

**Fourteenth Kerala Legislative Assembly**  
**Bill No. 170**

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**THE KERALA FISHERMEN DEBT RELIEF COMMISSION  
(AMENDMENT) BILL, 2018**

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(AMENDMENT) BILL, 2018**

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[Translation in English of the “2018-ലെ കേരള മത്സ്യത്തൊഴിലാളി കടാശ്വാസ കമ്മീഷൻ (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

**THE KERALA FISHERMEN DEBT RELIEF COMMISSION  
(AMENDMENT) BILL, 2018**

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**BILL**

*further to amend the Kerala Fishermen Debt Relief Commission Act, 2008.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Fishermen Debt Relief Commission Act, 2008 (18 of 2008) for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Fishermen Debt Relief Commission (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 20<sup>th</sup> day of October, 2018.

2. *Amendment of section 5.*—In the Kerala Fishermen Debt Relief Commission Act, 2008 (18 of 2008) (hereinafter referred to as the principal Act), in section 5,—

(i) in clause (i) of sub-section (1), the word “and” shall be omitted;

(ii) for item (j) of sub-section (1), the following items shall be substituted, namely:—

“(j) to recommend the Government to take over the debt of fishermen under sub-section (1) of section 9A ;

(k) to issue orders to the Fishermen Co-operative Society for sanctioning new loan to fishermen, under sub-section (2) of section 9A; and

(l) to perform such other functions and exercise such other powers, as may be prescribed.”;

(iii) After sub-section (6), the following sub-section shall be added, namely:—

“(7) If any person, other than institutional creditor and financial institution, takes any action against any provision of sub-section (2) or section 9A or section 11 or any order or award issued by the Government or the Commission under such provisions, the Commission shall have the power to recommend disciplinary action against him and impose a fine not exceeding one lakh rupees and to recommend to the Government to take prosecution proceedings:

Provided that before taking disciplinary action or imposing fine or recommending prosecution proceedings, the person concerned shall be given a reasonable opportunity of being heard before the Commission and the Commission Chairperson shall be present in the bench constituted under sub-section (4) of section 8 to initiate such proceedings.”

3. *Amendment of section 6.*—In sub-section (2) of section 6 of the principal Act, for the figures and words “31st day of December, 2007” the figures and words “31st day of December, 2008” shall be substituted.

4. *Insertion of new section 9A.*—After section 9 of the principal Act, the following section shall be inserted, namely:—

“9A. *Settlement of loans taken for fishing equipments that are damaged due to sea erosion or other disasters.*—(1) Notwithstanding anything contained in this Act, if the Fisheries Deputy Director concerned reports to the Commission that the net or traditional or mechanised vessels used for fishing by the fishermen in the fishing villages of disaster affected area or otherwise, loss or the irreparable damage caused due to sea erosion or other disasters, the Commission may recommend to the Government to take over the debt not exceeding the maximum amount fixed through the Gazette Notification for repayment of loan from time to time.

(2) The Commission may issue orders to the Fishermen Co-operative Society concerned for granting new loan to the fishermen for acquiring new fishing equipments for replacing the lost or irreparably damaged and accordingly the society concerned shall take steps for granting new loan.

(3) No person other than institutional creditors, financial institution etc. shall take any fresh steps against the fisherman for the recovery of the arrears payable by a fisherman until the Government issue orders taking over of the debt on the basis of the recommendation of the Commission under sub-section (1), or finding that he is not eligible for debt relief by the Commission and such steps if any, initiated or proceeded in any suit, application, appeal, petition or other action shall be kept in abeyance.”.

5. *Repeal and saving.*—(1) The Kerala Fishermen Debt Relief Commission (Amendment) Ordinance, 2018 (53 of 2018) is hereby repealed.

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

#### STATEMENT OF OBJECTS AND REASONS

Most of the traditional fishermen earning livelihood by fishing in sea and inland waters are in huge indebtedness.

2. The loans availed on large scale from various agencies, banks and individuals for the purchase of fishing equipments and the state of inability to repay the debt, for years due to fall in production, fall in price, unemployment and exploitation by intermediaries, leads to the accrual of liability.

3. They are in debt trap by increasing the debt for years along with interest.

4. Because of the loss of fishing vessels due to the natural calamity, the issue of indebtedness of fishermen has extended to a severe extent. Financial constraints, huge interest rates imposed by private money lenders and their unfair practices are some of the reasons for this. As the fishermen are being exploited in such a way, the State Government thinks that it is expedient to provide adequate relief for them.

5. Government intends to amend section 5 of the principal Act for incorporating provisions for taking action against the responsible persons, other than institutional creditor and financial institution under Central Government who takes any action against the order or award issued by the Government or Commission.

6. The debt relief is benefited only by the fishermen in disaster affected area. As per section 6(2) of the Debt Relief Act, the entire State of Kerala shall be deemed to be disaster affected area till 31<sup>st</sup> December, 2007. Hence the Government intends to amend section 6 of the principal Act for providing debt relief for the period it intends to give.

7. Loss of work to fishermen and damage to fishing equipments due to recurring natural disasters, sea erosion and change in climate etc. the indebtedness of fishermen is increasing. Hence the Government intends to provide for the insertion of a new section as 9A to the principal Act by amending section 9 for settling the loans taken by the fishermen for the damage caused to fishing equipments due to sea erosion or other disasters.

8. As the Kerala Legislative Assembly was not in session and the above proposals had to be given effect to immediately, the Kerala Fishermen Debt Relief Commission (Amendment) Ordinance, 2018 was promulgated by the Governor of Kerala on the 17<sup>th</sup> day of October, 2018 and the same was published as Ordinance No. 53 of 2018 in the Kerala Gazette Extraordinary No. 2599 dated 20<sup>th</sup> day of October, 2018.

9. The Bill seeks to replace the Ordinance No. 53 of 2018 by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

At present debt relief for fishermen are being given for loans availed till 31-12-2007 from Co-operative banks/Co-operative societies, Matsyafed, Nationalised/Scheduled banks and other Government financial institutions. Debt relief upto a maximum of Rs.75,000 towards principal and 25% of the interest are being given. 72767 applications have been recommended for debt relief till date. A total amount of Rs.315.74 crores, has been disbursed as debt relief.

While considering the loans availed by the fishermen till 31-12-2008 for debt relief as per amendment to section 6 of the Kerala Fishermen Debt Relief Commission Act, the expected non recurring expenditure is Rs.15 crores. This amount need not be disbursed in lumpsum. It may be released as per the list submitted stage by stage after determining the eligible person for debt relief through sitting/Adalath.

By inserting a new section 9A for the settlement of the loans availed by fishermen who had lost their fishing equipments due to sea erosion or other calamities, an expenditure of Rs. 2 crores is expected per year.

For the administrative expenditure of the Commission about Rs.1.50 crores is incurred per year. This is the expenditure incurring till the expiry of the period of the Commission.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill proposes to empower the Government to fix the limit of debt relief, from time to time, through Gazette notification for repayment of the loan availed for fishing equipments damaged due to sea erosion or other calamities.

2. The matters in respect of notification may be issued are matters of procedure and are of routine and administrative in nature. Further, after the notification is issued, is subject to scrutiny of the Legislative Assembly. The delegation of Legislative power is, therefore, of a normal character.

J. MERCYKUTTY AMMA.

EXTRACT FROM THE KERALA FISHERMEN DEBT RELIEF  
COMMISSION ACT, 2008

(18 OF 2008)

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5. *Powers and duties of the Commission.*—(1) The Commission shall have all such powers as are necessary for achieving the objects of this Act, and in particular,—

(a) to recommend to the Government on application or otherwise, after such enquiry as the Commission may deem fit, and on the basis of the general criteria as may be prescribed by the Government to declare any districts or district or fishermen zone forming part thereof as disaster affected area for a proposed period;

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(h) to recommend to the Government to do such acts as may be necessary to ensure that future debt reliefs of the fishermen are met through such agencies, as may be prescribed;

(i) to furnish periodical reports to the Government generally on any matter pertaining to fishermen's indebtedness; and

(j) to perform such other functions and exercise such other powers, as may be prescribed.

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(6) The Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

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(g) any other matter which may be prescribed.

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6. *Declaration as disaster affected area.*—(1) As soon as after the receipt of a recommendation under clause (a) of sub-section (1) of section 5, Government shall take appropriate decision within the time limit as may be prescribed and accordingly may declare the concerned Districts or District or fishermen zones forming parts thereof as disaster affected area.

(2) Notwithstanding anything contained in any other provisions of this Act, with respect to all debts of the fishermen till 31<sup>st</sup> day of December, 2007 the entire State of Kerala shall be deemed as disaster affected area.

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9. *Special provisions in respect of settlement of certain loans taken by a fisherman of disaster affected area.*—(1) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, a member authorised by the Commission shall have power, through mutual understanding to,—

(a) reschedule short-term loans into medium term loans and medium term loans into long term loans availed of by the fisherman of a disaster affected area from commercial banks or other scheduled banks; or

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(2) Where any settlement of loan is made under sub-section (1), the fisherman shall be bound to repay such loan with interest to the bank within the period as per the settlement provision.

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