

*published on 23.6.15*

Thirteenth Kerala Legislative Assembly

Bill No. 355

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**THE KERALA MARINE FISHING REGULATION  
(AMENDMENT) BILL, 2015**

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2015

KERALA NIYAMASABHA PRINTING PRESS.

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

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

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Marine Fishing Regulation (Amendment) Act, 2015.

(2) It shall come into force at once.

2. *Amendment of long title.*—In the long title of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), (hereinafter referred to as the principal Act), after the words “the coastline of the State” the words “and registration of boatyards and for matters connected therewith or incidental thereto” shall be inserted.

3. *Amendment of Preamble.*—In the Preamble of the principal Act, after the words “the coastline of the State” the words “and registration of boatyards and for matters connected therewith or incidental thereto” shall be inserted.

4. *Amendment of section 2.*—In section 2 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

“(ca) “boatyard” means any place where crafts or any other vessels intended to be used for fishing purpose are constructed, repaired, stored, rented or sold.”

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

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

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

(3) The authorised officer on receipt of an application for registration may, after making such enquiry as he deems fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant the certificate of registration, within such period, as may be prescribed.

(4) In granting or refusing registration under sub-section (3), the authorised officer shall have regard to the following, namely:—

(a) whether the boatyard has the required specifications as may be prescribed;

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

(c) whether the boatyard conforms with the general arrangement plan of the proposed craft or vessel with engine and machinery details, equipment list, Gross Register Tonnage, Net Register Tonnage and stability report prepared by technically competent person;

(d) whether the boatyard is equipped with the fire safety system, first aid facility and such other facilities as may be prescribed; and

(e) any other matter as may be prescribed.

(5) Where the authorised officer decides to grant such registration to the owner of the boatyard, the certificate of registration shall be issued in such form, subject to such conditions, on payment of such fees and furnishing such security for the due performance of the conditions.

(6) Registration once granted under this Act shall continue to be in force for a period of five years from the date of issue of the certificate of registration.

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

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

9B. *Renewal of registration.*—(1) The owner of a registered boatyard shall renew the registration in every five years.

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

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

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

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

(4) The authorised officer shall refuse to renew the registration if the application for renewal is made after a lapse of five years from the date of expiry of the certificate of registration.

9C. *Prohibition of using boatyards which are not registered.*—No person or authority shall be permitted to use any boatyard which is not registered under section 9A or 9B of this Act:

Provided that nothing in this section shall apply to any boatyard which are being used and operated by Central Government, if it functions in compliance with any other law equivalent to the standards or criteria as specified in clauses (a) to (e) of sub-section (4) of section 9A of this Act.

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

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

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

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

(a) in the marginal heading, after the words “fishing vessel”, the words “or boatyard” shall be inserted;

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

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

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

“(3) The adjudicating officer shall after receipt of report from the authorised officer regarding the search conducted in the boatyard has reason to believe that any boatyard is being or has been used in contravention of any of the provisions of this Act or of any rule made or order issued thereunder or any of the conditions of registration, hold an enquiry into the matters mentioned in the report in the prescribed manner, after giving all the parties concerned a reasonable opportunity of being heard.

8. *Amendment of section 17.*—In section 17 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The adjudicating officer shall, after the enquiry under section 16, decide whether any person has used or caused or allowed to be used, any boatyard in contravention of any of the provisions of this Act or of any rule

made or order issued thereunder or any of the conditions of registration and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding two lakhs rupees, as may be adjudged by the adjudicating officer.”.

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

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

“(ba) the form of application for registration of a boatyard under sub-section (2) of section 9A, the particulars which it shall contain and the fee which shall accompany it;

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

(bc) the required specifications of the boatyard under clause (a), the form of declaration under clause (b), the other facilities to be equipped under clause (d) of sub-section (4) of section 9A;

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

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

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

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

(b) in clause (j), for the word, brackets and figure “sub-section (2)”, the word, brackets and figures “sub-section (2) and (3)” shall be inserted.

## STATEMENT OF OBJECTS AND REASONS

The Government as per G.O. (Rt.) No. 285/08/F&PD dated 25-4-2008 and G.O. (Rt.) No. 581/2008/F&PD have constituted a Committee under the Chairmanship of Dr. B. Madhusoodhana Kurup to conduct a study in respect of the registration of fishing vessels and Boat Building Yards. The Committee submitted its report in July 2009. The Committee found that there are large number of Boat Building Yards in Kerala differing in size and sophistication and these boatyards have not been subjected to any regulation by the Government. The Committee has also found that it is necessary to introduce registration for boatyards originating in the State as part of general management plan for fishing capacity in the State. The Committee recommended that all the boat building yards in the State shall be registered under the Department of Fisheries, Government of Kerala.

The Government as per G.O. (Rt.) No. 933/10/F&PD dated 27-12-2010 have constituted another Committee under the Chairmanship of Director of Fisheries for the formulation of procedures for registration of boat building yards. The Committee submitted its report during July 2012 incorporating the procedures for registration of Boat Building Yards.

The Government have conducted meetings with the Stakeholders, Boat owners, trade union leaders and officers and arrived at a conclusion that it is necessary to register all the Boat Building Yards in the State so as to regulate and legalise the matters related to boat building yards.

In the circumstances stated above, the Government have decided to bring a legislation incorporating provisions for registration of boat building yards and to regulate the construction and use of boats and connected matters.

The Bill is intended 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

1. Sub-section (2) of section 9A proposed to be inserted by clause 5 of the Bill seeks to empower the Government to make rules to prescribe the form, the particulars and fees for registration of boat building yards.

2. Sub-section (3) of the said section seeks to empower the Government to make rules to prescribe the period within which the registration of boat building yards shall be granted.



3. Item (a) of sub-section (4) of the said section seeks to empower the Government to prescribe the required specifications for boat building yards for granting registration.

4. Item (b) of sub-section (4) of the said section seeks to empower the Government to prescribe the form in which the purpose and use of the craft or vessel shall be mentioned.

5. Item (d) of sub-section (4) of the said section seeks to empower the Government to prescribe the Fire Safety System, first aid facility and such other facilities to equip the boatyard.

6. Item (e) of sub-section (4) of the said section seeks to empower the Government to prescribe any other matter required to be necessary for granting registration.

7. Sub-section (5) of the said section seeks to empower the Government to make rules to prescribe the form of certificate of registration, the conditions for registration, fees payable and the securities for the due performance of the conditions.

8. Sub-section (7) of the said section seeks to empower the Government to make rules to prescribe the manner in which the registration mark shall be displayed.

9. Sub-section (2) of section 9B proposed to be inserted by clause 5 of the Bill seeks to empower the Government to make rules to prescribe the form, the particulars and the fees for renewal of registration of boat building yards.

10. Sub-section (3) of the said section seeks to empower the Government to make rules to prescribe the period for which the renewal of registration of boat building yards shall be granted.

11. The proviso to sub-section (3) of the said section seeks to empower the Government to make rules to prescribe the conditions and enhanced fees for accepting applications for renewal of registration after the prescribed period.

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

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA  
MARINE FISHING REGULATION ACT, 1980  
(10 OF 1981)

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An Act to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State.

*Preamble.*—WHEREAS, it is necessary to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

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

(a) “adjudicating officer” means any officer of the Fisheries Department, not below the rank of an Assistant Director of Fisheries, authorised by the Government, by notification in the Gazette, to exercise the powers conferred on and discharge the duties imposed upon, the adjudicating officer by this Act for such area as may be specified in the notification;

(b) “Appellate Board” means an Appellate Board constituted under S.18.

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

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9. *Registration of vessels.*—(1) The owner of every vessel used or intended to be used for purposes of fishing and kept in the State, not being a fishing vessel registered under S.11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972), shall register such vessel under this Act.

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

(a) before the expiration of one month from the date on which he first became the owner of such vessel; or

(b) before the expiration of three months from the commencement of this Act,

whichever is later:

Provided that the authorised officer may, for sufficient reason to be recorded in writing, extend the time-limit for registration by such period as he thinks fit.

(3) The authorised officer shall issue to the owner of the vessel registered by him a certificate of registration in the prescribed form and shall enter in a register to be kept by him, in such form as may be prescribed, the particulars of such certificate.

(4) Registration once made shall continue to be in force until it is cancelled by the authorised officer.

(5) Every vessel registered under this section shall carry a registration mark, assigned to it by the authorised officer, displayed in the prescribed manner.

(6) No vessel, other than a registered fishing vessel, shall be entitled to a licence under S.6

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14. *Power to enter and search fishing vessel.*—The authorised officer may, if he has reason to believe that any fishing vessel is being, or has been, used in contravention of any of the provisions of this Act or of any order or rule made thereunder or any of the conditions of the licence, enter and search such vessel and impound such vessel and seize and fish found in it.

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16. *Adjudication.*—(1) Where any authorised officer referred to in S.14 has reason to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act or any order or rule made thereunder or any of the conditions of the licence, he shall make report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an enquiry into the matters mentioned in the report, in the prescribed manner, after giving all the parties concerned a reasonable opportunity of being heard.

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17. *Penalty.*—(1) The adjudicating officer shall, after the enquiry under S.16 decide whether any person has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Act or of any order or rule made thereunder or any of the conditions of the licence and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding—

(a) five thousand rupees, if the value of the fish involved is one thousand rupees or less;

(b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or

(c) five thousand rupees, in any other case, being a case not involving any fish,

as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that—

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in the manner referred to in sub-section (1) or the licence, any condition of which has been contravened, shall be—

(i) cancelled or revoked, as the case may be; or

(ii) suspended for such period as the adjudicating officer deems fit; or

(b) the fishing vessel or fish that may have been impounded or seized, as the case may be, under S.14 shall be forfeited to the Government:

Provided that no fishing vessel shall be forfeited under clause (b) if the adjudicating officer after hearing the owner of such vessel or any person claiming any right thereto is satisfied that the owner or such person had exercised due care for the prevention of the commission of such offence.

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

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

(a) the matters to which regard shall be had in making an order under sub-section (1) of S.4;

(b) the form of the application for licence under sub-section (1) of S.6, the particulars which it shall contain and the fees which shall accompany it;

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(j) the procedure of the enquiry by the adjudicating officer under sub-section (2) of S.16;

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