

PROCLAMATION 45 OF 1951

PROTECTION OF FRESH WATER FISH

45 of 1951.

To make provision for the protection of fresh water fish in Basutoland.

[24th August, 1951]

1. This Proclamation may be cited as the Protection of Fresh Water Fish Proclamation. Short title.

2. In this Proclamation and in any regulations made under section four, unless inconsistent with the context— Interpretation.

“district” means one of the several areas into which the Territory has been, or may in the future be, divided for the purposes of administration;

“fish” means fresh water fish, including the spawn of fresh water fish;

“honorary fisheries officer” means a person duly appointed as such by the Resident Commissioner;

“Government Reserve” means an area set apart for the use of the Basutoland Government at Maseru, Butha Buthe, Hlotse, Peka, Teyateyaneng, Mafeteng, Mohale’s Hoek, Quthing, Qacha’s Nek, and Mokhotlong;

“occupier”, in relation to land, means the lawful occupier of any area of land;

“open season” means any period which has not been prescribed as a close season in terms of paragraph (a) of sub-section (1) of section three;

“police officer” means any commissioned officer of the Basutoland Mounted Police;

“private land” means any land which has been lawfully allocated to any person or body of persons for occupation as a site for a residence, mission, trading station or any other lawful purpose;

“waters” means any river, stream or creek and any fresh water lake, dam, reservoir, pond, pool or other collection of water in which fresh water fish may be found.

Close seasons and prohibited fishing.

3. (1) The High Commissioner may from time to time by Notice in the *Gazette*, subject to the rights of occupiers of land to the use of waters mentioned in section *seventeen*—

- (a) prescribe for any district of the Territory or for any area or waters, the periods of close seasons within which it shall not be lawful for any person or specified class of person to fish for, capture or destroy any particular kind or kinds of fish;
- (b) prescribe a list of fish which shall not be subject to any such periods of close seasons in any district, area or waters; and
- (c) prohibit for any specified period the fishing for, capture or destruction of all or any particular kind or kinds of fish in any area or waters.

(2) The powers hereinbefore mentioned may be exercised in respect of any particular kind or kinds of fish, and with reference to any district of the Territory or any particular area or waters.

Power to make regulations.

4. (1) The High Commissioner in Council may make regulations, not inconsistent with this Proclamation for all or any of the following matters:

- (a) the issue of permits for the capture of fish, including the conditions under which they may be issued and the fees (if any) payable therefor;
- (b) the conditions to be observed by persons engaged in the capture of fish, whether or not permits are required therefor;
- (c) the size of fish which may be retained after capture, and the disposal of undersized fish and of fish captured without authority: Provided that nothing in this Proclamation or any regulations made thereunder shall prevent the capture and disposal of any species of fish of any size hatched in any *bona fide* establishment carried on for the purpose of stocking or restocking the waters of the Territory; or carried on for his own private use by a person on land lawfully occupied by him;
- (d) prohibiting or regulating the capture or destruction of fish by any particular method, contrivance or implement;
- (e) the cultivation of fish and the protection of fish, fish spawn and fish food;
- (f) prohibiting or regulating the removal or release of fish for the purpose of stocking any waters or for any other purpose;
- (g) prohibiting the dumping, deposit or discharge into any waters of any substances or liquid which may be or become injurious to fish life;

- (h) prohibiting the fishing for, capture or destruction, in any waters of the Territory, of any trout (*Salmo fario* or *Salmo gairdneri*), large-mouth black bass (*Micropterus salmoides*) or any other species of non-indigenous fish which have been or shall be introduced into the Territory;
- (i) regulating the importation of live fresh fish into the Territory; and generally for carrying out the objects and purposes of this Proclamation;
- (j) limiting or regulating the right to kill, catch or otherwise destroy any fish during any open season.

(2) The power to make regulations in regard to the matters mentioned in the preceding sub-section may be exercised generally or in respect of any class of person or in respect of any particular variety or varieties of fish, or with reference to any particular district, area, waters or portions of waters which may be specified.

(3) The fees, if any, to be paid for permits may vary according to the purposes for which such permits are issued.

5. The Resident Commissioner may, by written authority, exempt from any of the provisions of this Proclamation any officer or other person employed or engaged in administrative, scientific or experimental work in connection with the development, investigation or control of fresh water fish.

Exemption of officers and others for special purposes.

6. Any person other than an African who during any close season wilfully disturbs, or in any manner takes, catches, kills or is found in possession of any fish specified in any notice issued in terms of section *three*; or any person who during any close season wilfully injures or disturbs the ova or spawn of any such fish, or any spawning bed, or any bank or shallow whereon the spawn of any fish is deposited shall be guilty of an offence against this Proclamation.

Unlawful to disturb, catch, etc., or be in possession of fish in close season.

7. No person other than an African shall take any trout, black bass or non-indigenous fish from any waters without having previously obtained the appropriate permit (if any): Provided that any occupier of land or his wife or any of his minor children who are ordinarily resident with him shall be entitled to fish in the waters upon or flowing through or bordering on the land of which he is the occupier without having obtained any permit; and provided further that no permit to fish shall authorise the holder thereof to enter or be upon any private lands without the consent of the lawful occupier.

Non-indigenous fish.

Prohibited means of capturing fish.

8. It shall not be lawful for any person other than an African to use for the capture of fish, any kraal or contrivance of sacking, canvas, wicker, cane, wire, net or other material not being a net or implement of fishing provided for by this Proclamation.

Use of explosives, etc.

9. No person shall at any time by means of dynamite or other explosives, or by means of any chemical, poisonous or other injurious substance, wilfully kill or destroy any fish in any waters in the Territory.

Unlawful possession, sale, etc., of fish.

10. Any person other than an African who has in his possession or who sells, exhibits or offers for sale any fish, the taking of which is forbidden or unlawful, shall be guilty of an offence against this Proclamation.

Power of police to demand name and place of abode of suspected person.

11. Upon reasonable grounds of suspicion that any person has offended against the provisions of this Proclamation or any regulations made thereunder, it shall be lawful for any police officer, or for any other person who shall produce written authority from the officer commanding the Basutoland Mounted Police to require the person suspected of having so offended to give his name and place of abode; and in case such person shall, after being so required, refuse to give his name or place of abode, or give an untrue name or place of abode, he shall be guilty of an offence against this Proclamation and shall be liable, on conviction, to a fine not exceeding two rands, or in default of payment to imprisonment for a period not exceeding seven days.

Powers of police officers and honorary fisheries officers.

12. It shall be lawful for any police officer or any honorary fisheries officer—

- (a) to seize all fish wheresoever found, caught, taken or removed in contravention of this Proclamation, as well as any other fish with which they may have been placed or mixed in circumstances indicating a purpose of avoiding detection or otherwise evading the law;
- (b) to seize any prohibited or unlawful nets, machines, appliances or instruments whatsoever, which to the knowledge or in the reasonable belief of such officer are being or have been or are about to be used for the purpose of fishing or for any other purpose contrary to the provisions of this Proclamation.

Obstruction of officers.

13. Any person who shall assault, resist or obstruct a police officer or honorary fisheries officer in the performance of his duties under

this Proclamation, or who shall refuse or negelect to comply with any direction lawfully given, shall be guilty of an offence against this Proclamation.

14. Any person who shall place any obstruction in any waters with the intention of preventing the free passage of fish in such waters shall be guilty of an offence against this Proclamation: Provided, however, that the Resident Commissioner may, by written authority exempt from the provisions of this section any officer or any other person employed or engaged in administrative, scientific or experimental work in connection with the development, investigation or control of fresh water fish, or the stocking or restocking of the waters of the Territory with any such fish.

Obstruction
of waters.

15. Any person who shall cut through, break down, or otherwise destroy any dam, reservoir, pool or other collection of water, or drain the water therefrom with intent thereby to take or destroy any of the fish therein, shall be guilty of an offence against this Proclamation.

Damaging
property
for purposes
of taking
fish.

16. (1) Any person who shall commit any offence against this Proclamation or shall contravene any provision thereof or any regulation made under section *four* shall, except as may be otherwise specially provided, be liable, on conviction, to a fine not exceeding one hundred rands, or in default of payment to imprisonment for a period not exceeding six months.

Penalties.

(2) The Court may, in its discretion, order the forfeiture of any nets or implements used in connection with the offence, and, in the case of a second or subsequent conviction, may order the forfeiture of any boats or gear so used or the cancellation of any licence relating to fishing held by the person convicted.

(3) When a licence has been cancelled under the provisions of this section the holder thereof shall not again be entitled to obtain a licence without the consent in writing of the Resident Commissioner.

17. Subject to the above provisions nothing in this Proclamation contained shall be deemed to deprive the lawful occupiers of land of their right to the use of the water of any rivers, streams or other waters in accordance with any recognised custom, law, Proclamation or regulation in force in the Territory.

Preservation
of rights
of lawful
occupiers
of land.

18. Notwithstanding anything to the contrary contained in this Proclamation or in any regulations issued under section *four*, Africans

Africans on
Government
Reserves.

shall, when on Government Reserves, be subject to the provisions of the Proclamation and regulations regarding the protection of fish, as if they were persons other than Africans.

GOVERNMENT NOTICE 6 OF 1953

APPOINTMENT OF FISHERIES OFFICER

(Under section *two*)

[11th April, 1953]

The Resident Commissioner has appointed the Agricultural and Livestock Officer, Mafeteng, an *ex-officio* Honorary Fisheries Officer.

G.N. 6 of
1953.

CLOSE SEASONS (FISH)

113 of 1951.

(Under section *three*)

[13th August, 1951]

The close season for the types of fish specified in the First and Second Schedules hereto shall, in respect of the waters set out in the said Schedules, be the periods specified in the said Schedules: Provided that the Resident Commissioner may by Notice in the *Gazette* amend either or both Schedules from time to time in whatever manner he may deem fit.

FIRST SCHEDULE⁽¹⁾

BASS

The close season for bass shall be for such period or periods as may be determined by the Resident Commissioner and notified in the *Gazette*, and shall apply to such waters as may be specified in such Notice.

SECOND SCHEDULE

TROUT

1. The close season for trout shall be from the first day of June in any one year to the thirty-first day of August in that year, both days inclusive.
2. The said close season shall apply to the following waters situated in the districts stated. (In this Schedule, "above" means upstream from):

Butha Buthe District

- (a) Hlolo Stream above the new bridge.
- (b) Malimbamats'o River above the Boloatopo dipping tank.
- (c) Hlotse River and upper tributaries above Khabo's Store including Pela-ts'oeu Stream.

Leribe District⁽²⁾

- (a) The Hlotse River above its confluence with Maoafubelu River.
- (b) The following tributaries of the Hlotse River—
 - (1) Malaoaneng.
 - (2) Khalamajoe.

(1) As amended by G.N. 1 of 1954.

(2) As substituted by G.N. 27 of 1956.

- (3) Pelatsoeu.
- (4) Kota.
- (5) Kotanyane.
- (6) Tshlanyane.

(c) Maoafubelu River.

(d) The following tributaries of the Maoafubelu River—

- (1) Morotong.
- (2) Morotoaneng.
- (3) Mphosong.
- (4) Bolahla.

(e) Tsiunyane River.

(f) The following tributaries of the Tsiunyane River—

- (1) Likeling.
- (2) Fenyane.
- (3) Metati.

(g) Pelaneng, a tributary of the Malibamatso.

Teyateyaneng District

(a) Senqunyane River above the junction with Tsoelike Stream.

(b) Upper tributaries of Phuthiatsana (Little Caledon) River.

Maseru District

(a) Makhalaneng River above Moits'upeli's.

(b) Maletsunyane River above the Semonkong Falls.

(c) Makhalleng River above the Makhalleng Store.

Mafeteng District

(a) Ribaneng Stream on Mafeteng-Falls' path.

Mohale's Hoek District

(a) Qhoasing Stream.

(b) Ketane River.

Quthing District

(a) Sebapala River above the junction with Tsatsana Stream.

(b) Tsatsana Stream.

Qacha's Nek District(3)

Tsoelike River and its tributaries.

Mokhotlong District

(a) Upper reaches of Mokhotlong River from Abias.

(b) Langabeletsi (Lekhalabaletsi) River.

(c) Bafali Stream.

(d) Maremoholo River.

(e) Sehonghong River and tributaries up to Sani Pass.