

PARLIAMENT OF CEYLON

1st Session 1953



Chank Fishery Act, No. 8 of 1953

Date of Assent : March 14, 1953

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AN ACT TO MAKE PROVISION FOR REGULATING THE TAKING OF CHANKS, BECHE-DE-MER, CORAL, AND SHELLS, FOR REGULATING CHANK FISHERIES AND THE EXPORTATION OF CHANKS, AND OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.

[Date of Assent: March 14, 1953]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Chank Fishery Act, No. 8 of 1953. Short title.

Taking of Chanks

2. (1) No vessel shall be used or employed in or for the purpose of taking chanks or of any operations for taking chanks, unless it is registered under this Act and the registration card issued in respect thereof is carried in the vessel at the time when it is so used or employed. Registration of vessels.

(2) The authority empowered under this Act to register vessels which are to be used or employed for the purpose of taking chanks or of any operations for taking chanks may refuse to register any vessel or cancel the registration of any vessel if he has reasonable cause to believe that such vessel is to be so used or employed, or is being so used or employed, by or on behalf of any person—

- (a) who is neither a citizen of Ceylon nor the holder of a valid residence permit; or
- (b) who has been convicted of any offence by reason of his having acted in contravention of any of the provisions of this Act or any regulation made thereunder relating to the taking of chanks.

The decision of such authority to refuse or cancel such registration may be the subject of an appeal to a District Court.

3. (1) No person shall carry out any diving operations for the purpose of taking chanks unless he is the holder of a diving licence issued under this Act and for the time being in force. Licensing of divers.

(2) No person shall use or employ any other person for the purpose of carrying out diving operations for taking chanks unless that other person is the holder of a diving licence issued under this Act and for the time being in force.

(3) The authority empowered under this Act to issue diving licences may refuse such licence to any applicant therefor, or may cancel the licence of any holder thereof, if such authority has reasonable cause to believe that the applicant or holder, as the case may be—

- (a) is neither a citizen of Ceylon nor the holder of a valid residence permit; or
- (b) has been convicted of any offence by reason of his having acted in contravention of any of the provisions of this Act or any regulation made thereunder relating to the taking of chanks.

The decision of such authority to refuse or cancel such licence may be the subject of an appeal to a District Court.

Prohibition
of use of
dredges.

4. No person shall use any dredge or other apparatus of a like nature for the purpose of taking chanks.

Chank
fishing
regulations.

5. Regulations may be made providing for—

- (a) the registration of vessels used for the purpose of taking chanks, the fees payable for such registration, the period for which such registration shall be effective and the renewal of such registration;
- (b) the time and manner of the making of applications for diving licences;
- (c) the issue and form of such licences, the fees payable therefor, and the duration and renewal of such licences;
- (d) the declaration of close seasons for the taking of chanks in specified areas and the prohibition of the taking of chanks during the close seasons;
- (e) the regulation, supervision and control of operations for the taking of chanks, including the prohibition of the taking of chanks beyond a specified depth or in specified areas; and

- (f) generally in respect of matters connected with or incidental to the matters mentioned in the preceding paragraphs of this section.

6. (1) The Minister may, with the concurrence of the Minister for Health, from time to time by Order published in the *Gazette*—

Chank
fishery
camps.

- (a) declare any place specified in the Order to be a chank fishery camp, during such period or periods as may be so specified for the purpose of any chank fishery specified therein;
- (b) prescribe the duration of the period of such fishery; and
- (c) appoint any person, by name or by office, to be the superintendent of such camp.

(2) The Minister may make rules—

- (a) for the preservation of order in any chank fishery camp;
- (b) for the prevention of accidents, fire and disease in any such camp;
- (c) for the regulation of the water supply and sanitation in any such camp; and
- (d) for any other matter which he may deem necessary for the proper administration, regulation and control of any such camp.

(3) Every rule made by the Minister shall be published in the *Gazette* and shall come into operation upon the date of such publication or upon such later date as may be specified in the rule.

(4) Every rule made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval.

Every rule which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Every rule so approved shall be as valid and effectual as though it were herein enacted.

(5) Any person who acts in contravention of any provision of any rule made under this section shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding one hundred rupees.

Exportation of Chanks and Royalty.

Control of
exportation
of chanks.

7. (1) No person shall export any chanks from Ceylon—

(a) except under the authority of an export licence issued in that behalf by the Controller of Exports on the recommendation of the Director or an officer authorised by the Director in that behalf; or

(b) except from any port declared by the Minister by Order published in the *Gazette* to be a port from which chanks may be exported.

(2) The Minister may by Order published in the *Gazette* declare that the provisions of paragraph (b) of sub-section (1) shall not apply during the period for which the Order is in force.

Royalty on
chanks.

8. (1) There shall be levied and paid on all chanks entered for exportation from Ceylon a royalty at such rates as the Minister, with the concurrence of the Minister of Finance, may from time to time appoint by Order published in the *Gazette*.

(2) Every such Order shall as soon as convenient be laid before the House of Representatives, and may at any of the next following eight meetings be rescinded by resolution of the House of Representatives, but without prejudice to anything previously done thereunder.

Every such Order which is not so rescinded shall be as valid and effectual as though it were herein enacted.

Application
of Customs
Ordinance.
Cap. 185.

9. The provisions of sections 7 and 8 shall be read and construed as one with the Customs Ordinance.

Beche-de-mer, Coral and Shells.

Regulations
as to beche-
de-mer, coral
and shells.

10. Regulations may be made for the prohibition or the regulation, supervision and control, of the export and taking of beche-de-mer, coral or shells, whether generally or in any specified area.

Supplementary Provisions.

Making of
regulations.

11. (1) The Minister may make regulations for or in respect of all matters for which regulations are required or authorised to be made by any of the preceding provisions of this Act and generally for the purpose of carrying out or giving effect to the principles of this Act.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation upon the date of such publication or upon such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before the Senate and the House of Representatives for approval.

Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Every regulation so approved shall be as valid and effectual as though it were herein enacted.

12. (1) Any person who acts in contravention of any provision of this Act or any regulation made thereunder shall be guilty of an offence and shall be liable on conviction after summary trial before a Magistrate to imprisonment of either description for a period not exceeding six months or to a fine not exceeding five hundred rupees or to both such imprisonment and fine.

Offences and penalties.

(2) Where any vessel is used or employed in contravention of section 2 of this Act or of any regulation made thereunder, the person for the time being in charge of the vessel shall be guilty of an offence punishable under sub-section (1) of this section; and the owner of the vessel shall also be guilty of the like offence unless he proves to the satisfaction of the court that the offence was committed without his consent and that he had taken all reasonable steps to prevent such contravention.

13. (1) Any chank, beche-de-mer, coral or shell taken, or any dredge or vessel used or employed, in contravention of any provision of this Act or of any regulation made thereunder, may be seized by any fisheries inspector, or by any police officer or officer of customs, or by any headman, or by any person appointed for that purpose in writing by the Government Agent of the Province or Assistant Government Agent of the district in which such seizure is made, and when seized shall be conveyed to the Customs office nearest to the place of seizure; and anything so seized—

Seizure and forfeiture.

(a) shall be returned to the person from whose possession it was seized forthwith upon the expiration of fourteen days after the

seizure, unless a prosecution for the alleged contravention is instituted before the end of that period; or

- (b) shall be returned to that person forthwith after the final determination of the prosecution unless it is duly declared to be forfeited to Her Majesty under sub-section (2).

(2) Any court convicting any person of any offence under this Act may make order declaring that any chank, beche-de-mer, coral, shell, dredge or vessel used in or in connection with the commission of the offence shall be forfeited to Her Majesty; and anything so ordered to be forfeited may be sold or otherwise disposed of in such manner as the court may direct.

Informer's
share.

14. A court imposing a fine under this Act may award to the informer a share not exceeding a moiety of so much of the fine as is actually recovered and realised.

Offences
to be
cognizable
offences.

15. All offences under this Act shall be cognizable offences for the purposes of the application of the provisions of the Criminal Procedure Code, notwithstanding anything contained in the First Schedule of that Code.

Cap. 16.

Interpretation.

16. In this Act, unless the context otherwise requires—

“ citizen of Ceylon ” means a person who is a citizen of Ceylon under any law for the time being in force in that behalf;

“ chanks ” includes both live and dead chanks;

“ coastal waters ” means the part of the sea within a distance of three nautical miles from any point on the coast of the Island measured from the low water mark of ordinary spring tides;

“ Director ” means the Director of Fisheries appointed under any law for the time being in force relating to fisheries;

“ immature chank ” means any chank of a size capable of being passed through a metal ring two and three-eighth inches in diameter;

“ fisheries inspector ” means any person appointed an Inspector of Fisheries under any law for the time being in force relating to Fisheries and includes a person so appointed a Sub-Inspector of Fisheries;

- “ take ” with its grammatical variations and cognate expressions, when used with reference to chanks, includes the fishing for or diving for or collection of chanks;
- “ valid residence permit ” means a temporary or permanent residence permit issued under the Immigrants and Emigrants Act, No. 20 of 1948, and for the time being in force; and
- “ vessel ” includes boats, canoes, rafts and craft of every description.

17. The provisions of this Act, other than the provisions of this section and of sections 5, 6, 10 and 11, shall not come into force until such date as the Minister may appoint by Order published in the *Gazette*.

Date of
coming into
force of
Act.

18. (1) The Chanks Ordinance is hereby repealed with effect from the date appointed by the Minister by Order published under section 17.

Repeal of
Chapter 168

(2) Notwithstanding the repeal of the Chanks Ordinance, any notification under section 2 of that Ordinance in force immediately prior to the date of such repeal shall continue in force and be deemed on and after that date to be an order made and approved under section 8 of this Act; and the provisions of the aforesaid section 8 shall apply accordingly.