

**Thirteenth Kerala Legislative Assembly**  
**Bill No. 316**

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**THE KERALA FISH SEED BILL, 2014**

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**Thirteenth Kerala Legislative Assembly**  
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[Translation in English of “2014-ലെ കേരള മത്സ്യവിത്ത് ബിൽ” published under the authority of the Governor.]

**THE KERALA FISH SEED BILL, 2014**

A

*BILL*

*to provide for the regulation of the quality in production, marketing and stocking of fish seed and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for the regulation of the quality in production, marketing and stocking of fish seed and for matters connected therewith or incidental thereto;

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

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Kerala Fish Seed Act, 2014.

(2) It shall be deemed to have come into force on the 13th day of February, 2014.

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

(a) ‘Adjudicating Officer’ means an officer authorized under section 28;

(b) ‘Appellate Authority’ means an officer authorised under section 29;

(c) ‘Authorised Officer’ means an officer authorised under section 27;

(d) ‘container’ means a polyethylene bag, earthen pot, box, bottle, casket, tin, barrel, case, receptacle, wrapper or other means by which fish seeds are carried;

(e) ‘export’ means taking fish seed from Kerala to other States or to outside India;

(f) ‘fish culture’ means culture of fish or prawn or shrimp or any other aquatic animals and aquatic plants in fresh waters, brackish waters or marine waters;

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(g) 'fish farmer' means an individual or a group of individuals or a firm or an agency or a Company or any other juristic person owning or having taken on lease a land or a water body and having taken up for fish seed rearing or fish culture in ponds or in confined waters or in structures erected in them or in any other manner;

(h) 'Fisherman' means a person who is engaged mainly in fishing activity for livelihood;

(i) 'fish seed' means larval stages or juveniles or any other classes of seeds of aquatic life, including plant, plant origin, used for stocking in confined or open waters, such as ponds, tanks, lakes, reservoirs, rivers, pools, check dams and pens or cages or any other structures erected in water and includes,—

(i) seeds of cultivable aquatic animals such as fin fish including ornamental fish reared in fresh water, brackish water and marine water and in aquaria;

(ii) seeds of shell fish, such as prawns, shrimps, lobsters, crab, gastropods, bivalves and such other crustaceans and molluscs;

(iii) early stages of fish and larval states of prawn, shrimp, lobsters, crabs, post larvae, zoea, mysis, megalopa and larval stages of molluscs, veliger and spat;

(j) 'Fish Seed Analysis' means the procedures of Fish Seed Analysis to verify that the seeds are free from pathogen and diseases and meet the required standards of quality and size;

(k) 'Fish Seed Analyst' means a Fish Seed Analyst appointed under section 20;

(l) 'Fish Seed Farm' means a place with water body or structures used for fish seed culture;

(m) 'Fish Seed Inspector' means a Fish Seed Inspector appointed under section 18;

(n) 'Fish Seed Laboratory' means the Fish Seed Laboratory established under section 11;

(o) 'Fish Seed rearing' means rearing of seeds of fin fishes or shell fishes or any other aquatic animals and aquatic plants in fresh waters or brackish waters or marine waters;

(p) 'Government' means the Government of Kerala;

(q) 'hatchery' means a place where brooders are maintained and used for production of fish seed and includes a place where rearing of the seed for supply to fish farmer and this includes backyard hatchery or part of the farm including rearing in nurseries;

(r) 'import' means bringing fish seed into Kerala from other States or from outside India;

(s) 'kind' means one or more related species or such species of aquatic animals or aquatic plants each individually or collectively are known by one common name such as carps, shrimps, prawns, crabs, mussels, lobsters, sea weeds, aquarium plants;

(t) 'marketing' means the business of selling, offering to sell, bartering or otherwise supply or keeping for sale of any fish seed;

(u) 'notification' means a notification published in the official Gazette;

(v) 'notified kind or variety' in relation to any fish seed means any kind or variety thereof notified under section 12;

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

(x) 'quarantine' means a place of isolation for the purpose of observing animals and plants suspected of harbouring a pathogen prior to the introduction of such species to the new environment or state;

(y) 'Regional Fish Seed Centre' means the Regional Fish Seed Centres established under section 7;

(z) 'State Fish Seed Centre' means the State Fish Seed Centre established under section 3;

(aa) 'sub-centres' means the sub-centres established under sub-section (1) of section 10;

(ab) 'variety' means a subdivision of a kind identifiable by morphology, growth, yield, seed, re-production or other characteristics.

## CHAPTER II

## ESTABLISHMENT OF FISH SEED CENTRES AND LABORATORIES

3. *Establishment of State Fish Seed Centre.*—The Government may, as soon as may be after the commencement of this Act, by notification establish a centre called the State Fish Seed Centre.

4. *Duties of the State Fish Seed Centre.*—The State Fish Seed Centre shall have the following duties, namely:—

(a) to make suggestions to the Government on all matters relating to production, rearing, stocking, marketing, transport, import and export of fish seed and its monitoring throughout the State;

(b) to carry out such duties as to the registration of the fish seed farms and hatcheries and fish seed certification;

(c) to suggest and specify the standard of fish feed for fish seed rearing and fish culture;

(d) to make such other suggestions as may be required for carrying out the provisions of this Act and to perform any other duties which is supplemental, incidental or consequential to the aforesaid duties.

5. *Constitution of the State Fish Seed Centre.*—(1) The State Fish Seed Centre shall consist of the following members, namely:—

- |       |   |    |                          |
|-------|---|----|--------------------------|
| (i)   | An expert in the subject to be nominated by the Government                        | .. | Chairperson              |
| (ii)  | Director of Fisheries   | .. | Member <i>Ex-officio</i> |
| (iii) | one person representing fish seed farmers to be nominated by the Government       | .. | Member                   |
| (iv)  | one person representing hatchery operators to be nominated by the Government      | .. | Member                   |
| (v)   | one person who is an expert in inland fisheries to be nominated by the Government | .. | Member                   |
| (vi)  | one person who is an expert in marine fisheries to be nominated by the Government | .. | Member                   |
| (vii) | Executive Director, Agency for Development of Aquaculture, Kerala                 | .. | Member                   |

(viii) The Government may appoint an officer to be the Member Secretary of the State Fish Seed Centre from the Department of Fisheries having such qualification as may be prescribed.

(2) The members of the State Fish Seed Centre shall be entitled to hold office for a period of three years from the date of assumption of charge and shall be eligible for re-nomination not exceeding two consecutive terms:

Provided that a member nominated by the Government shall hold office during the pleasure of the Government.

(3) The sitting fee and travelling allowance of the nominated members shall be such as may be prescribed.

(4) The State Fish Seed Centre may, subject to the previous approval of the Government, make bye-laws with regard to the following matters, namely:—

(a) fixing the quorum of its meeting;

(b) deciding the business to be transacted by the State Fish Seed Centre.

6. *Functions of the State Fish Seed Centre.*—(1) The State Fish Seed Centre may, with the previous approval of the Government, issue directions for the regulation of fish feed for fish seed rearing and fish culture.

(2) The State Fish Seed Centre may identify the public water bodies, ponds, etc. for conducting fish seed rearing and fish culture with the previous approval of the Government and declare such water bodies or ponds as fish seed farm for carrying out the fish seed rearing and fish culture.

(3) The employees of the State Fish Seed Centre shall be appointed in the manner as may be prescribed.

(4) In the discharge of their duties, the Member Secretary and other employees of the State Fish Seed Centre shall be subject to the administrative control of the Chairperson.

7. *Establishment of Regional Fish Seed Centres.*—The Government may, as soon as may be after the commencement of the Act by notification establish Regional Fish Seed Centres.

8. *Duties of the Regional Fish Seed Centre.*—The Regional Fish Seed Centres shall have the following duties, namely:—

(a) to advise the State Fish Seed Centre on all matters relating to registration of fish seed farms and hatcheries and fish seed certification;

(b) to provide licences for the fish seed rearing and fish culture to fish seed farms and hatcheries;

(c) to enforce the provisions of the Act and the rules made thereunder.

9. *Constitution of the Regional Fish Seed Centre.*—(1) The Regional Fish Seed Centres shall consist of the following members, namely:—

- (i) The District Collector of the district .. Chairperson  
where the Joint Director of Fisheries  
of the zone concerned is stationed
- (ii) The Joint Director of Fisheries of the .. Member Secretary  
zone concerned
- (iii) Deputy Directors of all the districts .. *Ex-officio* Members  
included in the concerned region
- (iv) A person from the representatives of .. Member  
hatchery or fish seed farm to be  
nominated by the Government
- (v) A scientist or an expert in the subject .. Member  
to be nominated by the Government

(2) Members of the Regional Fish Seed Centres are entitled to hold office for a period of three years from the date of assumption of charge:

Provided that, a person nominated by the Government shall hold office during the pleasure of the Government.

(3) The sitting fee and travelling allowance of the nominated members shall be such as may be prescribed.

10. *Function of the Regional Fish Seed Centre.*—(1) The Regional Fish Seed Centre may, with previous approval of the Government, if necessary, establish as many sub-centres with such members and such conditions of their qualifications, term of office, sitting fee and travelling allowance payable etc. as may be prescribed for the purpose of discharging such functions as may be delegated to them by the Regional Fish Seed Centre.

(2) The Regional Fish Seed Centre may, subject to the previous approval of the State Fish Seed Centre, make bye-laws for regulating its own



procedure and the procedure of sub-centres thereof and the conduct of all business to be transacted by the Regional Fish Seed Centres or as the case may be, the sub-centres.

(3) No proceedings of the Regional Fish Seed Centres or any sub-centres thereof shall become invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof.

11. *Establishment and Functions of Fish Seed Laboratories.*—(1) The Government may, by notification, establish three or more regional level fish seed laboratories or declare any existing fish seed laboratory as a fish seed laboratory where analysis of fish seeds of any notified kind or variety shall be carried out by Fish Seed Analysts and to carry out any other functions entrusted to it by or under this Act or the rules made thereunder.

(2) The laboratories referred to in sub-section (1) shall also act as nodal labs for control and co-ordination of laboratories established in the private sector and public sector.

12. *Power to notify kind or variety of fish seed.*—(1) If the Government, after consultation with the State Fish Seed Centre, is of opinion that it is necessary or expedient to regulate the quality of fish seed of any kind or variety to be sold for purposes of fish seed rearing or fish culture, it may, by notification declare such kind or variety to be a notified kind or variety for the purposes of this Act and may notify different kinds or varieties for different areas.

(2) Government may, by notification, ban or prohibit the collection or sale of fish seed from natural sources for a specific period for any reason as a conservation measure.

13. *Power to specify size of the fish seed.*—The Government may, in consultation with the State Fish Seed Centre, by notification, specify,—

(a) the minimum size with respect to any fish seed of any notified kind or variety;

(b) the mark or label to indicate that fish seed conforms to the size, source of seed and free from disease and pathogen, infections and other particulars as may be specified from time to time by Government.

## CHAPTER III

## REGISTRATION AND GRANT OF LICENCE

14. *Regulation of fish seed rearing, fish culture and sale of notified fish seed.*—No person, association, agency, firm or body of persons shall, himself or by any other person on his behalf, carry on fish seed rearing or fish culture in any fish farm or hatchery or do marketing, export, import of any fish seed of any notified kind or variety, unless,—

(a) a registration certificate for the fish seed farm or hatchery has been obtained from the State Fish Seed Centre;

(b) a licence for fish seed rearing and fish culture and marketing of fish seed has been obtained from the Regional Fish Seed Centre.

15. *Registration of Fish Seed Farm and Hatchery.*—(1) Application for the certificate of registration of fish seed farm or hatchery shall be submitted in such form and in such manner accompanied by such fees as may be prescribed before the State Fish Seed Centre either directly or through the Regional Centres or sub-centres within two months before the beginning of every financial year.

(2) The fish seed farms and hatcheries may be registered in such form in such manner after realising such fee as may be prescribed.

(3) The certificate of registration shall continue to be in force for five years from the date of issue unless it is otherwise cancelled:

Provided that no such cancellation shall be made except after giving to the holder of the certificate of registration a reasonable opportunity of being heard.

(4) Where the State Fish Seed Centre considers it necessary, the owner or lessee of the fish seed farm or hatchery shall be required to exhibit the certificate of registration clearly visible at the site of fish seed farm or hatchery in an open area.

16. *Grant of licence for conducting fish seed rearing, fish culture, marketing, export or import of fish seed.*—(1) Application for the annual licence for conducting fish seed rearing, fish culture, marketing, export or import of any fish seed shall be presented before the Regional Fish Seed Centre one month before the beginning of every financial year, in such form and manner as may be prescribed.

(2) Application forms shall be obtained from the Regional Fish Seed Centre on payment of fee as may be prescribed or may be downloaded from the website of the State Fish Seed Centre.

(3) The Regional Fish Seed Centre on receipt of such application accompanied by such fees as may be prescribed may conduct enquiry and verification by itself or through the Fisheries Extension Officers of Fish Farmers' Development Agency.

(4) The Regional Fish Seed Centres shall make necessary enquiries regarding the details furnished in the application, type, kind, class and category of fish seed to be opted and if it is satisfied that licence is to be given, prepare a report regarding the same and the licence in triplicate in such forms as may be prescribed, after realization of the licence fee as may be prescribed.

(5) The Fisheries Development Officer, on receipt of original and duplicate copies of the licence from the Regional Fish Seed Centre, shall issue the original licence to the parties concerned after preserving the duplicate in his office and enter the details in the register kept in his office in such forms as may be prescribed.

(6) The licence shall continue to be in force for one financial year from the date of its issue unless it is otherwise cancelled:

Provided that, no such cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

17. *Renewal of Registration.*—(1) Application for the renewal of registration of fish seed farm and hatchery shall be presented in such form, in such manner and accompanied by such fees as may be prescribed, before the State Fish Seed Centre either directly or through the Regional Centres or sub-centres before two months of the expiry of such registration.

(2) Applications for renewal of registration shall be allowed for a further period of five years only.

(3) The State Fish Seed Centre on receipt of such application may hand it over to the Regional Fish Seed Centre for further enquiry and verification.

(4) The Regional Fish Seed Centre on receipt of these applications shall make enquiries directly or through the sub-centres regarding performance of previous years and if satisfied that the registration is to be renewed, prepare and forward a report as such or otherwise with reasons for the refusal to the State Fish Seed Centre.

(5) On receipt of the application together with the connected records, and the reports forwarded by the Regional Fish Seed Centre, the State Fish Seed Centre shall renew the registration in such form as may be prescribed after realizing the renewal fee as may be prescribed or refuse to renew the registration and intimate the reason for the refusal in writing to the applicant within ten days after passing such orders.

(6) The State Fish Seed Centre shall enter the renewal details of such registration in the register kept in its office in such form as may be prescribed.

#### CHAPTER IV

#### FISH SEED INSPECTORS AND ANALYSTS

18. *Appointment of Fish Seed Inspectors.*—The Government may, by notification, appoint such persons as it thinks fit, having the prescribed qualifications, as Fish Seed Inspectors and define the areas within which they shall exercise jurisdiction.

19. *Powers of Fish Seed Inspector.*—(1) The Fish Seed Inspector may,—

(a) enter and search the hatcheries and fish seed farms at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed and order in writing to the person in possession of any fish 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 period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessor of the fish seed and restrict the stock of such fish seed from being sold;

(b) take samples of any fish seed of any notified kind or variety from,—

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

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

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

(c) send such sample for analysis to the Fish Seed Analyst for the area within which such sample has been taken;

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

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

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

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

Provided that, the power to collect the fish seed from hatchery or fish seed farm under sub-section (3) shall be exercised only if the owner or any other person in charge of it present therein, refuses to allow collection of the fish seed from hatchery or fish seed farm on being called upon to do so.

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

(5) The Fish Seed Inspector shall report the matter to the Adjudicating Officer in writing in the manner as may be prescribed.

(6) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

20. *Appointment of Fish Seed Analysts.*—The Government may, by notification appoint such persons as it thinks fit, having the prescribed qualifications, to be Fish Seed Analysts and define the areas within which they shall exercise jurisdiction.

21. *Grant of certificate by State Fish Seed Centre.*—(1) Any fish seed farm or hatchery or any person who export, import or market any fish seed of any notified kind or variety, may if he desires to have such fish seed certified by the State Fish Seed Centre, apply to the State Fish Seed Centre for the purpose.

(2) Every application under sub-section (1) shall be made in such form, in such manner and shall be accompanied by such fee as may be prescribed.

(3) On receipt of any application for the grant of a certificate through the Regional Fish Seed Centre, the State Fish Seed Centre may, after such enquiry as it thinks fit and after satisfying itself that the fish seed to which the application relates to conforms to the prescribed standards, grant a certificate in such form and on such conditions as may be prescribed:

Provided that, such standards shall not be lower than the minimum limits of size, free from pathogen, disease, infections as specified for that fish seed.

22. *Revocation of Certificate.*—If the State Fish Seed Centre is satisfied, either on a reference made to it in this behalf or otherwise, that,—

(a) the certificate granted by it under section 14 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of the certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules made thereunder;

Without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the State Fish Seed Centre may, after giving the holder of the certificate an opportunity of showing cause, revoke the certificate.

23. *Procedure to be followed by Fish Seed Inspector.*—(1) Whenever a Fish Seed Inspector intends to take sample of any fish seed of any notified kind or variety for analysis, he shall,—

(a) give notice in writing, then and there, of such intention to the person from whom he intends to take sample;

(b) except in special cases provided by rules made under this Act, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.

(2) when samples of fish seed of any notified kind or variety are taken under sub-section (1) the Fish Seed Inspector shall,—

(a) deliver one sample to the person from whom it has been taken;

(b) send in the prescribed manner another sample for analysis to the Fish Seed Analyst for the area within which such sample has been taken;

(c) send the remaining sample in the manner as may be prescribed to the Fish Seed Laboratory for analysis.

(3) Where any fish farmer from whom the samples have been taken refuses to accept one of the samples, the Fish Seed Inspector shall send intimation to the Fish Seed Analyst of such refusal and thereupon the Fish Seed Analyst receiving the sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the Fish Seed Inspector who shall retain it for production in case legal proceedings are taken.

(4) Where a Fish Seed Inspector takes any action' under sub-section (1) of section 19,—

(a) he shall use all powers in ascertaining whether or not the fish seed contravenes any of the provisions of the Act or the rules made thereunder and if it is ascertained that the fish seed does not so contravene, forthwith revoke the order passed under the said clause or as the case may be, take such action as may be necessary for the return of the stock of the fish seed seized;

(b) if he seizes the stock of the fish seed, he shall, as soon as may be, inform the Adjudicating Officer and take its order as to the custody thereof;

(c) Without prejudice to the institution of penalty under this Act, if the alleged offence is such that the defect may be removed by the possessor of the fish seed, he shall on being satisfied that the defect has been so rectified, forthwith revoke the order passed under the said clause.

(5) Where a Fish Seed Inspector seizes any record, register, document or any other material object under clause (d) of sub-section(1) of section 19, he shall, as soon as may be, inform the Adjudicating Officer and take his orders as to the custody thereof.

24. *Report of Fish Seed Analyst.*—(1) The Fish Seed Analyst shall, as soon as may be after the receipt of the sample under clause (c) of sub-section (1) of section 19, analyse the sample at the Regional Fish Seed Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Fish Seed Inspector and another copy thereof to the person from whom the sample has been taken.

(2) After the intimation of report under sub-section (1), the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the Adjudicating Officer for sending the sample to the Regional Fish Seed Laboratory for its report and on receipt of the application, the Adjudicating Officer shall first ascertain that the mark and the seal or fastening is intact and may then despatch the sample under its own seal to the Regional Fish Seed Laboratory which shall thereupon send its report of the result of the analysis to the Adjudicating Officer in the prescribed form within one week from the date of direction of the Adjudicating Officer, specifying the result of the analysis.

(3) The report sent by the Regional Fish Seed Laboratory under sub-section (2) shall supersede the report given by the Fish Seed Analyst under sub-section (1).

(4) Where the report sent by the Regional Fish Seed Laboratory under sub-section (2) is produced in any proceedings under the Act, it shall not be necessary in such proceedings to produce any sample or part thereof taken for analysis.

25. *Restriction on export or import of fish seed of notified kind or variety.*—No person, agency, association or firm having registration and licence for export or import shall, for the purpose of rearing or culture or recreation or export or import or cause to be exported or imported any fish seed of any notified kind or variety unless,—

(a) it conforms to the minimum size, free from pathogen, disease, infections specified for that fish seed under section 13; and

(b) its container bears the mark or label with the correct particulars thereof specified for that fish seed.



26. *Recognition of Fish Seed Certification Agencies of outside State.*—The Government may, on the recommendation of the State Fish Seed Centre by notification, recognise any Fish Seed Certification Agency established in any State outside Kerala for the purposes of this Act.

27. *Appointment of Authorised Officer.*—The Government shall by notification, authorise the officers of the Fisheries Department not below the rank of Assistant Director as Authorised Officer and define the areas within which they shall exercise jurisdiction for the purposes of this Act.

28. *Appointment of Adjudicating Officer.*—The Government shall by notification, authorise the officers of the Fisheries Department not below the rank of Deputy Director of Fisheries as Adjudicating Officers and define the areas within which they shall exercise jurisdiction for the purposes of this Act.

29. *Appointment of Appellate Authority.*—The Government may authorise the officers of the Fisheries Department not below the rank of Joint Director as Appellate Authority and define the areas within which they shall exercise jurisdiction for the purposes of this Act.

#### CHAPTER V

#### ADJUDICATION

30. *Adjudication.*—(1) Where any Authorised Officer has reason to believe that there is contravention of any of the provisions of this Act or rules made thereunder or any order issued thereunder or any of the conditions of the registration or licence, he shall give a report in this regard to the Adjudicating Officer.

(2) The Adjudicating Officer on receipt of a report from the Authorised Officer under sub-section (1) or a report from the Fish Seed Inspector or from Fish Seed Analyst, shall hold an enquiry into the matters mentioned in the report, in the prescribed manner, by giving all the parties concerned a reasonable opportunity of being heard.

31. *Penalty.*—(1) The Adjudicating Officer shall, after the enquiry under sub-section (2) of section 30, decide whether there is contravention of any of the provisions of this Act or rules made thereunder or of any order issued thereunder 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 any such fish seed is one thousand rupees or less;

(b) five times the value of the fish seed, if the value of any such fish seed is more than one thousand rupees;

(c) in the event of second offence or such person having been previously fined for an offence under this section, impose a fine which shall not be less than ten thousand rupees and which may extend to twenty five thousand rupees;

(d) in the event of subsequent offence after second offence, if it is a hatchery or fish seed farm, agency, association, firm or company, blacklist the hatchery or fish seed farm, agency, association, firm or company in the manner as may be prescribed.

(2) In addition to any penalty that may be imposed under sub-section (1), the Adjudicating Officer may direct that the certificate of registration or the licence, any condition of which has been contravened, shall be cancelled or revoked, as the case may be, or suspended for such period as he deems fit.

#### CHAPTER VI

#### APPEAL

32. *Appeal.*—(1) Any person aggrieved by a decision of the Regional Fish Seed Centre may within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the State Fish Seed Centre.

(2) Any person aggrieved by a decision of the State Fish Seed Centre may within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the Appellate Authority.

(3) Any person aggrieved by an order of Adjudicating Officer may within thirty days from the date on which the order is communicated to him and on payment of such fee as may be prescribed, prefer an appeal to the Appellate Authority:

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

(4) On receipt of an appeal under sub-section (2) or sub-section (3), the Appellate Authority shall, after giving an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) Every order passed by the State Fish Seed Centre on an appeal preferred to it and the orders passed by the Appellate Authority on an appeal preferred to them under this section, shall be final.

33. *Powers of Adjudicating Officers and Appellate Authorities.*—(1) The Adjudicating Officers and Appellate Authorities shall, while holding an enquiry, under this Act, have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely:—

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

(2) The Adjudicating Officers or the Appellate Authorities or the State Fish Seed Centre shall, while exercising any power under this Act, be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

34. *Forfeiture of Fish Seed.*—Where a person has been fined for an offence under this Act or the rules made thereunder, the fish seed in respect of which the offence has been committed may be forfeited to the Government in the manner as may be prescribed.

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

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

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company, agency, firm or association and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation:*—For the purposes of this section,—

‘Director’ in relation to a firm, means and includes a partner in the firm.

36. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or any officer or employee of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

37. *Officers to be Public Servants.*—Any person acting under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

38. *Power to make rules.*—(1) The Government may, by notification, make rules either prospectively or retrospectively for carrying out all or any of the purposes of this Act.

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

(a) the qualifications of an officer for appointment as the Member Secretary under clause (viii) of sub-section (1) of section 5 and the sitting fee and travelling allowance payable to the nominated members of the State Fish Seed Centre under sub-section (3) of section 5;

(b) the manner of appointment of the employees of the State Fish Seed Centre under sub-section (3) of section 6;

(c) the sitting fee and travelling allowance payable to the nominated members of the Regional Fish Seed Centre under sub-section (3) of section 9;

(d) the number of members to be appointed in the sub-centres and the conditions regarding their qualifications, term of office, sitting fee and travelling allowance payable under section 10;

(e) the form of application for the certificate of registration of fish seed farm and hatchery, the manner of its submission, the fees which should accompany, the form of registration certificate, the manner of registration, the registration fee to be realised under section 15;

(f) the form of application for licence, the fees of application form, the manner of its submission, the fees which it should accompany, the form of licence, the licence fees to be realised and the form of register to be kept under section 16;

(g) the form of application for the renewal of registration, the manner of its submission, the fees which should accompany, the form of the renewal certificate of registration, the renewal fees to be realised and the form of the register to be kept under section 17;

(h) the qualifications of Fish Seed Inspectors under section 18;

(i) the form of memorandum to be prepared and the manner in which the report has to be made by the Fish Seed Inspector under section 19;

(j) the qualifications of Fish Seed Analysts under section 20;

(k) the form of application for grant of a certificate, the manner of its submission, the fees which it should accompany, the form of certificate and other matters under section 21 ;

(l) the manner in which samples shall be taken by the Fish Seed Inspector and sending samples so taken to the Fish Seed Analyst or Fish Seed Laboratory for analysis under section 23;

(m) the form of report of the Fish Seed Analyst and Regional Fish Seed Laboratory and the fee to be paid for making an application to the Adjudicating Officer for sending the sample for report under sub-section (2) of section 24;

(n) the manner of conducting the enquiry by the Adjudicating Officer under section 30;

(o) the manner in which a hatchery, fish seed farm, agency, association, firm or company shall be blacklisted under clause (d) of sub-section (1) of section 31;

(p) the fees for filing appeals under section 32;

(q) any other matter which is to be or may be presented.

(3) Every rule made under this Act, shall, immediately after it is made, be laid down before the Legislative Assembly of the State, if it is in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the

expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making 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.

39. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiration of three years from the date of commencement of this Act.

(2) Every order issued under this section shall be laid before the Legislative Assembly.

40. *Amendment of Act 10 of 2010.*—Sections 9 and 10 of the Kerala Inland Fisheries and Aquaculture Act, 2010 (15 of 2010) shall be omitted.

41. *Repeal and Savings.*—The Kerala Fish Seed Ordinance, 2014 (13 of 2014), is hereby repealed.

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

#### STATEMENT OF OBJECTS AND REASONS

The State of Kerala has four lakhs hectores of inland water bodies. But the area used for the fish culture is only below twenty five percentages. The main hindrance in utilising the water bodies for the cultivation of fish is the non-availability of the quality fish seed. The productivity of the hatcheries in Kerala is also not fully utilised because of the absence of a statutory mechanism to regulate the activities of the said hatcheries. In order to meet the requirement of fish seeds, the State have to depend on other hatcheries and fish rearing units outside the State. But there is no sufficient mechanism to ensure quality of the fish seeds produced in the State and also there is no control over the buying and selling of the fish seed from the hatcheries outside the State. Since the requirement of fish is on the increase, it is necessary to increase the production of fish by utilising all the water sources which are suitable for the cultivation of fish. For this, sufficient quantity of fish seeds need to be produced. In addition to this, the quality of fish seed is also to be ensured bylaw. Hence, it is necessary to have an integrated planning, monitoring and

management mechanism. Sufficient number of well equipped laboratories for testing the fish seed are also to be established. Hence the Government feels that a comprehensive law needs to be enacted for the regulation of production, quality, marketing and stocking of fish seeds.

2. As the Legislative Assembly of the State was not in session and as the proposal had to be given effect, the Kerala Fish Seed Ordinance, 2014 was promulgated by the Governor of Kerala on the 13th day of February, 2014 as Ordinance No. 9 of 2014 and the same was published in the Kerala Gazette Extraordinary No. 497 dated 13th February, 2014.

3. A Bill to replace the Ordinance No. 9 by an Act of the State Legislature could not be introduced in, passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 9th day of June, 2014 and ended on the 17th day of July, 2014. In order to keep alive the provisions of the same Ordinance, the Kerala Fish Seed Ordinance, 2014 (13 of 2014) was promulgated by the Governor of Kerala on 20th day of July, 2014 and the same was published in the Kerala Gazette Extraordinary No. 1858 dated 20th July, 2014. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation would involve an amount of Rs. 45,00,000 (Rupees forty five lakh) as recurring expenditure and Rs. 1,35,00,000 (Rupees one crore and thirty five lakh) as non-recurring expenditure annually from the Consolidated Fund of the State as additional expenditure.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Item (viii) of sub-clause (1) of clause 5 of the Bill seeks to empower the Government to prescribe the qualification of the Member Secretary of the State Fish Seed Centre. Sub-clause (3) of the same clause seeks to empower the Government to prescribe sitting fee and travelling allowance of the nominated members of the State Fish Seed Centre.

2. Sub-clause (3) of clause 6 of the Bill seeks to empower the Government to prescribe the manner of appointment of employees of the State Fish Seed Centre.

3. Sub-clause (3) of clause 9 of the Bill seeks to empower the Government to prescribe sitting fee and travelling allowance of nominated members of the Regional Fish Seed Centre.

4. Sub-clause (1) of clause 10 of the Bill seeks to empower the Government to prescribe the qualifications, sitting fee and travelling allowance payable to the members of sub-centres.

5. Sub-clause (1) of clause 15 of the Bill seeks to empower the Government to prescribe the form and manner of submission of application for the certificate of registration of fish seed farm and hatchery and the fees to be accompanied by such application. Sub-clause (2) of above said clause seeks to empower the Government also to prescribe the fee to be realized for such registration.

6. Sub-clause (1) of clause 16 of the Bill seeks to empower Government to prescribe the form of application and the manner of presenting the application for the grant of licence for fish seed rearing fish culture and for export or import of any fish seed. Sub-clause (2) of the same clause empower the Government to prescribe the fee payable for application form.

7. Sub-clause (1) of clause 17 of the Bill empowers the Government to prescribe form of application for renewal of registration of fish seed farm, manner and fees to be accompanied along with application. Sub-clauses (5) and (6) of the same clause seeks to empower the Government to prescribe renewal fee and form of renewal register respectively.

8. Clause 18 of the Bill seeks to empower the Government, to prescribe, by notification the qualifications and areas of jurisdiction of Fish Seed Inspectors.

9. Sub-clause (4) of clause 19 seeks to empower the Government to prescribe the form to be used for the preparation of Memorandum while Fish Seed Inspectors exercising their powers under sub-clause (1) of clause 19. Sub-clause (5) of the same clause also empowers the Government to prescribe the manner of reporting the matter to the Adjudicating Officer after exercising the powers conferred by the said clause.

10. Clause 20 of the Bill seeks to empower the Government, by notification, to prescribe the qualification of the Fish Seed Analysts and to define their areas of jurisdiction.

11. Clause 21 of Bill seeks to empower the Government to prescribe the form of application and fees to be accompanied, for the grant of certificate by the State Fish Seed Centre for export, import or marketing of the fish seed.



12. Sub-clause (1) clause 23 of the Bill seeks to empower the Government to make rules specifying the procedure for taking and sending the samples of fish seed taken by the Fish Seed Inspector for analysis.

13. Clause 24 of the Bill seeks to empower the Government to prescribe the form of the report to be given by the Fish Seed Analyst after analysing the sample.

14. Sub-clause (2) of clause 30 of the Bill seeks to empower the Government to prescribe the manner of holding enquiry by Adjudicating Officer.

15. Clause 32 of the Bill seeks to empower the Government to prescribe the fees for preferring appeal before the State Fish Seed Centre and before the Appellate Authority.

16. Clause 34 of the Bill seeks to empower the Government to prescribe conditions of forfeiting fish seed to the Government, if commission of offences if any found, in respect of that fish seed.

17. Clause 38 of the Bill seeks to empower the Government, by notification, to make rules either prospectively or retrospectively for carrying out the provisions of the Act.

The matters in respect of which notifications or orders may be issued or rules or regulation may be made are matters of procedures and are of routine and administrative in nature. Further, the rules are subject to scrutiny by the Legislative Assembly. The delegation of Legislative power is, therefore, of a normal character.

K. BABU

## NOTES ON CLAUSES

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

*Clause 3.*—This clause seeks to empower the Government, by notification, to establish State Fish Seed Centre.

*Clause 4.*—This clause seeks to provide for the duties of the State Fish Seed Centre.

*Clause 5.*—This clause seeks to provide for the constitution of the State Fish Seed Centre, tenure of its members and its powers to make bye-laws.

*Clause 6.*—This clause seeks to empower the State Fish Seed Centre to issue direction for the regulation of fish seed rearing and fish culture, to identify public water bodies for fish seed rearing and fish culture, and to declare water bodies or ponds as fish seed farm.

*Clause 7.*—This clause seeks to empower the Government, by notification, to establish Regional Fish Seed Centres.

*Clause 8.*—This clause seeks to provide for the duties of the Regional Fish Seed Centre.

*Clause 9.*—This clause seeks to provide for the constitution of the Regional Fish Seed Centres and tenure of its members.

*Clause 10.*—This clause seeks to provide for function of Regional Fish Seed Centre to appoint sub-centers for the purpose of discharging its functions and to make bye-laws for the purpose of regulating its own procedure and that of sub-centers.

*Clause 11.*—This clause seeks to empower the Government to establish regional level fish seed laboratories, declare any existing laboratory as a fish seed laboratory.

*Clause 12.*—This clause seeks to empower the Government to regulate the quality of fish seed to be sold for the purposes of fish seed rearing or fish culture and also to ban the collection or sale of fish seed as a conservation measure.

*Clause 13.*—This clause seeks to empower the Government to specify the minimum size of fish seed and the marks and labels to indicate that the fish seeds are free from diseases, pathogens and infections.

*Clause 14.*—his clause seeks to empower the State Fish Seed Centre and the Regional Fish seed Centre to issue a registration certificate or licence as the case may be, for the purpose of regulating fish seed rearing, fish culture and sale of fish seed.

*Clause 15.*—This clause seeks to provide for registration of fish seed farm and hatchery.

*Clause 16.*—This clause seeks to provide for grant of licence for conducting fish seed rearing, fish culture, marketing, export or import of fish seed.

*Clause 17.*—This clause seeks to provide for the procedure for renewal of registration.

*Clause 18.*—This clause seeks to empower the Government, by notification, to appoint the persons having the prescribed qualifications as Fish Seed Inspectors and define their areas of jurisdiction.

*Clause 19.*—This clause seeks to provide for the powers of the Fish Seed Inspectors.

*Clause 20.*—This clause seeks to empower the Government, by notification, to appoint persons having the prescribed qualifications as Fish Seed Analysts and define their areas of jurisdiction.

*Clause 21.*—This clause seeks to provide for the procedure for the grant of certificate by the State Fish Seed Centre to any fish seed farm, hatchery or any person who export, import or market fish seed of any notified kind or variety.

*Clause 22.*—This clause seeks to empower the State Fish Seed Centre revoke any certificate of registration on being satisfied that the certificate of registration has been obtained by misrepresentation or that there has been contravention of certain conditions.

*Clause 23.*—This clause seeks to provide for the procedure to be followed by Fish Seed Inspector on receipt of the samples of any fish seed of notified kind or variety for analysis.

*Clause 24.*—This clause seeks to provide for the mode of delivery of the report when the Fish Seed Analyst receives the sample of fish seed for analysis and the procedure to be followed by the accused vender, on receipt of a report from the fish seed analyst for the, report of the Regional Fish Seed Laboratory.

*Clause 25.*—This clause seeks to impose restriction on export or import of fish seed of notified kind or variety.

*Clause 26.*—This clause seeks to empower the Government, by notification, to recognize any Fish Seed Certification Agency established in any State outside the State of Kerala.

*Clause 27.*—This clause seeks to empower the Government, by notification, to appoint Authorized Officers and define their areas of jurisdiction for the purposes of this Act.

*Clause 28.*—This clause seeks to empower the Government, by notification, to appoint Adjudicating Officers and define their areas of jurisdiction for the purposes of the Act.

*Clause 29.*—This clause seeks to empower the Government to appoint Appellate Authority and define their areas of jurisdiction for the purpose of the Act.

*Clause 30.*—This clause seeks to provide for the powers of the Adjudicating Officer if there is contravention of any of the provisions of the Act, rules made thereunder or any of the conditions of registration or of licence.

*Clause 31.*—This clause seeks to empower the Adjudicating Officer to impose penalty on any persons, found guilty for violating the provision of the Act, rules made thereunder or the conditions of licence and to cancel the certificate of registration or licence, as the case may be, of the person so found guilty.

*Clause 32.*—This clause seeks to provide for an opportunity to the persons aggrieved by decisions of the Regional Fish Seed Centre to prefer an appeal to State Fish Seed Centre.

*Clause 33.*—This clause seeks to provide for the powers of the Adjudicating officer and Appellate authority while conducting enquiry.

*Clause 34.*—This clause seeks to provide for the forfeiture the fish seed to Government if an offence in respect of that fish seed is committed by any person.

*Clause 35.*—This clause seeks to provide that the companies shall be made liable for the offences committed by them.

*Clause 36.*—This clause seeks to provide for giving protection to the actions done in good faith under this Act or rules made thereunder.

*Clause 37.*—This clause seeks to provide that any person acting under this Act shall be deemed to be public servant within the meaning of section 21 of Indian Penal Code, 1860.

*Clause 38.*—This clause seeks to empower the Government to make rules either retrospectively or prospectively for the purposes of the Act.

*Clause 39.*—This clause seeks to empower the Government to do anything not inconsistent with the provisions of the Act for removing any difficulties that may arise in giving effect to the provisions of the Act.

*Clause 40.*—This clause seeks to provide for omitting Sections 9 and 10 of the Kerala Inland Fisheries and Aquaculture Act, 2010 (15 of 2010).

*Clause 41.*—This clause seek to provide for the repeal of the Kerala Fish Seed Ordinance, 2014 (13 of 2014) and saving anything done or any action taken under the Act so repealed by deeming that the same to have been done or taken under the corresponding provisions of the Act.

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