

THE KARNATAKA INLAND FISHERIES (CONSERVATION DEVELOPMENT AND REGULATION) ACT, 1996

Arrangement of Sections

Statement of Objects and Reasons

Sections:

1. Short title and commencement
2. Definitions
3. Prohibition of fishing
4. Registration for fish breeding
5. Leasing of fishery rights
6. Regulation of fishing
7. Declaration of sanctuary
8. Constitution of Inland Fisheries Advisory Board
9. Disqualification for the membership of the Board
10. Term of office and conditions of service of nominated members
11. Removal of members
12. Casual vacancies
13. Meetings of the Board
14. Power of entry, search, seizure and detention
15. Penalties
16. Punishment for wrongful seizure
17. Power to compound offence
18. Cognizance of offence
19. Operation of other laws not barred
20. Offence by companies
21. Officers to be the public servants
22. Protection of action taken in good faith
23. Power to make rules
24. Repeal and savings

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to conserve develop and regulate inland fisheries in the State, as the existing Acts namely, the Indian Fisheries Act, 1897 (Central Act IV of 1897), the Fisheries (Madras Amendment) Act, 1927 (Madras Act II of 1929), the Hyderabad Fisheries Act 1356 Fasli (Hyderabad Act 23 of 1356 Fasli), the Mysore Game and Fish Preservation Act, 1901 (Regulation II of 1901) which are in force in several parts of the State do not provide extensive provisions in this regard and to repeal these Acts to the extent they relate to fish and fisheries. It is also considered necessary to prevent extinction of different types of rare species of fish like Mahassar, Game fish, Live fish etc., by prohibiting fishing during the period from June to September. It is also necessary to preserve, develop and regulate the inland fisheries in a scientific manner and to provide for matters connected therewith.

Hence the Bill.

[L.A. BILL No. 11 of 1996]

[Entry 21 of List-II of Seventh Schedule to the Constitution of India]

KARNATAKA ACT NO. 27 OF 2003

(First published in the Karnataka Gazette Extra-ordinary on the fifteenth day of July, 2003)

THE KARNATAKA INLAND FISHERIES (CONSERVATION DEVELOPMENT AND REGULATION) ACT, 1996

(Received the assent of the President on the seventh day of July, 2003)

An Act to provide for conservation, development and regulation of inland fisheries in the State.

Whereas it is expedient to provide for conservation, development and regulation of inland fisheries in the State and for matters connected therewith.

Be it enacted by the Karnataka State Legislature in the Forty Seventh year of the Republic of India as follows:-

CHAPTER - I

Preliminary

1. Short title, commencement and application.- (1) This act may be called the Karnataka Inland Fisheries (Conservation, Development and Regulation) Act, 1996.

(2) It shall come into force on such ¹[date] as the State Government may, by notification, appoint.

(3) Nothing in this Act shall apply to fishing and fishery in any specified area within the meaning of clause (i) of section 2 of the Karnataka Marine Fishing (Regulations), Act, 1986 (Karnataka Act 24 of 1986) in National parks and sancturies declared under the Wild Life Protection Act, 1973 (Central Act 53 of 1972) and in any area beyond territorial waters.

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

1. *The Act has come into force on 1st day of October 2003 (Notification No. AHF 149 SFS 2003, dated 6.10.2003 Karnataka Gazette dated 30.10.2003)*

(a) "Appellate Authority" means the Appellate authority constituted by notification by the State Government;

(b) "Authorised officer" means an officer not below the rank of an Assistant Director of Fisheries, authorised by the State Government in this behalf, by notification to exercise the powers conferred on and discharge the duties imposed upon the authorised officer;

(c) "Board" means the Karnataka Inland Fisheries Advisory Board constituted under section 8;

(d) "Director" means the Director of Fisheries appointed by the State Government;

(e) "Fish" includes shrimp, prawn, crab, lobster, molluscs and their young ones;

(f) "Fish culture" means any activity connected with the breeding and rearing of fish by process other than natural process;

(g) "Fishery" means any activity or occupation connected with conservation, development, propagation of fish in any water area where such activity or occupation is carried on;

(h) "Fishing" means any act or activity connected with the catching of fish from any water;

(i) "Fishery products" means all products derived from any fish or their parts;

(j) "Fish Sanctuary" means any area of water declared under sub-section (1) of section 7;

(k) "Fish seed" means spawn, fry and fingerlings at the appropriate early stages;

(l) "Private water" means any water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishing whether as an owner, lessee or in any other capacity;

(m) "Water" means water other than the water specified in clause (1).

CHAPTER - II

Licence for Fishing

3. Prohibition of fishing.- (1) No person shall fish in any water except under and in accordance with the terms and conditions specified in a licence granted under sub-section (2);

Provided that the State Government may, subject to such terms and conditions as may be prescribed, exempt any area of water from the provisions of sub-section (1).

Provided further that a person carrying on fishing in any water immediately before the commencement of this Act, may continue to do so for a period of three months from such commencement and if he has made an application for such licence within the said period of three months till the disposal of such application.

(2) Any person desiring to obtain a licence referred to in sub-section (1), shall apply to the authorised officer in such form and on payment of such fee as may be prescribed.

(3) On receipt of an application under sub-section (2), the authorised officer may after making such enquiry as he thinks fit and having regard to conservation of fish, grant or refuse to grant licence, after recording in writing his reasons for refusal and when the grant of a licence is refused, the fee paid thereon shall be refunded to the applicant.

(4) A licence granted under this section shall be-

(a) in such form as may be prescribed;

(b) valid for such period as may be specified;

(c) subject to such other terms and conditions and restrictions as may be prescribed;

(d) non transferable.

(5) The authorised officer may for good and sufficient reasons to be recorded in writing, order suspension or cancellation of any licence granted under this section:

Provided that no such suspension or cancellation shall be made except after giving the holder of a licence a reasonable opportunity of being heard.

(6) An appeal from an order refusing to grant a licence under sub-section (3), or an order suspending or cancelling a licence under sub-section (5), shall lie to the Appellate Authority within thirty days from the date of communication to the applicant of the order appealed against:

Provided that the Appellate Authority may admit an appeal after the expiry of the period aforesaid, if it is satisfied that the applicant had sufficient cause for not preferring the appeal in time.

(7) Every order passed in appeal under sub-section (6), shall be final.

4. Registration for fish breeding.- (1) No person shall breed fish for sale of fish seeds unless he is registered under this Act:

Provided that a person carrying on breeding of fish for sale of fish seeds immediately before the commencement of this Act, may continue to do so for a period of three months

from such commencement; and if he has made an application for such registration within the said period of three months till the disposal of such application.

(2) Every application for registration under sub-section (1), shall be made to the authorised officer in such form and on payment of such fee as may be prescribed.

(3) On receipt of an application under sub-section (2), the authorised officer may, after making such enquiry as he thinks fit, grant a certificate of registration subject to such terms and conditions as may be prescribed.

(4) The certificate of registration shall continue to be in force unless it is otherwise cancelled:

Provided that no such cancellation shall be made except after giving to the holder of registration certificate a reasonable opportunity of being heard.

5. Leasing of fishery rights.- (1) The authorised officer or any other officer empowered by the State Government in that behalf, shall lease the fishery rights in any water in the manner prescribed.

(2) Every person who obtains the lease of fishery rights under sub-section (1), shall execute a lease in the form prescribed and within the prescribed period.

(3) Every person aggrieved by the order under sub-section (1), may prefer an appeal to the Appellate Authority within fifteen days from the date of communication of such order to him.

6. Regulation of fishing.- No person shall unless he is authorised by a licence under this Act.-

(a) capture, whether alive or dead, kill or destroy or attempt to capture, kill or destroy fish with chemicals, explosives, poisons, poisonous weapons or noxious materials;

(b) capture whether alive or dead, kill or destroy or attempt to capture, kill or destroy spawn, fry fingerlings, juveniles or breeding in any kind of fish.

7. Declaration of sanctuary.- (1) The State Government may, by notification, declare any area of water to be a fish sanctuary, for the purpose of protecting, propogating or development of fisheries.

(2) Notwithstanding anything contained in this Act, no person shall fish or capture fish whether alive or dead or destroy, or attempt to destroy fish or capture or destroy any fish in a sanctuary declared under sub-section (1).

CHAPTER - III

Constitution of the Karnataka Inland Fisheries Advisory Board

8. Constitution of Inland Fisheries Advisory Board.- (1) The State Government may, constitute the Karnataka Inland Fisheries Advisory Board consisting of such number of members not exceeding thirteen.

(2) The Board shall consist of the following members, namely:-

(a) The Minister incharge of Fisheries shall be the Chairman;

(b) The Secretary to Government, incharge of Fisheries;

(c) The Secretary to Government, Finance Department;

(d) The Secretary to Government, Irrigation Department;

(e) The Secretary to Government, Rural Development and Panchayat Raj Department;

(f) The Director of Instruction, Fisheries College, Mangalore;

- (g) The Director of Fisheries shall be the Member Secretary;
- (h) Two persons of whom one shall be a woman and one shall be a person belonging to the Scheduled Castes or Scheduled Tribes;
- (i) Two persons who are members of the Karnataka Legislature;
- (j) Two persons of whom one shall be a person from the Fisheries Co-operative Societies and one shall be a person belonging to Fishermen Community and who is engaged in fishing.

(3) The persons referred to in clauses (h), (i) and (j) shall be nominated by the State Government.

(4) If any officer referred to in clauses (b) to (e), is unable to attend the meeting of the Board, he may in writing depute an officer not below the rank of a Deputy Secretary to Government to attend such meeting.

(5) The members shall be entitled to receive such allowance in respect of expenses incurred by them in the performance of their duties as may be prescribed.

(6) It shall be the duty of Board, -

- (a) to advice the State Government in any matter connected with the conservation, development and regulation of inland fisheries in the State;
- (b) to assist the State Government in relation to fisherman welfare;
- (c) to assist and encourage the development and propagation of fishery and fishery products;
- (d) to collect statistics regarding fish production;
- (e) to establish training institutions; and
- (f) to perform such other functions and duties as may be prescribed.

9. Disqualification for the membership of the Board.- (1) A person shall be disqualified for being nominated as and for being, a member, -

- (a) if, he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government involves moral turpitude; or
- (b) if, he is of unsound mind and is so declared by a competent court; or
- (c) if, he is an undischarged insolvent; or
- (d) if, he has been removed or dismissed from the service of the Central Government or the State Government or a Corporation owned or controlled by the Central Government or the State Government or from the membership of the Board; or
- (e) if, he has directly or indirectly, by himself or his partner, any share or interest in any work done by the order of the Board or in any contract or employment with or under or by or on behalf of the Board; or
- (f) if, he is employed as a legal practitioner on behalf of the Board or accepts employment as legal practitioner against the Board.

(2) A person shall not be disqualified under clause (c) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause, by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

10. Term of office and conditions of service of nominated members.- (1) Subject to the pleasure of the State Government and the provisions of section 11, the nominated

members of the Board shall hold office for a period of three years from the date of their nomination.

(2) Every nominated member may at any time resign his office by sending a letter of resignation addressed to the State Government:

Provided that the resignation shall not take effect until it is accepted.

11. Removal of members.- (1) The State Government shall remove a nominated member, if he,-

- (a) becomes subject to any of the disqualifications specified in section 9; or
- (b) refuses to act or becomes incapable of acting; or
- (c) without obtaining the leave of absence from the chairman absents himself for three consecutive meetings of the Board; or
- (d) in the opinion of the State Government he has so abused his position as to render his continuance detrimental to the interest of the Board.

(2) No order of removal of a nominated member under sub-section (1), shall be made unless such member has been given an opportunity of making his representation.

12. Casual vacancies.- (1) Any casual vacancy caused by resignation of a nominated member or by any other reason, may be filled by the State Government by nomination and the person so nominated shall hold the office for remaining period for which the member in whose place he is nominated would have held office.

(2) No act or proceeding of the Board shall be invalidated merely by reason of any vacancy in its membership or any defect in the constitution or reconstitution of the Board or any irregularity in the procedure of the Board not affecting the merits of the case.

13. Meetings of the Board.- (1) The Board shall meet at least once in three months ordinarily at Bangalore or at such other place as the Board may decide and may regulate its own procedure including the quorum in regard to the transaction of business at its meeting.

(2) The Chairman or in his absence, any member chosen by the members present from among themselves, shall preside over the meeting of the Board.

CHAPTER - IV

Offences and Penalties

14. Power of entry, search, seizure and detention.- (1) The Director or the authorised officer or any Police Officer not below the rank of a Sub-Inspector, may, if he has reason to believe that any person has committed an offence under this Act, -

- (a) require any such person to produce for his inspection any fish or other article in his possession or any licence, permission or other document issued to him or required to be kept by him under the provisions of this Act;
- (b) enter and search any premises, land, vehicle or vessel in the occupation of such person and open and search any baggage or other things in his possession;
- (c) seize any fish together with any weapon, arms, ammunition, tool, or other things used in committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him arrest without warrant and detain him.

(2) It shall be lawful for any of the officers referred to in sub-section (1), to stop and detain any person whom he sees doing any act for which a licence is required under the provisions of this Act, for the purposes of requiring such person to produce his licence and if such person fails to produce his licence or refuses to furnish his name and address or

furnishes a false name and address and where there is reason to believe that he will abscond, he may be arrested without warrant.

(3) Any person detained or things seized under the foregoing powers, shall forthwith be produced before the Magistrate having jurisdiction within twenty four hours of such detention excluding the time necessary for the journey from the place of detention to the Court of Magistrate:

Provided that if in the opinion of the Officer seizing anything, it is not possible to take it before the Magistrate to be dealt with under this sub-section in time, such officer may sell the property himself, remit the sale proceeds to the nearest Government treasury, and make a report of such seizure, sale and remittance to the Magistrate, and thereupon the Magistrate shall take such action in the case as he deems fit.

(4) Any person, who without reasonable cause, fails to produce anything which under the powers conferred by this section he is required to produce, shall be guilty of an offence against this Act.

15. Penalties.- (1) Any person who contravenes any of the provisions of this Act or the rules or who commits a breach of any of the conditions of any licence granted under this Act shall be guilty of an offence against this Act and shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to "two thousand rupees" or with both.

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any article in respect of which the offence has been committed and any weapon, arms, ammunition, tools, vessel, or other things with which the offence has been committed shall be forfeited to the State Government and that any licence held by such person under the provisions of this Act be cancelled.

(3) Such cancellation of licence shall be in addition to any other punishment awarded for such offence.

16. Punishment for wrongful seizure.- If any person exercising powers under this Act, vexatiously seizes the property of any other person on the pretext of seizing it for the reasons mentioned in section 14, he shall on conviction be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

17. Power to compound offence.- (1) Any offence specified in the schedule may be compounded by such officer as may be empowered by the State Government in this behalf, by accepting from any person against whom a reasonable suspicion exists that he has committed an offence punishable under this Act, such sums of money as may be prescribed by way of composition for the offence which such person is suspected to have committed or when any property has been seized as liable to confiscation, to release the same on payment of the value thereon as estimated by such officer.

(2) On the payment of such sum of money or such value or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released and no further proceedings in respect of the offence shall be taken against any person or property.

18. Cognizance of offence.- No court shall take cognizance of any offence under this Act,-

(a) except on the complaint or report of the officer authorised by the State Government in this behalf; and

(b) unless the prosecution is instituted within three months from the date on which the offence is alleged to have been committed.

19. Operation of other laws not barred.- Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law, for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Provided that no person shall be punished twice.

20. Offence by companies.- (1) Where an offence against this Act has been committed by a company, every person, who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section, shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence against this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "Company" means any body corporate and includes a firm or other association of individuals, and

(b) "Director" in relation to a firm means a partner in the firm.

CHAPTER - V

Miscellaneous

21. Officers to be the public servants.- Every officer exercising any of the powers conferred by this Act shall be deemed to be a public servant within the meaning of action 21 of the Penal Code 1860.

22. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against any public servant for anything which is in good faith does or intended to be done under this Act.

23. Power to make rules.- (1) The State Government may after previous publication, by notification, make rules for carrying out the purposes of this Act.

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

(a) Prohibit or regulate,-

(i) erection and use of fixed engines

(ii) the construction, temporary or permanent of bunds, dams and weirs;

(iii) the dimensions, kind and size of the mesh or other fishing appliances or implements and the mode of using them;

(iv) the fishing and using of fishing appliances.

(b) the conditions subject to which any licence under this Act may be granted or would be valid;

(c) the forms to be used for any application or licence required to be made or granted under this Act, and the fees if any, therefor;

- (d) the species of fish which shall not be caught or captured;
- (e) conditions subject to which lease of fishing rights may be granted and the mode of granting such lease;
- (f) the purposes for which a fish sanctuary may be declared under section 7;
- (g) prohibit or regulate the extraction of fish in any water;
- (h) the measures that may be taken to develop and conserve fisheries resources in any river;
- (i) regulate fish breeding or development of fish;
- (j) any other matter which is necessary to carry out the purposes of the Act or which is to be or may be prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the Legislature, which is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.

24. Repeal and savings.- The Indian Fisheries Act, 1897 (Central Act IV of 1897) as in force in Belgaum areas in Mangalore and Kollegal areas Coorg District and Bellary District; the Fisheries (Madras Amendment) Act, 1927 (Madras Act II of 1929) as in force in Mangalore and Kollegal area; the Hyderabad Fisheries Act, 1356 Fasli (Hyderabad Fishers Act 23 of 1356 F) as in force in the Gulbarga Area and the Mysore Game and Fish Preservation Act, 1901 (Regulation II of 1901) as in force in the Mysore area in so far as it relates to fish and fisheries are hereby repealed;

Provided that the repeal shall not affect,-

- (a) The previous operation of the repealed Acts, or anything duly done or suffered thereunder; or
- (b) any right, privilege obligation or liability acquired, accrued or incurred under the repealed Acts; or
- (c) any penalty, forfeiture or punishment incurred or suffered in respect of any offence committed against the provisions of the repealed Act; or
- (d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligations, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repealed Act have not been repealed.

THE SCHEDULE

Offences Compoundable Under Section 17

- (1) Fishing without licence;
- (2) Killing or catching or selling or attempt to sell, kill or catch any fish of prohibited species during the closed season;

(3) Fishing or attempting to fish in a fish sanctuary.

The above translation of the $\text{PEÁÖI PÁ M¼EÁqÁ «ÁÁEÁUÁj PÉ (, AgPÁUÉ CÖPÍCYªÁVÁUªAiÁVÁt)}$ CÖPÁiªª , 1996 be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.