



Latest
Laws.com

Helping Good People Do Good Things

Bare Acts & Rules

Free Downloadable Formats

Hello Good People !

GOVERNMENT OF KERALA

Law (Legislation I) Department

NOTIFICATION

No. 10696/Leg.II/2010/Law.

*Dated, Thiruvananthapuram, 8th September, 2010
17th Bhadra, 1932.*

In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Gazette of the following translation in English language of the Kerala Inland Fisheries and Aquaculture Act, 2010 (15 of 2010).

By order of the Governor,

*K. MADHUSUDANAN NAIR,
Special Secretary (Law).*

[Translation in English of “2010-ലെ കേരള ഉൾനാടൻ ഫിഷറീസും അക്വാകൾച്ചറും ആക്ട്” published under the authority of the Governor.]

ACT 15 OF 2010

THE KERALA INLAND FISHERIES AND AQUACULTURE ACT. 2010

An Act to codify and amend the laws relating to inland fishery sector and to provide for the sustainable development, management, conservation, propagation, protection, exploitation and utilisation of the inland fishery sector in the State and for promoting social fisheries and to regulate and control responsible aquaculture activities and to ensure protection of livelihood and traditional rights of fishermen and to ensure the availability of nutritious fish and food security to the people and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to codify and amend the laws relating to the inland fishery sector in the State and to provide for the sustainable development, management, conservation, propagation, protection, exploitation and utilisation of the inland fishery sector and to promote the social fisheries and to regulate and control responsible aquaculture activities and to ensure the safety of livelihood and to protect the traditional rights of the fishermen and to ensure the availability of nutritious fish and food security to the people and for matters connected therewith or incidental thereto;

BE it enacted in the sixty-first year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Inland Fisheries and Aquaculture Act, 2010.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

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

- (a) 'Appellate authority' means the Director of Fisheries;
- (b) 'Aquaculture' means growing any aquatic animals or plants by collecting and conserving them naturally or artificially in restricted circumstances in any private or public water body or in any aquatic environment and includes cage culture, pen culture, running water fish culture, ornamental fish farming, fish farming in reservoirs;
- (c) 'aquaculture area' means an area notified under sub-section (1) of section 4;
- (d) 'authorised officer' means in respect of the matter to which reference is made in the provisions of this Act in which the expression occurs means an officer of the Fisheries Department authorised by the Government by notification in the Gazette;
- (e) 'filtration' means the traditional fish farming by naturally or artificially trapping the fish seed that flow along with tide from sea or back waters or from other water body into large group of paddy fields or shallow water bodies and leaving them to grow and thereafter catching the grown-up fish;
- (t) 'fisherman' means any person engaged mainly in inland fishing activity for his livelihood and includes the wife of fisherman engaged in fish selling and the widow of a fisherman;
- (g) 'fish farmer' means the person doing farming of different varieties of aquatic animals and plants for his livelihood or to enable him to earn 1 economic gain at any stage of their life cycle;
- (h) 'fishing vessel' means any boat or vessel engaged in fishing or fish farming activities and includes vessel, country boat, canoe or any other device for travelling in water for fishing or fish farming activities;
- (i) 'fish' includes shell fish at any stage of their life cycle and all aquatic plants; '
- (j) 'fishing operation' means catching fish by using fishing vessel, fixed machine, free net or otherwise and includes stocking of shell fish, conchs and any type of filtration and culturing of them;

(k) 'fisheries' means any activity or occupation related with the conservation development, propagation, protection, exploitation, utilization of fish and fish products;

(l) 'fish harvest' means catching of fish from the aquaculture area by any manner;

(m) 'protected fish sanctuary' means any area notified as protected fish sanctuary under section 28 of this Act;

(n) 'fish seed' means infancy of any fish in any form at its life cycle;

(o) 'fixed machine' means any Chinese net or dip net or any other net or cage or fishing fence or anchor or tray or any other device fixed in the soil or immovably installed in any other way in land or in water for fishing;

(p) 'free net' means any net, cage, crab iron hook or other device other than a fixed machine used for fishing;

(q) 'hatchery' means the centre of producing fish seed;

(r) 'inland fishery' means any fishery of fresh water fish or brackish water fish or other fresh water-brackish water, cold water, estuary water, ornamental fishery, backwater resources having fishery related value and commonly conducted in any public or private water body;

(s) 'inland water body' means any private or public water body to be a transformable area utilising or utilisable for any fishery related activity within the State;

(t) 'local self Government institution' means a panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994);

(u) 'person' includes a company or firm or institution or co-operative society or any body of individuals;

(v) 'prescribed' means prescribed by rules made under this Act;

(w) 'private water body' means any water body or a transformable area which is the exclusive property of any person or persons or any other person have for the time being an exclusive right of fishery whether as an owner or lessee or in any other capacity;

(x) 'public water body' means any water body or transformable area including estuaries or backwaters or rivers or lakes, ponds or tanks or canals including irrigation canals or reservoirs or check dams or streams vested with the Government or Local Self Government Institutions under section 218 of the Kerala Municipality Act, 1994 or under section 208 (a) of the Kerala Panchayat Raj Act, 1994 or owned by Boards or any other Government-Quasi Government Institutions or organisations;

(y) 'transformable area' means any land or swamp that can be developed or converted into a public or private water body by transformation or renovation;

(z) 'State' means the State of Kerala.

CHAPTER II

DEVELOPMENT, PROPAGATION, CONSERVATION, MANAGEMENT

3. *Fishery and related activity in public water bodies.*—(1) The development and management of fishery activity or any other allied activity in public water body in inland sector shall be vested with the Government but this shall be subject to the rights vested with the Local Self Government Institutions or Water Resources Department under this Act or any other law for the time being in force.

(2) The responsibility of giving necessary technical advice to the Local Self Government Institutions in fishery related matters shall be vested with the officers of the Fisheries Department authorised by the Government in this behalf.

(3) Notwithstanding anything contained in any other law for the time being in force, any activity to transform public water bodies from their original state in a manner which would affect fishery activities prejudicially shall be undertaken after consultation with the Fisheries Department in the manner as may be prescribed.

4. *Notifying as aquaculture area.*—(1) The Government may,, for the aquaculture related development or for the public interest of aquaculture sector, by notification in the Gazette, declare any public water body or other suitable area as aquaculture area exclusively for aquaculture related activities:

Provided that the provisions under sub-section (1) shall not be applicable to the areas included in the coastal area as defined in the Coastal Aquaculture Authority Act, 2005 (Central Act 24 of 2005):

Provided further that for declaring water bodies or areas as aquaculture area under sub-section (1), decision shall be taken after consulting with the concerned Local Self Government Institutions.

(2) Government may make rules for the utilisation, restriction, regulation and control of the fisheries related activities in the aquaculture areas and also for the protection of such areas from being utilised for any other purpose other than that specified in sub-section (1).

5. *Restriction on fishing.*—(1) Subject to the provisions of this Act and the rules made thereunder, Government may, by notification in the Gazette, limit or restrict or prohibit catching of any species of fish in the manner and for the period as may be prescribed, in any area notified for this purpose.

(2) No person shall, except in accordance with the terms and conditions of a license granted by the authorised officer for the purpose as provided in Chapter IV of this Act catch any fish or any species of fish from any area notified under sub-section (1):

Provided that the power of granting license for fishing in the water body under the custody of Local Self Government Institutions shall be vested with the concerned Local Self Government Institution:

Provided further that necessary recommendation of the officer of the Fisheries Department as specified in sub-section (2) of section 3 is necessary for issuing license by the Local Self Government Institutions as provided in the first proviso.

6. *Conservation of fish in selected water bodies.*—(1) The Government may make rules for the purpose hereinafter mentioned in this section and may by notification in the Gazette, apply all or any of such rules to inland water bodies specified in the said notification:

Provided that decision relating to water bodies under the control of Local Self Government Institutions shall be taken in consultation with the Local self Government Institutions concerned.

(2) Government may prohibit fishing or the use of any fishing vessel or net in any public water body except under a license granted by the authorised officer for this purpose and in accordance with the terms and conditions specified therein.

(3) All or any of the following matters may be limited or restricted or prohibited either temporarily or permanently, by rules:—

- (a) the construction of weirs or barriers or artificial bunds or water blocks or fences;
- (b) the dimensions and .type of fishing devices used for fishing or for catching any species of fish as exclusively specified and the manner of using such devices and the mesh size of fishing nets;
- (c) the minimum size or weight below which no fish or any species of fish as specified shall be caught or stocked or sold;
- (d) the destruction or weakening of fish or fisheries by pollution or by retting of coconut husk or by industrial and domestic effluents in solid or liquid form or by chemicals or by spraying pesticides;
- (e) the collection of clam, mussel, oyster, shell and the transport of their meat or shell or both;
- (f) the filtration of fish and prawns in private water body;
- (g) the attraction of fish or to cause their migration to any water bodies either by the use of sluice openings, alluring lights or by any means and by any other contrivances or catching fish or preventing their escape by any means whatsoever;
- (h) destruction or converting in a manner which will endanger the existing ecological condition of any water body by any means;
- (i) propagation, rearing and marketing of fish species which is not indigenous;
- (j) which all devices or nets be used for fishing in estuaries or in the premises of protected fish sanctuaries;
- (k) catching and marketing fish having reproductive capacity from any public water bodies , using net or appliance;
- (l) disturbing the ecological condition which is connected with natural water bodies or wetland areas;
- (m) catching, stocking and marketing species of ornamental fish from public water bodies in the inland sector;
- (n) catching, stocking or marketing indigenous species of fish which are facing extinction;

(o) fishing in inland water bodies by using vessel fitted with motor or mechanised fishing boats or nets.

7. *Fishing and Destruction offish by using explosives or poisons or electricity.*—No person shall use explosive or poison or pass electricity in a way which may destroy the fish wealth in any water body or in aquaculture region:

Provided that this section shall not apply to the controlled use of poisons or other botanical substances during the preparation of farms for stocking fish seeds as part of aquaculture activities.

CHAPTER III

AQUACULTURE

8. *Restriction on aquaculture activities.*—(1) No person shall engage in aquaculture, filtration or conducting hatchery in inland water bodies except with a certificate of registration or licence obtained in accordance with the provisions of this Act or the Rules made thereunder.

(2) No other species of fish seed collected from the natural sources other than the species specified by the Government by notification shall be used for aquaculture.

(3) The Government may by Rules, limit, regulate or prohibit permanently or temporarily all or any of the following matters, namely:—

- (a) medicines, antibiotics, pesticides and pesticides for the use of aquaculture;
- (b) conducting intensive/highly intensive aquaculture causing harm to environment;
- (c) use of ecologically important areas such as mangrove areas or breeding centres of fish or nurseries for aquaculture;
- (d) integrated fish farming detrimental to the paddy cultivation without rotation of crops;
- (e) use of non-domestic fish and fish seeds for fish farming without subjecting them to quarantine proceedings and quality check;
- (f) fish farming without considering the carrying capacity of inland water sources indiscriminately.

9. *Certification of fish seeds*—(1) The Government may, by notification in the Gazette, entrust agencies to certify the standard of quality of fish seeds.

(2) The certification of fish seed and the entrustment of Agencies thereto, under sub-section (1) shall be in such manner as may be prescribed.

(3) The Government shall, by notification in the Gazette, constitute a fish seed committee to advise the Government on all matters relating to certification of fish seeds and to co-ordinate the activities of the agencies entrusted under sub-section (1).

(4) The Fish Seed Committee constituted under sub-section (3) shall consist of not exceeding five members who are technical experts in aquaculture/ fisheries sector to be nominated by the Government and the composition, the conditions of service and the salaries, the term of office and the duties, functions and powers of the Fish Seed Committee shall be in such manner as may be prescribed.

(5) The Government may on the recommendation of the said Committee, if it deems necessary to control the standard of quality of aquaculture seed of any item or variety may, by notification in the Gazette, declare such item or variety to be a notified item or variety for the purpose of this Act and various items and variety may be notified for various district or for its various areas thereof.

(6) The Government may, on the recommendation of the Fish Seed Committee, by notification in the Gazette, specify,—

(a) the minimum size, weight, purity and health condition with respect to any aquaculture seed of any notified item or variety;

(b) the symbol or label indicating that such aquaculture seeds conform to the minimum size, weight, purity and free from disease infection specified under clause (a) and the particulars that shall be contained in such symbol or label:

(7) No person shall carry on the business of selling or keeping for sale or make ready for sale or supply through barter or otherwise of any fish seed of any notified item or variety unless,—

(a) identifiable as to its item or variety;

(b) conforms to the size, weight, purity, health condition specified in clause (a) of sub-section (6);

(c) the container of such fish seed bears the symbol or label containing the correct particulars thereof as specified under clause (b) of sub-section (6) in prescribed form;

(d) in accordance with such other necessary factors as may be prescribed.

(8) The Government may, by notification in the Gazette, authorise such officers as it think necessary having the prescribed qualification, to inspect the fish seed and specify the local limits of jurisdiction within which they shall exercise their power.

10. *Powers of the authorised officer.*—(1) The officer authorised under sub-section (8) of section 9 may,—

(a) enter into any hatchery and fish farm to ensure the quality of the fish seed produced and to examine the condition of the available 'brood stock';

(b) take the sample of any fish seed of any notified species or variety from,—

(i) any hatchery or fish seed farm or any person selling or offering to sell such fish seed; or

(ii) any person who is in the course of conveying or is delivering or preparing to deliver such fish seed to a purchaser or consignee; or

(iii) a purchaser or consignee after the delivery of such fish seed to him;

(c) send such sample for analysis to the laboratory for the area, from which area such sample has been taken;

(d) enter and search at all reasonable time with such assistance, as he considers necessary, in any place in which he has sufficient reason to believe that any offence under this Act has been committed by a person and may order in writing, the person in possession of any seed in respect of which the offence has been or is being committed, not to dispose of any stock of such fish seed for a particular period not exceeding thirty days;

(e) examine any record or register or document or any other stolen property found out from any area mentioned in clause (d) and seize the same if he has reason to believe that the same may be given as evidence for the commission of an offence punishable under this Act: and

(f) break open the container containing the fish seed of any notified species or variety and collect such fish seed from hatchery, pond or fish farm where such fish seed is kept for sale:

Provided that the power to collect aquaculture seed from any hatchery or fish farm or pond shall be exercised only after the owner or the possessor of the hatchery, fish farm or pond, on being called upon to produce the aquaculture seed from the hatchery or fish farm or pond, hesitates being present in the premises thereof.

(2) Any person from whom the sample of fish seed of any notified item, or variety is taken under clause (b) of sub-section (1), shall be paid at the rate of the prevailing market value of such fish seed.

CHAPTER IV

REGISTRATION AND GRANT OF LICENCE

11. *Use of fishing vessel or free net or fixed gear without registration.*—(1) No person shall use or cause to use or permit any fishing vessel or free net or fixed gear for the purpose of fishing activities unless he has a certificate of registration obtained in accordance with the provisions of this Act and the Rules made thereunder.

(2) No person shall engage in aquaculture or filtration in inland water bodies except with a certificate of registration obtained in accordance with the provisions of this Act and the Rules made thereunder.

12. *Registration of fishing vessel, fixed gear, free net, aquaculture, hatchery, filtration, etc.*—(1) Subject to the provisions of this Act and the Rules made thereunder, any owner of a fishing vessel or fixed gear or free net and any person intending to engage in aquaculture, conduct of hatchery or filtration shall submit an application for registration to the authorised officer of the place under whose jurisdiction the fishing vessel or free net or fixed gear is to be used or aquaculture, conduct of hatchery or filtration is to be undertaken.

(2) Every application for registration shall be in such form, contain such particulars and accompanied by such fees as may be prescribed.

(3) Every application for registration of a fishing vessel or fixed gear or free net shall be submitted to the authorised officer before the expiry of three months from the date on which he becomes the owner or before the expiry of six months from the commencement of this Act, whichever is later:

Provided that the authorised officer may for sufficient reasons to be recorded in, writing and on realising such additional fees, as may be prescribed for this purpose, extend the time limit for registration as he deems fit for a period not exceeding three months.

(4) The authorised officer may, after making such enquiry as he deems fit, either grant or refuse to grant the registration.

(5) The authorised officer may refuse the grant of registration if he is satisfied, that,—

- (a) such registration shall be inconsistent with any law in force; or
- (b) fishing vessel or fixed gear or free net or aquaculture or filtration is defective or do not have the standard or quality as prescribed by Rules made under this Act; or
- (c) such registration shall adversely affect the public interest; or
- (d) the applicant has not furnished the particulars prescribed for such registration:

Provided that the reasons for such refusal shall be recorded by the authorised officer.

(6) A registration granted under this section shall be in such form as may be prescribed and subject to such provisions and conditions and the particulars thereof shall be entered in a register in such prescribed form, to be kept by the authorised officer.

(7) The authorised officer shall assign a symbol as may be prescribed as an identification symbol of registration which shall be displayed at a conspicuous place of the fishing vessel or fixed gear or free net or in the place of aquaculture or filtration, as the case may be.

(8) The registration once granted under this Act or the Rules made thereunder shall continue to be in force until it is suspended or cancelled by the authorised officer.

13. *Liability of filing returns.*—(1) Every person having a registration certificate except fishermen shall furnish to the authorised officer such returns as may be prescribed in such time and in such manner as may be prescribed.

(2) The authorised officer may inspect any fishing vessel or fixed gear or free net or aquaculture or filtration or any book of account or records connected therewith at any time to verify the accuracy of any return filed under sub-section (1).

14. *Transfer of ownership.*—(1) In the case, where the ownership of any fishing vessel or fixed gear or free net or aquaculture area or filtration area in the manner prescribed, is transferred, the transferor shall, within such time as may be prescribed, report such transfer to the authorised officer within whose jurisdiction the transfer is made and shall simultaneously send a copy of the said report to the transferee also.

(2) The transferee shall, within such time as may be prescribed, report the transfer to the authorised officer and shall along with such report forward the certificate of registration to that authorised officer together with such fees as may be prescribed and after its receipt, the authorised officer shall enter the particulars of such transfer of ownership in the certificate of registration and in the register kept in his office.

15. *Power to suspend or cancel registration.*—The authorised officer may, if he has sufficient reason to believe that the registration has been used in contravention of any of the provisions of this Act or of the Rules made thereunder, he may by order, suspend the registration for such period as he may think fit or cancel the registration:

Provided that no such order suspending or cancelling the registration shall be issued without giving the person affected an opportunity of being heard.

16. *Appeal against the orders refusing or suspending or cancelling registration.*—(1) Any person aggrieved by the order of an authorised officer refusing or suspending or cancelling registration may, within thirty days from the date of receipt of the said order prefer an appeal to the Appellate Authority.

(2) On receipt of an appeal under sub-section (1) the Appellate Authority shall, after conducting such enquiry as he deems fit and after giving the appellant and the authorised officer concerned an opportunity of being heard and pass such orders thereon as he deems fit.

17. *Grant of Licence.*—(1) No licence shall be granted by the authorised officer or the Local Self Government Institution for fishing or fisheries activities to any person or a non-fisherman unless he holds a certificate of registration under this Act:

Provided that, licence in respect of fishing vessel, stake net, Chinese dip net, free net shall not be granted to any person who is not a fisherman.

(2) Every application for a licence shall be in such form as may be prescribed and shall contain such particulars and also be accompanied by such fees.

(3) The manner in which, the period for which and the terms and conditions subject to which, any licence may be granted shall be such as may be prescribed.

(4) The licensee shall not conduct fishing or fishery activities in any area other than the area specified in the licence.

(5) No licence granted under this Act shall be transferable.

(6) The Government or any officer authorised by the Government in this behalf may, exempt any person or institution recognized by Government from taking licence under this Act either in the interest of scientific research or for any other reason.

18. *Renewal of licence.*—(1) Every licence granted under this Act may be renewed subject to the Rules made under this Act, and subject to such conditions, on payment of such fees as may be prescribed.

(2) Any licence not renewed within one month after the date of its expiry, may be renewed only on the payment of the additional fees as may be prescribed.

19. *Liability of the licensee to produce licence.*—Any person having licence under this Act shall be bound to produce such licence at any time for inspection on being required to do so by any authorised officer:

Provided that if the licence is granted by a Local Self Government Institution, the authority, to require to produce the licence and to inspect the same shall be vested only with that Local Self Government Institution or an officer authorised by it in this behalf.

20. *Cancellation or suspension of licence.*—Subject to the Rules made by the Government in this behalf, the authorized officer may,—

(a) if the licensee has used the licence in contravention of any of the provisions of this Act or the Rules made thereunder or any of the terms or conditions of licence; or

(b) if the licensee has been convicted of an offence under the provisions of this Act or the Rules made thereunder; or

(c) if a licence has been obtained by the licensee by misrepresentation or by the suppression of facts, cancel or suspend any such licence:

Provided that if the licence is granted by a Local Self Government Institution, the authority to cancel or suspend such licence shall be vested only with that Local Self Government Institution or an officer authorised by it in this behalf:

Provided further that no order, cancelling or suspending a licence shall be passed without giving the licensee an opportunity of being heard.

21. *Licence granted by other agencies before the commencement of this Act cease to exist.*—Except to the extent provided in sub-section (2) of section 46, any licence granted by any person, agency or society before the commencement of this Act for fishing activities or for fishery related activities shall cease to exist on the commencement of this Act.

22. *Duty of the Court regarding the cancellation of licence.*—If a licensee' under this Act has been convicted of an offence thereunder, the convicting court shall send a copy of its judgment together with the licence, if it is before the court, to the authorized officer empowered to cancel the licence under this Act, for taking such action as he may deem fit.

23. *Power of the Government to limit or restrict the number of fishing, vessels in public water body.*—The Government may, by notification in the. Gazette, limit or restrict or prohibit either temporarily or permanently the number and size of fishing vessels, fixed gear, free net and any other devices in use in any public water body.

24. *Power of the Government to restrict the entrance of special varieties of fish.*—The Government may, by notification in the Gazette, restrict, prohibit or regulate the entrance of any local or other extraordinary species of fishes having life or fish seeds which is suspected as likely to cause any damage to the existing fishery wealth or to cause any epidemic disease to the existing species of fishes or harmful to the environment.

25. *Appeal against the orders of refusal or suspension or cancellation of licence.*—(1) Any person aggrieved by an order of the authorised officer refusing or suspending or cancelling a licence may, within thirty days from the date on which the order is received by him, prefer an appeal to the appellate authority:

Provided that if such an order is passed by any one of the Local Self Government Institution, such appeal, shall be filed before the Appellate Tribunal constituted under section 271 S of the Kerala Panchayat Raj Act, 1994.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after conducting such enquiry as he deems fit and after giving the appellant a reasonable opportunity of being heard, pass such order thereon, as he deems fit.

26. *Powers of the Appellate authority in relation to the conducting of enquiry under this Act.*—(1) The appellate authority shall, while conducting an enquiry, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 15 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring to find out and to produce any document;
- (c) requisitioning any public record from any court or office;
- (d) receiving evidence on affidavits;
- (e) appointing commission for the examination of witnesses or documents.

(2) The appellate authority shall, while exercising any of the powers under this Act, be deemed to be a Civil Court for the purpose of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

27. *Revision.*—The Government, may either *suo motu* or on application made, as the case may be, by any person aggrieved by that order, within thirty days from date of receipt of the order of the Appellate Authority, call for the records of the order passed in appeal and pass such orders thereon as they may deem fit:

Provided that any order under this section shall be passed only after giving the person affected a reasonable opportunity of being heard in the matter.

CHAPTER V

PROTECTED FISH SANCTUARIES

28. *Declaration as Fish Sanctuary.*—(1) The State Government, on the basis of the recommendation of the Technical Committee appointed in this behalf may, by notification in the Gazette, declare any public water body to be a protected fish sanctuary if they consider that such an area is having fishery related or zoologically or naturally or ecologically sufficient importance in protecting and propagating fish or its environment:

Provided that if any water body under the possession of Local Self Government Institutions or Government or quasi Government Institutions, Boards or Organisations is situated in the said area, the Government shall, before making the declaration in such area consult the concerned Local Self Government Institutions or Government or quasi Government Institutions, Boards or Organisations.

(2) The recommendations of the Technical Committee under sub-section (1) shall be, made after obtaining the opinion of the stake holders in such manner as may be prescribed and according to the guidelines prescribed by the Government in this behalf

(3) Whenever any water body in such area is declared to be a protected fish sanctuary the authorized officer shall enquire into and decide as to the existence, nature and extent of the rights of any person in or over the area comprised within the limits of the fish sanctuary after verifying the revenue records.

(4) When a notification has been issued under sub-section (1), the authorised officer shall issue a proclamation describing the boundaries of the fish sanctuary in the regional language, in every town and village in- or in the neighbourhood of that area comprised therein.

(5) The authorized officer shall, after issuing notice to the concerned person in respect of any right of any person under sub-section (2) hold enquiry on the records submitted to him to the extent possible from the records of the Government and from the evidence given by any person knowing the matter.

29. *Powers of authorized officer for the purpose of enquiry.*—For the purpose of an enquiry under sub-section (5) of section 28, the authorised officer may exercise the following, powers, namely:—

(a) the power to enter in or upon any area and to survey and demarcate the same and to make a map of the same or to authorise any other officer to do the same;

(b) the same powers as are vested in a Civil Court for the trial of suits.

30. *Restriction on entry in fish sanctuary.*—(1) No person other than,—

(a) a public servant on duty;

(b) a person who has been permitted by the authorised officer to reside within the limits of the protected fish sanctuary ;

(c) a person who has any right over the immovable property within the limits of the protected fish sanctuary;

(d) a person passing through a public path within the protected fish sanctuary;

(e) the dependents of the persons referred to in clauses (b) and (c), shall enter or reside in a protected fish sanctuary except with a permit granted under section 30 and in accordance with the conditions therein.

(2) Any person shall, so long as he resides in the protected fish sanctuary, be bound,—

(a) to prevent the commission of an offence against this Act in the protected fish sanctuary;

(b) to help to find out and to arrest the offender where there is sufficient reason to believe that any such offence against this Act has been committed in such sanctuary;

(c) to report the death of any fish and to prevent pollution or damage of such sanctuary;

(d) to assist any authorised officer or any other officer of the Fisheries Department or Police Officer demanding his help for preventing the commission of any offence or in the investigation of any such offence against this Act.

(3) No person shall, with or without any vehicle enter in a protected fish sanctuary with any fishing vessel or free net or weapon or other devices for fishing except with the previous written permission of the authorized officer.

31. *Prohibition on the use of injurious substances.*—No person shall use in a protected fish sanctuary chemicals, explosives or any other substances which may cause destruction or endanger the fish or fishery in a fish sanctuary.

32. *Grant of permit.*—(I) The authorised officer may, on application, grant permit to any person to enter or reside in a fish sanctuary for all or any of the following purposes, namely:—

(a) enquiry and study relating to fish and fishery and for the purposes ancillary or incidental thereto;

(b) taking photographs;

(c) scientific research;

(d) tourism;

(e) lawful transactions with any person residing in the sanctuary.

(2) The permit to enter or reside in a fish sanctuary shall be granted subject to such conditions and on the payment of such fees as may be prescribed.

(3) The authorised officer may, for good and sufficient reason recorded in writing, cancel the permit granted under sub-section (1):

Provided that such cancellation shall be made only after giving the holder of the permit a reasonable opportunity of being heard.

(4) Any person aggrieved by the cancellation of a permit under sub-section (3) may, within fifteen days from the date of receipt of the order of such cancellation, appeal to the Appellate Authority whose decision thereon shall be final.

33. *Management and preservation of the protected fish sanctuary.*—(1) The Director of Fisheries or any other officer authorized by him, not below the rank of an Assistant Director of Fisheries, shall be the officer to manage and preserve the protected fish sanctuaries.

(2) A Fisheries Preservation Scheme shall be prepared by a Technical Committee appointed by the Government for the purpose and the Government shall notify the same.

(3) The Technical Committee appointed under sub-section (2) shall consist of the following members and the functioning of the Technical Committee shall be such as may be prescribed,—

1. Director of Fisheries;
2. one biologist;
3. one environment scientist;
4. one social scientist;
5. one expert in management;
6. one hydrologist;
7. one representative of the State Bio-Diversity Board;
8. Executive Director, Agency for Development of Aquaculture (ADAK).

The Director of Fisheries shall be the Chairman of the Technical Committee and the Executive Director, ADAK shall be the Convener.

(4) The Fisheries Preservation Scheme prepared under sub-section (2) may provide for all or any of the following matters, namely:—

(i) over and above the protection of the bio-diversity of living beings including different species of fish, the protection procedure of separately directed local fish species which are facing racial extinction and their ecosystem;

(ii) the harmonisation among the protection of livelihood of fishermen and the fish sanctuary;

(iii) to prescribe the bearing capacity of fish in water body adjacent to the protected fish sanctuary and to fix the number of fishing vessels and nets to be used in accordance with it;

(iv) as to any other matter to be provided for in the scheme or as to the matters required or needed for the implementation of the scheme.

CHAPTER VI

SEIZURE, ARREST, PENALTIES AND COMPOUNDING

34. *Fish to be Government property.*—(1) Any fish caught or collected or harvested or cultured or harvested through filtration in contravention of any of the provisions of this Act or any Rules or Orders made thereunder, whether living or dead shall be deemed to be the property of the Government.

(2) No person shall, without the written permission of the authorised officer, acquire or receive or keep in his possession or custody or control or transfer to any person or destroy or damage the property mentioned in sub- section (1).

(3) Any person, who obtained the possession of such property by any means shall, within twenty four hours after obtaining such possession, give a report to the nearest police station or to the authorised officer and shall, hand over such property to the officer-in-charge of such police station or such authorised officer, as the case may be, if so required by him.

35. *Power to seize or arrest.*—(1) Notwithstanding anything contained in any other law for the time being in force, if the Director of Fisheries or the authorised officer has sufficient reason to believe that any person has committed an offence in contravention of this Act or the rules made thereunder may,—

(a) require any such person to produce for inspection any fish caught by him or shell or meat collected or any other fishery product under his custody or control or possession or any "licence or permit or certificate of registration or other documents granted or obtained,by him under this Act;

33/3576/2010/DTP

(b) stop any vehicle or fishing vessel or boat in order to conduct search or enquiry and enter upon and search any premises or land or vehicle or fishing vessel or boat in the possession of such person and open and search any baggage or net or any other thing in his possession; or

(c) seize any fish or shell or meat or any other fishery product in the possession of such person together with any free net or fishing vessel or any other device or vehicle or weapon used for the commission of any such offence and may also arrest him without warrant.

(2) Any officer referred to in sub-section (1), if he is not the Director of Fisheries or authorised officer, who seized any free net or fishing vessel or any other device or vehicle or weapon under clause (c) of sub-section (1), shall produce the same before the authorised officer and the authorised officer shall release the same on the execution of a bond by the owner, for producing the released property as and when required.

(3) Any officer referred to in sub-section (1) may stop any person, whom he has found engaged in any act for which a licence or permit is required under the provisions of this Act, and require such person to produce the licence or permit and if he fails to produce the same the officer may arrest him without warrant.

(4) Any person arrested under any of the foregoing sub-sections shall be produced before the Magistrate within a reasonable time excluding the time necessary for journey, from the place of arrest to the Magistrate but not exceeding twenty-four hours for lawful dealing.

(5) If any fish or shell or meat is seized under the provisions of this Act, any Officer of the Fisheries Department not below the rank of an Assistant Director shall arrange for the sale of the same and deal with the proceeds of such sale in such manner as may be prescribed.

(6) If it is proved that the fish or shell or meat seized under the provisions of this Act is not the property of the Government, the proceeds from the same shall be returned to the owner.

(7) If any officer referred to in sub-section (1) requires the assistance of any person for preventing or for finding out an offence against this Act or the rules made thereunder or for apprehending a person who is alleged to have violated the Act or the rules made thereunder or for a seizure in accordance with clause (b) of sub-section (1), it shall be the duty of such person to render such assistance.

36. *Penalties.*—(1) Any person who contravenes any prohibition or restriction or regulation imposed by any of the provisions of this Act or the rules made thereunder or contravenes any of the terms or conditions of any licence or permit granted to him under this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both:

Provided that in the case of a second or subsequent offence, he shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

(2) Whoever, in contravention of any of the conditions or provisions in the licence or permit obtained by him under any provision of this Act or the rules made thereunder,— *

(a) uses fishing vessel, Chinese dip-net and stake net shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both:

Provided that in the case of a second or subsequent offence he shall be punished with fine which may extend to fifteen thousand rupees or with imprisonment for a term which may extend to six months or with both;

(b) uses a free net shall be punished with fine which may extend to five thousand rupees:

Provided that in the case of a second or subsequent offence, he shall be punished with fine up to ten thousand rupees;

(c) conducts aquaculture or filtration or hatchery shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both:

Provided that in the case of a second or subsequent offence he shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

37. *Presumption as to the commission of an offence.*—Where any person is found carrying any fish recently caught or killed, together with any fishing devices capable of the fish being caught, captured or killed, it shall be presumed that he had caught or killed such fish with such device and has committed an offence until the contrary is proved.

38. *Attempt and Abetment.*—Whoever attempts to contravene or abets the contravention of any prohibition or restriction or regulation imposed by any of the provisions of this Act or any rules made or any notification issued thereunder, shall be deemed to have contravened those provisions.

39. *Power to compound offences.*—(1) The Government may, by notification in the Gazette, empower any officer of the Fisheries Department not below the rank of Assistant Director of Fisheries,—

(a) to accept the payment of an amount for compounding an offence from any person who is suspected to have committed an offence under this Act; and

(b) to release any property which has been seized and liable to be forfeited, on payment of the cost thereof.

(2) The officer compounding an offence may, if he thinks fit, order the cancellation of any licence or permit granted under this Act to the accused after giving him an opportunity of being heard.

(3) The amount accepted or agreed to accept for compounding shall not on any ground exceed ten thousand rupees.

40. *Cognizance of offences.*—No court shall take cognizance of any offence contrary to this Act or the rules made thereunder except on a written complaint made by the authorised officer.

CHAPTER VII

FISHERIES MANAGEMENT ADVISORY COMMITTEES

41. *Inland Fisheries Management Advisory Committees.*—(1) The State Government may, by notification in the Gazette, constitute a State Fisheries Management Advisory Committee at the State level and District Fisheries Management Advisory Committees at the District level for the purpose of ensuring the sustainable development, protection and preservation of the fisheries sector, for responsible implementation of aquaculture development and the protection of livelihood of fishermen.

(2) The State Fisheries Management Advisory Committee shall consist of the following members, namely:—

(a) Minister for Fisheries;

(b) three members of the Legislative Assembly of whom one shall be a woman;

- (c) Secretary, Fisheries;
- (d) five members who shall be technical experts or scientists in the fishery sector;
- (e) five trade union representatives from the fishery sector;
- (f) two fish farmer representatives;
- (g) two representatives of Local Self Government Institutions;
- (h) Director of Panchayats;
- (i) Executive Director, Agency for Development of Aquaculture;
- (j) Managing Director, Kerala State Co-operative Federation for Fisheries Development;
- (k) Chief Engineer, Water Resources Department;
- © Director, State Bio-diversity Board;
- (m) Chairman/Member Secretary, State Pollution Control Board;
- (n) Director of Fisheries.

(3) In the State Fisheries Management Advisory Committee constituted under sub-section (1), the representatives of the members of Legislative Assembly and the Local Self Government Institutions and non-official members shall be nominated by the Government and the Minister-in-charge of Fisheries Department shall be the Chairman and the Director of Fisheries shall be the Convener of the Committee.

(4) The term of office of the committee members, meeting procedure of the Committee, sitting fee, travelling allowance etc. of the nominated members, shall be such as may be prescribed.

(5) The constitution of the District Level Fisheries Management Advisory Committees shall be as follows, namely:—

- (a) President, District Panchayat;
- (b) District Collector;
- (c) three members who shall be technical experts/scientists in the fishery sector;
- (d) District Manager, MATSYAFED;
- (e) ten trade union representatives from the fishery sector;
- (f) two fish farmer representatives;

- (g) Deputy Director, Panchayat;
- (h) Executive Engineer, Water Resources Department;
- (i) District level officer of the State Pollution Control Board;
- (j) District Fisheries Officer.

(6) District Panchayat President shall be the Chairman and the District Fisheries Officer shall be the Convenor of the District Level Committee and members except ex-officio members shall be nominated by the Government.

(7) The term of office of the committee members, meeting procedure of the Committee, sitting fee, travelling allowance etc. of the nominated members, shall be such as may be prescribed.

Chapter VIII

MISCELLANEOUS

42. *Recovery of sum due to Government or Local Self Government Institution.*—Any sum due to Government or Local Self Government Institution under this Act or the rules made thereunder shall, without prejudice to any other mode of recovery, be recoverable as if it were an arrear of public revenue due on land.

43. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or purported to be done in pursuance of any provisions of this Act or rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government or any officer or authority for any loss caused or likely to be caused by any act which is in good faith done or purported to be done in pursuance of this Act or any rules made thereunder.

44. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid

or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. *Removal of difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act,, the Government may by order, make such provisions not inconsistent with the provisions of this Act, which appears to them to be necessary or expedient for the purpose of removing such difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) All orders made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly.

46. *Repeal and saving.*—(1) The Indian Fisheries Act, 1897 (Central Act 4 of 1897) existing in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), shall cease to operate to the said area and the Travancore-Cochin Fisheries Act, 1950 (34 of 1950) is hereby repealed.

(2) Notwithstanding such cessation of operation or repeal, any licence granted or notification issued or rules made under such Acts shall, in so far as, if it is not inconsistent with the provisions of this Act, continue to be in force unless and until it is repealed by any licence granted or notification issued or rules made, as the case may be, under this Act.