

THE PROTECTION AND CONSERVATION OF FISH ACT, 1950

(EAST BENGAL ACT NO. XVIII OF 1950).

[18th May, 1950]

An Act to provide for the protection and conservation of fish in 1[Bangladesh].

WHEREAS it is expedient to provide for the protection and conservation of fishes in 2[Bangladesh];

It is hereby enacted as follows:-

Short title, extent and commencement

1. (1) This Act may be called the 3[* * *] Protection and Conservation of Fish Act, 1950.

(2) It extends to the whole of 4[Bangladesh].

(3) It shall come into force on such date as the 5[* * *] Government may, by notification in the official Gazette, appoint.

Definitions

6[2. In this Act, unless there is anything repugnant in the subject or context,-

(1) "Current Jal" means fishing net made of monofilament synthetic nylon fibre of different mesh sizes;

(2) "Fish" includes all cartilaginous, bony fishes, prawn, shrimp, amphibians, tortoise, turtles, crustacean animals, molluscs, echinoderms and frogs at all stages in their life history;

(3) "Fishery" means any water body, natural or artificial, open or closed, flowing or stagnant (such as river, haor, baor, beel, floodplain, canal etc.) where activities for growing fish, or for conservation, development, demonstration, breeding, exploitation or disposal of fish or of living organisms related to such activities are undertaken, but does not include an artificial aquarium of fish used as decorative article, pond or tank;

(4) "Fishery Officer" means any person whom, the Government or any officer empowered by the Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or by any rule made thereunder to be done by such officer:

Provided that, no police officer shall be so empowered;

(5) "Fishing net" means the nets which are specially meant for catching different species of fishes from water bodies and it is one type of fishing gear made of different types of yarns including synthetic yarns of different mesh sizes other than Current Jal. The common tanning materials of net are fruit of gab (*Diospyros embryopteris*) bark of Goran (*Ceriops roxburghiana*) and Coal-tar;

(6) "Fixed engine" means any net, cage, trap or other contrivance for catching fish, fixed in the earth or made stationary in any other way.]

Power to make rules

3. (1) The 7[* * *] Government may make rules for the purposes hereinafter in this section mentioned.

8[(2) The Government may, by notification, apply such rules or any of them to any water or waters.]

(3) Such rules may-

(a) prohibit or regulate all or any of the following matters, that is to say,-

(i) the erection and use of fixed engines;

(ii) the construction, temporary or permanent, of weirs, dams, bunds, embankments and other structures;

(iii) the use or method of operation of any kind of 9[fishing net] and the size of the mesh of any 10[fishing net];

11[(iv) the manufacture, import, marketing, carrying, transporting or possessing of such fishing nets, traps, gears and other contrivances as may be specified in the rules;]

(b) prohibit the destruction of, or any attempt to destroy, fishes by explosives, gun, bow and arrow in inland water or within coastal territorial waters;

(c) prohibit the destruction of, or any attempt to destroy, fishes by the poisoning of waters or the depletion of fisheries by pollution by trade effluents or otherwise;

(d) prescribe the seasons during which the killing or catching of fishes of any prescribed species shall be prohibited;

(e) prescribe a minimum size below which no fish of any prescribed species shall be killed or sold; 12[* * *]

(f) prohibit all fishing in all waters or in any specified waters for a specified period 13[;

(g) prohibit the destruction of or any attempt to destroy fishes by drying or dewatering of any fishery:]

Provided that the 14[* * *] Government may for the purpose of pisciculture, collection of data and scientific investigation for biological study on fish permit the catching of fishes in any closed season or in any prohibited water or below the prescribed minimum size and disposal thereof subject to the condition of the licence issued for the purpose.

15[(4) In making any rule under this section, the Government may provide for-

(a) the seizure, removal and forfeiture of any fixed engine 16[, finishing net, Current Jal] or any other contrivance erected or used for fishing in contravention of the rules;

(b) the forfeiture of any fishes taken by means of any such fixed engine 17[, finishing net, Current Jal] or any other contrivance; and

18[(c) the procedure for disposal of forfeited fixed engine, fishing net 19[, Current Jal] or other contrivance or forfeited fish.]]

(5) The power to make rules is subject to the condition of previous publication; and the date to be specified under clause (3) of 20[section 23 of the General Clauses Act, 1897,] shall not be less than two months from the date on which the draft of the proposed rules was published.

(6) All such rules shall be published in the official Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

Power to prohibit sale of fish

4. The 21[* * *] Government may, by notification, prohibit for a specified period the 22[catching, carrying, transporting, offering, exposing or possession] for sale or barter of fishes below the prescribed size of any prescribed species throughout 23[Bangladesh] or any part thereof.

Prohibition about Current Jal

24[4A. (1) No person shall manufacture, fabricate, import, market, store, carry, transport, own, possess or use Current Jal.

(2) Whoever has in his possession Current Jal, shall, within 45 (forty-five) days of coming into force of this provision, surrender such Current Jal to the nearest police station, Office of the Fishery Officer or Office of the Upazilla Nirbahi Officer, and during that period an existing possession of Current Jal by any person shall not be deemed to be an offence.]

Penalties

25[5. (1) The breach of any rule made under section 3 or of any prohibition notified under section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than one year and may extend to two years, or with fine which may extend to five thousand Taka, or with both.

(2) The breach of any prohibition, described in section 4A, in connection with-

(a) manufacture, fabrication, import, marketing or storing of Current Jal by any person shall be punishable with rigorous imprisonment for a term which shall not be less than three years and may extend to five years, and shall also be liable to fine which may extend to ten thousand Taka; and

(b) carrying, transporting, owning, possession or use of Current Jal by any person shall be punishable with rigorous imprisonment for a term which shall not be less than one year and may extend to three years, or with fine which may extend to five thousand Taka, or with both.]

Power to confiscate

26[5A. When any person is convicted of an offence punishable under this Act or the rules made under this Act, the Court, before which he is convicted, shall direct that, any article or thing used or intended to be used in the commission of such offence, be confiscated.]

Arrest without warrant for offence under the Act

6. (1) Any person, specially empowered by the 27[* * *] Government in this behalf, may arrest without warrant any person committing a breach of any rule under section 3 or any prohibition notified 28[under section 4 and 4A respectively]-

- (a) if the name and address of the person are unknown to him, and
- (b) if the person declines to give his name and address or if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate or to the nearest police-station according to the provisions of the Code of Criminal Procedure, 1898.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, it will be lawful for the officer-in-charge of a police-station to detain a person produced before him under the preceding sub-section till he is produced before the Magistrate.

29[(4) All Fishery Officers empowered by the Government shall have the same powers of search, seizure and investigation in respect of an offence under this Act as a police officer of the rank of Sub-Inspector; and any police officer, shall be destroyed after the lapse of 30 days, if in the meantime no one claims the same or otherwise initiates any other proceeding regarding his lawful claim thereto.]

Cognizance, trial etc of offences

30[7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)-

- (a) an offence under this Act shall be a cognizable offence within the meaning of that Code;
- (b) no court shall take cognizance of such offence except on the complaint or a report of a fishery officer or of a police officer not below the rank of Sub-Inspector;

31[(c) no Court other than of a Metropolitan Magistrate or Magistrate of the first class shall try an offence under this Act; and

(d) A Court trying an offence, except an offence under clause (a) of sub-section (2) of section (5), under this Act may try the offence summarily in accordance with the procedure laid down in the said Code for summary trial.]]

Officers to be deemed public servants

8. All persons empowered to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the 32[* * *] Penal Code.

Indemnity

9. No suit, prosecution or other legal proceeding shall lie against any person empowered to perform any function under this Act for anything which is in good faith done or intended to be done under this Act.

[Omitted] 10. [Repeal.- Omitted by section 11 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982).]

1 The word “Bangladesh” was substituted for the words “East Pakistan” by section 2 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

2 The word “Bangladesh” was substituted for the words “East Pakistan” by section 2 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

3 The words “East Bengal” were omitted by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

4 The word “Bangladesh” was substituted for the words “East Pakistan” by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

5 The word “Provincial” was omitted by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

6 Section (2) was substituted by section 2 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

7 The word “Provincial” was omitted by section 5 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

8 Sub-section (2) was substituted by section 5 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

9 The words “fishing net” were substituted for the word “net” by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

10 The words “fishing net” were substituted for the word “net” by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

11 Sub-clause (iv) was inserted by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

12 The word “and” was omitted by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

13 The semi-colon (;) was substituted for the colon (:), and clause (g) was inserted by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

14 The word “Provincial” was omitted by section 5 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

15 Sub-section (4) was substituted by section 4 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

16 The commas and words “, finishing net, Current Jal” were added by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

17 The commas and words “, finishing net, Current Jal” were added by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

18 Clause (c) was substituted by section 3 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

19 The comma and words “, Current Jal” were added by section 3 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

20 The words, figures and commas “section 23 of the General Clauses Act, 1897,” were substituted for the words, figures and commas “section 24 of the Bengal General Clauses Act, 1897,” by section 5 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

21 The word “Provincial” was omitted by section 6 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

22 The words “catching, carrying, transporting, offering, exposing or possession” were substituted for the words “offering or exposing or possession” by section 6 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

23 The word “Bangladesh” was substituted for the words “the Province of East Pakistan” by section 6 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

24 Section (4A) was inserted by section 4 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

25 Section (5) was substituted by section 5 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

26 Section (5A) was inserted by section 6 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

27 The word “Provincial” was omitted by section 8 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)

28 The words and figures “under section 4 and 4A respectively” were substituted for the words “under section 4” by section 7 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

29 Sub-section (4) was substituted by section 7 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

30 Section 7 was substituted by section 5 of the Protection and Conservation of Fish (Amendment) Act, 1995 (Act No. IX of 1995)

31 Clause (c) and (d) were substituted by section 8 of the Protection and Conservation of Fish (Amendment) Ordinance, 2002 (Ordinance No. XX of 2002)

32 The word “Pakistan” was omitted by section 10 of the Protection and Conservation of Fish (Amendment) Ordinance, 1982 (Ordinance No. LV of 1982)