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Kerala Marine Fishing Regulation Act, 1980

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GOVERNMENT OF KERALA**THE KERALA MARINE FISHING
REGULATION ACT, 1980**

ACT 10 OF 1981

Amendments Compiled

The Kerala Marine Fishing Regulation (Amendment) Act, 1986

The Kerala Marine Fishing Regulation (Second Amendment) Act, 1986

The Kerala Marine Fishing Regulation (Amendment) Act, 2017

An act to provide for the regulation of fishing by fishing vessels in the sea along the coastline of the state, **registration of boat building yard and fishing net production Unit, constitution of fisheries management councils and for matters connected therewith or incidental thereto.*

Preamble - WHEREAS it is necessary to provide for the regulation of fishing by fishing vessels in the sea along the coastline of the state, **registration of boat building yard and fishing net production Unit, constitution of fisheries management councils and for matters connected therewith or incidental thereto.*

BE it enacted in the Thirty -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 Marine Fishing Regulation Act, 1980.
 - (2) It extends to the whole of the state of Kerala.
 - (3) It shall be deemed to have come into force on the 24th day of November, 1980.
2. *Definitions.*— In this Act, unless the context otherwise requires, -
 - (a) “adjudicating officer” means any officer of the Fisheries Department not below the rank of an Assistant Director of Fisheries, authorized by the Government, by notification in the Gazette, to exercise the powers conferred on, and discharge the duties imposed upon, the adjudicating officer by this Act for such area as may be specified in the notification.
 - (b) *Clause (b) omitted as per the ‘The Kerala Marine Fishing Regulation ((Second Amendment) Act, 1986’

*Inserted as per ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

- (c) “authorized officer” means such as the Government may, by notification in the Gazette, authorize in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;
- *(ca) “boat building yard” means any place where vessels intended to be used for fishing purpose are constructed, repaired, or sold;*
- *(cb) “fishing net production unit” means any place where net intended to be used for fishing purpose are manufactured or sold”;*
- (d) “fishing vessel” means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit and includes—
- (i) a catamaran,
 - (ii) a country craft, and
 - (iii) a canoe,
- engaged in sea fishing,
- *(da) “Marine Fishing Village” means a fisheries village notified as per section 3 of the Kerala Fishermen Welfare Societies Act, 1980 (Act 7 of 1981)”.*
- (e) “Port” means the space within such limits as may from time to time be defined by the Government, by notification in the Gazette, for the purposes of this Act,
- (f) “prescribed” means prescribed by rule made under this Act,
- (g) “registered fishing vessel” means -
- i) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972), or
 - ii) a fishing vessel registered under section 9,
- (h) “Specified area” means such area in the sea along the entire coastline of the state, but not beyond territorial waters, as may be specified by the Government, by notification in the Gazette.
- (i) “State” means the state of Kerala and includes the territorial waters along the entire coastline of that State.

* Clauses (ca), (cb) and (da) inserted as per ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

3. *Authorisation of officers for the purposes of any provision of this Act.*—The Government may, by notification in the Gazette, authorize -

- (a) any officer of the Government, not being an officer below the rank of a Gazetted officer ,
or
- (b) any officer of the Central Government, not being an officer below the rank of a Gazetted officer or a Commissioned officer in the Armed Force of the Union, with the consent of that Government.

to exercise the powers conferred on, and discharge the duties imposed upon an authorized officer under this Act in such area as may be specified in the notification.

CHAPTER II

Regulation of fishing

4. *Power to regulate, restrict or prohibit certain matters within specified area.*— (1) The Government may having regard to the matters referred to in sub - section (2), by order notified in the Gazette, regulate, restrict or prohibit -

- (a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed,
or
- (b) the number of fishing vessels which may be used for fishing in any specified area ; or
- (c) the catching in any specified area of such species of fish and for such period as may be specified in the notification, or
- (d) the use of such fishing gear in any specified area as may be prescribed
- (e) **the production, keeping and transportation of such type of, or such size of, fishing vessel or fishing gear as may be prescribed ;*
- (f) **the use of any dynamite, other explosive substance, poison or noxious chemicals, light or other destructive materials to catch or destroy the fish in the specified area as may be prescribed.*

(2) In making an order under sub - section (1), the Government shall have regard to the following matters, namely:-

- (a) the need to protect the interests of different sections of persons engaged in

*Clauses (e) and (f) inserted as per 'The Kerala Marine Fishing Regulation (Amendment) Act, 2017'

fishing, particularly those engaged in fishing using traditional fishing craft such as

Catamaran, Country craft or canoe,

- (b) the need to conserve fish and to regulate fishing on a scientific basis,
- (c) the need to maintain law and order in the sea,
- (d) any other matter that may be prescribed.

5. *Prohibition of use of fishing vessel in Contravention of any order made under section 4.*— No owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessel for fishing in any manner which contravenes an order made under section 4 :

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any specified area to, or from, any area other than a specified area for the purpose of fishing in such other area or for any other purpose :

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country craft or canoe.

6. *Licensing of fishing vessels.*—(1) The owner of fishing vessel may make an application to the authorized officer for the grant of a license for using such fishing vessel for fishing in any specified area.
- (2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed.
 - (3) The authorized officer may, after making such enquiry as he deems fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant to the owner of the fishing vessel, a license for using such fishing vessel for fishing in the specified area or specified areas mentioned in such licence.
 - (4) In granting or refusing licence under sub-section (3), the authorized officer shall have regard to the following, namely:-
 - (a) whether the fishing vessel is a registered fishing vessel;
 - (b) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted.
 - (c) Any order that may be made under section 4;
 - (d) Any other matter that may be prescribed.
 - (5) A licence granted under this section shall be in such form and subject to such conditions,

including conditions as to payment of such fees and furnishing such security for the due performance of the conditions, as may be prescribed.

Provided that different fees, and different amounts by way of security, may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section shall be valid for the period specified therein or for such extended period as the authorized officer may think fit to allow in any case.

7. *Prohibition of fishing using fishing vessels which are not licenced.*— No person shall, after the commencement of this Act, carry on fishing in any specified area using a fishing vessel which is not licenced under section 6:

Provided that nothing in this section shall apply to any fishing vessel, which was being used for fishing immediately before the commencement of this Act, for such period as may be specified by the Government by notification in the Gazette.

8. *Cancellation, suspension and amendment of licences.*— (1) If the authorized officer is satisfied, either on a reference made to him in this behalf or otherwise, that-

(a) a licence granted under section 6 has been obtained by mis-representation as to an essential fact or

(b) the holder of a licence has, without reasonable cause, failed to comply with the condition subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made there under,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the authorized officer may, after giving the holder of the licence a reasonable opportunity of showing cause, cancel or suspend the licence or forfeit the whole or any part of the security, if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorized officer may also vary or amend a licence granted under S. 6.

9. *Registration of Vessels.*— (1) The owner of every vessel used or intended to be used for purposes of fishing and kept in the state, not being a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972), shall

register such vessel under this Act.

- (2) Every application for registration of such vessel shall be made by the owner thereof to the authorized officer in such form, and shall be accompanied by such fees, as may be prescribed -
 - (a) before the expiration of one month from the date on which he first became the owner of such vessel; or
 - (b) before the expiration of three months from the commencement of this Act.

Which ever is later;

Provided that the authorized officer may, for sufficient reason to be recorded in writing, extend the time-limit for registration by such period as he thinks fit.
- (3) The authorized officer shall issue to the owner of the vessel registered by him a certificate of registration in the prescribed form and shall enter in a register to be kept by him, in such form as may be prescribed, the particulars of such certificate.
- (4) Registration once made shall continue to be in force until it is cancelled by the authorized officer.
- (5) Every vessel registered under this section shall carry a registration mark, assigned to it by the authorized officer, displayed in the prescribed manner.
- (6) No vessel other than a registered fishing vessel, shall be entitled to a licence under section 6.

9A. Registration of boat building yard.— (1) The owner of every boat building yard shall register the boat building yard under the provisions of this Act and the rules made thereunder.

(2) Every application for registration of a boat building yard shall be made by the owner to the authorized officer in such form, containing such particulars and accompanied by such fees, as may be prescribed.

(3) Notwithstanding anything contained in this Act, but subject to provisions contained in sub-section (4), every owner of a boat building yard existing before the commencement of the Kerala Marine Fishing Regulation Act, 2017 may continue the same.

*Sections 9A to 9H inserted as per the ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

(4) Every boat building yard continued under sub-section (3) shall not continue after the expiry of three months from the date of commencement of the Act specified in sub-section (3) unless the

unit is registered under section 9A:

Provided that the authorized officer may, for sufficient reasons to be recorded in writing, extend the time limit for registration for a further period not exceeding three months as he deems fit.

- (5) The authorized officer on receipt of an application for registration may, after making such enquiry as he deems fit and having regard to the matters referred to in sub-section (6), either grant or refuse to grant the certificate of registration, within such period, as may be prescribed.*
- (6) In granting or refusing registration under sub-section (5), the authorized officer shall have regard to the following matters, namely:-*
- (a) whether the boat building yard has the required specifications as may be prescribed;*
 - (b) declaration showing the purpose and use of the vessel in a form as may be prescribed;*
 - (c) whether the boat building yard is equipped with the fire safety system, first aid facility and such other facilities as may be prescribed; and*
 - (d) any other matter as may be prescribed.*
- (7) Where the authorized officer decided to grant such registration to the owner of the boat building yard, the certificate of registration shall be issued in such form, subject to such conditions, on payment of such fees and furnishing such security as may be prescribed for the due performance of the conditions.*
- (8) Registration once granted under this Act shall be valid for a period of 5 years from the date of issue of the certificate of registration.*
- (9) Every boat building yard registered under this Act shall carry a registration number and a mark, assigned to it by the authorized officer and registration number and the mark so assigned shall be displayed in the prescribed manner.*
- (10) Where the authorized officer refuses to grant such registration, the reasons for such refusal shall be recorded in writing and an order of refusal shall be communicated to the owner of the boat building yard together with the reasons thereof.*

(11) *The owner of every boat building yard, shall furnish a certificate to the effect that the fishing vessels are built as per the approved type of design and are seaworthy as prescribed by rules and such certificate shall be enclosed by the fishermen at the time of registration of such fishing vessels under this Act.*

(12) *The authorized officer shall conduct inspection in a boat building yard at any time in the manner as may be prescribed.*

(13) *The construction of fishing vessel should be undergone in adherence to approved plan in which naval architect shall conduct various stages of inspection in the manner as may be prescribed.*

(14) *The functioning of the boat building yard shall be in the manner as may be prescribed.*

9B. Renewal of registration.— (1) *The owner of a registered boat building yard shall renew the registration in every five years.*

(2) *An application for renewal of registration of a boat building yard shall be made by the owner to the authorized officer in such form, containing such particulars, accompanied by such fees and within such period, as may be prescribed.*

(3) *The authorized officer on receipt of an application for renewal of registration may, after making such enquiry as he deems fit, either renew or refuse to renew the registration of the boat building yard within such period, as may be prescribed:*

Provided that in any case where the application for the renewal of registration is made after the expiry of the prescribed period, the authorized officer may allow such application and dispose it subject to such other conditions and on payment of such enhanced fees as may be prescribed:

Provided further that in any case where the application for renewal of registration is made after the expiry of the prescribed period and the authorized officer is satisfied that the applicant had sufficient cause for not making the application within the time limit, he may entertain the application and dispose it without levying the enhanced fees.

9C. Prohibition of using boat building yards which is not registered.— *No person or authority shall be permitted to operate or use any boat building yard which is not registered under section 9A or 9B of this Act.*

9D. Cancellation and suspension of Registration.— *If the authorized officer is satisfied either on a reference*

made to him in this behalf or otherwise that,-

(a) a registration granted under section 9A or 9B has been obtained by misrepresentation as to an essential fact; or

(b) the holder of a registration certificate has without reasonable cause, failed to comply with the conditions subject to which registration has been granted or has contravened any of the provisions of this Act or any rule made or order issued thereunder, without prejudice to any other penalty to which the holder of the registration certificate may be liable under this Act, the authorized officer may, after giving the holder of the registration certificate a reasonable opportunity of showing cause, cancel or suspend the registration.

9E. Registration of fishing net production unit.— (1) The owner of every fishing net production unit shall register such unit under this Act.

(2) Every application, for registration of such unit shall be made, by the owner thereof to the authorized officer in such form containing such particulars and shall be accompanied by such fees as may be prescribed.

(3) Notwithstanding anything contained in this Act but subject to the provisions of sub-section (4), every owner of the unit immediately before the commencement of the Kerala Marine Fishing Regulation (Amendment) Act- 2017 may continue the unit.

(4) Every unit continued under sub-section (3) shall not continue after the expiry of a period of three months from the date of commencement of the Kerala Marine Fishing Regulation (Amendment) Act, unless the unit is registered under this section:

Provided that the authorized officer may for sufficient reasons to be recorded in writing extend the time limit for registration for such period not exceeding three months as he deems fit.

(5) The authorized officer on receipt of an application for registration may, after making such enquiry as he deems fit and having regard to the matters as may be prescribed, either grant or refuse to grant the certificate of registration, within such period, as may be prescribed.

(6) Where the authorized officer decided to grant such registration to the fishing net production unit, the certificate of registration shall be issued in such form, subject to such conditions, on payment of such fees and furnishing such security as may be prescribed for the due performance of the conditions.

- (7) *Where the authorized officer refuses to grant such registration, the reasons for such refusal shall be recorded in writing and an order of refusal shall be communicated to the owner of the fishing net production unit together with the reasons thereof.*
- (8) *The authorized officer shall conduct inspection of fishing net production unit at any time in the manner as may be prescribed.*
- (9) *The fishing net production unit registered under this Act shall carry a registration mark, assigned by the authorized officer and the registration mark so assigned shall be displayed in the manner as may be prescribed.*
- (10) *A certificate of registration issued under this section shall be valid for a period of five years.*
- (11) *The owner of fishing net production unit shall renew the registration in every five years and an application for renewal of registration shall be made by the owner to the authorized officer in such form containing such particulars accompanied by such fees and within such period as may be prescribed.*

9F. Prohibition of using fishing net production unit which is not registered.— No fishing net production unit shall function without registration under section 9E of this Act.

9G. Cancellation and suspension of Registration.— If the authorized officer is satisfied either on a reference made to him in this regard or otherwise that,-

- (a) a registration granted under section 9E has been obtained by misrepresentation as to an essential fact; or*
- (b) the holder of a registration certificate has without reasonable cause, failed to comply with the conditions subject to which registration has been granted or has contravened any of the provisions of this Act or any rule made or order issued thereunder, without prejudice to any other penalty to which the holder of the registration certificate may be liable under this Act, the authorized officer may, after giving the holder of the registration certificate a reasonable opportunity of showing cause, cancel or suspend the registration.*

9H. Appeal against the order of refusal, cancellation, suspension or renewal of registration.— (1) any owner of the boat building yard or fishing net production unit aggrieved by an order of the authorized officer refusing, suspending or cancelling the registration or refusing the renewal of registration may, within thirty days from the date of receipt of such order, prefer an appeal to the Joint Director of Fisheries,

Government of Kerala of the Zone concerned.

(2) On receipt of an appeal under sub-section (1), the Joint Director of Fisheries, Government of Kerala of the Zone concerned shall, after conducting such enquiry as he deems fit and after giving the appellant and the authorized officer concerned an opportunity of being heard, pass such orders thereon as he deems fit”.

10. *Information to be given to the authorized officer about movement of fishing vessels.—*

Where a registered fishing vessel moves from the area of one port to the area of another port, the owner of such fishing vessel shall give information to that effect, in the prescribed manner, to the authorized officer by whom such fishing vessel was registered and also to the Port Officer having jurisdiction over the area whereto such fishing vessel has been moved.

11. *Returns to be made by owners of registered fishing vessels.—* (1) Every owner of a registered fishing vessel shall furnish to the authorized officer at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The authorized officer may inspect any registered fishing vessel at any time to verify the accuracy of any return made under this section.

12. *Finality or orders under section 6,8 and 9.—* Every decision of the authorized officer under S. 6, S. 8, or S. 9, granting or refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence or registering, or cancelling the registration of, a vessel shall, subject to any right of appeal under S. 13, be final.

13. *Appeals against orders refusing grant of licence etc.—*

(1) Any person aggrieved by an order of the authorized officer refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence or refusing to register a vessel or canceling the registration of such vessel may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed (hereafter in this section referred to as the appellate authority):

Provided that the appellate authority may entertain the 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.

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

the appellant a reasonable opportunity of being heard pass such orders there on as it deems fit as expeditiously as possible.

(3) Every order passed by the appellate authority under this section shall be final.

13(A). Constitution of Fisheries Management Councils. - (1) The Government may, for the effective management and surveillance of marine fisheries and for effectively carrying out the provisions of this Act, by notification in the Gazette, constitute a three tier system of Fisheries Management Councils , namely:-

- (a) Fishing Village Management Council;*
- (b) District Fisheries Management Council; and*
- (c) State Fisheries Management Council;*

(2) The Fishing Village Management Council shall consist of the following members, namely:-

- a) Head of the Grama Panchayat/
Municipality or Division Member of
Municipal Corporation - Chairman*
- b) Head of MatsyaBhavan having,
jurisdiction over the area - Member Secretary*
- c) Two elected members of Grama
Panchayat/Municipality as nominated
by its head from coastal wards - Members*
- d) Two elected Presidents of Fisheries
Co-operative Societies having
jurisdiction in the area, nominated by the Govt. - Members*
- e) Two fishermen and one women from the same
fishing village, nominated by the Govt. - Members*

Explanation.- *In the case of a fishing village shared by more than one Grama Panchayath/Municipality or more than one division of Muncipal Corporation, the head of the Grama Panchayath/ Municipality or Division member of Muncipal Corporation where most of the fishermen of the respective fishing village belong shall be the head of Fishing Village Management Council.*

(3) The District Fisheries Management Council shall consist of the following members, namely:-

- a) District Collector - Chairman*
 - b) Deputy Director of Fisheries -Member Secretary*
 - c) Mayor of the Muncipal Corporation
(if the Muncipal Corporation has a
Marine Fishing Village) - Member*
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*Sections 13A to 13D inserted as per the 'The Kerala Marine Fishing Regulation (Amendment) Act, 2017'

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|-----|---|-----------|
| (d) | <i>District Panchayath President</i> | - Member |
| (e) | <i>One representative of Central Marine Fisheries Research Institute</i> | - Member |
| (f) | <i>One representative each from five recognized fishermen trade unions, nominated by the Government</i> | - Members |
| (g) | <i>One person having expertise in Marine fisheries, nominated by the Government</i> | - Member |

(4) *The State Fisheries Management Council shall consist of the following members, namely:-*

- | | | |
|----|--|--------------------------|
| a) | <i>Director of Fisheries</i> | - Chairman |
| b) | <i>Additional Director of Fisheries</i> | - Vice Chairman |
| c) | <i>Director, Central Marine Fisheries Research Institute</i> | - Member |
| d) | <i>Director, Central Institute of Fisheries Technology</i> | - Member |
| e) | <i>Zonal Director, Fisheries Survey of India</i> | - Member |
| f) | <i>One Fisheries Expert nominated by the Government</i> | - Member |
| g) | <i>Five representatives from the recognized fishermen trade unions, nominated by the Government</i> | - Members |
| h) | <i>One representative from recognized mechanised boat operators unions, nominated by the Government</i> | - Member |
| i) | <i>One person having expertise in Marine resource Conservation, nominated by the Government</i> | - Member |
| j) | <i>One representative of Seafood Exporters Association (SEAL - Local Chapter), nominated by the Government</i> | - Member |
| k) | <i>One representative of Coast Guard</i> | - Member |
| l) | <i>One representative from Marine Products Export Development Authority, nominated by the Government</i> | - Member |
| m) | <i>Joint Director of Fisheries</i> | - Member Secretary |
| n) | <i>Deputy Director of Fisheries</i> | - Member (Co-ordinator): |

Provided that the officers coming under the Central institutes or authorities may be nominated in consultation with such institute or authority, as the case may be.

- (5) *The term of office of non-official members of the councils shall be five years from the date of publication of the notification constituting the council concerned.*
- (6) *Any non-official member may resign his membership by giving notice in writing to the Government but shall continue to hold office until its resignation is accepted by the Government.*
- (7) *A vacancy arising by reason of resignation shall be filled up within three months and the member so appointed shall hold office only for the remaining period of the term.*
- (8) *The Government may remove any member,-*
- (a) if he is of unsound mind;*
 - (b) if he is adjudged as undischarged insolvent;*
 - (c) becomes incapable of continuing as such, due to physical or mental disability;*
 - (d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities.*
- (9) *The present assets, liabilities and posts of the State Fisheries Resource Management Society (FIRMA) shall be vested in, and transferred to, the State Fisheries Management council constituted under sub-section (4) of section 13A with effect from such date as the Government may, by notification in the gazette, appoint. The officers holding such post shall be entitled for the same salary and allowances and other conditions of service as if they were eligible if the Kerala Marine Fishing Regulation(Amendment) Act,2017 were not enacted. The deployed post in the cadre of Joint Director of Fisheries from State Fisheries Resource Management Society (FIRMA) will function as the Member Secretary of the council. The deployed post in the cadre of Deputy Director of Fisheries from State Fisheries Resource Management Society (FIRMA) will function as the Member (Co-ordination) of the council.*

13B. Powers, Duties and Function of Fishing Village Management Council . - *The Fishing Village Management Council shall exercise the following powers and perform the following duties and functions, namely:-*

- (i) to prepare village level marine Fishery Management Plan considering the local needs and get approval from the District Fisheries Management Council;*

- (ii) *creation of awareness among marine fisherfolk and coastal inhabitants about responsible fishing and fish resource conservation;*
- (iii) *to resolve issues and social conflicts among fisherfolk and coastal inhabitants at fishing village level;*
- (iv) *to help the effective implementation of the provisions of this Act in fishing village;*
- (v) *to help the District Fisheries Management Council for carrying out its functions and provide information called for by that Council;*
- (vi) *to execute and discharge the duties assigned by the District Management Council;*
- (vii) *to provide information to the District Fisheries Management Council on matters of conservation of marine fish resources;*
- (viii) *such other powers, duties and functions as may be prescribed.*

13C. Powers, duties and functions of District Fisheries Management Council. - The District Fisheries Management shall exercise the following powers and perform the following duties and functions, namely:-

- (i) *to prepare Marine Fishery Management plan for the district and get approval from the State Fisheries Management Council;*
- (ii) *to take appropriate decisions on Village Level Fishery Management Plan prepared by Fisheries Village Management Councils;*
- (iii) *to discharge the duties and powers assigned by the State Fisheries Management Council from time to time;*
- (iv) *to conduct district level awareness camps among marine fisherfolk and coastal inhabitants;*
- (v) *to resolve issues and conflicts between Fishing Village Management Councils and those which are referred by such councils;*
- (vi) *to help effective implementation of the provisions of this Act in the District;*
- (vii) *to help the State Fisheries Management Council for carrying out its functions and provide information called for by that Council;*

- (viii) *to provide information to the State Fisheries Management Council on matters of conservation of marine fish resources;*
- (ix) *such other powers, duties and functions as may be prescribed.*

13D. Powers, duties and functions of State Fisheries Management Council.- The State Fisheries Management Council shall exercise the following powers and perform the following duties and functions, namely:-

- (i) *to prepare Marine Fishery Management Plan for the State or part there of;*
- (ii) *to identify suitable sites/locations for mariculture and conservation activities;*
- (iii) *to create awareness among the marine fisherfolk and coastal inhabitants;*
- (iv) *to conduct training programmes, seminars, workshops etc in the field of mariculture, conservation of marine fish resources and post-harvest operations;*
- (v) *to resolve issues and conflicts between District councils and those which are referred by the District Councils;*
- (vi) *to publish scientific papers, books, audio-video cassettes, journals etc. on mariculture and conservation and management of marine fish resources;*
- (vii) *to provide information on management and conservation of marine fish resources;*
- (viii) *to do/get done all such other lawful things, that are conducive or incidental to the administration of State Fisheries Management Council and the attainment of the above objectives;*
- (ix) *if the decision taken by the District Fisheries Management Councils on any issue are found to be against the provisions of this Act, the State Fisheries Management Council may examine the same and take fresh decisions on such issue.*
- (x) *Such other powers, duties and functions as may be prescribed”.*

CHAPTER - III

Penalties

14. *Power to enter and search fishing vessel, *boat building Yard and fishing net production unit.— * (1) The authorized officer may, if he has reason to believe that any fishing vessel is*

*_Words 'boat building Yard and fishing net production unit' Inserted as per 'The Kerala Marine Fishing Regulation (Amendment) Act, 2017'

*Sub-section (1) so re-numbered as per 'The Kerala Marine Fishing Regulation (Amendment) Act, 2017'

being, or has been, used in contravention of any of the provisions of this Act or of any order or rule made thereunder or any of the conditions of the licence, enter and search such vessel and impound such vessel and seize any fish found in it.

**(2) The authorized officer may, if he has reason to believe that any boat building yard or fishing net production unit is used in contravention of any of the provisions of this Act or of any rule made or order issued thereunder or any of the conditions of registration, enter and search the boat building yard or fishing net production unit and send a report to the adjudicating officer regarding the search.*

15. *Disposal of seized fish.*— (1) The authorized officer shall keep the fishing vessel impounded under section 14, in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of the fish seized the authorized officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereof in the prescribed manner in the office of the adjudicating officer.

16. *Adjudication.*— (1) Where any authorized officer referred to in section 14 has reason to believe that any fishing vessel is being, or has been, used in contravention of any of the provisions of this Act or any order or rule made thereunder or any of the conditions of the licence, he shall make a report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an enquiry into the matters mentioned in the report in the prescribed manner, after giving all the parties concerned a reasonable opportunity of being heard.

**(3) The adjudicating officer shall after receipt of report from the authorized officer regarding the search conducted in the boat building yard and fishing net production unit has reason to believe that any boat building yard is being or has been used in contravention of any of the provisions of this Act or any rule made or order issued thereunder or any of the conditions of registration, hold an enquiry into the matters mentioned in the report in the prescribed manner after giving all the parties concerned a reasonable opportunity of being heard.*

**17. Penalty.*— (1) Where the adjudicating officer, after enquiry under section 16, finds that any person has used or caused or allowed to be used,-

*Sub section 14 (2) and Sub section 16 (3) Inserted as per ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

*Section 17 Substituted as per ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

- (a) *any fishing vessel fitted with 100 hp engine or above as single or in toto or any mechanized fishing vessel in contravention of the provisions of section 5 or 7 of this Act or any Rule made or order issued thereunder shall be liable to penalty of an amount of two lakh and fifty thousand rupees;*
- (b) *any non-mechanised fishing vessel fitted with engine in between 10hp and 100hp as single or in toto, in contravention of the provisions of section 5 or 7 of this Act or any Rule made or order issued thereunder shall be liable to penalty of an amount of one lakh rupees;*
- (c) *any non-motorised fishing vessel or any motorized fishing vessel fitted with 10hp engine or below, in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of ten thousand rupees;*
- (d) *any boat building yard in contravention of the provisions of section 9C of this Act or any rule made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees;*
- (e) *any fishing net production unit in contravention of the provisions of section 9F of this Act or the rules made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees;*

Provided that where the penalty under this sub-section is imposed on a person for the second or subsequent time and for the same offence, such person shall be punished with double the amount of penalty and the registration and/or licence shall be suspended or cancelled;

Provided further that if the person has not remitted the penalty imposed under this sub-section, the fishing vessel shall be seized and in the case of the boat building yard and fishing net production unit, it shall be sealed and shall be forfeited or attached and sold, as the case may be, to the Government after giving proper notice, in the manner as may be prescribed.

- (2) *In addition to any penalty that may be imposed under sub-section (1), the fish seized under Section 14 shall be forfeited to the Government.*

(3) No person shall, on and from such date as may be notified by the Government, use such type of fishing vessel specified in such notification,-

(a) without holographic registration plate;

(b) without life saving appliances;

(c) without certified syrang;

(d) without certified engine driver;

(e) without signal flag and light;

(f) without colour coding;

(4) Any person who violates any of the provisions of sub-section (3) and found guilty shall, -

(a) in the case non-motorised fishing vessel fitted with 10hp engine or below, be liable to pay a penalty of two thousand and five hundred rupees;

(b) in the case of fishing vessel fitted with engine in between above 10hp and 100hp, be liable to pay a penalty of ten thousand rupees;

(c) in the case of fishing vessel fitted with 100hp engine or above be liable to pay a penalty of twenty five thousand rupees;

Provided that where the penalty under this sub-section is imposed on a person for the second or subsequent time and for the same offence, such person shall be punished with double the amount of the penalty and licence shall be suspended or cancelled:

Provided further that if the person has not remitted the penalty imposed under this sub-section, the fishing vessel shall be impounded

(5) Any amount of penalty imposed under this Act shall be recovered as if it were an arrear of public revenue due on land”.

18. *Appeal-* (1) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is made, prefer an appeal to the District Collector having jurisdiction over the area for which the adjudicating officer exercises powers:

Provided that the District Collector may entertain an appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days, from the date aforesaid, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal under this section shall be entertained by the District Collector unless

the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against:

 * Sub- sections 1, 2 & 3 of Section 18 Substituted as per 'The Kerala Marine Fishing Regulation (Second Amendment) Act, 1986'

Provided that, on an application made by the appellant in this behalf, the District Collector may, if he is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as he may deem fit to impose.

(3) On receipt of an appeal under sub-section (1), the District Collector may, after holding such enquiry as he deems fit and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against; and-

- a. if the sum deposited by way of penalty under sub-section (2) exceeds the penalty directed to be paid by the District Collector, the excess amount, or
- b. if the District Collector sets aside the order imposing penalty the whole of the sum deposited by way of penalty, shall be refunded to the appellant.

(4) Where the District Collector entertains appeal after dispensing with the deposit under the provision to sub-section (2) and if the order appealed against is not set aside or as the case may be, if the order appealed against is modified involving the depositing of penalty the appellant shall deposit such amount by way of penalty as may be ordered by the District Collector.

19. *Revision by *District Collector.*— The *District Collector may call for and examine the records of any order passed by an adjudicating officer under section 17 and against which no appeal has been preferred under section 18 for the purpose of satisfying *himself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as *he may think fit:

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

20. *Powers of Adjudicating officer and * District Collector in relation to holding enquiry under this Act.*— (1) The Adjudicating officer and the * *District Collector* shall, while holding

* Words 'District collector', 'himself' and 'he' substituted as per 'The Kerala Marine Fishing Regulation (Second Amendment) Act, 1986'

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 or copy thereof from any court or office;
- (d) receiving evidence or affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) The adjudicating officer or the * *District Collector* shall, while exercising any power 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).

21. *Offences by companies.*— (1) Where an offence under this Act has been committed by a company, every persons who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be, liable to be proceeded against and punished accordingly.

Explanation—for the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER IV

Miscellaneous

22. *Exemptions.*— (1) Nothing contained in this Act shall apply to survey vessels belonging to the Central Government or any State Government or any public under taking.

(2) If the Government are of the opinion that, having regard to the purposes of this Act, it would not be in the public interest to apply all or any of the provisions of this Act to any class or classes of fishing vessels used for fishing in any specified area or specified areas, they may, by notification in the Gazette, exempt, subject to such conditions as they may think fit to impose, such class or classes of fishing vessels used for fishing in such specified area or specified areas, as they may specify in the notification, from the operation of all or any of the provisions of this Act.

23. *Protection of action taken in good faith.*— (1) no suit, prosecution or other legal proceeding 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 this Act or any order or rule made thereunder.

(2) No suit or other legal proceeding 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 order or rule made thereunder.

24. *Power to make rules.*— (1) The Govt. may, by notification in the Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice in the generally of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the matters to which regard shall be had in making an order under sub-section (1) of section 4;
- (b) The form of the application for licence under sub-section (1) of section 6, the particulars which it shall contain and the fees which shall accompany it ;
- (c) The matters to which regard shall be had in granting or refusing a licence under clause (d) of subsection (4) of section 6, the fees payable for

- the licence and the security for the due performance of the conditions of the licence;
- (d) The procedure to be followed in granting or refusing a licence under section 6 or cancelling, suspending, varying of amending such licence or in registering a vessel under section 9 or cancelling such registration;
- (e) The form of application for registration of a vessel under section 9, the particulars which such application shall contain and the fees which shall accompany the application, the form of the certificate of registration and the form of the register referred to in sub-section (3) of that section, and the manner in which the registration mark referred to in sub-section(5) of that section shall be displayed;
- *(ca) the manner in which the production, keeping and transportation of fishing gear under clause (e) of sub-section (1) of section 4 shall be prescribed;*
- (eb) the form of application and the particulars to be contained therein and the fee for registration of a boat building yard and fishing net production unit under sub-section (2) of section 9A and sub-section (2) of section 9E , respectively;*
- (ec) the period within which an application for registration shall be granted or refused under sub-section (3) of section 9A;*
- (ed) the required specification of the boat building yard under clause (a) of sub-section (4) of section 9A;*
- (ee) the form of declaration under clause (b), the other facilities to be equipped under clause (d) of sub-section (4) of section 9A;*
- (ef) other facilities to be equipped under clause (d) of sub-section (4) of section 9A;*
- (eg) the manner in which the registration mark assigned under sub-section (7) of section 9A and sub-section (9) of section 9E shall be displayed;*
- (eh) the form of certificate of registration, the conditions of registration, the fee payable and the securities for the due performance of the conditions under sub-section (5) of section 9A and sub-section (6) of section 9E;*
- (ei) the type of design and seaworthiness of the boat under sub-section (9) of*

section 9A;

- (ej) *the form of application for renewal of registration of a boat building yard under sub-section (2) of section 9B, the particulars which it shall contain and the fee which shall accompany it;*
- (ek) *the period within which an application for renewal of registration shall be granted or refused and the conditions and amount of enhanced fee for acceptance of application made after the prescribed period under sub-section (3) of section 9B;*

*Clause (ea) to (er) inserted as per 'The Kerala Marine Fishing Regulation (Amendment) Act, 2017'

- (el) *the manner in which the inspection has to be conducted as per sub-section (10) of section 9A and sub-section (8) of section 9E.*
- (em) *the manner in which the functioning of the boat building yard are to be carried out shall be specified under sub-section (11) of section 9A;*
- (en) *the quality of the fishing net material and regulation of mesh size ;*
- (eo) *the manner in which the powers and duties of the State Fisheries Management Council are to be carried out under section 13B;*
- (ep) *the manner in which the powers and duties of the District Fisheries Management Council are to be carried out under section 13C;*
- (eq) *the manner in which the powers and duties of the Fishing Village Management Council are to be carried out under section 13D;*
- (er) *the manner in which the enquiry has to be conducted as per sub-section (3) of section 16;*
- (f) *the manner in which the information referred to in section 10 shall be given;*
- (g) *the time and manner in which the returns referred to in sub-section (1) of section 11 shall be furnished;*
- (h) *the authority to whom appeals shall be preferred under sub-section (1) of section 13;*
- (i) *the place and the manner in which an impounded fishing vessel shall be kept*

under sub-section (1) of section 15 and the manner in which the proceeds of the disposal of the seized fish shall be deposited with the adjudicating officer under sub-section (2) of that section;

- (j) the procedure of the enquiry by the adjudicating officer under * *sub-sections (2) and (3)* of section 16;
- (k) *the procedure to be followed by the District Collector under section 18;

*Words “Sub-sections (2) and (3)” substituted as per ‘The Kerala Marine Fishing Regulation (Amendment) Act, 2017’

*Clause (k) substituted as per ‘The Kerala Marine Fishing Regulation (Second Amendment) Act, 1986’

- (l) the fees payable for the supply of copies of documents or orders or for any other purpose or matter involving the rendering of any service by any officer or authority under this Act;
- (m) any other matter which is to be or may be provided for by rules under this Act.

(3) Every rule made under this section 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.

25. *Repeal and saving*— (1) The Kerala Marine Fishing Regulation Ordinance(12 of 1980) is hereby repealed.

(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.