

THE WEST PAKISTAN FISHERIES ORDINANCE, 1961.
(ORD NO.XXX OF 1961).

CONTENTS.

PREAMBLE.

SECTIONS.

1.

2.

10.

11.

12.

13.

14.

15.

16.

Short title and extent.

Definitions

Appointment of Inspectors of Fisheries.

Powers of the Director to lease out any water other than private water.

Power of the lessee to issue permit.

Destruction of fish by explosive.

Destruction of fish by poisoning water.

Fish that shall not be taken.

Net, fixed engine, trap, etc., shall not be employed without a permit or license.

Duty to produce license or permit on demand made by employees of Fisheries Department.

Power to declare any water to be a sanctuary for fish.

Duty of Lambardar, Village Watchman, etc.

Powers of Magistrate to issue search warrant.

Power to search without warrant.

Arrest without warrant for offences under this Ordinance.

Power of seizure.

17.

18.

19.

20.

21.

22.

23,

24.

25.

26.

27.

2|Page

Penalties.

Police assistance.

Persons who may lodge complaints.

Confiscation of any net, trap cage, etc.

Jurisdiction as respects offences within one marine league of sea coast.

Protection taken under this Ordinance.

Power of Government to add or exclude from First Schedule.

Power to compound certain offences.

Delegation of powers.

Power to make rules.

Repeal and savings.

SCHEDULE

First Schedule under section 8.

(Species of fish and prohibition).

Second Schedule under section 24.

(Maximum amount acceptable by way of composition for certain offences).

THE WEST PAKISTAN FISHERIES ORDINANCE, 1961
(W.P. Ord. No. XXX of 1961).

[13th December, 1961]

AN
ORDINANCE

to amend and consolidate the law relating to fisheries in the Province of West Pakistan.

WHEREAS, it is expedient to amend and consolidate the law relating to Preamble.

fisheries in the Province of West Pakistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan, is pleased in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance—

1. (1) This Ordinance may be called the West Pakistan Fisheries Ordinance, 1961.

(2) It extends to the whole of the [Province of Khyber Pakhtunkhwa except the Tribal Areas.]

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is

to say—

(a) "Director of Fisheries" means the Director of Fisheries "Te * *] and includes any person appointed by Government to discharge the functions of the Director of Fisheries under this Ordinance;

(b) "fish" includes shell-fish;

¹ In section 1, sub-section (2), the word Province of West Pakistan, except the special Areas, the words North-West Frontier Province, except the Tribal areas substitute by Khyber Pakhtunkhwa Adaptation of laws Order, 1975 and then word "North-West Frontier Province", substituted vide Khyber Pakhtunkhwa Act No.IV of 2011.

? Omitted vide Khyber Pakhtunkhwa Adaptation of laws Order, 1975

Short title and extent.

Definitions.

(c) "fixed engine" means any net, cage, trap, or other contrivance for taking fish, fixed in the soil or made stationery in any other way ;

(d) "Government" means the Government of the[Khyber Pakhtunkhwa];

(e) licence", "permit", "special licence" and "special permit" mean, respectively, a licence, permit, special licence and special permit, issued under this Ordinance or any rule made there under;

(f) "prescribed" means prescribed by rules made under this Ordinance ;

(g) "private water" means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery, whether as owner, lessee or in any other capacity,

Explanation, — Water shall not cease to be "private water' within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein;

(A) "water" includes the sea within a distance of one marine league of the sea coast.

3. (1) Government may, by notification, appoint such person as it thinks fit to be Inspectors of Fisheries for the purposes of this Ordinance within such local limits as may be specified.

(2) Inspectors of Fisheries shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

4. (1) The Director of Fisheries, or such other officer as he may empower in this behalf by general or special order in writing, may, for a period not exceeding three years, lease put, on such conditions as may be prescribed, the right to catch fish in any water other than private water.

(2) Any amount due to Government under the provisions of sub-section (J),and remaining unpaid one month after it has become so due, may be recovered as arrears of land revenue.

5. (1) The person in whose favour a lease under section 4 is granted, may issue permits in such form, subject to such conditions and on payment of such fees, as

' In section 2, in clause (b) the words West Pakistan the words North-West Frontier Province subs, by Khyber Pakhtunkhwa Adaptation of laws Order, 1975 and then substituted vide Khyber Pakhtunkhwa Act No.IV of 2011.

Appointment of
Inspectors of
Fisheries.

Powers of the
Director to
lease out any
water other than

private water.

Power of the
lessee to issue

may be prescribed, for the taking of fish in the water the right of fish wherein has been leased to him.

(2) A permit issued under sub-section (1) shall cease to be valid upon the termination or cancellation of the lease in favour of the person issuing the permit.

6. No person shall use '[any dynamite, electric shock or other explosive substance] in any water with intent thereby to catch or destroy any of the fish that may be therein.

7 No person shall put any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish that may be therein.

8. No person shall kill, capture, or possess any species of fish specified in the second column of the First Schedule, of a size less than that specified in the third column of the said Schedule against such species.

9. (1) No person shall use or employ for the capture of any species of fish specified in the First Schedule, in any water other than private water, any net, cage, trap or other contrivance for taking fish or fixed engine, except during the period permitted in respect of such species under the fourth columns of the said Schedule and under a licence or permit issued under this Ordinance Tr]

3[Provided that in the case of trout, only such gear and in such number shall be used or employed as may be specified in the licence or permit,

(2) Licences under sub-section (1) shall be issued by such authorities, on payment of such fees and on such conditions as may be prescribed.

10. Every person in possession of any fishing licence or permit shall produce his licence or permit, as the case may be, on a demand made by the Inspector of Fisheries or any other person authorised in this behalf by the Director of Fisheries.

11. (1) Notwithstanding anything contained in this Ordinance, Government may, by notification, declare any water to be sanctuary for fish mentioned in the

' Subs by Khyber Pakhtunkhwa Act No. I of 1991.

>In section-9, in sub-section (1), at the end the full-stop, subs, by a colon Khyber Pakhtunkhwa Ord.No.II of 1982.

* _ Inserted vide Khyber Pakhtunkhwa Ordinance No.II of 1982.

permit.

Destruction of
fish by
explosive.

Destruction of
fish by
poisoning
water.

Fish that shall
not be taken.

Net, fixed
engine trap, etc,
shall not be
employed
without a
permit or
licence.

Duty to produce
licence or
permit on
demand made
by employees
of Fisheries
Department.

Power to
declare any
water to be a

First Schedule for a period which may be specified, and during such period no person shall kill, capture or possess such fish without a special permit issued under this Ordinance by the Director of Fisheries.

(2) The water in respect of which a notification under this section is made shall be demarcated in such manner as may be prescribed.

12. Every Lambardar, Village Watchman, Canal Patwari, P. W D. Darogha, Zilladar, Revenue Patwari, Tapedar, Supervising Tapedar and Qanungo shall be bound in the absence of reasonable excuse to give to an Inspector of Fisheries or any other person authorised in this behalf by the Director of Fisheries, information in respect of any un-authorised netting, killing or other offence under this Ordinance committed within the limits of his village or circle, as the case may be, as soon as the commission of such offence comes to his knowledge.

13. If a Magistrate has reason to believe that an offence under this Ordinance has been, is being, or is likely to be committed, he may issue a warrant for the search of any place in which any fish, net, trap, cage or other contrivance for taking fish, or fixed engine is kept or concealed.

14. An Inspector of Fisheries may, without warrant from Magistrate, search any person, vessel, rack, vehicle, ship, boat, raft package, receptacle or covering so as to satisfy himself as to whether or not an offence under this Ordinance has been committed.

15. (1) An Inspector of Fisheries may without a warrant arrest any person committing in his view any offence under section 6, 7, 8, 9 or 11—

(a) if the name and address of such person are un-known to him; and

(b) if such person declines to give his name and address, or there is reason to doubt the accuracy of the name and address 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, except under the order of a Magistrate.

16. An Inspector of Fisheries, or any person authorized in this behalf by the Director of Fisheries, may take possession of any net, trap, cage or other contrivance for taking fish, or fixed engine used or suspected to have been used in the commission of an offence under this Ordinance.

sanctuary for
fish.

Duty of
Lambardar
Village
Watchmen etc.

Power of
magistrate to
issue search
warrant.

Power to search
without
warrant.

Arrest without
warrant for

offences under
this Ordinance.

Power of
seizure.

17.

18.

19.

20.

21.

22.

23,

7| Page

'TWhoever—

(a) contravenes the provisions of section 6 or 7 shall be punished

(b)

(c)

YS

with rigorous imprisonment which may extend to six months and with a fine which may extend to five thousand rupees; provided that the minimum punishment for the contravention of the above provisions shall not be less than three months rigorous imprisonment and a fine of three thousand rupees;]

contravenes the provisions of section 8, 9, 10 or 12 shall be punished with imprisonment of either description which may extend to three months or with fine which may extend to one thousand rupees or with both; and

contravenes the provisions of section 11 shall be punished with imprisonment of either description which may extend to six months or with fine which may extend to five thousand rupees or with both.

Every police officer shall upon request made by a person employed under this Ordinance assist him in the due discharge of his duties under this Ordinance.

No Court shall take cognizance of any offence under this Ordinance except on the complaint in writing of an Inspector of Fisheries.

The Court may order the confiscation of any net, trap, cage or other contrivance for taking fish, or fixed engine employed in the commission of an offence under this Ordinance.

If an offence in respect of this Ordinance is committed within distance of one marine league of the sea coast then such offence may be tried, punished and in all respects dealt with as if it had been committed on the land abutting such coast.

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provisions of this Ordinance or the rules made there under.

Government may, by notification.—

(i) add to or exclude from the First Schedule any species of fish

subject to such conditions as it may impose in each case;

¹ Subs, by Khyber Pakhtunkhwa Ord. No. II of 1982.

Penalties.

Police assistance.

Persons who may lodge complaints.

Confiscation of any net trap, cage etc.

Jurisdiction as respect offences within one marine league of sea coast.

Protection taken under this Ordinance.

Power of Government to add or exclude from First Schedule.

(ii) alter the period during which any fish specified in the First Schedule may be killed or captured.

24. (1) Government may, by notification, empower an Inspector of Fisheries—

(a) to accept from any person concerning whom evidence exists which if unrebutted would prove that he has committed any offence as described in the first column of the Second Schedule a sum of money by way of composition for the offence with regard to which such evidence exists, and on the payment of such sum to such officer, such person if in custody shall be discharged and no further proceedings shall be taken against him;

(b) when any property has been seized as liable to confiscation, to release the same without further payment, or on payment of the value thereof as estimated by such officer and on the payment of such value, such property shall be released and no further proceedings shall be taken in respect thereof.

(2) The sum of money which may be accepted by way of composition under clause (a) of sub-section (1) for any offence shall in no case exceed the amount mentioned against such offence in the second column of the Second Schedule.

25. Government may, by notification, delegate all or any of the powers conferred upon it under the provisions of this Ordinance to any officer subordinate to it.

26. (1) Government may make rules¹ for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may prescribe—

(a) the form in which, and the terms and conditions on which, a licence or a permit or a special licence or a special permit may

be granted;

(b) the authority by which licences under this Ordinance may be

¹ For rules, see W. P. Gazette Part I, dated 1st October 1965, P. 1205.

Power to
compound
certain
offences.

Delegation of
Powers.

Power to make
rules.

granted;

(c) the fees to be charged for any licence or permit or special licence or special permit.;

(d) the conditions subject to which the Director of Fisheries may lease the right to catch fish under this Ordinance;

(e) in the case of any species of fish, the number and sex that may be killed under a licence;

(f) the rewards to persons who render help in detection of , offences under this Ordinance;

(g) the utilization of receipts recovered under this Ordinance;

(h) prohibit or regulate all or any of the following matters —

(i) the erection and use of fixed engines;

(ii) the construction of weirs; and

(i1i)the dimension and kind of nets, cages, traps or other

contrivances for taking fish to be used and the modes of

using them.

(3) Such rules may provide that a breach thereof shall be punished with a fine not exceeding fifty rupees.

27.0 [RR *],

¹ Section 27 omitted by Khyber Pakhtunkhwa Adaptation of laws Order, 1975.

FIRST SCHEDULE

(Section 8)

[Species of fish and prohibitions]

Serial No. Species of fish Size Period during which taking of the
in fish by any net cage, trap or fixed
inches engine is Prohibited

1 4

1 Trout 10th October to 9th March.

2 Mahashair 1st June to 31st August.

3 Rahu 1st June to 31st August.

4 Mori 12 1st June to 31st August.

5 Thaila 12 1st June to 13th August.

[SECOND SCHEDULE]

(Section 24)

Maximum amount acceptable by way of composition for certain offences

Serial Description of offences Maximum amount which may be

No. accepted as composition

1 2 3

1 [Fishing without a license or Permit. Two hundred rupees or rupees 25 per

fish whichever is more.

2 \Killing fish of a size less than the (One hundred rupees or rupees 10 per
prescribed size. fish whichever is more.

3 [Fishing with any gear or method other [Two hundred rupees in case of trout fish
than that permitted under the rules. and one hundred rupees in case of other
species.

4 Using at any one time more than the = (One hundred rupees for each extra gear.
Iprescribed number of gears permitted
under the rules.

5 |Fishing with a net having a smaller (One hundred rupees for each net used.
Imesh than the prescribed mesh.

6 {License holder employing or engaging |One hundred rupees per person.
Inon-licencees to help him with his nets
while fishing.

7 \Offering or exposing for sale or barter |One hundred rupees.
lany fish in contravention of the

provision of this ordinance or the rules

Imade there under.

' The 2nd Sehdule Subs. by Khyber Pakhtunkhwa Ord. No.II of 1982.