

The Jammu and Kashmir Fisheries Act, 1960 (1903 A. D.)

JAMMU & KASHMIR

India

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Rule

THE-JAMMU-AND-KASHMIR-FISHERIES-ACT-1960-1903-A-D of 1903

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The Jammu and Kashmir Fisheries Act, 1960 (1903 A. D.)[Sanctioned by His Highness the Maharaja Sahib Bahadur in Council vide State Council Resolution No. 3 dated 10th July, 1903 and published in Government Gazette dated 20th Sawan, 1970 as amended up to 1st Baisakh, 1970.]Whereas it is expedient to consolidate and amend the law regulating the capture of fish within the territories of Jammu and Kashmir State; it is hereby enacted as follows:-

1. Short title and commencement.

- This Act may be called the Jammu and Kashmir Fisheries Act and shall come into force on the 1st day of Baisakh, Samvat 1960.

2. Local extent.

- It shall extend to such local areas within the territories of the State as may, from time to time, be declared by a notification, published in the Jammu and Kashmir Government Gazette, under the orders of the [Government] [In sections 2, 5(1), 5(2) and 17 for the words 'His Highness the Maharaja Bahadur' the words 'the Government' substituted by Act X of Svt. 1996.] in that behalf.

3. Extent of repeal of the existing laws and practices.

- The Jammu and Kashmir Fisheries Regulation, 1901, is hereby repealed and the system hitherto in vogue in the Kashmir Province, of forming out the right of fishing known as Mahal-i-Mahigiri shall immediately on the passing of this Act cease to exist. Saving clause. - All orders issued and taxes

imposed, prior to the passing of this Act, shall, so far as they are consistent with the provisions contained in this Act or the rules made thereunder, be deemed respectively to have been issued and imposed hereunder.

4. Interpretation clause.

- In this Act, unless there is anything repugnant in the subject or context, - "Water" means and includes all rivers, streams and lakes; all ponds belonging to the State, and all tanks constructed by or under the authority of the State. "Sanctuaries" mean and include waters, where fishing, because of the sacred nature of the places or otherwise, shall under no circumstances, be permitted. "Trout Waters" mean and include all waters, which are now being stocked with English trout, in which no fishing shall be permitted, except, under a special licence issued for that purpose under the conditions laid down under [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon. 1996.], as well as a permit showing the water and period for which the licence is issued. "Reserved Waters" mean and include waters where fishing shall not be permitted, except, under a special licence issued in that behalf, in the manner indicated hereafter, nor shall the capture of fish be allowed by means other than a rod and line or a casting net of the kind described in clause (15) of For [Notification 8] [Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon. 1996.], N. B. - The ordinary landing net and bait net used by rod fishermen is permitted to be used, provided the owner holds a licence for rod fishing as laid down in [Notification 8] [For Notification see Council No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.], "Protected Water" mean and include waters where fishing shall not be permitted, except under a licence issued in that behalf in the manner indicated hereafter, nor shall the capture of fish be allowed except by one or other of recognized modes of fishing. "Fixed Engine" means and includes any net (other than those referred to in the clause above and the note thereto relating to "Reserved Waters", and any cages, traps, cluice or other contrivance for taking fish, fixed in the soil, or made stationary in any other way. N.B - The erection of dams for working of mills, etc., is permitted, but in all cases a free channel must be left open for the passage of fish up and down the river, The channel should, if possible, be half the river but the rights of mill owners should be protected, so that a sufficiency of water is guaranteed for their mills. The construction of the dam to form a cluice for the capture of fish is illegal as forming " Fixed Engine" under the terms of the above clause.

5. Declaring what waters are "Sanctuaries," "Trout Waters," "Reserved Waters" and "Protected Waters".

(1)[The Government] [In sections 2, 5(1), 5(2) and 17 for the words 'His Highness the Maharaja Bahadur' the words 'the Government' substituted by Act X of Svt. 1996.], may by a notification published in the Jammu and Kashmir Government Gazette in that behalf, from time to time, declare the localities situated within the areas, in which this Act is in force, which shall, for the purposes of this Act, be treated as "Sanctuaries", "Trout Waters," "Reserved Waters," and "Protected Waters" respectively, and may, from time to time, cancel or modify the same. Declaring that fishing be prohibited absolutely or subject to certain specified conditions. - (2) [The Government] [In sections 2, 5(1), 5(2) and 17 for the words 'His Highness the Maharaja Bahadur' the words 'the Government'

substituted by Act X of Svt. 1996.] may, by a notification published in the Jammu and Kashmir Government Gazette in that behalf, from time to time, declare that the capture of fish by any of the recognised modes of fishing, be prohibited absolutely or subject to certain specified conditions, within certain water or waters, or fix special fees for licences in any water or waters and may, from time to time, cancel or modify the same.(3)The following places are reserved for rod fishing only from April 15th to September 15th subject to the close seasons laid down under [Notification 7 (d)] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.]:-(a)The Sindh River at Ganderbal from half a mile below the old bridge to half a mile above the chenars on the left bank and including the "Island Pool", and also from 100 yards above Utkhuroo village to the chenar tree 300 yards below the village with the reservation that all fishing is strictly prohibited at Ganderbal within the limits of His Highness the Maharaja Sahib's camping ground.(b)The Dal Gate Pool and the Canal Gate Pool just above the Library, and the Pool at Badshahi Bagh.N.B. - Sportsmen holding Rs. 5 licence for reserved waters wishing to fish in the Dal Gate and Canal Gate Pool which lie within Municipal limits may be called upon to pay the extra Licence fee of Rs. 2 laid down by the Municipality for fishing within Municipal waters.(c)The bridges at Baramulla, Sopore, Sumbal (with the exception of the limits of the sacred temple of "Nand Kaeshar-Bharin", Bijbihara from 100 yards up stream to half a mile below the bridge and the Jhelum at Ningle from the mouth of the Wular lake to the boundary pillar.(d)The Vishau with its branches from its source to the bridge at Kaimoo.

6. Absolute prohibition against Ashing in "Sanctuary."

- Whoever is found fishing in any "Sanctuary" shall be liable to be punished with imprisonment of either description for a term which may extend to two months or with fine which may extend to Rs. 100 or with both.

7. Fishing in "Trout" "Reserved" or "Protected" Waters allowed only under a licence.

(a)Whoever is found fishing in any "Trout" "Reserved" or "Protected" water without having previously obtained a licence therefor, in conformity with the rules set forth in For [Notifications] [Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.];orUse of dynamite etc., prohibited in any "water". - (b) whoever uses dynamite or other explosive substance in water with intent thereby to catch or destroy any fish that may be there;orUse of poison, lime etc. prohibited in any "water". - (c) whoever puts any poison, lime or other noxious material, into any water with intent thereby to destroy or catch any fish ;orErection of "Fixed Engine" etc. prohibited in any water. - (d) whoever erect a "Fixed Engine" or Weir on the bank of, or in, any "water" for the purpose of capturing fish, or uses for the like purpose any instrument or net other than those allowed by [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.];Night fishing prohibited in any "Trout" or "Reserved"water. - (e) whoever is found fishing in any "Trout" or "Reserved" water in contravention of the provisions of [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.];orProhibition as to capture of English Trout. - (f) whoever, is found capturing English Trout in any form whatever,

except as provided for under [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.];or(ff)[whoever is found capturing or in possession of Mirror Carp below [five inches] [Clause (ff) inserted by Act IX of 1956.] in length save under a permit issued by the Director Fish Preservation;]orPossession of nets by a person other than a licence-holder prohibited. - (g) who, not being a licence-holder under the terms of this Act, is found in the possession of a net or nets for the illegal capture of fish;orAiding and abetting the commission of any of the above offences prohibited. - (h) whoever aids and abets the commission of any of the above offences ;orShikaries taking service not having a licence. - (i) who, being shikari, shall take service with sportsmen not being licensed under section 16(c) infra;orGeneral prohibition penalties. - (j) whoever in any way contravenes or attempts to contravene the provisions of this Act or the rules issued thereunder, for which no special punishment is provided, either in this Act or the rules aforesaid, shall be liable to be punished with imprisonment, either simple or rigorous, which may extend to one month or with fine which may extend to Rs. 50 or with both ; [Provided that in the case of an offence committed in trout waters the fine shall not be less than rupees ten.] [Proviso inserted by Act IX of 1959.] While, if a shikari, he shall also be liable to have his licence forfeited for one year or for such further period as may be considered necessary.Note. - Imprisonment for an offence committed in "Trout" or "Reserved" waters may be either simple or rigorous, but it shall only be "simple" in the case of an offence committed in "Protected Waters."Exception. - Notwithstanding anything in clause (a) supra [the Government] [Substituted by Act X of Svt. 2010 for 'His Highness the Maharaja'.] may exempt any specified individual or individuals from taking out licence for fishing in either "Trout" or "Reserved" or "Protected" waters.

8. Further Penalties.

- In addition to the punishment mentioned in section 6 and at the end of section 7 any fixed engine or other article used for the capture of fish in contravention of the provisions of this Act or the rules issued thereunder, as well as any fish thereby captured, shall be liable to be confiscated by the Government.

9. Penalty for continuing to commit an offence after having been warned to desist.

- Any person continuing to commit any of the offences mentioned in section 6 and 7, supra after he has been warned by any authority to desist, shall, in addition to the punishment awardable on first conviction, be liable to be punished with a fine which may extend to Rs. 10, for each and every day succeeding that on which he was so warned.[10. Enhanced punishment awardable on second conviction, etc. - (a) Any person convicted more than once under section 6 shall be punishable with imprisonment of either description for a period which may extend to six months or with fine which shall not be less than rupees twenty-five but which may extend to five hundred rupees or with both.(b)Any person convicted more than once of any of the offences mentioned in section 7 shall be punishable with imprisonment of description which may extend to four months or with fine which shall not be less than rupees twenty-five or both.]

11. Courts by which offences under this Act are triable.

- Offences punishable under this Act or the rules made thereunder shall be tried and inquired into by the State Courts in the ordinary way and in accordance with the Criminal Law of the State [x x] [Certain words omitted by A. L. O. 2008. (Svt.)],

11A. [Power to compound offences. [Section 11-A inserted by Act IX of Svt. 1999.]

(1)The Government may, from time to time, by notification in the Government Gazette, empower a gazetted officer by name or by virtue of his office,-(a)to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, a sum of money by way of composition for such offence, and(b)when any property liable to confiscation under this Act, has been seized, to release the same on payment of the value thereof as estimated by such officer or for special reasons to be recorded in writing, without such payment.(2)On payment of the composition money under clause (a) of sub-section (1), or the value of the property under clause (b) of sub-section (1), or both, as the case may be, the suspected person, if in custody, shall be discharged, the property, if seized, shall be released and no further proceedings shall be taken against such person or property.(3)The sum of money accepted by way of composition under clause (a) of sub-section (1) shall in no case exceed the amount of the maximum fee chargeable for the time being for a licence under this Act.] [Section 10 substituted by Act IX of 1959.](4)[Notwithstanding anything contained in section 12 the Director Fish Preservation may grant rewards to persons giving bona-fide information relating to commission of an offence which has been compounded under this section : provided that the amount of reward so granted shall not exceed the amount realized by way of composition.] [Sub-section (4) inserted by Act IX of 1959.]

12. Rewards.

- Any person or persons giving such bona-fide information as shall lead to a conviction under this Act (Fisheries) shall be entitled to a reward which may at the discretion of [the Judicial Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] trying the case extend to the full amount of the fine inflicted.(2)Watchers of the Game Preservation Department and Fisheries who shall give information under para (1) supra shall not be debarred from receiving the full reward.(3)The [Judicial Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] trying the case will have the power to grant the above rewards (1) and (2) supra on his authority without any reference to the Government.

13. Procedure against accused persons.

- [(1) When any person who, in the presence of an officer duly appointed in this behalf under the rules in force, commits or attempts to commit or has been accused of committing any offence under this Act, refuses, on demand by such officer to give his name and address, or gives his name or address which such officer has reason to believe to be false, he may be arrested by such officer. The

officer making such arrest may seize all fishing implements and other articles intended to be used in connection with the commission of such offences in possession of the person arrested and shall prepare a list of such article.] [Sub-section (1) substituted by Act XL of 1966.](2)When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before [a Judicial Magistrate,] [Substituted by Act XL of 1966 for 'Magistrate'.] if so required, provided that if such person is not resident in the State territories, the bond shall be secured by a surety or sureties resident in State territories.(3)Should the true name and residence of such person not be ascertained within 24 hours from the time of arrest, or should he fail to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction [xxx] [Note to section 13 repealed by Act XX of Svt. 1998.]

14. Application for licences how made.

- Subject to the restrictions of section 15 applications for the grant of a licence for fishing in "Trout" or "Reserved" or "Protected" waters will be made in accordance with the provisions laid down in [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.] of this Act, and to the officer authorized to receive such applications under the same. Each such application shall be accompanied by a deposit of a fee leviable in respect of each such licence, according to clause 3 of the aforesaid notification.

15. Grant of licence how made.

- On receipt of the application and the fee just mentioned, the officer referred to in the preceding section shall grant a licence in accordance with clause (4) of [Notification 8] [For Notification see Council Order No. 606-C of 1939 published in Government Gazette dated 15th Bhadon, 1996.].A licence thus granted will run for a period of one year, commencing from beginning of each [Financial year] [Substituted by Act IX of 1959 for 'Financial year'.], with the following exception, - At Tangrot, where the licence will run from the commencement of the season, viz., January 1st each year ; and, in the case of Trout waters, where the licence shall extend during the fishing season only which for the present will be from [15th March to 15th October.] [Substituted by IX of 1959 for 'April 1st to September 30th'.]

16. Special control of the Game Preservation Department in "Trout" "Reserved" and "Protected" waters.

(a)The grant of licences, the appointment and dismissal of watchers and matters of control, whether financial or executive, in "Trout" "Reserved" and "Protected" waters shall be under the Game Warden.(b)The State reserve to themselves the right to close any river or part of a river at any time for State purposes, or if the river or part of the river in question has been too heavily fished, or for any other reason. The Game Warden is further authorised under this section, to take immediate action if he is satisfied that it is necessary, reporting the steps taken to the Government; and in the event of a licence having been taken out for the period in question, the Game Warden is authorised

to refund the licence fees that have been paid.(c)The State reserve to themselves the right to refuse to issue any licence, or to cancel any licence, at any time, if circumstances render it necessary.(d)On all the Trout Waters, at Tangrot, and Ningle on the Jhelum no one shall take service as a regular shikari with sportsmen until he has been registered by the Game Warden, and granted a licence on the form prescribed. Employers of shikaris are advised to insist on the shikaris producing their registration forms, as these show any adverse entries which have been made against them.

17. Rules making power.

- [The Government] [In sections 2, 5(1), 5(2) and 17 for the words 'His Highness the Maharaja Bahadur' the words 'the Government' substituted by Act X of Svt. 1996.] may, from time to time, make rules with regard to all or any of the following matters, as may be deemed necessary, and may cancel or modify the same. Rules thus made or modified shall, unless otherwise directed, have effect immediately on their publication in the Jammu and Kashmir Government Gazette(a)the procedure to be observed in the matter of application for any grant of licences, the forms and local extent of such licences, and the maintenance of registers in connection with the issue of licences ;(b)the scale of fees for the different kinds of licences, their recovery and payment into the Treasury and the maintenance of register in connection with such recovery and payment into the Treasury ;(c)declaring the recognized modes of fishing ;(d)fixing the dimensions of meshes and rings in the different kinds of nets ;(e)prescribing the procedure according to which the local Revenue authorities, under the orders of the Deputy Commissioners, shall render assistance to the State Game Preservation Department in the matter of the control of "Trout, Reserved or Protected Waters" ;(f)prescribing the duties to be performed by the various officials to be appointed for the purpose of carrying out the objects of this Act;(g)generally, for the carrying out of the provisions of this Act.