



The Private Fisheries Protection Act, 1889

Act 2 of 1889

Keyword(s):

Fish, Fixed Engine, Private Water, Navigable River

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

Bengal Act II of 1889

[THE PRIVATE FISHERIES PROTECTION ACT, 1889.]¹

SUPPLEMENTED

Act IV of 1897.

AMENDED

Ben. Act I of 1939.

West Ben. Act XXI of 1959.

[26th June, 1889.]

An Act for the protection of the right of fishing in private waters.

WHEREAS it is expedient to provide for the protection of private rights of fishery;

Preamble.

It is hereby enacted as follows:—

1. This Act may be called the Private Fisheries Protection Act, 1889.

Short title.

2. In this Act,—

Interpretation clause.
"fish".

"fish" includes shell-fish and turtles;

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

"fixed engine".

"private waters" means waters—

"private waters".

(a) which are the exclusive property of any person: or

(b) in which any person has an exclusive right of fishery,

* * * * *

²"navigable river" includes a river which is navigable only during certain periods of the year.

"navigable river".

3. Any person who—

Penalties.

(a) fishes in any private waters, not having a right to fish therein,

(b) erects, places, maintains or uses any fixed engine in private waters, or puts, ⁴[or causes to be put therein any matter or thing] for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs;

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees;

and for a subsequent offence with imprisonment which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1889, Pt. IV, page 6; for Report of Select Committee, see *ibid*, page 32; and for Proceedings in Council, see *ibid*, Supplement, pages 658, 714, 947 and 960.

LOCAL EXTENT.—Since this Act contains on local extent clause, it must be taken to extend to the whole of the former Province of Bengal.

²The words "and in which fish are not confined but have means of ingress or egress" were omitted by s. 2(1) of the Private Fisheries Protection (Amendment) Act, 1959 (West Ben. Act XXI of 1959).

³This definition was added by s. 2(2), *ibid*.

⁴Substituted for the words "or knowingly permits to be put therein any matter" by s. 3, *ibid*.

(Sections 4-6.)

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a *bona fide* claim or right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeiture of fixed engine.

4. (1) Any fixed engine erected, placed, maintained or used ¹[or any matter or thing put or caused to be put] in contravention of the last preceding section ²[may be forfeited to the State Government or otherwise disposed of], and any fish taken by means of such engine, or otherwise in contravention of this Act, ³[shall be sold and the sale proceeds shall be paid to the person to whom the right of fishery in the private waters belongs, under orders of the Court trying any offence for such contravention.]

Removal of fixed engine.

(2) And such fixed engine ⁴[matter or thing and any fish taken by means thereof] may be removed or taken possession of ⁵[by any Fishery Officer not below the rank of an Assistant Fishery Officer, or] by the Magistrate of the district, or such person as he empowers in this behalf.

Entry upon the land of another or upon private waters with intent to commit an offence.

5. Whoever ⁶[enters upon private waters or upon land in possession of any person abutting upon such waters] with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

Offences under this Act considered "cognizable offences".

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure, ⁷[1898.]

Act V of 1898.

¹Inserted by sec. 4(1)(i) of the Private Fisheries Protection (Amendment) Act, 1959 (West Ben. Act XXI of 1959).

²Inserted by s. (4)(1)(ii), *ibid.*

³Substituted for the words "shall be forfeited" by s. 4(1)(iii), *ibid.*

⁴Inserted by s. (4)(2)(i), *ibid.*

⁵Inserted by s. (4)(2)(ii), *ibid.*

⁶Substituted for the words "enters upon land in the possession of another or upon private waters" by s. 5, *ibid.*

⁷This figure was inserted by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).