



The Kerala Marine Fishing Regulation (Amendment) Act, 2017

Act 22 of 2017

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ACT 22 OF 2017**THE KERALA MARINE FISHING REGULATION
(AMENDMENT) ACT, 2017**

An Act further to amend the Kerala Marine Fishing Regulation Act, 1980.

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

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

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

(2) It shall come into force at once.

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

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

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

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

“(ca) “boat building yard” means any place where vessels intended to be used for fishing purpose are constructed, repaired or sold;

(cb) “fishing net production unit” means any place where net intended to be used for fishing purpose are manufactured or sold;”;

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

“(da) “Marine Fishing Village” means a fisheries village notified as per section 3 of the Kerala Fishermen Welfare Societies Act, 1980 (Act 7 of 1981);”.

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

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

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

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

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

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

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

(4) Every boat building yard continued under sub-section (3) shall not continue after the expiry of three months from the date of commencement of the Act specified in sub-section (3) unless the unit is registered under section 9A:

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

(5) The authorised officer on receipt of an application for registration may, after making such enquiry as he deems fit and having regard to the matters referred to in sub-section (6), either grant or refuse to grant the certificate of registration, within such period, as may be prescribed.

(6) In granting or refusing registration under sub-section (5), the authorised officer shall have regard to the following matters, namely:—

(a) whether the boat building yard has the required specifications as may be prescribed;

(b) declaration showing the purpose and use of the vessel in a form as may be prescribed;

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

(d) any other matter as may be prescribed.

(7) Where the authorised officer decided to grant such registration to the owner of the boat building yard, the certificate of registration shall be issued in such form, subject to such conditions, on payment of such fees and furnishing such security as may be prescribed for the due performance of the conditions.

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

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

(10) Where the authorised officer refuses to grant such registration, the reasons for such refusal shall be recorded in writing and an order of refusal shall be communicated to the owner of the boat building yard together with the reasons thereof.

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

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

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

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

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

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

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

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

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

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

9D. Cancellation and suspension of Registration.—If the authorised officer is satisfied either on a reference made to him in this behalf or otherwise that,—

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

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

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

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

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

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

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

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

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

(7) Where the authorised officer refuses to grant such registration, the reasons for such refusal shall be recorded in writing and an order of refusal shall be communicated to the owner of the fishing net production unit together with the reasons thereof.

(8) The authorised officer shall conduct inspection of fishing net production unit at any time in the manner as may be prescribed.

(9) The fishing net production unit registered under this Act shall carry a registration mark, assigned by the authorised officer and the registration mark so assigned shall be displayed in the manner as may be prescribed.

(10) A certificate of registration issued under this section shall be valid for a period of five years.

(11) The owner of fishing net production unit shall renew the registration in every five years and an application for renewal of registration shall be made by the owner to the authorised officer in such form containing such particulars accompanied by such fees and within such period as may be prescribed.

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

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

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

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

9H. Appeal against the order of refusal, Cancellation, suspension or renewal of registration.—(1) Any owner of the boat building yard or fishing net production unit aggrieved by an order of

the authorised officer refusing, suspending or cancelling the registration or refusing the renewal of registration may, within thirty days from the date of receipt of such order, prefer an appeal to the Joint Director of Fisheries, Government of Kerala of the zone concerned.

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

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

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

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

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

- (a) Head of the Grama Panchayat/ .. Chairman
Municipality or Division
Member of Municipal
Corporation
- (b) Head of Matsya Bhavan .. Member Secretary
having jurisdiction over the
area

- (c) Two elected members of Grama Panchayat/Municipality as nominated by its head from coastal wards .. Members
- (d) Two elected Presidents of Fisheries Co-operative Societies having jurisdiction in the area, nominated by the Government .. Members
- (e) Two fishermen and one woman from the same fishing Village, nominated by the Government .. Members

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

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

- (a) District Collector .. Chairman
- (b) Deputy Director of Fisheries .. Member Secretary
- (c) Mayor of the Municipal Corporation (if the Municipal Corporation has a Marine Fishing Village) .. Member
- (d) District Panchayath President .. Member
- (e) One representative of Central Marine Fisheries Research Institute .. Member

- (f) One representative each from .. Members
five recognized fishermen
trade unions, nominated by
the Government
- (g) One person having expertise .. Member
in Marine fisheries, nominated
by the Government

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

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

- (i) One person having expertise in .. Member
Marine Resource Conservation,
nominated by the Government
- (j) One representative of Seafood .. Member
Exporters Association (SEAL—
Local Chapter) nominated by
the Government
- (k) One representative of Coast .. Member
Guard
- (l) One representative from Marine .. Member
Products Export Development
Authority, nominated by the
Government
- (m) Joint Director of Fisheries .. Member Secretary
- (n) Deputy Director of Fisheries .. Member
(Co-ordination):

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

(5) The term of office of non-official members of the councils shall be five years from the date of publication of the notification constituting the council concerned.

(6) Any non-official member may resign his membership by giving notice in writing to the Government but shall continue to hold office until his resignation is accepted by the Government.

(7) A vacancy arising by reason of resignation shall be filled up within three months and the member so appointed shall hold office only for the remaining period of the term.

(8) The Government may remove any member,—

- (a) if he is of unsound mind;
- (b) if he is adjudged as undischarged insolvent;
- (c) becomes incapable of continuing as such, due to physical or mental disability;
- (d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities.

(9) The present assets, liabilities and posts of the State Fisheries Resource Management Society (FIRMA) shall be vested in, and transferred to, the State Fisheries Management Council constituted under sub-section (4) of section 13A with effect from such date as the Government may, by notification in the Gazette, appoint. The officers holding such post shall be entitled for the same salary and allowances and other conditions of service as if they were eligible if the Kerala Marine Fishing Regulation (Amendment) Act, 2017 were not enacted. The deployed post in the cadre of Joint Director of Fisheries from State Fisheries Resource Management Society (FIRMA) will function as the Member Secretary of the Council. The deployed post in the cadre of Deputy Director of Fisheries from State Fisheries Resource Management Society (FIRMA) will function as the Member (Co-ordination) of the State Fisheries Management Council.

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

(i) to prepare Village Level Marine Fishery Management Plan considering the local needs and get approval from the District Fisheries Management Council;

(ii) creation of awareness among marine fisherfolk and coastal inhabitants about responsible fishing and fish resource conservation;

(iii) to resolve issues and social conflicts among fisherfolk and coastal inhabitants at fishing village level;

(iv) to help the effective implementation of the provisions of this Act in fishing village;

(v) to help the District Fisheries Management Council for carrying out its functions and provide information called for by that Council;

(vi) to execute and discharge the duties assigned by the District Management Council;

(vii) to provide information to the District Fisheries Management Council on matters of conservation of marine fish resources;

(viii) such other powers, duties and functions as may be prescribed.

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

(i) to prepare Marine Fishery Management Plan for the district and get approval from the State Fisheries Management Council;

(ii) to take appropriate decisions on Village Level Fishery Management Plan prepared by Fisheries Village Management Councils;

(iii) to discharge the duties and powers assigned by the State Fisheries Management Council from time to time;

(iv) to conduct district level awareness camps among marine fisherfolk and coastal inhabitants;

(v) to resolve issues and conflicts between Fishing Village Management Councils and those which are referred by such councils;

(vi) to help effective implementation of the provisions of this Act in the District;

(vii) to help the State Fisheries Management Council for carrying out its functions and provide information called for by that Council;

(viii) to provide information to the State Fisheries Management Council on matters of conservation of marine fish resources;

(ix) such other powers, duties and functions as may be prescribed;

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

(i) to prepare Marine Fishery Management Plan for the State or part thereof;

(ii) to identify suitable sites/locations for mariculture and conservation activities;

(iii) to create awareness among the marine fisherfolk and coastal inhabitants;

(iv) to conduct training programmes, seminars, workshops etc. in the field of mariculture, conservation of marine fish resources and post-harvest operations;

(v) to resolve issues and conflicts between District councils and those which are referred by the District councils;

(vi) to publish scientific papers, books, audio-video cassettes, journals etc. on mariculture and conservation and management of marine fish resources;

(vii) to provide information on management and conservation of marine fish resources;

(viii) to do/get done all such other lawful things, that are conducive or incidental to the administration of State Fisheries Management Council and the attainment of the above objectives;

(ix) if the decision taken by the District Fisheries Management Councils on any issue are found to be against the provisions of this Act, the State Fisheries Management Council may examine the same and take fresh decisions on such issue;

(x) Such other powers, duties and functions as may be prescribed.”.

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

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

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

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

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

“(3) The adjudicating officer shall after receipt of report from the authorised officer regarding the search conducted in the boat building yard and fishing net production unit has reason to believe that

any boat building yard is being or has been used in contravention of any of the provisions of this Act or any rule made or order issued thereunder or any of the conditions of registration, hold an enquiry into the matters mentioned in the report in the prescribed manner after giving all the parties concerned a reasonable opportunity of being heard.”.

10. *Substitution of section 17.*—For section 17 of the principal Act, the following section shall be substituted, namely:—

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

(a) any fishing vessel fitted with 100 hp engine or above as single or in toto or any mechanized fishing vessel in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of two lakh and fifty thousand rupees;

(b) any non-mechanised fishing vessel fitted with engine in between 10 hp and 100 hp as single or in toto, in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of one lakh rupees;

(c) any non-motorised fishing vessel or any motorised fishing vessel fitted with 10 hp engine or below, in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of ten thousand rupees;

(d) any boat building yard in contravention of the provisions of section 9C of this Act or any rule made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees;

(e) any fishing net production unit in contravention of the provisions of section 9F of this Act or the rules made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees:

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

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

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

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

- (a) without holographic registration plate;
- (b) without life saving appliances;
- (c) without certified syrang;
- (d) without certified engine driver;
- (e) without signal flag and light;
- (f) without colour coding.

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

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

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

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

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

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

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

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

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

“(ea) the manner in which the production, keeping and transportation of fishing gear under clause (e) of sub-section (1) of section 4 shall be prescribed;

(eb) the form of application and the particulars to be contained therein and the fee for registration of a boat building yard and fishing net production unit under sub-section (2) of section 9A and sub-section (2) of section 9E, respectively;

(ec) the period within which an application for registration shall be granted or refused under sub-section (3) of section 9A;

(ed) the required specification of the boat building yard under clause (a) of sub-section (4) of section 9A;

(ee) the form of declaration under clause (b), the other facilities to be equipped under clause (d) of sub-section (4) of section 9A;

(ef) other facilities to be equipped under clause (d) of sub-section (4) of section 9A;

(eg) the manner in which the registration mark assigned under sub-section (7) of section 9A and sub-section (9) of section 9E shall be displayed;

(eh) the form of certificate of registration, the conditions of registration, the fee payable and the securities for the due performance of the conditions under sub-section (5) of section 9A and sub-section (6) of section 9E;

(ei) the type of design and seaworthiness of the boat under sub-section (9) of section 9A;

(ej) the form of application for renewal of registration of a boat building yard under sub-section (2) of section 9B, the particulars which it shall contain and the fee which shall accompany it;

(ek) the period within which an application for renewal of registration shall be granted or refused and the conditions and amount of enhanced fee for acceptance of application made after the prescribed period under sub-section (3) of section 9B;

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

(em) the manner in which the functioning of the boat building yard are to be carried out shall be specified under sub-section (11) of section 9A;

(en) the quality of the fishing net material and regulation of mesh size;

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

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

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

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

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