

TAMIL NADU MARINE FISHING REGULATION ACT 1983

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PART IV SECTION 2
TAMIL NADU ACTS AND ORDINANCES

The following Act of the Tamil Nadu Legislature received the assent of the President on the 4th March 1983 and is hereby published for general information.

ACT No. 8 of 1983

An act to provide for the regulation, restriction and prohibition of fishing by fishing vessels in the sea along the whole or part of the coast line of the State.

CHAPTER - I

PRELIMINARY

1) Short title, extent and commencement (1) This Act may be called the Tamil Nadu Marine Fishing-Regulation Act 1983.

2) It extends to the whole of the State of Tamil Nadu.

3) It shall be deemed to have come into force on the 6th January 1983.

2) DECLARATION: It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in clauses (b) and (c) of Article 39 of the Constitution.

3). 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, to exercise the powers conferred on, and discharge the duties imposed upon, as may be specified in the notification.

b) "Appellate authority" means any Officer of the Fisheries Department not below the rank of Deputy Director of Fisheries, authorised by the Government by notification to exercise the powers conferred on, and discharge the duties imposed upon the appellate authority under this Act for such area as may be specified in the notification.

c) "authorised Officer means an Officer authorised by the Government under Section 4,

d) "Fish" includes prawn, shrimps, shell fish and crustaceans;

3e) "fishing vessels" means a ship or boat, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit and includes--

- i) a deep sea fishing vessel
- ii) a mechanised fishing vessels
- iii) a catamaran
- iv) a country craft, including vallam or
- v) a canoe

engaged in sea fishing.

f) "government" means the State Government.

g) "mechanised fishing vessels" means a ship or boat.

fitted with mechanised means of propulsion having an engine not less than fifteen horse power but not more than fifteen metres, but does not include a deep sea fishing vessel, and a "deep sea fishing vessels" means a ship or boat fitted with mechanical means of propulsion having an engine of not less than one hundred and twenty Horse Power and measuring in length not less than fifteen metres.

b) "owner" in relation to any fishing vessel, includes any person who has power to sell or transfer the fishing vessel or who has the custody thereof or who receives whether or his own behalf or on behalf of any other person rentfor such fishingvessels.

i) "Port" means the space within such limits as may from-time to time, be defined by the Government by notification for thepurpose of this Act.

j) A registered fishing vessel means--

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

ii) a fishing vessel registered under Section 10

k) "specified area" means such area in the sea along the whole or part of the coastline of the State but not beyond territorial waters as may be specified by the Government by notification from time to time.

l) "State" means the State of Tamil Nadu and includes the territorial waters along the entire coast lineof that State.

4) Authorisation of Officers for the purposes of any provision of this Act. The Government may by notification authorises--

a) any Officer of the Government, not beingan Officer below the rank of a 'B' group Officer, or

b) any Officer of the Central Government with the consent of that Government.

to exercise the powers conferred on and discharge the duties imposed upon the authorised Officer, under this Act in such Area as may be specified in the notification.

REGULATION, RESTRICTION OR PROHIBITION OF FISHING IN THE SPECIFIED AREA:

5. POWER OR 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--

a) regulate, restrict or prohibit the fishing in any specified area by such class or classes of fishing vessels as may be specified in such notification or

OR

b) regulate, restrict the number of fishing vessels which may be used for fishing in any specified area, or

c) regulate, restrict or prohibit the catching in any specified area of such species of fish and such period as may be specified in the notification; or

d) regulate, restrict or prohibit the use of such fishing gear in any specified area as may be specified in the notification; or

e) fix the hours in a day during which any person may carry on fishing in any specified area using such class or classes of fishing vessels as may be specified in such notification.

2/ In issuing a notification under sub-section (1) the Government shall have regard to the following matters namely:-

a) the need to protect the interest of difference sections of persons engaged in fishing particularly those engaged in fishing using traditional fishing craft such as catamaran, country craft or canoe;

b) the need to conserve fish and to regulate fishing on a scientific basis

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

d) such other matters as may be prescribed.

3) Notwithstanding anything contained in sub-sections (1) and (2) no owner or master of a mechanised fishing vessel shall use or cause or allow to be used such fishing vessel for fishing operation in the sea within three nautical miles from the coast line in the State and the owner or master of a mechanised fishing vessel shall use or cause or allow to be used such mechanised fishing vessels only beyond three nautical miles from the coast line in the State (and such operation beyond three nautical miles shall be subject to the conditions specified in the schedule to this Act.)

4) Notwithstanding anything contained in sub-sections (1) and (2) no owner or master of a deep sea fishing vessels shall use or cause or allow to be used such fishing vessels for fishing operation in the sea within three nautical miles from the coastline in the State and the owner or master of a deep sea fishing vessel shall use or cause or allow to be used such deep sea fishing vessel only beyond three nautical miles from the coastline in the State and such operation beyond three nautical miles shall be subject to such conditions as the Government may be notification specify.

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PROHIBITION OR USE OF FISHING VESSEL IN CONTRAVENSION OF ANY NOTIFICATION MADE UNDER SECTION 5 No owner or master of a fishing vessel shall use, or cause or allow to be used such fishing vessel for fishing in any matter which contravenes a notification issued under section 5.

Provided the nothing in such notification 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 specified area for the purpose 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 traditional fishing craft such as catamaran country craft or canoe.

7. LICENSING OF FISHING VESSELS(1) The owner of a 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 with 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 the fishing vessel, a licence for using such fishing vessel for fishing in the specified area or specified areas.

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

- a) whether the fishing vessel is a registered fishing vessel.
- b) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted.
- c) any notification issued under section 5.
- d) such other matters as may be prescribed.

5/ A licence granted under this section shall be in such form and 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 the period specified therein or for such extended period as the authorised officer may think fit to allow in any case.

8. 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 licensed under section 7

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 a period of three months or such further period as may be specified by the Government by notification.

9. CANCELLATION SUSPENSION VARIATION AND AMENDMENT OF LICENCES AND CANCELLATION AND SUSPENSION OF CERTIFICATE OF REGISTRATION:

(i) If the authorised Officer is satisfied either in a reference made to him in this behalf or otherwise, that --

a) a licence granted under section 7 has been obtained by misrepresentation as to an essential fact; or

b) the holder of 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 notification issued 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 said 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 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 7.

3/ If the authorised officer is satisfied either on a reference made to him in this behalf or otherwise, that--

a) a certificate or registration issued under section 10 has been obtained by misrepresentation as to an essential fact; or

b) the holder of a certificate or registration has without reasonable cause, failed to comply with the conditions subject to which the certificate of registration has been issued or has contravened any of the provisions of this Act or any notification issued, or rule made thereunder, then with prejudice to any other penalty to which the holder of the certificate of registration a reasonable opportunity of showing cause, cancel or suspend the certificate of registration.

10. REGISTRATION OF FISHING VESSELS: (1) The owner of every fishing vessel not being a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 (Central Act 13 of 1972) shall register such fishing vessel under this Act.

2) Every application for registration of such fishing 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 of which he first became the owner of such fishing 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 fishing vessel registered by him a certificate of registration in the prescribed form and shall enter in a register to be kept by him, such form as may be prescribed the particulars of such certificate.

4) The certificate of registration once issued shall continue to be in force unless it is cancelled or suspended by the authorised officer.

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

6) No fishing vessel, other than a registered fishing vessel shall be entitled to a licence under section 7.

11) INFORMATION TO BE GIVEN TO AUTHORISED OFFICER ABOUT MOVEMENT OF FISHING VESSELS: Where a registered fishing vessel moves from the area of one part of the area of another port, the owner of such fishing vessel shall give information to that effect, in the prescribed manner, to the authorised officer by whom such fishing vessel was registered and also to the Port Officer having jurisdiction over the area where to such fishing vessel has been moved.

12) RETURNS TO BE MADE BY OWNERS OF REGISTERED FISHING VESSELS:

1) Every owner of a registered fishing vessel shall furnish to the authorised officer at the prescribed time and in the prescribed manner such returns as may be prescribed.

2) The authorised officer may inspect any registered fishing vessel at any time to verify the accuracy of return made under this section.

13) FINALITY OF ORDERS UNDER SECTIONS 7, 9 & 10: Every decision of the authorised officer under section 7, section 9 or section 10, granting or refusing to grant licence for a fishing vessel or cancelling suspending varying or amending such licence, or registered or cancelling or suspending the certificate of the registration of a fishing vessel shall subject to any right of appeal under section 14 be final.

14. APPEALS AGAINST ORDERS REFUSING GRANT OF LICENCE etc. (1) any person aggrieved by an order of the authorised officer refusing to grant licence for a fishing vessel or cancelling, suspending or varying or amending such licence or refusing to register a vessel or cancelling or suspending the certificate or registration of such 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 but before the expiry of sixty days from the date aforesaid 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

PENAL TIES

15/ 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 on any notification issued or rule made thereunder or any of the conditions of the licence granted under this Act, enter and search such fishing vessel and impound such fishing vessel and seize any fish found on it.

16/ DISPOSAL OF SEIZED FISH: (1) The authorised Officer shall keep the fishing vessel, impounded under section 15 in such place and in such manner as may be prescribed.

2. In the absence of suitable facilities for the storages 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 adjudicating officer.

17/ ADJUDICATION (1) Where any authorised Officer referred to in section 15 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 notification issued or rule made thereunder or any of the conditions of the licence granted under this Act he shall take a report thereof to the adjudicating Officer.

2/2. 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--

18/ PENALTY (1) The adjudicating Officer shall after the enquiry under section 17 decide whether any person has used or caused or allowed to be use, any fishing vessel in contravention of

any of the provisions of this Act or of any notification issued or of any rule made thereunder or any of the conditions of the licence granted under this Act 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 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 certificate of registration 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 vessels or fish that may have been impounded or seized as the case may be under section 15 or the proceeds of the fish disposed of and deposited in the office of the adjudicating officer under sub-section (2) of section 16 shall be forfeited to the Government.

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

19/ APPEALS (1) Any person aggrieved by an order of the adjudicating officer may within thirty days from the date on which the order is made, prefer an appeal to the appellate authority.

Provided that the appellate authority may entertain any appeal preferred after the expiry of the said period of thirty days but before the expiry of six days from the date aforesaid, if it is satisfied that the appellate was prevented by sufficient cause from filing the appeal in time.

2/ No appeal under this section shall be entertained by the appellate authority 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 authority 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 each conditions as it may deem fit to impose.

3/ On receipt of an appeal under sub section (1) the appellate authority 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 authority shall be final and

a) If the sum deposited by way of penalty under sub-section (2) exceeds the penalty directed to be paid by the appellate authority the excess amount or

b) if the appellate authority sets aside the order imposing penalty, the whole of the sum deposited by the way of penalty shall be refunded to the appellant-

20/ REVISION BY APPELLATE AUTHORITY: the appellate authority may call for and examine the records of any order passed by an adjudicating officer under section 18 and against which no appeal has been preferred under section 19 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 prejudicially affecting any person shall be made except after giving the person so affected a reasonable opportunity of being heard in the matter.

21/ POWERS OF ADJUDICATING OFFICER AND THE APPELLATE AUTHORITY IN RELATION TO RULLING ENQUIRY UNDER THIS ACT:

1/ The adjudicating officer and the appellate authority shall while holding an enquiry have all the powers of a civil court under the code of Civil procedure 1908 (Central Act V 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 ~~xx~~por copy thereof from any court of office
- d/ receiving evidence on affidavits, and
- e/ issuing commissions for the examination of witnesses or documents.

2/ The adjudicating officer or the appellate authority shall while exercising any power 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)

22/ OFFENCES BY COMPANIES: 1/ Where an offence under 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 sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

2/ Notwithstanding anything contained in sub section (1) where any such offence has been committed by a company and it is proved that his 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 be deemed to be guilty of that offences and shall be liable to be proceeded against and punished accordingly.

EXPLANATION: For the purpose of this section

- a/ "Company" means anybody 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

23/ EXEMPTIONS (1) Nothing contained in this Act shall apply to survey vessels belonging to the Central Government or any State Government or any public undertaking.

EXPLANATION: For the purpose of this sub-section public undertaking means any company or corporation owned/or controlled by the Central or State Government.

2/ If the Government is of the opinion that having regard to the purpose 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 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.

24. 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 notification issued or 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 notification issued or order or rule made thereunder.

25/ ACT TO OVERRIDE OTHER LAWS CONTRACT ETC. The provisions of this Act shall have effect notwithstanding anything in consistent herewith contained in any other law for the time being in force or any custom usage or contract or order of any authority.

26/ POWER TO MAKE RULES (1) The Government may make rule 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 issuing a notification under sub section (1) of section 5.

(b) the forms of the application for licence under sub section (1) of section 7 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 section 7 the fees payable for the licence 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 7, or cancelling, suspending varying or amending such licence or in registering a fishing vessel under section 10 or cancelling or suspending the certificate of registration.

(e) the form of the application for registration of a fishing vessel under section 10, the particulars which such application shall contain the fees which shall accompany the application, the form of the certificate of registration 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 (3) of that section shall be displayed.

(f) the manner in which the information referred to in section 11 shall be given.

(g) the returns to be furnished to the authorised officer under sub-section (1) of section 12 and the time and the manner in which such returns shall be furnished.

(h) the place and the manner in which an impounded fishing vessel shall be kept under sub section (10) of section 16 and the manner in which the proceeds of the disposal of the seized fish shall be deposited with the adjudicating officer under sub-section (2) of that section.

(i) the procedure of the enquiry by the adjudicating officer under sub-section (2) of section 17.

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

(k) the condition that may be imposed in the notification under sub-section (1) of section 5

(l) any other matter which is to be or any be provided for by rules under this Act.

(3) Every rule made under this Act or notification issued under section 5, shall as soon as possible after it is made or issued, be placed on the table of both houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both houses agree in making any notification in any such rules or notification or both houses agree that the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the cases may be so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

27 / REPEAT AND SAVING (1) The Tamilnadu Marine Fishing Regulation Ordinance, 1983 (Tamilnadu ordinance 2 of 1983) is hereby repeated.

2/ Notwithstanding such repeal, anything done or any action taken under the said Ordinance including any notification, rules or orders issued, returns furnished and statements, filed shall be deemed to have been done taken issued furnished or filed under this Act.

THE SCHEDULE

(See section 5(3))

CONDITIONS SUBJECT TO WHICH A MECHANISED FISHING VESSEL SHALL CARRY ON THE FISHING OPERATION BEYOND THREE NAUTICAL MILES.

The mechanised fishing vessel referred to in sub-section (3) of section 5 shall leave the notified place of berth or anchoring only after 5 am. and the mechanised fishing vessel shall report back at the notified place of berth concerned not later than 9 p.m. and such mechanised fishing vessel shall remain at the notified place of berth or anchoring till 5 am. of the following day.

EXPLANATION: "Notified place of berth or anchoring" in respect of a mechanised fishing vessel means the place of berth or anchoring which the authorised officer shall specify as a place of berth or anchoring for that mechanised fishing vessel.

2. Any other condition which the Government may on the recommendation of the Director of Fisheries, specify.

(By order of the Governor)

(sd.) S. Vadivelu,
Secretary to Government
Law Department