

THE BALOCHISTAN SEA FISHERIES

ORDINANCE, 1971

(Baln Ordinance IX of 1971)

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'THE BALOCHISTAN? SEA FISHERIES
ORDINANCE, 1971

(Balochistan Ordinance IX of 1971)

[6" July, 1971]

An Ordinance to consolidate and amend the law
relating to Sea Fisheries in Balochistan.

Preamble. WHEREAS it is expedient to consolidate and amend
the law relating to Sea Fisheries in Balochistan;

NOW, THEREFORE, in pursuance of the
Proclamation of the 25" day of March, 1969, read with the
Provisional Constitution Order, 1969, and in exercise of all
other powers enabling him in that behalf, the Governor of
Balochistan is pleased to make and promulgate the following
Ordinance, namely: —

Short title, extent 1. (1) This Ordinance may be called the Balochistan
and Sea Fisheries Ordinance, 1971.
commencement.

(2) It extends to: —

(a) The Balochistan Province, except the
Tribal Areas; and

(b) the territorial waters of Pakistan along
the coast of Balochistan Province.

(3) It shall come into force at once; Provided that
section 7 of this Ordinance shall come into force on such date
or dates as the Provincial Government may in the official
Gazette appoint in this behalf.

Definitions. 2. In this Ordinance unless there is anything repugnant in
the subject or context: —

(a) "Balochistan waters" means Pakistan waters
along the coast of Balochistan Province;

3[(b) 'Fish' means catadromous fish, anadromous fish

1 This Ordinance, which repealed Balochistan Ordinance IV of 1970, was promulgated by the Governor of Balochistan on 6" J

1971; published in the Balochistan Gazette (Extraordinary) No. 18, dated 12" July, 1971; saved by Article 281 of the Interim
Constitution of the Islamic Republic of Pakistan (1972); and validated by Federal Act LXIII of 1975.

2 Spelling of the word "Baluchistan", wherever it appears in this ordinance, is corrected by insertion of letter
per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

Substituted by Balochistan Act VII of 2009; passed by the Balochistan Assembly on 15" October, 2009: assented to by the
Governor of Balochistan on 24" October, 2009; and published in the Balochistan Gazette (Extraordinary) No. 139, dated 3"

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and all estuarine and marine fauna comprising of both invertebrates as well as vertebrates];

(c) 'Fishery' means the area, locality, place or station in or on which any fishing gear is used, set, placed or located, and the areas, tract or stretch of water in or from which fish may be taken or caught by such gear;

(d) 'Fishery Officer' means any person who is authorised by the Government of Balochistan, by notification in the official Gazette, to carry out all or any of the purposes of this Ordinance;

(e) 'Fishing' means the taking or catching of fish by any means in Balochistan waters, but does not include fishing for sport by rod and line or fishing in fresh waters;

(f) 'Fishing craft' includes '[a trawler and] every vessel of whatever description and in whatever way propelled, which is used by any person for fishing;

(g) 'Fishing gear' includes all appliances used for fishing;

(h) 'Fishing vessel' includes fishing craft and vessels used for the transport or processing of

fish;

(i) 'Government]' means the Government of Balochistan;

Gj) 'Licencing authority', means any person

authorised by the Government of Balochistan by order in writing to issue licences under this Ordinance or the rules made thereunder;

(k) 'Pakistan waters' means the body of water extending from the Pakistan shore to the territorial limits notified as such by the Government of Pakistan in the official gazette and includes, bays, inlets and creeks;

() 'Prescribed' means prescribed by rules made November, 2009.

1 Inserted by Balochistan Act IV of 1986; passed by the Balochistan Assembly on 11" February, 1986: assented to by the Gov of Balochistan on 26" February, 1986; and published in the Balochistan Gazette (Extraordinary) No. 23, dated 26" February, 1986, effective from 11" September, 1972.

under this Ordinance;

‘(m) “Processing” means enhancement of the shelf/storage life of fish by dehydration, salting, curing and drying, chilling, fish fast food, freezing, canning, redurisation, smoking, extraction of oil fish meal, conversion into fish marinades, fish pastes, value added fish products, analogue food and includes any other process for preparation of fish bi-products for export or local consumption.]

Licencing of fishing 3. 7[(1)] No person shall operate any fishing craft or use craft and gear. any fishing gear in Balochistan waters without a licence in the prescribed form issued by the licencing authority for each

fishing craft.

3[(2) No person shall be allowed to fish with encircling net or improvised purse seine net locally called "wire net" or "gujja" or ring net and bottom trawls locally called "trawls" or "gujja" in the close bays of Sonmiani and Kalmat and twelve nautical miles from shore along the rest of Balochistan coast.]

4[(3) A fishing license granted under these Sections does not authorize the licensee to fish with encircling net or improvised purse seine net locally called “wire net” or “gujja” in internal waters and 12 nautical miles from the base line and that he will fish by gillnets with a mesh size not less than 5 inches and “Tukri nets” having mesh size not less than 2.5 inches beyond internal waters and 3 nautical miles away from the base line all along Balochistan Coast except fishing nets aimed for Indian mackerels (*Rastrillger karanguta*) locally called Bhangra and will not disrupt already laid fishing nets. Fishing nets locally called “Bullo Gujja” nets (Estuaries set bag net) and “Kando” nets are hereby banned.]

Location of Nets and 4. (1) The location of nets and traps set by a fishing traps. craft in Balochistan waters shall be displayed by such means as may be prescribed.

(2) Every fishing gear shall be clear of navigational channels.

Substituted by Balochistan Act VII of 2009. For more details see footnote | under section 2 (b).

Section 3, numbered as sub-section (1) by Balochistan Act IV of 1986. For more details see footnote 2 under section 2 (f). Sub-section (2) added, *ibid*.

Added by Balochistan Act VII of 2009. For more details see footnote | under section 2 (b).

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Destruction of fish "5. No person shall willfully or otherwise use dynamite or or plankton any other explosive substance or poison, lime or oil or prohibited. lubricants or radioactive substances of any description or their

waste or toxics or any other noxious material harmful to the surface fish or bottom fish or to the fish anywhere in the column of the sea or destroying Phytoplankton or Zooplankton in Balochistan province fishing waters in terms of these

clauses.]

Closure periods, 6. The Balochistan Government may by notification in closed areas. the official gazette declare any period to be a closed period

during which, and any area to be a prohibited area within which, operation of any specified fishing craft, using, setting or placing of specified fishing gear, for catching of specified description, shall be prohibited.

Arrest without 7. A Fishery Officer may, without any order from a warrant. Magistrate and without warrant arrest any person:—

(i) Operating a fishing craft in Balochistan waters without a valid licence granted under section 3; or

(2) Refusing to produce on demand such licence.

Inspection by 8. A Fishery Officer may inspect any fishing vessel or Fishery Officer. fishing gear or fish processing plant to ensure the observance of the provisions of this Ordinance and the rules made

thereunder.

Penalty. 2[9. | Whoever contravenes any provision of this Act or of the rules made there under, shall be punishable with imprisonment which may extend to one year or with fine which may extend to one hundred thousand rupees or with both:

Provided that the contravention of section 3 shall be punishable with imprisonment of either description for a term which may extend to three years or with fine which shall not be less than 300,000 and shall not exceed to Rs. 600,000 or both.

* Substituted, *ibid*.

2 Substituted by Balochistan Act VII of 2009; for more details see footnote under section 2 (b).

‘(Provided further that fishing craft/trawler operating with the banned fishing gear/net or without valid fishing license shall also be liable to confiscation along with the banned fishing gear/net; and on conviction the banned fishing gear/net shall be destroyed in the presence of a Magistrate, while the fishing craft/trawler shall be auctioned through wide publicity in leading newspapers.]]

2(Custody of 9-A. The Fisheries Officer will hand over the poachers and Poachers and their poaching vessel in the safe custody of Tehsildar/ Poaching 3[Assistant District Administrative Officer] of the respective

Vessel. areas as soon as they are brought ashore and until such time they are prosecuted.

Auction of illegal 9-B. The illegal fish catch, is a perishable commodity and fish the fisheries Officers straight away proceeds to dispose of the same through open auction and keep the auction amount in safe custody till the poacher is prosecuted and the prescribed period for appeal expires. Where upon the auction money is disposed under the Head of Fisheries Receipt. In case of

acquittal, the amount is returned to the poacher.]

4[Omitted 10. (omitted) |

Liability of servant 11. Where the person contravening any provisions of this or agent. Ordinance or of the rules made thereunder is a firm or body

corporate, the managing director, manager, secretary, agent or servant of the firm or body corporate shall be deemed to be guilty of such contravention unless he proves that the contravention has been committed without his knowledge.

Liability of Owner. 12. The owner of any fishing vessel carrying any thing, in respect of which contravention of any of the provisions of this Ordinance, or of the rules made thereunder, has been committed, shall be deemed to have contravened the provisions of this Ordinance or of the rules framed thereunder, as the case may be;

Substituted by Balochistan Act IX of 2014; passed by the Provincial Assembly of Balochistan on 1st February, 2014: assented to by the Governor of Balochistan on 14th February, 2014; and published in the Balochistan Gazette (Extraordinary) No. 36, dated 17th February, 2014.

For the earlier substitutions in section 9 see Balochistan Act IV of 1986, Balochistan Act X of 1994 and Balochistan Act VII of 2009.

Inserted by Balochistan Act X of 1994; passed by the Balochistan Assembly on 9th October, 1994: assented to by the Governor of Balochistan on 23rd October, 1994; and published in the Balochistan Gazette (Extraordinary) No. 105, dated 23rd October, 1994: effective for 1st July, 1991.

Substituted by Balochistan Ordinance LIII of 2001, for the words “Assistant Commissioner”, with effect from 14th

August, 2001; published in the Balochistan Gazette (Extraordinary) No. 1, dated 28th December, 2001.
4 Omitted by Balochistan Act IX of 2014. For more details see footnote 2 under section 9.

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(1) If such carriage is a part of the transaction involving the contravention; and

(2) If the owner knew or had reason to believe that a contravention was being committed.

Courts jurisdiction. 13. For purposes of giving jurisdiction to courts under this Ordinance a fishing vessel shall be deemed to be a ship within the meaning of any enactment for the time being in force relating to offences committed on board a ship, and every court shall have the same jurisdiction over a foreign fishing vessel within Balochistan waters, and persons aboard such vessel, as such court would have if such a vessel were to be a Pakistan fishing vessel.

Protection for acts 14. (1) No suit, prosecution or other legal proceedings done in good shall lie against any person for anything which is, in good faith.

faith, done or intended to be done in pursuance of this Ordinance or of any rule or order, made thereunder.

(2) No suit, or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything, in good faith, done or intended to be done in pursuance of this Ordinance or any rules or order made thereunder.

Assistance by Police 15. A Fishery Officer may require, in writing, the Officer. assistance of a police officer in enforcing the provisions of this Ordinance or of the rules framed thereunder, whereupon such

Police Officer shall provide all due assistance.

Offences where 16. (1) The Provincial Government may by notification triable. in the official gazette declare the courts or classes of courts in which offenders under this Ordinance, and the rules framed

thereunder, shall be prosecuted and tried.

(2) Notwithstanding anything contained in subsection (1) of section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), the courts notified under the preceding sub-section may pass the maximum sentence provided by this Ordinance.

Power to make rules. 17. (1) The Government may by notification in the official gazette make rules! for carrying into effect the purposes of this Ordinance.

(2) In particular and without prejudice to the

generality of the foregoing powers, such rules may: —

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Prescribe the size of meshes and the size and type of nets to be used for fishing;

Prescribe the size and quantity of fish which may be caught by any fishing gear, or processed at any time;

Prescribe terms and conditions on which a fishing licence may be issued;

Provide for the registration of fishing craft and fishing gear;

Specify the areas for landing and processing of fish;

Provide for the collection, accounting and deposit of fees, kittis and Government dues;

Regulate operation of fishing vessels;

Provide for the market places and the procedures and fees for marketing of

fish;

Provide for the registration of fish processing plants and manner, condition in which these will be maintained or run and the fees to be levied for such plants;

Provide for the issue of quality certificates for processed or un-processed fish for domestic consumption, inter-provincial trade and export;

Provide for inspection of fish processing plants;

Prescribe registration fee, licence fee royalty and other Government dues on catch;

Prescribe the authority to which an appeal, against any order or prohibition made, shall lie;

Provide for the compounding of certain offences under the Ordinance and the

rules framed thereunder.

Delegation. 18. The Provincial Government may delegate all or any of the powers under this Ordinance to any fishery officer.

Ordinance 19. Subject to the provisions of the General Clauses Act supplemental to 1897, this Ordinance shall be read as supplemental to any other other enactment for the time being in force, relating to enactments. fisheries in any part of Pakistan.

'119-A. Anything done, action taken, obligation, liability, penalty or punishment incurred, or proceedings commenced after the lapse of the Balochistan Sea Fisheries (Amendment) Ordinance. 1972 (XI of 1972), under the provisions of the said Ordinance shall be deemed to have been properly and validly done, taken, incurred or commenced, as the case may be, as if this Act was in force on the day on which anything was done, action taken, obligation, liability, penalty or punishment incurred, or proceedings commenced.]

Repeal. 20. The Balochistan Sea-Fisheries Ordinance, 1970 (Ordinance IV of 1970) is hereby repealed.

1 Added by Balochistan Act IV of 1986; effective from 11" September, 1972. For more details see footnote 2 under section 2 (