

## **The Coastal Aquaculture Authority Act (Amendment) Bill, 2022**

**Introduction:** - The development and operation of aquaculture activity in the country needs to be regulated and managed on scientific principles for achieving eco-friendly sustainable production. The Coastal Aquaculture Authority Act, 2005 (CAA Act, 2005) has been enacted by the parliament to establish a Coastal Aquaculture Authority for regulating the activities connected with coastal aquaculture in the coastal areas of the country. Over the past seventeen years since its enactment, the Act has given due care to protect the environment and has enabled regulated growth and development of coastal aquaculture in the country. This in turn has facilitated creation of millions of jobs, self-employment opportunities, enhanced incomes of aquafarmers and catalysed growth of business and entrepreneurship in aquaculture including development of a vibrant aquaculture support industry. Today, India is one of the leading producers and exporters of brackish water aquaculture products in the world running into several thousands of crores of rupees.

A good legislation should be progressive, and evolve over time to meet the developmental aspirations of the stakeholders of the day. Based on the experience gained in implementation of the CAA Act, 2005, over the last several years there have been representations from different stakeholders demanding simplification of the procedures and expeditious issuance of registration of aquaculture activities, decrease the compliance and regulatory burden under the Act and the Rules, Regulation and Guidelines made thereunder and removal of implementation difficulties.

Hence, in the public interest, it has been felt expedient to revisit the provisions of the CAA Act, 2005 and propose suitable amendments to the Act as per the sectoral needs with the objectives of reducing regulatory burden to the stakeholders by revisiting regulatory compliances, offences and penalties; decriminalization of offence(s) wherever feasible; removal of gaps in the meaning of coastal aquaculture, streamlining procedures for effective implementation of the Act including removal of difficulties and facilitate ease of doing business. Accordingly, the amendments to the Coastal Aquaculture Authority Act, 2005 have been drafted and the Coastal Aquaculture Authority Act (Amendment) Bill, 2022 is placed in public domain (website of the Department of Fisheries Government of India, and that of the Coastal Aquaculture Authority) soliciting comments of stakeholders and general public.

### **THE GIST OF THE KEY AMENDMENTS PROPOSED IN THE ACT**

#### **Comprehensive inclusion of definitions and substitution of the term “Farm or Farms” with the term “Activity or Activities”**

It is intended to expand the scope of the CAA Act, 2005 in its present form beyond coastal aquaculture ‘farms’ to cover all the verticals and activities of coastal aquaculture for its sustainable development. Hence it has been proposed to substitute the term “Farm or Farms” with the term “Activity or Activities”. In addition, certain definitions in tandem with the present-day needs has been proposed under the present amendments.

#### **Provision to establish Subordinate offices**

Unless coastal aquaculture is scientifically monitored and judiciously managed, it will not be a sustainable activity and may cause environmental and social concerns in the coastal areas. The CAA, therefore, is shouldering an enormous responsibility of regulating the coastal aquaculture activities in the maritime states and union territories of the entire country including the islands. The acceleration in the development of coastal aquaculture, its quantum and the need for a stronger establishment was not foreseen during the process of setting up of the CAA. The changed aquaculture scenario warrants the stringent regulation and monitoring of the coastal aquaculture activities and the responsibility of Coastal Aquaculture Authority in

ensuring environmental protection and production sustainability mandates the necessity to adequately strengthen the Coastal Aquaculture Authority by establishing regional offices of the Authority in different coastal states and UTs to decentralize and regulate the coastal aquaculture activities in the country in the larger public interest. Hence Section 4(2) of the CAA Act is proposed to be amended to include the establishment of 'subordinate offices' for the authority.

### **Validation of the Meetings of the Authority during the absence of the regular Chairperson of the Authority**

Issuance of registrations to aquaculture activities may hamper in the absence of the chairperson of the Authority. To remove ambiguity in the Act with regard to the manner of conduct of the meetings of the Authority in the event of absence of chairperson, or when the post of chairperson is vacant, an amendment has been proposed to make an express provisions in the Act in order to enable chairperson to nominate any other member to chair the meeting of the Authority, or choosing as a chairperson from amongst the members so that the meeting of the authority can be convened in the absence of a regular chairperson.

### **Provision empowering the Authority to appoint Committees for efficient discharge of duties**

An amendment has been proposed in the Act to expressly empower the Authority to appoint Committees for the efficient discharge of its duties and performance of its functions under Act. This will ensure speedy disposal of the registrations of aquaculture activities including their monitoring and supervision. Further, the Authority may avail the expert advise through these Committees.

### **Member Secretary to be the Chief Executive officer of the Authority**

The roles and responsibilities of the Member Secretary of the CAA under the current Act have not been elaborated. Therefore, it has been felt essential to suitably amend the Act to elaborate the roles and responsibilities of the Member Secretary to suitably empower him/her and also entrust clear mandates under the Act. It has been felt desirable that the Member Secretary function as the Chief Executive Officer of the Authority and be at least in the rank of Joint Secretary to Government of India for better control, coordination and efficient delivery of the mandates under the Act.

### **Comprehensive expansion of the functions of the Authority**

Chapter IV of the Act provides powers and functions to the Coastal Aquaculture Authority established under the Act, which enable the authority to make regulations for the operation of aquaculture activities in the coastal areas, to inspect the costal aquaculture establishments, to register coastal aquaculture farms and hatcheries, to order removal or demolition of coastal aquaculture establishments that cause pollution, etc. It is proposed to include provisions under functions of the Authority in tandem with the changed scope and application of the Act to bring the other verticals of the coastal aquaculture such as Hatchery, Nucleus Breeding Centers (NBC), Brood stock Multiplication centers (BMC) and Aquaculture inputs under the ambit of the Act.

### **Flexibility in the validity period of all the registration or certificate issued by CAA**

The stakeholders have been demanding to review the period of validity of registration which at present is fixed at 5 years. While some stakeholders demand increase in the validity period of registration or one-time registration, there is also a demand from some corners to lower the validity period of registration in certain cases in order to harmonize the registration period with the tenure of allotment of land by government. Accordingly, suitable amendments have been

proposed in the Act to delegate to the Authority to fix the tenure of validity of registration including its renewal in the Rules based on sectoral needs and prevailing situations rather than rigid 5 years period as prescribed in the current Act. This would alleviate the difficulties encountered in registration of coastal aquaculture farms and other activities.

### **Exempting Hatcheries, BMCs, NBCs, cage culture, etc. within 'No Development Zone'**

Section 13(8) of the CAA Act 2005 prohibits coastal aquaculture within the "No Development Zone" which is 200m from the High Tide Line (HTL) towards the landward side and in the creeks, rivers and backwaters within the Coastal Regulation Zone (CRZ). It is pertinent to mention that the coastal aquaculture hatchery activity has been an exempted activity ever since the notification of CRZ regulations by the Government. The provisions of Section 13(8) of the CAA Act which intends to bar the farm is misconstrued as applicable for hatcheries as well. Further, government is also promoting sea weed culture and cage culture as a major rural economic activity. Hence it is proposed to exempt such activities from Section 13(8) of the CAA Act.

### **Amendment of Validation section to bring clarity on the applicability of CRZ notification on the Coastal aquaculture**

As provided under Section 27 of Coastal Aquaculture Authority Act, 2005, Coastal Aquaculture is not construed to be under the purview of CRZ notification issued under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986 and Rule 5(3)(d) of Environment (Protection) Rule, 1986 declaring Coastal Stretches as Coastal Regulation Zone (CRZ) and Regulating activities in the CRZ. The intention of the Government in bringing CAA Act 2005 as indicated in the "Statement of Objects" and Reasons for the Coastal Aquaculture Authority Act, 2005, was not to treat coastal aquaculture as a prohibited activity within the meaning of the CRZ notification. The Government considered it necessary to save the employment of the workers and also the investment already made in this economic activity and to provide for future growth of aquaculture farming in a manner, which is consistent with the requirement of safeguarding the environment. In order to achieve the above objects and to clear all doubts, it was decided to amend the CRZ notification to clarify that aquaculture was not intended to be a prohibited activity within the meaning of this CRZ notification. However, the intent of the Government has been misinterpreted due to the ambiguity prevailing in Section 27 of CAA Act. Further, implementation of CRZ regulation in coastal aquaculture will bring in duplication of regulation and harassment to the aqua farmers and entrepreneurs. Hence to alleviate the ambiguity and to bring in clarity, the amendment of Section 27 is proposed to exempt the coastal aquaculture from the purview of the CRZ notification issued under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986 and Rule 5(3)(d) of Environment (Protection) Rule, 1986.

### **Delay in submitting the renewal application shall be condoned**

Provision has been made for condoning the delay caused due to various reasons in submitting the application for renewal of the registration of coastal aquaculture activity with a compounded fee to ensure continuous regulated and complaint operation of coastal aquaculture activities.

### **Provision for Providing new certificate in case of mutilation, damage or loss, and for effecting changes etc.**

The current scenario of re-registration in case of changes in ownership or size of the activity causes huge delay in effecting the registration. The present amendment provides for effecting changes to the certificate of registration in case of changes in ownership or size of the activity and for providing new certificate in case of mutilation, damage or loss of certificate, etc.

## **Provision for Authorization of officers and Appeal**

In tandem with the amendment of Punishment, the consequential authorization of officers and an appeal provision becomes inevitable and hence proposed.

## **Decriminalization of the Act**

Section 14 of the CAA Act, 2005 provides for punishment for carrying on coastal aquaculture without registration under CAA Act, 2005. There is a provision of imprisonment for a term which may extend to three years under the Act or with fine which may extend to one lakh rupees, or with both. The farmers and other stakeholders are of the view that the provisions of imprisonment up to 3-years for farming without registration is a draconian punishment and the same needs to be reviewed, decriminalized with alternative penal provisions. Further, aquaculture is a farming activity undertaken by farmers and criminalizing the non-registration is considered unjust. It has been pointed out that while the CAA Act has been enacted 17 years ago, the Section 14 of the Act has not been invoked in the past 17 years since its enactment, rendering this provision redundant and suitable for revisiting. Keeping in view the efforts being made by the government to decriminalize minor offences under various laws, it is proposed to decriminalize the CAA Act, 2005 by amending Section 14 of CAA Act, 2005 for removing imprisonment provisions. However, a combination of suitable monetary and other penalties has been proposed in lieu of imprisonment under the Act applying the polluter pays principle for ensuring protection of coastal environment. The proposed alternative penalties for non-registration and noncompliance of the provisions the Act would be adjudicated and imposed by the officers authorized for the purpose. While proposing the monetary penalties, transparency and objectivity has been brought in the amount of penalty that can be imposed so as to remove official discretion. Due care has been taken while proposing the quantum of penalties to ensure that the small farmers are not unduly burdened. It is pertinent to mention that precautionary principles have been embedded in the regulatory framework of the Authority through the Guidelines. This will pave the way for harnessing the potential of coastal aquaculture in India in harmony with nature and augment the sustainable production of cheap and safe protein for humanity.

**Sd/  
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