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**West Bengal Inland Fisheries (Amendment) Act, 2008****[17 April 2008]****CONTENTS**

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**West Bengal Inland Fisheries (Amendment) Act, 2008****[17 April 2008]**

An Act to amend the West Bengal Inland Fisheries Act, 1984. Whereas it is expedient to amend the West Bengal Inland Fisheries Act, 1984 (West Ben. Act XXV of 1984), for the purposes and in the manner hereinafter appearing; It is hereby enacted in the Fifty-ninth Year of the Republic of India, by the Legislature of West Bengal as follows: Footnotes: \* Published in the Kolkata Gazette, Extraordinary, Part III, dated 17.4.2008, vide Notification No. 603-L, dated 17th April, 2008.

**1. Short Title And Commencement :-**

(1) This Act may be called the West Bengal Inland Fisheries (Amendment) Act, 2008. (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**2. Amendment Of Section 2 Of West Ben. Act Xxv Of 1984 :-**

In section 2 of the West Bengal Inland Fisheries Act, 1984 (hereinafter referred to as the principal Act),-- (1) after clause (vi), the following clauses shall be inserted:- (via) "fishing boat" means a boat or canoe, whether or not fitted with mechanical means of propulsion, which is used or intended to be used for fishing and carrying or transporting fish within the specified area for profit, provided that nothing in this clause shall apply to a boat which is

used in any ferry service authorized by the State Government and carries fish owned by passengers on board; (vib) "fishery zone" means an area of any ward or wards falling within the jurisdiction of any Municipal Corporation or Municipality or an area comprised in any mouza or mouzas within the jurisdiction of any Panchayat Samiti, declared as such by issue of notification by the State Government, where prime activities of the people residing in such area are associated with production, preservation, conservation, marketing and transportation of fish and fish by-products. Explanation.-- For the purpose of this section, "Fish byproducts" mean the products prepared by drying, frying, freezing, deboning of raw fish and value addition in the stage of processing of fish including packaging thereof in the factories;1 (2) after clause (w7), the following clause shall be inserted:- (viiia) "hatchery" means a unit for production of seeds of various species of fish by induced or natural breeding under certain artificially controlled conditions;.

### **3. Amendment Of Section 3 :-**

In section 3 of the principal Act,- (1) in sub-section (1), the words "may by rules" shall be omitted; (2) after sub-section (1), the following, sub-sections shall be inserted: "(1A) No person shall use the kind of net or size of any mesh other than what have been specified in the notification. The competent authority may, if he has reason to believe that any fishing boat is being or has been used in contravention of the provisions of the notification specifying the dimension and kind of net or size of any mesh or any other fishing contrivance, enter and search such boat and seize the fish, net or nets or any other fishing contrivances found on it. (1B) The competent authority shall forfeit the fish, fishing net or nets or any other fishing contrivances so seized under sub-section (1A) and sell those in the manner as may be prescribed: Provided that in absence of any facility for the storage of fish seized under sub-section (1A), the competent authority may, if he is of opinion that the disposal of such fish is necessary, dispose of such fish by sale on the spot or bringing such fish to the nearest market and pay 50% of such sale proceeds to the person from whose boat the fish was seized and out of the balance 50% of the sale proceeds he will defray the cost associated with conducting such sale and deposit the balance amount, if any, with the State Government in the manner as may be prescribed."

### **4. Insertion Of New Section 3A :-**

After section 3 of the principal Act, the following section shall be

inserted:- "3A. Fishing activity in fishery zone:- (1) Fishing activities in any fishery zone shall be such as may be specified by the State Government, by notification. (2) The State Government may create such infrastructural facilities as may be necessary in any fishery zone in the interest of promotion of pisciculture, improvement or construction of roads, establishment of training centre and health care services, setting up of market complex and generation of employment for the fishermen community in particular and others in general."

#### **5. Amendment Of Section 5 :-**

Section 5 of the principal Act shall be renumbered as sub-section (1) of that section and- (1) in sub-section (1) as so re-numbered,- (a) for the words "six months", the words "one year" shall be substituted; (b) for the words "two thousand", the words "one lakh" shall be substituted; (2) after sub-section (1) as so renumbered, the following sub-section shall be inserted:- "(2) If any person in connection with preservation of fish uses any unhygienic substance or cooler or colour which may cause deterioration of the quality of fish for which image of the State Government is tarnished in the export market, the competent authority shall seize and confiscate such fish and unhygienic substance or cooler used for preservation and dispose of the same in the manner as may be prescribed. In addition to seizure and confiscation such person shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees, or with both."

#### **6. Amendment Of Section 6 :-**

In section 6 of the principal Act,- (1) after sub-section (1), the following sub-section shall be inserted:- "(1A) No person shall use any antibiotic substance, as may be prescribed, which may affect the health or life of fish or cause destruction of fish farm in any brackish-water farm in the State."; (2) for sub-section (2), the following sub-section shall be substituted:- "(2) Any person causing pollution of any flowing water or in any confined water area or use any antibiotic substance in any brackish-water fish farm in the State in contravention of provisions of subsection (1) or sub-section (1A) shall be directed by the State Government for the prevention of such pollution or such use of antibiotic substance within a specified time, failing which the State Government shall take such measures as it may think fit for the prevention of such pollution or such use of antibiotic substance and the entire cost in this behalf or

any part thereof shall be recovered from such person by invoking the provisions of Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913)". (3) for sub-section (3), the following sub-section shall be substituted:- "(3) Without prejudice to the provisions of the foregoing subsection any person causing pollution of any flowing water or in any confined water area or use any antibiotic substance in any brackish-water fish farm in the State may also be prosecuted and shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one lakh rupees, or both."

#### **7. Amendment Of Section 8 :-**

In section 8 of the principal Act,- (1) in sub-section (1), for the words "one months", the words "fifteen days" shall be substituted; (2) in sub-section (2), for the words "such tank", in the two places where they occur, the words "such tank or water area" shall be substituted; (3) in sub-section (3), for the words, "at such rate as may be determined by that authority in the manner prescribed", the words and figures "the rate of 25% of average crop value for the last three years per annum" shall be substituted; (4) for sub-section (6), the following sub-section shall be substituted:- "(6) In respect of any part vested tank, the competent authority shall resume the management and control of such tank and arrange to hand it over to any primary Fishermens Co-operative Society or any Fish Production Group on lease on such terms and conditions as may be specified by notification. Any person or persons having any interest in the form of share as per finally published record-of-rights of the Revisional Settlement operation last carried out, shall be entitled to receive rent from such tank at the rate of 25% of average crop, value for the last three years per annum according to his share on such tank. Explanation.-- For the purpose of this section, "Crop Value" means the quantum of fish by weight netted from any pond or tank on any single occasion."

#### **8. Amendment Of Section 17A :-**

In section 17A of the principal Act,- (1) in sub-section (1),- (i) in clause (a),- (a) the words and figures "measuring 5 cattahs or 0.035 hectare or more", in the two places where they occur, shall be omitted; (b) after the words "as may result in abolition of fishery", the words "within the jurisdiction of any Municipal Corporation or any Municipality" shall be inserted; (ii) in clause (b), after the words "water area", the words "in part or in full" shall be inserted; (iii) in clause (c),- (a) for the words "divide any water

area", the words "within the jurisdiction of any Municipal Corporation or any Municipality divide any water area" shall be substituted; (b) the words and figures "measure less than 5 cattahs or 0.035 hectare" shall be omitted, (c) to clause (c), the following proviso shall be added:- "Provided that the restrictions contained in clause (a) or clause (c) shall apply in respect of any area measuring 5 cattahs or 0.035 hectare or more falling within the jurisdiction of any Gram Panchayat"; (2) in sub-section (8), after the words "State Government", the words "or Central Government" shall be inserted; (3) to sub-section (9), the following provisos shall be added:- "Provided that any individual or a body of individuals or any organisation in the private sector may, for the purposes of this subsection, apply to the State Government in the Department of Fisheries for permission to fill up any water area after re-allocating or excavating a new water area of not less than equal dimension of the water area proposed to be filled up in the same locality alongwith a certificate of conversion of the water area so re-allocated or excavated issued by the appropriate authority: Provided further that the State Government may accord approval under this- sub-section in such manner as may be specified by notification"; (4) in clause (b) of sub-section (10), after the words, "recover the entire cost in this behalf or any part thereof from the such person", the words and figures "by invoking the provisions of the Bengal Public Demands Recovery Act, 1913 (Ben. ActIII of 1913)", shall be inserted, (5) in sub-section (11),- (a) for the words "two years", the words "three years" shall be substituted; (b) for the words "two lakh", the words "five lakh" shall be substituted.