

**THE KERALA AQUARIAN (FISHERIES) REFORMS ACT-2008  
(KARA)**

*(Enabling legislation)*

**TOR-6-      *Prepare a draft 'comprehensive enabling legislation' for implementing  
the suggested 'Aquarian Reforms' through an enactment***

**EXPERT COMMITTEE ON AQUARIAN REFORMS  
DEPARTMENT OF FISHERIES, KERALA  
2008**

# THE KERALA AQUARIAN (FISHERIES) REFORMS ACT-2008

(KARA)

An Act to enact a comprehensive legislation for bringing certain basic reforms in the management of the Fisheries Sector of the State of Kerala.

**Preamble:-** WHEREAS it is expedient to enact a comprehensive legislation relating to fishing rights , ownership of craft and gear, fish sale rights, water and fisheries resources and their utilization and thereby implementing some basic reforms for the effective management of the Fisheries sector of the State of Kerala.

BE it enacted in the Fifty - ninth year of Republic of India as follows:-

## Chapter – I

### PRELIMINARY

#### 1. Short title, extent and commencement:

- (1) This Act may be called the “Kerala Aquarian (Fisheries) Reforms Act -2008”
- (2) It extends to the whole of the State of Kerala including the territorial sea off Kerala
- (3) It shall deemed to have come into force on 15th day of August 2008

#### 2. Definitions:-

In this Act, unless the context otherwise requires,-

- (1) “**Fish**”-means fish ,shell fish or any other aquatic animal or plant of economic importance
- (2) “**Fisheries**” – means anything related to Fish, Fisher folk, fishing, fishery, fish capture, fish culture, fish transport, fish vending fish marketing , fish import & export, Aquaculture, fish processing, and any industrial fisheries activities .
- (3) “**Fisherman**”- means A male person belonging to fisher family or fisher community /who is individually or in group, engaged in capture fisheries in inland or sea as a full time occupation for his lively hood.
- (4) “**Fisherwoman**” – A female person belonging to fisher family or fisher community who is individually or in group engaged in capture fisheries or sale or distribution or marketing or vending of fish, as a full time occupation for her lively hood. an

- (5) **“Fisher folk”** – Fisherman, Fisherwomen and People irrespective of age, sex, caste or community, fully depended on a fisherman or fisher women, members of fisher family, or persons engaged in fisheries activities for their lively hood including the.
- (6) **“Fish worker”** means:- A person engaged in any works related fisheries other than fishing, fish farming, fish marketing, fish sale, pre- processing and processing of fish as his or her full time occupation, for his or her livelihood .
- (7) **“Marine Fisherman”** – A Fisherman engaged in fishing in the sea as a full time occupation.
- (8) **“Inland Fisherman”** - A Fisherman engaged in fishing in inland water bodies as a full time occupation.
- (9) **“Fish merchant”**- A person who is engaged in wholesale or retail sale of fish
- (10) **“Fish vendor or Fish seller”**-A person engaged in vending fish directly to people or house hold, hotels and shops.
- (11) **Inland water Body”** - A water body or a water impoundment in the inland areas, including back waters and brackish water bodies and wetlands.
- (12) **“Allied fish worker”** - means a wage earning person engaged in any allied works related to fishing, fish marketing pre- processing or processing of fish, and shell fishes as his or her full time occupation for his or her livelihood.
- (13) **“Fisheries right”**- means legal right for conducting any fisheries activities
- (14) **“Fishing right”** – means legal right for conducting fishing or capture fisheries in public water bodies.
- (15) **“Public water body”** - means small or large water body used for public purposes irrespective of its ownership. It includes territorial sea, estuaries, wet land, backwater, river, creek, water body, canal, paddy field or any other land filled with water, perennially or seasonally, water holds, reservoirs (irrespective of their ownership or usage) quarry ponds, water falls, water impoundments or any type of aqua lands..
- (16) **“Private water bodies”** means any water bodies or aqua lands, perennial, seasonal, natural or manmade, temporary or permanent, other than public water bodies.
- (17) **“Aqua land”** - means any land area holding water perennially or seasonally; including kayal lands, paddy fields, wet lands, tidal flats, mud banks, river bed, intertidal zones, estuaries and sea bed.
- (18) **“Fishermen list”**- the statutory list of fishermen and fisherwomen, prepared and published annually by the Department of Fisheries, Kerala vide Kerala Fishermen’s Welfare Societies (Preparation and Publication of list of fishermen) Rules -1980.

- (19) **“Membership list”**- A list of members of the Kerala Fishermen’s Welfare Fund Board, prepared, approved and published annually by the Kerala Fishermen’s Welfare Fund Board vide Kerala Fishermen’s Welfare Fund Act and Rules.
- (20) **“Aqua Culture”**– Scientific culture of any aquatic animal or plant in impoundments, ponds, tanks farms, cages, pens, or in open waters including sea
- (21) **“Aqua culturist”**- a person who does and manages Aqua culture activities.
- (22) **“Aqua Culture area”**- land and water holds including sea suitable or used for aqua culture activities.
- (23) **“Aquaculture farm”** – an existing or designed and constructed pond, tank or farm area or a modified water area used for conducting, Aquaculture
- (24) **“Fish farm”** an existing or designed and constructed pond, tank or farm area or a modified water area used for conducting Scientific/commercial aqua culture of fishes and shell fishes.
- (25) **“Fish farmer”**A person who does and manages Fish farming activities.
- (26) **“Fishing Contrivance”** - means any man made device or method or equipment or gear or engine used exclusively for fishing purpose.
- (27) **“Government Fishing Vessel”** – means a fishing vessel or a fleet of fishing vessels, of any type or size, owned and operated by Government or Government Agencies or deployed and operated under the authority of the Government Agencies for the purposes of enforcement of laws, rescue operations explorations, study and research.
- (28) **“Fixed Engine”** – means a device or contrivance fixed in soil at the bottom of the water body or made stationary in any other way for operating a traditional fishing gear.
- (29) **“Free Net”**means a fabricated gear or net spread and dropped in the water body freely for fishing.
- (30) **“Fish sanctuary”**- means specified water area or a water body, on wet land, identified and kept protected with out any disturbance exploitation, fishery activities and pollution for the upkeep and rejuvenation of the fisheries wealth, through all natural means.
- (31) **“Fish culture pond”** – means an existing or designed and constructed pond, tank or farm area or a modified water area or aqua land used for culture fishes and shell fishes
- (32) **“ Fish hatchery”** – means building or facilities with water holding tanks and scientific facilities and equipments for the hatching of eggs of fishes and shell fishes for the production of fish seed

- (33) **“Prawn Hatchery”** - means building or facilities with water holding tanks and scientific facilities and equipments for the hatching of eggs of fresh water prawns for the production of prawn seed
- (34) **“Shrimp Hatchery”** - means building or facilities with water holding tanks and scientific facilities and equipments for the hatching of eggs of shrimps for the production of shrimp seed.
- (35) **”Fish seed”** means live young ones or juveniles or fish-lings of fishes produced in the hatcheries or collected from the wild and used as an input for fish culture or aqua culture also.
- (36) **“Industrial fishing unit”** – means a vessel or a fleet of vessels used for conducting commercial fishing or fishing and onboard processing for making revenue and profits.
- (37) **“Industrial fisheries unit”** means an enterprise or establishment meant for pre-processing or processing of fishes and shell fishes , manufacture and production of craft, gear, engine and other contrivances for fishing, production, sale and marketing of fisheries and allied fisheries products and produces, enterprises for export and import of fishes, fisheries and allied products, equipments and machineries for fishing, processing and production, and marketing functions intended for making revenue and profit.
- (38) **“Traditional Farming”**- means seasonal or perennial culture of aquatic animals and plants in public or private water bodies, as per the traditional customs and practices, (like Pokkali, Kaipad, Kole etc.) with out affecting the conventionally existing Agri or Aqua Culture practices.
- (39) **“Prawn Seed”** – means live youth ones or juveniles of fresh water prawns produced in the hatcheries or collected from the wild and used as an input for prawn culture.
- (40) **“Shrimp Seed”** - means live young ones or juveniles of brackish water or marine shrimps produced in the hatcheries or collected from the wild and used as input for shrimp culture.
- (41) **“Competent Authority”**- means, the authority, institute or body or individual notified by Govt. for the purpose for which it is specified.

## Chapter-II

### OWNERSHIP OF FISHING VESSELS, CRAFTS, GEARS, FISHING CONTRIVANCES AQUA LANDS AND PUBLIC WATER BODIES

#### (Sections proposed)

3. **Ownership of all types of fishing vessels, crafts, gears and fishing contrivances** deployed and engaged in capture fisheries in the territorial sea and inland public water bodies vest only with fishermen or fishermen cooperatives in the State
4. **Fishing in the territorial sea** will be permitted only with fishing vessels owned by fishermen, fishermen groups, fishermen cooperatives and Government fishing vessels
5. **Ownership of all types of fishing gears, in the territorial sea and inland waters** including ,fixed engines, free nets, and fishing contrivances in the inland waters (back waters & rivers inclusive) vest only with fishermen./inland fishermen and fisher men cooperatives
6. **Transfer of ownership of fishing vessels, crafts and gears, fishing contrivances and aqua lands** belonging to any person to the Department of fisheries or any other authorities for public purposes shall be made by notification under this act by Government of Kerala.
7. **Ownership of all types of Public Aqua lands, and public water bodies** irrespective of their custody vest with the State.
8. **Ownership of water bodies and pattas** with any individual or private parties, will be redeemed and land recovered by the Government after giving due compensation if needed by Government,.
9. **All Public water bodies and public Aqua lands** will be earmarked, classified listed and notified by the government periodically. .
10. **Allotment or transfer of fisheries right of any public water body / public Aqua land** shall be done only to a person or body designated by the Government, exclusively for unavoidable public purposes and implementation of public interest projects ,only with the consent of the Department of Fisheries

### Chapter-III

#### FISHING AND FISHERIES RIGHTS

##### (Sections proposed)

11. **Fishing rights of all the public water bodies and public aqua lands including Backwaters, rivers, reservoirs, lakes, creeks, canals etc vest exclusively with the Government (Fisheries Department)**
12. **Fishing rights in ponds and tanks (except those belonging to temples, churches and mosques) in the area and ownership of Local Self Governments or any other public or statutory authorities in their jurisdiction, vest with respective Local Self Governments / Public Statutory Authorities.**
13. **Rights of Capture fisheries in public water bodies Public aqua lands, water logged areas, paddy fields and marshes vest only with fishermen / fisherwomen.**
14. **Reclamation of any public/private water bodies shall not be allowed, without the prior permission of the Department of Fisheries and the Local Self Governments concerned, considering their impacts on fisheries.**
15. **Dredging, Mining, Impounding and bunding of Rivers ,Backwaters and Wetlands shall not be permitted considering their impact on fisheries with out prior permission of the Department of Fisheries and Local Self Govts.**
16. **Fishing of fishes or any other aquatic animals or plants of fisheries importance can be done only with registered and licensed fishing crafts gears or contrivances.**
17. **Capture or fishing of undersized fishes (likê juveniles) and notified fishes (like fishes on migration/ brood stock/ threatened species etc) will have to be banned and prohibited**
18. **Rights of capture fisheries in Kerala waters by Crafts and Gears belonging to other states will not be given unless they hold valid permit issued by the Authorized Officers of Government of Kerala.**
19. **Migration of vessels for fishing to Kerala waters or migration from Kerala waters shall be subjected to 'pass' and 'permits' issued by the authorities concerned.**
20. **Fishing and fishery rights to any person will be restricted and regulated through a system of craft and gear registration and licensing, as prescribed by the Government.**

## Chapter - IV

### REGISTRATION AND LICENCING OF INDUSTRIAL FISHERIES UNITS

#### (Sections – proposed)

21. (1) Every owner of an industrial fishing unit or industrial Fisheries units before the expiration of 3 months from the date of coming in to force of this section or before the expiration of one month from the date on which he first became owner of such industrial unit shall apply to the registering authority for registration under this act.
- Provided that the authority may, for sufficient reasons, extent the time limit for registration by such period as it thinks fit.
- (2) Registration once made shall continue to be in force until it is cancelled by the registering authority.
22. The form of application for registration under section 21 and for the cancellation of such registration, the fee payable on such application, the particulars to be included in such applications, and procedure to be followed in granting and canceling the registration and registers to be kept by the authority shall be such as may be prescribed.
23. (1) Every owner referred to in sub-section (1) of section 19 shall furnish to the authority at the prescribed time and in the prescribed manner such returns as may be prescribed
- (2) The authority may authorize an officer or any of his officers to inspect the industrial unit and its premises or conveyance at any time to verify the accuracy of any return made under this section
- 24 All registered industrial fishing unit shall obtain annual fishing licence from the Department of Fisheries.
25. **No Industrial fishing vessel/unit** shall be allowed to operate in the territorial waters.
26. There shall be levied on all industrial fisheries units, a cess for the purposes of Fishermen 's Welfare, at such rate fixed by the state government by notification in the official gazette
27. **Dredging /reclamation of any public/private water bodies and aqua lands** shall not be allowed without prior permission obtained of the Department of Fisheries
28. All Industrial fishing or fisheries unit shall abide to “polluter pays” principle.



## Chapter – V

### AQUACULTURE

#### (Sections - proposed)

29. (1) All public water bodies and aqua lands including sea, bays, creeks, backwaters, polders, rivers, reservoirs, tanks, ponds, water logged paddy fields, and other water-holds, quarry lands and ponds except Temple/Mosque/ Church attached holy ponds, and water areas shall be identified, classified and **notified as aqua culture areas.**
- (2). **Reclamation of Aqua culture areas** for other purposes shall be regulated or prohibited unless otherwise decided by the government.
- (3). Aqua culture area shall not be kept idle or used for other purposes, without obtaining prior permission from the Department of Fisheries.
30. **Right for aqua culture and fishing** in the notified aqua culture areas under the control of the Government or Government Agencies on Government Departments or other public Organizations having Government control shall vest with the Department of Fisheries.
31. **Introduction of exotic varieties or selected candidate species** for Aqua culture shall be subject to prior approval and clearance from appropriate authority, appointed or designated by the Government
32. **Destruction or elimination of natural fauna and resident varieties** of fishes shall be regulated or prohibited.
33. **Industrial establishments** proposed to be established nearby aquaculture area or aquaculture farm shall obtain prior permission from the Department of Fisheries.

**MARKETING OF FISH AND FISHERIES PRODUCTS**

**(Sections - proposed)**

34. **Transport, distribution, sale, and marketing of fishes** and fisheries allied products /gadgets/Fisheries equipments and machineries inside the State shall be permitted only to registered and licensed merchants , agents, entrepreneurs and firms
35. **All whole-sale and retail fish stores, markets** and outlets for the sale of fishery and fisheries products, equipments, machinery in the state shall be registered and licensed.
36. **Sale or vending of fish and fisheries products** in open places and markets shall be prohibited or banned in the state.
37. **Right of first sale of raw fishes** caught or landed ashore shall be vested only with the fishermen or the fishermen representative authorised by the fishing group or fisher's cooperatives.
38. **Floor price for each specified species** and size of fishes shall be fixed and declared, seasonally or periodically by the state level Fisheries Management ry Council, constituted by the Government.
39. **A Fish Quality Control and Market Regulatory Council (FQCMRC)** shall be constituted with scientists, representatives of various fisheries research organizations, elected representatives of the recognized Trade Unions, administrators and govt. nominees.
40. **Right of first sale of raw fish** thorough public auctions shall be vested only with the fishermen who fished it or registered auction agent appointed by the fishermen's group or fishermen,s co-operative in which majority of the fishermen who were engaged in fishing are members.
41. **Cod of conduct for Quality control and Market regulations** shall be prescribed and enforced by the Government.
42. **Catching and killing of juvenile fishes**, and keeping, display, marketing and holding of undersized fishes, specified and prescribed by the Government are prohibited.

## Chapter - VII

### FISHERY RESOURCE CONSERVATION AND MANAGEMENT PERMISSIONS, RESTRICTIONS, REGULATIONS, PROHIBITIONS ON FISHING AND FISHERY ACTIVITIES

#### (Sections – proposed)

43. Government by notification shall permit or restrict or Regulate, or prohibit any fishery activity in any private or public water bodies or Aqua lands in the state.
44. Government by notification shall specify, prescribe and restrict or Regulate or Prohibit the species, size, quantity and quality of any fish or aquatic animal or plant of fishery importance, from fishing them out of water
45. Government by notification shall specify prescribe and restrict or regulate or *prohibit the species, size, quantity and quality of any fish or fishery product and* aquatic animal or plant of fishery importance, in any of its form, from handling, or selling or marketing or procuring in any place at any time
46. Government on the advice of competent authority, by notification, shall prescribe the standard size or form or shape or weight of all craft and gear, which are permitted for fishing in territorial waters.
47. Government by notification shall make Registration and Licensing mandatory to all fishing units/vessels/Boat building Yards, Fisheries and allied enterprises. Distribution and Marketing infrastructure and systems, and Fish, transport vehicles, Fisheries and allied enterprises, industries and units.
48. Fishing by any means, in and around Estuarine areas (Azhi/Pozhi areas) and at other specified areas shall remain regulated or prohibited.
49. **Destructive fishing** by any means and methods, like thotta, shock / electric fishing, chemical fishing, unauthorized artificial reefs and paars, kayal trawling, kettukalakkal, Istika idal etc. shall be prohibited.
50. **Mining of sand, clay and fossil deposits** and bottom debris from inland water bodies like Rivers, Reservoirs, lakes. Canals and backwater shall remain regulated or prohibited.
51. **Mining of mineral sands** from the bed of the territorial sea shall be regulated or prohibited

52. **Distraction or deformations or removal of beach profile** beach sand beach-rock and granite are prohibited.
53. Government shall earmark and notify ‘**Fish Sanctuaries**’/ and ‘**protected fishery zones**’, and fishing and non fishing grounds.
54. Government shall by notification specify the species of fishes to be caught and allot periodically, **species wise catchable fish quantity and fix up quota** for each fishing unit deployed for fishing in the territorial waters.
55. A land area of 200 meters towards the land, from the Highest High Tide Line (HHTL) of the sea and a land area of 50 meters towards the banks of the river and other inland water bodies shall be declared as **No Development Zone (NDZ)** and kept protected without any alterations including developmental activities, in the state.
56. **No sewage, drainage**, waste water or exhaust or effluent pipes and tunnels shall be kept open to any public water body for untreated and direct discharge.
57. **Fish and fishery waste** shall be disposed off immediately by the people engaged in handling and processing the fish and fishery products as per the regulations and standards prescribed by the Government.
58. **Maximum Catchable Potential** of each species of fish, at sustainable levels, shall be assessed, decided and declared by the government in consultation with the Government Departments Scientific/Research Institutions/ organizations/ Trade Unions of Fishermen & Fish Merchants, representative of Industries and other stake holders, periodically or on an annual basis and Fishing shall be maintained at the prescribed blocks through effective monitoring.
59. **Number of scientifically classified and standardized craft & Gear units** which can be deployed and quantum of effort, to be expended, shall be decided and regulated through appropriate registry and license systems annually.
60. Custody or handling or transport or sale of undersized, specified fishes in live or dead or processed condition, shall be prohibited.
61. Local Self Governments shall constitute District Level ‘**Fisheries Co- Management Council (FCMC)**’ for consultations on all fisheries management activities in their area, subject to the Policy directions and other orders issued by Government.
62. Local Self Government level Fisheries – Co-Management Council shall invariably have, the following Members:

Panchayath President (Village,Block, District)	:	Chairman
Representatives of Regd. Trade Unions	:	Member
Representative of women’s Organisations	:	Member
Representative of Fisheries Co-operatives	:	Member
Representative Fish Merchant (Licensed)	:	Member
Representative of Matsya Board,	:	Member
Representatives of Matsyafed	:	Member
Representative of Non Governmental Organisations in the Fisheries sector.	:	Member

Representative of Executive Officers	:	Member
Representative of Social Scientist s	:	Member
Social Leaders - Panchayath Nominee	:	Member
Representative of the Department of Fisheries	:	Member - Convenor

(Additional members, required if any, can be opted with the consent of the State Government).

The Local Self Government level Fisheries Co-Management Council(FCMC) shall evolve appropriate legally permissible Co-Management System and methodology subject to Government Policies.

60. A High Power State level Fisheries Co-management Council, (SFCMC), with representatives from all Registered Trade Unions in the Fisheries Sector (Fishing, Sales, Marketing, processing & Export), Non Governmental Organisations, Scientific Institutions ,Social scientists and Public representatives shall be constituted by the Government. All Fisheries Co-Management Councils will get federated under the SLFCMC.

## Chapter - VIII

### PENALTIES

#### (Sections - proposed)

- (1) Power to deal with infringement
- (2) Adjudication
- (3) Penalty
- (4) Constitution of Appellate Authority and Appeals
- (5) Appeal, Revision and Review
- (6) Powers of Adjudicating Officers and Adjudication

*(Text to be drafted)*

## Chapter – IX

### MISCELLANEOUS

#### (Sections proposed)

- (1) Administrative Reforms & Directives by Government
- (2) Exemptions.
- (3) Protection of Action taken in good faith
- (4) Power to make rules
- (5) Power to make bye-law
- (6) Repeal\* , Savings and super session.

{\*Travancore- Cochin Fisheries Act 1950 &

Indian Fisheries (Madras amendment) Act 1956 are to be repealed}

*(Text to be drafted)*