

Fourteenth Kerala Legislative Assembly

Bill No. 81

Published 06/08/2017.

**THE KERALA MARINE FISHING REGULATION
(AMENDMENT) BILL, 2017**

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Kerala Legislature Secretariat
2017

KERALA NIYAMASABHA PRINTING PRESS.

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BILL

further to amend the Kerala Marine Fishing Regulation Act, 1980

Preamble.—WHEREAS, it is expedient further to amend the Kerala Marine Fishing Regulation Act, 1980 for the purposes hereinafter appearing;

BE it enacted in the Sixty-eighth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Marine Fishing Regulation (Amendment) Act, 2017.

(2) It shall come into force at once.

2. *Amendment of long title.*—In the long title of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), (hereinafter referred to as the principal Act), after the words “the coastline of the State”, the words “registration of boat building yard and fishing net production unit, constitution of fisheries management councils and for matters connected therewith or incidental thereto” shall be added.

3. *Amendment of preamble.*—In the preamble of the principal Act, after the words “the coastline of the State”, the words “registration of boat building yard and fishing net production unit, constitution of fisheries management councils and for matters connected therewith or incidental thereto” shall be added.

4. *Amendment of section 2.*—In section 2 of the principal Act,—

(1) after clause (c), the following clauses shall be inserted, namely:—

“(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, fabricated or sold;”;

(2) after clause (d), the following clause shall be inserted, namely:—

“(da) “Marine Fishing Village” means a village having area abutting to sea shore;”.

5. *Amendment of section 4.*—In section 4 of the principal Act, after the existing clause, the following clauses shall be inserted, namely:—

“(e) the production, keeping and transportation of such kind, type or size of fishing gear, as may be prescribed;

(f) the use of any dynamite, other explosive substance, poison or noxious, light or other destructive materials to catch or destroy the fish in the specified area as may be prescribed.”.

6. *Insertion of new sections 9A, 9B, 9C, 9D, 9E, 9F and 9G.*— In the principal Act, after section 9, the following sections shall be inserted, namely:—

“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 authorised officer in such form, containing such particulars and accompanied by such fees, as may be prescribed.

(3) The authorised 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 (4), either grant or refuse to grant the certificate of registration, within such period, as may be prescribed.

(4) In granting or refusing registration under sub-section (3), the authorised 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 conforms with the general arrangement plan of the proposed fishing vessel with engine and machinery details, equipment list, Gross Register Tonnage, Net Register Tonnage and stability report in the manner prescribed under clause (a) of sub-section (4);

(d) whether the boat building yard is equipped with the fire safety system, first aid facility and such other facilities as may be prescribed; and

(e) any other matter as may be prescribed.

(5) Where the authorised 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.

(6) Registration once granted under this Act shall be valid for a period of five years from the date of issue of the certificate of registration.

(7) Every boat building yard registered under this Act shall carry a registration mark, assigned to it by the authorised officer and the registration mark so assigned shall be displayed in the prescribed manner.

(8) Where the authorised 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.

(9) 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.

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

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

(12) 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 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 authorised officer in such form, containing such particulars, accompanied by such fees and within such period, as may be prescribed.

(3) The authorised 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 authorised 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 authorised 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 authorised 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 authorised 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 authorised 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 this Act 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 this Act, unless the unit is registered under this section:

Provided that the authorised 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 authorised 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 authorised 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 authorised 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.

(8) The authorised officer shall conduct inspection 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 authorised 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 authorised officer in such form containing such particulars accompanied by such fees and within such period as may be prescribed.

(12) All the fishing net production unit in the State already registered with the Department of Industries or registered elsewhere shall obtain a No Objection Certificate from the Department of Fisheries within a period of 3 months and shall abide by the conditions as may be prescribed under this Act on the quality of the fishing material and regulation of mesh size.

9F. Prohibition of using fishing net production unit which is not registered.—No fishing net production unit shall be permitted to function which is not registered under section 9E of this Act.

9G. Cancellation and suspension of Registration.—If the authorised 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 authorised officer may, after giving the holder of the registration certificate a reasonable opportunity of showing cause, cancel or suspend the registration.”

7. Insertion of new sections 13A, 13B, 13C and 13D.— In the principal Act, after section 13, the following sections shall be inserted, namely:—

“13A. 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 Matsya Bhavan having jurisdiction over the area - Member Secretary
- (c) Two elected members of Grama Panchayat/ Municipality as nominated by its head from nearby coastal wards - Member

- (d) Two elected Presidents of Fisheries Co-operative Societies having jurisdiction in the area, nominated by the Government - Member
- (e) One fishermen from the same fishing Village, nominated by the Government - Member

(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) District Panchayat President - Member
- (d) One representative of Central Marine Fisheries Research Institute - Member
- (e) One representative each from five recognized fishermen trade unions, nominated by the Government - Members
- (f) One representative from the Non Governmental Organisations involved in Marine fisheries/ conservation, nominated by the Government - Member

(4) The State fisheries management council shall consist of the following members, namely:—

- (a) Director of Fisheries - Chairman
- (b) Additional Director of Fisheries - Vice Chairman
- (c) Director, Central Marine Fisheries Research Institute - Member
- (d) Director, Central Institute of Fisheries Technology - Member
- (e) Zonal Director, Fisheries Survey of India - Member
- (f) One Fisheries Expert nominated by the Government - Member
- (g) Five representatives from the fishermen trade unions, nominated by the Government - Members
- (h) One representative each from recognised mechanised-boat operators unions, nominated by the Government - Members

- | | |
|--|--------------------|
| (i) One representative from Non-Governmental Organizations involved in Marine fisheries/ Conservation, nominated by the Government | - Member |
| (j) One representative of Seafood Exporters Association (SEAL—Local Chapter) nominated by the Government | - Member |
| (k) One representative of Coast Guard | - Member |
| (l) One representative from Marine Products Export Development Authority, nominated by the Government | - Member |
| (m) Joint Director of Fisheries | - Member Secretary |
| (n) Deputy Director of Fisheries | - Member |
- (Co-ordination)

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 present assets, liabilities and posts of the State Fisheries Management Society (FIRMA) shall be vested in, and transferred to, the State Fisheries Management Councils 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 Act were not in force. The deployed post in the cadre of Joint Director of Fisheries from State Fisheries 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 Management Society (FIRMA) will function as the Member (Co-ordination) of the council.

13B. *Powers, Duties and functions 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 Council 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 and execute Marine Fishery Management Plan for the State or part thereof;

(ii) to advise Director of Fisheries to identify suitable sites/locations for mariculture and conservation activities;

(iii) to provide technical and other assistance to the Department of Fisheries for creation of 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 set up Fishery Information Centre and communication facilities for the use of marine fisherfolk and coastal inhabitants;

(viii) to provide information to the State Government on management and conservation of marine fish resources;

(ix) to encourage and support interaction between the Universities, Research Organizations for the sustainable management and conservation of marine fish resources;

(x) to liaise with other agencies in the country or abroad in the field of fisheries ;

(xi) to accept donation, grants, contributions or financial assistance from Governmental, Quasi-Governmental or Non-Governmental agencies, persons or any other sources with a view to fulfil all or any of the above objectives;

(xii) 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;

(xiii) to acquire, hold or and receive property of any kind including securities and negotiable instruments;

(xiv) to manage property of any kind belonging to the State Fisheries Management Council ;

and to utilize the income derived there from for maintaining the State Council;

(xv) to purchase, maintain or sell material or properties of any kind and utilize the income derived there from for maintaining the State Fisheries Management Council;

(xvi) to enter into contracts and legal actions for and in connection with the declared objectives of the State Council;

(xvii) 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 Management Council may examine the same and take fresh decisions on such issue.

(xviii) Such other powers, duties and functions as may be prescribed;

8. *Amendment of section 14.*—In section 14 of the principal Act,—

(a) in the marginal heading, after the words “fishing vessel”, the words “boat building yard and fishing net production unit” shall be added;

(b) the existing section shall be re-numbered as sub-section (1) thereof and after sub-section (1) so re-numbered, the following sub-section shall be inserted, namely:—

“(2) The authorised 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”.

9. *Amendment of section 16.*—In section 16 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The adjudicating officer shall after receipt of report from the authorised 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.”.

10. *Amendment of section 17.*—In section 17 of the principal Act,—

(1) in the proviso to sub-section (1), (a) after the words and figures “section 5 or section 7”, the words and figures “or the owner of a boat building yard has acted in contravention of sections 9A, 9B, 9C and 9D or an owner of a fishing net production unit has acted in contravention of section 9E, 9F and 9G” shall be inserted and for the words “shall not be less than twenty five thousand rupees but which may extent to fifty thousand rupees”, the words “shall be two lakhs and fifty thousand rupees” shall be substituted.

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No person shall,—

(a) involve in fishing with a vessel without Holographic Registration Plate or Colour Coding as may be prescribed;

(b) use a vessel without life saving appliances;

(c) use a vessel without certified syrang/engine driver;

(d) use a vessel without signal flag or light;

(e) involve in pair trawling or night trawling or other prohibited or illegal destructive fishing methods;

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

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

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

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

Provided that where the penalty under sub-section (2) is imposed on a person for the second time, such person shall be punished with double the amount of the maximum amount of fine and for every subsequent commission of the offence, the registration and licence shall be cancelled.

(5) The adjudicating officer shall, before imposing any penalty under this section, hold an enquiry into the matters, in the prescribed manner, and decide the matter after giving all the parties concerned a reasonable opportunity of being heard.

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

11. *Amendment of section 24.*—In sub-section (2) of section 24 of the principal Act,—

(a) after clause (e), the following clauses shall be inserted, namely:—

“(ea) 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;

(el) the manner in which the inspection has to be conducted as per sub-section (10) of section 9A and sub-section (8) of 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 specified under sub-section (12) of section 9E;

(eo) the manner in which the powers and duties of the State Fisheries Management Council are to be carried out shall be specified under section 13B;

(ep) the manner in which the powers and duties of the District Fisheries Management Council are to be carried out shall be prescribed under section 13C;

(eq) the manner in which the powers and duties of the Fishing Village Management Council are to be carried out shall be specified under section 13D;

(er) the manner in which the enquiry has to be conducted as per sub-section (3) of section 16;

(b) in clause (j) for the word, brackets and figures "sub-section (2)", the words, brackets and figures "sub-section (2) and (3)" shall be inserted".

STATEMENT OF OBJECTS AND REASONS

Realising the importance of conservation of the marine fish resources of the State and safeguarding the interest of the marine fishermen, the Government of Kerala has enacted the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) providing for the regulation of fishing by fishing vessels in the sea along the coast line of the State. At present there is no provision in the Act for the registration of boat building yards, registration of net manufacturing and selling units and constitution of Fisheries Management Councils.

2. In order to bring all fishing vessel constructions under the purview of the Kerala Marine Fishing Regulation Act, 1980, appropriate amendment has to be made in the Act. Restrictions for the use of fishing gear and the dimension of fishing gear has to be incorporated in the Act since very small and juvenile fishes are regularly caught causing serious threats to the fish stocks. The regulation of fishing gear shall be done by bringing all fishing net manufacturing dealers under a system of regulation and licensing. Hence, there should be provision for the registration of manufacturing units with Department of Fisheries.

3. For the effective management and surveillance of marine fisheries a new provision has to be inserted in the Act so as to constitute a three tier Fisheries Management Councils at Village, District and State levels, conferring certain powers and duties to them.

4. The said Act provides to impose penalties for violation of provisions under the Act. But, the quantum and extend of penalties needs to be modified considering devaluation of the currency and depending upon the type of vessels and gravity of violations committed. At present there is no provision in the Act to recover the penalty imposed under the Act. Hence, the Government have decided that any amount of penalty imposed under this Act shall be recovered as if it were an arrear of public revenue due on land and a provision in this respect has to be inserted in the Act.

5. The Bill is intended to achieve the above objects.

FINANCIAL MEMORANDUM

Sections 9A to 9D proposed to be inserted in the principal Act by clause 6 of the Bill provides for registration of boat building yard and the matters connected therewith. The newly proposed sections 13A to 13D provides for the constitution of three tier Fisheries Management Councils. The above sections, when the Bill is enacted and brought into operation, would incur expenditure from the Consolidated Fund of the State. Hence, a recurring expenditure of seventy-five lakhs rupees is expected. Since the present facilities available can be utilised for the registration of net production unit and matters connected therewith as provided in the new sections 9E to 9G, no additional expenditure is expected for the same.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 4 proposed to be inserted in the principal Act by clause 5 of the Bill provides to empower the Government to make rules prescribing the kind, type or size of fishing gear for the production, keeping and transportation and the use of any dynamite, other explosive substances, poison or noxious, light or other destructive material to catch or destroy the fish.

In clause 6 of the Bill,—

(i) Section 9A proposed to be inserted in the principal Act empowers the Government to make rules prescribing the form, particular and fees to be accompanied for registration of boat building yard, the period within which to grant or refuse the application for registration, the required specification of the boat building yard, the form for the declaration showing the purpose and use of vessels, other facilities to be equipped in the boat building yard, fees, form, conditions, security for the issue of certificate of registration, the display of registration mark, the sea worthy of the fishing vessel, the manner of conducting inspection of boat building yard, the manner of conducting inspection at various stages by naval architect and the functioning of the boat building yard.

(ii) Section 9B proposed to be inserted in the principal Act empowers the Government to make rules prescribing the form, particulars, fees and period for the renewal of registration of boat building yard, the period within which an application for renewal of boat building yard be renewed or refused and the conditions and enhanced fees for the renewal of registration of boat building yard after the expiry of the period;

(iii) Section 9E proposed to be inserted in the principal Act empowers the Government to make rules prescribing the form, particulars and fees for registration of fishing net production unit the period within which an application

for registration of fishing net production unit shall be granted or refused, the form conditions, fees and security to grant registration to the fishing net production unit, the manner of inspection by the authorised officer in the fishing net production unit, the display of registration mark of the registered fishing net production unit, the form, particulars, fees and the period within which the owner of fishing net production unit shall renew the registration and the conditions for obtaining a no objection certificate on the quality of the fishing material and regulation of mesh size.

In clause 7 of the Bill,—

(i) Section 13A proposed to be inserted in the principal Act empowers the Government by notification to constitute a three tier system of Fisheries Management Councils, to notify the date on which the present assets liabilities and posts of the State Fisheries Management Society [FIRMA] shall be vested in and transferred to the State Fisheries Management Councils.

(ii) Section 13B proposed to be inserted in the principal Act empowers the Government to make rules prescribing the other powers, duties and functions of the Fishing Village Management Councils.

(iii) Section 13C is proposed to be inserted in the principal Act empowers the Government to make rules prescribing the powers, duties and functions of the District Fisheries Management Councils.

(iv) Section 13D proposed to be inserted in the principal Act empowers the Government to make rules prescribing the powers, duties and functions of the State Fisheries Management Council.

Section 16 proposed to be inserted in the principal Act as per clause 9 of the Bill, empowers the Government to make rules prescribing the manner of enquiry by the adjudicating officer if any boat building yard is being or has been used in contravention of any of the provision of the Act or rule made or order issued there under or any of the conditions of registration.

Section 17 proposed to be inserted in the principal Act as per clause 10 of the Bill, empowers the Government to make rules prescribing the manner of conducting an enquiry by the adjudicating officer before imposing penalty.

J. MERCYKUTTY AMMA

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
MARINE FISHING REGULATION ACT, 1980

(10 OF 1981)

An Act to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State.

Preamble:—WHEREAS it is necessary to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State;

** ** ** **

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

(c) “authorised officer” means such officer as the Government may, by notification in the Gazette, authorise in respect of the matter to which reference is made in the provision of this Act in which the expression occurs:

** ** ** **

4. *Power to regulate, restrict or prohibit certain matters within specified area.*—

** ** ** **

(d) the use of such fishing gear in any specified area as may be Prescribed.

** ** ** **

9. *Registration of Vessels.*—

** ** ** **

(6) No vessel other than a registered fishing vessel, shall be entitled to a licence under section 6.

** ** ** **

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

** ** ** **

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

** ** ** **

14. *Power to enter and search fishing vessels.*—The authorized officer may, if he 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 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.

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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 there under or any of the conditions of the licence, he shall make 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.

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17. *Penalty.*—(1) The adjudicating officer shall, after the enquiry under section 16, decide whether any person has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Act or of any order or rule made there under or any of the conditions of the licence and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding,—

(a) five thousand rupees, if the value of the fish involved is one thousand rupees or less;

(b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or

(c) five thousand rupees, in any other case, being a case not involving any fish,

as may be adjudged by the adjudicating officer.

Provided that where the adjudicating officer after the enquiry under section 16 decides that any person had used, or caused or allowed to be used, any fishing vessel in contravention of the provisions of section 5 or section 7, such person shall, on being found not be less than twenty five thousand rupees but which may extend to fifty thousand rupees, as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that—

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in the manner referred to in sub-section (1) or the licence, any condition of which has been contravened, shall be—

(i) cancelled or revoked, as the case may be; or

(ii) suspended for such period as the adjudicating officer deems fit; or

(b) the fishing vessel or fish that may have been impounded or seized, as the case may be, under section 14 shall be forfeited to the Government:

Provided that where the penalty under the proviso to sub section 1 is imposed on a person for the second or subsequent time, the adjudicating officer shall direct that the fishing vessel or fish that may have been impounded or seized, as the case may be, under section 14 shall be forfeited to the Government.”

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24. *Power to make rules.*—

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(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;

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