

L. A. BILL No. XXXI OF 2021

A BILL

*further to amend the Maharashtra Marine Fishing
Regulation Act, 1981.*

5 **(As passed by the Legislative Assembly on the 28th December 2021.)**

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that
circumstances existed which rendered it necessary for him to take
immediate action further to amend the Maharashtra Marine Fishing
Regulation Act, 1981, for the purposes hereinafter appearing ; and,
therefore, promulgated the Maharashtra Marine Fishing Regulation
(Amendment) Ordinance, 2021 on the 23rd November 2021 ;

Mah.
LIV of
1981.
Mah.
Ord. XII
of 2021.

AND WHEREAS it is expedient to replace the said Ordinance, by an
Act of the State Legislature ; it is hereby enacted in the Seventy-second
15 Year of the Republic of India as follows :—

Short title and commencement. 1. (1) This Act may be called the Maharashtra Marine Fishing Regulation (Amendment) Act, 2021.

(2) (a) It shall be deemed to have come into force on the 23rd November 2021, except sub-section (2) of section 6 and section 7.

(b) Sub-section (2) of section 6 and section 7 shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint. 5

Amendment of section 2 of Mah. LIV of 1981. 2. In section 2 of the Maharashtra Marine Fishing Regulation Act, 1981 (hereinafter referred to as "the principal Act"),— Mah. LIV of 1981.

(1) for clause (a), the following clause shall be substituted, namely :— 10

"(a) "Adjudicating Officer" means the Assistant Commissioner of Fisheries having jurisdiction to exercise the powers conferred on, and discharge the duties imposed upon, an Adjudicating Officer by this Act ;" ; 15

(2) after clause (a), the following clause shall be inserted, namely:—

"(a-i) "Advisory and Monitoring Committee" means the State Advisory and Monitoring Committee constituted under section 3 ;" ; 20

(3) clause (b) shall be deleted;

(4) in clause (c), for the words "Directorate of Fisheries" the words "Commissionerate of Fisheries" shall be substituted ;

(5) after clause (c), the following clauses shall be inserted, namely :— 25

"(c-i) "fish" means finfish, molluscs, crustaceans and all other forms of marine animal and plants other than marine mammals, reptiles and sea birds ;

"(c-ii) "fisheries" means "fishing" and "fishing related activities" and includes,— 30

(i) searching for or tracking or trailing or pursuing fish;

(ii) catching or taking or harvesting of fish by any method;

(iii) landing, packaging, marketing, processing, preserving, transshipping or transporting of fish ;

(iv) any operations at sea directly linked to any activity described under this clause ; 35

"(c-iii) "fishing gear" means tools such as any net, cage, trap or other contrivance used to capture "fish" and used in "fishing related activities;" ;

(6) for clause (d), the following clause shall be substituted, namely :— 40

"(d) "fishing vessel" means a boat, ship or vessel, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit, and includes,—

(i) a non-motorized vessel, 45

(ii) a motorized vessel, and

(iii) a mechanized vessel,

engaged in sea fishing for profit ;"

(7) in clause (e), for the words "Directorate of Fisheries" the words "Commissionerate of Fisheries" shall be substituted ;

(8) after clause (e), the following clauses shall be inserted, namely :—

5 “(e-i) "master", in relation to a fishing vessel, means any person having command or charge of the vessel or having the responsibility of the vessel ;

 (e-ii) "mechanized vessel" means any fishing vessel with engine permanently fitted in the hull, which uses machine power for propulsion as well as fishing operation like casting and pulling of fishing gear, engaged in sea fishing for profit ;

 (e-iii) "motorized vessel" means any fishing vessel that has an engine fitted outside or inside on vessel which is used only for propulsion and not for fishing operation ;

15 (e-iv) "non- motorized vessel" means any fishing vessel that does not use any engine (mechanical) power for propulsion as well as fishing operation ;

 (e-v) "operator" (*tandel*) means any person or enterprise, that controls the operation or management of a fishing vessel or who has assumed the responsibility for the operation of the vessel ;

 (e-vi) "owner", in relation to a fishing vessel, means the owner of the vessel as well as any other person, including any organization or association of persons, whether incorporated or not, by whom the vessel or a share in the vessel is owned ;"

25 (9) after clause (k), the following clause shall be added, namely :—

 “(l) "sustainable fishing" means fishing activities that do not cause or lead to undesirable changes in the biological and economic productivity, biological diversity or ecosystem structure and functioning from one human generation to the next.”.

30 **3.** In section 3 of the principal Act,—

 (1) for sub-section (1), the following sub-sections shall be substituted, namely :—

Amendment
of section 3 of
Mah. LIV of
1981.

 “(1) There shall be a State Advisory and Monitoring Committee to exercise the powers conferred on and discharge the duties imposed upon it under this Act.

 (1-A) The State Advisory and Monitoring Committee shall consist of the following members, namely :—

40	(i) Commissioner of Fisheries, Maharashtra State	Chairperson ;
40	(ii) Divisional Commissioner of Konkan Division or his representative	Member ;
40	(iii) Chief Executive Officer of Maharashtra Maritime Board	Member ;
45	(iv) Deputy Inspector General of Indian Coast Guard	Member ;

- (v) Inspector General of Police, Coastal Security and Security Member ;
- (vi) Deputy Secretary (Fisheries), Agriculture, Animal Husbandry, Dairy Development and Fisheries Department Member ;
- (vii) Joint Commissioner of Fisheries (Marine) Member-Secretary. 5

(1-B) The Advisory and Monitoring Committee may invite two representatives from the Central or State Government recognized research institute having knowledge in fisheries as special invitees. The special invitees may participate in the discussion in the meeting of the Advisory and Monitoring Committee, but they shall not have right to vote. 10

(1-C) The Advisory and Monitoring Committee shall recommend to the State Government the regulations to be enforced under Chapter II. The Advisory and Monitoring Committee may take into consideration recommendations of the District Committees, if any, before recommending the said regulations to the State Government. The Advisory and Monitoring Committee shall coordinate, monitor and give advice or directions to the District Committees, in exercise of the powers conferred on, and duties imposed upon them under this Act."; 15 20

(2) in sub-section (2), for the words "Committee shall advise" the words "Advisory and Monitoring Committee shall recommend" shall be substituted ; 25

(3) after sub-section (2), the following sub-section shall be added, namely :—

"(3) (a) There shall be a District Committee for each coastal district, with Collector as the Chairperson; and Superintendent of Police, Commandant Coast Guard and Port Officer as the Members; and Assistant Commissioner, Fisheries as a Member-Secretary. 30

(b) The Chairperson shall co-opt representatives of the other Government Departments and of the fishermen and trade, as he may deem fit.

(c) The District Committee shall recommend to the Advisory and Monitoring Committee the regulations to be enforced under Chapter II in the District."; 35

(4) in the marginal note, for the words "Constitution of Advisory Committee" the words "Constitution of Advisory and Monitoring Committee" shall be substituted.

Amendment
of section 4
of Mah.
LIV of
1981.

4. In section 4 of the principal Act,- 40

(1) in sub-section (1),-

(i) for the words "the Advisory Committee" the words "the Advisory and Monitoring Committee" shall be substituted ;

(ii) after clause (c), the following clause shall be inserted, namely:—

"(c-i) number of crew members and fishing gear in case of different fishing vessels and types of fishing; or" ; 45

(2) in sub-section (2), in clause (b), after the words "scientific basis" the words "and for sustainable fishing" shall be added ;

(3) after sub-section (2), the following sub-section shall be added, namely :—

5 “(3) The fishermen and their co-operative societies shall be bound to comply with any instructions or directions issued by the Coastal Police and officers of Fisheries Department, from time to time, for safety of fishermen and law and order.”.

5. In section 5 of the principal Act,-

(1) for the word "master" the words "master or operator (*tandel*)" shall be substituted ;

10 (2) in the second proviso, for the words “traditional fishing craft such as country craft or canoe” the words “non-motorized vessel or motorized vessel or mechanized vessel” shall be substituted.

6. In section 6 of the principal Act, in sub-section (4),—

(1) after clause (c), the following clause shall be inserted, namely:—

15 “(c-i) whether the fishing vessel has seaworthiness certificate of such authority as may be prescribed;”;

(2) after clause (c-i) as so inserted, the following clause shall be inserted, namely :—

20 “(c-ii) whether master or operator (*tandel*) who operates motorized or mechanized fishing vessels possess license and are trained in sea navigation;”.

7. After section 8 of the principal Act, the following section shall be inserted, namely :—

25 “**8A.** (1) The master or operator (*tandel*) of a motorized or mechanized fishing vessel shall make an application to the licensing officer for the grant of a license for operating such a fishing vessel.

30 (2) The master or operator (*tandel*) of a motorized or mechanized fishing vessel possessing such necessary qualification and such training certificate in sea navigation as may be prescribed shall be eligible to get a license for operating fishing vessel.

35 (3) Every application under sub-section (1) shall be in such form, contain such particulars, including necessary qualification and details of training, and be accompanied by such fees, as may be prescribed. A licence granted under this section shall be in such form and subject to such conditions, as may be prescribed.”.

8. For section 13 of the principal Act, the following section shall be substituted, namely :—

40 “**13.** (1) Any person aggrieved by an order of the Licensing Officer refusing to grant license for a fishing vessel or suspending, cancelling, varying or amending such license or of the Registration Officer 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 the First Appellate Authority *i.e* the Commissioner of Fisheries, Maharashtra State.

45 (2) Any person aggrieved by an order of the First Appellate Authority may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the Second Appellate Authority *i.e* the Government :

50 Provided that, the Appellate Authorities may entertain an 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.

Amendment of section 5 of Mah. LIV of 1981.

Amendment of section 6 of Mah. LIV of 1981.

Insertion of a new section 8A in Mah. LIV of 1981.

Licensing of master or operator (*tandel*).

Substitution of section 13 of Mah. LIV of 1981.

Appeals against orders refusing grant of license or registration, etc.

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

(4) The order of the First Appellate Authority shall be final in case second appeal is not filed and in case the second appeal is filed then the order of the Second Appellate Authority shall be final." 5

Amendment of section 14 of Mah. LIV of 1981.

9. In section 14 of the principal Act, for the words "impound such vessel and seize any fish found in it" the words "seize such vessel including accessories and fishing gear with which it is fitted and any fish found in it" shall be substituted. 10

Amendment of section 15 of Mah. LIV of 1981.

10. In section 15 of the principal Act,—

(1) in sub-section (1), for the word "impounded" the word "seized" shall be substituted;

(2) in sub-section (2), for the words "dispose of such fish" the words "dispose of such fish within forty-eight hours" shall be substituted. 15

Substitution of section 17 of Mah. LIV of 1981.

11. For section 17 of the principal Act, the following section shall be substituted, namely :—

Imposition of penalty.

"17. (1) The Adjudicating Officer shall, after the inquiry is held under section 16, 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 of any of the conditions of the licence. 20

(2) When such person is found guilty by the Adjudicating Officer, he may, by order, in writing impose on such person penalties specified in this section. 25

(3) Whoever uses or causes or allows to be used any fishing vessel engaged in fishing or fishing related activities in the specified area without obtaining a valid licence under this Act shall be liable for,— 30

(a) in case where the vessel is non-motorized fishing vessel,—

(i) penalty of one thousand rupees for the first contravention ;

(ii) penalty of two thousand rupees for the second contravention ; 35

(iii) penalty of five thousand rupees for the third or subsequent contraventions ;

(b) in case where the vessel is motorized fishing vessel which operates with engine capacity up to 20hp,— 40

(i) penalty of three thousand rupees for the first contravention ;

(ii) penalty of five thousand rupees for the second contravention ;

(iii) penalty of ten thousand rupees for the third or subsequent contraventions ; 45

(c) in case where the vessel is motorized fishing vessel which operates with engine capacity above 20hp upto 120hp,—

(i) penalty of ten thousand rupees for the first contravention; 50

(ii) penalty of twenty thousand rupees for the second contravention ;

(iii) penalty of thirty thousand rupees for the third or subsequent contraventions;

(d) in case where the vessel is motorized fishing vessel which operates with engine capacity above 120 hp,—

5 (i) penalty of twenty five thousand rupees for the first contravention ;

(ii) penalty of fifty thousand rupees for the second contravention ;

10 (iii) penalty of one lakh rupees for the third or subsequent contraventions ;

(e) in case where the vessel is a mechanized fishing vessel of less than twelve meters length over all,—

(i) penalty of ten thousand rupees for the first contravention ;

15 (ii) penalty of twenty thousand rupees for the second contravention ;

(iii) penalty of fifty thousand rupees for the third or subsequent contraventions ;

20 (f) in case where the vessel is a mechanized fishing vessel between twelve and twenty meters (both inclusive) length over all,—

(i) penalty of forty thousand rupees for the first contravention ;

25 (ii) penalty of one lakh rupees for the second contravention ;

(iii) penalty of two lakh rupees for the third or subsequent contraventions ;

(g) in case where the vessel is a mechanized fishing vessel of more than twenty meters length over all,—

30 (i) penalty of two lakh rupees for the first contravention;

(ii) penalty of five lakh rupees for the second or subsequent contraventions.

35 (4) Whoever uses or causes or allows to be used any fishing vessel engaged in fishing or fishing related activities in the specified area in contravention of,—

(i) conditions of license; or

(ii) safety and security of fishermen and fishing vessels; or

(iii) spatial and temporal closures and Monsoon fishing ban; or

(iv) prohibition of destructive fishing methods; or

40 (v) regulations in respect of matters other than those specified in sub-sections (5), (6) and (8);

shall be liable for,—

(a) in case where the vessel is a non-motorized fishing vessel,—

45 (i) penalty of one thousand rupees for the first contravention ;

(ii) penalty of two thousand rupees for the second contravention ;

50 (iii) penalty of five thousand rupees for the third or subsequent contraventions ;

(b) in case where the vessel is motorized fishing vessel which operates with engine capacity upto 20hp,—

(i) penalty of three thousand rupees for the first contravention ;

(ii) penalty of five thousand rupees for the second contravention ;

(iii) penalty of ten thousand rupees for the third or subsequent contraventions ;

(c) in case where the vessel is motorized fishing vessel which operates with engine capacity above 20hp upto 120hp,— 5

(i) penalty of seven thousand rupees for the first contravention ;

(ii) penalty of fifteen thousand rupees for the second contravention ; 10

(iii) penalty of twenty five thousand rupees for the third or subsequent contraventions;

(d) in case where the vessel is motorized fishing vessel which operates with engine capacity above 120 hp,—

(i) penalty of twenty thousand rupees for the first contravention ; 15

(ii) penalty of forty thousand rupees for the second contravention ;

(iii) penalty of eighty thousand rupees for the third or subsequent contraventions; 20

(e) in case where the vessel is a mechanized fishing vessel of less than twelve meters length over all,—

(i) penalty of five thousand rupees for the first contravention ;

(ii) penalty of ten thousand rupees for the second contravention ; 25

(iii) penalty of twenty thousand rupees for the third or subsequent contraventions ;

(f) in case where the vessel is a mechanized fishing vessel between twelve and twenty meters (both inclusive) length over all,— 30

(i) penalty of twenty thousand rupees for the first contravention;

(ii) penalty of fifty thousand rupees for the second contravention ; 35

(iii) penalty of one lakh rupees for the third or subsequent contraventions ;

(g) in case where the vessel is a mechanized fishing vessel of more than twenty meters length over all,—

(i) penalty of one lakh rupees for the first contravention ; 40

(ii) penalty of two lakh rupees for the second contravention ;

(iii) penalty of five lakh rupees for the third or subsequent contraventions. 45

(5) Whoever contravenes an order under this Act relating to the regulation of purse seine or ring seine (including mini purse seine) or Trawl net including mesh size shall be liable for,—

(i) penalty of one lakh rupees for the first contravention;

(ii) penalty of three lakh rupees for the second contravention; 50

(iii) penalty of six lakh rupees for the third or subsequent contraventions.

(6) Whoever contravenes an order under this Act relating to the regulation of destructive fishing methods (bull or pair trawling, fish attractors, LED light fishing) shall be liable for,— 55

(i) penalty of minimum five lakh rupees for the first contravention ;

(ii) penalty of ten lakh rupees for the second contravention ;

(iii) penalty of twenty lakh rupees for the third or subsequent contraventions.

(7) Whoever contravenes an order under this Act relating to the regulation of the installation of Turtle Excluding Device shall be liable for,—

(i) penalty of one lakh rupees for the first contravention;

(ii) penalty of two lakh rupees for the second contravention;

(iii) penalty of five lakh rupees for the third or subsequent contraventions.

(8) Whoever contravenes an order under this Act relating to the regulation of the Ban on Juvenile Fishing shall be liable for,—

(a) in case where any fishing vessel catches juvenile fish of size less than minimum legal size,—

(i) penalty of one lakh rupees for the first contravention;

(ii) penalty of two lakh rupees for the second contravention ;

(iii) penalty of five lakh rupees for the third or subsequent contraventions;

(b) in case where juvenile fish (minimum legal size fish) is purchased by the fish merchant,—

(i) penalty of five times the value of the fish for first contravention ;

(ii) penalty of five lakh rupees for the second or subsequent contraventions.

(9) (a) Whoever enters the territorial waters with the fishing vessel from outside the territorial waters of the State for the purpose of fishing or for any other allied purpose in contravention of any provisions of this Act or of any order or rule made thereunder shall be liable for,—

(i) penalty of two lakh rupees and five times the value of fish captured by such person for the first contravention;

(ii) penalty of six lakh rupees and five times the value of fish captured by such person for the second or subsequent contraventions.

(b) Whenever any fishing vessel from outside territorial waters of the State enters in the territorial waters of the State for the purpose of fishing or any other allied purpose in contravention of any provisions of this Act or of any order or rule made thereunder, it shall be liable to be seized mandatorily for first such contravention including accessories and fishing gear with which it is fitted and any fish found in it ; and fishing vessel with all Crew Members, Operator (*tandel*) and Master including accessories and fishing gear with which it is fitted shall be handed over to police authorities for necessary action.

(10) The amount of any penalty imposed under this section shall be recoverable as an arrear of land revenue.

(11) In addition to any penalty that may be imposed under this section, the Adjudicating Officer may direct that,—

(a) the registration certificate of the fishing vessel which has been used or caused or allowed to be used, in the manner referred to in this section or the licence, any condition of which has been contravened, shall be—

(i) cancelled or revoked, as the case may be; or 5

(ii) suspended for such period as the Adjudicating Officer deems fit ; or

(b) the fishing vessel including accessories and fishing gear with which it is fitted or fish that may have been seized under section 14 shall be forfeited to the Government : 10

Provided that, no fishing vessel shall be forfeited under clause (b), if the Adjudicating Officer, after hearing the owner of such vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care for the prevention of the commission such default. 15

(12) The defaulter fishing vessels and owner shall not be entitled for any type of benefits under the Central-State assistance scheme or the State Government scheme."

Substitution of section 18 of Mah. LIV of 1981.

12. For section 18 of the principal Act, the following section shall be substituted, namely :— 20

Appeals against order of Adjudicating Officer and Appellate Authorities.

"18. (1) Any person aggrieved by an order of the Adjudicating Officer may, within thirty days from the date on which the order is communicated to him, prefer an appeal to the First Appellate Authority having jurisdiction, i.e. the Commissioner of Fisheries, Maharashtra State to hear such first appeal: 25

Provided that, the State Government may, whenever necessary, by notification in the *Official Gazette*, appoint one or more First Appellate Authorities for such area in the Konkan Revenue Division, as may be specified in the notification.

(2) Any person aggrieved by an order of the First Appellate Authority may, within thirty days from the date on which the order is communicated to him, prefer second appeal to the Government. 30

(3) Notwithstanding anything contained in sub-sections (1) and (2), the First Appellate Authority or the Second Appellate Authority, as the case may be, may entertain any appeal after the expiry of the 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. 35

(4) No appeal under this section shall be entertained by the First Appellate Authority, unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against : 40

Provided that, on an application made by the appellant in this behalf, the First 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 an order in writing, dispense with fifty per cent. amount of such deposit, either unconditionally or subject to such conditions as it may deem fit to impose. 45

(5) On receipt of an appeal under sub-section (1) or (2), the Appellate Authority may, after holding such inquiry 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,—

(a) if the sum deposited by way of penalty under sub-section (4) exceeds the penalty directed to be paid by the Appellate Authorities, the excess amount, or

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

shall be refunded to the appellant.

(6) The order of the First Appellate Authority shall be final in case second appeal is not filed and in case the second appeal is filed then the order of the Second Appellate Authority shall be final."

15 **13.** Section 19 of the principal Act shall be deleted.

Deletion of section 19 of Mah. LIV of 1981.

14. In section 20 of the principal Act, for the words "Appellate Board", wherever they occur including marginal note thereof, the words "Appellate Authorities" shall be substituted.

Amendment of section 20 of Mah. LIV of 1981.

20 **15.** In section 21 of the principal Act, for the words "one thousand rupees and with further fine which may extend to fifty rupees" the words "ten thousand rupees and with further fine which may extend to five hundred rupees" shall be substituted.

Amendment of section 21 of Mah. LIV of 1981.

16. After section 21 of the principal Act, the following section shall be inserted, namely :—

Insertion of a new section 21A in Mah. LIV of 1981.

25 **"21A.** No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by the Licensing Officer or an Enforcement Officer."

Cognizance of offences.

30 **17.** In section 23 of the principal Act, in sub-section (1), for the words "survey vessels" the words "survey vessels, training vessels or patrolling vessels" shall be substituted.

Amendment of section 23 of Mah. LIV of 1981.

Mah. Ord. XII of 2021. **18. (1)** The Maharashtra Marine Fishing Regulation (Amendment) Ordinance, 2021, is hereby repealed.

Repeal of Mah. Ord. XII of 2021 and saving.

35 (2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or, as the case may be, issued, under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra Marine Fishing Regulation Act, 1981 (Mah. LIV of 1981) has been enacted to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State of Maharashtra and for matters connected therewith or incidental thereto. The State Government, from time to time, issues orders under the said Act to regulate fishing after taking into consideration need to protect the interests of different sections of persons engaged in fishing particularly traditional fishermen and need to conserve fish and to regulate fishing on a scientific basis and to maintain the law and order in the sea.

2. Considerable amount of time had elapsed since the enactment of the said Act. The fisheries and fishing practices have changed over a period of time. Due to increase in pendency of cases before the Tahsildar, as an Adjudicating Officer, it was considered expedient to declare an officer of the Fisheries Department as an Adjudicating Officer instead of Tahsildar. It had been noticed that, the decision making process for regulation of fishing by the Government had been delayed for want of timely advise from the District Advisory Committees. The penalties provided in the Act had not been changed since its enactment. In view of above, the Government considered it expedient to amend certain provisions of the said Act.

3. The salient features of the amendments are as follows, namely :—

(i) to declare the Assistant Commissioner of Fisheries having jurisdiction as an Adjudicating Officer instead of Tahsildar ;

(ii) to define new terms "fish", "fishing gear", "fisheries", "master", "mechanized vessel", "motorized vessel", "non-motorized vessel", "operator (*tandel*), "owner" and "sustainable fishing" ;

(iii) to provide for the State Advisory and Monitoring Committee to recommend to the State Government the regulations to be enforced in Chapter II and to coordinate, monitor and to give advice or directions to the District Committees ;

(iv) to regulate number of crew members and fishing gear in case of different fishing vessels and types of fishing ;

(v) to provide that fishermen and their co-operative societies shall be bound to comply with any instructions or directions issued by coastal police and officers of the Fisheries Department for safety of fishermen and law and order ;

(vi) to provide for giving licence to master or operator (*tandel*) of a motorized or mechanized fishing vessel ;

(vii) to provide for seizing accessories and fishing gear fitted on the vessel ;

(viii) to provide for enhanced penalties for contravention of any provisions of the Act or of any order or rule or any of the conditions of license in case of different types of vessels used in fishing and for contravention of different types of regulations ;

(ix) to provide for filing of an appeal against the orders of Licensing Officer or Registration Officer as well as against the orders of an Adjudicating Officer before the Commissioner of Fisheries as First Appellate Authority and the Government as Second Appellate Authority ;

(x) to make a provision for cognizance of offences.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Marine Fishing Regulation Act, 1981, for the purposes aforesaid, the Maharashtra Marine Fishing Regulation (Amendment) Ordinance, 2021 (Mah. Ord. XII of 2021) was promulgated by the Governor of Maharashtra on the 23rd November 2021.

5. The Bill is intended to replace the said Ordinance by an Act of State Legislature.

Mumbai,

Dated the 9th December, 2021.

ASLAM SHAIKH,

Minister for Fisheries.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1 (2).—Under this clause, power is taken to the State Government to bring into force the provisions of Sub-section (2) section 6 and section 7, on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

Clause 4.—Under this clause, which seeks to amend section 4 of the Maharashtra Marine Fishing Regulation Act, 1981 (Mah. LIV of 1981), power is taken to the State Government to make an order to regulate, restrict or prohibit number of crew members and fishing gear in case of different fishing vessels and types of fishing.

Clause 6.—Under this clause, which seeks to amend section 6 of the said Act, power is taken to the State Government to prescribe by rules the authority from whom seaworthiness certificate is to be taken for the fishing vessel for obtaining licence under the said Act.

Clause 7.—Under this clause, which seeks to insert a new section 8A in the said Act, power is taken to the State Government to prescribe by rules,—

(a) the necessary qualification and training certificate in sea navigation to be possessed by master or operator (*tandel*) of a motorized or a mechanized fishing vessel for being eligible to get a licence for operating such fishing vessel ;

(b) the form of application for licence for operating fishing vessel, its particulars and fees, form of licence and its conditions.

2. The abovementioned proposals for delegation of legislative power are of normal character.

ANNEXURE TO THE L. A. BILL No. XXXI OF 2021 -
THE MAHARASHTRA MARINE FISHING REGULATION
(AMENDMENT) BILL, 2021

(Extracts from the Maharashtra Marine Fishing Regulation Act, 1981)

(Mah. LIV of 1981)

1. * * * * *
2. In this Act, unless the context otherwise requires,— Definitions

(a) "Adjudicating Officer" means the Tahsildar having jurisdiction, and includes any other officer of the Revenue Department, not below the rank of Tahsildar, authorised by the State Government, by notification in the *Official Gazette*, to exercise the powers conferred on, and discharge the duties imposed upon, an Adjudicating Officer by this Act, in such area as may be specified by the notification ;

(b) "Appellate Board" means an Appellate Board constituted under Section 18 ;

(c) "Enforcement Officer" means the Assistant Fisheries Development Officer having jurisdiction, and includes any other Officer of the Directorate of Fisheries, not below the rank of Assistant Fisheries Development Officer, authorised by the State Government, by notification in the *Official Gazette*, to exercise the powers conferred on, and discharge the duties imposed upon, an Enforcement Officer by this Act, in such area as may be specified in the notification ;

(d) "fishing vessel" means a boat or ship, whether or not fitted with mechanical means of propulsion, which is engaged in sea fishing for profit, and includes—

(i) a country craft, and

(ii) a canoe,

engaged in sea fishing for profit ;

(e) "Licensing Officer" means the Assistant Fisheries Development Officer having jurisdiction, and includes any other officer of the Directorate of Fisheries, not below the rank of Assistant Fisheries Development Officer, authorised by the State Government, by notification in the *Official Gazette*, to exercise the powers conferred on, and discharge the duties imposed upon, a Licensing Officer by this Act, in such area as may be specified in the notification ;

(f) to (k) * * * * *

3. (1) The State Government may by order constitute an Advisory Constitution
Committee for each coastal District, with the District Magistrate as the of Advisory
Chairman and the Assistant Director of Fisheries of the District as the Committees.
member-secretary, with representatives of the State Port Department and
the Police Department as members. The Chairman shall co-opt
representatives of other Government Departments and of the fishermen
and the trade as he may deem fit. The Committee shall recommend to the
State Government the regulations to be enforced under Chapter II.

(2) The Committee shall advise the State Government on the following issue which may come up for consideration while enforcing the Act:—

- (i) reservation of specified areas of the sea for fishing by vessels of a specified type ;
- (ii) prohibition of vessels of specified type or specified types from fishing in any specified area ;
- (iii) laying down maximum number of fishing vessels of specified type to be allowed for fishing in specified area ;
- (iv) laying down the maximum number of fishing vessels of specified types to be registered in each of the ports in the District;
- (v) regulation or prohibition to catch specified species of fish in any specified areas;
- (vi) regulation or prohibition of specified fishing gear in specified areas ;
- (vii) prescribe timings for fishing operations where necessary ;
- (viii) any other matter which would facilitate effective enforcement of the provisions of the Act.

Power to regulate, restrict or prohibit certain fishing activities within specified area.

4. (1) The State Government may, having regard to the matters referred to in sub-section (2) and after consultation with the Advisory Committee, by 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 specified ; 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 orders ; or
- (d) the use of such fishing gear in any specified area as may be prescribed.

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

- (a) * * * *
- (b) The need to conserve fish and to regulate fishing on a scientific basis ;
- (c) and (d) * * * *

Prohibition of use of fishing vessels in contravention of any order made under section 4.

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 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 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 country craft or canoe.

6. to 12. * * * *

13. (1) Any person aggrieved by an order of the Licensing Officer refusing to grant licence for fishing vessel or suspending, cancelling or varying or amending such licence or of the Registration Officer 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 the Appellate Authority, i.e., the commissioner of Fisheries, Government of Maharashtra :

Appeals
against
orders
refusing grant
of licence or
registration
etc.

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.

14. Any Enforcement 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 of any of the conditions of the licence, enter and search such vessel and impound such vessel and seize any fish found in it.

Power to
enter and
search fishing
vessel.

15. (1) The Enforcement Officer referred to in section 14 shall keep the fishing vessel, impounded in such place and in such manner as may be prescribed.

Disposal of
seized fish.

(2) In the absence of suitable facilities for the storage of the fish seized, the Enforcement Officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereon in the prescribed manner in the office of the Adjudicating Officer.

16. * * * *

17. (1) The Adjudicating Officer shall, after the inquiry is held under section 16, 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 of any of the conditions of the licence. When such person is found guilty by the Adjudicating Officer, the Adjudicating Officer may, by order in writing impose on such person a penalty of an amount not exceeding—

Imposition of
penalty.

(a) five thousand rupees, if the value of the fish involved is one thousand rupees or less;

(b) five times the value of the fish, if the value of the fish involved is more than one thousand rupees ;

(c) five thousand rupees, in any other case, including a case where there has been no catch of fish, as may be adjudged by the Adjudicating Officer.

(2) The amount of any penalty imposed under sub-section (1) shall be recoverable as an arrear of land revenue.

(3) 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 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 vessel or fish that may have been impounded or seized as the case may be, under section 14 shall be forfeited to the State Government:

Provided that no fishing vessel shall be forfeited under clause (b), if the Adjudicating Officer, after hearing the owner of such vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care for the prevention of the commission of such default.

Constitution
of Appellate
Board and
appeals to
Appellate
Board.

18. (1) In each District, the District Magistrate shall constitute the Appellate Board for the whole District.

(2) The State Government may, whenever necessary, by notification in the *Official Gazette*, constitute one or more Appellate Board or Boards consisting of one member, for such area in the District as may be specified in the notification.

(3) 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 the 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.

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

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

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

(a) if the sum deposited by way of penalty under sub-section (4) exceeds the penalty directed to be paid by the Appellate Board, the excess amount, or

(b) if the Appellate Board sets aside the order imposing penalty, the whole of the sum deposited by way of penalty, shall be refunded to the appellant.

19. The Appellate Board may call for an examination of the records of any order passed by an Adjudicating Officer under section 17 and against which no appeal has been preferred under section 18, 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:

Revision by Appellate Board.

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

20. (1) The Adjudication Officer and the Appellate Board shall, while holding an inquiry, have all the powers of a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :—

Power of Adjudicating Officer and the Appellate Board in relation to holding inquiry under this act.

(a) summoning and enforcing the attendance of witnesses and examining them on oath ;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits ;

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

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

(f) any other matter which may be prescribed.

(2) The Adjudicating Officer or the Appellate Board shall, while exercising any power under this Act, be deemed to be a Civil Court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

21. Whoever contravenes any of the provisions of this Act or any order of rule made thereunder or any of the conditions of the licence, shall, without prejudice to any other action which may be taken against him under this Act, on conviction, be punished with fine, which may extend to one thousand rupees, and with further fine which may extend to fifty rupees for every day on which such contravention continues after the first conviction.

General provision for punishment of offences.

22. * * * *

23. (1) Nothing contained in this Act shall apply to survey vessels belonging to the Central Government or any State Government or any Public Undertakings.

Exemptions.

(2) * * * *

24. to 26. * * * *

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. XXXI OF 2021.]

**[A Bill further to amend the Maharashtra
Marine Fishing Regulation Act, 1981.]**

[SHRI ASLAM SHAIKH,
Minister for Fisheries.]

**[As passed by the Legislative Assembly
on the 28th December 2021.]**

RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Assembly.