

Mizoram Fisheries Act, 2005

12 of 2005

[27 September 2005]

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SCHEDULE 1 :- SCHEDULE I

Mizoram Fisheries Act, 2005

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An ACT to provide for the protection, conservation and development of Fisheries in the State of Mizoram. Be it enacted by the State Legislative Assembly of Mizoram in the Fiftythird year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Mizoram Fisheries Act, 2002.
- (2) It shall extend to the whole of the State of Mizoram except the areas falling under the Autonomous District Councils set up under

the Sixth Schedule to the Constitution of India.

(3) It shall come into force on such date as the State Government, may by notification in the Official Gazette appoint and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless the context otherwise requires:-

- (a) "closed season" means such period as declared by the Government so that breeding and spawning or migration of fish are not hampered during that period and the fish is allowed to breed at least once in its life time;
- (b) "economic variety fish" means fishes having good growth, good market value and good acceptability by the consumers both in culture and capture fisheries;
- (c) "fish" includes finfish, shellfish and turtle in all stages of its life;
- (d) "Fishery Officer" means Director of Fisheries and includes any officer or class of officers empowered by the State Government to act as Fishery Officer;
- (e) "Fish Sanctuary" means water bodies or a portion of the water bodies where fish congregates for certain period of the year either for breeding, migration or any other purposes as may be notified by the Government;
- (f) "Fishery Warden" means any person or persons appointed by the Government to discharge duties and exercise power as Fishery Warden for protection and conservation of fishes from unlawful taking, catching and destruction;
- (g) "fixed engine" means any cage, net, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way;
- (h) "Government" means the State Government of Mizoram;
- (i) "Government Water Bodies" means rivers and its tributaries within the State of Mizoram, including all impoundment for the purpose of generating Hydro-electricity, Irrigation, Water Harvesting Dam or any impoundment, ponds, tank, natural lake, fish sanctuary and derelict impoundment which does not fall under private waters;
- (j) "Indigenous fishes" means the variety/species naturally available in the water bodies within the State;
- (k) "Official Gazette" means the Mizoram Gazette;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "Private Water" means any water-

- (i) which is the exclusive property of any private person, or
- (ii) in which any person has, for the time being, an exclusive right of fishery, whether as an owner, lessee, or in any other capacity;
- (iii) but does not include any river, canal, stream or any other piece of water which has direct linkage with any river, rivulet, canal or stream;

Explanation : Water shall not cease to be "private water" by means only of the fact that a person other than the owner thereof may have by custom a right of fishery therein;

(n) "Schedule" means schedule appended to this Act.

3. Control Over The Fisheries :-

The State Government shall have supreme control over the Government water bodies as defined in this Act, both in capture and culture sector in the State of Mizoram, to which this Act extends for the purposes of fisheries.

4. Appointment Of Fishery Warden & Constitution Of Fishery Conservation Board :-

(1) The Government may appoint such person or persons as it may deem fit and proper to discharge duties and to exercise power as the Fishery Warden.

(2) The Fishery Warden shall assist the Fishery Officers in the protection and conservation of fishes from unlawful taking, catching or destruction.

(3) The term of appointment of the Fishery Warden shall be as are provided in the rules made under this Act.

(4) Notwithstanding anything provided in sub-section (1), no police officer below the rank of Sub-Inspector of Police or the Fishery Extension Officer shall be appointed to be a Fishery Warden or to discharge duties and exercise powers as such under this Act.

(5) The Government may constitute Fishery Conservation Board at the State, District and Village level.

5. Closed Season And Fish Sanctuary :-

(1) The Government shall declare a certain period during each calendar year to be a closed season for economic variety of fishes as may be specified in the rules so as to allow such fishes to avail safe breeding against destruction or disturbance and during which no person shall catch or kill such fishes.

(2) Separate closed seasons may be declared for separate variety of fishes or for indigenous fishes.

(3) The Government shall declare certain portion of any Government water body as fish sanctuary and no person shall catch or kill fishes in any such fish sanctuary at any time of the year.

6. Prohibition Of Unauthorized Catching, Etc. :-

(1) No person shall, with intent to catch, take or dispose of any fish in any Government water body,-

(a) use gelatin or other explosive substances, in whatever form it may be;

(b) put any poison, lime or other noxious materials;

(c) fix any fixed engines or nets; or

(d) catch, take, net, angle or, appropriate except in accordance with the provisions of the rules made under this Act.

(2) Any person who violates any prohibitory order issued under sub-section(1) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand five hundred rupees or with both.

(3) Offences punishable under sub-section(2) shall be non-cognisable and bailable.

7. Prohibition Of Sale Etc. Of Fish Unlawfully Caught Or Unfit For Human Consumption :-

The Government may, by notification in the Official Gazette, -

(a) prohibit generally the offering or exposing for sale or barter of any fish which has been caught or procured unlawfully from any Government water body; or

(b) prohibit the offering or exposing for sale or barter of any fish the taking of which has been in contravention of sub-section(1) of section 6 of this Act in the opinion of the Fishery Officer or Fishery Warden, and of such other fishes whether from Government water body or private water which are unhealthy for human consumption.

8. Arrest Without Warrant For Offence Under The Act :-

(1) Any police officer not below the rank of Sub-Inspector of Police or any Fishery Officer or Fishery Warden may without warrant, arrest or cause to be arrested any person who has in his view, committed any offence punishable under section 6 or 7, as the case may be, if such person declines to give his correct name and

address or if there is reason to suspect the accuracy of the name and addresses, if given.

(2) A person arrested under this section may be detained until his name and address have been ascertained correctly or his identity have been established satisfactorily, subject to the provisions contained in sections 56-59 in particular and other related provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

9. Trial Of Cases :-

(1) No Court inferior to that of the Magistrate of the First 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 the offence made by a Fishery Officer or a Fishery Warden or a police officer not below the rank of Sub-Inspector of Police.

10. Compounding Of Offences :-

(1) Any offence specified in the schedule may be compounded by such officer or authority as may be empowered by the State Government in this behalf by acceptance of a sum not exceeding one hundred rupees.

(2) On composition of an offence, the accused shall be discharged and property seized from his possession shall be released.

11. Development Of Fisheries :-

(1) The Government may sanction grant-in-aid to fish farmers as per the provisions of rules made under this Act for development of fisheries.

(2) The Government may also set up such number of Fishery Demonstration Farms as it may deem fit for the encouragement of persons who are interested in the farming.

(3) The Government may culture and develop in the Fishery Demonstration Farms such economic variety of fishes and indigenous fishes as it may deem fit and proper, for supply to private persons interested in the management or development of fisheries or pisciculture.

12. Officers To Be Public Servants :-

All persons empowered to exercise power and discharge duties by or under this Act shall be deemed to be public servant within the

meaning of section 21 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

13. Protection Of Action Taken In Good Faith :-

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

14. Dues Under This Act A Public Demand :-

Any amount of money due to the Government under this Act or the rules made there under shall be recoverable as public demand under the Mizoram Public Demands Recovery Act, 2001.

15. Power To Make Rules :-

(1) The Government may make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) term of appointment of the Fishery Warden;

(b) erection and use of fixed engines;

(c) dimension, size of mesh and kind of nets or fishing hooks to be used and manner of using them and conditions under which they may be used;

(d) use of more than one method of taking fish at one time;

(e) prescription of the closed season for various economic variety of fishes and that of indigenous variety of fishes;

(f) such other matters as the Government may deem proper for the better protection, conservation and improvement of fisheries in the State or in any specified areas within the State.

(3) Every rule made under this Act shall be laid, as soon as it is made, before the Mizoram Legislative Assembly while it is in session for a total period of seven days which may comprise in one session or in two successive sessions and if, before the expiry of the session it is laid, the Mizoram Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly is of the opinion that the rule should not be made, the rule shall thereafter have effect in such modified form or be of no effect, as the case may be.

16. Repeal And Savings :-

On and from the commencement of this Act, the Lushai Hills District Fisheries Act, 1953 shall stand repealed.

Provided that notwithstanding such repeal, anything done or any action taken under the 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 under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

SCHEDULE 1

SCHEDULE I

Description of offences compoundable under section 10.

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 closed season.
3. Fishing or attempting to fish with any method other than the prescribed 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 of which is prohibited under section 7.