

The U.P. Fisheries Act, 1948

UTTAR PRADESH

India

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Act 45 of 1948

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The U.P. Fisheries Act, 1948 U.P. Act No. 45 of 1948 Received the assent of the Governor on December 20, 1948, under Section 75 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, and was published in the "United Provinces Government Gazette", dated January 1, 1949, Part VII-A, pages 1-3. An Act to provide for certain matters relating to fisheries in the United Provinces Whereas it is expedient to provide for certain matters relating to fisheries in the United Provinces : It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Uttar Pradesh Fisheries Act, 1948. (2) It extends to the whole of [Uttar Pradesh] [Substituted by A. O., 1950.]. (3) This section shall come into force at once and remaining section will come into force on such [date,] [Date of Enforcement. - The remaining Sections 2 to 8 of the Act came into force on January 18, 1975, in the whole of U. P., vide Notification No. 3920/XII-E-21(6)-73-563, dated December 20, 1974.] for such period and in such areas as the [State Government] [Substituted by A.O. 1950.] may, by notification in the official Gazette, specify in this behalf.

2. Definitions.

- In this Act unless there is anything repugnant in subject or context- (i) "fish" includes, fish turtles dolphins aquatic plants of fisheries, whale and fish in all states in its life-history; (ii) "fishery officer" means any person appointed by the [State Government] [Substituted by A.O. 1950.] 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; (iii) "fishing offence" means offence punishable under the provisions of this Act; (iv) "fixed engine" means any net, cage, fishing fence (baryari), anchored long line, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way; (v) "private waters" means waters which are the exclusive property of any person or religious body or institution or in which

any person or religious body or institution has for the time being an exclusive right of fishery, whether as owner, lessee 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 as rivers, canals, streams and jheels; Explanation.-Waters shall not cease to be "private waters" within the meaning of this definition if any other person has by usage or custom a right of fishery therein.(vi)"[State Government] [Substituted by A.O. 1950.]" means the Government of [State Government] [Substituted by A.O. 1950.];(vii)"religious institution" means a temple, a mosque or a church, any other shrine dedicated to any God or Goddess, and such other institutions as the [State Government] [Substituted by A.O. 1950.] may by notification in the Gazette declare in that behalf;(viii)"religious body" means the trustees or any other persons who are in charge of a religious institution or in whom the ownership of the religious institution vests for the time being;(ix)"religious waters" means water belonging to a religious body, institutions and which have never been fished before on account of any restrictions on religious grounds.

3. Prohibition and licensing of fishing in selected water by rules.

(1)The [State Government] [Substituted by A.O. 1950.] may make rules for the purposes mentioned hereinafter in this section and shall under such rules declare the waters to which all or any of them shall apply.(2)The [State Government] [Substituted by A.O. 1950.] may, by notification in the official Gazette, apply such rules or any of them to any private waters 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] [Substituted by the A.O., 1950.] 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.(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; and(iii)the dimension and kind of nets and size of mesh or/and 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 instrument, poisoning waters or pollution of waters by trade effluents;(c)prohibit the capture of or attempt to capture or kill breeding fish in Roe and Milt except Hilsa;(d)prohibit fishing except under licence, or regulate the granting of such licences, the charges of fees therefor and the conditions to be inserted therein;(e)prescribe seasons in which the killing or catching or sale of any spawn, young or adult fish, of any prescribed species shall be prohibited;(f)prescribe a minimum size or weight below which no fish of any prescribed species shall be killed or sold;(g)prohibit fishing in any specified water for specified period;(h)regulate the export of fish outside any area or areas and price at which fish may be bought or sold in specified markets of all or any specified species;(i)require the owner, mortgagee with possession or lessee of any tank or jheel for the stocking of such tanks or jheel with any class or classes of fish; and(j)prescribe the formation of association of societies and the collection of funds for the uplift of fishermen and promotion of the fishing industry.(4)In making any rules under this section the [State Government] [Substituted by the A.O., 1950.] 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 apparatus; and(c)the confiscation of any consignment of fish held or transported in contravention of the rules.(5)The power to make rules under this section shall be subject to the condition of the rules being made after previous

publication.

4. Power to prohibit sale of fish.

- The [State Government] [Substituted by the A.O. 1950.] may by notification in the official Gazette prohibit in such area or 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 Section 3.

5. Penalties.

- The breach of any rules made under Section 3 or of any prohibition notified under Section 4 shall be punished-(i)on first conviction with imprisonment of either description for a term which may extend to two months or with fine which may extend to two 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 hundred rupees or with both.

6. Arrest without warrant for offences under the Act.

(1)Any Fishery Officer, Police Officer not below tire rank of a Sub-inspector, or any other person specially empowered by the [State Government] [Substituted by the A.O. 1950.] in this behalf may arrest without warrant any person committing or attempting to 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, 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 the order of a Magistrate for his detention.(3)Every Fishery Officer shall have all the same powers of search and investigation relating to fishing offence as a Police Officer of the rank of a Sub-inspector has under the [Code of Criminal Procedure, 1898.] [See now the Code of Criminal Procedure, 1973.]

7. Jurisdiction inferior to that of Magistrate of the 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 the complaint of a Fishery Officer or of a Police Officer not below the rank of sub-inspector or of any other person or class of persons authorised by the [State Government] [Substituted by the A.O. 1950.] in this behalf.

8. Power to compound certain offences.

(1)The [State Government] [Substituted by the A.O. 1950.] may, by notification in the Gazette, empower a Fishery Officer by name or by virtue of office-(a)to accept from any person concerning whom evidence exists, which is 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 exists 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 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 accepted as compensation under clause (a) of 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[See Section 8]Maximum amount acceptable as compensation for certain fishing offences under Section 8

Description of offence	Maximum amount acceptable as compensation
1. Fishing with a net having a smaller mesh than thatprescribed under the rules made under Act.	Rupees one hundred
2. Fishing without a licence	Ditto.
3. Killing or catching or selling or attempting tokill, catch or sell fish of a size or weight less than thestandard prescribed under this Act.	Rupees fifty
4. Killing or catching or selling or attempting tokill, catch or sell any fish of a prohibited species during aclose season.	Ditto
5. Fishing or attempting to fish, with any gear ormethod other than that permitted under the rule.	Ditto
6. Licence-holders employing or engagingnon-licensees to help them with their nets while fishing.	Ditto
7. Fishing or attempting to fish in prohibitedwaters.	Ditto
8. Offering or exposing for sale or barter any fishthe sale of which is prohibited in any specified area by anotification issued under Section 4.	Ditto
9. Selling or attempting to sell fish for price abovethe specified market value.	Ditto.
10. Exporting or attempting to export fish incontravention of any rule made under clause (h), sub-section (3)of Section 3.	Rupees five hundred.