

THE KHYBER PAKHTUNKHWA FISHERIES AND AQUACULTURE ACT,
2022.
(KHYBER PAKHTUNKHWA ACT NO. XL OF 2022)

CONTENTS
PREAMBLE

CHAPTER-I
PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER -II
DIRECTORATE GENERAL OF FISHERIES

3. Directorate General of Fisheries.

CHAPTER -III
FISHERIES PARK, SANCTUARIES
AND POWER TO LEASE

4. Fisheries park.
5. Power to declare public water to be sanctuary.
6. Powers to lease out public waters.

CHAPTER-IV
LICENSE, PERMIT AND SPECIAL PERMIT

7. Power of Director General to issue license, permit and _ special permit.
8. Powers of the lessee to issue permit.
9. Cancellation of license, special permit or permit.
10. Appeal.

11. Duty to produce license, permit or special permit.

CHAPTER-V
OFFENCES, ARREST AND SEIZURE
12. Offences.
13. Powers of Inspector of Fisheries.

14. Police assistance.

15.

16.

17.

18.

19.

20.

21.

22.

23.

24.

CHAPTER-VI
PENALTIES AND PUNISHMENTS

Penalties.

CHAPTER-VII
TRIAL OF FISHERIES OFFENCES

Person who may lodge complaints.

Summary trial.

Confiscation of any net, trap, cage etc.

Prosecution of offences under any other law.

CHAPTER -VIII
MISCELLANEOUS

Interference in duty.

Powers to add or exclude from the First Schedule.

Indemnity.

Powers to make rules.

Repeal and savings.

FIRST SCHEDULE

SECOND SCHEDULE

THE KHYBER PAKHTUNKHWA FISHERIES AND AQUACULTURE ACT,
2022.

(KHYBER PAKHTUNKHWA ACT NO. XL OF 2022)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 20th September, 2022).

AN
ACT

to provide for the protection, preservation, conservation, regulation and management of fisheries biodiversity and aquaculture

in the Province of Khyber Pakhtunkhwa.

WHEREAS it is expedient to make provisions for the protection, preservation, conservation, regulation and management of fisheries biodiversity and aquaculture in the Province of Khyber Pakhtunkhwa and for matters connected therewith and ancillary thereto;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa

as follows:

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the

Khyber Pakhtunkhwa Fisheries and Aquaculture Act, 2022.

(2) It shall extend to whole of the Province of Khyber Pakhtunkhwa.

(3) — It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,-

(a) “aquaculture” means rearing of aquatic animals or cultivation of aquatic plants;

(b) “authorized officer” means an officer of the Directorate General, authorized by the Director General, for the purpose of issuing permit under sub-section (2) of section 7 and cancellation thereof under sub-section (2) of section 9 of this Act;

(c) “Court” means the Court of Magistrate, First Class of the District concerned;

(d) “Department” means the Agriculture, Livestock, Fisheries and Cooperation Department of Government;

(e) "Director General" means the Director General of Fisheries,

Khyber Pakhtunkhwa;

(f)

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“Directorate General” means the Directorate General
Fisheries, Khyber Pakhtunkhwa;

“fish” means any species or class of species of phylum
chordate and includes shell-fish and aquatic organism that
can be reared in aquaculture;

“fish seed” means the intermediate developmental stages of
the fish, including the fertilized eggs (spawn), hatchlings,
early and late fry, fingerlings, yearlings etc;

“fisheries park” means fisheries park established under
section 4 of this Act;

“Government” means the Government of Khyber
Pakhtunkhwa;

“Inspector of Fisheries” means an Inspector of Fisheries,
designated under sub-section (2) of section 3 of this Act;

“lessee” means the person, in whose favor public water is
leased out under sub-section (1) section 6 of this Act;

“license” means a license, issued under clause (a) of sub-
section (1) of section 7 of this Act;

“permit” means a permit, issued by-

(i) | the Director General or, as the case may be, authorized
officer under sub-section (2) of section 7 of this Act; or

(ii) the lessee under sub-section (1) of section 8 of this Act;

“permit holder” means the person in whose favour a permit is issued by the-

(i) Director General or authorized officer under sub-section (2) of section 7 of this Act; or

(ii) lessee, under sub-section (1) of section 8 of this Act;

“prescribed” means prescribed by rules;

“public water” means public water which includes-

(i) all bodies of water, such as rivers and_ their tributaries, creeks, brooks, lakes, channels, canals or lagoons or dug, dredged or blasted canals;

(ii) | any water, impounded by the construction of any lake, dams, reservoirs or other impounding device, across the channel of a navigable stream; and

(iii) flowing water, which are not, by law, the property of

any person;

(1) "rules" mean rules made under this Act;

(s) "sanctuary" means any public water, declared to be

sanctuary for fish, under section 5 of this Act;

(t) "Schedules" mean Schedules appended to this Act;

(u) "Secretary" means the Secretary to Government,

Agriculture, Livestock, Fisheries and Cooperation

Department; and

(v) "special permit" means the special permit, issued by the

Director General, under clause (b) of sub-section (1) of

section 7 of this Act.

CHAPTER -II

DIRECTORATE GENERAL OF FISHERIES

3. Directorate General of Fisheries.---(1) The Directorate General shall deal with all the matters concerning the protection, preservation, conservation, regulation and management of fisheries biodiversity and aquaculture in the Province of Khyber Pakhtunkhwa under the provisions of this Act.

(2) Subject to sub section (4), the competent authority may appoint in the Directorate General such number of persons, as it deem fit, to be Inspectors of Fisheries for the purpose of this Act.

(3) The Inspectors of Fisheries, so appointed under sub section (2) may perform such functions under this Act, within such local limits, as the Director General may specify from time to time.

(4) | The Inspectors of Fisheries shall be civil servants within the meaning of Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

CHAPTER -III

FISHERIES PARK, SANCTUARIES

AND POWER TO LEASE

4. Fisheries park.---(1) For the purpose of recreation, education and research activities, Government may, subject to sustainable conservation and promotion of eco-tourism in any particular area, establish fisheries parks, which shall be managed by the Directorate General, in such a manner as may be prescribed.

(2) The fisheries parks shall be accessible to public, subject to such restrictions and on payment of such fees, as the Department may determine, from time to time.

(3) | Government shall provide access roads including construction of rest houses, hostels and other buildings in the fisheries park, along with amenities for public, as deem appropriate:

Provided that the aforesaid facilities may be made in such a manner which shall not impair the objectives of a fisheries park.

(4) — A person shall not-

(a) carry arms, obnoxious chemicals, explosives or doing any other act, which may create disturbance or interferes with the peacefulness and tranquility of the fisheries park and breeding and feeding grounds of fish;

(b) log, fall, tap, burn or in any way damage or destroy, take, collect or remove any plant or tree;

(c) graze of livestock;

(d) clear or break up any land for mining or quarrying of stones or for any other purpose;

(e) pollute or poison water flowing in and through in the fisheries park;

(f) litter and dump wastes;

(g) write, inscribe, carve, disfigure, deface, paint, chalk or advertise anything inside the fisheries park, except those used for the purpose of guidance to the visitors by the management of fisheries park;

(h) use vehicular transport, except on recognized roads and routes; and

(i) use motorized boat.

5. Power to declare public water to be sanctuary.---(1) Notwithstanding anything contained in this Act, Government may, by notification, declare any public water to be a sanctuary, in respect of such species of fish as mentioned in the Second Column of the First Schedule, for a period which may be specified.

(2) On declaration of any public water to be sanctuary under sub-section (1), no person shall kill nor use or employ any net cage, track or other contrivance or fix engine, for the capture of any species of fish:

Provided that during period not prohibited in forth column of the First Schedule, the above action shall be allowed only on the issuance of a special permit.

(3) The water, in respect of which a notification is issued under sub-section (1), shall be demarcated or advertised in such manner as may be prescribed.

6. Powers to lease out public waters.---(1) The Director General may, with prior approval of Secretary, for a period not exceeding five years, lease out through an auction, the fishing right in public water and allow to install fish cages or other aquaculture related technologies, on such terms and conditions as may be prescribed:

Provided that in case of natural disaster, emergency or any other circumstances, which are beyond human control, the lease period, as specified under this section, may, for reasons to be recorded in writing, be extended for a further period of one year, with prior approval of Secretary.

(2) The amount of lease, under sub-section (1), shall be paid by the lessee, in advance, at the start of each year and in case of failure to pay the lease amount in advance, two percent (2%) of the amount due shall be charged as penalty.

(3) Any amount due to Government under this section, which remains unpaid one month after it has become so due, may be recovered as arrears of land revenue under the Land Revenue Act, 1967 (Act No. XVII of 1967), in addition the lease shall also be liable to be terminated.

CHAPTER-IV LICENSE, PERMIT AND SPECIAL PERMIT

7. Power of Director General to issue license, permit and special permit.---(1) The Director General may, with the prior approval of Secretary,-

(a) issue license to the lessee, in pursuance of the lease Agreement under section 6 of this Act; and

(b) issue special permits, for capturing fish in sanctuary, in pursuance of section 5 of this Act, on such terms and condition as may be prescribed.

(2) The Director General or, as the case may be, an officer of the Directorate General, duly authorized by the Director General, may issue a permit, for carrying out certain activities or functions, within such public water, not leased out under section 6 of this Act, for a particular period, on payment of such fee and on such terms and conditions, as may be prescribed.

8. Powers of the lessee to issue permit.---(1) The lessee may, with the prior approval of the Director General, issue permit to any person, for the purpose of carrying out certain activities or functions, within the public waters, so leased out in his favour under section 6 of this Act, for such period, on payment of such fee and on such terms and conditions, as may be prescribed.

(2) A permit, issued under sub-section (1), shall cease to be valid upon the termination or cancellation of the lease Agreement under this Act.

9. Cancellation of license, special permit or permit.---(1) The Director General may, with prior approval of Secretary, cancel a license or special permit, issued under clauses (a) and (b) of sub-section (1) of section 7 of this Act, if the

lessee or the holder of special permit commits any violation of the provisions of this Act or the rules.

(2) The Director General or an officer of the Directorate General, duly authorized by the Director General, may cancel the permit, issued under sub-section (2) of section 7 of this Act, in case of any violation of the provision of this Act, by the permit holder.

(3) | The lessee shall, with the prior approval of Director General, cancel the permit, issued under sub-section (1) of section 8 of this Act, in case of any violation of the provision of this Act, by the permit holder:

Provided that in case the lessee is unable to cancel the permit, under sub-section (3), the Director General shall cancel such permit:

Provided further that the Director General may, in addition to cancellation of permit under this sub-section, also cancel the lease Agreement so granted in favour of the lessee.

10. Appeal.---(1) Any person, aggrieved from the cancellation order, issued under section 9 of this Act, may, within fifteen (15) days, on such terms and conditions as may be prescribed, prefer an appeal to-

(a) the Director General, if the cancellation order is issued by the authorized officer; and

(b) the Secretary, if the cancellation order is issued by the Director General.

(2) _ The order, passed under sub-section (1), shall be final and binding.

11. Duty to produce license, permit or special permit.---The lessee, the permit holder or the person, in whose favour special permit is issued, shall produce his license, permit or special permit, on a demand by the Inspector of Fisheries or wherever required. In case the lessee, permit holder or the person in whose favour special permit is issued, fails to produce licence, permit or special permit shall be liable for fine as specified in the Second Schedule.

CHAPTER-V OFFENCES, ARREST AND SEIZURE

12. Offences.---No person shall-

(a) use or employ for the capture of any species of fish in any public water or sanctuary, any net, cage, trap or other contrivance for taking fish or fixed engine, during the prohibited period, in respect of such species under the fourth column of the First Schedule;

(b) use any dynamite, electric shock, either alternating current and direct current, or other explosive substance, in any public water or sanctuary, with intent thereby to catch or destroy any fish that may be therein;

(c) put any poison, lime or noxious material, chemicals or other pollutant into any public water or sanctuary, with intent thereby to catch or destroy any fish, to make the public water ecosystem or sanctuary unsafe for fish population;

(d) stop or divert the flow of public water or sanctuary, with intent thereby to catch or destroy any fish; and

(e) — kill, capture or possess any species of fish from the public water or sanctuary, specified in the second column of the First Schedule, of a size less than that as specified in the third column thereof, against such species.

13. Powers of Inspector of Fisheries.—(1) An Inspector of Fisheries may, with the assistance of local police,-

(a) arrest a person, who violates the provisions of this Act, under a warrant issued by the Court;

(b) take in possession from the person arrested, the fish, any net, cage, trap, electric or mechanical device, chemical or other contrivance for taking fish or fixed engine, used or suspected to have been used in the commission of an offence under this Act;

(c) prevent the escape of any person concerned or likely to be concerned in an offence or prevent the removal of any case property or fisheries produce, in respect of which any such offence has occurred or likely to be occurred;

(d) 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 Act has been committed or is likely to be committed; and

(e) search any place, with a search warrant from Court, in which the fish, any net, cage, trap, electric or mechanical device, chemical or other contrivance for taking fish or fixed engine is kept or concealed.

(2) The person, arrested under clause (a) of sub-section (1), shall be forthwith handed over, in the absence of any unavoidable circumstances, to the nearest police station, who shall further be produced before the concerned Court, within twenty four hours.

(3) A person, arrested under clause (a) of sub-section (1), may be released by the local police on executing a bond to appear, if and when so required, before the Court, or before the officer in charge of the concerned police station, as the case may be.

(4) The Inspector of Fisheries, while seizing any property or article mentioned in clause (b) of sub-section (1), used directly or indirectly, shall make record of such property, indicating that the same has been so seized, and shall

handover such property to the local police for further proceeding before the Court to try the offence, on account of which the seizure has been made.

(5) Notwithstanding anything contained in sub-section (4), any property or article so seized, other than dynamite, chemicals, poison etc., which is subject to speedy and natural decay, may be sold out, subject to the determination of the rights thereto, deal with the proceeds, in such manner as may be prescribed.

14. Police assistance.--- Every police officer shall, upon request made by the Director General or Inspector of Fisheries, provide all the required assistance to implement the provisions of this Act.

CHAPTER-VI PENALTIES AND PUNISHMENTS

15. Penalties.---(1) Whoever is found guilty of an offence under section 12 of this Act or contravenes or attempts to contravene any of the provisions of this Act or the rules shall be punished with such fine or, as the case may be, such imprisonment, as specified in the Second Schedule.

(2) Abetment of any offence under this Act or the rules shall be punishable for the same penalties as specified for the offences in the Second Schedule.

(3) For any other offence under this Act or the rules, for which no specific penalty is provided, the offender shall be punished with fine of rupees five thousand or with one month imprisonment or with both.

CHAPTER-VII TRIAL OF FISHERIES OFFENCES

16. Person who may lodge complaints.---No Court shall take cognizance of any offence under this Act, except on complaint in writing of an Inspector of Fisheries.

17. Summary trial.---All the offences under this Act, shall be tried summarily, in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

18. Confiscation of any net, trap, cage etc.---(1) The Court may order confiscation of any net, trap, cage, boat, vehicle, carriage or other contrivance for taking fish, or fixed engine employed in the commission of an offence under this Act or the rules made thereunder.

(2) The property confiscated under this section, shall become the property of Government, and may be disposed of by the Department, in a manner as may be prescribed.

19. Prosecution of offences under any other law.---Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act the commission of which constitutes an offence under this

Act or from being liable under any other law to any higher punishment or penalty than that provided by this Act.

CHAPTER -VIII
MISCELLANEOUS

20. **Interference in duty.**---The Inspector of Fisheries or any other officer or official of the Directorate General, while performing his duty, shall not be interfered or attempted to be interfered by any person under this Act and the rules. The person, who is held liable for the violation under this section, shall be proceeded against under section 186 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

21. **Powers to add or exclude from the First Schedule.**---The Department may, by notification, on the recommendation of Director General,-

(a) add to or exclude from the First Schedule any species of fish subject to such conditions as it may impose in each case; and

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

22. **Indemnity.**---No suit, prosecution or other legal proceeding shall lie against any person for anything, which is done or intended to be done in good faith in pursuance of any of the provisions of this Act or the rules.

23. **Powers to make rules.**---Government may make rules for carrying into effect the provisions of this Act.

24. **Repeal and savings.**---(1) The West Pakistan Fisheries Ordinance, 1961 (W.P Ord. No. XXX of 1961), is hereby repealed.

(2) Notwithstanding the repeal under sub-section (1), anything done, action taken, obligation, liability incurred, penalty or punishment imposed, inquiry or proceedings commenced, officer appointed or person authorized, jurisdiction or power conferred, rules made and license, permit, special permit or order issued under any of the provisions of afore-said Ordinance, shall, if not inconsistent with the provisions of this Act, continued to be in force and shall be deemed to have been respectively done, taken, incurred, imposed, commenced, appointed, authorized, conferred, made or issued under this Act.

FIRST SCHEDULE

[see sections 5 (1) & (2), 12 (a) & (e) and 21 (a) & (b)]

SPECIES OF FISH AND PROHIBITIONS

Serial | Species of Fish. Size (in Period During Which Taking of the No. Inches). Fish by any Net, Cage, Trap or Fixed Engine is Prohibited.

1. Trout. 9. 10" October to 9" March.
2. Mahashair. 12. 1* June to 31 August.
3. Rahu. 12. 1*June to 31 August.
4. Mori. 12. 1*June to 31 August.
5. Thaila. 12. 1*'June to 31 August.
6. Calbans. 12. 1* June to 31 August.
7. Silver. 12. 1* June to 31* August.
8. Big head. 12. 1* June to 31* August.
9. Sole. 12. 1* June to 31* August.
10. Schizothorax sp. | 10. 1* June to 31* August.
11. Gulfaam. 10. 20" March to 31 May.
12. Eel. 12. 1* June to 31 August.
13. Sher-Mahi. 05. As per notification by the Department.
14. Cat fishes. 05. As per notification by the Department.
15. Any other fish 05. As per notification by the Department.

species.

SECOND SCHEDULE

[see section 15]

S.No. Nature of Offences Minimum Penalty Maximum Penalty

Fishing without a license | Fine rupees __fifty | Fine rupees five hundred
 1 or permit by using nets | thousand or rupees|thousand or one year
 : and boat. two hundred per fish} imprisonment or with
 whichever is more. both.

Destruction of fish by Fine rupees fifty | Fine rupees five hundred
 2 explosives. thousand or two/thousand or one year
 : month imprisonment] imprisonment or with
 or with both. both.

Destruction of fish by Fine rupees fifty | Fine rupees five hundred
 3 electric shock. thousand or two/thousand or one year
 , month imprisonment] imprisonment or with
 or with both. both.

Destruction of fish by Fine rupees fifty | Fine rupees three hundred
 4 poisoning water. thousand or two/thousand or one year
 , month imprisonment] imprisonment or with
 or with both. both.

Sell or commercially | Fine rupees ten Fine rupees one hundred
 transfer fish, fish | thousand and seizure | thousand or one month
 5 produce, fish seed and | of fish, fish produce, imprisonment or with both
 : fish feed which does not | fish seed and fish feed | and seizure of fish, fish
 confirm to the prescribe | so recovered. produce, fish seed and fish
 quality and standard. feed.

Destruction of fish by Fine rupees ten Fine rupees five thousand
 6 diverting the flow of thousand or two or one year imprisonment
 : water. month imprisonment | or with both.
 or with both.

Fishing without a license | Fine rupees three Fine rupees ten thousand
 7 or permit by using nets. | thousand or rupees or one week imprisonment
 , two hundred per fish, | or with both.
 whichever is more.

Killing fish of a size less | Fine rupees _five | Fine rupees ten thousand
 than the prescribed size. | thousand or | or rupees two hundred per
 8 rupees one | fish, whichever is more.
 , hundred per fish,
 whichever is
 more.

Fishing with a _ net | Fine rupees two Fine rupees ten thousand.
 9 having a smaller mesh | thousand or two
 , than the prescribed | hundred per fish.
 mesh.

Fishing with any gear or | Fine rupees two Fine rupees ten thousand.
 10 method other than that | thousand or two

permitted under the
 tules.

hundred per fish,
 whichever is more.

11.

Using on one time more
than two of either or any

Fine rupees two
thousand.

Fine rupees ten thousand.

of the gears permitted
under the rules.

wa. : Fine rupees __ one | Fine rupees five thousand
Fishing — without a five h
re license or permit by thousand or rupees | or tupees five undred per
: P . two hundred per fish, | fish, whichever is more.

using rod and line. : :
whichever is more.

Failure to produce|Fine rupees one | Fine rupees three
license, special permit or | thousand. thousand.

13. :

permit on demand by

Inspector of Fisheries.

Licensee, permit holder| Fine rupees one | Fine rupees two thousand
or holder of special | thousand per person. | per person.

permit employing or
engaging non-permit

14. holder by using separate

net, cage, trap, electric
or mechanical device
etc. for purpose of
catching fish.