

Please note:

This is a transcription of documentation retrieved from The National Archives of the United Kingdom, Kew, London [TNA] for the Lessons from Lake Malawi project.

Please reference as: TNA, CO 625/7. Fisheries Ordinance 1949. Accessed via Lessons from Lake Malawi, <https://www.lessonsfromlakemalawi.com>.

Nyasaland Protectorate

Ordinance
No. 17 of 1949
I assent
(sgd.) G. Colby, Governor
16 June, 1946

An Ordinance to Provide for the Control and Protection of Fish and for the Regulation of Fisheries

[10th June, 1949]

ENACTED by the Governor of the Nyasaland Protectorate with the advice and consent of the Legislative Council thereof as follows:

1. This Ordinance may be cited as the Fisheries Ordinance, 1949.
2. In this ordinance, unless the context otherwise requires:
“Authorized Officer” means any District Commissioner, Customs Officer, Police Officer not below the rank of Assistant Inspector, Forest Officer or Officer of the Fisheries Control Organization;
“Fishing weir” means any structure whatsoever placed across any water, and resting on the soil, used in connexion with the catching of fish, and includes stake nets;
“Officer of the Fisheries Control Organization” includes the Officer in Charge, Game, Fish and Tsetse Control, Fisheries Officers and Fish Rangers;
“Water” means Protectorate Waters other than water in private ownership having no communication with other water.

PART I

GENERAL RESTRICTIONS

3. No person shall, without the written consent of the Chief Secretary introduce into any water any species of fish not naturally indigenous thereto, or indigenous to any other water so connected therewith that natural inter-change of species between such waters is possible.
4. (1) No person shall cause or knowingly permit to flow, or put or knowingly permit to be put, into any water, any liquid or solid matter of a poisonous nature to such an extent as to stupefy, injure or kill any fish:
Provided that the Officer in Charge, Game Fish and Tsetse Control, may give written permission for the destruction of fish by poison in special cases.
(2) No person shall use or knowingly permit to be used any explosive in any water for the purpose of stunning or killing any fish.

5. Subject to the provisions of this ordinance, no person shall use or knowingly permit to be used any fishing net which has not been registered in accordance with the provisions of this Ordinance.
6. No non-native shall, either himself or by his servants or agents, catch fish for the purposes of sale unless he is the holder of a commercial fishing licence issued under Part III:
Provided that this section shall not apply to a non-native who supplies fishing nets to a native not in his actual pay and employment in pursuance of a contract for the sale to the non-native of any fish caught with such fishing net.
7. Any person who contravenes any of the provisions of sections 3 to 6 inclusive of this Part shall be guilty of an offence.

PART II

REGISTRATION AND LICENSING OF FISHING NETS

8. (1) Every person who owns a fishing net shall register the same with, and obtain a licence therefor from, a registering authority:
Provided that the Officer in Charge, Game, Fish and Tsetse Control may authorize any registering authority to exempt any type of fishing net from registration:
Provided further that the Officer in Charge, Game, Fish and Tsetse Control may, whenever he is of the opinion that any water is being over-fished, prohibit any registering authority from registering further fishing nets until his further order.
- (2) Registering authorities for the purposes of this section shall be -
 - (a) in the case of a native owner of a fishing net, the Native Authority having jurisdiction in the place where the fishing net is kept, and
 - (b) in the case of a non-native owner of a fishing net, the District Commissioner of the district in which the fishing net is kept.
- (3) Every registering authority shall keep in the prescribed form a register of all fishing nets registered and licensed by him.
- (4) There shall be payable on the registration of a fishing net such fee as may be prescribed.
- (5) The registering authority shall, without further charge issue to each person registered as the owner of a fishing net a metal licence disc which shall be affixed by the registered owner to, and maintained by him on, the net in respect of which it was issued.
- (6) Subject to the provisions of this Part, fishing nets shall be registered annually on or before the first day of September in every year, and the licence disc issued in respect of any fishing net shall remain valid until the 30th of August following the date of registration only, and must then be renewed.
- (7) Any person who owns or uses a fishing net which does not have affixed to it a valid licence disc shall be guilty of an offence.
- (8) The provisions of this Part in so far as they relate to natives shall only apply to such particular districts or areas of the protectorate as the Governor may order by notice published in the *Gazette*.
Provided that if any native normally resident in a particular district or area to which this Part has not been applied uses a fishing net in a particular district or area to which it has been applied, he shall register the net in the latter district or area.

PART III

COMMERCIAL FISHING LICENSES

9. Every application for a commercial fishing licence shall be made to the Chief Secretary to the Government in such form and containing such particulars as may be prescribed.
10. (1) The Chief Secretary, after considering an application for a commercial fishing licence, shall grant or refuse the same but may, before reaching a decision, require the applicant to furnish any further information which the Chief Secretary may consider necessary.

(2) The Chief Secretary may attach to a commercial fishing licence such conditions as he may consider necessary or expedient:

Provided that every commercial fishing license shall contain a condition that the holder shall render such returns and keep such accounts as the Chief Secretary may direct.

(3) The holder of any commercial fishing licence who breaks any of the conditions thereof shall be guilty of an offence.

(4) Every commercial fishing licence shall be in the prescribed form and valid for the prescribed period and there shall be paid therefor the prescribed fee.

11. A commercial fishing licence may be revoked by the Chief Secretary at any time if the holder fails to comply with the provisions of this Ordinance or with any condition attached to his licence.

12. Any person aggrieved by a decision of or revocation by the Chief Secretary under this Part may appeal to the Governor in Council whose decision shall be final.

PART IV

GENERAL PROVISIONS

13. Any person may fish with rod or handline for the purposes of sport.

14. (1) Notwithstanding the provisions of section 13, no person shall fish for trout unless he is the holder of a trout fishing licence issued by the Chief Secretary in the prescribed form.

(2) Any person who contravenes the provision of subsection (1) shall be guilty of an offence.

15. No person shall erect, maintain or use any fishing weir unless it is so constructed as to leave a free gap in mid-channel of the water in which it is erected of at least one quarter of the width of such water and of such a nature as to permit the free passage of fish:

Provided that a Fisheries Officer may, if he considers that a lesser gap is sufficient in any particular case, allow the erection, maintenance or use of a fish weir which leaves a free gap of less than one quarter of the width of the water in which it is erected:

Provided further that if any person after due warning by an authorized Officer persists in maintaining or using any fishing weir in contravention of this section, an Authorized Officer may destroy the same, or alter it so as to comply with the provisions of this section.

16. No person shall own or use any fish trap which is not provided with such apertures as may be prescribed.

PART V

OFFENCES AND LEGAL PROCEEDINGS

17. (1) For the purposes of preventing or detecting the source of an offence against this Ordinance, any authorized Officer may without warrant:

(a) require any person to produce for inspection any catch of fish in his possession or control;

(b) call upon any person to produce for inspection any licence which he ought to hold under this Ordinance;

(c) call upon the holder of any such licence to produce for inspection any returns or accounts required to be kept under the conditions thereof;

(d) enter and search any land, building, tent, vehicle or boat and open and search any baggage or thing;

(e) seize any fishing net, fish trap, rod fishing tackle, poison, explosive or other material, the use of which for fishing is prohibited, restricted or regulated by this Ordinance, and which the authorized officer has reason to suspect has been used or is intended to be used in contravention thereof;

(f) where the authorized officer has reason to suspect that an offence against this Ordinance has been committed, seize any licence, returns, accounts, document or thing whether of a nature similar to those before enumerated or not, which appears to the authorized officer to be evidence of the commission of an offence against this Ordinance;

(g) arrest and detain any person whom the authorized officer has reason to believe has

committed an offence against this Ordinance and who is likely, unless arrested, to fail to appear in answer to any charge which may be preferred against him, or whose name and address is unknown to, and cannot immediately be ascertained by the authorized officer:

Provided that any thing seized or person arrested under the foregoing powers shall, with all practicable speed, be taken before a magistrate to be dealt with according to law.

(2) Any person who wilfully obstructs any authorized officer in the exercise of his powers under this section, or who wilfully gives any false information to such officer, shall be guilty of an offence.

18. Any person guilty of an offence against this Ordinance shall be liable on conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.
19. When any person is convicted of an offence against this Ordinance the Court may, in addition to any other penalty, order that anything produced before the Court which it decides has been used in connexion with the offence shall be forfeited to Government.

PART VI MISCELLANEOUS

20. The Governor in Council may make Rules:
 - (a) for the regulation and control of trout fishing;
 - (b) prescribing close seasons during which particular species of fish shall not be caught or particular types of fishing nets shall not be used;
 - (c) prescribing the minimum size of particular species of fish that may be retained and the return alive to the water of any fish which are less than the minimum size;
 - (d) defining areas in which all or any methods of fishing shall be prohibited either generally or for specified periods;
 - (e) prescribing the size and number of apertures to be maintained in fish traps;
 - (f) prescribing the size, mesh and length and depth of fishing nets;
 - (g) prescribing the forms and period of validity of, and fees to be charged for, licences issued under this Ordinance;
 - (h) prescribing the form of registers to be kept under this Ordinance;
 - (i) prescribing the procedure to be followed in disposing of articles which have been forfeited to Government under section 19;
 - (j) regulating or prohibiting the export of fish from the Protectorate and the conditions under which fish may be exported;
 - (k) prescribing the penalties for the breach of any rules made under this section;Provided that no such penalty shall exceed a fine of £10, or imprisonment for a period not exceeding one month, or both such fine and imprisonment, except in the case of a penalty prescribed for the breach of a rule made under paragraph (j), which shall be the same as that imposed for an offence against this Ordinance by section 18;
 - (l) providing for the appointment of honorary fish wardens.
 - (m) generally for the better carrying into effect of the provisions of this Ordinance.
21. Paragraph (d) of section 3 of the Game Ordinance is hereby repealed:

provided that any Rules made thereunder shall be deemed to have been made under this Ordinance and shall remain in force until revoked or replaced by rules under this Ordinance.

Passed in Council this tenth day of June, on thousand, nine hundred, and forty-nine.

(sgd.)

Clerk of Council