

CHAPTER 38:04 FISH PROTECTION

ARRANGEMENT OF SECTIONS

SECTION

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Act 42, 1975.

An Act to provide for the more effectual regulation, control, protection and improvement of fish and fishing in Botswana.

[Date of Commencement: 31st December, 1975]

1. Short title

This Act may be cited as the Fish Protection Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**authorized officer**" means a person authorized by the Minister for the purposes of this Act;

"**fish**" includes all vertebrate fishes, and the spat, brood, fry, spawn, ova and young thereof.

3. Regulations

(1) The Minister may make regulations which shall apply to such areas as are specified therein, providing for the more effectual control, protection and improvement of fish, and the government and management of any specified area in which fishing may be carried on, and without prejudice to the generality of the foregoing for all or any part of the following purposes-

- (a) imposing and prescribing conditions for the regulation of fishing;
- (b) registering all boats employed in fishing;
- (c) determining the times and seasons at which the taking of any species of fish shall commence and cease;
- (d) the issuing of licences and certificates of registration to persons authorized to take any species of fish;

- (e) prescribing the fees to be paid for or in respect of any licence or registration issued or made;
- (f) providing for and regulating the description and form of nets to be used in fishing and the size of the meshes thereof, or the prohibiting of any special description of nets or meshes or any tackle, instrument or appliance whatsoever tending to impede the lawful taking of fish or being in any manner detrimental to the preservation or increase of fish;
- (g) prohibiting, restricting or regulating the bringing into Botswana of any live fish;
- (h) prohibiting, restricting or regulating the transfer within Botswana of any live fish;
- (i) prohibiting, restricting or regulating the sale of any fish.

(2) Regulations made under subsection (1) may require acts or things to be performed or done to the satisfaction of an authorized officer and may empower such officer to issue orders requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before such acts or things are to be performed or done.

(3) The Minister may, in regulations made under subsection (1), fix such penalties for the breach or non-observance of any regulation or any order issued under or by virtue of such regulation as he may think fit but no such penalty shall exceed, in the case of a first conviction, a fine of P200 and imprisonment for three months, and in the case of a second or subsequent conviction a fine of P500 and imprisonment for 12 months, and where no penalty is fixed the breach or non-observance of any regulation or order shall be punishable to the extent aforesaid.

4. Prohibition of use of explosive, poisonous or noxious substances

Any person who uses or permits to be used any explosive, poisonous or noxious substance for the purpose of killing, stunning or disabling fish or in any way rendering fish more easily caught shall be guilty of an offence and liable to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

5. Exemptions

The Minister may, in the interests of science or for any other reason that to him may seem fit, exempt in writing any person from the provisions of section 4 or of any regulations made under section 3.

6. Powers of entry, seizure and arrest

Any authorized officer or police officer not below the rank of assistant inspector may-

- (a) at all reasonable times enter into and upon any land or premises, or stop and enter upon any boat, for the purpose of preventing or detecting offences under this Act or any regulations made thereunder;
- (b) seize any-
 - (i) boat, explosive, poisonous or noxious substance, net, instrument, rod, line or any other appliance or article which he has reasonable cause to believe is

being or has been used in contravention of this Act or any regulation made thereunder; or

- (ii) fish which he has reasonable cause to believe was captured in contravention of this Act or any regulations made thereunder; or
- (c) without warrant, arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence under this Act or any regulations made thereunder.

7. Obstructing officers

Any person who wilfully obstructs, hinders, assaults or resists an authorized officer or a police officer in the exercise of his powers under this Act or any regulations made thereunder shall be guilty of an offence and liable to a fine not exceeding P500 or to imprisonment for a term not exceeding 12 months, or to both.

8. Disposal of articles after conviction

On the conviction of any person for an offence under this Act or any regulations made thereunder, the court before which such person was convicted may order any articles in respect of which the offence was committed, and any vehicle or vessel which, with the consent or connivance of the owner thereof, was used in the commission of the offence, to be forfeited, and to be destroyed, sold or otherwise disposed of.