effect that the whole loan with interest is then due, adding the grounds for his decision, and thereupon the whole loan with interest, if any, chargeable thereon, and costs, if any, incurred in making or recovering the same shall become due.

Restriction on issue of loans in consecutive years to same applicant.

93. No one fisherman shall be granted loans for more than two consecutive years, and he shall only be granted a loan for the second year on his giving a satisfactory explanation of his failure to save sufficient money to carry on his business without further borrowing.

Application of repayments.

94. All repayments shall in the first instance be applied to the liquidation of debts due on account of interest.

Calculation of interest for fractions of a month.

95. In the calculation of interest for a period of less than one month, a period of fourteen days may be neglected, anything over that period being considered as one month and interest being calculated accordingly.

Irrecoverable loans.

96. The Financial Commissioner is empowered to write off irrecoverable loans up to any amount without restrictions.

Power to appoint special officers.

97. The Local Government may, by general or special order, appoint any person to perform, for the purposes of the rules contained in this chapter, the duties of a Township Officer, Subdivisional Officer or Deputy Commissioner.

**NOTE.-** No loan can be made unless there is an allotment of money for the purpose.

## **CHAPTER IX.**

### **Miscellaneous.**

#### **[Section 32 (1), clause (j).]**

Money, etc., for fishing to be paid by person liable into Treasury at District Headquarters.

98. Any sum or sums of money payable to Government in respect of any right, of fishing made, granted or acquired under or by virtue of the Act, or any rule or rules thereunder, shall, except as is next hereinafter provided, be paid by the person liable to the payment thereof into the Treasury at the headquarters of the district within which is situated the whole or the greater part of the fishery or area over which such right extends.

#### **Power to direct collection by other officers.**

But any such sum or sums of money may, if the Deputy Commissioner so directs, be collected by the Subdivisional or Township Officer; or may, if the Deputy Commissioner so directs, with the sanction of the Commissioner, be collected-

- (i) in the case of fisheries leased under Rule 6 for an annual rent not exceeding Rs. 2,000 in respect of each fishery, by the circle thugyi; or
- (ii) in the case of fees derived from the issue of licenses to use fishing implements, by the circle thugyi or village headman.

#### **Remuneration of thugyi or village headman for collections by him.**

The circle thugyi or village headman shall receive on any sums so collected by him a commission at a rate to be fixed by the Financial Commissioner but not exceeding five per cent. on collections under clause (i) and ten per cent. on collections under clause (ii).

#### **Fishery Registers.**

99. Fishery registers shall be kept up in every Revenue office in such forms as the Financial Commissioner may from time to time direct.

#### **Forms.**

100. Leases and licenses granted and security bonds executed under these rules shall, subject to the provisions of the foregoing rules, be in such forms as the Financial Commissioner may from time to time direct.

----- Footnote -----

[ပင်ရင်း- ၃၁.၈.၁၉၀၇ ရက်နေ့ထုတ် ပြန်တမ်းမှ ကူးယူတင်ပြသည်။]

----- Attachment -----

[ ATTACH LIST 1 ] 01 Notes to the Schedules.