

THE KARNATAKA MARINE FISHING (REGULATION) ACT, 1986.

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STATEMENT OF OBJECTS AND REASONS

Act 24 of 1986.- In the recent times Marine Fishing activities in our State have increased, by using trawlers purse-seiners and gill netters which form the mechanised sector. In addition to this, the traditional fishermen continued to do

fishing using non-mechanised boats. To safe-guard the interests of traditional fishermen and with a view to avoiding conflicts between the traditional fishermen and mechanised boat owners and also to regulate the fishing activities on scientific lines on the sea-coast lines of our State, and to protecting the interest of different sections of persons engaged in fishing and also for conserving fishery wealth, it is proposed to introduce this Bill. The bill provides among other things,-

(1) For compulsory registration of fishing vessels engaged in fishing and also or issue of licences, etc.

(2) Empowers the State Government to de-limit fishing zones for different types of fishing vessels.

(3) That contravention of any of the orders made under different provisions of the section is punishable.

Hence this Bill.

(Obtained from File LAW 53 LGN 81)

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KARNATAKA ACT No. 24 OF 1986

(First published in the Karnataka Gazette Extraordinary dated
28th day of May 1986)

THE KARNATAKA MARINE FISHING (REGULATION) ACT, 1986.

(Received the assent of the Governor on the Twenty-second day of May 1986)

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

WHEREAS it is expedient to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State ;

BE it enacted by the Karnataka State Legislature in the Thirty-seventh Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (1) This Act may be called the Karnataka Marine Fishing (Regulation) Act, 1986.

(2) It shall come into force on such ¹[date]¹ as may be notified by the Government.

1. Act came into force by notification on 18.08.1986

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

(a) "arbitrator" means an officer not below the rank of a Deputy Director of Fisheries, authorised by the Government in this behalf, by notification in the Official Gazette, to exercise the powers conferred on and discharge the duties imposed upon the arbitrator by this Act for such area or areas as may be specified in the notification ;

(b) "appellate authority" means the appellate authority appointed by notification by the Government ;

(c) "appellate board" means an appellate board constituted under section 15;

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

(e) "fishing vessel" means ship or boat, whether or not fitted with mechanical means of propulsion, which is exclusively engaged in sea-fishing for profit and includes a country craft and canoe engaged in sea fishing ;

(f) "Government" means the State Government ;

(g) "port" means the space within such limits as may from time to time be defined by the Government, by notification in the official Gazette for the purposes of this Act ;

(h) "registered fishing vessel" means, -

(i) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972) ; or

(ii) a fishing vessel registered under any other Central or State Act; for the time being in force ; or

(iii) a fishing vessel registered under section 8 ;

(i) "specified area" means such area in the sea along the entire coast line of the State, but not beyond territorial waters, as may be specified by the Government, by notification and different areas may be specified for different purposes or for different periods ;

(j) "State" means the State of Karnataka and includes the territorial waters along the entire coast line of the State.

CHAPTER II

REGULATION OF FISHING

3. Power to regulate, restrict or prohibit certain matters within specified area.- (1) The Government may, having regard to the matters referred to in sub-section (2), by notification, regulate, restrict or prohibit,-

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

(b) the number of fishing vessels which may be used for fishing in any specified area ; or

(c) the catching in any specified area of such species of fish and for such period as may be specified in the notification ; or

(d) the use of such fishing gear in any specified area as may be prescribed.

(2) In making an order under sub-section (1), the Government shall have regard to the following matters namely : -

(a) the need to protect the interests of different sections of persons engaged in fishing particularly those engaged in fishing using traditional fishing craft such as country craft or canoe ;

(b) the number of fishing vessels which may be used for fishing in any specified area;

(c) the need to maintain law and order in the sea ; and

(d) any other matter that may be prescribed.

4. Prohibition of use of fishing vessel in contravention of any order made under section 3.- No person including the owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessel for fishing in any manner which contravenes the order made under section 3:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from or to the shore, through any specified area to or from any area other than a specified area for the purposes of fishing in such other area or for any other purpose :

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any fishing vessel.

5. Licencing of fishing vessels.- (1) The owner of a registered fishing vessel may make an application to the authorised officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

(2) Every application under sub-section (1), shall be in such form, contain such particulars and be accompanied by such fees, as may be prescribed.

(3) The authorised officer 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, to the owner of a registered fishing vessel, a licence for using such fishing vessel for fishing in the specified area or specified areas mentioned in such licence.

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

(a) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted ;

(b) any order that may be made under section 3 ;

(c) any other matter that may be prescribed.

(5) A licence granted under this section shall be in such form and be subject to such conditions including conditions as to payment of such fees and furnishing such security for the due performance of the conditions as may be prescribed :

Provided that different fees and different amounts by way of security, may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section shall be valid for a period of three years and may be renewed for a similar period on payment of the fee specified under sub-section (5).

6. Prohibition of fishing using fishing vessels which are not licenced.- No person shall after the commencement of this Act carry on fishing in any specified area using a fishing vessel which is not licenced under section 5 :

Provided that nothing in this section shall apply to any fishing vessel, which was being used for fishing immediately before the commencement of this Act for such period as the Government may by notification specify.

7. Cancellation, suspension and amendment of licence.- (1) If the authorised officer is satisfied, either on a reference made to him in this behalf or otherwise, that, -

(a) a licence granted under section 5 has been obtained by misrepresentation as to an essential fact ; or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or any order or rule made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the authorised officer may, after giving the holder of the licence a reasonable opportunity of showing cause, cancel or suspend the licence or forfeit the whole or any part of the security if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorised officer may also vary or amend a licence granted under section 5.

8. 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 section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972) or a fishing vessel registered under any other Central or State Act for the time being in force, shall register such vessel under this Act.

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

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

(b) before the expiration of six 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 making the application by such period as he thinks fit but not exceeding one year.

(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) The registration once made shall, subject to sub-section (7), 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 section 5.

(7) Where the ownership of a registered fishing vessel is transferred, the transferor shall get the vessel registered afresh under sub-section (2).

9. Finality of orders under sections 5, 7 and 8.- Every decision of the authorised officer under section 5, section 7 or section 8, granting or refusing to grant licence for a fishing vessel or cancelling, suspending, varying or amending such licence or registering, or cancelling the registration of a fishing vessel shall, subject to any right of appeal under section 10, be final.

10. Appeals.- (1) Any person aggrieved by an order of the authorised officer refusing to grant licence for a fishing vessel, or cancelling, suspending, varying or amending a licence or refusing to register a vessel or cancelling the registration of a vessel may within thirty days from the date on which the order is communicated to him prefer an appeal to the appellate authority :

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant a reasonable opportunity of being heard, pass such orders thereon as it deems fit as expeditiously as possible.

(3) Every order passed by the appellate authority under this section shall be final.

CHAPTER III

PENALTIES

11. Power to enter and search of fishing vessel etc.- (1) 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 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 any fish found in it.

(2) The authorised officer shall keep the fishing vessel impounded under sub-section (1), in such place and in such manner as may be prescribed.

(3) In the absence of suitable facilities for the storage of the fish seized, the authorised officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereof in the prescribed manner in the office of the arbitrator.

12. Arbitration.- (1) Where any authorised officer referred to in section 11, 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 a report thereof to the arbitrator.

(2) The arbitrator 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.

13. Penalty.- (1) The arbitrator shall, after the enquiry under section 12 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 arbitrator, 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 determined by the arbitrator.

(2) In addition to any penalty that may be imposed under sub-section (1), the arbitrator 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 arbitrator deems fit ; or

(b) the fishing vessel or fish that may have been impounded or seized, as the case may be, under section 11 shall be forfeited to the Government :

Provided that no fishing vessel shall be forfeited under clause (b), if the arbitrator 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.

14. Constitution of Appellate Board and appeal to Appellate Board.- (1) The Government may, by notification in the Official Gazette, constitute one or more Appellate Boards.

(2) The Appellate Board shall consist of three members of whom one shall be a person who is or has been a District Judge, who shall be appointed as the Chairman of the Appellate Board.

(3) Where only one Appellate Board is constituted, that Appellate Board shall have jurisdiction throughout the State, and where more than one Appellate Boards are constituted, the Government may, by notification in the official Gazette, define the jurisdiction of each such Appellate Board.

(4) Any person aggrieved by an order of the arbitrator may, within thirty days from the date on which the order is made, prefer an appeal to the Appellate Board having jurisdiction to hear such appeal :

Provided that the Appellate Board may entertain any appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) No appeal under this section shall be entertained by the Appellate Board unless the appellant has, at the time of filing the appeal, deposited the amount of penalty, payable under the order appealed against :

Provided that on an application made by the appellant in this behalf, the Appellate Board may, if it is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

(6) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such enquiry as it deems fit and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set-aside the order appealed against and the decision of the Appellate Board shall be final ; and, -

(a) if the sum deposited by way of penalty under sub-section (5), exceeds the penalty directed to be paid by the Appellate Board, the excess amount ; or

(b) if the Appellate Board sets aside the order imposing penalty, the whole of the sum deposited by way of penalty,

shall be refunded to the appellant.

15. Revision by Appellate Board.- The Appellate Board may call for and examine the records of any order passed by an arbitrator under section 13 and against which no appeal has been preferred under section 14 for the purpose of

satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto, as it may think fit :

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

16. Powers of arbitrator and Appellate Board in relation to holding enquiry under this Act. - (1) The arbitrator and Appellate Board shall, while holding an enquiry, have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely : -

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document ;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits ; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) The arbitrator or the Appellate Board shall, while exercising any of the powers under this Act, be deemed to be a civil court for the purpose of sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

17. Advisory Committee.- The State Government may by notification constitute an Advisory Committee consisting of the Director of Fisheries who will be the Chairman and such other official and non-official members not exceeding fifteen as it considers necessary. The Advisory Committee shall advise the State Government on the enforcement of the provisions of the Act.

18. Contravention by companies. - (1) Where an offence under this Act has been committed by a company, every person who, at the time of contravention 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 contravention and shall be liable to be proceeded against and punished accordingly :

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

(2) Notwithstanding anything contained in sub-section (1), where any contravention under this Act 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 such director, manager, secretary or other officer, shall be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose 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 IV
MISCELLANEOUS

19. Exemption.- (1) Nothing contained in this Act, shall apply to survey vessels belonging to the Central Government or any State Government or any public undertaking.

(2) If the Government is of the opinion that, having regard to the purposes of this Act, it would not be in the public interest to apply all or any of the provisions of this Act to any class or classes of fishing vessels used for fishing in any specified area or specified areas, it may, by notification in the official Gazette, exempt subject to such conditions as it may think fit to impose, such class or classes of fishing vessels used for fishing in such specified area or specified areas, as it may specify in the notification from the operation of all or any of the provisions of this Act.

20. Delegation of powers.- The Government may, by notification, direct that all or any of the powers conferred on the authorised officer by or under this Act, may, subject to such restrictions and conditions be exercisable also by such other officer, as may be specified.

21. Protection of action taken in good faith.- (1) No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

(2) No suit or other legal proceedings shall lie against the Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order or rule made thereunder.

22. Power to make rules.- (1) The Government may, by notification and after previous publication 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 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 section 3;

(b) the form of the application for licence under sub-section (1) of section 5, the particulars which it shall contain and the fees which shall accompany it ;

(c) the matters to which regard shall be had in granting or refusing a licence under clause (c) of sub-section (4) of section 5, the fees payable for the licence or renewal thereof and the security for the due performance of the conditions of the licence ;

(d) the procedure to be followed in granting or refusing a licence under section 5 or cancelling, suspending, varying or amending such licence or in registering a vessel under section 8 or cancelling such registration ;

(e) the form of the application for registration of vessel under section 8, the particulars which such application shall contain, and the fees which shall accompany the application, the form of the certificate of registration and the form of the register referred to in sub-section (3) of that section and the manner in

which the registration mark referred to in sub-section (5) of that section shall be displayed ;

(f) the authority to whom appeals shall be preferred under sub-section (1) of section 10 ;

(g) the place and the manner in which an impounded fishing vessel shall be kept under sub-section (2) of section 11 and the manner in which the proceeds of the disposal of the seized fish shall be deposited with the arbitrator under sub-section (3) of that section ;

(h) the procedure of the enquiry by the arbitrator under sub-section (2) of section 12 ;

(i) the qualifications of the members of the Appellate Board other than the Chairman, the fees and allowances payable to the Chairman and other members of the Appellate Board and the procedure of the Appellate Board ;

(j) the fees payable for the supply of copies of documents or orders or for any other purpose or matter involving the rendering of any service by any officer or authority under this Act ;

(k) any other matter which is to be or may be, provided for by rules 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 State Legislature while it 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 in which it is so laid or the session immediately following, 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.

(The above translation of the ಕರ್ನಾಟಕ ಕಡಲು ಮೀನುಗಾರಿಕೆ (ವಿನಿಯಮನ) ಅಧಿನಿಯಮ, 1986. was published in Part IV-2B of the official Gazette dated 24-1-1987 as No. 66 under clause (3) of Article 348 of the Constitution of India.)

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NOTIFICATION

Bangalore dated 18th August 1986 [No. AAH 161 SFM 81]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Marine Fishing Regulation Act, 1986 (Karnataka Act 24 of 1986), the Government of Karnataka hereby notify that the eighteenth day of August 1986 as the day on which the said Act shall come into force.

By Order and in the name of the Governor of Karnataka,
J. Vasudevan.

Secretary to Government,
Animal Husbandry, Fishing and Forest Department.

(Published in the Kar. Gazette (Extraordinary) Part IV-2B dated 18-8-1986 as No. 621.)

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