

Fifteenth Kerala Legislative Assembly

Bill No. 75

**THE KERALA INLAND FISHERIES AND
AQUACULTURE (AMENDMENT) BILL, 2021**

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Kerala Legislature Secretariat

2021

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[Translation in English of “2021-ലെ കേരള ഉൾനാടൻ ഫിഷറീസും അക്വാകൾച്ചറും (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

**THE KERALA INLAND FISHERIES AND AQUACULTURE
(AMENDMENT) BILL, 2021**

A

BILL

to amend the Kerala Inland Fisheries and Aquaculture Act, 2010.

Preamble.—WHEREAS, it is expedient to amend the Kerala Inland Fisheries and Aquaculture Act, 2010 (15 of 2010) for the purposes hereinafter appearing;

BE it enacted in the Seventy-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Inland Fisheries and Aquaculture (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 18th day of December, 2020.

2. *Amendment of section 2.*— In section 2 of the Kerala Inland Fisheries and Aquaculture Act, 2010 (Act 15 of 2010) (hereinafter referred to as the principal Act).—

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

“(da) 'brooder' means fishes matured for breeding;”;

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

“(ea) 'fish cage' means the cage set up in the water by covering all the sides using net, for fish farming;”;

(iii) after clause (s), the following clause shall be inserted, namely:—

“(sa) 'Local Fisheries Management Council' or 'Council' means the Local Fisheries Management Council constituted under section 6A of this Act;”;

(iv) after clause (t), the following clause shall be inserted, namely:—

“(ta) 'fish pen' means the area in the water body separated by using net for farming aquatic organisms;”;

(v) after clause (x), the following clauses shall be inserted, namely:—

“(xa) 'rack' means a device placed in the water body for culturing mussel species organisms;

(xb) 'sluice' means a system set up to enable or control the flow of water into and out of an aquaculture farm or a filtration land or paddy field and which includes 'pettiyum parayum';

(xc) 'final harvesting' (*Kettu kalakkal*) means the method of stirring the bottom of the shrimp farms by human effort after harvesting shrimp fields and capturing the remaining fish by own fishing methods;”;

(vi) after clause (z), the following clause shall be inserted, namely:—

“(za) 'perennial filtration' means the shrimp farm which is filtered through out the year.

3. *Amendment of section 3.*—In the principal Act, for section 3, the following section shall be substituted, namely: —

“3. *Fishery and allied activities in public water bodies.*—(1) The regulation of fishery and aquaculture activities in inland public water bodies and fish conservation and aquaculture development, shall be vested with the State Government:

Provided that the fish conservation and aquaculture development regarding a public water body exclusively within the boundaries of any Local Self Government Institution shall be vested with the respective Local Self Government Institution and the officer of the Fisheries Department deputed in this behalf shall give necessary technical advice for that.

(2) Permission to engage in aquaculture activities in public water bodies may be granted as prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, no activity to transform the public water body or wet land from its original state, in such a manner adversely affecting the survival of fish, shall be carried out, other than as prescribed.

(4) Whoever acts in contravention of any of the provisions of this section shall be subjected to penal actions under section 36. ”.

4. *Amendment of section 4.*—In the principal Act, for section 4, the following section shall be substituted, namely: —

“4. *Notifying as aquaculture area.*— (1) The Government may, for the aquaculture related development or for general interest of aquaculture sector, declare, by Gazette notification, any public water body or part thereof or other suitable area as aquaculture area exclusively for aquaculture related activities:

Provided that in the case of areas included in the Coastal Regulation Zone, it shall be subject to the permission of the Coastal Aquaculture Authority:

Provided further that for declaring a public water body or public area which is under the exclusive control of a Local Self Government Institution, as an aquaculture area, the Local Self-Government Institution concerned shall be consulted.

(2) Any aquaculture area so notified shall not be used for any other commercial purpose than aquaculture related purposes.

(3) Any area notified as aquaculture area experiencing tidal phenomenon, shall not be used for any other aquaculture activities except for fish farming in fish cage or culturing of molluscs, or algae cultivation.

(4) If any industrial enterprises proposed to be newly started within a radius of five hundred meters of an aquaculture area or public water body with drainage system opening to water body in such a way detrimental to the fish farming, No Objection Certificate shall be obtained in advance from the Authorized Officer for the purpose.

(5) Considering the capacity or any other technical matters of a water body and in accordance with the advice of the District Aquaculture Development Agency constituted as per section 8A, the Authorised Officer may, stop the procedure of giving registration and licence for aquaculture in an aquaculture area at any time.

(6) Whoever acts in contravention of any of the provisions of this section shall be subjected to penal actions under section 36. ”.

5. *Amendment of section 5.*—In the principal Act, for section 5, the following section shall be substituted, namely: —

“5. *Restriction on fishing.*— (1) No person shall, use or cause to be used any fishing vessel, free net or fixed machine which has not obtained certificate of registration and licence for fishing under the provisions of this Act and the rules made thereunder, for fishing activities in public water bodies:

Provided that persons fishing with single hook for entertainment or for own use as food need not obtain registration or licence:

Provided further that this provision shall not be an imediment to the harvesting of fish cultivated by aquaculture .

(2) For fish conservation, Government may, through gazette notification, prohibit all or any of the following activities, namely: —

(a) fishing from any public water body;

(b) catching any species of fish;

(c) catching fish of any size or weight;

(d) fishing for any period;

(e) any type of fishing method;

(f) fishing by using free net of any kind or link size, or fixed machine or other equipments; and

(g) fishing by using any type of fishing vessel.

(3) For conservation of fish following type of fishing and collection from public water bodies shall not be done, namely: —

- (a) fishing by using fixed machine during high tide;
- (b) fishing by using stake net or dip net having diameter of more than four metre;
- (c) fishing by privately installing, materials helpful for fish breeding;
- (d) fishing from protected fish areas or protected fish coverts;
- (e) fishing by using stake nets or dip nets upto a distance of one kilometre from the estuary to the backwaters;
- (f) fishing in such a manner as to impede the free movement of fish in a public water body upto a distance of fifty metres on both sides of a bridge;
- (g) fishing at night by attracting fishes using one or more electric lamps having power of more than twenty watts;
- (h) fishing by obstructing over fifty per cent of the width of the public water body:

Provided that the Director of Fisheries may, on the basis of the recommendation of the Authorised Officer, grant relaxation from any of the prohibitions in this sub-section to carry out research activities of any Government Institution in the fisheries sector.

(4) For conservation of fish, fishing with fixed machine in public water bodies shall be as prescribed.

(5) No person shall conduct fishing with free net within the radius of ten metres from a fixed machine.

(6) Shifting the place of a fixed machine installed in a public water body from the place for which permission has been once obtained, to another place shall be on the recommendation of the Local Fisheries Management Council concerned, constituted under section 6A of this Act, in the prescribed manner.

(7) Any person who obtained a registration certificate and licence for fishing vessel, fixed machine and free net for engaging in fishing, shall have the duties as prescribed, to sustain the inland fishing zone.

(8) No registration or licence shall be granted for the installation of a new fixed machine other than that of the holders of the conventional licence obtained through the Department of Fisheries:

Provided that new registration may be granted in the manner as prescribed, subject to scientific studies.

(9) For engaging in fishing activities in any public water body under the control of the Local Self Government Institution, apart from the registration certificate and licence obtained under the provisions of this Act, permission of the Local Self Government Institution concerned shall also be obtained.

(10) No person shall obtain certificate of registration and licence for more than one china net or more than four dip nets or stake nets or more than four free nets of the same type, simultaneously for the use in fishing and the Authorised Officer shall not allow the same:

Provided that the aforesaid limit shall not apply to those which are already acquired under the provisions in force prior to the commencement of the Kerala Inland Fisheries and Aquaculture (Amendment) Act, 2021.

(11) No person who has not acquired registration certificate and licence to arrange filtration as per the provisions of the Act and the rules made there under shall arrange filtration in a private or public water body. Filtration arranged after acquiring licence or registration certificate shall be subject to the following restrictions and prohibitions, namely: —

(a) no other aquaculture activities shall be carried out in the water body on the basis of the licence obtained for filtration;

(b) no person shall use antibiotics, chemicals, pesticides and other drugs used for aquaculture in the area for filtration without the prior permission of the Authorized Officer or the officer having fixed qualification published by Government through notification, for this purpose;

(c) no person shall use one or more lamps having light more than twenty watts for attracting fishes into the sluice in the filtration area at night;

(d) no person shall attract fishes to the filtration area by giving feed;

(e) no person shall artificially deposit fry in the filtration areas;

(f) no person shall use nets of mesh size less than twenty millimeters in the sluices, to collect fish from the filtration area;

(g) no person shall reclaim the conventional filtration area;

(h) in the filtration area where the right of fishing exists as per the covenant, no person shall conduct such fishing except for the period allowed by the Government through Gazette notification, published from time to time:

Provided that in the water area in respect of which registration certificate and licence have been obtained for carrying out aquaculture activities, there shall not be any right of fishing through covenant and filtration shall not be carried out in that area for whatever reason. If filtration is to be carried out again, in the said area after cancelling the registration and licence obtained for aquaculture activities, registration and licence for carrying out filtration are to be newly obtained and above said fishing right is to be restored in the said area.

(i) no registration shall be given to anyone to engage perennial filtration freshly;

(j) no person shall use any kind of pesticides, toxins, fish anesthetics or other chemicals directly or in combination with any other material to catch fish alive or otherwise, in areas where filtration is engaged; and

(k) no person shall deposit or cause to be deposited, directly or otherwise, any form of bio-chemical waste, household waste and plastic waste which cause water pollution in the filtration area;

(12) The industrial collection of shell fish or their shell, which are naturally deposited in public water bodies, shall be subject to such restrictions and prohibitions, as prescribed.

(13) Not more than two hundred kilograms of the shell or shellfish species, whether alive or not, that has been fished, collected or stored, shall be transported from one place to another except on the basis of a transit permit, as prescribed.

(14) Whoever contravenes the provisions of this section shall be subjected to penal actions under section 36. ”.

6. *Amendment of section 6.*—In the principal Act, for section 6, the following sections shall be substituted, namely :—

“6. *Conservation of fish in selected water bodies.*—(1) For conservation of fish following activities shall not be carried out in rivers, backwaters, lakes and other water bodies notified by the Government in this behalf, namely: —

(a) construction in such a manner as to obstruct the natural flow of the water body and the breeding of fish;

(b) depositing of solid or liquid contaminants, chemicals, pesticides and plastic in the water body;

(c) breeding, depositing, rearing and marketing of foreign fish species, not permitted by Government through notification, and

(d) depositing other fish in water bodies in the wildlife sanctuary which may endanger the native fish wealth.

(2) Naturally occurring fish seed shall not be collected from public water body or stored, raised, sold, purchased or transported:

Provided that for the purpose of research and developmental activities of the Central Government or the State Government, they may be collected with the permission of the Director of Fisheries and under the supervision of Authorised Officer.

(3) Whoever contravenes the provisions of this section shall be subjected to penal actions under section 36.

6A. *Constitution of the Local Fisheries Management Council.*— (1) In order to ensure that conservation of fish in inland water bodies is carried out in a sustainable and responsible manner and the provisions of this Act and the rules made thereunder, are properly implemented, the Government may, based on the

rivers, backwaters, lakes and other public water bodies notified by the Government on this behalf, as a whole or dividing them into parts, constitute each Local Fisheries Management Councils, by notification in the official gazette.

(2) The Local Fisheries Management Council shall have the following members, namely: —

- | | | |
|--------|--|--------------------|
| (i) | Collector of the district which covers most of the water body concerned | : Chairperson |
| (ii) | President of the Grama Panchayat/
Chairperson of the Municipality/Standing Committee (Development) Chairman of the Municipal Corporation, covering most of the water body concerned (maximum seven persons) | : Members |
| (iii) | Government nominees from the Presidents of the Fishermen Development and Welfare Co-operative Societies concerned (maximum two persons) | : Members |
| (iv) | Government nominees from experts in the field of fisheries (maximum two persons) | : Members |
| (v) | Government nominees from Inland Fishermen Trade Union Activists (maximum four persons) | : Members |
| (vi) | Government nominees from senior Fishermen above the age of fifty years (maximum two persons) | : Members |
| (vii) | Deputy Director of the District Panchayat covering most of the water body concerned. | :Member |
| (viii) | Executive Engineer, Irrigation covering most of the water body concerned | :Member |
| (ix) | An officer of the State Pollution Control Board | :Member |
| (x) | Joint Director of Fisheries (Regional) | :Member |
| (xi) | Deputy Director/Assistant Director of Fisheries in charge of the district covering most of the water body concerned | : Member Secretary |

6B. *Powers, Duties and Functions of the Local Fisheries Management Council.*— (1) The Local Fisheries Management Council shall have the following powers, duties and functions, namely: —

(a) to create awareness among fishermen and coastal dwellers on responsible fishing and conservation of inland fish wealth;

(b) to monitor activities related to the conservation of inland fish wealth and provide necessary advice;

(c) to prepare inland fishery management plan for a public water body or part thereof, taking into account the local needs;

(d) to resolve fishing-related issues and social discords among the fishermen and coastal dwellers;

(e) to ensure that the provisions of this Act are effectively implemented locally, and

(f) to constitute Village Level Fisheries Management Councils at the level of Grama Panchayat with president of the Grama Panchayat as the Chairperson and the technical officer concerned of the Fisheries Department as the Convener, the Presidents of the Fishermen Development Welfare Co-operative Societies concerned and the members of the Coastal Wards of the Grama Panchayat as members for the effective implementation of the provisions of this Act.

(2) The administrative setup of the Council, procedures of the meeting, travelling allowance and sitting fee of the members shall be, as prescribed.

6C. *Tenure of office, resignation, casual vacancies and removal of members of the Council.*—(1) The term of officials and people's representatives who become members of the council by virtue of their official capacity they hold shall be, till they hold such office and the term of nominated members shall be five years from the date of publication of the notification.

(2) A non-official member nominated to the council may resign his membership, by giving a notice in writing, to the Government, but shall continue in the office till the Government accepts the resignation.

(3) The interim vacancy or casual vacancy of a nominated non-official member shall be filled within three months from the date of occurrence of such vacancy and the member so newly nominated shall hold office only for the remainder of the term of office of the member in whose place he is so nominated.

(4) The Government may, if any nominated member,—

(a) is adjudged by a court of competent jurisdiction as unsound mind; or

(b) is adjudged as an insolvent by a court of competent jurisdiction; or

(c) is incapable of continuing as such due to physical or mental disability; or

(d) is punished for offence which in the opinion of the Government involves moral turpitude or financial irregularities, remove him from such position.”.

7. *Amendment of section 8.*—In the principal Act, for section 8, the following sections shall be substituted, namely:—

“8. *Restriction on aquaculture activities.*—(1) No person who has not obtained a certificate of registration and licence from an officer authorized under the provisions of this Act, shall engage in aquaculture activities in any inland water body:

Provided that in order to get the registration and licence to engage in aquaculture activities in a public water body which falls within the boundaries of only one Local Self Government Institution, the permit of the Local Self Government Institution concerned shall also be obtained:

Provided further that no registration or licence is required under this section for the maintenance of fish, for entertainment, in small ponds / tanks of the size and type specified by the Government through Gazette Notification.

(2) The Government may, by gazette notification, limit, restrict or prohibit all or any of the following matters in the aquaculture allied activities, whether permanently or temporarily, namely: —

(a) limit the maximum number of fish seeds that can be used in each aquaculture method, depending on the species of fish used;

(b) control completely the use of any drugs, antibiotics, pesticides, fish pesticides, probiotics, growth promoters and other chemicals, fix its maximum quantity that can be used and fix the educational qualifications of those who provide technical advice to the fish farmer in order to ensure their proper use;

(c) utilize the ecologically important areas which are fish breeding centers or nurseries, for aquaculture;

(d) limit the maximum weight of fish or 'biomass' depending on the species of fish, that can be reared in each type of aquaculture, and

(e) prohibit engaging in aquaculture without cultivating paddy in any paddy field, which are suitable for paddy cultivation of at least one crop:

Provided that the above prohibition is not applicable to the fields which are certified by the Agriculture Officer concerned as unfit for paddy cultivation.

(3) No non domestic fish and their seeds shall be used for aquaculture without subjecting to quarantine procedures and quality check.

(4) Water from the farm affected by fish disease shall not be released into any public water body without disinfecting, under the supervision of the Authorized Officer.

(5) The maximum carrying capacity for engaging aquaculture activities in each public water body may be determined by the Government through Gazette Notification on the recommendation of the District Aquaculture Development Agency constituted as per sub-section (1) of section 8A of this Act and no new registration and licence shall be issued to any person in contravention to it.

(6) Registration and licence for engaging in aquaculture in a public water body experiencing high tide and low tide phenomenon, shall not be issued without complying the prioritization of fishermen's group, inland fisherman, Women's Neighbourhood Group and Activity Group residing near that area.

(7) Under any circumstance, a person shall not be allowed fish cages having volume of more than one hundred cubic meters racks having areas of more than twenty-five square meters and fish pens having area of more than one hundred square meters.

(8) Registration and licence for engaging in aquaculture activities in a public water body which is not experiencing high tide and low tide phenomenon, shall not be issued without complying the prioritization of fishermen's group, inland fisherman, Women's Neighbourhood Group, Activity Group, those belonging to Scheduled Castes and Scheduled Tribes, ex-service man and nominal farmer, residing near that area:

Provided that in the case of reservoirs, others shall be considered only in the absence of the Fishermen's Co-operative Society in the area concerned:

Provided further that the right to arrange aquaculture in public water bodies in forest areas is limited only for Scheduled Tribes.

(9) Aquaculture activities in public water bodies shall not be harmful to the environment for any reason.

(10) No person shall deposit or release live domestic fish into a public water body from an aquaculture area without the prior permission of the Authorized Officer.

(11) No person shall use pesticides, antibiotics, probiotics, chemicals or other drugs in public water body or private water body, without written instructions of the person having educational qualification in this regard and fixed by the Government through order.

(12) No person shall engage in aquaculture activities of permitted fish species from any foreign country without adopting biosafety measures.

(13) Water from the public water bodies shall not be pumped into or taken back from the water bodies where the scientific shrimp farming is carried out, without the prior permission of the Authorized Officer.

(14) No aquaculture activity shall be carried out in a manner obstructing water transport.

(15) No aquaculture activity in a public water body shall obstruct the other public needs of that water body.

(16) No person shall engage in any activity which may cause damage to any infrastructure or produce of aquaculture activity.

(17) The relocation of fish cage, fish pen or rack from a permitted place to another place for aquaculture activities in a public water body shall only be in the prescribed manner.

(18) Any person who obtained registration certificate and licence to engage in aquaculture activities shall have the duties as prescribed, to sustain the aquaculture sector.

(19) Whoever contravenes the provisions of this section shall be subjected to penal actions under section 36.

8A. Constitution of District Aquaculture Development Agency.—(1) The Government may, by Gazette notification, constitute, at the district level, each District Aquaculture Development Agency to ensure the sustainable development of the aquaculture sector and to implement in a responsible manner and to ensure that the provisions of this Act and the rules made thereunder are properly implemented. It shall have the following members, namely: —

- | | | |
|--------|---|--------------------|
| (i) | District Panchayat President | :Chairperson |
| (ii) | District Collector | :Member |
| (iii) | Chairperson, District Panchayat Standing Committee (Development) | :Member |
| (iv) | a representative nominated by the Government from the experts in the field of aquaculture | : Member |
| (v) | two representatives nominated by Government from the fish farmers | : Members |
| (vi) | Joint Director of Fisheries (Regional) | : Member |
| (vii) | District Planning Officer | : Member |
| (viii) | Principal Agriculture Officer | : Member |
| (ix) | Executive Engineer, Irrigation | : Member |
| (x) | Manager, Lead Bank | : Member |
| (xi) | Deputy Director of Fisheries/ Assistant Director of Fisheries having charge of the District | :Member Secretary. |

(2) The Fish Farmers' Development Agency (F.F.D.A.) functioning at the district level may be wound up and its assets and liabilities and posts may be transferred to the District Aquaculture Development Agency of the district concerned constituted as per sub-section (1). Even after the coming into force of this provision employees of the Fish Farmers Development Agency, so transferred to the District Aquaculture Development Agency, shall be entitled to continue in office for the same period, with the same pay, with the same terms and with the same conditions they would have, if such a transfer had not been taken place,

(3) The administrative set up, procedure for meeting, travelling allowance and sitting fee of the members of the agency constituted as per sub-section (1) shall be as prescribed.

(4) The employees in the posts transferred under sub-section (2), shall be under the administrative control of the Member Secretary.

(5) The term of office of those who become members of the District Aquaculture Development Agency by virtue of holding official position and people's representatives shall be till they hold such office and the term of those who become members by nomination shall be five years from the date of publication of the notification.

(6) The non-official member nominated under sub-section (1) may resign his membership by giving notice in writing to the Government, but may continue in such office till the Government accepts the resignation.

(7) The interim vacancy or casual vacancy of a nominated non-official member shall be filled within three months from the date of occurrence of vacancy and the member so nominated newly shall hold office for the remainder of the term of office of the member in whose place he is nominated.

(8) The Government may, remove any nominated member from membership,—

(a) if he is adjudged as unsound mind by a court of competent jurisdiction; or

(b) if he is adjudged as an insolvent by a court of competent jurisdiction; or

(c) if he became incapable of continuing as such due to physical or mental disabilities; or

(d) if he is convicted for an offence which in the opinion of the Government involves moral turpitude or financial irregularities.

8B. Powers, Duties and Responsibilities of the District Level Aquaculture Development Agency.—The District Level Aquaculture Development Agency constituted under section 8A shall have the following powers, duties and responsibilities, namely: —

(a) to determine by surveying the inland water bodies and areas to be notified as aquaculture areas under section 4, demarcate them and prepare data books and maps relating to them;

(b) to conduct, monitor and classify research regarding aquaculture practices that may be arranged in water bodies classified as aquaculture areas;

(c) to calculate and limit the maximum number of aquaculture units that may be installed in inland water bodies classified as aquaculture area;

(d) to formulate and codify activities for aquaculture in water bodies under the control of Local Self Government Institutions, Water Resources Department, Forest Department and Kerala State Electricity Board;

(e) to establish and operate fish seed centers, demonstrative farms, health inspection centers and fish feed outlets at the district level to facilitate fish farming for fish farmers;

(f) to arrange training programs, seminars, workshops and exhibitions in the field of aquaculture;

(g) to publish scientific study reports, books, audio-visual means etc., based on the subject of aquaculture;

(h) to carry out research activities in the field of aquaculture and to impart the knowledge obtained thereby to the fish farmers;

(i) to publish aquaculture resource data books from time to time;

(j) to formulate guidelines for advanced aquaculture management activities;

(k) to prepare aquaculture master plans at the district level;

(l) to assist in the formulation and implementation of aquaculture schemes of Local Self Government Institutions;

(m) to monitor and give necessary advice on aquaculture related activities in public water bodies;

(n) to resolve aquaculture disputes that may occur at local and district levels; and

(o) to take or arrange such other reasonable measures conducive to the growth of aquaculture sector or necessary for the administration of District Aquaculture Development Agency.

8C. Regulation of marketing and display of ornamental fishes.—(1) No person who has not obtained a certificate of registration or licence under the provisions of this Act and the rules made thereunder shall engage in the commercial sale of ornamental fishes or exhibit ornamental fishes and other fishes for a period exceeding thirty days by charging amount by ticketing system:

Provided that the provisions of this sub-section shall not apply to the sale of ornamental fishes from an ornamental fish production unit and displaying ornamental fishes in glass containers at houses.

(2) The sale and display, of the species of fish from foreign countries, having no permission to import into the country, shall not be done.

(3) No ornamental fish marketing unit shall engage in the sale of antibiotics, other drugs and chemicals which belong to the prohibited category.

(4) Ornamental fishes brought from other States or foreign countries into the State, shall be subjected to prescribed quality certification. Otherwise, no person shall, for any reason, sell them through ornamental fish marketing units or display during occasions of ornamental fish exhibition.

(5) If infection appears in the fishes stored in ornamental fish marketing units and ornamental fish exhibition fairs, no person shall release such infected fish or the water in which such fishes are kept, into any private or public water body, without subjecting it to treatment under the supervision of an Authorised Officer.

(6) Whoever contravenes the provisions of the above sub-sections shall be subjected to penal actions under section 36.”.

8. *Amendment of section 11.*—Section 11 of the principal Act shall be omitted.

9. *Amendment of section 13.*—In sub-section (1) of section 13 of the principal Act, after the words “registration certificate” the words “for free net” shall be inserted.

10. *Amendment of section 14.*—In the principal Act, for section 14, the following section shall be substituted, namely:—

“14. *Transfer of ownership.*—(1) The ownership of fishing vessel, fixed machine and free net may be transferred to another fisherman after complying the following conditions, namely:—

(a) The ownership of any fixed machine can be transferred to the legal heir or in the event he is not a fisherman, to another fisherman, only on the basis of a written permission from the Authorized Officer:

Provided that before transferring such ownership, there shall not be any arrears to the Government regarding its possession;

(b) Regarding the transfer of a fixed machine, in case the fisherman who gets the machine transferred has ownership of any other fixed machine, shall not acquire more than that he may legally possess;

(c) On transferring the ownership as above, the transferee shall give notice to the Authorised Officer within fifteen days from the date on which transfer effected in the prescribed manner and shall obtain new registration certificate as prescribed;

(d) The Authorized Officer shall issue a Certificate of Registration in compliance with the procedure provided in section 12 for granting a new registration.

(2) The right of aquaculture in public water bodies may be transferred complying the following conditions, namely: —

(a) Right of any fish cage, fish pen and rack set up in public water bodies for aquaculture shall be transferred only on the basis of a written permit obtained from the Authorised Officer:

Provided that such transfer of right shall only be in favour of a fisherman:

Provided further that before transferring the ownership as above, there shall not be any arrears to the Government regarding its possession:

Provided also that for such transfer, in respect of a public water body falling exclusively within the jurisdiction of one Local Self Government Institution, there shall also be the permit of the Local Self Government Institution concerned.

(b) On transferring the ownership as above, the transferee shall give notice to the Authorized Officer within fifteen days from the date on which the transfer effected in the prescribed manner, and a new registration certificate shall be obtained in the prescribed manner;

(c) The Authorized Officer shall issue a Certificate of Registration in compliance with all the procedures provided in section 12 for granting a new registration.

(3) The right of aquaculture in privately owned water bodies may be transferred complying the following conditions, namely: —

(a) there shall not be any arrears to the Government regarding the possession of any fish cage, fish pen and rack set up for aquaculture in privately owned water body, prior to its transfer;

(b) on transferring the ownership as above, the transferee shall give notice to the Authorized Officer within fifteen days from the date on which the transfer effected in the prescribed manner, and a new registration certificate shall be obtained in the prescribed manner;

(c) the Authorized Officer shall issue a new registration certificate in compliance with all the procedures prescribed in section 12 for granting a new registration.

(4) Regarding the matters in this section, additional provisions, if necessary, may be made in the prescribed manner and such provisions shall also be complied with in this regard.”.

11. *Amendment of section 17.*— In the principal Act, for sub-section (1) of section 17, the following sub-section shall be substituted, namely:—

“(1) No licence shall be granted to any person who has not obtained Certificate of Registration under this Act for specific purpose.”

12. *Amendment of section 19.*— In the principal Act, for section 19, the following section shall be substituted, namely:—

“19. *Liability of the licence holder to produce licence.*— Any person having licence given under this Act shall be bound to produce such licence at any time for inspection, if so required by an Authorized Officer or an officer of the Fisheries Enforcement Unit constituted under section 35B:

Provided that in respect of a public water body which is exclusively under the control of one Local Self Government Institution, the power to require to produce and inspect licence shall, also be vested in the officer of the Local Self Government Institution concerned, authorized in this behalf.”.

13. *Amendment of section 20.*—In the principal Act, for section 20, the following section shall be substituted, namely:—

“20. *Cancellation or Suspension of licence.*— If the licensee, acts contrary to the provisions of this Act or the rules made thereunder or the orders issued by the Government in this regard, from time to time or any of the conditions of licence, or is convicted for any offence under this Act, or if the licensee is found to have obtained licence by misrepresentation or concealment of facts, any such licence of him may be cancelled or suspended by the Authorized Officer:

Provided that no licence shall be cancelled or suspended without affording a reasonable opportunity of being heard to the licence holder.”.

14. *Amendment of section 33.*—Section 33 of the principal Act shall be omitted.

15. *Insertion of new sections 35A, 35B and 35C.*— In the principal Act, after section 35, the following sections shall be inserted, namely:—

“35A. *Powers and Duties of the Authorized Officer.*—(1)The Authorized Officer shall be vested with the duty to ensure that the provisions of this Act or the rules made thereunder or the orders issued by the Government in this regard are duly fulfilled.

(2) The Authorized Officer shall have the following powers and duties, for preventing any activities contrary to any of the provisions of this Act or the rules made thereunder or orders issued by the Government in this regard, namely: —

(a) to remove structures or objects that are in violation of the provisions of this Act or the rules made thereunder or prevent such constructions while it is taking place;

(b) to sell the seized fish through public auction in the prescribed manner, within twenty four hours and remit the amount obtained through such sale into the revenue head of the State Government;

(c) if the owners of the fishing vessel, net, vehicle, equipment or any other material or objects seized have not executed the bond as per sub-section (2) of section 35, to sell such fishing vessel, vehicle, net, equipment and object by conducting public auction and to remit the amount obtained through such sale in to the revenue head of the State Government;

(d) to conduct survey of inland water bodies for notifying as aquaculture area under section 4 and demarcate them, and

(e) to take steps to control the spreading of fish disease in public water bodies and private water bodies.

35B. *Constitution of Fisheries Enforcement Unit.*—The Government may, by Gazette notification, constitute Fisheries Enforcement Unit at district level, for implementing the provisions of this Act and the rules made thereunder, including such nominated officers of Fisheries Department, under the Authorised Officer.

35C. *Powers, duties and functions of the Fisheries Enforcement Unit.*—(1)

Any officer of the Fisheries Enforcement Unit shall, voluntarily or on the basis of a complaint that any person is engaged in fishing or in aquaculture activities, contrary to any of the provisions of this Act or the rules made thereunder inspect the same and take necessary action thereon. The officers concerned shall, as part of the said inspection, have the following powers, functions and duties, namely:—

(a) to stop any fishing vessel and enter in it and conduct inspection;

(b) to inspect any fixed machine, free nets and other equipments used for fishing;

(c) to enter any area where aquaculture is carried out and inspect the quality of water, feeding system and records/notes of the procedures therein and collect samples of water, soil and fish for testing purposes, as per the guidelines issued by the Government;

(d) to stop, enter and inspect any vehicle used or suspected to be used for transporting fish;

(e) to enter and inspect any place where aquaculture activity is carried out, and;

(f) to inspect fish in the possession of any person.

(2) If it is convinced that there is reason to believe that any person has engaged in fishing or aquaculture activities contrary to any of the provisions of this Act or the rules or the certificate of registration or licence issued thereon, shall,—

(a) seize the fishing vessel, free net, fixed machine, devices attracting fish or other equipments; or

(b) seize fish, shell fish and its outershell; or

(c) seize the fish cage, fish pen or rack used for rearing fish or congenial for it or close down other type of aquaculture unit.

(3) Any officer of the Fisheries Enforcement Unit shall prepare a report of seizure and closure under sub-section (2) as prescribed and submit it before the Authorized Officer as early as possible along with the seized items.

(4) All necessary assistance for the discharge of the duties of the Authorized Officer shall be provided on the basis of his order. "

16. *Amendment of section 36.*—In the principal Act, in clause (c) of sub-section (2) of section 36 for the word "hatchery" the words "sale or display of ornamental fish" shall be substituted.

17. *Amendment of section 41.*— In the principal Act, for section 41, the following section shall be substituted, namely:—

“41. *State Inland Fisheries Management Council.*—(1)The Government may, by notification in the Gazette, constitute a State Inland Fisheries Management Council at the State level for ensuring the sustainable development, protection and conservation of inland fisheries scientifically, for responsible implementation of aquaculture development and for ensuring protection of livelihood of fishermen in the State.

(2) The State Inland Fisheries Management Council, constituted under sub-section (1) shall consist of the following members, namely:—

(a) Minister for Fisheries;

(b) Three members of the Legislative Assembly, one of whom shall be elected from any of the Assembly constituencies, comprising Vembanad Lake or Ashtamudi Lake;

(c) Secretary, Fisheries;

(d) Chairman/representative, Rajiv Gandhi Centre for Aquaculture;

(e) Director/representative, Central Inland Fisheries Research Institute;

(f) Director/representative, Central Marine Fisheries Research Institute;

(g) Director/representative, Central Institute of Freshwater Aquaculture;

(h) Director/representative, Central Institute of Brackish Water Aquaculture;

(i) Chairman, Kerala State Co-operative Federation for Fisheries Development;

- (j) Chairman, State Fish Seed Centre;
- (k) Dean, Faculty of Fisheries, Kerala University of Fisheries and Ocean Studies;
- (l) Two members who are technical experts or scientists in the fisheries sector;
- (m) Chairman/representative, State Biodiversity Board;
- (n) Chairman/representative, State Pollution Control Board;
- (o) Director of Fisheries;
- (p) Director, Department of Agriculture Development and Farmers' Welfare;
- (q) Director of Panchayats;
- (r) Chief Engineer, Water Resources Department;
- (s) Executive Director, Agency for Development of Aquaculture;
- (t) Managing Director, Kerala Aquaventures International Limited (KAVIL);
- (u) Additional Director of Fisheries;
- (v) Joint Director of Fisheries (Inland);
- (w) two representatives of Local Self Government Institutions;
- (x) one representative each from any of the four trade unions in the fisheries sector; and
- (y) two representatives of fish farmers.

(3) In the State Inland Fisheries Management Council constituted under sub-section (1), the Government shall nominate the representatives from members of Legislative Assembly, representatives from Local Self Government Institutions and non-official members and the Minister for Fisheries shall be the Chairperson and the Director of Fisheries shall be the convenor.

(4) The term of office of the council members, meeting procedures of the Council, sitting fee, travelling allowance etc., of the nominated members shall be such as may be prescribed.

18. Repeal and saving.—(1) The Kerala Inland Fisheries and Aquaculture (Amendment) Ordinance, 2021 (108 of 2021) 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

In order to conserve the endangered fish varieties in the inland fisheries sector, it is necessary to ensure their protection during breeding season, to determine the minimum size of the fish to be caught and to compensate depletion in the stocks of inland fish by adopting scientific methods for the sustainable livelihood of the fishermen.

2. In order to achieve self sufficiency in fish production by adopting innovative farming methods such as biofloc farming, cage farming, aquaponics, recycle farming, high density fish farming in tanks and by using highly productive exotic fishes such as Nile Tilapia, Wanami shrimp, Pangasius, the need for scientifically regulating the aquaculture activities has also become necessary.

3. The constitution and functioning of the Local Fisheries Management Councils for conserving fish by including representatives of fishermen also and for aquaculture development activities, aquaculture development agency at district level needs to be promoted.

4. It is also necessary to regulate the healthcare and disease control measures in fishes in the backdrop of adopting of high density aquaculture.

5. The Government has decided to reconstitute the existing State Fisheries Management Advisory Committee for ensuring the sustainable development, protection and conservation of inland fisheries scientifically, for responsible implementation of aquaculture development and for ensuring protection of livelihood of fishermen in the State. The Government have also decided to make necessary amendments to the Kerala Inland Fisheries and Aquaculture Act, 2010 to implement the above objectives.

6. As the Kerala Legislative Assembly was not in session and the above proposal had to be given effect to immediately, the Kerala Inland Fisheries and Aquaculture (Amendment) Ordinance, 2020 was promulgated by the Governor of Kerala on the 16th day of December, 2020 and the same was published as Ordinance No.81 of 2020 in the Kerala Gazette Extraordinary No.3023 dated 18th day of December, 2020.

7. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its special Session which commenced on the 31st day of December, 2020 and ended on the same day; and in its session which commenced on the 8th day of January, 2021 and ended on the 22nd day of January, 2021.

8. As the provisions of the said Ordinance had to be kept alive and the Kerala Legislative Assembly was not in session, the Governor of Kerala has promulgated the Kerala Inland Fisheries and Aquaculture (Amendment) Ordinance, 2021 on the 9th day of February, 2021 and the same was published as Ordinance No.29 of 2021 in the Kerala Gazette Extraordinary No.684 dated 11th day of February, 2021.

9. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its Session which commenced on the 24th day of May, 2021 and ended on the 10th day of June, 2021.

10. As the provisions of the said Ordinance had to be kept alive and the Kerala Legislative Assembly was not in session, the Governor of Kerala has promulgated the Kerala Inland Fisheries and Aquaculture (Amendment) Ordinance, 2021 on the 1st day of July, 2021 and the same was published as Ordinance No.82 of 2021 in the Kerala Gazette Extraordinary No.1948 dated 3rd day of July, 2021.

11. A Bill to replace the said Ordinance could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 22nd day of July, 2021 and ended on the 13th day of August, 2021.

12. Hence, in order to keep alive the provisions of the said Ordinance, the Kerala Inland Fisheries and Aquaculture (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 23rd day of August, 2021 and the same was published as Ordinance No.108 of 2021 in the Kerala Gazette Extraordinary No.2518 dated 26th day of August, 2021.

13. The Bill seeks to replace Ordinance No.108 of 2021 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (2) of section 3 of the principal Act proposed to be amended by clause 3 of the Bill, seeks to empower the Government to prescribe by notification, the manner of engaging in aquaculture activities in public water bodies.

2. Sub-section (3) of section 3 of the principal Act proposed to be amended by clause 3 of the Bill, seeks not to exercise any activity to transform the public water body and wet land from its original state in such a manner adversely affecting the survival of the fish other than as prescribed.

3. Sub-section (1) of section 4 of the principal Act proposed to be amended by clause 4 of the Bill, seeks to empower the Government to prescribe by Gazette notification declare any public water body or part thereof or other suitable area as aquaculture area.

4. Sub-section (2) of section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government by notification to prohibit the activities such as fishing from any public water body; catching any species of fish, catching fish of any size or weight, fishing for any period; any type of fishing method; fishing by using free net of any kind or link size, or fixed machine or other equipments; and fishing by using any type of fishing vessel, for the conservation of fish.

5. Sub-section (4) of section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government to prescribe by rules regarding fishing with fixed machine in public water bodies for conservation of fish.

6. Sub-section (6) of section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government to prescribe by rules regarding shifting of the place of a fixed machine installed in a public water body.

7. Sub-section (7) of section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government to prescribe by rules regarding the duties of any person who obtained a registration certificate and licence for fishing vessel, fixed machine and free net for engaging in fishing, to sustain the inland fishing zone.

8. Sub-section (8) and the proviso there to section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government to prescribe rules regarding the granting of registration or licence for installation of a new fixed machine other than that of the holders of the conventional licence obtained through the Department of Fisheries and provided that new registration may be given subject to scientific studies.

9. Item (b) of sub-clause (11) of section 5 of the principal Act proposed to be amended by clause 5 of the Bill, seeks to empower the Government to fix the qualification of the officer giving prior permission, to use antibiotics, chemicals, pesticides and other drugs used for aquaculture in the area for filtration if needed, through notification.

10. Sub-section (1) of section 6A proposed to be inserted in the principal Act, by clause 6 of the Bill, seeks to empower the Government to ensure the conservation of fish in inland water bodies carried out in a sustainable and responsible manner and are properly implemented, based on the rivers, backwaters, lakes and other public water bodies notified by the Government on this behalf, as a whole or dividing them into parts, constitute each Local Fisheries Management Councils through notification.

11. Sub-section (2) of section 6B proposed to be inserted in the principal Act, by clause 6 of the Bill, seeks to empower the Government to prescribe by rules the procedures of the meeting, travelling allowance and sitting fee of the members.

12. Sub-section (2) of section 8 proposed to be substituted in the principal Act, by clause 8 of the Bill, seeks to empower the Government to limit, restrict or prohibit all or any of the matters in the aquaculture allied activities, whether permanently or temporarily, by Gazette notification.

13. Sub-section (5) of section 8 of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to determine the maximum carrying capacity for engaging aquaculture activities in each public water body, through Gazette Notification.

14. Sub-section (17) of section 8 of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to make rules regarding the relocation of fish cage, fish pen or rack from a permitted place to another place for aquaculture activities in a public water body.

15. Sub-section (18) of section 8 of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to make rules regarding the duties of persons who obtained registration certificate and licence to engage in aquaculture activities to sustain the aquaculture sector.

16. Sub-section (1) of section 8A of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to constitute at the district level, each District Aquaculture Development Agency to ensure the sustainable development of the aquaculture sector and to implement in a responsible manner, through Gazette notification.

17. Sub-section (3) of section 8A of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to make rules regarding the administrative set up, procedure for meeting, travelling allowance and sitting fee of the members of the Agency.

18. Sub-section (4) of section 8C of the principal Act proposed to be amended by clause 7 of the Bill, seeks to empower the Government to make rules regarding the quality certification of sale and exhibition of ornamental fishes brought from other States or foreign countries into the State.

19. Item (c) of sub-section (1) of section 14 of the principal Act proposed to be amended by clause 10 of the Bill, seeks to empower the Government to make rules regarding the transfer of ownership of fishing vessel, fixed machine and free net.

20. Item (b) of sub-section (2) of section 14 of the principal Act proposed to be amended by clause 10 of the Bill, seeks to empower the Government to make rules regarding the transfer of ownership of any fish cage, fish pen and rack set up in public water bodies for aquaculture.

21. Item (b) of sub-section (3) of section 14 of the principal Act proposed to be amended by clause 10 of the Bill, seeks to empower the Government to make rules regarding the transferring of right of aquaculture ownership of privately owned water bodies.

22. Sub-section (4) of section 14 of the principal Act proposed to be amended by clause 10 of the Bill, seeks to empower the Government to make rules regarding the additional provisions to be adopted for the transfer of right of ownership.

23. Item (b) of sub-section (2) of section 35A of the principal Act proposed to be amended by clause 15 of the Bill, seeks to empower the Government to make rules regarding the manner of selling the seized fish through public auction.

24. Section 35B of the principal Act proposed to be amended by clause 15 of the Bill, seeks to empower the Government to constitute Fisheries Enforcement Unit at district level, including such nominated officers of Fisheries Department, under the Authorised Officer by notification.

25. Sub-section (3) of section 35C of the principal Act proposed to be amended by clause 15 of the Bill, seeks to empower the Government to make rules for preparing a report of seizure and closure by any officer of Fisheries Enforcement Unit, that any person has engaged in fishing or in aquaculture activities, contrary to any of the provisions of the certificate for registration or licence.

26. Sub-section (1) of section 41 of the principal Act proposed to be amended by clause 17 of the Bill, seeks to empower the Government to constitute a State

Inland Fisheries Management Council at the State level for ensuring the sustainable development, protection and conservation of inland fisheries scientifically, for responsible implementation of aquaculture development and for ensuring protection of livelihood of fishermen in the State.

27. Sub-section (4) of section 41 of the principal Act proposed to be amended by clause 17 of the Bill, seeks to empower the Government to make rules regarding the term of office of the council members, meeting procedures of the Council, sitting fee, travelling allowance etc., of the nominated members of Inland Fisheries Management Council.

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

SAJI CHERIAN

EXTRACTS FROM THE RELEVANT PORTION OF THE KERALA INLAND
FISHERIES AND AQUACULTURE ACT, 2010

(ACT 15 OF 2010)

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

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

(e) 'filtration' means the traditional fish farming by naturally or artificially trapping the fish seed that flow along with tide from sea or back waters or from other water body into large group of paddy fields or shallow water bodies and leaving them to grow and thereafter catching the grown-up fish;

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

(t) 'local self Government institution' means a panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994);

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(x) 'public water body' means any water body or transformable area including estuaries or backwaters or rivers or lakes, ponds or tanks or canals including irrigation canals or reservoirs or check dams or streams vested with the Government or Local Self Government Institutions under section 218 of the Kerala Municipality Act, 1994 or under section 208 (a) of the Kerala Panchayat Raj Act, 1994 or owned by Boards or any other Government-Quasi Government Institutions or organisations;

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(z) 'State' means the State of Kerala.

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3. *Fishery and related activity in public water bodies.*—(1) The development and management of fishery activity or any other allied activity in public water body in inland sector shall be vested with the Government but this shall be subject to the rights vested with the Local Self Government Institutions or Water Resources Department under this Act or any other law for the time being in force.

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

(3) Notwithstanding anything contained in any other law for the time being in force, any activity to transform public water bodies from their original state in a manner which would affect fishery activities prejudicially shall be undertaken after consultation with the Fisheries Department in the manner as may be prescribed.

4. *Notifying as aquaculture area.*—(1) The Government may, for the aquaculture related development or for the public interest of aquaculture sector, by notification in the Gazette, declare any public water body or other suitable area as aquaculture area exclusively for aquaculture related activities:

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

Provided further that for declaring water bodies or areas as aquaculture area under sub-section (1), decision shall be taken after consulting with the concerned Local Self Government Institutions.

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

5. *Restriction on fishing.*—(1) Subject to the provisions of this Act and the rules made thereunder, Government may, by notification in the Gazette, limit or restrict or prohibit catching of any species of fish in the manner and for the period as may be prescribed, in any area notified for this purpose.

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

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

Provided further that necessary recommendation of the officer of the Fisheries Department as specified in sub-section (2) of section 3 is necessary for issuing licence by the Local Self Government Institutions as provided in the first proviso.

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

Provided that decision relating to water bodies under the control of Local Self Government Institutions shall be taken in consultation with the Local self Government Institutions concerned.

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

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

(a) the construction of weirs or barriers or artificial bunds or water blocks or fences;

(b) the dimensions and type of fishing devices used for fishing or for catching any species of fish as exclusively specified and the manner of using such devices and the mesh size of fishing nets;

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

(d) the destruction or weakening of fish or fisheries by pollution or by rotting of coconut husk or by industrial and domestic effluents in solid or liquid form or by chemicals or by spraying pesticides;

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

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

(g) the attraction of fish or to cause their migration to any water bodies either by the use of sluice openings, alluring lights or by any means and by any other contrivances or catching fish or preventing their escape by any means whatsoever;

(h) destruction or converting in a manner which will endanger the existing ecological condition of any water body by any means;

(i) propagation, rearing and marketing of fish species which is not indigenous;

(j) which all devices or nets be used for fishing in estuaries or in the premises of protected fish sanctuaries;

(k) catching and marketing fish having reproductive capacity from any public water bodies , using net or appliance;

(l) disturbing the ecological condition which is connected with natural water bodies or wetland areas;

(m) catching, stocking and marketing species of ornamental fish from public water bodies in the inland sector;

(n) catching, stocking or marketing indigenous species of fish which are facing extinction;

(o) fishing in inland water bodies by using vessel fitted with motor or mechanised fishing boats or nets.

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8. *Restriction on aquaculture activities.*—(1) No person shall engage in aquaculture, filtration or conducting hatchery in inland water bodies except with a certificate of registration or licence obtained in accordance with the provisions of this Act or the Rules made thereunder.

(2) No other species of fish seed collected from the natural sources other than the species specified by the Government by notification shall be used for aquaculture.

(3) The Government may by Rules, limit, regulate or prohibit permanently or temporarily all or any of the following matters, namely:—

(a) medicines, antibiotics, pesticides and piscicides for the use of aquaculture;

(b) conducting intensive/highly intensive aquaculture causing harm to environment;

(c) use of ecologically important areas such as mangrove areas or breeding centres of fish or nurseries for aquaculture;

(d) integrated fish farming detrimental to the paddy cultivation without rotation of crops;

(e) use of non-domestic fish and fish seeds for fish farming without subjecting them to quarantine proceedings and quality check;

(f) fish farming without considering the carrying capacity of inland water sources indiscriminately.

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

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

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

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

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

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

Provided that licence in respect of fishing vessel, stake net, chinese dip net, free net shall not be granted to any person who is not a fisherman.

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

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

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

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

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

(c) if a licence has been obtained by the licensee by misrepresentation or by the suppression of facts, cancel or suspend any such licence:

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

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

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33. *Management and preservation of the protected fish sanctuary.*—(1) The Director of Fisheries or any other officer authorized by him, not below the rank of an Assistant Director of Fisheries, shall be the officer to manage and preserve the protected fish sanctuary.

(2) A Fisheries Preservation Scheme shall be prepared by a Technical Committee appointed by the Government for the purpose and the Government shall notify the same.

(3) The Technical Committee appointed under sub-section (2) shall consist of the following members and the functioning of the Technical Committee shall be such as may be prescribed,—

1. Director of Fisheries;
2. one biologist;
3. one environment scientist;

4. one social scientist;
5. one expert in management;
6. one hydrologist;
7. one representative of the State Bio-Diversity Board;
8. Executive Director, Agency for Development of Aquaculture (ADAK).

The Director of Fisheries shall be the Chairman of the Technical Committee and the Executive Director, ADAK shall be the Convener.

(4) The Fisheries Preservation Scheme prepared under sub-section (2) may provide for all or any of the following matters, namely:—

(i) over and above the protection of the bio-diversity of living beings including different species of fish, the protection procedure of separately directed local fish species which are facing racial extinction and their ecosystem;

(ii) the harmonisation among the protection of livelihood of fishermen and the fish sanctuary;

(iii) to prescribe the bearing capacity of fish in water body adjacent to the protected fish sanctuary and to fix the number of fishing vessels and nets to be used in accordance with it;

(iv) as to any other matter to be provided for in the scheme or as to the matters required or needed for the implementation of the scheme.

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

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

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

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

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

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

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

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

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

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

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36. Penalties.— (1) ** ** **

(2) Whoever, in contravention of any of the conditions or provisions in the licence or permit obtained by him under any provision of this Act or the rules made thereunder,—

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(c) conducts aquaculture or filtration or hatchery shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees or with both:

Provided that in the case of a second or subsequent offence he shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

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41. *Inland Fisheries Management Advisory Committees.*—(1) The State Government may, by notification in the Gazette, constitute a State Fisheries Management Advisory Committee at the State level and District Fisheries Management Advisory Committees at the District level for the purpose of ensuring the sustainable development, protection and preservation of the fisheries sector, for responsible implementation of aquaculture development and the protection of livelihood of fishermen.

(2) The State Fisheries Management Advisory Committee shall consist of the following members, namely:—

(a) Minister for Fisheries;

(b) three members of the Legislative Assembly of whom one shall be a woman;

- (c) Secretary, Fisheries;
- (d) five members who shall be technical experts or scientists in the fishery sector;
- (e) five trade union representatives from the fishery sector;
- (f) two fish farmer representatives;
- (g) two representatives of Local Self Government Institutions;
- (h) Director of Panchayats;
- (i) Executive Director, Agency for Development of Aquaculture;
- (j) Managing Director, Kerala State Co-operative Federation for Fisheries Development;
- (k) Chief Engineer, Water Resources Department;
- (l) Director, State Bio-diversity Board;
- (m) Chairman/Member Secretary, State Pollution Control Board;
- (n) Director of Fisheries.

(3) In the State Fisheries Management Advisory Committee constituted under sub-section (1), the representatives of the members of Legislative Assembly and the Local Self Government Institutions and non-official members shall be nominated by the Government and the Minister-in-charge of Fisheries Department shall be the Chairman and the Director of Fisheries shall be the Convener of the Committee.

(4) The term of office of the committee members, meeting procedure of the Committee, sitting fee, travelling allowance etc. of the nominated members, shall be such as may be prescribed.

(5) The constitution of the District Level Fisheries Management Advisory Committees shall be as follows, namely:—

- (a) President, District Panchayat;
- (b) District Collector;
- (c) three members who shall be technical experts/scientists in the fishery sector;

- (d) District Manager, MATSYAFED;
- (e) ten trade union representatives from the fishery sector;
- (f) two fish farmer representatives;
- (g) Deputy Director, Panchayat;
- (h) Executive Engineer, Water Resources Department;
- (i) District level officer of the State Pollution Control Board;
- (j) District Fisheries Officer.

(6) District Panchayat President shall be the Chairman and the District Fisheries Officer shall be the Convenor of the District Level Committee and members except ex-officio members shall be nominated by the Government.

(7) The term of office of the committee members, meeting procedure of the Committee, sitting fee, travelling allowance etc. of the nominated members, shall be such as may be prescribed.

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