

The Gujarat Fisheries Act, 2003

GUJARAT

India

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Act 8 of 2003

- Published on 12 March 2003
- Commenced on 12 March 2003
- [This is the version of this document from 12 March 2003.]
- [Note: The original publication document is not available and this content could not be verified.]

The Gujarat Fisheries Act, 2003 Gujarat Act No. 8 of 2003 (First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 12th March, 2003). An Act to provide for protection, conservation and development of fisheries in inland and territorial waters of the State of Gujarat and for regulation of fishing in the inland and territorial waters along the coast line of the State and for matters connected therewith or incidental thereto. It is hereby enacted the Fifty-fourth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Fisheries Act, 2003. (2) It extends to the whole of the State of Gujarat, including the territorial waters along the coastline of the State. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Adjudicating Officer" means such fishery officer not below the rank of Deputy Director of Fisheries, as the State Government may appoint for the purpose of section 17; (b) "biological specimen" means any living or dead organisms; (c) "Enforcement Officer" means such fishery officer as the State Government may appoint for the purpose of section 15; (d) "Exotic fish" means all species of fish of any country other than India; (e) "fish" means any aquatic animal and aquatic vegetation in all stages of their life span; (f) "Fishery officer" means an officer appointed by the State Government to be fishery officer for the purposes of this Act and includes an officer appointed to exercise the powers and perform functions of the Fishery officer; (g) "fishing vessel" means any type of fishing crafts whether or not

fitted with mechanical device for propulsion, which is engaged in fishing;(h)"fishing gear" means any net, cage, trap or other contrivance used for fishing;(i)"Licensing Officer" means such fishery officer, not below the rank of Superintendent of Fisheries, as the State Government may appoint for the purpose of section 10'(j)"mariculture" means the culture of fish on the margin of sea in territorial waters;(k)"Fishing Harbour" means the place such as port, harbour, wharf, pier, dock, jetty and landing place where landing or berthing facilities have been provided for fishing vessels and their adjoining areas set apart for repair yards, fuel and ice supply installations, auction hall, fish processing plant and within such limits as may be specified by the State Government from time to time;(l)"prescribed" means prescribed by rules made under this Act;(m)"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 fishing whether as owner, lessee or in any other capacity;Explanation. - Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishing therein;(n)"registered fishing vessel" means a fishing vessel registered under section 12;(o)"Registration Officer" means such fishery officer as the State Government may appoint for the purpose of section 12;(p)"specified area" means the area of specified inland water or the territorial water as the State Government may, by notification in the Official Gazette, specify;(q)"specified inland water" means such inland water as the State Government may, by notification in the Official Gazette, specify;(r)"territorial waters" in relations to the State of Gujarat means any part of the open sea adjoining the coast of the State within a distance of twelve nautical miles measured in accordance with sub-section (2) of section 3 of the Territorial Waters, Continental Shelf-Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976).

Chapter II

Protection of Fish

3. Prohibition against destruction of fish by explosive.

- No person shall use any dynamite or other explosive substance in any water with intent thereby to catch or destroy the fish therein.

4. Prohibition against destruction of fish by poisoning of water.

(1)No person shall put any poison, lime or noxious materials into any water with intent thereby to catch or destroy any fish therein.(2)The State Government may, by notification in the Official Gazette, suspend the operation of sub-section (1) in any specified area and may in the like manner modify or cancel any such notification.

5. Prohibition against introduction of exotic fish.

- No person shall introduce any exotic fish any water with intent thereby to destroy any fish therein.

6. Power to make rules to protect fish.

(1)The State Government may, by notification in the Official Gazette, make rules for any water other than private waters for all or any of the following matters, namely:-(a)Prohibiting or regulating:-(i)the erection or use of fishing gear,(ii)the construction of weirs, dam and bunds,(iii)the release of any industrial waste sewage or effluent to the inland waters which may be harmful to species of fish or the food of fish.(b)regulating the dimension and the kind of nets to be used and the mode of using them;(c)prohibiting all fishing in the specified waters for a period not exceeding two years;(d)prohibiting the use of any gun, spear, arrow or the like in any water, with intent thereby to make or destroy any of the fish therein;(e)prohibiting introduction of any kind of fish which may be harmful to species of fish, without obtaining prior permission;(f)regulating any fishery in inland waters;(g)to lease out public water resource for a specified period and to charge fees for such lease;(h)regulating the standard of sale of fish spawn, fry, fingerling and yearling;(i)prohibiting the fishing and marketing of the fish during closed season.Explanation. - For the purpose of this clause, the 'closed season' means such period as the State Government may, by notification in the Official Gazette, specify.(2)In making rules under this section, the State Government may provide for-(i)the seizure, forfeiture and removal of fishing gear erected or used in contravention of the rules,(ii)the forfeiture of any fish taken by means of any such fishing gear, and(iii)the forfeiture of fish taken or sold during the period specified in clause (i) of sub-section (1).(3)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 persons having for the time being any exclusive right of fishery therein.

Chapter III

Regulation of Fishing In Specified Area

7. Powers to regulate, restrict or prohibit certain fishing activities within specified area.

(1)The State Government may, having regard to the matters referred to in sub-section (2), by notification in the Official Gazette, regulate, restrict or prohibit in any specified area,-(a)the fishing by such class or classes of fishing vessels and for such period as may be specified in the notification;(b)the catching of such species of fish and for such period as may be specified in the notification,(c)the use of such fishing gears as may be specified in the notification,(d)the mariculture,(e)the collection of biological specimen, and(f)the number of fishing vessels which may be used for fishing.(2)In issuing a notification under sub-section (1), the State Government shall have regard to the following matters, namely:-(a)the need to protect the interest of different sections of persons engaged in fishing, particularly of those engaged in fishing by use of traditional fishing craft such as catamaran, country craft or canoes,(b)the need to conserve fish and to regulate fishing on scientific basis,(c)the need to maintain law and order in the sea and on shore, and(d)any other matter, that may be prescribed.

8. Prohibition of use of fishing vessels in contravention of notification issued under section 7.

- No owner or master of a fishing vessel shall use or cause or allow to be used, a fishing vessel for fishing in contravention of the notification issued under section 7; Provided that nothing in such notification shall be construed as preventing the passage of any fishing vessel from or to the shore through any specified area to or from any area other than specified area, for the purpose of fishing in such other area or for any other purpose: Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country crafts or canoe.

9. Prohibition of using fishing vessel which are not licensed.

- No fishing vessel which is not licensed under section 10 shall, after the date of commencement of this Act (hereinafter referred to as "the said date"), be used for fishing in any specified area: Provided that nothing in this section shall apply to any fishing vessel existing on the said date for a period of six months from the said date or such longer period as the State Government may, by notification in the Official Gazette, specify.

10. Licensing of fishing vessels.

(1) An owner of a fishing vessel may make an application to the Licensing Officer for the grant of a licence for using the fishing vessel for fishing in a specified area and for a specified period. (2) Every application under sub-section (1) shall be in such form, contain such particulars and accompanied by such fees, as may be prescribed. (3) The Licensing Officer may, after making such inquiry as he deems fit and having regard to the factors specified in sub-section (4), either grant or refuse to grant to the owner of the fishing vessel, the licence for fishing in the specified area mentioned in the licence: Provided that no licence shall be granted in respect of a fishing vessel which is not registered under section 12: Provided further that, no licence shall be refused in respect of a fishing vessel unless the owner of the fishing vessel is given a reasonable opportunity of being heard. (4) In granting or refusing licence under sub-section (3), the Licensing officer shall have regard to the following factors, namely:-(a) whether the fishing vessel is a registered fishing vessel, (b) The condition of the fishing vessel including accessories and fishing gear with which it is fitted, (c) any notification issued under section 7, (d) whether the specified period is mentioned in the application, and (e) any other factors that may be prescribed. (5) A licence under this section shall be granted in such form, on such terms and conditions and on payment of such fees, as may be prescribed. (6) A licence granted shall be valid for a period of three years from the date on which it is granted unless it is suspended or cancelled earlier and may be renewed from time to time for a period of three years on payment of such fees as may be prescribed.

11. Cancellation, suspension and amendment of License.

(1) If the Licensing Officer is satisfied either on a reference made to him in this behalf or otherwise, that-(a) a licence granted under section 10 has been obtained by misrepresentation as to an essential fact, or (b) the holder of a licence has, without reasonable cause, failed to comply with any of the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made or any notification issued thereunder, then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the Licensing Officer may, after giving the holder of the licence a reasonable opportunity of being heard, suspend or cancel the licence. (2) Subject to any rules that may be made in this behalf, the Licensing Officer may vary or amend a licence granted under section 10.

12. Registration of vessel.

(1) The owner of every vessel used or intended to be used for the purpose of fishing and kept in the State shall get his vessel registered under this section. (2) (a) Every application for registration of a vessel shall be made by the owner of such vessel to the Registration Officer in such form, containing such particulars and accompanied by such fees as may be prescribed. (b) the owner of such vessel shall state in the application the port or fisheries harbour from which he intends to operate his vessel. (3) An application for registration of a vessel under sub-section (2) shall-(a) in the case of a vessel existing on the date of the commencement of this Act, be made within three months from the said date, and (b) in the case of any other vessel, be made by the owner thereof within one month, from the date he becomes the owner thereof. (4) The Registration Officer may entertain an application made after the period specified in sub-section (3) if the applicant satisfies the Registration officer that he had sufficient cause for not making the application within the said period. (5) (a) The Registration Officer may, after making such inquiry as he deems fit, either grant or refuse to grant to the owner of vessels a certificate of registration. (b) The certificate of registration be in such form and on such terms and conditions as may be prescribed. (c) The Registration Officer shall specify in the certificate of registration, the port or fisheries harbour from which the owner of vessel is to operate his vessel. (d) The particulars of certificate of registration shall be entered in the register to be kept in such form as may be prescribed. (6) The certificate of registration granted under sub-section (5) shall be valid for a period of five years from the date on which it is issued, unless it is cancelled earlier, and may be renewed from time to time for a period of five years on payment of such fees as may be prescribed. (7) Every vessel registered under this section shall be assigned a registration mark by the Registration Officer which shall be displayed on the vessel in such manner as may be prescribed.

13. Permission for operating vessel for the area other than specified in certificate of registration.

- No owner of a vessel registered under section 12 shall operate his vessel from any port or fishery harbour other than that specified in the certificate of registration issued to him except with the previous permission of the Registration Officer. (2) (a) An owner of a registered fishing vessel, who

intends to operate his vessel from a port or fishery harbour other than the port or fishing harbour specified in the certificate of registration issued to him, may make an application for permission to so operate his vessel, stating in the application the name of the port or fishery harbour from which and the period for which he intends to operate his vessel.(b)On receipt of an application under clause (a), the Registration Officer may, by an order either grant or refuse to grant the permission.(c)The Registration Officer may, by an order, terminate the permission granted under clause (b) before the expiry of the period for which it was granted:Provided that the Registration Officer shall not refuse the permission under clause (b) or terminate permission under clause (c) unless the owner of the registered fishing vessel is given a reasonable opportunity of being heard.

14. Returns to be furnished by owner of registered fishing vessel.

(1)Every owner of a registered fishing vessel shall furnish to the Registration Officer returns of fishing in such forms, for such period, by such dates and in such manner, as may be prescribed.(2)The Registration Officer may inspect any registered fishing vessel at any time to verify whether the returns furnished under sub-section (1) are correct and complete.

15. Powers of Enforcement Officer.

- If the Enforcement Officer has reasons to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act, or of any rule or order made or any notification issued thereunder or of any condition of the license issued under section 10, then he may-(i)enter and search such vessel and impound such vessel and seize any fish found in it,(ii)keep the impounded fishing vessel in such place and in such manner as may be prescribed,(iii)dispose of the fish so seized and deposit the proceeds thereof in such manner as may be prescribed, and(iv)make a report of the contravention to the Court if the offence is punishable under clause (b), (c), (d) or (e) of sub-section (1) of section 21 and in other cases, to the Police officer in charge of a police station.

16. Finality of orders.

- Every decision of the Licensing Officer under section 10 for granting or refusing to grant a licence for a fishing vessel or under section 11 or suspending, cancelling, varying or amending such licence and every decision of the Registration Officer under section 12 for registering or canceling registration or under section 13 for granting or refusing to grant permission or terminating permission shall, subject to any appeal under section 17, be final.

Chapter IV

Appeals and Revision

17. Appeal.

(1)Any person aggrieved by the order of-(a)the Licensing Officer under section 10 refusing to grant a

licence for a fishing vessel or under section 11 suspending, canceling, varying or amending a licence granted for a fishing vessel, or(b)the Registering Officer under section 12 refusing to grant the registration of vessel or canceling the registration of vessel or under section 13 refusing permission to operate vessel at other port or fishing harbour or terminating such permission may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the Adjudicating Officer:Provided that the Adjudicating Officer may entertain an appeal after the expiry of the period of thirty days, if the appellant satisfies the Adjudicating Officer that he had sufficient cause for not preferring an appeal within such period.(2)On receipt of an appeal under sub-section (1), the Adjudicating Officer shall after giving the appellant a reasonable opportunity of being heard, pass such order in the appeal as he deems just and proper.

18. Application of sections 4 and 12 of Limitation Act, 1963.

- In computing the period laid down in section 17, the provisions of sections 4 and 12 of the Limitation Act, 1963 (36 of 1963) shall, so far as may be, apply.

19. Revision.

(1)Subject to rules that may be made in this behalf, the State Government may, of its own motion within two years or on an application by an aggrieved person made to it within' one year from the date of an order passed by an Adjudicating Officer in appeal under section 17, call for and examine the record of any such order and pass such order thereon as it thinks just and proper:Provided that no record of any proceeding of the Adjudicating Officer shall be called for-(i)in a case where an appeal lies under section 16 but no appeal has been filed, or(ii)in a case where appeal has been made under section 17 and such appeal is pending.(2)No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.

20. Bar of jurisdiction of civil courts.

- No civil court shall have jurisdiction to deal with or decide any question which the Fishery Officer, Licensing Officer, the Registration officer, the Adjudicating Officer or, as the case may be, the State Government is empowered to deal with or decide by or under this Act and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any provision of this Act.

Chapter V

Offences and Penalties

21. Offences and penalties.

(1)(a)Whoever contravenes the provisions of section 3, 4 or 5 shall, on conviction, be punished with

imprisonment for a term which may extend to six months or with fine not exceeding ten thousand rupees or with both.(b)Whoever uses any fishing vessel for fishing in contravention of section 8 shall, on conviction, be punished with fine not exceeding fifty thousand rupees.(c)Whoever uses any fishing vessel which is not licensed for fishing in any specified area in contravention of section 9 shall, on conviction, be punished with fine not exceeding fifty thousand rupees.(d)Whoever operates his fishing vessel from any port or fishery harbour other than that specified in the certificate of registration in contravention of subsection (1) of section 13 shall, on conviction, be punished with fine not exceeding twenty thousand rupees.(e)Any person who commits a breach of any of the provisions of the rules or the order made under this Act shall be punishable with fine which may extend to ten thousand rupees and when breach is continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of such breach.(2)When an offence under any of clauses (a) to (d) of sub-section (1) is a continuing one, the offender shall be punished with a daily fine not exceeding ten thousand rupees during the period of continuance of such offence.

22. Offences by Companies.

(1)Where an offence under this Act has been committed by a company, every person who at time the offence was committed was incharge of, and was responsible to the company for conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this section has been committed by a company and it is provided that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purpose of this section-(a)"company" means a body corporate and includes a firm or other association of individuals, and(b)"director" in relation to a firm means a partner in the firm.

23. Cognisance of offences.

(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence punishable under clause (a) of subsection (1) of section 21 or under any rule made under section 6 shall be cognisable.(2)No court shall take cognizance of any offence punishable under clause (b), (c), (d) or (e) of sub-section (1) of section 21 except on a report in writing made by the Enforcement Officer under section 15.

Chapter VI

Fisheries Terminal Authority

24. Constitution and composition of Fisheries Terminal Authority.

(1)The State Government may, by order, constitute Fisheries Terminal Authority (hereinafter referred to as "the Authority") for such area as may be specified in the order to develop, maintain, manage and administer the fisheries harbour, fish landing jetties including any wharf, pier, dock and other landing place and their adjoining areas set apart by the Authority for repair yards, fuel and ice supply installation, auction hall, fish processing plants, godowns and fish markets.(2)The Authority shall consist of the following members who shall be appointed by the State Government, namely:-

(i) Commissioner of Fisheries	Chairman
(ii) One representative from the GujaratMaritime Board	Member
(iii) One representative from Marine ProductsExport Development Authority	Member
(iv) One representative from the GujaratElectricity Board	Member
(v) One representative from the Gujarat WaterSupply and Sewage Board	Member
(vi) One representative from the GujaratFisheries Central Co-operative Association	Member
(vii) One representative from the National BankFor Agricultural and Rural Development	Member
(viii) One representative from the NationalCo-operative Development Corporation	Member
(ix) One representative from Fish ProcessorsAssociation	Member
(X) One representative from Boat OwnersAssociation	Member
(xi) One representative from Custom Department	Member
(xii) One representative from Fish Traders	Member
(xiii) One representative from Lead Bank	Member
(xiv) One representative from the concernedlocal Municipality	Member
(xv) Deputy Director of concerned region.	Member-Secretary

25. Functions of Authority.

(1)The Authority shall perform the following functions, namely(a)to develop, regulate and control the fisheries harbour terminals;(b)to acquire land and purchase of equipment and machinery for fisheries harbour terminals;(c)to provide safety measures for arrival and departure of the vessels and shore installations within the fisheries harbour terminals;(d)to arrange quick and hygienic handling and disposal of fish within the fisheries harbour terminals;(e)to keep the fisheries harbour area clean and free from pollution;(f)to perform such other functions as may be entrusted by State Government; and(g)to do such other functions as are necessary for efficient discharge of functions of the Authority.

26. Amount to be charged for providing services.

- The Authority may charge such amount as may be fixed by the State Government from time to time, for providing services at the fishing harbour.

Chapter VII Miscellaneous

27. Exemption.

(1) Nothing in this Act shall apply to any vessels belonging to the Central Government or any State Government or Corporation owned or controlled by the Central Government or the State Government which are being used for the purposes of survey and research. (2) Where the State Government is of the opinion that it is necessary so to do in the public interest, it may by notification in the Official Gazette, exempt subject to such conditions, such class or classes of fishing vessels used for fishing in any specified area and for such period as it may specify in the notification, from all or any of the provisions of this Act.

28. Members, officers and employees to be public servants.

- All officers and employees and the members shall, when acting or purporting to act in pursuance of the provisions of this Act or any rule made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

29. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any member of the Authority or any Officer or employee of the State Government for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act, or any rule or order made thereunder.

30. Power to make rules.

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the objects of this Act. (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for all or any of the following matters, namely:- (a) the protection of fish under section 6; (b) the form in which the application for grant of licence for fishing vessel shall be made and the particulars and the fees which shall accompany such application under sub-section (2) of section 10; (c) the form in which and the terms and conditions on which the licence for fishing vessel may be granted under sub-section (5) of section 10; (d) the rules subject to which the Licensing Officer may vary or amend the licence under sub-section (2) of section 11; (e) the form in which the application for registration of vessel shall be made and the particulars and the fees which shall accompany such application under sub-section (2) of section 12; (f) the form in which and

the terms and conditions on which certificate of registration shall be granted and the form in which the register for entering the particulars of such certificate shall be made under subsection (5) of section 12;(g)the manner in which the registration mark of vessel shall be displayed by the owner under sub-section (7) of section 12;(h)the form in which, the period within which, the date by which and the manner in which the owner shall furnish the return under sub-section (1) of section 14;(i)the place at which and the manner in which the impounded fishing vessel shall be kept by the Enforcement Officer under section 15;(j)the manner in which the fish so seized shall be disposed of by the Enforcement officer and to deposit the proceeds thereof under section 15;(k)the rules subject to which the State Government may call for and examine record of order passed by Adjudicating officer under sub-section (1) of section 19, and(l)any other matter which is to be or may be prescribed under this Act.(3)The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication:Provided that if the State Government is satisfied that the circumstances exist which render it necessary to make immediate action, it may dispense with the previous publication of any rule to be made under this section.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.(5)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

31. Repeal.

(1)The Indian Fisheries Act, 1897 (4 of 1897), in its application to the State of Gujarat is hereby repealed.(2)Notwithstanding repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under the said Act 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.