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The Chhattisgarh Fisheries Act, 1948

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THE CHHATTISGARH FISHERIES ACT, 1948

[Act No. VIII of 1948]

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***THE CHHATTISGARH FISHERIES ACT, 1948**

[Act No. VIII of 1948]

[Received the assent of the Governor on the 26th March, 1948; assent first published in the Central Provinces and Berar Gazette on the 2nd April, 1948]

An Act to provide for the protection, conservation and development of fisheries in Chhattisgarh;

Whereas it is expedient to provide for the protection, conservation and development of fisheries in Chhattisgarh.

1. Short title, extent and commencement.-(1) This Act may be cited as the Chhattisgarh Fisheries Act, 1948.

(2) It extends to and shall be in force in the whole of Chhattisgarh.

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

- (i) "fish" includes shell fish and fish in all stage in its life- history;
- (ii) "Fishery Officer" means such officer as the State Government may appoint for the purpose of this Act and includes any officer or class of officers empowered by the State Government to act as Fishery officer:

Provided that no Police Officer below the rank of Sub-Inspector shall be so empowered;

- (iii) "fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way;
- (iv) "private water" means water—
 - (a) which is the exclusive property of any person, or
 - (b) in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity, but does not include any river, canal, stream, jhil, or any piece of water which ordinarily has direct communication with any river, canal, stream or jhil.

Explanation.-Water shall not cease to be "private water" within the meaning of this definition by reason only of the fact that persons other than the owners may have by custom a right of fishery therein;

- (v) "prescribed" means prescribed by rules made under this Act.

3. Protection of fisheries by making Rules.-(1) The State Government after previous publication may make rules for the purpose hereinafter in this section mentioned and shall in such rules declare the waters, not being private to which all or any of them shall apply.

(2) The State Government may, by notification, apply such rules or any of them to any private waters with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(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 and bunds;
- (iii) the dimension, size of mesh and kind of nets to be used and the mode of using them;
- (iv) the use of more than one method of catching fish at one time;
- (b) prohibit the destruction of, or any attempt to destroy, fishes by explosives, gun, bow, arrow or the like in inland waters;
- (c) prohibit the destruction of, or any attempt to destroy fishes by using a chemical or any other substance likely to cause pollution of water;
- (d) prohibit the throwing into any water of any solid or liquid which may be harmful to fishes in such water;
- (e) prohibit fishing except under a licence and regulate the grant of such licences, the fees payable therefore and the condition to be inserted therein;
- (f) prohibit sale or purchase of fish or transport or movement of fish within or outside the State in excess of the prescribed quantity except under a licence;
- (ff) prescribe the seasons during which—
 - (i) the killing or catching of fish or any prescribed species shall be prohibited;
 - (ii) sale, movement or transport of any prescribed species shall be prohibited except under a licence;
- (fff) regulate the grant of licences under clause (ff), and/or prescribe the fees payable therefore and the conditions to be attached thereto; and;
- (g) prescribe a minimum size or weight below which no fish of any prescribed species shall be sold.
- (4) Such rules may also prohibit all fishing in any specified waters for a specified period.
- (5) In making any rule under this section the State Government may provide for:—
 - (a) the seizure, removal and forfeiture of any fixed engine, apparatus or equipment erected or used for fishing in contravention of the rules;
 - (b) the forfeiture of any fish procured by means of any such fixed engine, apparatus or equipment or transported in contravention of the rules; and

- (c) the seizure, removal and forfeiture of any animals, carts, vessels, rafts, boats or vehicles used for transport in catching fish in contravention of the rules.

4. Power to prohibit sale of fish.-The State Government may by notification prohibit in any specified areas the offering or exposing for sale or barter of any fish capture of which has been made unlawful by any rule made under Sec. 3 of this Act, although caught outside Chhattisgarh and although their capture might be legal at the place where caught.

5. Penalties.-If any person contravenes any of the provisions of this Act or rules made thereunder, he shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both.

5-A. Cognizance of offence.-Every offence under this Act shall be cognizable.

6. Arrest without warrant for offence under the Act.-(1) Any Sub-Inspector of Police, or other person specially empowered by the State Government in this behalf may, without warrant arrest any person committing or attempting to commit a breach of any provision of this Act or rules made thereunder 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 except under an order of the Magistrate for detention according to the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974.)

(3) All Fishery Officers shall have the same powers of search, seizure and investigations in respect of an offence under this Act as a police officer of the rank of a Sub-Inspector has under the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974).

7. Jurisdiction inferior to that of Magistrate of the second class excluded.-No Court inferior to that of a Magistrate of the second class shall try any offence under this Act.

(2) No court shall take cognizance of any offences under this Act, except on a report in writing of the facts constituting such offence made by a Fishery Officer or a Police Officer not below the rank of Sub-Inspector or any other person or class of persons authorised by the State Government in this behalf.

8. Power to compound offences.-(1) Any offence specified in the schedule compounded by the Collector by acceptance of a sum not exceeding one thousand rupees.

(2) On composition of an offence, the accused shall be discharged and property seized from his possession shall be released.

9. Officers to be deemed public servants.-All persons empowered to exercise powers and performs duties under this Act shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code, 1860 (XLV of 1860).

10. Indemnity.-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 under this Act.

11. Repeal.-The Indian Fisheries Act, 1897 (IV of 1897) in its application to the Central Provinces and Berar, is hereby repealed.

THE SCHEDULE

Offences compoundable under Sec. 8

DESCRIPTION

1. Fishing with a net having a smaller mesh than prescribed under the rules made under this Act.

2. Fishing without a licence.

3. Selling or attempting to sell fish of a size or weight less than the standard prescribed under this Act.

4. Killing or catching or selling or attempting to kill, to catch or sell any fish of a prohibited species during a close season.

4-A. Transporting or attempting to transport any fish of a prohibited species during a closed season except under and in accordance with the conditions of the licence granted under the rules;

4-B. Selling or transporting or attempting to sell or transport fish in excess of the prescribed quantity except under and in accordance with the conditions of the licence granted under the rules.

5. Fishing or attempting to fish with any gear or method other than the prescribed gear or method.

6. Using at any one time more than one method of catching fish when prohibited under the rules made under this Act.

7. Licence-holder employing or engaging licensees to help him with their nets while fishing.

8. Fishing or attempting to fish in prohibited waters.

9. Offering or exposing for sale or barter any fish, the sale of which is prohibited in any specified area by a notification issued under Sec. 4.