

Aquatic Animal Protection Act, 2017(1960)

Date of Authentication Assent:

2017.8.29(13 December 1960)

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Amending Act

Date of Royal Assent and Publication

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| 1. Some Nepal Laws (Amending and Revalidating) Act, 2020 (1964) | 2020.11.16 (28 March 1964) |
| 2. The Administration of Justice, 2048(1991) | 2048.2.16 (30 May 1991) |
| 3. The Aquatic Animal Protection (First Amendment) Act, 2055(1997) | 2055.10.7 (20 February 1997) |

Act number 18 of the year 2017(1960)

An Act Made to Provide for Protection of Aquatic Animals and Other Matters Pertaining Thereto

Preamble: Whereas, it is expedient to make provisions on the protection of aquatic animals and other matters pertaining thereto in order to maintain peace and order as well as convenience and economic interests of the general public[^];

Now, therefore, be it enacted by the Parliament in the sixth year of reign of His Majesty King Mahendra Bir Bikram Shah Dev.

1. **Short title and commencement:** (1) This Act may be called as the "Aquatic Animal Protection Act, 2017 (1960)."

(2) This Act shall extend throughout Nepal.

[^] Amended by Some Nepal Laws (Amending and Revalidating) Act, 2020 (1964).

(3) This Act shall come into force immediately at once.

2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:

- (a)^① "water" means the water of a lake, *daha*, rill, stream, river, canal, pond, ditch, reservoir, artificial reservoir, wetland, craze installed for aquaculture and paddy field where aquaculture is done and includes their sources.
- (b) "aquatic animal" means any animal living in water.
- (c)^① "local authority" means the chief district officer of the district concerned.
- (c1)⁺ "technical officer" means an employee designated by Government of Nepal to carry out fishery development or fishery research or fishery publicity works.
- (c2)⁺ "fish ladder" means an alternative route made in the water for the movement of aquatic animals.
- (d) "private water" means a lake, pond, *daha*, *talau*, or reservoir in such land as is owned and possessed by an individual and the land revenue or land tax is being paid by that individual to His Majesty's Government.
- (e) "prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. **Restriction on methods of catching and killing aquatic animal:** No person shall knowingly ~~✕~~ ---- use any kind of electric current,^①

^① Amended by First Amendment.

⁺ Inserted by First Amendment.

~~✕~~ Deleted by First Amendment

explosive substance or poisonous substance with intention of catching and killing any aquatic animal in any water.

Provided that, nothing contained in this Section or hereunder shall prevent the owner of a private water from using any method whatsoever, except using poisonous substance, for catching or killing any aquatic animals in his/her private water in such manner as not to cause any loss to aquatic animals in any other water.

3A.⁺ Prohibition on closing or demolishing doors of fish ladder and

structure: No person, other than the authorized person, shall close or demolish the doors of a fish ladder, dyke and any other kind of structure placed in the water for the protection of any aquatic animals.

4. Powers of Government of Nepal to prohibit the catching, killing and wounding of certain kinds of aquatic animals:

Government of Nepal may, by an order published in the Nepal Gazette, prevent:

- (a) the intentional catching, killing and wounding of the aquatic animals of the species specified in that order by any person without obtaining license from Government of Nepal or the local authority, and
- (b) the intentional catching, killing and wounding by any person of any aquatic animals in any season specified in and of any aquatic animals as specified in that order.

Provided that, nothing contained in this Section and hereunder shall apply to the aquatic animals in the private water of any person.

5. Powers of Government of Nepal to prohibit the catching, killing and wounding of aquatic animals in some specific water:

Government of Nepal may, by an order published in the Nepal Gazette, prevent the

⁺ Inserted by First Amendment.

intentional catching, killing and wounding by any person of any aquatic animals in the water in such place as may be specified in that order without obtaining license from Government of Nepal or local authority; and Government of Nepal shall have exclusive rights over all the aquatic animals in the water of such place.

Provided that, Government of Nepal shall not issue such order in respect of the private water owned by any person.

5A. † Prohibition on using poison other than safe poison: Where any poisonous substance has to be used for the purpose of catching or killing any aquatic animals, no poison of any kind other than the safe poison shall be used for that purpose.

Explanation: For the purposes of this Section, "safe poison" means such chemical or herbs as recommended by the technical officer.

5B. † Other provisions relating to aquatic animals: (1) Anybody which builds a dyke for electricity, water supply, irrigation or any other purpose shall build a fish ladder to the extent possible so that the movement of aquatic animals is not affected. Where it is not possible to build such ladder, the body shall make an aquatic animal hatchery and aquatic animal nursery in such place or in an area in vicinity thereof for the purpose of having artificial breeding of aquatic animals.

(2) Prior information shall be given to the technical officer in doing construction works as referred to in Sub-section (1).

6. Rights of Citizen: Nothing contained in this Act shall be deemed to prevent any citizen from catching or killing aquatic animals in the other water, subject to Section 3, except in such season and place as prohibited by any orders issued under Sections 4 and 5.

† Inserted by First Amendment.

7. ^① **Provisions relating to contract:** (1) Government of Nepal may contract out the catching and killing of one or more kinds of the aquatic animals in any water whatsoever under its control.

(2) In awarding a contract for doing aquaculture or killing fishes in any water pursuant to the prevailing law, the local bodies shall make consultation with the technical officer.

(3) In awarding a contract as referred to in Sub-section (1) or (2), the standards of the tools used to catch or trap aquatic animals shall be as prescribed.

(4) The procedures for awarding a contract as referred to in sub-section (1) or (2) shall be as prescribed.

8. **Punishment:** ^①(1) A person who violates or abets to violate Section 3 or 3A. shall be punished, by order of the local authority, with a fine not exceeding Five Thousand Rupees, and compensation equal to the amount in controversy shall also be recovered according to the gravity of offense, in the event of any loss or damage caused from such violation. In doing valuation of the loss and damage, the technical officer shall be got involved.

(2) A person who violates or abets to violate any order issued under Section 4 or 5 shall be punished, by order of the local authority, with a fine not exceeding Two Thousand Rupees. ^①

(3) Without prejudice to the punishment mentioned in Sub-sections (1) and (2), a person who violates or abets to violate any matter contained in the Rules framed or order issued under this Act shall be punished, by

^① Amended by First Amendment.

order of the local authority, with a fine not exceeding One Thousand Rupees.^①

(4) All weapons, goods and articles which are held by person who is proved guilty of an offense under this Act and related with that offense shall also be confiscated by order of the local authority.

(5) If an offender fails to pay the amount of fine imposed under this Act, the same shall be recovered from the offender as a governmental due by taking action in that respect.

9. **Appeal:** A person who is not satisfied with an order of punishment issued by the local authority under Section 8 may make an appeal to the Court of Appeal[⚡] within Thirty Five days after the date of receipt of such order.

Provided that, if that person fails to furnish a deposit in a sum equal to the fine to which he/she is held liable or monetary guarantee equal to that sum, no appeal made by such person shall be entertained.

10. **Payment of money recovered for fine and entry of forfeited weapons, goods and articles to and into governmental fund:** It shall be the duty of the local authority to sell by auction the weapons, goods and articles confiscated under this Act, other than weapons and explosive and poisonous substance, and convert the proceeds into cash and pay such cash and the moneys recovered for fine under this Act to the local Land Revenue Office or Nepal Rastra Bank and deal with such weapons and explosive and poisonous substance in accordance with the prevailing Nepal law.

11. **Powers of local authority:** In trying cases under this Act, the local authority shall have such all of such powers including recording

^① Amended by First Amendment.

[⚡] Amended by the Administration of Justice Act, 2048 (1991).

depositions, examining witness and evidence and requiring submission of documents as the court of first instance has.

- 12. Power to make arrest and possession:** (1) If the local authority or employee deputed by him/her or any police employee sees or gets evidence that any person has committed, or caused to be committed, any act in contravention of this Act or the Rules or orders framed or issued under this Act, such authority or employee or police employee may arrest such person without warrant and also possess of the weapons, goods and articles used in the commission of such offense. The employee deputed by the local authority or the police employee shall hand over the person so arrested and the weapons, goods or articles so possessed to the local authority within Twenty Four hours excluding the time required for journey.

(2) After the hand over made pursuant to sub-section (1), the local in-charge shall take the required action within Twenty Four hours and auction the goods possessed if the goods are perishable in presence of the person arrested and deposit the proceeds thereof.

- 13. Prevalence of law in force:** Nothing contained in this Act shall be deemed to prevent the taking of action under the prevailing Nepal law where any loss or damage is caused to any person from the commission of any act prohibited by this Act and from the commission of an act by any person to whom any Section of this Act is not applicable.

- 14. Powers to frame Rules:** Government of Nepal may frame necessary Rules to implement the objectives of this Act.

- 15. Repeal:** (1) Number 25 of the Chapter on Public Order of the *Muluki Ain* (General Code) is, hereby, repealed.

(2) The Nepal law that is inconsistent with this Act and the Rules or orders framed or issued under this Act shall be deemed to have been

repealed to the extent of such inconsistency or amended to be in harmony therewith, as the case may be.

NEPAL LAW COMMISSION