

# **THE BALOCHISTAN FISHERIES ORDINANCE, 1961**

**(W.P. Ordinance XXX of 1961)**

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FIRST SCHEDULE.

# <sup>1</sup>THE <sup>2</sup>[BALOCHISTAN<sup>3</sup>] FISHERIES ORDINANCE, 1961

(W.P. Ordinance XXX of 1961)

[13<sup>th</sup> December, 1961]

An Ordinance to amend and consolidate the law relating to fisheries in the Province of <sup>2</sup>[Balochistan].

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to fisheries in the Province of <sup>2</sup>[Balochistan];

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan, is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:—

Short title and extent.

1. (1) This Ordinance may be called the <sup>2</sup>[Balochistan] Fisheries Ordinance, 1961.

(2) It extends to the whole of the Province of <sup>2</sup>[Balochistan] except the <sup>4</sup>[Tribal Areas.]

Definitions.

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

(a) "Director of Fisheries" means the Director of Fisheries, <sup>2</sup>[Balochistan] and includes any person appointed by Government to discharge the functions of the Director of Fisheries under this Ordinance;

(b) "fish" includes shell-fish;

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

(d) "Government" means the Government of

<sup>1</sup> This Ord. was promulgated by the Governor of W.P. on 17<sup>th</sup> October, 1961; published in the W.P. Gazette (Extraordinary), dated 13<sup>th</sup> December, 1961, pages 2945-2952; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

<sup>2</sup> Subs. by Baln. A.O. of 1975, for "West Pakistan".

<sup>3</sup> Spelling of the word "Baluchistan", wherever it appears in this Ordinance, is corrected by insertion of letter "o" instead of "u", as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18<sup>th</sup> June, 1989.

<sup>4</sup> Subs. by W.P. A. Order, 1964, for "Special Areas".

<sup>5</sup>[Balochistan];

- (e) "licence" , "permit", "special licence" and "special permit" means, respectively, a licence, permit, special licence and special permit, issued under this Ordinance or any rule made thereunder;
- (f) "prescribed" means prescribed by rules made under this Ordinance;
- (g) "private water" means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery, 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 fishery therein;

- (h) "water" includes the sea within a distance of one marine league of the sea coast.

Appointment of  
Inspectors of  
Fisheries.

3. (1) Government may, by notification, appoint such persons as it thinks fit to be Inspectors of Fisheries for the purposes of this Ordinance within such local limits as may be specified.

(2) Inspectors of Fisheries shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

Powers of the  
director to  
lease out any  
water other  
than private  
water.

4. (1) The Director of Fisheries, or such other officer as he may empower in this behalf by general or special order in writing may, for a period not exceeding three years, lease out, on such conditions as may be prescribed, the right to catch fish in any water other than private water.

(2) Any amount due to Government under the provisions of sub-section (1), and remaining unpaid one month after it has become so due, may be recovered as arrears of land revenue.

Power of the lessee  
to issue permit.

5. (1) The person in whose favour a lease under section 4 is granted, may issue permits in such form, subject to such conditions and on payment of such fees, as may be prescribed, for the taking of fish in the water the right of fish wherein has

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<sup>5</sup> Subs. by Baln. A.O. of 1975, for "West Pakistan".

been leased to him.

(2) A permit issued under sub-section (1) shall cease to be valid upon the termination or cancellation of the lease in favour of the person issuing the permit.

Destruction of fish by explosive.	6. No person shall use any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein.
Destruction of fish by poisoning water.	7. No person shall put any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish that may be therein.
Fish that shall not be taken.	8. No person shall kill, capture, or possess any species of fish specified in the second column of the First Schedule, of a size less than that specified in the third column of the said Schedule against such species.
Net, fixed engine, trap, etc., shall not be employed without a permit or licence.	9. (1) No person shall use or employ for the capture of any species of fish specified in the First Schedule, in any water other than private water, any net, cage, trap or other contrivance for taking fish, or fixed engine, except during the period permitted in respect of such species under the fourth column of the said Schedule and under a licence or permit issued under this Ordinance.  (2) Licences under sub-section (1) shall be issued by such authorities, on payment of such fees and on such conditions as may be prescribed.
Duty to produce licence or permit on demand made by employees of Fisheries Department.	10. Every person in possession of any fishing licence or permit shall produce his licence or permit, as the case may be, on a demand made by the Inspector of Fisheries or any other person authorised in this behalf by the Director of Fisheries.
Power to declare any water to be a sanctuary for fish.	11. (1) Notwithstanding anything contained in this Ordinance, Government may, by notification, declare any water to be sanctuary for fish mentioned in the First Schedule for a period which may be specified, and during such period no person shall kill, capture or possess such fish without a special permit issued under this Ordinance by the Director of Fisheries.  (2) The water in respect of which a notification under this section is made shall be demarcated in such manner

as may be prescribed.

Duty of  
Lambardars,  
Village  
Watchman, etc.

12. Every Lambardar, Village Watchman, Canal Patwari, P.W.D. Darogha, Zilladar, Revenue Patwari, Tapedar, Supervising Tapedar and Qanungo shall be bound in the absence of reasonable excuse to give to an Inspector of Fisheries or any other person authorised in this behalf by the Director of Fisheries, information in respect of any unauthorised netting, killing or other offence under this Ordinance committed within the limit of his village or circle, as the case may be, as soon as the commission of such offence comes to his knowledge.

Powers of  
Magistrate to  
issue search  
warrant.

13. If a magistrate has reason to believe that an offence under this Ordinance has been, is being, or is likely to be committed, he may issue a warrant for the search of any place in which any fish, net, trap, cage or other contrivance for taking fish, or fixed engine is kept or concealed.

Power to search  
without  
warrant.

14. An Inspector of Fisheries may, without a warrant from a magistrate, search any person, vessel, rack, vehicle, ship, boat, raft, package, receptacle or covering so as to satisfy himself as to whether or not an offence under this Ordinance has been committed.

Arrest without  
warrant for  
offences under  
this Ordinance.

15. (1) An Inspector of Fisheries may without a warrant arrest any person committing in his view any offence under section 6, 7, 8, 9 or 11—

(a) if the name and address of such person are unknown to him; *and*

(b) if such person declines to give his name and address, or there is reason to doubt the accuracy of the name and address 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.

Power of seizure.

16. An Inspector of Fisheries, or any person authorised in this behalf by the Director of Fisheries, may take possession of any net, trap, cage or other contrivance for taking fish, or fixed

engine used or suspected to have been used in the commission of an offence under this Ordinance.

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| Penalties.   | 17. Whoever— <ul style="list-style-type: none"><li>(a) contravenes the provisions of section 6, 7 or 11 shall be punishable with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both;</li><li>(b) contravenes the provisions of section 8, 9, 10 or 12 shall be punished with fine which may extend to one hundred rupees.</li></ul> |
| Police assistance.   | 18. Every police officer shall upon request made by a person employed under this Ordinance assist him in the due discharge of his duties under this Ordinance.   |
| Persons who may lodge complaints.  | 19. No Court shall take cognizance of any offence under this Ordinance except on the complaint in writing of an Inspector of Fisheries.  |
| Confiscation of any net, trap, cage, etc.                                | 20. The Court may order the confiscation of any net, trap, cage or other contrivance for taking fish, or fixed engine employed in the commission of an offence under this Ordinance.   |
| Jurisdiction as respects offences within one marine league of sea coast. | 21. If an offence in respect of this Ordinance is committed within a distance of one marine league of the sea coast then such offence may be tried, punished and in all respects dealt with as if it had been committed on the land abutting such coast.   |
| Protection taken under this Ordinance.                                   | 22. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provisions of this Ordinance or the rules made thereunder.   |
| Power of Government to add or exclude from First Schedule.               | 23. Government may, by notification,— <ul style="list-style-type: none"><li>(i) add to or exclude from the First Schedule any species of fish subject to such conditions as it may impose in each case;</li><li>(ii) alter the period during which any fish specified in the First Schedule may be killed or captured.</li></ul>   |

- Power to compound certain offences. 24. (1) Government may, by notification, empower an Inspector of Fisheries,—
- (a) to accept from any person concerning whom evidence exists which if unrebutted would prove that he has committed any offence as described in the first column of the Second Schedule a sum of money by way of composition 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 discharged and no further proceedings shall be taken against him;
  - (b) when any property has been seized as liable to confiscation, to release the same 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 which may be accepted by way of composition under clause (a) of sub-section (1) for any offence shall in no case exceed the amount mentioned against such offence in the second column of the Second Schedule.
- Delegation of powers. 25. Government may, by notification, delegate all or any of the powers conferred upon it under the provisions of this Ordinance to any officer subordinate to it.
- Power to make rules. 26. (1) Government may make rules<sup>1</sup> for the purpose of carrying into effect the provisions of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing powers, such rules may prescribe—
- (a) the form in which, and the terms and conditions on which, a licence or a permit or a special licence or a special permit may be granted;
  - (b) the authority by which licences under this

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<sup>1</sup> For rules, *see* W.P. Gazette, Part I, dated 1<sup>st</sup> October, 1965, p. 1205.



Ordinance may be granted;

- (c) the fees to be charged for any licence or permit or special licence or special permit;
- (d) the conditions subject to which the Director of Fisheries may lease the right to catch fish under this Ordinance;
- (e) in the case of any species of fish, the number and sex that may be killed under a licence;
- (f) the rewards to persons who render help in detection of offences under this Ordinance;
- (g) the utilization of receipts recovered under this Ordinance;
- (h) prohibit or regulate all or any of the following matters:—
  - (i) the erection and use of fixed engines;
  - (ii) the construction of weirs; *and*
  - (iii) the dimension and kind of nets, cages, traps or other contrivances for taking fish to be used and the modes of using them.

(3) Such rules may provide that a breach thereof shall be punished with a fine not exceeding fifty rupees.

Repeal and savings. 27. (1) The following enactments are hereby repealed:—

- (a) The Punjab Fisheries Act, 1914<sup>1</sup>; and
- (b) The Bahawalpur States Fisheries Act, 1951.

(2) Notwithstanding the repeal of the enactments mentioned in sub-section (1), everything done and all action taken, obligation, liability, penalty or punishment incurred, inquiry or proceedings commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made and licence or order issued under any of the said enactments, shall,

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<sup>1</sup> That is Punjab Act II of 1914.

if not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Ordinance.

*(see Schedules on next page)*

FIRST SCHEDULE.

(SECTION 8)

[Species of fish and prohibitions]

Serial No.	Species of fish	Size	Period during which taking of the fish by any net, cage, trap or fixed engine is prohibited
1	2	3	4
		inches	
1.	Trout	9	10 <sup>th</sup> October to 9 <sup>th</sup> March.
2.	Mahashair	12	1 <sup>st</sup> June to 31 <sup>st</sup> August.
3.	Rahu	12	1 <sup>st</sup> June to 31 <sup>st</sup> August.
4.	Mori	12	1 <sup>st</sup> June to 31 <sup>st</sup> August.
5.	Thaila	12	1 <sup>st</sup> June to 13 <sup>th</sup> August.

SECOND SCHEDULE.

(SECTION 24)

Maximum amount acceptable by way of composition for certain offences

Serial No.	Description of offences	Maximum amount which may be accepted as composition
1.	Fishing with a net having a smaller mesh than tile prescribed mesh.	Twenty-five rupees.
2.	Fishing without a licence.	Twenty-five rupees.
3.	Killing fish or a size less than the prescribed size.	Twenty-five rupees.
4.	Fishing with any gear or method other than that permitted under the rules.	Twenty-five rupees.
5.	Using any one time more than two of either or any of the gears permitted under the rules.	Twenty-five rupees.

6. Licence holder employing or engaging non-  
licensees to help him with his nets while fishing. Twenty-five rupees.
  7. Offering or exposing for sale or barter any fish  
in contravention of the provisions of this  
Ordinance. Twenty-five rupees.
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