

**Twelfth Kerala Legislative Assembly**

**Bill No. 103**

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**THE KERALA MONSOON FISHERY (PELAGIC)  
PROTECTION BILL, 2007**

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**THE KERALA MONSOON FISHERY (PELAGIC)**

**PROTECTION BILL, 2007**

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*to provide for security of life and livelihood of the traditional fishermen and to ensure their subsistence by occupying pelagic fishery through tapping the unique pelagic fishery resources in the State like chakara in monsoon season and to regulate them and for matters connected therewith or incidental thereto.*

*Preamble.*— WHEREAS it is expedient to provide for the pelagic fishery by the traditional fishermen using traditional and modified traditional crafts during monsoon season and to regulate them and for matters connected therewith or incidental thereto;

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

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Monsoon Fishery (Pelagic) Protection Act, 2007.

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

(3) It shall come into force at once.

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

(a) “authorised officer” means such officer as the Government may by notification in the Gazette authorise in respect of the matter in which reference is made in the provision of this Act in which the expression occurs;

(b) “Fishing vessel” means a boat whether or not fitted with mechanical means of propulsion engaged in sea fishing and includes

(i) catamaran,

(ii) a country craft and

(iii) a canoe;

(c) “Traditional Fisherman” means any person engaged in fishing with or without traditional or modified traditional crafts and gears for his livelihood;

(d) “Modified Traditional Crafts and Gears” means traditional crafts and gears, modified in their shape or form or size including means of propulsion by the usage of motors or engines for the exclusive purpose of propelling the crafts and vessels used by the Traditional Fisherman;

(e) “Pelagic Fishery” means fishery or fishing activities relating to fishing of any species of fish resources distributed in the surface or sub surface or column water areas of the specified area;

(f) “Specified area” means such area in the sea along the entire coast line of the State, but not beyond territorial water, as may be specified by the Government by notification in the Gazette;

(g) “State” means State of Kerala and includes the territorial waters along the entire coast line of the State.

3. *Authorisation of officers for the purpose of any provision of this Act.*—Any officer of the Government authorised under section 3 of the Kerala Marine Fishing Regulation Act, 1980 (Act 10 of 1981) will be the Authorised Officers for the purpose of any provision of this Act.

4. *Power to protect, pelagic fishery resources and to promote regulated pelagic fishing during monsoon.*—The Government may, having regard to the matters referred by order notified in the Gazette, protect, permit, regulate, restrict or prohibit the pelagic fishery—

(a) in any specified area by such class or classes of fishing vessels as may be prescribed; or

(b) the use of such fishing crafts and gears in any specified area of such type of fishery or species of fish and for such period as may be prescribed.

Notwithstanding anything contained in any law, judgment, decree or order of any court the Government may by order notified in the Gazette do such act which it deems necessary to protect, permit, restrict or prohibit the traditional fishing in any specified area by such class or classes of fishing vessels or the use of such fishing crafts and fishing gears in any specified area of such type of fishing or species of fish as may be specified:

Provided that no fishing craft, gear or vessel, which if used would harm the juvenile fish, egg of the fish and such other species which are necessary for the rejuvenation of the marine wealth found in the sea bed shall be used.

5. *Power to enter and search fishing vessel.*—The authorized officer may if he has reason to believe that any fishing vessel or crafts and gears is being, or has been, used in contravention of any of the provisions of this Act or of any order or rule made thereunder, enter and search such vessel and impound such vessel, fish and the implements thereto.

6. *Disposal of confiscated vessel, fish and implements.*—(1) The authorized officer shall keep the fishing vessels impounded under section 5 of the Act, in such place and in such manner as may be prescribed.

(2) The authorized officer shall dispose of the confiscated articles in such manner as may be prescribed.

7. *Power of the Government to revoke or modify the orders.*—The Government may on report or complaint by the authorized officer or *suo motu* revoke, annul or modify any order issued by them under section 4 or 5 of the Act, as the case may be, if they are of the opinion that the circumstances render it necessary to do so.

8. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the provisions of this Act.

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

#### STATEMENT OF OBJECTS AND REASONS

The traditional fishermen in Kerala earn their income for subsistence by fishing especially during monsoon season in which chakara appears. The general fishing ban being imposed by the Government during monsoon, put them into much hardship and Government have decided to permit the traditional fishermen for pelagic fishery without harming the juvenile fish and fish egg found in the sea bed, which are necessary for the rejuvenation of sea wealth.

The Bill seeks to achieve the above object.

#### FINANCIAL MEMORANDUM

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

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Government to appoint authorized officers.

2. Clause 4 of the Bill seeks to empower the Government to issue orders for permitting, regulating, restricting or prohibiting pelagic fishery.

3. Clause 7 of the Bill seeks to empower the Government to revoke, annul or modify orders issued under clauses 4 or 5.

4. Clause 8 of the Bill seeks to empower the Government to make rules to carry out the provisions of the Act.

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

S. SHARMA