

# **THE KERALA INLAND FISHERIES AND AQUACULTURE BILL**

A bill to consolidate and amend the laws relating to Inland Fisheries in the State of Kerala and to provide for the sustainable development, management, conservation, regulation, protection, exploitation and disposal of Inland fish and fisheries and for the promotion and regulation of aquaculture in the State and for matters connected therewith or incidental thereto.

*Preamble.*—WHEREAS it is expedient to consolidate and amend the laws relating to Inland Fisheries and aquaculture in the State of Kerala and to provide for the development, management, conservation, regulation, protection, exploitation and disposal of Inland fish and fisheries and for sustainable development of aquaculture in the State and for matters connected therewith or incidental thereto;

BE it enacted in the Fifty-ninth 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, 2008.

(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,—(1) “Adjudicator” means an officer not below the rank of Assistant Director of Fisheries Department as empowered and nominated by the State Government or any other officer nominated by name in all matters of disputes as per the provisions made under this Act;

(2) “aquaculture” means growing fishes by stocking them either naturally or artificially in any private or public water body or in any other aquatic environment;

(3) “aquaculture area” means an area notified under sub-section (1) of Section 4;

(4) “Aquaculture Seed Inspector” means Aquaculture Seed Inspector of the Fisheries Department appointed under sub-section (6) of Section 30;

(5) “Aqua farm” means a place with water body used for aquaculture owned by a person or a group or an association or company in public or private sector;

(6) “authorised officer” means such officer of the Fisheries Department, not below the rank of an Assistant Director of Fisheries as the Government may by notification in the Gazette, authorise in respect of the matter to which reference is made in the Act;

(7) “capture fisheries” means harvesting or removal of fish from natural or enhanced inland waters incorporates on the resources of the commons open to all unless otherwise restricted by the government;

(8) “co-operatives” means a group of people who have agreed voluntarily to work together for achieving a specific objective, through a variety of increasingly more formalized structures to one, which is legally constituted according to the co-operative laws;

(9) “crafts & gear” means the devices such as boats, nets, traps etc. used for catching or harvesting of fish;

(10) “estuary” means a semi-enclosed coastal body of water, which has a free connection with the river and the open sea and within which seawater is measurably diluted with fresh water, derived from land drainage;

(11) “exotic species” means any species, a fauna or a flora, which is nonnative to the country;

(12) “filtration” means a practice of trapping and holding natural stock of fish in any stage of its life cycle in the natural or artificial impoundments from the natural resources of sea, backwaters or rivers;

(13) “fisheries officer” means a person whom the Fisheries Department authorizes on its behalf, from time to time, to carry out or execute all or any specific provision of this Act;

(14) “fisherman” means any person engaged mainly in fishing operations for his livelihood;

(15) “fish” means finfish/shellfish, turtles, dolphins, all kinds of useful aquatic plants, amphibians, other animals and crustaceans besides their young ones and eggs;

(16) “fishing craft” means any vessel or boat engaged in fishing operations and includes a craft, country craft, canoe or any other device for moving in water for fishing operations;

(17) “fish seed” means stocking materials comprising various live stages of finfish, such as spawn, fry, fingerlings, juveniles and larval and post-larval stages of shell fish;

(18) “fishing operation” means catching fish by any means, mechanical or otherwise, and includes the collection of lime shell, shell fish or shanks and includes any type of filtration or aquaculture;

(19) “fishery” means any activity or occupation connected with conservation, development, regulation, protection, or exploitation of fish and fish products and includes the place or water area where such activity or occupation is carried on;

(20) “fish harvest” means removal of fish by any means from the aquaculture area for sale or for marketing;

(21) “fish sanctuary” means any area declared by notification under section 26 of this Act as a fish sanctuary;

(22) “natural lakes” means either a continuation of a river system or a depressed land mass located in flood plains of various river systems;

(23) “fixed engine” means any net, cage fishing fence, pen, anchor, tray or other contrivance fixed in the soil or made stationary in any other way in land or water for catching fish;

(24) “free net” means any net, cage, hook and line or other contrivance used for fishing other than a fixed engine;

(25) “inland fishery” means any fishery in public or private water body related to fresh and brackish water fishes or other fresh and brackish water resources of fishery value;

(26) “inland water” means any private or public water body or reclaimable area utilised or utilisable for any fishery activity within the State;

(27) “lake” means a large body of fresh water surrounded by landmass;

(28) “lessee” means the person or the body to whom a water body has been allotted;

(29) “licence” means granting permission to a person or a group of persons for carrying out specific job after charging an amount as fee;

(30) “open water ecosystem” means natural or man-made aquatic ecosystems, such as rivers, streams, canals, estuaries, lagoons, backwaters, mangroves, wetlands, reservoirs, lakes, etc.;

(31) “person” means a company, firm, institution, co-operative society or any association of individual;

(32) “prescribed” means prescribed by rules made under this Act;

(33) “private water body” means any water body or reclaimable area which is the exclusive property of any person or persons in which the person or persons have for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity;

(34) “ponds and tanks” means water body excavated or created to arrest the surface runoff through the raising of embankments for social or aquaculture or irrigation purposes. May be sunken or elevated or formed as barrages with high water turnover;

(35) “public water body” means any water body or reclaimable area including backwaters, rivers, lakes, ponds, tanks, canals including irrigation canals, reservoirs or streams owned by Government, local bodies, Boards or any other Government or quasi-Government institutions or organisations and includes territorial waters of the State;

(36) “reclaimable area” means any land, or swamp that can be developed or converted into a public or private water body by reclamation, renovation or construction;

(37) “reservoir” means an impoundment created on account of the damming across a river or a stream or such surface runoffs;

(38) “river” means a large stream of water flowing over the land, draining water from the catchments to discharge into a large water body like sea or lake or lagoon;

(39) “State” means the State of Kerala and includes the territorial waters along the entire coast line of that State.

## CHAPTER II

### DEVELOPMENT, REGULATION AND PROTECTION

3. *Fishery or allied activity in the Government fishery waters.*—(1) The development and management of fishery or any other allied activity in the Government fishery waters shall be vested in the Department of Fisheries:

Provided that no fishery or other allied activity under this sub-section shall be conducted in a Government fishery waters used for drinking purposes, except and in accordance with the previous permission in writing of such officer of the Irrigation Department as may be specially authorised by the Government in that behalf.

*Explanation.*—For the purpose of this section all public water bodies including rivers, streams and associated waters, floodplain lakes, wetlands, reservoirs, canals, estuaries and lagoons, mangrove wetlands, backwaters, natural and manmade lakes (reservoirs) and their variants other than private water bodies and the water bodies owned by educational institutions affiliated to any university in the State shall be deemed to be the Government fishery waters.

(2) No person shall reclaim or convert or modify or develop any public water body for any purpose except with the permission in writing of such officer as may be determined by the Government in this behalf.

4. *Fishing activities in aquaculture areas.*—(1) The Government may, for the purpose of developing fisheries activities or for the general interests of fisheries sector, by notification in the Gazette, declare any public water body or other suitable areas as aquaculture area for exclusive fisheries activities.

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

5. *Control, regulation and ban on destructive crafts and gear.*—(1) The State shall not allow the use of non-prescribed gear of any kind for catching fingerlings, juveniles or larvae of fish, which affect the stock of species or are against the prescribed norms of responsible fishery, including minimum legal size of capture.

(2) Fishing crafts fitted with out-board motors affecting the ecosystem or fish biodiversity in any form shall be regulated or banned.

(3) Cross nets, such as stake-nets, etc., which encroach or affect the migratory pathways of fish and other organisms, shall be regulated to facilitate conservation of brood stock and auto-stocking.

(4) The authorized Fishery officer shall have the authority to monitor and check the type of crafts and gear that are used in open-water ecosystem for catching fish and imposing suitable penalty for violating the normal prescribed types, as mentioned under sub-sections (1), (2) and (3) above.

6. *Conservation of stock and resources.*—(1) The State shall notify closed season or fishing holidays in open-waters like rivers/ reservoirs/wetlands for a minimum of 60 days during breeding season of commercially important species such as Indian major carps to augment auto-stocking and wanton killing of fish juveniles as well as fish brooder stock.

(2) The State shall prepare inventory of deep pools in various riverine stretches and ensure their protection and maintenance. These may be declared as protected areas and the active participation of fishermen, co-operatives, local panchayats and NGOs to conserve fish and other important biodiversity in such deep pools shall be encouraged.

(3) To protect the physical entity of wetlands/floodplain lakes, no person or body shall be allowed to obstruct the lateral connectivity of wetlands with rivers, especially during flooding, as it acts as the passage for the migration of fish brooders to wetlands for breeding and in turn the wetlands act as the natural nursery and feeding grounds for many important riverine fish species. Contravention of this provision shall be deemed to be a punishable offence.

(4) Encroachment or reclamation of rivers, lakes and wetlands, either for arable land or human habitation or any other purposes, which leads to colossal loss of aquatic resource and associated utility functions, shall be deemed as a punishable offence.

(5) The State shall ensure the protection of the interest of traditional fisherman using traditional crafts and gear.

*7. Untenable fishing practices in inland waters.*—(1) Wanton killing of fish juveniles, fish brooders and other organisms, which otherwise have economic, aesthetic or biodiversity significance, and affects the fishery, shall be treated as cognizable offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees or with both.

(2) Wanton killing of fish and associated fauna using poison of plant origin or synthetic dynamite, electric fishing and any other destructive method in open waters shall be treated as a cognizable act and shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

(3) Establishment of compartments or structures of any form, such as earthen embankments, bamboo screens, etc. which obstruct or restrict the movement of fish in any form within the lake/wetland/estuary/lagoon, shall be deemed as a cognizable offence except otherwise done in public interest.

### CHAPTER III

#### REGISTRATION AND GRANT OF LICENCE

*8. Using of fishing craft, free net or fixed engine without registration.*—(1) No person shall use or cause or permit to be used any fishing craft or free net or fixed engine for the purpose of fishing operations unless he has a valid certificate of registration obtained in accordance with the provisions of this Act and rules made thereunder.

(2) No person shall undertake aquaculture or filtration in the inland water without a valid certificate of registration obtained under the provisions of this Act and the rules made thereunder.

9. *Registration of fishing craft, fixed engine, free net, aquaculture or filtration.*—(1) Subject to the provisions of this Act and the rules made thereunder, every owner of a fishing craft or fixed engine or free net and every person intending to undertake aquaculture or filtration shall apply for registration to the authorized officer under whose jurisdiction the fishing craft or free net or fixed engine is to be used or the aquaculture or filtration is to be undertaken.

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

(3) Every application for registration of a fishing craft or fixed engine or free net shall be made to the authorised officer before the expiry of three months from the date on which the person 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 the purpose, extend the time limit for registration for such period not exceeding three months as he deems fit.

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

(5) The authorized officer may refuse to grant registration if he is satisfied, that,

(a) such registration will be inconsistent with any law in force; or

(b) the fishing craft or fixed engine or free net or aquaculture or filtration is defective or does not satisfy the standard or quality as prescribed by rules made under this Act; or

(c) such registration will adversely affect public interest; or

(d) the applicant has not furnished such details prescribed for registration:

Provided that the reason for the refusal to grant registration shall be recorded by the authorised officer.



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

(7) The authorized officer shall assign such distinguishing mark as may be prescribed as registration mark which shall be displayed at a conspicuous place of the fishing craft or fixed engine or free net or aquaculture or filtration, as the case may be.

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

10. *Duty to furnish returns.*—(1) Every person who holds a registration certificate shall furnish to the authorised officer at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The authorized officer may inspect any fishing craft or fixed engine or free net or aquaculture or filtration or any book of accounts or other documents connected therewith at any time to verify the accuracy of any return made under sub-section (1).

11. *Transfer of ownership.*—(1) Where the ownership of any fishing craft, or fixed engine or free net or aquaculture area or filtration area is transferred the transferors shall, within such time as may be prescribed, report the transfer to the authorised officer within whose jurisdiction the transfer is effected and shall simultaneously send a copy of the said report to the transferee.

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

12. *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, by order, suspend the registration for such period as he may think fit or cancel the registration:

Provided that no order suspending or canceling the registration shall be made without giving the person affected thereby, an opportunity of being heard.

13. *Appeal against orders refusing grant of registration or suspending or canceling registration.*—(1) Any person aggrieved by an order of an authorized officer refusing to grant registration or suspending or canceling registration may, within thirty days from the



date of receipt of the order prefer an appeal to the Joint Director of Fisheries having jurisdiction over the area (hereinafter in this section referred to as the appellate authority).

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

14. *Grant of licence.*—(1) No licence shall be granted by the authorized officer for fishing operations or fisheries activities to any person unless he holds a registration certificate under this Act.

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

(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 operations or fisheries 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 empowered by Government in this behalf may, either in the interest of scientific research or for any other reason, exempt any person or institution recognized by the Government from taking out a licence under this Act.

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

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

16. *Duty of licence holders to produce such licence.*—Every holder of licence granted under this Act shall be bound to produce such licence for inspection at any time on being required to do so, by any Police Officer not below the rank of Sub Inspector of Police or by any Officer of the Fisheries Department not below the rank of Sub Inspector of Fisheries or any public servant authorized by the department.

17. *Cancellation or suspension of licence.*—Subject to the rules made by the Government in this behalf any licence granted under this Act may be cancelled or suspended by the authorized officer, —

- (a) When the holder of the licence has used the licence in contravention of any of the provisions of this Act or the rules made thereunder or any of the terms and conditions of the licence; or
- (b) When the holder of the licence has been convicted for an offence under the provisions of this Act or the rules made thereunder; or
- (c) When a licence granted under this Act has been obtained by misrepresentation or suppression of facts:

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

18. *Licence granted by other agencies before the commencement of the Act cease to operate.*—Except to the extent provided in sub-section (2) of Section 15, any licence granted or permission given by any person, agency or body before the commencement of this Act for fishing operations or for fisheries activities shall cease to operate at the commencement of this Act.

19. *Duty of court as regards cancellation of licence.*—When the holder of a licence granted 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 before the court) to the nearest authority empowered to cancel the licence under this Act, for such action as such authority may deem fit.

20. *Power of Government to restrict or regulate the number of fishing implements in public water.*—The Government may, by notification in the Gazette, prohibit, restrict or regulate the number and size of fishing craft, fixed engine, free net or any other implements in use in any public water body either temporarily or permanently.

21. *Appeal against orders refusing grant of licence or suspending or canceling of licence.*—(1) Any person aggrieved by an order of the authorized officer refusing to grant a licence or suspending or canceling a licence may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the Joint Director of Fisheries (hereinafter in this section referred to as the additional appellate authority).

(2) On receipt of an appeal under sub-section (1), the additional appellate authority shall, after holding 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.

22. *Powers of appellate authority and additional appellate authority in relation to holding of enquiry under this Act.*—(1) The appellate authority and the additional appellate authority shall, while holding an enquiry, have all the powers of a civil court

under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) The appellate authority and the additional appellate authority shall, while exercising any 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).

23. *Revision*.—The Government or the Director of Fisheries, as the case may be, either *suo-motu* or on application made, within thirty days of the order of the appellate authority or the additional appellate authority, by any person aggrieved by that order, may call for the records of any orders passed in appeal and pass such orders with respect thereto, as he may think fit:

Provided that no order under this section shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

## CHAPTER IV

### FISH SANCTUARIES

24. *Declaration of Fish sanctuary*.—(1) The Government may, by notification in the Gazette, declare any area to be a fish sanctuary if it considers that such area is of adequate fisheries, zoological, natural or ecological significance for protecting or propagating fish or its environment.

(2) Where any area is so declared, as fish sanctuary, the authorized officer shall enquire into and determine the existence, nature and extent of the rights of any person in or over the area comprised within the limits of the sanctuary after verifying the revenue records.

(3) After the issue of a notification under sub-section (1) no right shall be acquired in, or over, the areas comprised within the limits of the area specified in the notification under sub-section (1) except by succession, testamentary or intestate.

(4) When a notification has been issued under sub-section (1), the authorised officer shall publish in the regional language in every town and village in or in the neighborhood of the area comprised therein, a proclamation,—

(a) specifying the situation and limits of the fish sanctuary; and

(b) requiring any person claiming any right mentioned in sub-section (3) to prefer before the authorized officer within three months from the date of such proclamation, a written claim in the prescribed form specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof.

(5) The authorized officer shall after the service of the prescribed notice upon the claimant enquire into the claim preferred before him under clause (b) of sub-section (4), so far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

*25. Powers of authorized officer for the purpose of enquiry.*—For the purpose of enquiry under sub-section (5) of Section 24, the authorized officer may exercise the following powers, namely:—

(a) Power to enter in or upon any area and to survey, demarcate and make a map of the same or to authorize any other officer to do so; and

(b) The same power as are vested in a civil court for the trial of suits.

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

(a) public servant on duty;

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

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

(d) a person passing through the fish sanctuary along a public highway; and

(e) the dependents of the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1) shall enter or reside in the fish sanctuary, except under and in accordance with the conditions of a permit granted under Section 28;

(2) Every person who resides in the fish sanctuary, shall,—

- (a) prevent the commission, of an offence in the fish sanctuary, under this Act;
- (b) help in discovering and arresting the offenders;
- (c) report mortality of any fish and to prevent pollution or damage to such sanctuary;
- (d) assist any authorized officer or the officer of the Fisheries Department or Police Officer demanding his aid for preventing the commission of any offence under this Act or in the investigation of any such offence.

(3) No person shall enter a fish sanctuary with or without any vehicle, fishing craft, free net or weapon or other contrivance for fishing except with the previous permission in writing of the authorized officer. Violation of this provision shall be deemed to be a cognizable offence.

*27. Ban on use of injurious substances.*—No person shall use in a fish sanctuary, chemicals, explosives or any other substance which may cause injury or endanger the fish or fishery in such sanctuary. Violation of this provision shall be deemed to be a cognizable offence.

*28. Grant of permit.*—(1) The authorised officer may, on application, grant to any person a permit to enter or reside in a fish sanctuary for all or any of the following purposes, namely:—

- (a) investigation or study of fish and fishery and purposes ancillary or incidental thereto;
- (b) photography;
- (c) scientific research;
- (d) tourism; and
- (e) transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a fish sanctuary shall be issued subject to such condition and on payment of such fees as may be prescribed.

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

Provided that no such cancellation shall be made except 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 such cancellation, appeal to the Director of Fisheries, whose decision thereon shall be final.

*29. Management and maintenance of fish sanctuary.*—The Director of Fisheries or any other officer authorized by him shall be the authority who shall control, manage and maintain the fish sanctuary, and for that purpose may take the following steps within the limits of the sanctuary,—

- (a) may construct such roads, bridges, buildings, fences or barrier gates and carry out such other works as he may consider necessary for the purposes of such sanctuary;
- (b) shall take such steps as will ensure the security of fish and fisheries in such sanctuary and preservation of the sanctuary and fish therein;
- (c) may take such measures in the interest of fish and fishery as he may consider necessary for the improvement of the habitat;
- (d) may regulate, control, or prohibit the fishing operations or aquaculture or filtration.

## CHAPTER V

### AQUACULTURE

30. *Fish Seed certification and inter-state movement of fish seed.*— (1) The State Government may, by notification in the official Gazette, establish a Registration & Certification agency for the State to carry out the functions entrusted to the Registration and Certification agency by or under this Act.

(2) The State Government shall, by notification in the official Gazette, establish a Fish Seed Committee to advise the State Government on all matters relating to Registration and Certification and to co-ordinate the functioning of the agencies established under sub-section (1).

(3) If the State Government, after consultation with the Committee is of opinion that it is necessary or expedient to regulate the quality of Aquaculture seed of any kind or variety to be sold for purposes of aquaculture, it may, by notification in the Official Gazette, declare such kind or variety to be a notified kind or variety for the purposes of this Act and different kinds or varieties may be notified for different districts or for different areas thereof.

(4) The State Government may, after consultation with the Committee and by notification in the official Gazette, specify,—

- (a) the minimum limits of size, weight, purity and health conditions with respect to any aquaculture seed of any notified kind or variety;
- (b) the mark or label to indicate that such aquaculture seed conforms to the minimum limits of size, weight, purity and free from disease infections specified under clause (a) and the particulars which such mark or label may contain.

(5) No person shall, himself or by any other person on his behalf, carry on the business of selling, keeping for sale, offering to sell, bartering or otherwise supplying any aquaculture seed of any notified kind or variety unless,—

- (a) such aquaculture seed is identifiable as to its kind or variety;
- (b) such aquaculture seed conforms to the minimum limits of size, weight and purity specified under clause (a) of sub-section 4;
- (c) The container of such aquaculture seed bears in the prescribed manner, the mark of label containing the correct particulars thereof, specified under clause (b) of sub-section 4; and
- (d) He complies with such other requirements as may be prescribed.



(6) The State Government may, by notification in the official Gazette appoint such persons as it thinks fit, having the prescribed qualifications, to be Aquaculture Seed Inspectors and define the areas within which they shall exercise jurisdiction. Every Aquaculture Seed Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860) and shall be officially subordinate to such authority as the State Government may specify in this behalf.

(7) Aquaculture Seed Inspector shall have the right/power to enter any hatchery for ensuring the quality of fish seed produced and to examine the condition of the available brood stock.

(8) Setting up of farms and hatcheries for banned fish species, especially species of exotic origin and which have been introduced in an unauthorized manner, shall be a cognizable offence.

31. *Inter State Movement of Fish Seed.*—(1) Each consignment of fish seed transported from one place to another or from outside states to the State of Kerala shall indicate the ‘source of the seed i.e. name and location of the hatchery’, ‘type of seed’, ‘size of seed’, ‘supplied by’ and ‘supplied to’.

(2) The State shall have the power to check/confiscate/destroy any consignment, which violates the provisions of the Act.

(3) In the event of any dispute, especially of scientific details, the matter can be referred to any designated referral Laboratory (such as the Central Institute of Fisheries Technology (CIFT), Cochin, Central Marine Fisheries Research Institute (CMFRI), Cochin for arbitration.

(4) If any person,—

(a) contravenes any provision of this Act or any rule made thereunder; or

(b) prevents an Aquaculture Seed Inspector from taking sample under this Act; or

(c) prevents Aquaculture Seed Inspector from exercising any other power conferred on him by or under this Act, shall, on conviction, be punishable—

(i) for the first offence with fine which may extend to five hundred rupees, and

(ii) in the event of such person having been previously convicted of an offence under this section, with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or both.

(5) When any person has been convicted under this Act for the contravention of any of the provisions of this Act or the rules made there under, the seed in respect of which the contravention has been committed may be destroyed.

(6) Any person aggrieved by a decision of a Registration & Certification agency established under Section 9 may, within three days on payment of such fees as may be prescribed, prefer an appeal to such authority as may be specified by the State Government in this behalf:

Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.



(7) On receipt of an appeal under sub-section (6) the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible. Every order of the appellate authority under this section shall be final.

32. *Powers of Aquaculture Seed Inspector.*—(1) The aquaculture Seed Inspector may,—

(a) take a sample of any aquaculture seed of any notified kind or variety from—

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

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

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

(b) send such sample for analysis to the aquaculture laboratory for the area within which such sample has been taken;

(c) enter and search at all reasonable times, with such assistance, if any as he considers necessary any place in which he has reason to believe that an offence under this Act has been committed and 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 aquaculture seed for a specific period not exceeding thirty days or unless the alleged offence is such that the defect may be removed by the possessor of the aquaculture seed, seize the stock of such aquaculture seed;

(d) examine any record, register or document or any other material object found in any place mentioned in clause (c) and seize the same if he has reason to believe that it may furnish the evidence of the commission of an offence punishable under this Act and;

(e) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rule made thereunder.

(2) Where any sample of any aquaculture seed of any notified kind or variety is taken under clause (a) of sub-section (1) its cost calculated at the rate at which such aquaculture seed is usually sold to the public, shall be paid on demand to the person from whom it is taken.

(3) The power conferred by this section includes power to break open any container in which any aquaculture seed of any notified kind or variety may be contained or to collect the aquaculture seed from hatchery or pond where any such aquaculture seed may be kept for sale:

Provided that the power to collect aquaculture seed from hatchery or fish seed farm or pond shall be exercised only after the owner or any other person in occupation of the premises, if he is present there in, refuses to collect the aquaculture seed from hatchery or pond on being called upon to do so.

(4) Where the Aquaculture Seed Inspector takes any action under clause (a) of sub-section (1) he shall, as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures on a memorandum to be prepared in the prescribed form and manner.

(5) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, applied to any search or seizure under the section as they apply to any search or seizure made under the authority of a warrant issued under Section 98 of the said code.

33. *Feed Quality Control and Certification.*—(1) Each fish feed manufacturing unit shall be registered with the Department of Fisheries.

(2) Feed meant for aquaculture shall be certified by the competent authority (or the designated National Institute/Laboratory).

(3) Fish feed bags shall be labeled indicating the ingredients used, date of manufacture, date of expiry, etc.

34. *Use of chemicals, antibiotics etc.*—No banned chemicals or antibiotics shall be allowed to be used in aquaculture, which have the potential to affect the environment or human health, unless otherwise essential and have been ascertained as eco-friendly or harmless by the Government.

35. *Health monitoring and disease reporting/control.*—Disease diagnostic and reporting procedures shall be maintained by the Department of Fisheries to monitor the occurrence of diseases in fin and shellfishes and their containment.

## CHAPTER VI COLD WATER FISHERIES

36. *Control and regulation of cold water fisheries.*—(1) Removal of sand pebbles and stones from streams, rivulets and riverbeds, especially from the water courses, which are used as breeding grounds by the fishes shall be considered as cognizable offence.

(2) Destructive fishing practices or use of dynamite/poison for the purpose of fishing in the streams/lakes shall be a cognizable offence.

(3) Encroachment of cold water wetlands in any form shall be a cognizable offence.

(4) Construction of any form, permanent or temporary, of weirs, dams and bunds and killing of fish by diversion of natural waters shall be treated as cognizable offence.

(5) Pollution of stream, rivulet or river water from factory effluents shall be a cognizable offence.

(6) Fishing or killing or sale of target fish species during the closed seasons shall be a cognizable offence.

(7) Catching or sale of target fish species below the prescribed size or weight shall be a cognizable offence.

## CHAPTER VII ENVIRONMENTAL AND HUMAN HEALTH ISSUES

37. *Environmental Impact Assessment.*—(1) Systematic Environment Impact Assessments (EIA) shall be made mandatory for all projects including anticipated or proposed land use patterns, deforestation or any other such development, which have the potential to affect the aquatics regimes including the fisheries adversely. Similarly,

detailed EIA shall be undertaken for larger aquaculture projects (total water spread area exceeding 40 hectares) to ensure that such projects do not have any adverse impact on the environment.

(2) Quality of fish reared in municipal sewage or wastewater shall be assessed to ensure that such fish do not pose any health hazard.

38. *Exotic Species.*—(1) The State shall not permit the culture or breeding of prohibited exotic species and any contravention of this provision shall be treated as a cognizable offence.

(2) The State shall ensure that no exotic species enter the open-waters, such as rivers and their continuation so as to protect the endemic fish germplasm.

(3) The State shall strictly enforce the quarantine norms to control spread of disease from one region to another or from outside State of Kerala.

(4) The Government may, by notification in the Gazette, control, prohibit or regulate the introduction of any exotic variety of live fish or fish seeds suspected to cause any damage to the existing fishery wealth or to cause any epidemic disease to the existing species of fish.

## CHAPTER VIII SEIZURE, ARREST, PENALTIES AND COMPOUNDING

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

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

(3) Any person, who obtained by any means the possession of such property shall, make a report to the nearest police station or to the Authorized Officer and shall, if so required, hand over such property to the officer-in-charge of such police station or such Authorised Officer, as the case may be.

40. *Power of seizure or arrest.*—(1) Notwithstanding anything contained in any other law for the time being in force, the Authorised Officer or any officer superior to him or any police officer not below the rank of Sub-Inspector of Fisheries, may, if he has sufficient grounds to believe that any person has committed an offence under this Act or the rules made thereunder,—

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

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

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

(2) Any Officer referred to in sub-section (1), who seized any free net, fishing craft or any other contrivance, vehicle or weapon under clause (c) of subsection

(1) shall produce the same before the authorised officer and the authorized officer may release the same on execution by the owner thereof or a bond for the production of the property so released if and when required.

(3) It shall be lawful for any of the officer referred to in sub-section (1) to stop and require any person, whom he seems doing any act for which a licence or permit is required under the provisions of this Act, 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 taken before a Magistrate having jurisdiction, within a reasonable time, but not exceeding twenty four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate, to be dealt with according to law.

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

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

(7) Where any of the Officers referred to in sub-section (1) require the assistance of any person for the prevention or detection of an offence against this Act or the rules made thereunder or for apprehending a person charged with the violation of this Act or the rules made thereunder or for seizure in accordance with clause (c) of sub-section (1), it shall be the duty of such person to render such assistance.

41. *Penalties.*—(1) Any person who contravenes any prohibition, restriction or regulation imposed by any of the provisions of this Act or commits any act considered as cognizable offence under the provisions of this Act or the rules made thereunder or commits a breach of 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 one year or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees:

Provided that in the case of a second or subsequent offence he shall be punished with imprisonment for a term which shall not be less than three months and with fine which shall not be less than ten thousand rupees.

(2) Where any person is convicted of an offence under this Act or the rules made thereunder the Court trying the offence may order that any fish caught, collected, harvested or filtered and any tool, fixed engine, free net, fishing craft, vehicle or weapon used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of the Act, be cancelled.

42. *Presumption of commission of offence.*—Where any person is found carrying any fish recently captured or killed, together with any fishing implements with which such fish could be so captured or killed, it shall be presumed that he has captured or killed such fish with such implement until the contrary is proved.

43. *Attempts and Abetments.*—Whoever attempts to contravene or abets the contravention of any prohibition, restriction or regulation imposed by any of the provisions of this Act or any rule made or notification issued thereunder, shall be deemed to have contravened that provision.

44. *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 payment of a sum of money by way of composition of the offence from any person 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 value thereof.

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

(3) The sum of money accepted or agreed to be accepted as composition shall in no case exceed three thousand rupees.

45. *Cognizance of offences.*—No court shall take cognizance of any offence against this Act or the rules made thereunder except on a complaint in writing made by the Authorised Officer.

## CHAPTER IX GENERAL GUIDELINES AND SUPPORTIVE STEPS

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

47. *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 intended to be done in pursuance of any provision of this Act or any rule made thereunder.

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

48. *Responsible fisheries and aquaculture.*—The State shall ensure that the provisions of the ‘Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization’ of the United Nations are implemented with suitable adaptations, wherever necessary.

49. *Domestic marketing of fish.*—The State shall ensure hygienic handling, transportation and storage of fish and fish products for domestic marketing.

50. *Institutional support.*—State shall consider creating facilities and other market/non-market based incentives for fishing, aquaculture, marketing, processing and exports in the light of WTO regime.

51. *Inter-departmental co-ordination.*—State shall have an interdepartmental (irrigation, agriculture, fisheries, forest, power and others) co-ordination committees at various stages starting from sharing of resources, production and marketing of fish.

52. *Stake-holder participation.*—Comprehensive and enforceable rules and regulations shall be developed through participation of stake-holders, NGOs, Self-Help groups and consumers.

53. *Conservation and stock enhancement.*—(1) The State shall prepare inventories of fishing crafts and gear and adopt precautionary approach for fisheries management.

(2) The State shall initiate necessary steps for mass awareness programmes among the locals-general and fisherman in particular towards the importance of conservation of aquatic habitats and biodiversity.

(3) The State shall monitor and keep a strict watch on the point sources of pollution in rivers which affect the ecosystem quality and biodiversity, and enforce the polluter-pays principle.

(4) The State shall liaison with concerned Departments to ensure minimum water flow down-stream of any dam, barrage, check-dams or such structures across rivers and streams.

(5) The State shall ensure minimum required level of water in reservoirs, especially during lean season for the safe maintenance of biotic communities including fish and fisheries besides the water quality.

(6) The riparian States shall adopt a co-ordinated approach for management of river systems.

(7) The State shall ensure maintenance of rich aquatic biodiversity status of wetlands by enacting suitable laws to punish the violators.



(8) The State shall ensure the protection of ecologically fragile and sensitive areas declared by the Central or the State Governments.

(9) The State shall not allow indiscriminate use of ground water for aquaculture.

(10) The State shall popularize integrated farming practices with agriculture, animal husbandry and horticulture to allow optimization of per hectare yield besides gainful utilization of wastes from one or the other source.

*54. 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.

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

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

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

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

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

### **Statement of Objects and Reasons**

This Bill is intended to consolidate the law relating to Inland Fisheries in the State of Kerala and to provide for sustainable development, management, conservation, regulation, protection, exploitation and disposal of inland fish and fisheries and for matters



connected therewith. Fishing is a source of livelihood for a large number of people in this State. The development and management of fishery and other allied activities need to be regulated in public interest so that the trade in fish can be carried on smoothly and without hazards. Fish is national wealth and earns considerable foreign exchange besides providing employment to a large number of people. Protection of the young ones or larvae of fish from being destroyed has to be carefully monitored and such devices which might affect the eco-system or fish biodiversity will have to be regulated and banned, if found necessary. Licensing provisions have been made in the Bill for those possessing Registration Certificates as a regulatory measure. Offences for violating provisions have also been made in the larger interests of the fishing industry and trade. The Department of Fisheries has been entrusted with the duty to manage and control inland fishery and allied activities in the Government Fishery waters. The Bill seeks to achieve the above-said purposes.