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The Nagaland Fisheries Act, 1980

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NAGALAND FISHERIES ACT:

THE NAGALAND FISHERIES ACT 1980

(Nagaland Act No.2 of 1982)

An Act

To provide for certain matter relating to Fisheries in the State of Nagaland.

It is hereby enacted in the thirty first year of the Republic of India as follows: -

1. Short title, extent and commencement

(1) This Act may be called the Nagaland Fisheries Act, 1980.

(2) It extends to the whole of the State of Nagaland.

(3) This section shall come into force at once and the remaining sections will come into force on such date, for such period and in such area as the State Government may by notification in the Official Gazette specify on this behalf.

Definitions: - In this Act, unless there is anything repugnant to the subject or context:-

“Fish” includes fish, turtles, dolphins, aquatic plants of fisheries, whale and fish in all states in its life history.

“Fixed engines” means any net, cage, fishing fence, anchored long line, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way.

“Fishery Officer” means any person appointed by the State Government to carry out all or any of the purposes of this Act or to do anything required by this act or any rule made thereunder provided that no Police Officer below the rank of a Sub-Inspector shall be so appointed.

“Fishing Offence” means an offence punishable under the provision of this Act.

“Private Water” means water which is the property of any person or in which any person has for the time being an exclusive right of Fishery whether as owner, lease or in any other capacity, and includes tanks, ponds, artificial lakes, etc. excavated at the expense of the owner, which have no communication in the rainy season with natural waters, such a rivers, canals, streams and Jhils.

Explanation:

Water shall not cease to be 'Private Water' within the meaning of this definition by reason only that other persons may have by usage or custom a right of Fishery therein.

“State Government” means State Government of Nagaland.

“There is no any specified water referred in rule No.3 which may not be applicable to all waters. The Fisheries Department shall specify from time to time the list of waters after proper survey of the resources in the State, through notification.

Prohibition and licensing of fishing in selected waters by rules.

1. The State Government may make rules for the purposes mentioned here in after in this section and shall under such rules declare the waters to which all or any of them shall apply.

2. The State Government may by notification in the Official Gazette, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all other persons having for the time being any exclusive right to Fishery therein or if the State Government is satisfied that the consent is unreasonably withheld without such consent.

Provided that no rules made under this section shall apply to any religious waters.

Note: - “Religious Waters” means waters belonging to a religious body or Institution and which have never been fished before on account of any restriction on religious grounds.

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 weir dams and bund and

(iii) The dimension and kind of nets and size of mesh or any other fish contrivance to be used and mode of using them.

(b) Prohibit the destruction of, or attempt to destroy fish by gun, spear, bow and arrow or like instruments, dynamiting, poisoning of waters or pollution of waters by trade effluent.

(c) Prohibit the capture of, or attempt to capture or kill brood fish (fish carrying eggs sperms) or catching or sale of any spawn of young fishes in breeding season.

(d) Prohibit fishing except under licences or regulate the granting of such licences, the charges of fees thereof and the conditions to be inserted therein.

(e) Prescribe a minimum size or weight below which no fish of any prescribed species shall be killed or sold.

(f) Prescribe seasons in which the killing or catching or sale of any spawn, young or adult fish, of any prescribed species shall be prohibited:-

(g) Prohibit fishing in any specific water for specified period.

(h) Regulate the export of fish outside any area or areas and price at which fish may be brought or sold in specified markets of all or any specified species.

(i) Require the owner mortgage with possession or lease of any Tank or Jhils for the stocking of fish.

(j) Prescribe the formation of association or societies and the collection of funds for the uplift of fisherman and promotion of the fishing industry.

4 In making any rules under this section the State Government may provide for:

(a) the seizure, removal and forfeiture of any apparatus erected or used for fishing in contravention of the rules:-

(b) the forfeiture of any fish taken by means of any such apparatus, and.

(c) the confiscation of any consignment of fish held or transported in contravention of the rules.

5. (1) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(2) Every rule under this section shall be laid as soon as may be after it is made before the Assembly while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions and if, before the expiry following the Assembly agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under this rule;

Provided that this rule shall not apply to the fishing operation of the Fisheries Department conducted under the orders of an Officer not below the rank of Superintendent of Fisheries.

6. Power to prohibit sale of fish:

The State Government may by notification in the Official Gazette prohibit in such areas as may be specified in that behalf the offering or exposing for sale or barter of any fish killed in contravention of any rule made under sub-section (3) of sections 3.

The breach of any rule made under Section 3 or any prohibition notified under section 4, shall be punished: -

(1) on the first conviction with imprisonment of either description for a term which may extend to two months or with fine which may extend to five hundred rupees or with both: and

(ii) on every subsequent conviction, with imprisonment of either description for a term which may extend to twelve months or with fine which may extend to five thousand rupees or with both.

8. Arrest without warrant for offences under the act:

(1) Any Fishery Officers, Police Officers not below the rank of a Sub-Inspector or any other person specially empowered by the State Government in this behalf may arrest without warrant any person commit, in his view a fishing offence: -

(a) If the name and address of the person are not known to him, and.

(b) If the person declines to give his name and address if there is reason to doubt the accuracy of the name 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 arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

(3) Every Fishery Officer shall have the same powers of search and investigation relating to fishing offence as a Police Officer of the rank of Sub-Inspector has under the Code of Criminal Procedure 1973(Act 2 of 1974)

9. Jurisdiction inferior to that of Magistrate of the second class excluded:

No court shall take cognizance of any offence under this Act, except on the complaint of a fishery Officer or of a Police Officer not below the rank of Sub-Inspector or any other person or class of persons authorized by the State Government in this behalf.

10. Power to compound certain offences:

(1) The State Government may, by notification in the Official Gazette empower a Fishery Officer by name or by virtue of Office.

(a) to accept from any person concerning whom evidence exists which if unrebutted, would prove that he has committed any fishing offence as described in the first column of the schedule a sum of money by way of compensation for the offence with regard to which such evidence exist and on the payment of such sum

to such officer such person, if in custody shall be released and no further proceedings shall be taken against him.

(b) to release any property that has been seized as liable to confiscation without further payment the value thereof as estimated by such officer and payment of such value, such property shall be released and no further proceeding shall be taken in respect thereof: -

(2) The sum of money accepted as compensation under clause (a) Sub-Section (1) shall in no case exceed the amount acceptable as compensation in the second column of the Schedule for the particular offence described in the first column thereof:

The schedule

Maximum amounts acceptable, as Compensation for certain fishing offences under

Sections-8.

	Description of Offences	Maximum amount acceptable as compensation
1	Fishing within net having smaller mesh than that prescribed under the rules made under the Act.	Rs. 500.00/-(Rupees five hundred)
2	Fishing without a licence.	Rs. 500.00/-(Rupees five hundred)
3	Killing or catching or selling or attempting to kill, catch or sell fish of a size or weight less than the standard prescribed under this Act.	Rs. 500.00/-(Rupees five hundred)
4	Killing or catching or selling or attempting to kill catch or sell any fish of a prohibited species during a close season.	Rs. 500.00/-(Rupees five hundred)
5	Fishing or attempting to fish, with any gear other than permitted under the rules.	Rs. 500.00/-(Rupees five hundred)
6	Fishing or attempting to fish with chemicals or any other obnoxious substances or dynamites etc.	Rs. 500.00/-(Rupees five hundred)
7	Licence holders employing or engaging non licensee to help them with their nets while fishing.	Rs. 500.00/-(Rupees five hundred)
8	Fishing or attempting to fish in prohibited waters.	Rs. 500.00/-(Rupees five hundred)
9	Offering or exposing for sale or barter any fish, the sale of which is prohibited in any specified area by notification issued under section 4.	Rs. 500.00/-(Rupees five hundred)

- 10 Selling or attempting to sell fish for price above the specified market value. Rs. 500.00/-(Rupees five hundred)
- 11 Exporting or attempting to export fish in contraventions of any rule made under clause (g) of Sub-Section (3) of section 3. Rs. 500.00/-(Rupees five hundred)