

Law Department (Legal Advice)

Sub.: Fisheries — Marine Fishing Regulation Act.

Notification

LD/6/34

The following Act which was passed by the Legislative Assembly of Goa, Daman and Diu on the 16th day of October, 1980 and assented to by the Administrator on 28-2-1981 is hereby published for the general information of the public.

B. S. Subbanna, Under Secretary.

Panaji, 6th March, 1981.

The Goa, Daman and Diu Marine Fishing
Regulation Act, 1980

(Act No. 3 of 1981)

AN

ACT

to provide for the regulation of fishing by fishing vessels in the sea along the coastline of the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-first Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. *Short title, extent and commencement.* — (1) This Act may be called the Goa, Daman and Diu Marine Fishing Regulation Act, 1980.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint.

2. *Definitions.* — In this Act, unless the context otherwise requires: —

(a) "adjudicating Officer" means a special Judicial Magistrate appointed under the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) for the purposes of this Act;

(b) "Appellate Board" means an Appellate Board constituted under section 22;

(c) "authorised officer" means such officer as the Government may by notification in the Official Gazette authorise in respect of the matter to which reference is made in the provision of this Act in which the expression occurs;

(d) "Fishing vessel" means a ship or boat, whether or not fitted with mechanical means of

propulsion, which is engaged in sea fishing and includes —

- (i) a catamaran,
 - (ii) a country craft and
 - (iii) a canoe
- engaged in sea fishing;

(e) "Government" means the Government of Goa, Daman and Diu;

(f) "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 purpose of this Act;

(g) "registered fishing vessel" means

- (i) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972 or; Central Act 13 of 1972.
- (ii) a fishing vessel registered under section 12;

(h) "specified area" means such area in the sea along the entire coastline of the Union territory, or such portion of it, but not beyond the territorial waters, as may be specified by the Government by notification in the Official Gazette;

(i) "Union territory" means the Union territory of Goa, Daman and Diu and includes the territorial waters along the entire coastline of the Union territory.

3. *Authorisation of officers for the purpose of any provisions of this Act.* — The Government may by notification in the Official Gazette, authorise —

(a) any officer of the Government not being an officer below the rank of a Gazetted Officer; or

(b) any Officer of the Central Government, not being any officer below the rank of a Gazetted Officer or a Commissioned Officer in the armed forces of the Union, with the consent of that Government, to exercise the powers conferred on and discharge the duties imposed upon any such authorised officer under this Act in such area as may be specified in the notification.

CHAPTER II
Regulation of Fishing

4. *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 an order notified in the Official Gazette, 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; or

(e) the fishing in any specified area during such period of day or night 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 interest of different sections of persons engaged in fishing, particularly those engaged in fishing using traditional fishing crafts such as catamaran, country craft or a 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) any other matter that may be prescribed.

5. *Prohibition of use of fishing vessels in contravention to the Regulations made under section 4.*— No owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessels for fishing in any manner which contravenes an order made under section 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing ves-

nel from, or to, the shore, through any 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 is engaged in fishing in the specified water area by using any traditional fishing craft such as catamaran, country craft, or canoe.

6. *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, containing such particulars, and be accompanied by such fees, as may be prescribed.

(3) The authorised officer 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 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 such 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 order that may be made under section 4;

(d) any other matter that 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 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 periods as the authorised officer may think fit to allow in any case.

7. *Power to regulate the mesh size of fishing nets.*—The Government may having regard to the nature and mode of fishing and the need to conserve fish and to regulate fishing on a scientific basis by an order notified in the Official Gazette regulate or restrict the size of mesh of a fishing net.

8. *Licensing of Fishing nets.*— (1) The owner of a fishing net may make an application to the authorized officer for grant of licence for using a fishing-net.

(2) Such application shall be in such form containing such particulars and be accompanied by such fees as may be prescribed.

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

Provided that different fees and different amount by way of security may be prescribed in respect of licences for different classes of fishing nets.

(4) A licence granted under this section shall be valid for the period specified therein or for such extended periods as the authorized officer may think fit to allow in any case.

9. *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 6:

Provided that nothing in this section shall apply to any fishing vessel, which was being used immediately before the commencement of this Act, for

such period as may be specified by the Government by notification in the Official Gazette.

10. *Control on manufacture, sale or use of fishing nets.* — No person shall after the commencement of this Act manufacture or use for fishing any net in contravention of any order passed under section 7 or without obtaining any licence as required under section 8.

11. *Cancellation, suspension and amendment of licences.* — (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 6 or section 8 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of the 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 6 or section 8.

12. *Registration of vessels.* — (1) The owner of every vessel used or intended to be used for the purposes of fishing and kept on the Union territory shall register such vessel under this Act irrespective of whether or not it is registered under section 11 of the Marine Products Export Development Authority Central Act, 1972.

(2) Every application for registration of such vessel shall be made by the owner thereof in such form, and shall be accompanied by such fees, as may be prescribed within the time limit as indicated below,—

(a) before the expiration of one month from the date on which he first becomes the owner of such 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 reasons to be recorded in writing, extend the time limit for registration by such periods as he thinks fit. However, such period shall not extend three months.

(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 the Register to be kept by him, in such form as may be prescribed, the particulars of such certificate.

(4) Registration once made shall 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 on the vessel.

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

13. *Information to be given to the authorised officer about movement of fishing vessels.*— Where a registered fishing vessel moves from the area of one Port to 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 Port Officer having jurisdiction over the area whereto such fishing vessel has been moved.

14. *Returns to be made by owners of 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 any returns made under this section.

15. *Finality of orders under sections 6, 11 and 12.*— Every decision of the authorised officer under section 6, section 11 or section 12, granting or refusing to grant licence for a fishing vessel or a fishing net or cancelling, suspending, varying or amending such licence or registering or cancelling the registration of a vessel shall, subject to any right of appeal under section 16, be final.

16. *Appeals against orders refusing grant of licence etc.* — (1) Any person aggrieved by an order of an authorised officer refusing to grant licence for a fishing vessel or a fishing net or cancelling, suspending or varying or amending such licence or refusing to register a vessel or cancelling the registration of such vessel may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed (hereinafter in this section referred to as 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.

17. *Demarcation of specified areas.*— The Government shall subject to such conditions as may be prescribed demarcate the specified areas.

CHAPTER III

Penalties

18. *Power to enter and search fishing vessels.*— 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 of any order or rule made thereunder or any of the conditions of the licence, enter and search such vessels and impound the same and seize any fish found in it.

19. *Disposal of seized fish, etc.* — (1) The authorised officer shall keep the fishing vessel impounded under section 18 in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of fish seized, the authorised officer may if he is of 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.

20. *Adjudication.* — (1) Where any authorised officer, referred to in section 18, 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 adjudicating officer.

(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.

21. *Penalty.* — (1) The adjudicating officer shall, after the enquiry under section 20, 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 licence 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 the fish involved is one thousand rupees or less; or

(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 in 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 registration certificate of the fishing vessels 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) suspend for such period as the adjudicating officer deems fit; or

(b) the fish that might have been impounded or seized or the proceeds thereof as the case may be, under sections 18 or 19 shall be forfeited to the Government:

22. Constitution of Appellate Board and appeal to Appellate Board. — (1) The Government may, by notification in the Official Gazette, constitute one or more Appellate Board or 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 appointed that Appellate Board shall have jurisdiction throughout the Union territory and where more than one Appellate Board is appointed by the Government, Government may by notification in the Official Gazette, define the jurisdiction of each Appellate Board.

(4) 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 Board having jurisdiction to hear such appeal:

Provided that the Appellate Board may entertain any appeal after the expiry of said period of thirty days, but not after 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.

(5) 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;

23. *Revision by Appellate Board.* — The Appellate Board may call for and examine the records of any order passed by an adjudicating officer under section 21 and against which no appeal has been preferred under section 22 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.

24. *Powers of the adjudicating officer and the Appellate Board in relation to holding an enquiry under this Act.* — The adjudicating officer and the Appellate Board shall, while holding an enquiry, have all the powers of a Court under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) 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 documents;

(c) requisitioning any public record or copy thereof from any Court or office;

(d) receiving evidence or affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

25. *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 has 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 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 offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — for the purposes of this section: —

(a) "company" means any Body Corporate and includes a firm or association of individuals; and

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

CHAPTER IV

Miscellaneous

26. *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.

(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 specified area or areas, it may by notification in the Official Gazette, exempt, subject to such conditions as it may think fit to impose, such classes or classes of fishing vessels used for fishing in such specified area or areas as it may specify in the notification, from the operation of all or any of the provisions of this Act.

27. *Protection of action taken in good faith.* — (1) No suit, prosecution or other legal proceeding 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 legal proceeding 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.

28. *Power to make rules.* — (1) Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be provided 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 4;

(b) the form of application for licence under sub-section (1) of section 6, the particulars which it shall contain and the fees which shall accompany it.

(c) the matters to which regard be had in granting or refusing a licence, under clause (d) of sub-section (4) of section 6, the fees payable

for the licence and the security for the due performance of the conditions of licence;

(d) the procedure to be followed in granting or refusing a licence under section 6 or cancelling, suspending, varying or amending such licence or in registering a vessel under section 12 or cancelling such registration;

(e) the form of application for registration of a vessel under section 12, 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, the manner in which the registration mark referred to in sub-section (4) of that section shall be displayed;

(f) the manner in which the information referred to in section 13 shall be given;

(g) the item and manner in which their returns referred to in sub-section (1) of section 14 shall be furnished;

(h) the authority to whom appeals shall be preferred under sub-section (1) of section 16;

(i) the place and the manner in which an impounded fishing vessel shall be kept under sub-section (1) of section 19 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;

(j) the procedure of the enquiry by the adjudicating officer under sub-section (2) of section 20;

(k) 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; the procedure of the Appellate Board;

(l) the fees payable for 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;

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

Secretariat,
Panaji-Goa,
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U. D. SUARMA

Secretary to the Government of
Goa, Daman and Diu, Law De-
partment (Legal Advice).

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