

REVENUE DEPARTMENT.

(Rules Under the (Lower) Myanmar Fisheries Act, 1875.)

No. 150

Dated Rangoon, the 3rd June 1898.

[Amendment : 18.06.1989]

No. 150. - In exercise of the power conferred by section 8 of the (Lower) Myanmar Fisheries Act, 1875, the Lieutenant-Governor, with the previous sanction of the Governor-General in Council, makes the following rules for regulating the pearl fisheries in Lower Myanmar:-

1. These rules may be cited as the “Myanmar Pearl Fishery Rules, 1898.”

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2. The rules published under this department Notification No.233, dated the 18th June 1896, shall not apply to the demarcation, survey or disposal of pearl fisheries, the grant of licences to use implements for pearl-fishing or the general purposes of the (Lower) Myanmar Fisheries Act, 1875, concerning pearl fisheries.

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3. In these rules -

“pearl-fishing” means collecting pearls and mother-of-pearl shells; and

“block” means an area of sea and the land under it within which the right of pearl-fishing may be disposed of under these rules.

(a) Survey and Demarcation.

4. The limits of every block within which the exclusive right of pearl-fishing is about to be leased shall be marked on a chart, which shall be deposited in the Deputy Commissioner’s office. At the points where such limits touch land, if natural objects are not sufficient to mark the points, cairns of stones shall be erected.

5. No alteration of the limits aforesaid shall be made except with the sanction of the Commissioner of the division. When any such alteration is duly made, it shall be marked on the chart aforesaid and on the copies of the chart hereinafter mentioned.

6. A copy of the chart, with the limits marked on it as above provided, shall be deposited in the office of the subdivision and a similar copy in the office of the township in which each block or any part thereof is situated.

(b) Determination of the mode of disposal of rights to fish.

7. The Financial Commissioner shall from time to time determine as to each block whether the exclusive right of pearl-fishing therein shall be leased, or whether licenses for pearl-fishing shall be issued.

(c) Conditions on which and procedure by which fisheries may be leased.

8. The Financial Commissioner shall from time to time determine as to each block the period for which the lease of the exclusive right of pearl-fishing therein may be granted. All leases shall be granted by the Deputy Commissioner, and shall ordinarily expire on the 30th of June.
9. Leases may be disposed of either by inviting tenders and granting the lease to any of the persons who may tender, or by public auction as hereinafter described, as the Commissioner may direct. An order granting a lease on tender shall not take effect until it has been confirmed by the Commissioner.
10. Auctions of leases shall be held by the Deputy Commissioner at the headquarters of the district.
11. An advertisement in English and Myanmar, specifying the terms on which the lease will be granted, shall be published at the headquarters of the district and in the principal seaports of Myanmar, or in such other seaports as the Deputy Commissioner may think fit for at least one month before as auction. On the day fixed the Deputy Commissioner shall, before the bidding commences, read and read out to those present a statement specifying the terms aforesaid.
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12. An upset rent shall ordinarily be fixed by the Deputy Commissioner, subject to the approval of the Commissioner. It shall not be necessary to specify the upset rent in the advertisement above mentioned.
13. The Deputy Commissioner may exclude any person from the auction, or may refuse to accept any bid, without assigning any reason to the bidder, but he shall record his reasons for such exclusion or refusal in a confidential memorandum which he shall submit to the Commissioner.
14. Except as otherwise provided in these rules, the lease shall be granted to the bidder or tenderer who offers the highest annual rent.
15. The auction purchaser or successful tenderer shall within one hour after his bid or tender is accepted pay into the treasury as earnest-money 10 per cent, of the annual rent offered by him. This sum shall be taken as a part-payment of the first instalment of rent. He shall thereupon be entitled to have a lease granted to

him, and shall execute the said lease and a bond for securing the payment of future instalments of the rent, and shall cause the said lease and bond to be executed by his sureties, if sureties are required, within 30 days from the date of the auction or date of acceptance of tender.

16. There shall be given to the lessee, with his lease, a copy of the chart above mentioned, showing distinctly the limits within which pearl-fishing is permitted by the lease.
17. The Deputy Commissioner shall determine by what instalments and on what dates the rent shall be payable, and what sureties or other security, if any, the lessee shall be called upon to furnish.
18. If the auction purchaser or successful tenderer shall fail-
 - (i) to pay the whole of the earnest-money, or
 - (ii) to execute and cause to be executed the lease and security bond (if any) in accordance with Rule 15,the lease may be disposed of afresh and the original purchaser shall be liable for any loss during the first year of the term of the lease disposed of, and shall likewise forfeit any sum which he may have paid as earnest-money.
19. 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 the Deputy Commissioner.
20. 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 four annas per cent. on the annual rent, for each day or part of a day during which the annual rent or any part thereof is in arrear.
21. Upon the death of a sole lessee, or of the survivor of two or more joint lessees, his heirs or other legal representatives shall not be entitled to succeed to his rights and liabilities under the lease, unless they shall within one month after his death apply to the Deputy Commissioner to be admitted in the place of the deceased, and unless they shall be approved of by the Deputy Commissioner. The applicants 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.
22. If no such application as is mentioned above be made, or if, being made, the applicants be not admitted by the Deputy Commissioner in place of the deceased, the remainder of the term for which the lease has

been granted shall be disposed of and the estate of the deceased shall be liable for all loss which may result from such disposal during the year then current.

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

The lessee may nevertheless sublet to any person or permit any other person or persons to exercise all or any of the rights which he holds under the lease; but, in any such case, he shall be responsible for all the acts of such sub-lessee or licensee as if they had been done by himself.

24. Every lessee shall keep, and at the end or sooner determination of his term, deliver up, the block leased to him (including the cairns or other marks indicating the limits of the fishery) in good order and condition. He shall also deliver up the expired lease and the plan referred to in Rule 16.

25. A lessee shall have no rights in or to the waters and land of the block leased to him, except such as are conferred by the terms of the lease.

26. A lessee may, at the close of any fishing season, provided that he has paid up the full rent for the whole year in which such season falls, apply to the Deputy Commissioner, not less than three months before the next instalment falls due, for the cancellation of his lease. 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.

27. 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;
- (ii) if the lessee fail to pay any sum due under the lease, or to observe and perform any of the terms and conditions under which it is held;
- (iii) if the lessee fail 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 19;
- (iv) if the lessee, or any one of several lessees, shall be guilty of any act or omission punishable by fine or otherwise under any law or rule having the force of law, relating to pearl 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, to be detrimental to the proper working of the pearl fishery;

and may thereupon confiscate the whole or any portion of any instalment of rent which may have been paid in respect of such lease. If a lease is cancelled under clause (i), (ii), or (iii) and resold, the lessee shall also be liable for any loss arising from resale during that and the following year. Provided always that no lease shall be cancelled under this section 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 place and some place resorted to by pearl fishers or lessees of the right of pearl-fishing, 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. Provided also that, on any failure to pay any sum due under the lease, the Deputy Commissioner may by peremptory written order stop the working of the fishery pending service of the above-named notice, such order being issued in the manner prescribed for the said notice.

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28. The lease shall be in such form as the Financial Commissioner may direct and it shall contain the following conditions:-

- (1) That the lessee shall declare at the end of each month to the Deputy Commissioner, by letter, the number, weight, and estimated value of all mother-of-pearl shell and pearls collected during the month.
- (2) That the lessee shall not take any mother-of-pearl shell which measures less than 6 inches from lip to hinge.
- (3) That the lessee shall register at the Deputy Commissioner's office the number of boats and pumps employed by him.

29. Other conditions may be added to the form of lease by the Financial Commissioner, and in the Tavoy and Mergui districts every lease shall contain the following conditions:-

- (1) That the lessee shall not give or barter any opium or liquor in exchange for shell to the Selangs, or allow any of his employees to do so.
- (2) That the lessee shall pass all mother-of-pearl shell 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.

(d) Rates at which and conditions on which licenses to use implements for fishing may be granted.

30. Licenses to use implements for pearl-fishing outside the limits of blocks in which the exclusive right of pearl-fishing is leased may be granted by the Deputy Commissioner in such number and on payment of such fees, not exceeding Rs. 1,000 per pump, as may from time to time be fixed by the Financial

Commissioner. The license shall be in such form and contain such conditions as the Financial Commissioner may prescribe.

31. Every license shall expire on the 30th June next following the date upon which it was granted. Provided that licenses may be issued in the months of May and June to take effect from the 1st July next following, and to expire on the 30th June in the following year.
32. A license shall not be transferable. Any person transferring or attempting to transfer his license, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

GENERAL.

33. Any sum or sums of money payable to Government in respect of any right of pearl-fishing made, granted, or acquired under or by virtue of the (Lower) Myanmar Fisheries Act, 1875, or any rule or rules made thereunder, shall 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 block or area over which such right extends, unless the Financial Commissioner shall by written order permit payment to be made elsewhere.

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34. With the sanction of the Financial Commissioner the Commissioner may remit any sum or sums of money payable in respect of any pearl fishery-
- (a) if a block has been materially altered or damaged;
 - (b) if the causes of such material alteration or damage are such as could not have been foreseen by, and were beyond the control, of the lessee;
 - (c) if from the operation of these causes payment of the full revenue from the block is impossible ; and
 - (d) if the lessee has intimated the material alteration of , or damage to, the block in sufficient time to permit verification of such alteration or damage.
35. Pearl fishery registers shall be kept up in such offices and in such forms as the Financial Commissioner may from time to time direct.
36. 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.

37. An appeal from every order of the Deputy Commissioner shall lie to the Commissioner. An appeal shall not be admitted after the expiration of 30 days from the date of the order appealed against. The Financial Commissioner may revise any order passed by any officer subordinate to him.

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