



REPEAL BY ACT 317

# LAWS OF MALAYSIA

Act 210

FISHERIES ACT, 1963

(Revised—1978)

Repeal by Act 317

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**LAWS OF MALAYSIA**

**Act 210**

**FISHERIES ACT, 1963**

**(Revised—1978)**

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Repeal.

LAWS OF MALAYSIA

Act 210

FISHERIES ACT, 1963

(Revised—1978)

An Act relating to fisheries and matters incidental thereto.

[*West Malaysia—*

*Subject to s. 1 (2), 21st January, 1963;*

*Sabah and Sarawak—*

*1st December, 1972.]*

P.U. (A)  
274/72.

PART I

PRELIMINARY

1. (1) This Act may be cited as the Fisheries Act, 1963.

(2) The provisions of this Act so far as they relate to riverine fishing shall not come into operation in any State in West Malaysia until they have been adopted by a law\* made by the Legislature of that State.

Short title,  
application  
and com-  
mencement.

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

“Director General” means the Director General of Fisheries;

“estuarine waters” means waters extending from the mouth of a river to the uppermost point upstream penetrated by sea water at highest tide of the year and reference to estuarine fishing and to estuarine fisheries shall be construed accordingly;

Interpreta-  
tion.

\* See Johore En. 1/1963 and 1/1964; Kedah En. 5/1963, 13/1964 and 3/1965; Kelantan En. 4/1966; Malacca En. 2/1963 and 10/1964; Negeri Sembilan En. 2/1963 and 8/1964; Pahang En. 6/1963 and 2/1965; Penang En. 2/1963 and 8/1965; Perak En. 1/1966; Perlis En. 13/1963 and 14/1964; Selangor En. 8/1963; Trengganu En. 4/1963 and 12/1964.

[Note—Under the 9th Schedule to the Federal Constitution—

(a) maritime and estuarine fishing and fisheries, excluding turtles, are federal subjects in West Malaysia (List I-9 (d)) but concurrent subjects in Sabah and Sarawak (List IIIA-12); and

(b) turtles and riverine fishing are State subjects (List II-12)].

“fish” includes any of the varieties of marine, brackish water or fresh water fishes, crustacea, aquatic mollusca, marine sponges, trepang and other aquatic life, but does not include turtles or their eggs;

“fish dealer” includes any person engaged in buying (except for personal consumption), selling or consigning fish, whether fresh or preserved in any manner;

“fishery officer” means any officer appointed under sections 6, 7 or 8;

“fishing stakes” means any device used for the capture of fish which is made up of poles or other supports permanently fixed into the ground and enclosed by ramie, rattan, wire or other screening material, so designed as to lead fish into such enclosures, or any device using a net or other screening material that is anchored permanently or impermanently in maritime waters;

“licensing officer” means any person authorized to issue licences under this Act;

“maritime waters” means that part of the seas adjacent to Malaysia, both within and outside territorial waters, whether or not citizens have by international law the exclusive right of fishing; and reference to maritime fishing and to maritime fisheries shall be construed accordingly;

“maritime fishery” means any fishery in maritime waters;

[Ins. Act  
14/64.]

“riverine waters” means any rivers, lakes, streams, ponds, and other waters in Malaysia, whether private or otherwise, other than maritime and estuarine waters; and references to riverine fishing and to riverine fisheries shall be construed accordingly;

[Ins. Act  
14/64.]

“vessel” includes any ship or boat or any other description of vessel used for fishing.

Act 23/67.

“West Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Act, 1967, and includes the Federal Territory.

## PART II LICENCES

Licences.

3. (1) A licensing officer may, subject to this Act and any regulations or rules made thereunder, issue to any person a licence, on such terms and conditions as he may specify, exempting him from any prohibition or obligation imposed

by the provisions of this Act or any regulations or rules made thereunder.

(2) A licensing officer may attach to a licence such conditions as the Director General or a fishery officer may deem to be appropriate.

(3) A licensing officer may, with the approval of the Director General, refuse to issue a licence under this section or may revoke any licence already issued.

(4) Any person aggrieved by the refusal of a licensing officer to issue a licence or by the revocation by such officer of any licence, may appeal—

(a) to the Menteri Besar or the Chief Minister of a State, as the case may be, where the licence relates to riverine fishing; or

(b) to the Minister, where the licence relates to matters other than riverine fishing,

and the decision of the Menteri Besar or the Chief Minister or of the Minister, as the case may be, shall be final.

4. (1) Every licence issued under this Act or any regulations or rules made thereunder shall, unless the contrary is stated in such regulations or rules or in the licence, expire on the 31st day of December of the year in which it is issued.

Validity of a licence.

(2) A licence issued under this Act or any regulations or rules made thereunder shall not be transferable and shall be attached to or carried on the vessel to which it relates at all times when the vessel is in use.

[Am. Act A152.]

5. (1) Two or more persons carrying on business in partnership shall not be required to obtain more than one licence under this Act in respect of such partnership.

Partners.

(2) In the case of a licence issued under this Act in respect of a partnership, the names of all the partners and, from time to time, the names of new partners, shall be disclosed to the licensing officer and shall be entered in the licence, and a licence to two or more persons shall not expire on the death or retirement from business of any one or more of the partners.

PART III

ADMINISTRATION

or  
a  
deputy  
or  
all of  
etc.

6. (1) The Yang di-Pertuan Agong may appoint a Director General of Fisheries and a Deputy Director General of Fisheries for the purpose of carrying into effect the provisions of this Act.

(2) The Director General shall have the general supervision of all matters relating to fisheries throughout Malaysia.

(3) The Director General may delegate the exercise of any or all of the powers conferred upon him by this Act to such persons as he may think fit.

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7. (1) The Yang di-Pertuan Agong may appoint Maritime Fishery Officers and Deputy Maritime Fishery Officers for the purpose of carrying into effect those provisions of this Act which relate to maritime and estuarine fishing.

(2) The Deputy Director General of Fisheries, the Maritime Fishery Officers and the Deputy Maritime Fishery Officers shall perform their duties under the direction of the Director General.

and

8. The State Authority may appoint Inland Fishery Officers and Deputy Inland Fishery Officers for the purpose of carrying into effect those provisions of this Act which relate to riverine fishing.

PART IV

OFFENCES, PENALTIES, POWERS AND PROCEEDINGS

*Offences and Penalties*

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9. Any person who wilfully damages or destroys fishing stakes, nets, lures or fishing implements shall be guilty of an offence.

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10. (1) Any person who, except under the authority of a licence issued under this Act, uses any poisonous or explosive substance with intent to stupefy, poison, or kill fish shall be guilty of an offence.

(2) Any person who is found in possession of fish which has been captured with the aid of any explosive or poisonous substance and who does not give a satisfactory account as to how he came to be in possession thereof, shall be guilty of an offence.

11. (1) Any person who does or attempts to do or causes or permits to be done, or abets, an act contrary to, or fails to comply with, the provisions of this Act or any regulations or rules made thereunder shall be guilty of an offence and shall, on conviction, if no special penalty is provided, be liable to a fine not exceeding one thousand ringgit, or to a term of imprisonment not exceeding one year, or to both.

Penalty for breach of provisions of Act, regulations or rules.

(2) Where an offence is continued after conviction or where an order made under this Act is not obeyed within the time required, there shall be payable by the offender for each day that the offence or failure to obey is continued, a fine not exceeding fifty ringgit; and where such offence is continued for a period exceeding ten days after conviction, the offender shall be liable to a term of imprisonment not exceeding six months.

*Arrest, search, seizure and forfeiture*

12. (1) Any fishery officer and any police officer not below the rank of corporal, may without warrant—

Powers of officers.

(a) stop, search and detain all vessels, vehicles, nets, instruments, fishing materials, appliances, fish or fishing stakes in respect of which he has reason to believe that an offence has been committed contrary to this Act or any regulations or rules made thereunder;

(b) search and examine any fishing stakes, nets, instruments, materials and appliances used in catching fish and effect the removal and destruction of any unlicensed fishing stakes; and

(c) arrest any person found committing or attempting to commit or abetting the commission of an offence against this Act or any regulations or rules made thereunder.

(2) Section 24 of the Criminal Procedure Code shall apply to a fishery officer as it applies to a police officer.

F.M.S.  
Cap. 6.

(3) A fishery officer, and any police officer not in uniform when acting under this Act, shall on demand declare his office and produce to any person against whom he is taking action such identification card as the Director General or the Inspector General of Police respectively shall prescribe.

(4) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any fishery officer or any police officer (not in uniform), if such fishery officer or police officer refuses on demand being made by such person to declare his office or produce his identification card.

Seizure and forfeiture of vessels, etc.

13. (1) All vessels, vehicles, nets, instruments, fishing materials, appliances, fish or fishing stakes in respect of which any fishery officer or any police officer not below the rank of corporal has reason to believe that an offence has been committed contrary to this Act or any regulations or rules made thereunder may be seized by such officer without warrant.

(2) The Director General may order that any fish seized under this section shall be sold in such manner as may be specified by him and the proceeds of sale thereof shall be held to abide the result of any prosecution or claim.

(3) All things liable to seizure under subsection (1), including the proceeds of sale under subsection (2), shall be liable to forfeiture.

(4) Whenever anything is seized under subsection (1), the seizing officer shall forthwith give notice in writing of such seizure and grounds thereof to the owner of the thing, if known, in accordance with section 23:

Provided that such notice shall not be required to be given where such seizure is made in the presence of the offender or owner or his agent.

14. (1) An order for the forfeiture or for the release of anything liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been had and an order for the forfeiture of such thing shall be made if it is proved to the satisfaction of the court that—

(a) the offence committed is for—

(i) using any net, instrument, fishing material or appliance which is prohibited by or under this Act or any regulations or rules made thereunder; or

(ii) doing or carrying on an act without a licence or permit required under this Act or any regulations or rules made thereunder; and

Court to order disposal of goods seized.  
[Sub. Act 4152.]

(b) that thing was the subject matter of, or was used in the commission of, the offence, notwithstanding that no person may have been convicted of such offence.

(2) All things forfeited shall be delivered to a proper fishery officer and shall be disposed of in accordance with the directions of the Director General.

(3) The court may order the removal and destruction of any offending stakes or part thereof, and any costs incurred by a fishery officer or police officer in effecting such removal and destruction shall be borne by the owner of such stakes and shall be recoverable as a fine imposed under this Act.

15. (1) If there is no prosecution with regard to anything seized under this Act, such thing shall be taken and deemed to be forfeited at the expiration of one calendar month of the date of seizure unless a claim thereto is made before that date in the manner hereinafter set forth.

Goods seized in respect of which there is no prosecution deemed to be forfeited if not claimed within one month.

(2) Any person asserting that he is the owner of anything liable to forfeiture under subsection (1) and that it is not liable to forfeiture may personally or by his agents authorized in writing give written notice to a fishery officer or a police officer not below the rank of an Inspector that he claims the same.

[Sub. Act A152.]

(3) On receipt of such notice the fishery officer or police officer shall refer the claim to the court for its decision.

(4) The court to which reference is made under subsection (3) shall issue a summons requiring the person asserting that he is the owner of the thing and the person from whom it was seized to appear before it, and upon their appearance or default to appear, due service of such summons being proved, the court shall proceed to the examination of the matter and, on proof that an offence under this Act or any regulations or rules made thereunder has been committed and that such thing was the subject matter, or was used in the commission of such offence shall order the same to be forfeited, or may in the absence of such proof order its release.

(5) The Minister may upon application made to him in writing through the Director General order anything forfeited under this Act whether forfeited or taken and deemed to be forfeited, to be delivered to the owner or

other person entitled thereto, upon such terms and conditions as he deems fit:

Provided that any such application shall be made before the expiration of one calendar month from the date of forfeiture of such thing or from the date on which such thing shall be taken and deemed to be forfeited, as the case may be.

*Criminal liability*

Responsibility of partners.

16. When a licence is granted to two or more persons carrying on business in partnership every such person shall be liable for any act and omission of the other or others of them unless he proves to the satisfaction of the court that he has no knowledge of, or that he in no way directly or indirectly contributed to, the commission of the act or the making of the omission by such other or others.

Offence committed by a servant.

17. Where an offence under this Act or any regulations or rules made thereunder is committed by a servant, the master in the course of whose employment the servant so committed the offence, shall also be guilty of the offence unless the said master proves to the satisfaction of the court—

- (a) that he used due diligence to secure compliance with this Act or the regulations or rules made thereunder; and
- (b) that the offence was committed without his knowledge, consent or connivance.

*General*

Courts have jurisdiction to try offences committed outside territorial waters.

[Ins. Act 14/64; Mod. P.U. (A) 274/72.]

18. Notwithstanding the provisions of any written law to the contrary, any offence under this Act committed outside the territorial waters of Malaysia by citizens of or by persons ordinarily resident in Malaysia shall be triable in any court in Malaysia as if the offence had been committed in Malaysia.

Power to prosecute. [Ins. Act A243.]

19. A fishery officer authorized in writing by the Director General may conduct prosecutions in respect of any offence committed under this Act or any regulations or rules made thereunder.

20. A fishery officer or a police officer not below the rank of an Inspector may compound any offence under this Act or any regulations or rules made thereunder for a sum of money not less than one-fifth of the maximum fine provided for that offence.

Power to compound offences.

## PART V

### REGULATIONS AND RULES

21. The Minister may make regulations relating to maritime and estuarine fishing and fisheries to—

Regulations.

- (a) regulate or prohibit the erection, maintenance, working, repair and lighting of fishing stakes in maritime and estuarine waters;
- (b) regulate or prohibit any method of fishing or the possession in a vessel of traps or fishing nets or the use of traps or fishing nets in maritime and estuarine waters;
- (c) provide for the licensing, control and supervision and protection in maritime and estuarine waters of any fishery and of the cultivation of fish or any particular species of fish;
- (d) prescribe the species or the minimum weights and sizes of fish which may be captured or taken for the purposes of sale, processing, consumption, consignment or sport;
- (e) prescribe the areas in maritime and estuarine waters and the periods of time in the year within which fish or any particular species or size of fish may be killed or captured;
- (f) prescribe the areas in maritime and estuarine waters and the periods of time in the year within which any particular method of fishing is prohibited or restricted;
- (g) prohibit, except in accordance with the terms and conditions of a licence, the killing or capture of fish or any particular species or size of fish in any specified areas;
- (h) require the supply by any person concerned in the capture or cultivation of fish or by any fish dealer of such information as may be necessary to determine the measures to be taken to improve the fishing industry and trade;

- (i) prescribe persons by name or by office to be licensing officers for the purposes of this Act, other than the cultivation of fish in riverine waters;
- (j) prescribe the powers to be exercised by fishery officers;
- (k) prohibit or control the importation into, or the sale, cultivation or keeping in, West Malaysia of live fish or any particular species of fish which are not natives of West Malaysia and in Sabah and Sarawak of live fish or any particular species of fish which are not natives of Sabah and Sarawak;
- (l) control the methods of curing fish;
- (m) control the marketing and distribution of fish;
- (n) prescribe areas where fish may be landed;
- (o) control fish landing areas and to appoint such boards as are required to effect such control;
- (p) prescribe fees for any licence to be issued or for any other service performed under this Act or any regulations made thereunder, other than for licences issued or for services performed in connection with the cultivation of fish in riverine waters.

Rules.

**22. (1)** The State Authority may make rules for the control of riverine fishing in the State.

(2) In particular and without prejudice to the powers conferred by subsection (1), any rules made under this section may—

- (a) provide for the leasing and licensing of lakes, and mining and other pools, and swamps for the cultivation of fish;
- (b) prescribe the limits of size and depth of ponds used for the cultivation of fish;
- (c) prescribe the kinds or minimum weights and sizes of fish or any particular species of fish which may be produced by cultivation;
- (d) regulate or prohibit the deposit or discharge of any solid or liquid substance whether beneficial or detrimental to fish;
- (e) for the purpose of preventing the destruction of fish, regulate and control the construction of any slides, dams or other obstruction in riverine waters;

- (f) regulate or prohibit the erection or operation, or regulate the maintenance and lighting, of fishing stakes;
- (g) regulate or prohibit any method of fishing or the possession in a vessel of traps or fishing nets or the use of traps or fishing nets in riverine waters;
- (h) prescribe the species or the minimum weights and sizes of fish which may be captured for the purposes of sale, processing, consumption, consignment or sport; [Sub. Act 20/67.]
- (i) regulate, after consultation with the Minister, the areas of riverine fisheries;
- (j) prescribe the periods of time in the year within which fish or any particular species or size of fish may be killed or captured or within which any particular method of fishing is prohibited or restricted;
- (k) regulate or prohibit the killing or capture of fish or any particular species or size of fish in any specified area;
- (l) prescribe persons by name or by office to be licensing officers under this Act;
- (m) prescribe areas where fish may be landed;
- (n) control fish landing areas and fish wholesale markets;
- (o) prescribe the fees for any licence to be issued or for any other service to be performed under this Act or any rule made thereunder;
- (p) prescribe the powers to be exercised by licensing officers.
- (3) In this section "fish" includes turtles and their eggs.

PART VI  
GENERAL

**23. (1)** Where for the purposes of this Act or any regulations or rules made thereunder any document is to be served on any person, that document may be served—

Service of documents.

- (a) in any case by delivering a copy thereof personally to the person to be served;
- (b) if the document is to be served on the master of a vessel or on a person belonging to a vessel, by

leaving the same for him on board that vessel with the person who is or appears to be in command or charge of the vessel;

- (c) by fixing a copy of the document to any conspicuous part of his house; or
- (d) by registered letter addressed to his last place of abode.

(2) A document which is to be served on the master of a vessel registered in Malaysia may, if the master cannot be found, be served on the managing owner of the vessel or, if there is no managing owner, on some agent of the owner residing in Malaysia or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the vessel.

**Exemptions.** 24. (1) Nothing in this Act shall—

*F.M.S.  
Cap. 207.*

*F.M.S.  
Cap. 200.*

(a) apply to the areas defined in the Schedules to the River Rights Enactment, or to the area known as Karang Ayer Leleh and defined in the Schedule to the Karang Ayer Leleh Enactment, or shall affect the exclusive rights of a Ruler to fish within and over the said areas; or

(b) affect the rights of the State Authority to fish by means of a tuba (*derris elliptica*) or by any other traditional or ceremonial means.

(2) The Minister may by order exempt any person from the provisions of this Act and of any regulations or rules made thereunder, either absolutely or conditionally.

**Repeal and saving.**

25. (1) The Ordinances and Enactments set out in the Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule.

*Sabah  
8/63.  
Swk.  
Cap. 73.  
Swk.  
G.N.  
S. 39/58.*

(2) Subsidiary legislation made under the Fisheries Ordinance, 1963, of Sabah and the Sea Fishing and Kilongs Ordinance of Sarawak, except for the Sea Fishing Boats (Registration) Regulations made under the Sea Fishing and Kilongs Ordinance of Sarawak, shall, so far as the same is not inconsistent with this Act, continue in force until replaced or revoked by subsidiary legislation made under this Act and shall have effect with such modifications as may be necessary to bring the same into accord with this Act.

## FISHERIES

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(3) The Sea Fishing Boats (Registration) Regulations shall be deemed to have been made under the Merchant Shipping Ordinance, 1960, of Sarawak and shall, so far as the same are not inconsistent with the said Ordinance, continue in force until replaced or revoked by regulations made thereunder and shall have effect with such modifications as may be necessary to bring them into accord with the said Ordinance.

Swk.  
G.N.S.  
39/58.  
2/60.

SCHEDULE  
(Section 25)

## REPEAL

<i>Number</i>	<i>Short title</i>	<i>Extent of Repeal</i>
SS. Cap. 146 ... ..	Fisheries Ordinance ...	The whole ✓
F.M.S. Enactment No. 20 of 1937	Fisheries Enactment ...	" "
Kedah Enactment No. 40 ...	Fisheries Enactment ...	" "
Kelantan Enactment No. 32 of 1939	Fisheries Enactment ...	" "
Perlis Enactment of 1334 ...	Fisheries Enactment ...	" "
Trengganu Enactment No. 1 of 1357	Fisheries Enactment ...	" "
Johore Enactment No. 35 ...	Port and Shipping ...	In so far as it relates to fishing ✓
Sabah Ordinance No. 8 of 1963	Fisheries Ordinance ...	The whole
Sarawak Ordinance Cap. 73	Sea Fishing and Kilongs Ordinance	" "

**LAWS OF MALAYSIA**

**Act 210**

**FISHERIES ACT, 1963**

**(Revised—1978)**

*Particulars under section 7 (ii) and (iii) of the Revision of Laws Act, 1968 (Act 1)*

**LIST OF AMENDMENTS**

Amending law	Short title	In force from
Act 14/1964 ...	Fisheries (Amendment) Act, 1964	30-1-1964— L.N. 37/64
Act 20/1967 ...	Fisheries (Amendment) Act, 1967	6-4-1967
Act A66 ...	Fisheries (Amendment) Act, 1971	17-9-1971
Act A152 ...	Fisheries (Amendment) Act, 1972	13-10-1972
P.U. (A) 274/1972	Fisheries Act (Extension) Order, 1972	1-12-1972
Act A243 ...	Fisheries (Amendment) Act, 1974	15-3-1974
Act 160 ...	Malaysian Currency (Ringgit) Act, 1975	29-8-1975
Act A354 ...	Constitution (Amendment) Act, 1976, S. 41	27-8-1976

**LIST OF LAWS OR PARTS THEREOF SUPERSEDED**

No.	Title
F.M. Act No. 8 of 1963	Fisheries Act, 1963.
P.U. (A) 274 of 1972	Fisheries Act (Extension) Order, 1972—paragraph 4 and First Schedule.