THE MAHARASHTRA FISHERIES ACT, 1960

[*Text as on 4th April 2024*]

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LIST OF AMENDMENT ACTS

1. Amended by Mah. 33 of 2015 (22-6-2015)[1]

[1] Maharashtra Ordinance No. 15 of 2015 was repealed by Mah. 33 of 2015, s. 3.

Note.- The date mentioned in the bracket indicates the date of commencement of the Act.

MAHARASHTRA ACT No. I OF 1961[1]

[THE MAHARASHTRA FISHERIES ACT, 1960.]

[*3rd January, 1961.*]

An Act to provide for the protection, conservation and development of fisheries in the State of Maharashtra.

WHEREAS it is expedient to provide for the protection, conservation and development of fisheries in the State of Maharashtra ; It is hereby enacted in the Eleventh Year of the Republic of India as follows :—

1. Short title, extent and commencement.— (*1*) This Act may be called the Maharashtra Fisheries Act, 1960.

(*2*) It extends to the whole of the State of Maharashtra.

(*3*) It shall come into force on such date[2] as the State Government may, by notification in the *Official Gazette*, appoint.

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

(*a*) "fish" includes crustaceans, oysters and other shell fish;

(*b*) "Fishery Officer" means an officer appointed by the State Government to be the Fishery Officer for the purposes of this Act, and includes an officer appointed by that Government to exercise the powers and perform the functions of the Fishery Officer :

Provided that, no Police Officer below the rank of a Sub-Inspector shall be appointed to be the Fishery Officer, or to exercise the powers and perform the functions of the Fishery Officer.

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

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "private water" means water—

(*i*) which is the exclusive property of any person, or

(*ii*) 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" by reason only of the fact that a person other than the owner thereof may have by custom a right of fishery therein ;

(*f*) "territorial waters" in relation to the State of Maharashtra, means any part of the open sea, adjoining the coast of the State within, a distance of six nautical miles measured from the appropriate base line according to the President's proclamation published in this behalf in the Government of India, Ministry of External Affairs, Notification No. SRO-669, dated the 22nd March 1956 ; or such other distance as may from time to time be duly fixed therefor, hereafter.

3. Destruction of fish by explosives in, or by poisoning, waters.— (*1*) If any person,—

(*a*) uses any dynamite or other explosive substance, with intent thereby to take or destroy fish in any waters (including any territorial waters) ; or

(*b*) puts any poison, lime or noxious material in any such waters, with intent thereby to take or destroy any fish therein ;

he shall, on conviction, be punished with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

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1 For Statement of Objects and Reasons, *see Maharashtra Government Gazette*, 1960, Part V, page 290.

2 It shall come into force from 1-12-1961 *vide* G.N., A & F.D.F.S.T. 1457/32979-G, date 28-10-1961.

(*2*) The State Government may, by notification in the *Official Gazette*, suspend the operation of clause (*b*) of sub-section (*1*) in any specified area, and may, in like manner, modify or cancel any such notification.

4. Protection of fish in selected waters.— (*1*) The State Government may make rules for all or any of the matters specified in sub-section (*3*); and may, by notification in the *Official Gazette*, apply all or any such rules to such waters (not being private waters) as the State Government may specify in the said notification.

[1][(*1A*) The State Government may make rules for grant of fishing rights in the tanks situated in all the Village Panchayats and the Scheduled Areas covering total water spread area upto one hundred hectares, to the following local authorities,—

(*i*) if such minor water bodies lies within the jurisdiction of one *Gram Sabha,* then to its village *panchayat*,

(*ii*) if such minor water bodies lies within the jurisdictions of two village *Panchayats*, then to the *Panchayat Samiti*,

(*iii*) if such minor water bodies lies within the jurisdictions of more than two *Panchayat Samitis*, then to the *Zilla Parishad* :

Provided that, the revenue generated in the Scheduled Areas including all the Village Panchayats in respect of such minor water bodies shall be appropriated to the village fund and shall be divided in equal proportion between two or more village *panchayats*, if any, and the same shall be used for development of the area of the respective *panchayat*.

Explanation.— For the purposes of this sub-section,—

(*i*) the expressions "*Gram Sabha*", "*Panchayat*" and "*Schedule Areas*" shall have the meanings, respectively, assigned to them in the Maharashtra Village Panchayats Act (III of 1959);

(*ii*) the expressions "*Panchayat Samiti*" and "*Zilla Parishad*" shall have the meanings, respectively, assigned to them in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961(Mah. V of 1962).]

(*2*) The State Government may, also by like notification, apply such rules, or any of them, to any private water, 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, or weirs, dams and *bunds*;

(*iii*) the dimension, size of mesh, and kind of nets to be used, and the manner of using them, and the conditions (if any) under which they may be used;

(*iv*) the use of more than one method of taking fish at one time;

(*b*) prohibit the using of any gun, bow, arrow, or the like in any waters, with intent thereby to take or destroy any of the fish therein ;

(*c*) prohibit or regulate the deposit or discharge, in any waters containing fish, of any liquid or solid matter specified in the rule, detrimental to fish, or the food of fish; but not as to prejudice any powers of a local authority to discharge sewage in pursuance of any power given by or under any law for the time being in force;

(*d*) prescribe the seasons during which the killing or taking or sale of fish of any prescribed species, shall be prohibited ;

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[1] Sub-section (*1A*) was inserted by Mah. 33 of 2015, s.2.

(*e*) prohibit all fishing in any specified waters for a specified period ;

(*f*) provide generally, for the better execution of this Act, and for the better protection, preservation and improvement of fisheries in the State, or any area thereof.

(*4*) In making any rule under this section, the State Government may provide for—

(*a*) the seizure, removal and forfeiture of any fixed engine or apparatus erected or used, or nets used, in contravention of the rules; and

(*b*) the forfeiture of any fish taken by means of any such fixed engine or apparatus or net.

(*5*) Rules made under this section shall be subject to the condition of previous publication.

(*6*) All rules made under this section shall be laid before each House of the State Legislature as soon as may be after they are made, and shall be subject to such modifications as the State Legislature may make, during the session in which they are so laid or the session immediately following, and publish in the *Official Gazette*.

5. Power to prohibit sale or barter of fish unlawfully taken.— (*1*) The State Government may, by notification in the *Official Gazette*, prohibit generally or any specified areas, the offering or exposing for sale or barter of any fish the taking of which has been made unlawful by any rule made under section *4*, —such taking at any place outside the State being lawful, notwithstanding.

(*2*) The burden of proving that any fish offered or exposed for sale or barter is not offered or exposed for sale or barter in contravention of this section, shall be on the person offering or exposing for sale or barter such fish.

6. Penalties.— If any person contravenes any of the provisions of this Act or the rules or orders made thereunder, he shall, if no other penalty is provided for the offence, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and if the contravention is continued after conviction, with a further fine which may extend to fifty rupees for every day during which the contravention is continued.

7. Arrest without warrant for offence under the Act.— (*1*) Any police officer not below the rank of a Sub-Inspector of Police, or any person specially empowered by the State Government in this behalf, may, without warrant, arrest any person committing in his view any offence punishable under section 3 or section 6, 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 for any period longer than may be necessary for bringing him before a Magistrate (such period not being more than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Court of the Magistrate) except under an order of the Magistrate for his detention according to the provisions of the [1]Code of Criminal Procedure, 1898 (V of 1898).

8. Jurisdiction inferior to that of Magistrate of Second Class excluded.— (*1*) 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 offence under this Act, except on a report in writing of the facts constituting 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.

9. Power to compound offences.— (*1*) The District Magistrate may, either before or after the institution of proceedings for any offence specified in the Schedule, accept, from any person charged with such offence, by way of composition thereof a sum not exceeding one hundred rupees.

(*2*) On payment by such person of such sum, the person, if in custody, shall be set at liberty; and if any proceedings in any criminal court have been instituted against him in respect of the offence, the

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[1] For the Code of Criminal Procedure, 1898 (V of 1898) now read the Code of Criminal Procedure, 1973 (II of 1974).

composition shall be deemed to amount to an acquittal, and the property, if any, seized from his possession shall be released, and no further criminal proceedings shall be taken against the person in respect of such offence.

10. Officers to be deemed public servants.— All persons empowered to exercise powers and perform duties, by or under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

11. Indemnity.— No suit, prosecution or other legal proceeding shall lie against any person or the State Government, for anything which is in good faith done or intended to be done under this Act.

12. Dues under Act recoverable as arrears of land revenue.— Any amount of money due to the State Government under this Act, or the rules made thereunder, shall be recoverable as an arrear of land revenue.

13. Saving.— Nothing in this Act shall apply to fishing and fisheries beyond territorial waters.

14. Repeal and savings.— On the commencement of this Act, each of the following Acts, that is to say,—

(*a*) The Indian Fisheries Act, 1897 (IV of 1897), in its application to the Bombay area of the State of Maharashtra ;

(*b*) the Fisheries Act (Hyderabad Act XXIII of 1356 Fasli), in its application to the Hyderabad area of the State of Maharashtra ;

(*c*) the Central Provinces and Berar Fisheries Act, 1948 (C. P. & Berar Act VIII of 1948), in its application to the Vidarbha region of the State of Maharashtra ;

shall stand repealed :

Provided that, on such repeal, the provisions of the Bombay General Clauses Act, 1904 (Bom. I of 1904) shall apply in relation to the repeal of each of such Acts, as if that Act were an enactment repealed by a Maharashtra Act :

Provided further that, subject to the preceding proviso, anything done or any action taken (including any rule made, notification issued and appointment made) by or under any Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or taken by or under this Act and shall continue in force until superseded by anything done or any action taken under the provisions of this Act.

SCHEDULE

(*See* section 9)

Description of offences compoundable under section 9.

1. Fishing with a net having a smaller mesh than that prescribed.

2. Killing or taking or selling or attempting to kill, take or sell any fish of a prohibited species during a close season.

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

4. Using at any one time more than one method of taking fish, when prohibited under the rules made under this Act.

5. Fishing or attempting to fish in prohibited waters.

6. Offering or exposing for sale or barter any fish, the offering or exposing for sale, or barter of which is prohibited in any specified area by a notification issued under section 5.