

THE GUJARAT FISHERIES (AMENDMENT) BILL, 2020.

GUJARAT BILL NO. 21 OF 2020.

A BILL

further to amend the Gujarat Fisheries Act, 2003.

It is hereby enacted in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Fisheries (Amendment) Act, 2020.

Short title and commencement.

(2) It shall be deemed to have come into force on the 22nd June, 2020.

- Amendment of section 2 of Guj. 8 of 2003.** **2.** In the Gujarat Fisheries Act, 2003 (hereinafter referred to as “the principal Act”), in section 2, - **Guj. 8 of 2003.**
- (i) to clause (a), the following proviso shall be added, namely:-
“Provided that the District Magistrate shall be the Adjudicating Officer for the purpose of clause (c) of sub-section (1) of section 17;”;
- (ii) after clause (b), the following clause shall be inserted, namely:-
“(bb) “crossing of notional Indo-Pak International Maritime Boundary Line” means an act of fishing vessel entering any area in the “No Fishing Zone” as notified by the Ministry of Home Affairs on 4th May, 1993 which is situated within the territorial waters;”;
- (iii) for clause (c), the following clause and the proviso thereunder shall be substituted, namely:-
“(c) "Enforcement Officer" means such fishery officer or any Police Sub-Inspector or above, posted in the Marine Police Station as notified by the State Government under clause (s) of section 2 of the Code of Criminal Procedure, 1973 as the State Government may appoint for the purpose of section 15: **2 of 1974.**
Provided that the Sub-Divisional Magistrate of the concerned area shall be the Enforcement Officer for the purpose of clause (f) of sub-section (1) of section 21.”.
- Amendment of section 6 of Guj. 8 of 2003.** **3.** In the principal Act, in section 6, in the marginal note, after the words “to protect fish”, the words “and to ensure internal security” shall be added.
- Amendment of section 15 of Guj. 8 of 2003.** **4.** In the principal Act, in section 15, -
- (i) in clause (iii), the word “and” appearing at the end shall be deleted;
- (ii) in clause (iv), the words “and in other cases, to the Police officer in charge of a police station” shall be deleted;

(iii) after clause (iv), the following clauses shall be added, namely:-

- “(v) use such force for taking any action under clause (i) as may reasonably be necessary,
- (vi) where any vessel or other things are seized by the Enforcement Officer, the same may reasonably be necessary,
- (vii) provide to the seized vessel, the docking facility by the port notified for the purpose and charges towards docking, maintenance and other related costs of the seized vessel in the manner as may be prescribed, and
- (viii) produce the seized vessel or other things before a magistrate competent to try an offence under this Act as soon as possible and the magistrate may make such order therefor as he may deem fit.”.

5. In the principal Act, in section 17, in sub-section (1),-

- (1) in clause (a), the word “or” appearing at the end shall be deleted;
- (2) in clause (b), for the words “such permission” appearing at the end, the words “such permission, or” shall be substituted;
- (3) after clause (b), the following clause shall be inserted, namely:-

“(c) the Sub-Divisional Magistrate under clause (f) of sub-section (1) of section 21 imposing fine on the person entering the territorial water.”.

**Amendment
of section 17
of Guj. 8 of
2003.**

6. In the principal Act, in section 21, in sub-section (1), after clause (e), the following clause shall be added, namely:-

“(f) Whoever enters the territorial waters with the fishing vessel from outside the territorial waters of the State for the purpose of fishing or for any other allied purpose in contravention of any provision of this Act shall be punishable by the Sub-Divisional Magistrate of the concerned area

**Amendment
of section 21
of Guj. 8 of
2003.**

with fine of rupees one lakh and five times the value of the fish captured by such person.”.

**Amendment
of section 23
of Guj. 8 of
2003.**

7. In the principal Act, in section 23, for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence other than the offence punishable under clause (b), (c), (d) or (f) of sub-section (1) of section 21 shall be cognizable.”.

2 of 1974.

**Repeal
and
saving.**

8. (1) The Gujarat Fisheries (Amendment) Ordinance, 2020 is hereby repealed.

**Guj. Ord. 4
of 2020.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As everybody is aware, Gujarat State has the longest coastline in India and is a State having very strategic location in India. It is therefore, utmost necessity to guard the national boundary across the Gujarat Coast.

The State of Gujarat being strategically located in India has unique issues that require urgent attention. It is also necessary that the safety and well-being of the fishermen doing fishing operations along the Gujarat Coast should also be maintained. It is therefore, necessary to see that no unscrupulous persons enter or pass through the territorial waters of Gujarat State without proper registration. For the purpose, it is also necessary to check the fishing vessels as also their identity while they are undertaking fishing activities so that no anti-social or anti-national activities take place under the garb of fishing.

The Gujarat Fisheries Act, 2003 has been enacted and the Gujarat Fisheries Rules, 2003 have been made thereunder to provide for protection, conservation, development and regulation of fisheries in inland and territorial waters of the State of Gujarat and for matters connected therewith or incidental thereto. It is found necessary to amend the provisions of the said Act and the rules to provide for a mechanism to regulate and monitor the fishing vessels and the fishing activities by empowering the police to work in cooperation with the fisheries officers and the coast guards so that the security of the State is not jeopardized by anybody under the garb of the fishing activities in the territorial waters. Certain provisions of the said Act are therefore, amended.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the Gujarat Fisheries (Amendment) Ordinance, 2020 was promulgated to achieve the aforesaid objects.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

JAWAHAR CHAVDA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative power in the following respect:--

Clause 4.--- New clause (vii) in section 15 proposed to be inserted by this clause empowers the State Government to prescribe by rules, the manner in which the Enforcement Officer may provide to the seized vessel, the docking facility by the port notified for the purpose and charges towards docking, maintenance and other related costs of the seized vessel.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated the 16th September, 2020.

JAWAHAR CHAVDA.

ANNEXURE**EXTRACT FROM THE GUJARAT FISHERIES ACT, 2003.****(Guj. 8 of 2003)**

2. In this Act, unless the context otherwise requires,-**Definitions.**

(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) to (r) XXX XXX XXX

6. (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:-

Power to make rules to protect fish.

(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 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 take 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.

**Powers of
Enforcement
Officer.**

15. 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) and (ii) XXX XXX XXX

(iii) dispose of the fish so seized and deposit the proceeds there of in such manner as may be prescribed, and

(iv) make a report of the contravention to the Court if the offence is punishable under clauses (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.

17. (1) Any person aggrieved by the order of-

Appeal.

(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) XXX XXX XXX

21. (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.

**Offences
and
penalties.**

(b) Whoever use any fishing vessel for fishing in contravention of section 8 shall, on conviction, be punished with fine not exceeding fifty thousand rupees.

(c) Whoever use 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 operate his fishing vessel from any port or fishery harbour other than that specified in the certificate of registration in contravention of sub-section (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) XXX XXX XXX

**Cognisance
of offences.**

23. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable under clause (a) of sub-section (1) of section 21 or under any rule made under section 6 shall be cognisable.

2 of 1974.

(2) XXX XXX XXX

GUJARAT LEGISLATURE SECRETARIAT

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A BILL

further to amend the Gujarat Fisheries Act, 2003.

**[SHRI JAWAHAR CHAVDA,
MINISTER FOR FISHERIES]**

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D.M.PATEL,
Secretary,
Gujarat Legislative Assembly.