

The Tamil Nadu Aquaculture (Regulation) Act, 1995

TAMILNADU

India

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Act 6 of 1995

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The Tamil Nadu Aquaculture (Regulation) Act, 1995 Tamil Nadu Act 6 of 1995 Statement of Objects and Reasons. - There are 1600 hectares under Coastal Shrimp farming in this State and another 500 hectares or more one likely to be developed for shrimp farming during 1995. As on dates there are no guidelines for regulatory coastal aquaculture in this State. The unrestricted development of Coastal aquaculture in the last four years has caused social and environmental problems leading to agitation by local committees and several non-Governmental Organisation. The Government have, therefore, constituted an Export Committee to suggest regulation of aquaculture industries. The Export Committee has also submitted its report to the Government. 2. The Government have, after carefully considering the report, decided to undertake legislation to provide for the regulation of Coastal Aquaculture in the State. 3. The Bill seeks to give effect to the above decision. An Act to provide for the regulation of coastal aquaculture in the State of Tamil Nadu and for matters connected therewith. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-sixth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Tamil Nadu Aquaculture (Regulation) Act, 1995. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force on such [date] [Came into force on 3.5.1995.] as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "aquaculture" means culturing in captivity in ponds, pens, enclosures, or otherwise, of shrimp, prawns, fish or any other aquatic life in saline water in saline soil, but does not include fresh water aquaculture; (b) "aquaculture unit" means a coastal aquaculture unit which undertakes aquaculture; (c) "coastal aquaculture" means aquaculture in coastal stretches of land, estuaries, creeks, rivers, drains, canals or back waters influenced by tidal

action;(d)"District Committee" means a District Committee constituted Under section 5;(e)"Director" means the Director of Fisheries, Tamil Nadu;(f)"Eco-restoration Fund" means the Eco-restoration Fund established under section 8;(g)"Government" means the State Government;(h)"Inspecting Officer" means any Officer of the Fisheries department not below the rank of an Inspector of Fisheries, as may be authorised by the Director to exercise the powers conferred on, and discharge the duties imposed upon, the Inspecting Officer under this Act, for such area as may be specified by the Director;(i)"person" includes any company, family, firm, society or association of individuals, whether incorporated or not;(j)"place of heritage" means any such place of historical, archaeological or artistic importance, which has been in existence for not less than one hundred years, as may be prescribed.

3. Prohibition of establishment of aquaculture unit.

(1)No person shall, without a licence granted by the Director and except in accordance with the conditions specified in such licence, establish on or after the date of commencement of this Act, any aquaculture unit.(2)Every person who has established any aquaculture unit which is in existence immediately before the date of commencement of this Act, shall obtain a licence within three months from the said date in accordance with the provisions of this Act.(3)Where a person has more than one aquaculture unit, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of such aquaculture unit.

4. Application for licence.

- Every application for a licence under section 3 shall be in such form, containing such particulars and be accompanied by such fee not exceeding rupees five hundred as may be prescribed and shall be submitted to the District Committee.

5. Constitution of District Committees.

(1)For the purposes of this Act, the Government may, by notification with effect from such date as may be specified therein, constitute for each district a District Committee consisting of the following members, namely:-(a)the District Collector, who shall be the Chairman of the District Committee, ex-officio; and(b)such other officials as may be prescribed.(2)The Assistant Director of Fisheries or the Chief Executive Officer, Brackish Water Fish Farmers Development Agency, as may be authorized by the Government in this behalf, shall be the Member-Secretary of the District Committee ex-officio.

6. Meetings of District Committees.

(1)The District Committee may meet as often as may be necessary and shall, subject to the provisions of sub-section (2), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be prescribed.(2)The Chairman of the District Committee, or in his absence any member nominated by him in that behalf, shall preside at

a meeting of the District Committee.

7. Functions of District Committee.

(1)The District Committee shall examine every application received under section 4 and make such enquiries as it considers necessary in all respects and forward the same to the Director with its remarks in such manner and within such time, as may be prescribed.(2)The District Committee shall, while examining the applications under sub-section (1), have regard to the following matters, namely:- (a)the application for grant of licence is in compliance with the provisions of this Act and the rules made thereunder; (b)the proposed site for aquaculture unit does not fall in the prohibited area. Explanation. - For the purpose of this clause, "prohibited area" means wet lands including bio-diversity rich areas like, mangroves and swamps, migratory bird routes and breeding grounds, sanctuaries, national parks and biosphere reserves designated as protected areas or areas committed to community conservation or production forestry, place of heritage or place of worship, grey or dark areas in the map prepared by the Public Works Department (Ground Water); (c)cultivable lands are not converted for aquaculture; (d)aquaculture unit does not envisage drawal of ground water for culture purpose; (e)aquaculture unit shall not be established- (A)in the buffer zone ranging from- (i)fifty to one hundred metres width in the case of sea water based farm; and (ii)twenty to twenty-five metres width in the case of estuarine water based farms; (B)(i)within one hundred metres from the outer border of a village having a population of less than five hundred; (ii)within three hundred metres from the outer border of a village or town having a population of more than five hundred; and (iii)within two kilometers from any place of heritage. Explanation. - For the purpose of this clause- (i)"buffer zone" means an intermediary zone between aquaculture zone and non-aquaculture zone; (ii)"aquaculture zone" means an area where aquaculture activities are permitted or taken up under this Act; (f)there shall be a gap of not less than twenty metres for every five hundred metres of sea water based farms and five metres for every three hundred metres of estuarine water based farms, for the access to the sea and to the estuary or brackish water river, as the case may be; and (g)such other matters as may be prescribed.

8. Eco-restoration Fund.

(1)There shall be established a fund to be called a Eco-restoration Fund which shall be utilized for correcting the imbalances caused to the E environment by aquaculture units.(2)Every aquaculture unit shall deposit a sum of rupees five thousand , per hectare to the Eco-restoration Fund which shall not bear any interest.(3)The Eco-restoration Fund shall be operated by the Director in such manner as may be prescribed.(4)Appropriate eco-restoration work shall be carried out by the aquaculture unit concerned to the satisfaction of the Director and in such cases seventy-five per cent of the money deposited by that aquaculture unit may be refunded by the Director after consulting the District Committee, at the end of such period, as may be prescribed.(5)Where the eco-restoration work has not been carried out by the aquaculture unit concerned, the money deposited by such aquaculture unit shall not be refunded to it and the eco-restoration work in such cases, shall be carried out by the Director from out of the money deposited by such aquaculture unit.

9. Grant and renewal of licence.

(1) On receipt of an application from the District Committee with its remarks, the Director, if satisfied, may, grant a licence subject to the conditions specified in sub-section (2), or refuse to grant a licence : Provided that a licence shall not be refused unless the applicant has been given an opportunity of making his representation. (2) The following shall be the conditions of every licence issued under sub section (1):- (a) the aquaculture unit shall not be established without the consent of the Tamil Nadu Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (Central Act 6 of 1974); (b) the aquaculture unit shall deposit a sum of rupees five thousand per hectare to the Eco-restoration Fund within such time as may be prescribed; (c) the aquaculture unit shall not divert the drainage channels of the Public Works Department without the approval of that department; (d) the aquaculture unit shall design the layout and construction of farms providing for effluent settlement ponds with a view to discharge the treated effluents in conformity with the standards prescribed by the Tamil Nadu Pollution Control Board; (e) the aquaculture unit shall adopt such sustainable aquaculture practices in harmony with the environment as may be prescribed; (f) the aquaculture unit shall regulate the use of chemicals and drugs in such a way that they remain below detection level at the point of effluent discharge; and (g) such other conditions as may be prescribed. (3) Every licence granted under this section shall be valid for a period of five years from the date of its grant and may be renewed, from time to time, and the provisions of this Act shall apply in relation to a renewal of a licence as they apply in relation to the grant of a licence.

10. Power to cancel or suspend licence.

(1) Without prejudice to any other penalty to which the licensee may be liable under this Act, the Director may, at any time, by order in writing, cancel or suspend any licence granted or renewed under section 9, if- (a) such licence has been obtained by fraud, misrepresentation or suppression of material particulars; or (b) the licensee has contravened any of the provisions of this Act or the rules made thereunder or any of the conditions subject to which the licence was granted. (2) Before cancelling or suspending a licence under sub-section (1), the Director shall give the licensee, an opportunity of making his representation.

11. Return of licence.

- On the expiry of his licence or on receipt of any order suspending or cancelling it, the licensee shall return the licence to the Director: Provided that the Director may, after such expiration or cancellation, give such reasonable time as he thinks fit to the licensee to enable him to wind up his aquaculture unit.

12. Issue of duplicate licence.

- If a licence granted is lost, destroyed, mutilated or damaged, the Director shall, on application and on payment of such fee not exceeding rupees fifty as may be prescribed, issue a duplicate licence.

13. Power to issue directions.

- The Director may issue such orders and directions of a general character as he may consider necessary in respect of any matter relating to the licences to carry on the business of aquaculture, to any licensee or licensees generally and every licensee shall give effect to such orders and directions.

14. Power of entry and inspection.

(1) For the purpose of carrying out the provisions of this Act or the rules made thereunder, the Inspecting Officer may, at all reasonable hours and with or without assistance, - (a) enter into any aquaculture unit and inspect or examine the aquaculture land or its water spread area; (b) order the production of any account book, register, record or other document relating to such aquaculture unit and take or cause to be taken extracts from, or copies of, such document; (c) ask all necessary questions and examine any person having control of, or employed in connection with, such aquaculture unit. (2) The licensee and all persons employed in connection with the aquaculture unit shall afford the Inspecting Officer all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief, to produce documents in their possession, and to furnish such other information in relation to the aquaculture unit as may be required by such officer. (3) Where the Inspecting Officer, on inspection under sub-section (1), is satisfied that the licensee has contravened any of the provisions of this Act or the rules made thereunder or any of the conditions subject to which the licence was granted, the Inspecting Officer shall report the fact together with relevant particulars to the Director. (4) On receipt of the report under sub-section (3), if the Director is satisfied that the licensee has contravened any of the provisions of this Act or the rules made thereunder or any of the conditions subject to which the licence was granted, he may make such order as he thinks fit: Provided that no order under this sub-section adversely affecting the ; licensee shall be made unless the licensee has had a reasonable opportunity of making his representation.

15. Appeal.

(1) Any person aggrieved by - (a) an order of the Director refusing to grant or renew a licence or cancelling or suspending a licence under this Act; or (b) an order of the Director under sub-section (4) of section 14, may in such form, in such manner and within such period, as may be prescribed, appeal to the Government: Provided that the Government may entertain an appeal after the expiry of the prescribed period, if they are 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 Government shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as they think fit.

16. Revision by High Court.

(1) Any person aggrieved by an order of the Government under section 15 may, within a period of

sixty days from the date on which a copy of the order was communicated to him, file an application for revision of such order to the High Court: Provided that the High Court may, within a further period of thirty days, entertain an application made after the said period of sixty days, if it is satisfied that the petitioner had sufficient cause for not making the application within the said period of sixty days. (2) The application shall be in such form, verified in such manner and accompanied by such fee, as may be prescribed. (3) In disposing the application for revision, the High Court may confirm, cancel or vary such order: Provided that no order prejudicial to any party shall be passed unless such party has been given an opportunity of being heard. (4) Every order passed under this section shall be final.

17. Offences by companies.

(1) If the person committing an offence under this Act is 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 exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under 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 purpose of this section, - (a) "company" means any body corporate and includes a firm, society or other association of individuals; and (b) "Director" in relation to - (i) a firm means a partner in the firm, (ii) a society or other association of individuals, means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

18. Penalties.

(1) If any person contravenes, or attempts to contravene, or knowingly abets the contravention of, any of the provisions of this Act or any rule or order made thereunder, he shall be punishable with fine which may extend to twenty thousand rupees and in the case of a continuing contravention with a further fine which may extend to one thousand rupees for each day during which such contravention is continued after conviction thereafter. (2) If any person willfully obstructs any authority or officer, from entering any aquaculture unit in the exercise of any power conferred on him or her by or under this Act, he shall be punishable with fine which may extend to one thousand rupees.

19. Bar of jurisdiction of Civil Courts.

- Except as otherwise provided in this Act, no Civil Court shall have, jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer of the Government.

20. Cognizance of offence.

- No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by an authority or officer authorized by the Government in this behalf.

21. Jurisdiction of criminal Court.

- No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

22. Inspecting Officer, etc., to be public servants.

- Every authority and every officer duly authorised to discharge any duty imposed on it or him by or under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XIV of 1860).

23. Indemnity.

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

24. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any custom, usage or contract.

25. Delegation of powers of Director.

(1) The Director may, by order notified in the Tamil Nadu Government Gazette, authorize any authority or officer to exercise any of the powers vested in him by or under this Act and may, in like manner, withdraw such authority. (2) (a) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be specified in such order. (b) The Director

shall also have the power to control and revise the acts or proceedings of any authority or officer so empowered.

26. Power to make rules.

(1)The Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-(a)the form of and the manner of making an application for a licence, the fees for such licence and renewal thereof, the conditions subject to which, and the form in which a licence may be granted and the period for which a licence may be renewed under section 9;(b)the fee payable in respect of a duplicate licence under section 12;(c)the form and manner in which, and the period within which, an appeal may be made under section 15 and the procedure to be followed by the Government in disposing of the appeal;(d)the form and manner of verification of the application and the fee which shall accompany the application for revision under section 16;(e)any other matter which is to be, or may be, provided for, by rules under this Act.(3)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless, they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(4)Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification 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 or notification.