

Twelfth Kerala Legislative Assembly
Bill No. 305

THE KERALA INLAND FISHERY BILL, 2010

243/2010.

THE KERALA INLAND FISHERY BILL, 2010

A

BILL

to codify and amend the laws relating to Inland fisheries in the State of Kerala and to provide for the development, management, conservation, propagation, protection, exploitation and disposal, etc. of Inland fish and fisheries in the State and for the promotion of social fisheries and to regulate and control the activities relating to fishery in aquaculture areas and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to codify and amend the laws relating to Inland fisheries in the State of Kerala and to provide for the development management, conservation, propagation, protection, exploitation and utilization, etc. of inland fish and fisheries in the State and for the promotion of social fisheries and to regulate and control the activities relating to fishery in aquaculture areas and for matters connected therewith or incidental thereto;

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

CHAPTER I
Preliminary

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

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

(3) It shall come into force at once.

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

(a) 'appellate authority' means the Director of Fisheries ;

(b) 'aquaculture' means growing of any aquatic animals or plants having life at any stage of its life cycle by stocking them either naturally or artificially in any private or public water body or in any other aquatic environment ;

(c) 'aquaculture area' means an area notified under sub-section (1) of section 4 ;

(d) 'authorised officer' in respect of the matter to which reference is made in the provisions of this Act in which the expression occurs means any officer of the Fisheries Department to be authorised by the Government by notification in the Gazette ;

(e) 'filtration' means a practice of catching natural stock of fish at any stage of its life cycle by trapping in natural or artificial traps from the natural resources like sea, backwaters, river, etc.

(f) 'fisherman' means any person engaged mainly in fishing activity for his livelihood ;

(g) 'fish farmer' means the person doing farming of all aquatic animals and plants having life so as to enable him to earn economic gain at any stage of its life cycle ;

(h) 'fishing vessel' means any boat or small boat engaged in fishing or fish farming activities and includes in it a vessel, country boat, canoe or any other device for travelling in water for fishing or fish farming activities ;

(i) 'fish' including shell fish, at any stage of their life cycle, includes all aquatic plants and animals having life ;

(j) 'fishing operation' means catching of fish by any means either by using machines or otherwise and also includes in it the stocking of shell fish, conchs etc. and any type of filtration and culturing of them ;

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

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

(m) 'fish sanctuary' means any area notified as fish sanctuary under section 25 of this Act ;

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

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

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

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

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

(s) 'Local Self Government Institution' means a Panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994) ;

(t) 'Person' includes a company or firm or institution or co-operative society or any body of individuals ;

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

(v) 'Private water body' means any water body or to be a reclaimable area which is the exclusive property of any person or persons in which the person or persons or any others have for the time being an exclusive right of fishery whether as owner or lessee or in any other capacity ;

(w) 'public water body' means any water body or to be a reclaimable area including estuaries or backwaters or rivers or lakes or ponds or tanks or canals including irrigation canals or reservoirs or streams vested with the Government or Local Self Government Institution under section 218 of the Kerala Panchayat Raj Act, 1994 or under section 208A of the Kerala Municipality Act, 1994 or owned by Boards or any other Government-Quasi Government Institutions or Organisations and includes in it the territorial water limits of the State;

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

(y) 'State' means the State of Kerala and includes in it the territorial water limits lying adjacent to the entire coastal area of the State.

CHAPTER II

Development, Propagation, Conservation, Management

3. Fishery related activity or allied activity in the Public water body.—(1) The development and management of fishery related activity or any other allied activity in the public water bodies, other than that which are under the custody of Local Self Government Institution, shall be vested with the Government.

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

(3) No person shall reclaim or convert or modify any public water body without the written permission of the Government.

4. Fishery in the Aquaculture Area.—(1) The Government may by notification in the Gazette, for the purpose of developing fishery or for protecting the common interests of fishery sector declare any public water body or other suitable areas as aquaculture area for the exclusive fishery related activities:

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

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

5. Restriction on Fishing.—(1) Subject to the provisions of this Act and the rules made thereunder, the Government may, by notification in the Gazette limit, restrict or prohibit fishing of any kind of fish for a period of one year or less than that from any area notified for this purpose.

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

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

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

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

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

(a) the construction of weirs or barriers or artificial reefs or cages or fences ;

(b) the dimensions and type of fishing devices used for fishing or for catching any item of fish as specified and the manner of using such devices ;

(c) the minimum size or weight below which no fish or any item of fish as specified shall be caught or stocked or sold ;

(d) the destruction or weakening of fish or fishery by pollution or by retting of coconut husk or by industrial and domestic effluents or by spraying pesticides ;

(e) the collection of clam, mussel, oyster, conch, etc. and the transport of their meat or shell or with both ;

(f) the filtration of fish and prawns in private water body ;

(g) the attraction of fish or to cause their migration to any water bodies either by the use of sluices, openings, alluring light or by any means and by any other contrivances or catch fish or prevent their escape by any means whatsoever ; and

(h) the destruction of the existing ecological condition of any water body by any means.

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

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

CHAPTER III
Registration and grant of licence

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

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

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

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

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

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

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

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

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

(b) fishing vessel or fixed gear or free net or aquaculture or filtration is defective or do not have the standard or quality as prescribed by Rules made under this Act; or

- (c) such registration shall adversely affect the public interest; or
- (d) the applicant has not furnished the particulars prescribed for such registration:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) if a licence has been obtained by the licensee by misrepresentation or by the suppression of facts,

cancel or suspend any such licence :

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

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

18. *Licence granted by other agencies before the commencement of this Act cease to exist.*—Except to the extent provided in sub-section (2) of section 44, any licence granted by any person, agency or society before the commencement of this Act for fishing activities or for fishery related activities shall cease to exist on the commencement of this Act.

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

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

21. *Power of the Government to restrict the entrance of extraordinary varieties of fish.*—The Government may, by notification in the Gazette, restrict, prohibit or regulate the entrance of any extraordinary variety of fishes having life or fish seeds which is suspected to cause any damage to the existing fishery wealth or to cause any epidemic disease to the existing variety of fishes.

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

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

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

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

(a) summoning and enforcing the attendance of witnesses; (b) requiring to find out and to produce any document ;

(c) requisitioning any public record from any court or office ;

(d) receiving evidence on affidavits ;

(e) issuing commission for the examination of witnesses or documents.

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

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

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

CHAPTER IV Fish Sanctuaries

25. *Declaration as Fish Sanctuary.*—(1) The State Government may, by notification in the Gazette, declare any area to be a fish sanctuary if it considers that such area is having fishery related or zoologically or naturally or ecologically sufficient importance in protecting and propagating fish or its environment:

Provided that if the water body is situating under the possession of Local Self Government Institution in the said area, the Government shall, consult with the concerned Local Self Government Institution before declaring as such.

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

(3) After the issue of a notification under sub-section (1) no person shall acquire any right in or over the areas comprised within the limits of the areas specified in such notification by succession either testamentary or intestate.

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

(a) describing the boundaries of the fish sanctuary; and

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

(5) The authorised officer shall, after giving the prescribed notice to the claimant enquire into the claim submitted before him under clause (b) of sub-section (4), about the same so far as possible, from the records of the State Government and from the evidence given by any person who has knowledge of the same.

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

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

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

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

(a) a public servant on duty ;

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

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

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

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

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

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

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

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

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

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

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

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

- (a) enquiry and study relating to fish and fishery and for the purposes ancillary or incidental thereto ;
- (b) taking photographs ;
- (c) scientific research ;
- (d) tourism ;
- (e) lawful transactions with any person residing in the sanctuary.

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

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

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

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

30. *Management and Preservation of fish sanctuary.*—The Director of Fisheries or any other officer authorised by him shall be the authority for controlling, managing and preserving the fish sanctuary and for that purpose, within the limits of the sanctuary, he,—

(a) may construct roads or bridges or buildings or fences or barrier gates or carryout other works as he may consider necessary for the purposes of such sanctuary ;

(b) shall take such steps to ensure the security of fish and fishery in such sanctuary and for the conservation of the sanctuary and fish therein ;

(c) may take such other steps, in the interest of fish and fishery, as may deem necessary for the improvement of the habitat ;

(d) may regulate or control or prohibit the fishing operations or aquaculture or filtration.

CHAPTER V
Aquaculture

31. *Registration and Certification of Fish Seeds.*—(1) The Government may, by notification in the gazette, entrust the Agencies to register fish seeds and to certify its standard of quality.

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

(3) The Government shall, by notification in the Gazette, constitute a Fish Seed Committee including technical experts in the Aquaculture/fishery sector and such Committee shall consist of not exceeding five members containing Chairperson to advise the Government on all matters relating to Registration and Certification of fish-seeds and to co-ordinate the activities of the Agencies constituted under sub-section (1).

(4) The composition, the conditions of service and the salary, the term of office, the duties and functions of the Fish Seed Committee constituted under sub-section (3) shall be in such manner as may be prescribed.

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

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

(a) the minimum size, weight, purity and free from disease infection with respect to any aquaculture seed of any notified item or variety ;

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

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

(a) identifiable as to its item or variety ;

(b) conforms to the size, weight, purity, free from disease infection specified in clause (a) of sub- section (6) ;

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

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

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

32. *Powers of the authorised officer.*—(1) The officer authorised under clause (a) of sub-section (8) of section 31 may,—

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

(b) take the sample of any aquaculture seed of any notified item or variety from—

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

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

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

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

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

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

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

Provided that the power to collect aquaculture seed from any hatchery, or fish farm or pond shall be exercised only after the owner or the possessor of the hatchery, fish farm or pond, on being called upon to produce the aquaculture seed from the hatchery or fish farm or pond, hesitates to do so even though he is present therein.

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

CHAPTER VI

Seizure, Arrest, Penalties and Compounding

33. *Fish to be Government wealth.*—(1) Any fish caught or collected or harvested or cultured or harvested through filtration in contravention of any of the provisions of this Act or any Rule or Order made thereunder, whether the fish is having life or dead shall be deemed to be the wealth of the Government.

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

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

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

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

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

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

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

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

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

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

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

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

35. *Penalties.*—Any person who contravenes any prohibition or restriction or regulation imposed by any of the provisions of this Act or the rules made thereunder or contravenes any of the terms or conditions of any licence or permit granted to him under this Act, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees :

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

(2) Where any person who is convicted for an offence against this Act or the rules made thereunder, the Court trying the offence may pass an order that any fish caught or collected or harvested or filtered and any device, fixed gear, free net, fishing vessels, vehicle, weapon etc. used for the commission of the said offence be forfeited to the State Government and may cancel any licence or permit obtained by such person under the provisions of this Act.

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

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

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

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

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

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

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

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

CHAPTER VII

Miscellaneous

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

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

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

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

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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

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

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

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

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

STATEMENT OF OBJECTS AND REASONS

Indian Fisheries Act, 1897 (Central Act 4 of 1897), Indian Fisheries (Madras Amendment) Act, 1827 (Central Act 11 of 1827) and Travancore-Cochin Fisheries Act, 1950 (34 of 1950) are the laws in force in the State, in respect of Inland Fishery Sector. In order to conserve the fish wealth of Inland Water Bodies, to control the over exploitation leading to the weakening of fish wealth, to improve the standard of quality of fish seed and to enhance the fish production of the State by preventing the fish diseases. Government have proposed to implement in this sector an unified law for the State as a whole.

The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 25 of the Bill seeks to provide for the State Government to declare any area to be a fish sanctuary if it considers that such area is having fishery related or zoologically or naturally or ecologically sufficient importance in protecting and propagating fish or its environment. It is proposed to start nine fish sanctuaries in coastal districts by nine years at the rate of one fish sanctuary per year. For this the anticipated expenditure of recurring and non-recurring nature are such as follows, namely:—

Recurring expenditure	:	rupees 27 lakhs
Non-recurring expenditure	:	rupees 225 lakhs

Clause 31 of the Bill seeks to provide for entrusting an Agency to register fish seeds and to certify its standard of quality and for constituting a Fish Seed Committee to co-ordinate the activities of such entrusted Agencies. In the said Committee there shall be members not exceeding five including a Chairperson. For giving salaries and allowances to them and for the functioning of the Committee, a recurring expenditure of rupees 25 lakhs and a non-recurring expenditure of rupees 25 lakhs are anticipated. Since the set up and staff under the existing Act are used, no additional expenditure will be incurred for the same.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clause (d) of clause 2 of the Bill empowers the Government to authorise any officer of the Fisheries Department to be the "authorised officer" by notification in the Gazette in respect of the matters to which reference is made in the provisions of this Act.

2. Sub-clause (1) of clause 4 of the Bill empowers the Government, by notification in the Gazette, to declare any public water body or other suitable areas as aquaculture area for the exclusive fishery related activities for the purpose of developing fishery or for protecting the common interest of fishery sector. Sub-clause (2) of the said clause seeks to empower the Government to make rules for the protection of such area from being utilised for any other purpose other than specified in sub-section (1).

3. Sub-clause (1) of clause 5 of the Bill empowers the Government to limit, restrict or prohibit fishing of any kind of fish for a period of one year or less than that from the area declared as aquaculture area.

4. Sub-clause (1) of clause 6 of the Bill empowers the Government to make rules for the purpose of the clause and, by notification in the Gazette, apply all or any of such rules to inland water bodies specified in the said notification.

5. Sub-clause (2) of clause 9 of the Bill empowers the Government to prescribe the fees and particulars and application for the registration of fishing vessel, fixed gear, free net, aquaculture filtration, etc.

6. Sub-clause (6) of clause 9 of the Bill empowers the Government to prescribe the form of registration and the model of register to be kept by the authorised officer, who has been authorised to prescribe provisions and conditions for the same. Sub-clause (7) of the clause also seeks to empower the Government to prescribe the identification symbol of registration.

7. Sub-clause (1) of clause 10 of the Bill empowers the Government to prescribe which are the returns to be furnished by every person having a registration certificate and to prescribe the time and manner for furnishing the same to the authorised officer.

8. Sub-clause (1) of clause 11 of the Bill empowers the Government to prescribe the time for reporting to the authorised officer, by the transferor where the ownership of fishing vessel or fixed gear or free net or aquaculture area or filtration area is transferred. Sub-clause (2) of the said clause seeks to empower the Government to prescribe the fees and the time for reporting to the authorised officer by the transferee, who got the ownership of the fishing vessel or fixed gear or free net or aquaculture area or filtration area.

9. Sub-clause (2) of clause 14 of the Bill empowers the Government to prescribe the form of application for licence, such particulars that shall be contained therein and the fees to be accompanied with it. Sub-clause (3) of the said clause empowers the Government to prescribe the manner in which, the period for which and the terms and conditions subject to which licence may be granted. Besides, sub-clause (6) of the above said clause empowers the Government to exempt any person or institution recognized by the Government from taking licence under this Act either in the interest of scientific research or for any other reason. It also empowers the Government to authorize any other officer to exercise this power.

10. Sub-clause (1) of clause 15 of the Bill empowers the Government to prescribe the fees for the renewal of the licence.

11. Sub-clause (1) of clause 15 empowers the Government to make such rules subject to the conditions under which the licence shall be renewed. Sub-clause (2) of the said clause empowers the Government to prescribe the additional fees to be paid for the renewal of any licence not renewed within one month after the date of its expiry.

12. Clause 20 of the Bill empowers the Government to issue notification in the Gazette to limit or restrict or prohibit them either temporarily or permanently the number and size of fishing vessels, fixed gear, free net and any other devices.

13. Clause 21 of the Bill empowers the Government to issue notification in the Gazette to restrict, prohibit or regulate allowing the entrance of any extraordinary variety of fishes having life or fish seeds which is suspected to cause any damage to the existing fishery wealth or to cause any epidemic disease to the existing variety of fishes.

14. Clause 24 of the Bill empowers the Government to call for the records of the order passed in appeal, either suo motu or on application made by any person aggrieved by that order within thirty days of the order of the Appellate Authority and to pass such orders thereon as it may deem fit.

15. Clause 25 of the Bill empowers the Government, by notification in the Gazette, to declare a water body in any area to be a fish sanctuary if it consider that such area is having fishery related or zoologically or naturally or ecologically sufficient importance in protecting and propagating fish or its environment.

16. Sub-clause (2) of clause 29 of the Bill empowers the Government to prescribe the conditions for granting permit to enter or reside in a fish sanctuary and the fees.

17. Sub-clause (1) of clause 31 of the Bill empowers the Government to entrust the Agencies to register fish seeds and to certify its standard of quality. Sub-clause (2) of the said clause empowers the Government to prescribe the manner of registration, the certification and the entrustment of Agencies thereto. Clause (3) of the said clause empowers the Government to constitute, by notification in the Gazette, a 'Fish Seed Committee' to advise the Government on matters provided in sub-clauses (1) and (2). Sub-clause (4) of the above said clause empowers the Government to prescribe the composition, the conditions of service and the salary, the term of office, the duties and functions of the above said Fish Seed Committee. Besides, sub-clause (5) of the above said clause empowers the Government, on the recommendation of the Fish seed Committee, if it deems necessary to control the standard of quality of aquaculture seed of any item or variety, to declare such item or variety to be a notified item or variety for the purpose of this Act and to notify various items and variety for various district or for various areas thereof. Sub-clause (6) of the said clause empowers the Government to specify the minimum size, weight and purity with respect to notified aquaculture seed and to specify the particulars that shall be contained in the symbol or label indicating such aquaculture seeds, and sub-clause (8) empowers the Government to prescribe the qualifications of the officers authorized to inspect the aquaculture seeds and the local limits of jurisdiction within which they shall exercise their powers.

18. Sub-clause (5) of clause 34 of the Bill empowers the Government to prescribe the manner in which the proceeds of the sale of fish or shell or meat seized under the provisions of the Act, are to be dealt with.

19. Sub-clause (1) of clause 38 of the Bill empowers the Government to authorise any officer of the Fisheries Department not below the rank of Assistant Director of Fisheries for compounding offences.

20. Sub-clause (l) of clause 42 of the Bill empowers the Government to make rules.

21. Sub-clause (l) of clause 43 of the Bill empowers the Government to issue, within a period of two years of the commencement of the Act, orders which are expedient for the purpose of removing difficulties which may arise in giving effect to the provisions of the Act.

22. Matters in respect of which Rules may be made and notifications may be issued or orders may be issued, they are regarding matters of procedure or of routine or administrative in nature. Further the rules are subject to scrutiny by the Legislative Assembly. The delegation of legislative power is thus of a normal character.

S. SHARMA

(True Translation)

NOTES ON CLAUSES

Clause 2.—This clause seeks to define certain words and expressions used in the Bill.

Clause 3.—This clause seeks to vest with the Government the development and management of fishery related activity or allied activity in the public water bodies and to vest with the officers of the Department of Fisheries authorised by the Government in this behalf, the responsibility of giving necessary technical advice to the Local Self Government Institutions in the fishery related matters and to provide that no reclamation or conversion or modification of the public water body is made without permission in writing of the Government.

Clause 4.—This clause seeks to empower the Government to declare by notification in the Gazette, for the purpose of fishery related development or for protecting the common interest of fishery sector, any public water body or other suitable areas as aquaculture area for the exclusive fishery related activities and to make rules for the utilisation, restriction, regulation and control of the fishery related activities in that area.

Clause 5.—This clause seeks to empower the Government, by notification in the Gazette, to impose restrictions on fishing at any notified area.

Clause 6.—This clause seeks to empower the Government to make rules and, by notification in the Gazette make applicable all or any of such rules to inland water bodies and to prohibit fishing or the use of any fishery vessel except under a licence and such matters as may be prescribed by rules, to control or prohibit either permanently or temporarily.

Clause 7.—This clause seeks to prohibit the destruction of fish wealth using explosive or poison or electricity.

Clause 8.—This clause seeks to provide that fishing vessel or free net or fixed gear are not used without registration.

Clause 9.—This clause seeks to provide for the manner in which the fishing vessel, free net, fixed gear, aquaculture, filtration etc. are to be registered.

Clause 10.—This clause seeks to provide for the liability of the person having registration certificate to furnish returns and the powers to prescribe as to when and in which manner the returns are to be furnished and the powers of the authorised officer to inspect the properties and documents related therewith.

Clause 11.—This clause seeks to provide for the conditions to be complied with while transferring fishing vessel or free net or aquaculture area or filtration area.

Clause 12.—This clause seeks to provide for the powers of the authorized officer to suspend or cancel registration if he has sufficient cause.

Clause 13.—This clause seeks to provide for preferring appeal to the appellate authority against the orders refusing or suspending or cancelling registration.

Clause 14.—This clause seeks to make provisions in respect of granting licence.

Clause 15.—This clause seeks to make provisions with respect to the renewal of licence.

Clause 16.—This clause seeks to provide for the liability of the licensee to produce the licence as and when required by the authorised officer.

Clause 17.—This clause seeks to make provisions for cancelling and suspending of licence and to provide for the reasons for the same.

Clause 18.—This clause seeks to provide for making a licence granted by other agencies before the commencement of this Act as cease to exist after the commencement of this Act.

Clause 19.—This clause seeks to provide for the convicted Court to send a copy of its judgment to the authorised officer, if a licensee under this Act has been convicted of an offence thereunder for taking such action as he deems fit.

Clause 20.—This clause seeks to empower the Government to limit or restrict the number of fishing devices in public water body by notification in the Gazette.

Clause 21.—This clause seeks to empower the Government to restrict allowing the entrance of extraordinary variety of fishes by notification in the Gazette.

Clause 22.—This clause seeks to provide for preferring an appeal against the orders of refusal or suspension or cancellation of a licence.

Clause 23.—This clause seeks to provide for the powers of the Appellate authority in respect of the conduct an enquiry under this Act.

Clause 24.—This clause seeks to provide for the power of the Government to make revision on appeal.

Clause 25.—This clause seeks to provide for the power of the Government to declare an area to be a fish sanctuary, by notification in the Gazette.

Clause 26.—This clause seeks to provide for the powers of the authorised officer for the purpose of an enquiry to declare any area as fish sanctuary.

Clause 27.—This clause seeks to provide for restricting the conditions to entrance in a fish sanctuary.

Clause 28.—This clause seeks to provide for prohibition on the use of injurious substances in fish sanctuary.

Clause 29.—This clause seeks to provide for the grant of permit to enter in a fish sanctuary.

Clause 30.—This clause seeks to provide for the management and preservation of fish sanctuary.

Clause 31.—This clause seeks to provide for registration of fish seeds and to certify its standard of quality.

Clause 32.—This clause seeks to provide for the powers of the authorised officer.

Clause 33.—This clause seeks to provide that any fish caught or collected or harvested or cultivated in contravention of any of the provisions of this Act, shall be deemed to be the wealth of the Government.

Clause 34.—This clause seeks to provide for the Director of Fisheries or the authorised officer may, if he has sufficient reason to believe that any person has committed an offence contrary to this Act, to seize the fish in his possession, the fishing vessel or free net or any other device or vehicle or weapon used to commit the offence and to arrest him without a warrant.

Clause 35.—This clause seeks to provide for penalties for the offences committed in contravention of the provisions of this Act.

Clause 36.—This clause seeks to provide for the presumption as to commission of an offence where any person is found carrying any fish recently caught or killed together with any fishing devices capable of the fish being caught, that he had caught or killed such fish with such device.

Clause 37.—This clause seeks to provide for attempt to contravene or abets the contravention of any provisions of this Act shall be deemed to have contravened that provisions.

Clause 38.—This clause seeks to provide for authorising officers, by notification in the Gazette, to compound offences and to accept the payment of the amount.

Clause 39.—This clause seeks to provide that no court shall take cognizance of any offence except on a written complaint made by the authorised officers.

Clause 40.—This clause seeks to provide for recovery of sum due to Government or Local Self Government, as if it were an arrear of public revenue due on land.

Clause 41.—This clause seeks to provide for giving protection to action taken in good faith, by the Government or any officer or authority.

Clause 42.—This clause seeks to empower the Government to make rules for the purpose of carrying into effect the provisions of this Act.

Clause 43.—This clause seeks to empower the Government to issue orders for removing the difficulties in implementing the Act and also provides that all such rules shall be laid on the table of the Legislative Assembly.

Clause 44.—This clause seeks to provide for the cessation of operation and repeal of certain Acts and for its consequences.
