

SUBSIDIARY LEGISLATION

FISHERIES CONSERVATION AND MANAGEMENT (LOCAL COMMUNITY PARTICIPATION) RULES

under s. 59

G.N. 26/2000

PART I

PRELIMINARY

1. Short title

These Rules may be cited as the Fisheries Conservation and Management (Local Community Participation) Rules.

2. Interpretation

In these rules, unless the context otherwise requires—

“Committee” means a Beach Village Committee;

“fishing industry” includes fishing, fish processing, fish marketing and fish trading;

“subcommittee” means a subcommittee of a Beach Village Committee formed pursuant to rule 8;

PART II

BEACH VILLAGE COMMITTEES

3. Formation of Committees

Persons engaged in fishing in a particular fishing beach may form a Committee.

4. Jurisdiction of a Committee

(1) The jurisdiction of a Committee shall be over one particular beach.

(2) Where two or more Committees have competing jurisdiction over a beach, the Director shall determine the respective jurisdictions of the Committees.

5. Objects of Committees

The object of Committee shall be to participate in the conservation and management of fisheries resources.

6. Duties of Committees

(1) A Committee shall have the responsibility for the conservation and management of fisheries resources within its area of jurisdiction.

(2) Without derogating from the generality of the provisions of subrule (1), a Committee shall have power to—

(a) scrutinize applications in respect of registration of fishing vessels of small-scale commercial fishermen and subsistence fishermen;

(b) scrutinize applications for fishing licences by small-scale commercial fishermen and subsistence fishermen;

(c) keep records of vessels registered and licences issued in respect of its area of jurisdiction;

(d) enforce fishing regulations pertaining to—

(i) fish species;

- (ii) fish size;
 - (iii) close season;
 - (iv) fish sanctuaries (closed areas);
 - (v) gear size, type and stowage thereof; and
 - (vi) methods of fishing;
- (e) enforce conditions specified in licences; and
- (f) seize fishing vessels and fishing gears which are reasonably believed to have been used in contravention of the Fisheries Conservation and Management Act:

Provided that the seized item shall be surrendered to a fisheries protection officer within 48 hours after the seizure.

(3) For purposes of paragraphs (a) and (b) of subrule (2), the Director shall afford a Committee an opportunity to be heard in respect of applications relating to its area of jurisdiction.

7. Composition of a Committee

A Committee shall consist of persons who are engaged in any aspect of fishing industry associated with a fishing beach.

8. Subcommittees

For the proper management of the affairs of a Committee, each Committee shall form a subcommittee which shall consist of the following office bearers—

- (a) chairperson;
- (b) vice-person;
- (c) secretary;
- (d) vice-secretary;
- (e) treasurer;
- (f) vice-treasurer;
- (g) five subcommittee members.

9. Honorary fisheries officers

The office bearers of a subcommittee shall be appointed honorary fisheries officers under section 4 (1) of the Fisheries Conservation and Management Act. Cap. 66:05

10. Constitution of a Committee

(1) A Committee shall adopt a constitution by which the operations of the Committee shall be governed.

(2) A constitution of a Committee shall contain, inter alia, particulars pertaining to matters set out in the First Schedule.

PART III

REGISTRATION OF LOCAL FISHING VESSELS

11. Registration of local fishing vessels

An owner of a local fishing vessel who intends to use the vessel for small-scale commercial or subsistence fishing shall apply to the Director for registration of the vessel through the Committee having jurisdiction over the beach in which he intends to do the fishing.

12. Register of local fishing vessels

A Committee shall keep a register of local fishing vessels registered to fish within its area of jurisdiction.

13. Suspension or cancellation of licences

A Committee may recommend to the Director that he should suspend or cancel any registration or licence made or granted under the Fisheries Conservation and Management Act or amend any of the terms or conditions thereof if— Cap. 66:05

(a) the licensee or person owning the registered vessel is in breach of these Rules;

(b) the Committee is satisfied that the registration or licence was made or granted in error or on the basis of false or misleading information;

(c) the Committee has reason to believe that the holder of the registration or licence has contravened any of the conditions to which the registration or licence is subject; and

(d) the Committee considers that such suspension or cancellation is required for the conservation and management of fisheries resources or economic benefit of Malawi.

14. Reports to the Director

A committee shall every three months provide to the Director—

(a) a copy of its register of local fishing vessels; and

(b) a report on any new registration.

PART IV

FISHING LICENCES

15. Fishing prohibited without authority

No person shall fish in fishing waters falling within the jurisdiction of a Committee unless he is authorized to do so by a licence or written authority of a Committee.

16. Application for a licence

Written authority of a Committee under rule 15 shall be in the form set out in the Second Schedule.

17. Large-scale commercial fishing prohibited

Unless expressly authorized by the Director in writing, large-scale commercial fishing within the areas of the jurisdiction of a Committee is prohibited.

PART V

FISHERMEN'S ASSOCIATION

18. Formation of fishermen's association

(1) Committees may form fishermen's associations.

(2) Fishermen's association shall be required to have legal personality.

19. Coverage of a fishermen's association

Subject to the Director determining otherwise, the area of a fishermen's association shall be the same as that of the corresponding fishing district.

20. Duties of fishermen's association

The duties of a fishermen's association shall include—

(a) representing the interests of the fishing population in its area; and

(b) conveying to the Board and the Director its recommendations on the conservation and management of fisheries resources.

21. Consultations on fishing plans, regulations, etc.

Except where it is unnecessary or impracticable to do so, management plans, regulations and any other subsidiary legislation related to the conservation and management of fisheries resources shall not be made nor amended unless the Director provides fishermen's associations with the proposed

management plans regulations or and other subsidiary legislation or amendments thereto, as the case may be.

22. Meetings with the Board and Director

A fishermen's association or a group of fishermen's associations may request meetings with the Board and the Director to discuss management plans, regulations or any other subsidiary legislation or amendments thereto as the case may be.

23. Composition of a fishermen's association

A fishermen's association shall consist of persons who are engaged in any aspect of fishing industry associated with the area covered by the association.

24. Selection of office bearers

For the proper management of its affairs, a fishermen's association shall have office bearers who shall be selected from the members of the association.

25. Honorary fisheries officers

The office bearers of a fishermen's association shall be honorary fisheries officers under section 4 of the Fisheries Conservation and Management Act. Cap. 66:05

26. Constitution of fishermen's association

(1) A fishermen's association shall adopt a constitution by which the operations of the association shall be governed.

(2) A constitution of a fishermen's association shall contain, inter alia, particulars pertaining to matters set out in the Third Schedule.

FIRST SCHEDULE (reg. 10 (2))

CONSTITUTION OF A VILLAGE BEACH COMMITTEE

Article 1:Name and address
Article 2:Objects
Article 3:Area of jurisdiction
Article 4:Membership of Committee
Article 5:Meetings of Committee
Article 6:Office bearers
Article 7:Duties and responsibilities of office bearers
Article 8:Meetings of office bearers
Article 9:Funding
Article 10:Fiscal year
Article 11:Amendment

SECOND SCHEDULE (reg. 16)

AUTHORITY TO FISH WITHIN THE JURISDICTION OF A COMMITTEE

I. Chairman/Secretary

of

(name of Committee)

hereby certify that

is hereby authorized to fish in fishing waters falling within the jurisdiction of the above-named Committee.

Date:

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Signature of Chairman/Secretary

THIRD SCHEDULE (reg. 26 (2))

CONSTITUTION OF A FISHERMEN'S ASSOCIATION

Article 1:Name and addressArticle 2:ObjectsArticle 3:Area to be covered by the AssociationArticle 4:Membership of AssociationArticle 5:Office bearersArticle 6:Duties and responsibilities of office bearersArticle 7:Meetings of office bearersArticle 8:FundingArticle 9:Fiscal yearArticle 10:Amendment