

**THE KARNATAKA AGRICULTURAL CREDIT OPERATIONS AND
MISCELLANEOUS PROVISIONS ACT, 1974.**

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STATEMENT OF OBJECTS AND REASONS

I

Act 2 of 1975.- The success brought about by the adoption of scientific and progressive techniques in the development of Indian Agriculture has created a new sense of awareness and enthusiasm in the farmer. It has also given him great hope. However, the new strategy in agricultural production calls for heavy capital investment. This in turn entails large capital requirements. The co-operative sector by itself may not be able to meet the demand. A multi-agency approach is inevitable if these credit requirements are to be met.

The commercial banks and other credit agencies have entered enthusiastically in the field of agricultural credit. In order to enable these banks and agencies to cater to the credit requirements of as large a number of agriculturists as possible any restrictions that may tend to reduce the quantum of credit have to be removed. Simultaneously the credit agencies should be given such facilities as would enable them to increase their scope and volume of lending. The agriculturists borrowing from co-operatives have been given certain facilities. These facilities should also be intended to those agriculturists who borrow from credit agencies other than co-operatives. This is so because facilities must primarily be designed for the benefit of the individual cultivator-borrower rather than for that of the lending institution. This Bill seeks to fulfil all the requirements.

The terms agriculture and agricultural purposes have been defined to encompass a vast sphere of agrarian activity. Credit Agency has been defined to include number of lending institutions.

Agriculturists have been sought to be vested with right of alienation where hitherto they were prevented from doing so to enable them to obtain loans for agriculture purposes.

All institutional credit agencies engaged in purveying credit are treated on par so that none is handicapped because of special facilities or priorities provided to another. Provision has been made to simplify the procedure of registration of charge and mortgage in favour of credit agencies.

The difficulties which credit agencies may have in recovering loans and other operational difficulties which they may have to face are envisaged and sought to be removed. To facilitate prompt recovery of dues without having to State Government is sought to be vested with powers to prescribe an official who shall have authority to issue a certificate for recovery of dues as arrears of land revenue. Credit agencies have been empowered to bring properties to sale and also to purchase the property if there are no bidders at auctions conducted by them whenever they are required to foreclose mortgages of property executed in their favour.

Credit agencies are also enabled to finance through primary agricultural credit co-operative societies. Provision has therefore also been made to enable them to obtain the necessary information to see that the funds originally emanating from them are being properly utilised. Powers have also been sought to be vested in them to recover dues from defaulting members of co-operative societies in cases where primary societies have been assisted by the credit agencies.

Hence this Bill.

(Published in the Karnataka Gazetted Part IV-2A (Extraordinary) No.775 dated 8-5-1974 at pages 14-15.)

II

Amending Act 34 of 1978.- Government enacted the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974, to assist banking, agencies in the recoveries as arrears of land revenue of loans disbursed for agricultural purpose, in order that banks would be induced to lend more freely to the agricultural sector. In the actual operation of this Act, some problems have been encountered by the commercial banks. This has affected the flow of bank money for development programmes.

2. The Government of Karnataka now propose an amendment to the Act in the following directions to overcome the difficulties encountered in its operation-

(a) The most striking deficiency of the Act is the restrictive scope of the definitions of "Agriculture" and "Agricultural purposes". In particular, the exclusion of agro-based processing industries precludes a larger number of agro-based operations from coming within the ambit of the Act. In consultation with the Agricultural Refinance and Development Corporation, a broad interpretation of what constitutes an "Agricultural

purpose" has been adopted. In particular processing activities, acquisition of drought animals, and any other purpose as the State Government may specify, has been included in the definitions of "Agriculture" and "Agricultural purposes".

(b) The Reserve Bank of India had brought to the notice of the Government certain minor anomalies in the original enactment. These pertain to section 2(f) and section 13 of the Act, and the Amendment Bill attempts to rectify these anomalies.

(c) Although the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974, contains, in section 7, a statement of the priority of charge created in favour of the credit agency lending to an agriculturist over a subsequent charge created in favour of the State Government or a Co-operative Society, no such statement exists indicating the priority of a charge created in favour of a credit agency lending to an agriculturist over a prior charge created in favour of any other financial institutions. This lacuna is being rectified through an amendment to section 7.

Hence this Bill.

(Published in the Karnataka Gazetted Part IV-2A (Extraordinary) No.1103 dated 8-3-1978 at pages 4-5.)

III

Amending Act 26 of 1984.- The Bill proposes to amend the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974, for the following purposes :-

Clause 2.- (a) to include the development of inland and marines fisheries in the definition of pisciculture;

(b) to specify Regional Rural Banks established under the Regional Rural Banks Act also as credit Agencies for the purpose of the Act ; (c) to make the provisions of the Act applicable in respect of loans and advances granted prior to the commencement of the Act also.

Clause 3.- To provide for the creation of a mortgage by hypothecation also.

Clause 4.- To provide for the issue and registration of a certificate of discharge on the agriculturists discharging their dues.

Clause 5.- (a) to provide for the recovery of the dues as arrears of land revenue from the co-obligant and the sureties of the agriculturists and their legal representatives ;

(b) to exclude the actual period occupied by the proceedings under the Act for the purposes of computing limitation for filing suits for recovery of dues in respect of financial assistance given under the Act.

Clause 6.- To exempt the documents relating to the release of the mortgage or charge from the payment or registration fees.

Clause 7.- (a) certain provisions of limitation Act are made applicable in respect of proceedings instituted under the Act or Rules;

(b) the burden of a proving that the mortgage or charge was not created for agricultural or other purposes is cast on the person alleging it.

Hence this Bill.

(Obtained from L.A. Bill No. 1 of 1984 File No. LAW 70 LGN 83.)

IV

Amending Act 22 of 2000.- It is considered necessary to prepare upto date Codal Volumes of the Karnataka Acts and to repeal all the spent Acts and amendment Acts from time to time.

The Government constituted One-man Committee for the above purpose. The Committee has reviewed the Karnataka Acts for the period for 1.1.1956 to 31.12.1998 and has proposed this "Repealing and Amending Bill, 2000" which seeks to repeal the following types of Acts, -

- (i) Acts which amended the Karnataka Acts whether they are now in force or not;
- (ii) Acts which amended regional Acts which are no longer in force;
- (iii) Appropriation Acts as they are spent Acts;
- (iv) Acts which have been struck down or by necessary implication struck down by the Courts;
- (v) Acts which are by implication repealed by Central Acts; and
- (vi) Acts which are temporary and spent enactments.

The Bill does not include, -

- (i) Acts which amend the Central Acts and regional Acts which are in force; and
- (ii) Acts which are already repealed expressly.

This Bill seeks to repeal and remove all spent and amendment Acts from the Statute Book.

Hence the Bill.

(L.A. Bill No. 17 of 2000)

V

Amending Act 17 of 2007.- In G.O.NO.RD 9 BMM 2003, dated: 8.9.2005 the posts of Regional Commissioners at Bangalore, Mysore, Gulbarga and Belgaum along with supporting staff has been created.

The Regional Commissioners have to be conferred with statutory powers by necessary amendments to the relevant Acts.

Since the matter was urgent and the Karnataka Legislature was not in session, the Karnataka Land Revenue and Certain Other Laws (Amendment) Ordinance 2006(Karnataka Ordinance No.5 of 2006) was promulgated to achieve the above Object.

Hence the Bill.

[L.A.Bill No. 7 of 2007]

[Entry 5 and 18 of List II of the Seventh Schedule to the Constitution of India.]

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सत्यमेव जयते

KARNATAKA ACT No. 2 OF 1975

(First published in the Karnataka Gazette Extraordinary on the Eighteenth day of February 1975).

**THE KARNATAKA AGRICULTURAL CREDIT OPERATIONS AND
MISCELLANEOUS PROVISIONS ACT, 1974.**

(Received the assent of the President on the Thirteenth day of February 1975)

(As amended by Karnataka Acts 34 of 1978, 26 of 1984, 22 to 2000 and 17 of 2007)

**An Act to make provisions to facilitate flow of credit for purposes of
agricultural production and development through credit agencies.**

WHEREAS it is expedient to make provisions to facilitate flow of credit for purposes of agricultural production and development through credit agencies and for matters connected therewith or incidental thereto ;

BE it enacted by the Karnataka State Legislature in the Twenty-fifth Year of the Republic of India as follows :-

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force in such areas on such ¹[date]¹ as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of the Act and for different areas.

1. Act came into force on 17.07.1975 by notification. Text of notification is at page 17.

2. Definitions.- In this Act, unless the context otherwise requires, -

¹[(a) 'agriculture' or 'agricultural purposes' includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry plantation (including tree crops), cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture including ²[the development of fisheries both inland and marine and]² catching fish and all activities connected therewith or incidental thereto, apiculture, sericulture, piggyery, poultry, farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities, including processing, marketing, storage and transport of agricultural produce and the acquisition of drought animals, implements and

machinery in connection with such activities and such other purposes as the State Government may specify in this behalf;]¹

1. Substituted by Act 34 of 1978 w.e.f. 29.12.1978.

2. Inserted by Act 26 of 1984 w.e.f. 28.04.1984.

(b) "agriculturist" means a person who is engaged in agriculture;

(c) "Agro-Industries Corporation" means the Karnataka State Agro-Industries Corporation, a company registered under the Companies Act, 1956;

(d) "co-operative society" means a co-operative society registered or deemed to be registered under the Karnataka Co-operative Societies Act, 1959, the object of which is to provide financial assistance as defined in clause (f) of this section to its members and includes a Co-operative Land Development Bank;

(e) "Credit Agency" means,-

(i) a banking company as defined in the Banking Regulation Act, 1949;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(v) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963;

(vi) Agro-Industries Corporation as defined in clause (c);

(vii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956; and

¹[(vii-a) the regional rural banks constituted under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);]¹

1. Inserted by Act 26 of 1984 w.e.f. 28.04.1984.

(viii) any other financial institution notified by the State-Government as a credit agency for the purpose of this Act;

(f) "financial assistance" for the purpose of this Act means, assistance granted ¹[whether before or after the commencement of this Act]¹ by way of ²[loan, advance, guarantee]² or otherwise for agricultural purposes.

1. Substituted by Act 26 of 1984 w.e.f. 28.04.1984.

2. Substituted by Act 34 of 1978 w.e.f. 29.12.1978.

CHAPTER II

ALIENATION OF LAND OR INTEREST THEREIN BY AGRICULTURISTS

3. Removal of restrictions on alienation.- Notwithstanding anything contained in any law for the time being in force or any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate the land or his interest therein whether or not a charge or mortgage is subsisting on such land or such interest, by creation of charge or mortgage of such land or interest therein in favour of a credit agency as security for the financial assistance given to him by such credit agency.

4. Vesting agriculturists not having alienable rights with rights of alienation.- Notwithstanding anything contained in the Karnataka Bhoodan Yagna Act, 1963 (Karnataka Act 34 of 1963) the State Government may, by notification, vest Bhoodan tenants with rights of alienation, including the right to create a charge or mortgage in such land or interest in favour of a credit agency for the purpose of obtaining financial assistance from the credit agency subject to such restrictions as may be specified in such notification.

5. Charge on crops and other movable property.- (1) It shall be lawful for an agriculturist to ¹[create, by way hypothecation or otherwise, a mortgage]¹ of or a charge on,-

(a) movable property, owned by him; or

(b) crops standing or otherwise, raised by him on his own land or land held by him as a tenant including other produce raised by him on such land to the extent of his interest in such crops or produce,

in favour of a credit agency as security for the financial assistance given to him.

(2) Notwithstanding anything contained in the Karnataka Co-operative Societies Act, 1959 or any other law for the time being in force, no charge in respect of financial assistance given by a co-operative society to an agriculturist shall have priority over charge on the crop raised by him, standing or otherwise, or any other movable property in respect of any financial assistance given to him by a credit agency:

Provided that the financial assistance given by the credit agency is prior in point of time to that of any loan advanced to him by the co-operative society.

(3) A credit agency may distrain and sell through an official designated in this behalf by the State Government the crops or other produce or other movables charged to that credit agency to the extent of the agriculturists interest therein and appropriate the proceeds of such sale towards all moneys due to the credit agency from that agriculturist.

6. Creation of charge on land or interest therein in favour of a credit agency by a declaration.- Notwithstanding anything contained in any law for the time being in force,-

(I) any agriculturist given financial assistance by a credit agency may by a declaration in the prescribed form charge the land or any other immovable property owned by him or where he is a tenant of any land, his interest in such land, as security for the amount of such financial assistance and interest payable thereon. Such declaration shall be filed along with the application seeking financial assistance and shall state that the charge created thereunder shall be for the amount of financial assistance then sought for and also for all future financial assistance which the credit agency may give him,

(ii) a declaration made under clause (i) may, with the consent of the credit agency concerned, be varied by the agriculturist at any time.

7. Priority of charges and mortgages over certain claims.- ¹[(1) Notwithstanding anything contained in any law for the time being in force, but subject always to the paramount charge in respect of arrears of land revenue,-

1. Substituted by Act 34 of 1978 w.e.f. 29.12.1978.

(a) no charge or mortgage created on any land or interest therein after the commencement of this Act in favour of the State Government or a co-operative society shall have priority over a charge or mortgage created on such land or interest by an agriculturist in favour of a credit agency as security for financial assistance given to him by such agency after the commencement of this Act and prior to the creation of the charge or mortgage in favour of the State Government or the co-operative society; and

(b) any charge or mortgage created on any land or interest therein in favour of a credit agency as security for financial assistance given to an agriculturist by that credit agency shall have priority over any other charge or mortgage that may have been created over such land or interest in favour of any person other than the State Government, a co-operative society or any other financial institution prior to the date on which the charge or mortgage was created in favour of the credit agency.]¹

(2) Where different charges or mortgages over the same land or any interest therein have been created or executed by an agriculturist in favour of,-

- (i) the State Government; or
- (ii) a co-operative society; or
- (iii) one or more credit agency,

such charges or mortgage out of them as is created or executed as security for the financial assistance given as term loan for development purposes shall have priority over the other charges or mortgages:

Provided that prior notice thereof had been given to, and concurrence had been obtained of the State Government or the co-operative society or the credit agency, as the case may be.

(3) Where more than one charge or mortgage had been created or executed as security for the financial assistance given as term loan for development purposes, the charges or mortgages shall have priority in accordance with the dates of their creation or execution.

Explanation.- For the purposes of this section, "term loan for development purposes" means financial assistance which would generally lead to improvement of agriculture and or building up of assets in agriculture but shall not include financial assistance for meeting working capital expenses, seasonal agricultural operations and marketing of crops.

(4) Nothing in this section shall apply to borrowings from one or more co-operative societies only.

8. Mortgage executed by managers of Joint Hindu Families.- (1) Notwithstanding anything contained in any law, where a mortgage in respect of financial assistance given by a credit agency is executed by the agriculturist manager of a Joint Hindu Family, such mortgage shall, subject to the provision of sub-section (2) be binding on every member of such family.

(2) Whenever such mortgage is challenged on the ground that it was executed by the manager for a purpose not binding on the other members (whether such members have attained majority or not), the burden of proving the same shall be on party alleging it.

9. Registration of charges and mortgage in favour of a credit agency.- (1) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under clause (i) of section 6 or in respect of which variation has been made under clause (ii) of that section or a mortgage executed by an agriculturist in favour of a credit agency in respect of financial assistance given by that credit agency, shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such charge, variation or mortgage, as the case may be, provided the credit agency sends to the registering officer within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situate within such time and in such manner as may be prescribed by the State Government for this purpose, by registered post acknowledgment due, a copy of the document creating such charge, variation or mortgage duly certified to be a true copy by an employee of a credit agency authorised to sign on its behalf.

(2) The registering authority receiving such document shall enter the same in Book-I.

10. Noting of charge or mortgage in the Record of Rights.- Whenever a charge or a mortgage on land or interest therein is created or executed by an agriculturist in

favour of a credit agency, the credit agency shall give intimation to the Tahsildar of the taluk in which the land is situated or to any officer authorised by him, of the particulars of the charge or mortgage in its favour. The Tahsildar or the officer authorised by him shall make a note of the particulars of charge or mortgage in the Record of Rights relating to the land over which the charge or mortgage has been created.

¹[10A. Registration of discharge certificates.- Where any document creating a charge or mortgage has been registered in accordance with section 9 and the details thereof noted in the record of rights under section 10 and the liability under the financial assistance has been discharged, the credit agency shall issue a certificate to that effect and the provisions of the said sections shall, mutatis-mutandis, apply to the registration of such certificate and to the deletion of the entry made in the record of rights.]¹

1. Inserted by Act 26 of 1984 w.e.f. 28.04.1984.

CHAPTER III

RECOVERY OF DUES BY CREDIT AGENCIES

11. Removal of bar to attachment and sale by process of court.- Nothing in any law shall prevent in any manner a credit agency from causing any land or any interest therein mortgaged or charged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the court.

12. Recovery of dues of a credit agency on a certificate by the prescribed officer.- (1) On an application made by a credit agency for the recovery of arrears of any sum due to it by an agriculturist towards the financial assistance given to him and on its furnishing a statement of accounts in respect of the arrears, the prescribed officer may after making such enquiries as he deems fit and after giving the agriculturist a reasonable opportunity of being heard, grant a certificate for the recovery of the amount stated therein to be due.

(2) A certificate by the prescribed officer under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable as if it were an arrear of land revenue.

¹[**Explanation.-** For the purposes of this section, "agriculturist" includes his co-obligants and sureties and their legal representatives to the extent of the assets of the deceased in their hands.

(3) The actual period during which any proceedings under this Act or rules made thereunder were pending shall be excluded while computing the period of limitation for filing a suit for the recovery of any monies due in respect of financial assistance under this Act.]¹

1. Inserted by Act 26 of 1984 w.e.f. 28.04.1984.

13. Right of a credit agency to purchase ¹[and dispose immoveable property]¹.- (1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a credit agency to purchase ¹[agricultural land or interest therein or any other immoveable property which has been charged or mortgaged to it]¹ at a sale held in enforcement of the mortgage executed in its favour in respect of the financial assistance given when no person has offered to purchase it for a price which is sufficient to pay to the credit agency the moneys due to it and provisions of Chapter IV of the Karnataka Land Reforms Act, 1961 shall not be applicable in respect of the property so purchased.

1. Substituted by Act 34 of 1978 w.e.f.29.12.1978.

(2) The property so purchased shall be disposed of by such credit agency by sale within a period of five years from the date of purchase.

(3) The sale by a credit agency of such property shall be subject to the provisions of the Karnataka Land Reforms Act, 1961 and the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966.

(4) (a) The right of sale under sub-section (2) shall be subject to the condition that the credit agency shall give notice to the agriculturist referred to in sub-section (1) of section 12 that if he actually pays within the time specified in the notice which shall not be less than sixty days, -

(i) the amount specified in the proclamation of sale for the recovery of which the sale was ordered less any amount which may since the date of such proclamation of sale have been received by the credit agency towards such amount; and

(ii) such other sums including interest as may be prescribed.

(b) The credit agency shall specify in the notice the amount to be paid.

(c) If the agriculturist actually pays the amount in terms of the notice the credit agency shall reconvey the property to him at his cost.

14. Power to lease.- Notwithstanding anything contained in any law for the time being in force a credit agency shall, subject to the provisions of sub-section (1) of section 13, have the right to lease the land acquired by it under the said sub-section :

Provided that the term of such lease shall not be more than one year at a time and that the lessee shall not acquire any interest in the land.

15. Exemption from registration fee.- Notwithstanding anything contained in the Registration Act, 1908, no fee under the said Act shall be payable in respect of an instrument by which immovable property is mortgaged or charged under this Act ¹[or by which it is released from such mortgage or charge]¹.

1. Inserted by Act 26 of 1984 w.e.f. 28.04.1984.

16. Power to make rules.- (1) The State Government, may, after previous publication, by notification, make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-

(i) the form of declaration under section 6 ;

(ii) the time within which and the manner in which the credit agency should send a copy of the instrument referred to in section 9;

(iii) prescribing the officer for purposes of section 12.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the State Government in the official Gazette 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.

CHAPTER IV MISCELLANEOUS

17. Amendment of Karnataka Act 11 of 1959.- In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959),-

(1) in section 2, after clause (e), the following clause shall be inserted, namely :-

"(e-1) 'credit agency' means a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974;"

(2) in sub-section (1) of section 18 after the words "any individual", the words "or any credit agency" shall be inserted;

(3) section 59 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :-

"(2) Notwithstanding anything contained in sub-section (1), such co-operative societies or class of co-operative societies as the State Government may, by notification, specify shall have power to borrow from a credit agency subject to such conditions as may be prescribed."

(4) after section 65, the following sections shall be inserted, namely :-

"65A. Report of audit, inspection and final report to be made available to a credit agency.- The Registrar shall draw the attention of a credit agency financing a co-operative society to the defects noted in any audit, inquiry or inspection of such co-operative society and shall also supply a copy of each of such audit or inquiry report, if demanded in writing by such credit agency.

65B. Inspection of books of co-operative society by a credit agency.- (1) A credit agency shall have the right to inspect the books of any co-operative society which has either applied to the credit agency for financial assistance or is indebted to it.

(2) The inspection may be made either by an officer of the credit agency or a member of its paid staff authorised by the credit agency as competent to undertake such inspection.

(3) The officer or member so inspecting shall, at all reasonable times, have free access to the books, account, documents, securities, cash and other properties belonging to or in the custody of the co-operative society and may also call for such information, statements and returns as may be necessary to ascertain the financial conditions of the co-operative society, and to ensure security of the sums lent to it by the credit agency ;";

(5) in section 70, in clause (d) of sub-section (1), after the words "co-operative society", the words "or a credit agency" shall be inserted;

(6) after section 71A the following section shall be inserted, namely:-

"71B. Powers of credit agency to proceed against members of a co-operative society for the recovery of money due to it from such society.- (1) If a co-operative society is unable to pay its debts to a credit agency by reason of its members committing default in the payment of the moneys due by them, the credit agency may direct the committee of such co-operative society to take proceedings against such member under section 70 or initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction the credit agency may itself proceed against such defaulting members under section 70 or section 101, as the case may be, in which case, the provisions of the Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions, were reference to the credit agency.

(2) Where a credit agency has obtained a decree or award against a co-operative society in respect of money due to it from the co-operative society the credit agency may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society."

18. Money Lenders Act not to apply.- The provisions of Karnataka Money Lenders Act, 1961 (Karnataka Act 12 of 1962) shall not apply to financial assistance granted to an agriculturist by a credit agency.

19. Modified application of section 8 of the Act XXXII of 1956.- Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a credit agency subject to the modification that reference to the court therein shall be construed as reference to the Deputy Commissioner or his nominee and the appeal against the order of the Deputy Commissioner or his nominee shall lie to the ¹[Regional Commissioner]¹

1. Substituted by Act 17 of 2007 w.e.f. 5.1.2007.

¹[19A. Application of Indian Limitation Act, 1963.- The provisions of sections 4, 5 and 15 of the Indian Limitation Act, 1963 (Central Act 36 of 1963) and articles 19, 21, 25, 36, 37, 38 and 62 of the Schedule to the said Act, shall apply mutatis-mutandis to all the proceedings under this Act and rules.

19B. Burden of proof.- Where validity of a mortgage or charge created under this Act is questioned in a court of law, notwithstanding anything contained in any law for the time being in force, the burden of proving that it was not created for agricultural or valid purposes shall be on the party alleging it.]¹

1. Sections 19B and 19C inserted by Act 26 of 1984 w.e.f. 28.04.1984 and are renumbered as sections 19A and 19B in Act 22 of 2000.

* * * *

NOTIFICATION

Bangalore, dated 17th July 1975. [No. PD 87 PCM 71]

S.O. 2050.- In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 (Karnataka Act 2 of 1975), the Government of Karnataka hereby appoints the Seventeenth day of July 1975 as the date on which the said Act shall come into force in the whole of the State of Karnataka.

By Order and in the name of the Governor of Karnataka,

DHIRENDRA SINGH,

Deputy Secretary to Government,

Planning Department.

(Published in the Karnataka Gazette Part IV-2C (ii) Extraordinary No.1946 dated 17-7-1975)

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THE KARNATAKA GOVERNMENT PARKS (PRESERVATION) ACT, 1975)
ARRANGEMENT OF SECTIONS

Statements of Objects and Reasons:

Sections :

1. Short title and commencement.
2. Definitions.
3. Application of the Act.
4. Preservation of Parks.
5. Permission in certain cases.

STATEMENTS OF OBJECTS AND REASONS

I

Act 23 of 1975. - With a view to preserve and maintain certain Government Parks in the State of Karnataka as horticultural gardens and to improve their utility as such parks it is proposed to prohibit alienation of any portion of land or building with such parks.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 473 dated 17.5.1973 at page 4.)

II

Amending Act 24 of 1976 - According to section 4 of the Karnataka Government Parks (Preservation) Act, 1975 no building shall be erected within the parks . Government consider that it is necessary to relax this conditions to enable the taking up of important construction work of "Veera Soudha" in Lalbagh. This proposal does not involve any financial commitment on the part of Government of Karnataka.

Since both the Houses of State Legislature were not in Session an ordinance to the effect was promulgated by the Governor of Karnataka on 9th January 1975.

This Bill seeks to replace the said ordinance.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 627 dated 31.1.1976. at page 3.)

III

Amending Act 30 of 1982.- To enable the construction of 'Veera Soudha' a memorial for freedom fighter, in the lalbagh gardens section 5 was added in 1976 to

the Karnataka Government Parks (Preservation) Act, 1975. IN view of several representations from the public opposing the said proposal it is now proposed to omit the said section 5 and to have the Veera Soudha somewhere else.

Hence the Bill.

(Obtained from L.A. Bill No. 22 of 1982 file No. LAW 82 LGN 80.)

IV

Amending Act 42 of 2003.- Central Jail located in the heart of Bangalore City has been shifted to Parappana Agrahara and a decision has been taken by the State Government to earmark the land and the building of the Central Jail for development and preservation as a park in order to preserve lung space in the heart of the city.

Therefore, it is considered necessary to amend the definition of "park" appearing in section 2 of the Karnataka Government Parks (Preservation) Act, 1975 to empower the State Government to notify the Central Jail premises as park for the purpose of the said Act.

Hence the Bill.

[L.A. Bill No. 13 of 2003]

[Entry 14 of List-II of Seventh Schedule to the Constitution of India]

V

Amending Act 21 of 2010.- It is considered necessary to amend the Karnataka Government Parks (Preservation) Act, 1975 to provide for alienation of certain area of Indira Gandhi Musical Foundation Park to Bruhat Bangalore Mahanagara Palike and Lalbagh to the Bangalore Metro Rail Corporation Ltd., for the following purposes; namely:-

- (i) for widening of the roads by the Bruhat Bangalore Mahanagara Palike, and
- (ii) for construction of elevated station for Metro Rail Project of Bangalore.

As the matter was urgent and both the Houses of the Karnataka State Legislature were not in session, the Government of Karnataka promulgated the Karnataka Government Parks (Preservation) (Amendment) Ordinance, 2008. (Karnataka Ordinance 4 of 2008)

This Bill seeks to replace the said Ordinance.

Hence the Bill.

[L.A. Bill No. 11 of 2009, File No. DPAL 28 Shasana 2008]

[Entry 18 of List II of the Seventh Schedule to the Constitution of India.]

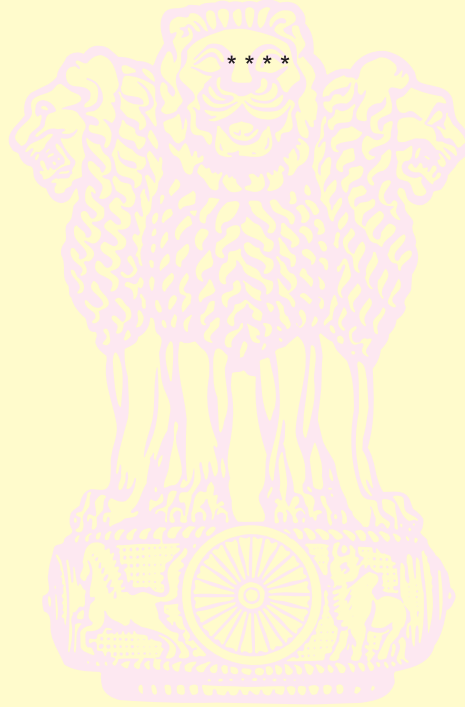
VI

Amending Act 21 of 2011.- It is considered necessary to amend the Karnataka Government Parks (Preservation) Act, 1975, to provide parking space for vehicles of Advocates and visitors in Cubbon Park without disturbing the standing trees.

Hence the Bill.

[L.A. Bill No.22 of 2011, File No.Samvyashae 19 Shasana 2011]

[Entry 18 of List II of the Seventh schedule to the constitution of India.]



KARNATAKA ACT NO. 23 OF 1975

First published in the Karnataka Gazette on the Twenty-second day of May 1975)

THE KARNATAKA GOVERNMENT PARKS (PRESERVATION) ACT, 1975)

(Received the assent of the Governor on the Ninth day of May, 1975)

(As amended by Karnataka Act 24 of 1976, 30 of 1982, 42 of 2003, 21 of 2010 and 21 of 2011)

An Act to make provision to ensure the preservation of certain Government parks in the State of Karnataka.

WHEREAS it is expedient in public interest to preserve certain parks vested in the State Government in the State of Karnataka.

BE it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows :-

1. Short title and commencement.- (1) This Act may be called the Karnataka Government Parks (Preservation) Act, 1975.

(2) It shall come into force at once.

2. Definitions.- In this Act unless the context other-wise requires "Park" includes a garden ¹[or any land with or without building earmarked by the State Government for development and preservation as parks.]¹

1. Inserted by Act 42 of 2003 w.e.f. 6.9.2003

3. Application of the Act.- (1) This Act shall apply to all lands and buildings within the limits of such parks belonging to the State Government as the State Government may, from time to time, by notification in the official Gazette, specify.

(2) The notification referred to in sub-section (1) shall specify as nearly as possible, the situation and limits of such parks.

4. Preservation of parks.- (1) It shall be the duty of the State Government to preserve and maintain as horticultural gardens the parks to which this Act is applicable and take such action as may be necessary to improve the utility of such parks as such gardens.

(2) No land or building within the parks to which this Act is applicable shall be alienated by way of sale, lease, gift, exchange, mortgage or otherwise or no licence for the use of any such land or building shall be granted and any alienation made or licence granted in contravention of this section shall be **null and void**:

Provided that the restriction under this sub-section to lease shall not apply in the case of buildings existing on the date of coming force of this Act.

¹[5. Permission in certain cases :- Notwithstanding anything contained in section 4, the State Government may subject to such conditions and restrictions as it may impose as regards construction, maintenance, management use and like matters alienate an area of,- 4

(a) 1223 sq. mtrs at Indira Gandhi Musical Fountain Park to the Bruhat Bangalore Mahanagara Palike for the purpose of widening of roads; and

(b) 1135. 18 sq. mtrs at Lalbagh gardens along the compound wall of west gate towards western side of the park (presently called R.V. Road) to Bangalore Metro Rail Corporation Limited for the purpose of construction of elevated Station for Metro Rail Project of Bangalore"

(c) 2126.71 sq.mtrs area of Cubbon Park located between Vidhana Soudha and Karnataka High Court Building, East: Park area of survey No. 1284; West: Survey No. 570; North: Park area in survey No. 1284 linking to the nursery and South: Park area of survey No. 1284 opposite to High Court ;

(d) 11,160 sq.mtrs area of Cubbon Park located between East: High Court of Karnataka in survey No. 1284; West: Existing Road between Vidhana Soudha, and High Court in the Cubbon Park area of survey No. 1284; North: General Post Office and South: Cubbon Park area of survey No. 1284.]¹

²[(e) 18028.35 Square meters between High Court Building and Old KGID Building surrounded by,-

East: K.G.I.D. Building and High Court Building Security fence 120.65 meters.

West: Ambedhakar Veedhi 170.68 meters.

North: K.G.I.D. road to Ambedhakar Veedhi. 137.27 meters.

South: High Court Building and Road leading from Ambedhakar Veedhi to High Court Building Security fence 170.42 meters.

to park the Vehicles of High Court Advocates and visitors]².

1. Inserted by Act 21 of 2010. Clause (a) and (b) of section 5 shall be deemed to have come into force with effect from 22nd day of November 2008 and clause (c) and (d) of section 5 shall come into force w.e.f.17.05.2010.

2. Inserted by Act 21 of 2011 w.e.f. 06.04.2011.

THE KARNATAKA PROHIBITION OF BEGGARY ACT, 1975
ARRANGEMENT OF SECTIONS

Statement of Object and Reasons

Sections :

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PRELIMINARY

1. Short title, extent and commencement.

CHAPTER II
DEFINITIONS

2. Definitions.

CHAPTER III
PROHIBITION OF BEGGING

3. Begging prohibited.

CHAPTER IV
CONSTITUTION AND ADMINISTRATION

4. Central Relief Committee.

5. Local Committees.

6. Local administration.

CHAPTER V
INSTITUTIONS

7. Receiving Centres.

8. Relief Centres.

9. Management of institutions.

10. Enforcement of discipline.

CHAPTER VI
PROCEDURE AND PUNISHMENTS

11. Arrest and enquiry.

12. Magistrate to send beggar to the relief centre.

13. Infirm, disabled and decrepit beggars and persons suffering from any incurable disease to be arrested and sent to receiving centres.

14. Medical examination and detention of leprosy patients and lunatics.
15. Beggar to leave Institution on discharge or permission.
16. Absconding beggars how to be dealt with.
17. Abettors to be punished with imprisonment or fine or both.
18. Refusal of a beggar to go to an institution or to a Magistrate punishable with imprisonment or fine or both.

CHAPTER VII MISCELLANEOUS

19. Transfer from one Institution to another.
20. Temporary release of beggars.
21. Unconditional release of beggars.
22. Transfer between relief centres in the State and institutions of a like nature in other States of India.
23. Offences under this Act cognizable.
24. Fines.
25. Priority for cases under the Act.
26. Power to acquire property etc.
27. Appointment of officers.
28. Protection of officers.
29. Public servant.
30. Central Relief Fund.
31. Beggary cess.
32. Board of Visitors.
33. Revision.
34. Appeal.
35. Charge for misconduct.
36. Publication of annual accounts.
37. Administration Report.

CHAPTER VIII CONTROL

38. Powers of Government.

39. Disputes.

40. Rules.

41. Repeal.

SCHEDULE

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STATEMENTS OF OBJECTS AND REASONS

I

Act 27 of 1975.- There are four different enactments in the different areas of the State relating to prohibition of beggary. It is considered necessary to have a uniform law on the subject to the whole of the State of Mysore. Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 27-2-1973 as No. 209 at page 20.)

II

Amending Act 7 of 1982.- In order that the provisions of the Prohibition of Beggary Act are more effectively implemented it was considered necessary to have a more compact Central Relief Committee. It is also proposed to have a small committee to administer the Central Relief Fund.

It was also considered necessary to provide for the enhancement of the period of detention in a relief center for contravention of the provisions of the Act from six months to one year.

An ordinance was promulgated to provide for the above matters.

This Bill seeks to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 3-2-1982 as No. 76 at page 4.)

III

Amending Act 12 of 1988.- Section 19 of the Karnataka Prohibition of Beggary Act, 1975 is intended to be amended to give powers to Chairman of Central Relief Committee to transfer the Beggars from one Institution to another receiving centre, relief centre, in the State.

Section 22 of the Act is intended to be amended to give powers to Chairman, Central Relief Committee instead of the Government to enable inter-state transfer of beggars between relief centres.

Hence, the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 23-1-1988 as No. 57 at page 3.)

IV

Amending Act 26 of 2003.- It is considered necessary to amend the Karnataka Prohibition of Beggary Act, 1975.-

(i) to require that the Bond executed by any person under sub-section (4) or by surety under surety under sub-section (5) of section 11 shall be for a sum of rupees one thousand and two thousand respectively.

(ii) to specify that the period of detention of a beggar under section 12 may extend to three years instead of twelve months with a minimum period of one year.

(iii) to specify that the period of detention of inform, disabled and dicrepit beggars and persons suffering from any incurable disease, under section 13 may extend to three years instead of twelve months with a minimum period of one year.

(iv) to empower the Government to direct any person having custody of the fund of the local authority to pay the balance amount due to the central Relief Fund and to provide that if the amount is not paid in complaine with such order to recover it as an arrears of land revenue.

Hence the Bill.

(Vide L.A. Bill No. 15 of 2002, File No. SAMVYASHAE 02 SHASANA 2002)

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सत्यमेव जयते

KARNATAKA ACT NO. 27 OF 1975

(First published in the Karnataka Gazette on the Nineteenth day of June, 1975)

THE KARNATAKA PROHIBITION OF BEGGARY ACT, 1975

(Received the assent of the Governor on the sixth day of June 1975).

(As Amended by Acts 7 of 1982 , 12 of 1988 and 26 of 2003)

An Act to prohibit persons from resorting to begging and to provide for the detention, training and employment of beggars, for the custody, trial and punishment of beggar offenders and for the relief and rehabilitation of such persons in the State of Karnataka.

WHEREAS it is necessary and expedient to prohibit persons from resorting to begging and to provide for the detention, training and employment of beggars, for the custody, trial and punishment of beggar offenders and for the relief and rehabilitation of such persons in the State of Karnataka;

BE it enacted by the Karnataka State Legislature in the Twenty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Prohibition of Beggary Act, 1975.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force in such areas of the State on such 1[dates]1 as the State Government may, by notification appoint and different dates may be appointed for different areas:

Provided that the provisions of this Act shall not be brought into force in any area unless the State Government is satisfied that suitable facilities exist for the relief of the beggars of that area.

1. The Act has been brought into force in certain areas of the State w.e.f. 1.4.1976 through Notification No. SWD 5 SBR 76 dt. 26.3.1976 and in the rest of the areas w.e.f. 6.11.1997 through Notification No. SWD 15 SBR 97 (1) dt. 28.8.1997

CHAPTER II DEFINITIONS

2. Definitions.- In this Act, unless the context otherwise requires,-

(1) "alms" means anything given gratuitously to a beggar, such as money, cooked or un-cooked food, grains or clothing, or any other thing of value;

(2) "beggar" means any person other than a child who,-

(a) solicits or receives alms in a public place whether or not under any pretence such as singing, dancing, fortune telling, performing tricks, or selling articles;

(b) enters any private premises for the purpose of soliciting or receiving alms;

(c) exposes or exhibits with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease whether of a human being or of an animal;

(d) having no visible means of subsistence, wanders about or remains in any public place in such condition or manner as makes it likely that he exists by soliciting or receiving alms;

(e) allows himself to be used as an exhibit for the purpose of soliciting or receiving alms:

Provided that a person shall not be deemed to be a beggar if he,-

(i) is a religious mendicant licensed by the Central Relief Committee to solicit alms in the prescribed manner ;

(ii) in the performance of any religious vow or obligation as sanctioned by custom or religion collects alms in a private or public place, without being a nuisance; or

(iii) is permitted in writing by the Central Relief Committee to collect contributions in cash or kind from the public for any public institution, whether religious or secular or for the furtherance of any object for the good of the public; or

(iv) is a student collecting alms for the prosecution of his studies;

(3) "Central Relief Committee" means the committee constituted by the Government under section 4;

(4) "child" means a boy, who has not attained the age of sixteen years, or a girl, who has not attained the age of eighteen years;

(5) "Government" means the State Government;

(6) "institution" includes a receiving centre, a relief centre, colony, settlement area or any other institution declared to be such by the Government;

(7) "local area" means an area declared as such by the Government from time to time for the purposes of this Act by a notification;

(8) "local committee" means the committee appointed by the Central Relief Committee for any local area;

(9) "notification" means a notification published in the official Gazette;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "public place" means any place intended for the use of or accessible to the public and includes any public conveyance;

(12) "receiving centre" means a centre established by the Central Relief Committee for the reception and temporary retention of beggars; and

(13) "Relief centre" means a centre established by the Central Relief Committee for the relief of beggars sent thereto.

CHAPTER III PROHIBITION OF BEGGING

3. Begging prohibited.- No person shall beg in the areas in which this Act is in force.

CHAPTER IV CONSTITUTION AND ADMINISTRATION

4. Central Relief Committee.- (1) The Government may by notification constitute a Central Relief Committee (hereunder referred to as the Committee).

¹[(2) The Committee shall consist of,-

- | | | |
|---|-----|---------|
| (a) The Secretary to Government Social Welfare and Labour Department. | ... | Member |
| (b) The Director of Social Welfare in Karnataka | ... | Member |
| (c) The Secretary to Government, Finance Department | ... | Member |
| (d) Four non-official members nominated by the Government | ... | Members |

The Government may appoint one of the Members of the Committee as its Chairman and appoint a Secretary who may or may not be a member of the Committee.

(3) Subject to the pleasure of the State Government, the term of the office of the non-official members shall be for a period of three years:

Provided that if a non-official member of the Committee absents himself without permission of the Committee for two consecutive meetings of the Committee, he shall cease to be a member.

(4) (a) Casual or other vacancies in the Committee shall be filled by the Government in the prescribed manner.

(b) During any vacancy in the Committee the continuing members may act as if no vacancy had occurred.

(5) The non-official members shall be paid such remuneration and allowances as may be prescribed.

(6) The Committee shall meet at least once in two months.]¹

1. Sub-sections (2) to (6) Substituted by Act 7 of 1982 w.e.f. 1.10.1981

(7) Subject to the provisions of this Act and the rules made thereunder, the supervision, direction and control of all matters relating to the administration of relief shall vest in the Committee.

5. Local Committees.- The Committee, may for the purposes of carrying out the provisions of this Act in any local area constitute as prescribed a local committee.

6. Local administration.- (1) Subject to the control of the Central Relief Committee and the rules made in this behalf, the administration of relief to the beggars in any local area shall be vested in the local committee.

(2) For the purpose of carrying out the provisions of this Act in any part of a local area, the local committee may constitute such sub-committees as may be prescribed.

CHAPTER V INSTITUTIONS

7. Receiving Centres.- The Central Relief Committee may provide receiving centres for the reception and temporary retention of beggars or it may by notification declare any institution to be a receiving centre for the purposes of this Act.

8. Relief Centres.- The Central Relief Committee may establish institutions, in such places as may be deemed necessary for the detention, relief and rehabilitation of persons contravening the provisions of section 3 and sent thereto or it may by notification declare any existing institution as a relief centre.

9. Management of institutions.- (1) Subject to the provisions of this Act, the Central Relief Committee shall make provision for the proper management of institutions and for the care of the inmates therein.

(2) Every person detained in any of the institutions shall be subject to such rules of discipline as may be prescribed.

Explanation.- 'Discipline' includes the enforcement of manual labour and hard labour.

10. Enforcement of discipline.- The Central Relief Committee may authorise the officer-in-charge of any institution to enforce discipline in such institution in the manner prescribed.

CHAPTER VI PROCEDURE AND PUNISHMENTS

11. Arrest and enquiry.- (1) Any police officer or such other officer as may be authorised by the Government in this behalf by general or special order who finds any

person other than a child contravening the provisions of section 3 shall arrest such person and inform him of the grounds for such arrest and remove him immediately to the nearest receiving centre.

(2) The officer-in-charge of the receiving centre shall thereupon without delay, hold such enquiry as may be prescribed and if satisfied that the person, if released, will not resort to begging shall release him forthwith, with or without surety.

(3) If the person arrested under sub-section (1) is not released forthwith under sub-section (2) the officer-in-charge of the receiving centre shall produce him before the Executive Magistrate or the Judicial Magistrate or the Metropolitan Magistrate having jurisdiction, within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of such Magistrate provided that no person arrested under sub-section (1) shall be detained in custody beyond the said period without the authority of a magistrate.

(4) The magistrate before whom a person is produced under sub-section (3) shall hold an enquiry and if satisfied that such person has committed the offence of begging but undertakes not to commit such offence, shall release him on his furnishing a bond ¹[for a sum of rupees one thousand]

1. Inserted by Act 26 of 2003 w.e.f. 21.5.2003

(5) If any person released under sub-section (4) is again produced before any Executive Magistrate or a Judicial Magistrate or a Metropolitan Magistrate for a similar offence, and the contravention of section 3 is proved against him, he shall not be released without a surety ¹[for a sum of rupees two thousand]

12. Magistrate to send beggar to the relief centre.- (1) If a person against whom action has been taken under section 11 is again produced before a magistrate for a similar offence, or on the ground that such person does not or is unable to comply with the directions contained in the said section and if the magistrate on enquiry finds that the person has contravened the provisions of section 3, he shall convict him and pass a sentence of detention in the nearest relief centre for such period ¹[which shall not be less than one year but which may extend to three years] ¹ as may be specified in the order.

1. Substituted by Act 26 of 2003 w.e.f. 21.5.2003

(2) An order of detention passed by a magistrate under sub-section (1) may at any time be revoked or modified.

13. Infirm, disabled and decrepit beggars and persons suffering from any incurable disease to be arrested and sent to receiving centres.- (1) Notwithstanding anything contained in section 11 where an officer-in-charge of the receiving centre in the course of enquiry held in pursuance of sub-section (2) of section 11 finds that a person other than a child is infirm, disabled, decrepit or suffering from any loathsome

or incurable disease he shall ascertain from that person if he has any relatives and if there are any, he shall immediately send for them and if on enquiry it is found that the person cannot be taken care of, or if there are no relatives, the officer-in-charge of the receiving centre shall, with the report of his enquiry, immediately produce him before the Executive Magistrate or the Judicial Magistrate or the Metropolitan Magistrate having jurisdiction within a period of twenty-four hours of his arrest excluding the time necessary for the journey from the place of arrest to the court of such magistrate:

Provided that no person arrested shall be detained in the custody beyond a period of twenty-four hours without the authority of a magistrate.

(2) Where a person who is produced under subsection (1) before a magistrate is found on enquiry by such magistrate to have contravened the provisions of section 3, the magistrate shall convict him and pass sentence of detention in the nearest relief centre for such period ¹[which shall not be less than one year but which may extend to three years]¹ as may be specified in the order and an order of detention passed by a magistrate may at any time be revoked or modified by such magistrate.

1. Substituted by Act 26 of 2003 w.e.f. 21.5.2003

14. Medical examination and detention of leprosy patients and lunatics.- (1) Where it appears to the Government that any beggar detained in an institution under any order of a magistrate is of unsound mind or is suffering from leprosy, the Government may, by an order setting forth the grounds for the belief that the beggar is of unsound mind or is suffering from leprosy, order his removal to a mental hospital or a leper asylum or other place of safe custody, there to be kept and treated as the Government directs during the remainder of the term for which he has been ordered to be detained, or if on the expiration of that term, it is certified by a medical officer that it is necessary for the safety of the beggar or of others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the Government that the beggar has ceased to be of unsound mind, or is cured of leprosy, the Government shall, by an order direct the person having charge of the beggar if still liable to be kept in custody, send him to the institution from which he was removed or if the beggar is no longer liable to be kept in custody, order him to be discharged.

(3) Subject to the provision of sub-section (2) the provisions of section 31 of the Lunacy Act, 1912 (Central Act 4 of 1912) or section 14 of the Lepers Act, 1898 (Central Act 3 of 1898), or the corresponding provision of any other law in force in any area of the State, shall apply to every beggar confined in a mental hospital or a leper asylum under sub-section (1) after the expiration of the period for which he was ordered to be detained; and the time during which a beggar is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may be ordered by the magistrate to be detained:

Provided that where the removal of a beggar due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the beggar is detained to apply to a court having jurisdiction under the Lunacy Act, 1912 (Central Act 4 of 1912) or the Lepers Act, 1898 (Central Act 3 of 1898) or under any corresponding law in force in any area of the State for an immediate order of committal to a mental hospital or a leper asylum until such time as the orders of the Government can be obtained in the matter.

15. Beggar to leave Institution on discharge or permission.- No person who is admitted to any Institution shall leave it without an order of discharge or without the written permission of the officer-in-charge of the Institution.

16. Absconding beggars how to be dealt with.- (1) On a report from the officer-in-charge of any institution that a person has left such institution in contravention of section 15, any police officer or such other officer as may be authorised by Government in this behalf, shall arrest such person without a warrant and inform him of the grounds for such arrest and remove him immediately to the institution which he had left.

(2) The officer-in-charge of the institution shall produce him before the Executive Magistrate or the Judicial Magistrate or the Metropolitan Magistrate having jurisdiction, within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of such magistrate and the magistrate shall, after satisfying himself that the said person has contravened the provisions of section 15, order him to be delivered to the institution with a warning.

(3) Any person dealt with under the provisions of sub-section (1), who absconds or takes to begging after he is discharged under section 15 shall be placed before a Judicial Magistrate, or Metropolitan Magistrate who after summary trial may convict him and sentence him to imprisonment for a period not exceeding three months.

17. Abettors to be punished with imprisonment or fine or both.- Whoever employs any person to beg or abets such employment, shall be punished on conviction by a magistrate with simple or rigorous imprisonment for a term which may extend to three months or with fine, which may extend to three hundred rupees or with both.

18. Refusal of a beggar to go to an institution or to a Magistrate punishable with imprisonment or fine or both.- Any beggar refusing or failing to accompany a Police Officer or any officer authorised by the Government in this behalf appear before a magistrate or to be taken to an institution when required under this Act, shall be punished on conviction by a magistrate with simple imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

CHAPTER VII MISCELLANEOUS

19. Transfer from one Institution to another.- ¹[Chairman of the Central Relief Committee]¹ may direct any person detained in a receiving centre or relief centre or any other institution to be transferred therefrom to another receiving centre, relief centre or Institution of a like nature in the State:

Provided that the total period of detention of such person shall in no case be increased by such transfer.

1. Substituted by Act 12 of 1988 w.e.f. 11.5.1988

20. Temporary release of beggars.- (1) The Government or any authority to which the Government may delegate its power in this behalf, may, subject to such conditions as may be prescribed, release on parole for such period as it may deem necessary any beggar detained in a relief centre in case of any serious illness or death of any member of the beggar's family or any of his nearest relatives or for any other sufficient cause.

(2) The period of release of a beggar under sub-section (1) shall not count towards the total period of his detention in the relief centre.

21. Unconditional release of beggars.- At any time after the expiration of three months from the date on which a beggar is detained in a relief centre, if the officer-in-charge of such relief centre is satisfied from the conduct of such beggar in such centre during the period of his detention that there is a probability that such person will abstain from begging, he may recommend to the Government his unconditional release and the Government may order the release of such person unconditionally and thereupon the term for which such person had been ordered to be detained in a relief centre shall be deemed to have expired.

22. Transfer between relief centres in the State and institutions of a like nature in other States of India.- (1) The ¹[Chairman of the Central Relief Committee may]¹, in consultation with the officer-in-charge of a relief centre, order the transfer to that relief centre of any person in respect of whom an order of detention has been made by a competent authority in any other State in India of the nature of an order under this Act directing him to be detained in a relief centre or institution of a like nature, and upon such transfer, the provisions of this Act shall apply to such person as if he had been directed under this Act to be detained in such relief centre by a competent court in the State of Karnataka.

(2) The ¹[Chairman of the Central Relief Committee may]¹, direct any person detained in a relief centre in the State to be transferred therefrom to any institution of a like nature in any other State in India to be detained therein under the provisions of law similar to this Act in force in that State:

Provided that no person shall be transferred under this section to any other State without the consent of the Government of such State.

1. Substituted by Act 12 of 1988 w.e.f. 11.5.1988

23. Offences under this Act cognizable.- All offences under this Act shall be cognizable.

24. Fines.- Fines recovered under this Act, shall be credited to the Central Relief Fund.

25. Priority for cases under the Act.- Notwithstanding anything in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), every court shall, as far as possible give precedence to any proceeding under this Act over any other proceeding before such court.

26. Power to acquire property, etc.- Subject to the rules made in this behalf the Central Relief Committee or any local committee shall have power to acquire property, enter into contracts, institute and defend legal proceedings and do all other acts incidental thereto.

27. Appointment of officers.- The Central Relief Committee or the local committees with the previous sanction of the Central Relief Committee may appoint officers for the purpose of the Act in accordance with the rules prescribed in that behalf.

28. Protection of officers.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

29. Public Servant.- Every person empowered to perform any function under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

30. Central Relief Fund.-¹[(1)]¹ In order to carry out the purposes of this Act, a fund called the Central Relief Fund shall be formed. This Fund shall consist of,-

- (i) subscriptions and donations;
- (ii) grants from the Government;
- (iii) the cess paid under sub-section (3) of section 31;
- (iv) grants from local bodies, and other private or public institutions;
- (v) fines recovered under this Act; and
- (vi) receipts from other sources.

1. Re-numbered by Act 7 of 1982 w.e.f. 1.10.198

¹[(2)]The Central Relief Fund shall be administered by a Committee consisting of the Secretary to Government, Social Welfare and Labour Department who shall be

the Chairman and the Director of Social Welfare and a representative of the Finance Department nominated by the Government who shall be the members of the Committee.

(3) Subject to such rules as may be prescribed, the Central Relief Fund shall be applied for such purposes and in such manner as may be decided by the Committee constituted under sub-section (2) from time to time.]¹

1. Sub-sections (2) and (3) Inserted by Act 7 of 1982 w.e.f. 1.10.1981

31. Beggary cess.- (1) With effect from such date as the Government may by notification appoint, a beggary cess in the form of a surcharge on,-

- (i) tax on lands and buildings;
- (ii) tax on entry of goods into the local area for consumption, use or sale therein;
- (iii) tax on vehicles;
- (iv) tax on professions, trades, callings and employments,

shall be levied in the area within the jurisdiction of every local authority under the relevant laws relating to the levy of such taxes at the rate of three paise for every rupee of the taxes so levied.

(2) The cess levied under sub-section (1) shall be collected by the local authority concerned as if the cess were a tax payable under the relevant laws for the time being in force and the provisions of the said laws relating to the levy and collection of the said tax shall apply in respect of the levy and collection of such cess subject to such modifications as may be prescribed.

(3) The local authority shall be entitled to deduct as the cost of collection ten percent of the amount collected under sub-section (2) and the balance shall be paid by such local authority to 1[the Committee constituted under sub-section (2) of section 30]¹, within such time and in such manner as the Government may direct.

1. Substituted by Act 7 of 1982 w.e.f. 1.10.1981

²[(4) If a local authority fails to make payment of such balance amount within the time as directed by the Government under sub-section (3), the Government may make an order directing the person having the custody of the fund of the local authority concerned to pay such balance amount in priority to any other charge against such fund and such person shall so far as the amounts to the credit of such fund admit, be bound to comply with the order.

(5) Where the balance amount due from a local authority is not paid in compliance with the order of the Government under sub-section(4), the such amount shall be recoverable from such local authority in the same manner as an arrear of land revenue and the amount so recovered shall be credited to the Central Relief Fund"]²

1. Sub-sections (4) and (5) Inserted by Act 26 of 2003 w.e.f. 21.5.2003

32. Board of Visitors.- The Government may, in accordance with the rules made in this behalf, appoint a Board of Visitors in local areas to inspect, from time to time, the institutions situated therein, and to report on the working of these institutions, to the Government and offer such suggestions as they deem fit for the improvement of the said institutions.

33. Revision.- Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any person aggrieved by any decision of a magistrate under this Act, may apply to the Court of Session having jurisdiction in the prescribed manner and within the prescribed time for revision of such decision and the Court of Session in so doing may examine the legality or propriety of the proceedings before the magistrate. The decision of the Court of Session shall be final.

34. Appeal.- (1) If any inmate of an institution is aggrieved by any order passed by any person in charge of the institution, he may appeal against that order to the Chairman of the local committee.

(2) The decision of the Chairman of the local committee may be taken up in second appeal to the Board of Appeal constituted in the prescribed manner by the Central Relief Committee from amongst its members and the order of that Board shall be final.

35. Charge for misconduct.- The Government may on the report of an auditor who may be appointed by the Government to audit the accounts of the Central Relief Fund pass an order charging any person responsible for causing any loss through misconduct or negligence, after obtaining his explanation and shall in every such case certify the amount due from such person, and upon the application of the Central Relief Committee the revenue authorities shall recover the said amount from such person as if it were an arrear of land revenue and credit to the Central Relief Fund.

36. Publication of annual accounts.- The annual accounts of receipts and expenditure, and the budget when sanctioned shall be open to public inspection and shall be published in such manner as may be prescribed.

37. Administration Report.- (1) As soon as may be after the 1st July every year, and not later than such date as may be fixed by the Government, the Central Relief Committee shall submit to the Government an administration report for the preceding official year in such manner and with such details as the Government may direct.

(2) Each local committee shall, as soon as may be after the 1st July of each year and not later than such date as may be fixed by the Central Relief Committee, submit to the Central Relief Committee an administration report for the preceding official year in such manner and in such form as may be fixed by the Central Relief Committee.

(3) The report shall be published in such manner as the Government may direct.

CHAPTER VIII CONTROL

38. Powers of Government.- The Government or any officer authorised by the Government by a general or special order shall have power,-

(a) to enter and inspect any institution under the control or management of the Central Relief Committee or inspect any work in progress under it or under its direction;

(b) to call for any extract from the proceedings of the Central Relief Committee or of any Committee under its control and direction and any return, statement, account or report which the Central Relief Committee may be required to furnish;

(c) to inspect the office of the Central Relief Committee or any office under its control and direction, and call for the records of any such office, and the officer authorised shall submit the records for the orders of the Government if he is satisfied that the order or proceedings of the Central Relief Committee or the local committee is contrary to law or orders for the time being in force.

39. Disputes.- (1) If any dispute arises between the Central Relief Committee and local committees or local bodies in any matter arising under the provisions of this Act and the dispute is not amicably settled, the matter shall be reported to the Government who may take cognizance of the dispute and decide it and the decision of the Government shall be final.

(2) No suit shall be entertained by a civil court in respect of any dispute referred to in sub-section (1).

40. Rules.- (1) The Government may by notification make rules generally for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,-

(a) the constitution of the committees and institutions and their powers, duties and functions;

(b) the constitution of the Board of Visitors, its powers, duties and functions;

(c) the submission of returns and statements and reports and the preparation and submission of annual receipts and expenditure and the annual administration report by the Central Relief Committee and the local committees;

(d) the auditing of accounts;

(e) the constitution of a Board of Appeal, its powers, duties and functions;

(f) the transfer of beggars from one institution to another and on such conditions as may be prescribed from one State to another;

(g) prescribing the form of bonds required to be taken under the provisions of this Act; and

(h) any other matter in respect of which rules are required to be or may be made under this Act.

(3) The power of the Government to make rules under this Act shall be subject to the condition of previous publication.

(4) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the Government in the official Gazette have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

(5) All rules made by the Government under this Act shall be published in the official Gazette both in English and Kannada.

41. Repeal.- On the date on which this Act comes into force in any area in which any of the Acts specified in the Schedule to this Act is in force, such Act shall stand repealed on such date in such area:

Provided that section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899), shall be applicable in respect of such repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

SCHEDULE

1. The Bombay Beggars Act, 1945 (Bombay Act XXIII of 1945).
2. The Prevention of Beggary Act, 1350 F (Hyderabad Act XX of 1350 Fasli).
3. The Madras Prevention of Begging Act, 1945 (Madras Act XIII of 1945).
4. The Mysore prohibition of Beggary Act, 1944 (Mysore Act 33 of 1944).

* * *

NOTIFICATION

I

Bangalore, dated 26th March 1976 [No. SWD 5 SBR 76]

S.O. 979. - In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975), the

Government of Karnataka hereby brings into force the said Act in the areas comprised in the Corporations of the City of Bangalore and City of Hubli-Dharwar and in the Municipalities of Mysore, Mangalore, Belgaum, Gulbarga, Bellary, Davanagere, Bijapur and Shimoga with effect from 1st April 1976.

By Order in the name of the Governor of Karnataka,

N. Narayana Swamy,

Under Secretary to Government,

Social Welfare and Laour Department.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii) dated 8-4-1976)

II

Bangalore, dated 28th August 1997 [No. SWD 15 SBR 97 (I)]

1462- S.O. 1397.- Whereas in notification No. SWD 5 SBR 76, dated 26th March 1976, published in the Karnataka Gazette dated 8th April 1976, (hereinafter referred to as the said notification) provision of the Karnataka Prohibition of Beggary Act, 1975, were brought into force in the areas comprised in the Corporations of the City of Bangalore and City of Hubli-Dharwad and in the Municipalities of Mysore, Mangalore, Belgaum, Gulbarga, Bellary, Davanagere, Bijapur and Shimoga with effect from 1st April 1976.

Whereas the Government of Karnataka is satisfied that suitable facilities exist for the relief of the beggars in the whole of the State of Karnataka.

Now therefore, in exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975) and in partial modification of the said notification, the Government of Karnataka hereby brings into force the provisions of the said Act, in rest of the areas in the Karnataka State with immediate effect.

By Order in the name of the Governor of Karnataka,

B.D. Obappa,

Under Secretary to Government,

Social Welfare Department.

(Published in Karnataka Gazette (Extraordinary) Part IV-2C (ii) dated 6-11-1997.)

* * * *

THE KARNATAKA APPELLATE TRIBUNAL ACT, 1976
ARRANGEMENT OF SECTIONS

Statement of Objects and Reasons:

Sections:

1. Short Title, extent and commencement.
2. Definitions.
3. Constitution of the Tribunal.
4. Principal seat of the Tribunal.
5. Powers of the Tribunal.
6. Conduct of business of the Tribunal.
7. Reference to full Bench.
8. Power of review.
- 8A. Revision by the High Court in certain cases
9. Finality of the orders of the Tribunal.
10. Powers of the Tribunal to call for return, etc.
11. Proceedings of Tribunal to be judicial proceedings.
- 11A. Tribunal to have certain power of a civil court
12. State Representative.
13. Protection of action taken under this Act.
14. Power to make rules.
15. Power to make regulations.
16. Transfer of pending proceedings.
17. Repeal of the Karnataka Ordinances Nos. 22 and 27 of 1975.

* * * * *

STATEMENTS OF OBJECTS AND REASONS

I

Act 10 of 1976.- Karnataka Sales Tax Appellate Tribunal, Karnataka Co-operative Appellate Tribunal and Karnataka Revenue Appellate Tribunal constituted under the respective Acts were functioning as separate Tribunals. These Tribunals were exercising appellate and revisional powers conferred on them by the respective enactments. Since these Tribunals were independent of each other and there was no common co-ordinating body, decisions of these Tribunals even on common questions

of law and interpretation which often arose before them were not uniform, resulting in much confusion and avoidable litigations.

The question of setting up one Tribunal to deal with matters arising under the aforesaid enactments was under active consideration of Government for sometime. Such a common Tribunal, besides securing uniformity in decisions would also facilitate formulation of precedents so helpful for future cases. This will help expeditious disposal and correct decisions for the benefit of one and all. In addition, a common Tribunal results in economy in expenditure on the staff etc.

The Tukol Pay Commission which considered the question has also recommended for the creation of a common tribunal. It was therefore decided to constitute a common Appellate Tribunal with immediate effect.

To achieve the said objects an Ordinance was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette Part IV-2A dated 22-1-1976 at page 34.)

II

Amending Act 59 of 76 .- Appeals pertaining to the Commercial Taxes and Co-operative departments were being heard by a Bench consisting of a District Judge member and an officer of the concerned department, co-opted for the occasion. Similarly in the case of commercial taxes appeals, a non-official, who is an accountant had to be co-opted by the Chairman.

The aforesaid system involved practical difficulties like, having a panel and securing co-opted members keeping such co-opted members without work on non-working days, etc.

It was felt that for the better discharge of the Tribunal's work instead of co-opted members permanent members drawn from the concerned departments were necessary.

Against the decision of the erstwhile Sales Tax Appellate Tribunal in commercial tax matters, a revision lay to the High Court. But this was done away with. It was however felt that as these matters involved large sums of State revenues a revision against the Tribunal's decision to the High Court was necessary.

It was also felt that the Tribunal should have certain powers of a civil court while trying a suit under the Code of Civil Procedure, 1908.

Amendments in terms of the aforesaid were necessary since numerous matters relating to Commercial Taxes were pending before the Tribunal. They were issued as an Ordinance.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 8-11-1976 as No. 4418 at page7.)

III

Amending Act 8 of 1979.- The Karnataka Appellate Tribunal shall, according to sub-section (2) of section 3 of the Karnataka Appellate Tribunal Act, 1976 consists of not less than 8 members including the Chairman. According to sub-section (3), the Chairman shall be an officer not below the rank of a Divisional Commissioner and of the remaining members at least two shall be District judges, one shall be a Commercial Taxes member and one shall be a Co-operative Member and the rest shall be officers not below the rank of the Deputy Commissioner of a District. It is proposed to amend the said section to provide for appointment of more than one Commercial Taxes Member and Co-operative Member.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 22-2-1979 as No. 110. at page 3.)

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सत्यमेव जयते

KARNATAKA ACT NO. 10 OF 1976

(First published in the Karnataka Gazette Extraordinary on the Sixth day of March, 1976)

THE KARNATAKA APPELLATE TRIBUNAL ACT, 1976

(Received the assent of the Governor on the fourth day of March, 1976)

(As Amended by Acts 59 of 1976 and 8 of 1979)

An Act to provide for the constitution of a single Appellate Tribunal for the State of Karnataka.

WHEREAS separate Appellate Tribunals have been constituted under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 for exercising the powers and performing the functions specified in the said Acts ;

WHEREAS it is expedient to have a single Appellate Tribunal for the State of Karnataka and to define the powers and functions of the said Tribunal and to provide for matters incidental thereto or connected therewith ;

BE it enacted by the Karnataka State Legislature in the Twenty-Seventh Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Appellate Tribunal Act, 1976.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force on the first day of January, 1976.

2. Definitions.- In this Act unless the context otherwise requires,-

(a) "member" means a member of the Tribunal;

(b) "Tribunal" means the Karnataka Appellate Tribunal constituted under section 3.

3. Constitution of the Tribunal.- (1) The State Government shall, by notification, constitute for the State of Karnataka an Appellate Tribunal called the Karnataka Appellate Tribunal.

(2) The Tribunal shall consist of not less than ¹[eight]¹ members including the Chairman, appointed by the State Government.

1. Substituted by Act 59 of 1976 w.e.f. 31.7.1976.

¹[(3) The Chairman shall be an officer not below the rank of a Divisional Commissioner and of the remaining members, at least two shall be District Judges, ²[at least one shall be]² an Officer of the Commercial Taxes Department not below the rank of a Deputy Commissioner of Commercial Taxes (hereinafter referred to as ²[a

Commercial Taxes member]²), ²[at least one shall be]² an Officer of the Department of Co-operation not below the rank of a Joint Registrar of Co-operative Societies (hereinafter referred to as ²[a Co-operation member]²) and the rest shall be officers not below the rank of a Deputy Commissioner of a district, having administrative experience]¹.

1. Substituted by Act 59 of 1976 w.e.f. 31.7.1976.

2. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

(4) If, by reason of any decrease in the business of the Tribunal or otherwise, it appears to the State Government that the number of members of the Tribunal should for the time being be reduced, the State Government may, by notification reduce the number of members.

4. Principal seat of the Tribunal.- (1) The principal seat of the Tribunal shall be at Bangalore.

(2) Notwithstanding anything contained in sub-section (1), benches of the Tribunal may, from time to time and subject to such conditions as may be prescribed, have sittings at such other places as the State Government may by notification specify.

5. Powers of the Tribunal.- (1) The Tribunal shall have all the powers which the Karnataka Sales Tax Appellate Tribunal, the Karnataka Co-operative Appellate Tribunal and the Karnataka Revenue Appellate Tribunal had immediately before the commencement of this Act under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 or under any other law. Any reference in any law to the said Tribunals shall be construed as a reference to the Tribunal constituted under this Act.

(2) The State Government may, by notification, confer upon or entrust to the Tribunal any appellate or revisional powers or functions assigned to the Government or other authority or officer by or under any law for the time being in force and the Tribunal shall be competent to exercise the powers or discharge the functions so conferred or entrusted.

6. Conduct of business of the Tribunal .- (1) The powers of the Tribunal in all matters relating to appeals, revisions and other proceedings shall subject to the provisions of sub-sections (2) and (3) be exercised by a Bench of two members, of whom one shall be a District Judge, constituted by the Chairman.

(2) A single member of the Tribunal may, subject to any special or general orders made in this behalf by the Chairman, exercise the powers of the Tribunal in respect of,-

(i) admission of an appeal or revision petition ;

(ii) admission of an appeal or revision petition presented after the expiry of the period allowed by law ;

(iii) stay orders pending disposal of an appeal, revision, reference or other proceedings ;

(iv) any matter of an interlocutory character in appeals, revisions, references or other proceedings ;

(v) such other matters and subject to such conditions as may be prescribed.

(3) The Bench hearing any matter relating to,-

(a) the Department of Co-operation, shall consist of,-

(i) a District Judge; and

¹[(ii) a Co-operation Member;]¹.

1. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

(b) the Department of Commercial Taxes, shall consist of,-

(i) a District Judge; and

¹[(ii) a Commercial Taxes Member;]¹.

1. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

¹[(4) x x x]¹

1. Omitted by Act 59 of 1976 w.e.f. 31.07.1976.

(5) Where an appeal, revision, reference or application is heard by a Bench, the appeal, revision, reference or application shall be decided in accordance with the opinion of the majority ;

¹[Provided that where the Bench hearing the appeal or application is composed of two members and those members differ in opinion, they shall place the papers of the case before the Chairman for the constitution of a full Bench under section 7]¹.

1. Substituted by Act 59 of 1976 w.e.f. 31.07.1976.

7. Reference to full Bench.- (1) Notwithstanding anything contained in section 4, the Chairman may, and if a Bench referred to in sub-section (1) or sub-section (3) of section 6 so thinks fit, shall, subject to such rules as may be prescribed, constitute a full Bench of such number of members as he may specify.

(2) The decision of the full Bench shall be in accordance with the opinion of the majority.

8. Power of review.- (1) The Tribunal may, either on its own motion or on the application of any party affected, review any order passed by itself and pass such orders in reference thereto as it deems necessary:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been discovery of new and important matter or evidence which

after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time or on account of some mistake or error apparent on the face of the record or that there has been any other sufficient reason:

Provided further that,-

(i) no order shall be varied or reversed unless notice has been given to the parties affected ; and

(ii) no order affecting any question of right between private persons shall be reviewed except on the application of the party affected.

(2) Every application under sub-section (1) for review of the order shall be made within a period of ninety days from the date of the order.

(3) The provisions of sections 4, 5 and 12 of the Limitation Act, 1963, shall apply to an application for review under this section.

[8A. Revision by the High Court in certain cases.- (1) Against an order of the Tribunal in any matter arising under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), either party may, within sixty days from the date of communication of the order, prefer a petition to the High Court on the ground that the Tribunal has failed to decide or decided erroneously any question of law:

Provided that the High Court may for sufficient cause shown, admit a petition after the said period of sixty days.

(2) The petition shall be in such form and verified in such manner as may be prescribed and shall, when it is preferred by any person other than the State Government or an officer empowered by it, be accompanied by a fee of one hundred rupees.

(3) If the High Court considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be so dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4) (a) If the High Court does not dismiss the petition summarily it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Tribunal with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Tribunal under clause (a) with its opinion on questions of law raised, the latter shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do, remit the petition to the Tribunal and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment and the said authority shall amend the assessment accordingly and thereupon the amount overpaid by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of the Karnataka Sales Tax Act, 1957.

(7) (a) The High Court may, on the application of either party to the petition, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within such time and in such manner as may be prescribed, and shall, where it is preferred by any person other than an officer empowered by the State Government, be accompanied by a fee of one hundred rupees.

(8) With a view to rectifying any mistake apparent from the record, the High Court may, at any time, within five years from the date of the order passed by it under sub-section (4) amend such order :

Provided that no order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.

(9) In respect of every petition preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.]¹

1. Section 8A inserted by Act 59 of 1976 w.e.f. 31.07.1976.

9. Finality of the orders of the Tribunal.- Notwithstanding anything contained in any law, but subject to the provisions of ¹[sections 8 and 8A]¹, every decision of the Tribunal shall be final and shall not be called in question in any court.

1. Substituted by Act 59 of 1976 w.e.f. 31.07.1976.

10. Powers of the Tribunal to call for return, etc.- The Tribunal may, in respect of matters subject to its appellate or revisional jurisdiction, do all or any of the following, namely:-

(a) call for returns from the authorities subject to its jurisdiction ;

(b) issue general directions and prescribe forms for regulating the practice and proceedings of such authorities :

Provided that such directions and forms shall not be inconsistent with the provisions of any law for the time being in force.

11. Proceedings of Tribunal to be judicial proceedings.- Any proceedings before the Tribunal shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

¹[11A. Tribunal to have certain powers of a Civil Court.- For the purpose of proceedings under this Act, the Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

(a) summoning and enforcing attendance of any person and examining him on oath ;

(b) requiring the discovery and production of any document or any other material which is producible as evidence ;

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

(d) issuing commissions for the examination of witnesses or documents

(e) such other matters as may be prescribed.]¹

1. Section 11A inserted by Act 59 of 1976 w.e.f. 31.07.1976.

12. State Representative.- (1) The State Government shall appoint as its representative before the Tribunal one or more officers with such designation as it may specify.

(2) Such officer or officers shall receive on behalf of the State Government notices issued by the Tribunal and have the right to appear, represent, act and plead on its behalf in such proceedings before the Tribunal, as the State Government may, by general or special order specify. They shall also perform such other duties and be subordinate to such officers as the State Government may direct.

13. Protection of action taken under this Act.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule made thereunder.

14. Power to make rules.- (1) The State Government may, by notification, 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 be made,-

(a) prescribing the other matters and the conditions subject to which a single member may exercise the powers of the Tribunal ;

¹[(b) x x x]¹

1. Omitted by Act 59 of 1976 w.e.f. 31.07.1976

(c) prescribing the conditions subject to which Benches of the Tribunal may have sittings at places other than its principal seat.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following, the session or successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 such rule.

15. Power to make regulations.- The Tribunal shall, with the previous sanction of the State Government, by notification, make regulations consistent with the provisions of this Act and the rules made thereunder for regulating generally the practice and procedure of the Tribunal and the disposal of its business including regulations as to the time within which, in the absence of any express provision in the relevant enactment, appeals or applications to the Tribunal may be filed and as to the costs of or incidental to any proceedings before the Tribunal.

16. Transfer of pending proceedings.- As from the date of commencement of this Act, the Karnataka Co-operative Appellate Tribunal, the Karnataka Sales Tax Appellate Tribunal and the Karnataka Revenue Appellate Tribunal shall cease to function and all proceedings pending before the said Tribunals shall on that day stand transferred to the Tribunal constituted under this Act and thereafter the provisions of this Act shall be applicable to such proceedings as if such proceedings had been commenced before the Tribunal constituted under this Act.

17. Repeal of the Karnataka Ordinances Nos 22 and 27 of 1975.- (1) The Karnataka Appellate Tribunal Ordinance, 1975 (Karnataka Ordinance No. 22 of 1975) and the Karnataka Appellate Tribunal (Amendment) Ordinance, 1975 (Karnataka Ordinance No. 27 of 1975) are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinances shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE KARNATAKA IMPROVEMENT BOARDS ACT, 1976.
ARRANGEMENT OF SECTIONS

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STATEMENTS OF OBJECTS AND REASONS

I

Act 11 of 1976.- In urban areas there have been haphazard growth and development, much to the detriment of the general public, who have been deprived of even normal civic amenities. Unless the irregular growth is immediately checked and properly regulated, it will continue to grow and in course of time the position becomes irremediable. Existing municipal bodies with their numerous duties cannot effectively

attend to this work. Establishment of separate bodies for the purpose, therefore, is very necessary. Such bodies can pay concentrated and undivided attention to this problem.

Also one of the very important items in the Prime Minister's 20 Point Programme is socialisation of urban lands. Implementation of this programme involves quick and speedy

process of acquisition of land, formation of layouts and providing civic amenities and distribution of sites to the deserving public. The municipal bodies cannot achieve this objective quickly and expeditiously. A separate body can do the work better.

Having regard to the urgency and importance of the matter an Ordinance was promulgated. This bill is to replace the Ordinance.

Initially such separate bodies are established in areas with population exceeding one lakh.

Hence this Bill.

(Obtained from L.A. Bill No.10 of 1976.)

II

Amending Act 68 of 1976.- The Karnataka Improvement Boards Act, 1976 was been promulgated for the Development of areas in planned manner. There is no provision to give representation to the Scheduled Caste/Scheduled Tribes and also women in the Karnataka Improvement Boards Act, 1976 with a view to give them representation, a provision made and an amendment to the Section 4 of the Karnataka Improvement Boards Act, 1976 is proposed.

Hence this Bill.

(Published in the Karnataka Gazetted (Extraordinary) Part IV-2A dated 23-7-1976 as No. 3586 at page 2)

III

Amending Act 15 of 1981.- Sub-section (1) of section 3 of the Improvement Boards Act, 1976 (Karnataka Act 11 of 1976) provides for the establishment of Improvement Boards in urban areas, that is, local areas within the jurisdiction of local authorities namely, municipal corporation, municipal council sanitary board or notified area committee.

The proposed amendments are intended to enable the Improvement Board to undertake development works outside the limits of a local authority wherever necessary,

Hence this Bill.

(Published in the Karnataka Gazetted (Extraordinary) Part IV-2A dated 3-2-1981 as No.99 at page 2.)

IV

Amending Act 19 of 1984.-According to Section 1 of the Karnataka Improvement Boards Act 1976 every contract shall be made on behalf of the Board by the Chairman. However, no contract involving an expenditure exceeding Rs.25,000 shall be made except with the previous sanction of Government. No contract involving an expenditure exceeding Rs.10,000 but not exceeding Rs.25,000 shall be made without the previous sanction of the Improvement Board.

It is considered necessary to delegate greater financial powers to the Improvement Boards and the Chairman of the Improvement Boards so as to cut down delays in taking up development schemes. It is proposed to amend section 11 of the Karnataka Improvement Boards Act 1976 so as to give each Improvement Board the power to sanction a contract involving expenditure upto Rs.2,00,000 and to give the Chairman the power to sanction a contract upto Rs.50,000.

Further, Section 34 of the Act provides of the Board to enter into an agreement with the owner of any land or any interest therein whether situated within or without the urban area of the purchase of lease of such land or interest therein for the purpose of the said Act subject to the provisions of the Act and with the previous approval of the Government.

The proposed amendment is intended to delegate powers to the local officers namely the Divisional Commissioners and the Deputy Commissioners to approve purchase of land by the Board by agreement so that the Improvement Boards do not have to send every such proposal to Government for approval. According to the proposed amendment the Board may enter into an agreement with the previous approval of the Deputy Commissioner of respective Division where the total area of such land does not exceed five hectares and of the Divisional Commissioner of the Division where the total area of such land exceeds five hectares but does not exceed ten hectares.

Hence this Bill.

(Obtained from L.A. Bill No.36 of 1983)

V

Amending Act 34 of 1984.- The problem of encroachments on lands belonging to Municipalities, Bangalore Development Authority, Improvement Boards and other Local Bodies has assumed serious proportions. It is necessary to provide deterrent punishment for such encroachments.

2. Hence it is proposed to introduce a provision to make encroachment on lands belonging to the City Improvement Trust Board, Mysore, Village Panchayats, Taluk Boards, Municipal Councils, Municipal Corporations, Improvement Boards and the Bangalore Development Authority an offence punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees. Further, it is also proposed that any person who had unauthorisedly occupied land belonging to any of the said bodies and who fails to vacate such land in pursuance of an order under section 5(1) of the Karnataka Public premises (Eviction of Unauthorised Occupants) Act 1974, shall on conviction be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees, and with a further fine which may extend to Rs. 50 per acre of land or part thereof for every day on which the occupation continues after the date of first conviction. A person who intentionally aids or abets the commission of these offences shall also be liable to receive the same punishment. It is proposed to introduce this provision in the following statutes:

- (1) The City of Mysore Improvement Act, 1903.
- (2) Karnataka Village Panchayats and Local Boards Act, 1959.
- (3) Karnataka Municipalities Act, 1964.
- (4) Karnataka Municipal Corporations Act, 1976.
- (5) Karnataka Improvement Boards Act, 1976.
- (6) Bangalore Development Authority Act, 1976.

3. It is also proposed to extend the application of Chapter IIIA of the Karnataka Slum Areas (Improvement and Clearance) Act 1974 to the whole State and to make the Tahsildar of the Taluk the licensing authority, where there is already no licensing authority.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 6-2-1984 as No.104 at pages 8-9.)

Amending Act 13 of 1985.- Bagalkot town will get submerged with the construction of the Almatti Dam up to a crest level of 1680 feet in the 1st stage of the Upper Krishana Project. The Almatti Dam is expected to reach the crest level of 1680 feet by June, 1987. Hence Government has decided to shift the affected portion of Bagalkot town to a higher location and to construct a new township. It is proposed to constitute a statutory body with statutory powers called the Bagalkot Town Development Authority. The Authority shall take expeditious steps to shift that portion of Bagalkot town which is going to be submerged and for this purpose an Action Plan Committee shall be constituted. There shall also be a High Level Review Committee

with the Chief Minister as Chairman. The Authority shall execute the work approved by the Action Plan Committee and shall comply with the directions issued from time to time by the Action Plan Committee and the High Level Review Committee. The Chief Engineer of the Bagalkot Town Development Authority shall be the Chief Executive and Administrative Officer of the Authority.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 20-3-1985 as No.151 at page 10.)

VII

Amending Act 40 of 1986.- It is considered necessary to include the Minister for Urban Development as one of the members of the High Level Review Committee to review the progress of works done by the Bagalkot Town Development Authority under Section 12C of the Karnataka Improvement Boards Act, 1976. An Ordinance was promulgated for the said purpose.

This Bill seeks to replace the said ordinance.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 19-8-1986 as No.630 at page 2.)

VIII

Amending Act 12 of 2001.- It is considered necessary to amend the Karnataka Improvements Boards Act, 1976 (Karnataka Act 11 of 1976) to incorporate section 37A to provide for Bulk allotment of lands to Group Housing Societies in Bagalkot Town which is being sub-merged due to rising height of Almatti Dam.

Hence the Bill.

(Vide L.A.Bill No.1 of 2001 File No., ಸಂಖ್ಯೆ ಶಾಇ 30 ಶಾಸನ 2000)

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KARNATAKA ACT No. 11 OF 1976

(First published in the Karnataka Gazette Extraordinary on the Eighth day of March, 1976).

THE KARNATAKA IMPROVEMENT BOARDS ACT, 1976

(Received the assent of the Governor on the Second day of March, 1976)

(As Amended by Acts 68 of 1976, 15 of 1981, 19 of 1984, 34 of 1984, 13 of 1985, 40 of 1986 and 12 of 2001)

An Act to provide for the establishment of Improvement Boards for the development of urban areas in the State of Karnataka and for matters connected therewith.

WHEREAS it is expedient to provide for the establishment of Improvement Boards for the development of urban areas in the State of Karnataka;

BE it enacted by the Karnataka State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Improvement Boards Act, 1976.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force on the twentieth day of November, 1975 in the urban areas comprising the Hubli-Dharwar Municipal Corporation and the cities of Belgaum, Bellary, Bijapur, Bhadravathi, Davangere, Gulbarga and Shimoga, and on such date and in such other urban areas as the State Government may, by notification, specify and different dates may be specified for different urban areas.

2. Definitions.- (1) In this Act, unless the context otherwise requires, -

¹[(a) 'Bagalkot Town Area' means the area comprising the Bagalkot City Municipality constituted or continued under the Karnataka Municipalities Act, 1964 and such other area adjacent thereto, as the Government may, from time to time, by notification specify;.]¹

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

²[(aa)]² 'Board' means an Improvement Board established under section 3 for any urban area ¹[and includes the Bagakot Town Development Authority constituted under section 12-A;]¹

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

2. Renumbered by Act 13 of 1985 w.e.f. 10.10.1984.

(b) 'Chairman' means the Chairman of the Board;

(c) 'development', with its grammatical variations means the carrying out of building, engineering or other operations in, on, over or under the land or the making of any material change in any building or land and includes re-development but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(d) 'development scheme' means a scheme prepared and sanctioned under this Act for purposes of the development of an urban area;

(e) 'engineering operations' includes the formation or laying out of means of access to a road or the laying out of means of water supply;

(f) 'Government' means the State Government;

(g) 'improvement' with its grammatical variations means re-development of any built up area, whether partly built or fully built for the purpose of improving the environmental conditions of the locality by undertaking work such as widening of roads extending or augmenting civic amenities, community facilities, utilities and services but does not include regulation and development of drinking water and drainage facilities and slum clearance or slum improvement;

(h) 'improvement scheme' means a scheme prepared and sanctioned under this Act for purposes of the improvement of an urban area;

(i) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(j) 'local authority' means a Municipal Corporation, Municipal Council, Sanitary Board or a Notified Area Committee constituted or continued under any law for the time being in force;

(k) 'member' means a member of the Board;

(l) 'planning authority' means a Planning Authority as defined in clause (7) of section 2 of the Karnataka Town and Country Planning Act, 1961;

(m) 'section' means a section of this Act;

(n) 'street' has the same meaning as in the Karnataka Municipalities Act, 1964;

(o) 'urban area' means any local area which is within the jurisdiction of a local authority ¹[and includes such other area adjacent to the limits of the local authority, as the Government may, from time to time, by notification, specify.]

1. Inserted by Act 15 of 1981 w.e.f. 7.4.1981.

(2) All other words and expressions used herein but not defined shall have the meanings respectively assigned to them in the respective Municipal laws in force in the area.

CHAPTER II IMPROVEMENT BOARDS

3. Establishment and Incorporation of Improvement Boards.- (1) As soon as may be, after the commencement of this Act the Government, may by notification, establish for the purposes of this Act a Board for any urban area to be called the "The Improvement Board of".

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

¹[(3) The jurisdiction of the Board constituted in respect of any urban area shall stand extended to such other areas as may be notified under clause (o) of sub-section (1) of section 2 in respect of such urban area, with effect from the date of such notification.]¹

1. Inserted by Act 68 of 1976 w.e.f. 1.12.1976.

4. Constitution of the Board.- The Board shall consist of the following members, namely:-

(a) a Chairman who shall be appointed by the Government;

(b) an officer of the Town and Country Planning Department not below the rank of an Assistant Director of Town and Country Planning appointed by the Government;

(c) the Executive Engineer of the division;

¹[(cc) two persons, of whom one shall be a woman and one shall be a person belonging to the Scheduled Castes or the Scheduled Tribes, who shall be appointed by the Government;]¹

1. Inserted by Act 68 of 1976 w.e.f. 1.12.1976.

(d) two persons who are ordinarily resident in the urban area for which the Board is constituted, appointed by the Government; and

(e) two elected representatives of the local authority concerned.

5. Term of office.- (1) Subject to the pleasure of the Government, the Chairman and other members appointed by the Government shall hold office for a period of three years:

Provided that the term of office of the representative of the local authority shall come to an end when he ceases to be a councillor or member or when the local authority is superseded.

(2) The Chairman or a member, other than an ex-officio member, may resign his office by writing under his hand addressed to the Government but shall continue in office until his resignation is accepted.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the Board.

6. Casual vacancy.- Any casual vacancy in the office of a member other than the Chairman occasioned by death, resignation or disqualification of such member or occasioned by virtue of the proviso to sub-section (1) of section 5 shall be filled within one month of the occurrence of the vacancy in the same manner and subject so far as may be, to the same conditions specified in section 4 ¹[or section 12-A]¹:

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

Provided that the representatives of a superseded local authority shall be nominated by the Government:

Provided further that the member so chosen or nominated shall continue in office for the remainder of the term of the member in whose place he is appointed.

7. Disqualification for office of membership.- (1) A person shall be disqualified for being appointed as and for being a member if he,-

(a) has been convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is an undischarged insolvent; or

(d) has been removed or dismissed from the service of the Central Government or a State Government or a corporation owned or controlled by the Central Government or a State Government; or

(e) has directly or indirectly by himself or his partner any share or interest in any work done by the order of the Board or in any contract or employment with or under or by or on behalf of the Board;

(f) being an elected member ceases to be a councillor or a member of the local authority concerned;

(g) is employed as paid legal practitioner on behalf of the Board or accepts employment as legal practitioner against the Board.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

8. Removal of member.- The Government shall remove a member if,-

(a) he becomes subject to any of the disqualifications mentioned in section 7:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has

been given an opportunity of making his representation against the proposal ; or

(b) he refuses to act or becomes incapable of acting; or

(c) he, without obtaining leave of absence from the Board, absents from three consecutive meetings of the Board; or

(d) in the opinion of the Government he has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given an opportunity of making his representation against the proposal.

9. Meetings of the Board.- (1) The meetings of the Board shall be convened by the Chairman and shall be held at any place within the jurisdiction of the Board.

(2) The Board shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum) as may be provided by the bye-laws.

(3) If, for any reason the Chairman is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman or in his absence, the person presiding shall have and exercise a second or casting vote.

(5) A member shall not, at any meeting of the Board take part in the discussion of or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

10. Proceedings presumed to be good and valid.- No disqualification of or defect in the appointment of any person acting as Chairman or member shall be deemed to vitiate any act or proceeding of the Board if such act or proceeding is otherwise in accordance with the provisions of this Act.

11. Execution of contracts.- (1) Every contract shall be made on behalf of the Board by the Chairman:

Provided that,-

(a) no contract involving an expenditure exceeding ¹[two lakhs]¹ rupees shall be made except with the previous sanction of the Government;

1. Substituted by Act 19 of 1984 w.e.f. 21.4.1984.

(b) (i) no contract involving an expenditure exceeding ¹[fifty thousand]¹ rupees but not exceeding ¹[two lakhs]¹ rupees shall, subject to clause (a), be made without the previous sanction of the Board;

(ii) no estimate or tender involving an expenditure of ¹[two lakhs]¹ rupees or more,

shall, subject to clause (a), be sanctioned or accepted without the previous sanction of the Board.

1. Substituted by Act 19 of 1984 w.e.f. 21.4.1984.

(2) Sub-section (1) shall apply to every variation or abandonment of a contract or estimate.

(3) Every contract made by the Chairman shall, subject to the approval of the Board, be entered into in such manner and form as may be prescribed.

(4) Any contract not made and executed as provided in this section and the rules made thereunder shall not be binding on the Board.

12. Duties of Chairman.- The Chairman shall-

(1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(2) carry into effect the resolutions of the Board;

(3) keep and conduct the Board's correspondence;

(4) carry out and execute such schemes and works as the Government may require under sub-section (3) of section 13 and incur, subject to the other provisions of this Act, necessary expenditure therefor;

(5) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board; and to the extent specified in section 54 dispose of all questions relating to the service conditions of officers and servants, and their pay, privileges and allowances;

(6) furnish to the Government a copy of the minutes of the Board's proceedings and also furnish any returns or other information which the Government may, from time to time, call for; and

(7) perform such other duties as are imposed on him by or under this Act.

[CHAPTER IIA

BAGALKOT TOWN DEVELOPMENT AUTHORITY

12A. Constitution and incorporation of Bagalkot Town Development Authority.- (1) The Government shall by notification, constitute for the Bagalkot Town Area an authority to be called the Bagalkot Town Development Authority (hereinafter in this Chapter referred to as the Authority).

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal, with power to acquire, hold and dispose of property and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of the following members, namely :-

- (i) a Chairman who shall be appointed by the Government ;
- (ii) the Member of the Parliament representing a part or whole of Bagalkot Town Area;
- (iii) the Members of the Karnataka Legislative Assembly representing a part or whole of Bagalkot Town Area;
- (iv) the President of the City Municipal Council Bagalkot;
- (v) the Secretary to Government, Finance Department, Government of Karnataka, or his nominee ;
- (vi) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka, or his nominee ;
- (vii) the Secretary to Government, Public Works, Command Area Development and Electricity Department, Government of Karnataka, or his nominee ;
- (viii) the Chief Engineer, Upper Krishna Project, Dam Zone, Almatti ;
- (ix) the Deputy Director of Town Planning, Belgaum ;
- (x) the Deputy Commissioner, Bijapur District ;
- (xi) three non-official members being residents of Bagalkot Town Area appointed by the Government ; and
- (xii) the Chief Engineer of the Authority who shall be the member-secretary.

(4) The Authority shall execute the works approved by the Action Plan Committee constituted under section 12-B.

(5) Subject to the provisions of sections 12-A, 12-B, 12-C, 12-D, 12-E, 12-F and 12-G, the provisions of this Act shall mutatis mutandis apply to the Authority.

12B. Action Plan Committee.- (1) In addition to the other powers and duties of the Authority under this Act, the Authority shall take expeditious steps to shift that portion of the Bagalkot Town Area which is to be submerged by the Almatti Dam and for this purpose, there shall be constituted an Action Plan Committee consisting of the following members, namely :-

- (i) the Additional Chief Secretary to Government of Karnataka who shall be the Chairman ;
- (ii) the Commissioner and Secretary to Government, Revenue Department, Government of Karnataka ;
- (iii) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka ;

- (iv) the Secretaries to Government, Public Works Command Area Development and Electricity Department Government of Karnataka ;
- (v) the Secretary to Government, Finance Department, Government of Karnataka.
- (vi) the Director, Karnataka Engineering Research Station, Krishnaraja Sagar ;
- (vii) the Chief Architect to Government of Karnataka ;
- (viii) the Director of Town Planning, Government of Karnataka;
- (ix) the Chief Engineer, Upper Krishna Project, Dam Zone, Almatti ;
- (x) the Divisional Commissioner, Belgaum Division, Belgaum;
- (xi) the Divisional Joint Director, Health and Family Welfare Services, Belgaum Division, Belgaum; and
- (xii) the Chief Engineer of the Authority who shall be the member-secretary.

(2) The Authority shall be bound by the directions, orders and instructions issued from time to time by the Action Plan Committee or the High Level Review Committee constituted under section 12C.

12C. High Level Review Committee.- To review the progress of works done by the Authority there shall be a High Level Review Committee consisting of the following members, namely :-

- (i) the Chief Minister, Karnataka, who shall be the Chairman ;
- (ii) the Minister in-charge of Public Works, Karnataka;
- (iii) the Minister in-charge of Irrigation, Karnataka ;
- (iv) the Minister in-charge of Bijapur District ;

¹[(iva) the Minister incharge of Urban Development, Karnataka;]¹

1. Inserted by Act 40 of 1986 w.e.f. 6.6.1986.

- (v) the Additional Chief Secretary to Government of Karnataka;
- (vi) the Development Commissioner, Government of Karnataka;
- (vii) the Secretary to Government, Finance Department, Government of Karnataka ;
- (viii) the Secretary to Government, Housing and Urban Development Department, Government of Karnataka; and
- (ix) the Secretary to Government, Public Works, Command Area Development and Electricity Department, Government of Karnataka, or his nominee who shall be the member-convener.

12D. Powers of different authorities.- (1) The Chief Engineer of the Authority (hereinafter referred to in this Chapter as the Chief Engineer) may, on behalf of the Authority, sanction any estimates, call for tenders or enter into any contract or agreement the value or amount whereof shall not exceed ten lakhs of rupees in such manner and form as according to the law for the time being in force would bind him, if such contract or agreement were on his own behalf; and every such contract or agreement shall be reported to the Authority at its next meeting.

(2) The Authority may sanction any estimate, call for tenders or enter into any contract or agreement the value or amount whereof exceeds ten lakhs of rupees but does not exceed fifty lakhs of rupees; and where the value or amount of any estimate, contract or agreement exceeds fifty lakhs of rupees the same shall not be entered into except with the previous sanction of the Government.

(3) Every contract or agreement on behalf of the Authority other than a contract or agreement referred to in sub-section (1) shall be in writing and shall be signed by the Chief Engineer and sealed with the common seal of the Authority.

(4) The common seal of the authority shall be in the custody of the Chief Engineer who shall personally affix the seal to any contract or instrument.

(5) The acceptance of any tender shall be subject to such rules as may be prescribed.

(6) A contract not made or executed as provided in this section and the rules made thereunder shall be null and void and shall not be binding on the Authority.

12E. Appointment of Chief Engineer.- (1) The Government shall appoint an officer not below the rank of a Chief Engineer to be the Chief Engineer of the Authority.

(2) The Chief Engineer shall receive such monthly salary and other allowances as the Government may from time to time, determine.

(3) The Government may, from time to time, grant leave of absence for such period as it thinks fit to the Chief Engineer. A copy of every order granting such leave shall be communicated to the Chairman.

12F. Powers and duties of Chief Engineer.- (1) The Chief Engineer shall be the Chief Executive and Administrative Officer of the Authority.

(2) The Chief Engineer shall, in addition to performing such functions as are conferred on him by or under this Act or under any law for the time being in force,-

- (a) carry into effect the resolutions of the Authority ;
- (b) keep and conduct the Authority's correspondence ;
- (c) carry out and execute such schemes and works as the Government may direct and incur necessary expenditure therefor ;
- (d) be responsible for implementing the schemes of the Authority ;

- (e) operate the accounts of the Authority and be responsible for the maintenance of the accounts of the Authority ;
- (f) exercise supervision and control over the accounts and proceedings of all officers and servants of the Authority in matters of executive administration and in the matters concerning the accounts and records of the authority and exercise the powers of the Chairman under sub-section (1) of section 54 relating to the officers and servants of the Authority;
- (g) furnish to the Government a copy of the minutes of the Authority's proceedings and any return or other information which the Government may, from time to time, call for ;
- (h) authenticate by his signature all permissions, orders, decisions, notices and other documents of the Authority and the orders of the Chairman; and
- (i) have all the powers of a major Head of the Department of the State Government under the Karnataka State Civil Services Rules for the time being in force as respects the officers and servants of the Authority.

12G. Powers to remove difficulties.- (1) Notwithstanding anything contained in this Act, if any difficulty arises in giving effect to the provisions of this Act in its application to the Authority, the Government may, by order, make such modifications to the Act or to any rule or bye-law made thereunder as it may consider necessary to remove such difficulty.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions, both Houses agree in making any modification to the order or the annulment of the order, the order, shall, with effect from the date on which the modification or annulment is notified by the Government in the official Gazette, 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 done under such order.]¹

1. Chapter IIA Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

CHAPTER III DUTIES AND POWERS

13. Power of Board to undertake works and incur expenditure for development, improvements, etc.- (1) The Board may, subject to the control of the Government,-

- (a) draw up detailed schemes (hereinafter referred to as development schemes or Improvement Schemes) for the development or improvement or both of the areas within its limits; and

(b) undertake and execute any such Development Schemes or Improvement Schemes as may be necessary from time to time and incur expenditure therefor.

(2) The Board may also from time to time make any new or additional development schemes or Improvement Schemes,-

(i) on its own initiative from its resources; or

(ii) at the request of the local authority concerned, if such local authority places at the disposal of the Board the necessary funds for framing and carrying out any such schemes:

Provided that the schemes of the Board referred to in clause (a) of sub-section (1) and in this sub-section shall be prepared in conformity with the Outline Development Plan or Comprehensive Development Plan, if any, of the Planning Authority of the area concerned.

(3) Notwithstanding anything contained in sub-sections (1) and (2) but subject to conformity with the Outline Development or Comprehensive Development Plans referred to in sub-section (2), the Government may, when it deems necessary, require the Board to take up any Development Scheme or Improvement Scheme or work and execute it in accordance with such terms and conditions as may be specified by the Government.

14. Particulars to be provided for in a development scheme or Improvement Scheme.- Every development scheme or improvement scheme under section 13,-

(1) shall, within the limits of the area comprised in the scheme, provide for,-

(a) acquisition of any land which, in the opinion of the Board, is necessary for the execution of the scheme; and

(b) laying or re-laying out of all or any land including the construction and reconstruction of buildings and the formation and alteration of streets;

(2) may, within the limits aforesaid, provide for,-

(a) raising any land which the Board may deem expedient to raise for the better drainage of the locality;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(c) the whole or any part of the sanitary arrangements required;

(d) sites for parks, playgrounds, stadium, recreation grounds, school buildings, markets, motor vehicles stands, theatres, police stations, post offices, co-operative societies, public urinals and latrines, petrol service stations, hospitals, dispensaries, banks, burial and cremation grounds and sites for public purposes of other kinds;

(3) may, within the limits aforesaid, provide for the construction of houses for the

accommodation of the persons to be displaced in the execution of the scheme and such accommodation shall be deemed to include shops.

15. Procedure after preparation of the scheme.- (1) When any development scheme or improvement scheme has been prepared, the Board shall prepare a draft of a notification stating the fact of a scheme having been made and naming a place where the particulars of the scheme, a map of the area comprised therein and a statement specifying the land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment tax may be seen at all reasonable hours and shall,-

(a) communicate a copy of such notification to the local authority concerned which shall, within sixty days from the date of receipt thereof, forward to the Board, for transmission to the Government as hereinafter provided, any representations which the local authority may think fit to make with regard to the scheme; and

(b) cause a copy of the said notification to be published in the official Gazette and affixed in some conspicuous part of the Board's office, the Deputy Commissioner's office, the office of the local authority concerned and in such other places as the Board may consider necessary.

(2) If no representations is received from the local authority within the time specified in the communication under clause (a) of sub-section (1), the concurrence of the local authority to the proposal shall be deemed to have been given.

(3) During the thirty days next following the day on which such notification is published in the official Gazette, the Board shall serve a notice on every person whose name appears in the assessment list of the local authority within the local limits of whose jurisdiction the area comprised in the scheme is situated or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which it is proposed to acquire in executing the scheme requiring such person to show cause within thirty days why such acquisition of the building or the land and the recovery of the betterment tax as specified in the notice should not be made.

16. Forwardal of scheme.- (1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the Scheme, the Board shall, after consideration of any representation received under section 15 and after making such modifications in the scheme as it may deem fit, apply to the Government for sanction to the scheme.

(2) The application for sanction shall, save in the case provided for by sub-section (3), be accompanied, by,-

(a) a description with full particulars of the scheme including the reasons for any modifications made therein;

- (b) complete plans and estimates of the cost of executing the scheme;
- (c) a statement specifying the land proposed to be acquired;
- (d) any representation received under sub-section (1) of section 15;

(e) a schedule showing the rateable value, entered in the assessment list of the local authority at the date of the publication of a notification relating to the land under section 15, or the land revenue assessment of all land specified in the statement under clause (c); and

- (f) such further particulars, if any, as may be prescribed.

(3) When under any development scheme or improvement scheme provision is made for the construction of houses the Board may, after complying with the provisions of section 15, submit to the Government for sanction plans and estimates for the construction of such houses and on receipt of such sanction the provisions of section 17 shall, with all necessary modifications be applicable to the part of the scheme providing for the construction of such houses, as if such part were the scheme.

17. Sanction to scheme and republication in case of modification.- (1) The Government may sanction either with or without modification or may refuse to sanction or may return for reconsideration, a development scheme or improvement scheme submitted to it under section 16.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Board, the Board shall, if the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired, publish the modified scheme in the manner specified in section 15.

18. Upon sanction, declaration to be published giving particulars of land to be acquired.- (1) Upon sanction of the scheme, the Government shall publish in the official Gazette a declaration stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the scheme is required for a public purpose.

(2) The declaration shall state the limits within which the land proposed to be acquired is situated, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Board shall, upon the publication of the said declaration proceed to execute the scheme.

(4) If at any time it appears to the Board that an improvement can be made in any part of the scheme, the Board may alter the scheme for the purpose of making such

improvement and shall subject to the provisions of sub-sections (5) and (6) forthwith proceed to execute the scheme as altered.

(5) If the estimated cost of executing the scheme as altered exceed, by a greater sum than five per cent of the estimated cost of executing the scheme as sanctioned, the Board shall not, without the previous sanction of the Government, proceed to execute the scheme as altered.

(6) If the scheme as altered involves the acquisition otherwise than by agreement, of any land other than that specified in the Schedule referred to in clause (e) of sub-section (2) of section 16 the provisions of sections 15 and 16 and of sub-section (1) of this section shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

19. Levy of betterment tax.- (1) Where as a consequence of execution of any development or improvement scheme, the market value of any land in the area comprised in the scheme which is not required for the execution thereof has, in the opinion of the Board, increased or will increase, the Board shall be entitled to levy on the owner of the land or any person having an interest therein a betterment tax in respect of the increase in value of the land resulting, from the execution of such scheme.

(2) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme, estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment tax shall be one-third of such increase in value.

20. Assessment of betterment tax by the Board.- (1) When it appears to the Board that any development or improvement scheme is sufficiently advanced to enable the amount of the betterment tax to be determined, the Board may, by an order made in this behalf, declare that for the purpose of determining the betterment tax the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Board proposes to assess the amount of the betterment tax in respect of the property under section 19.

(2) The Board shall then assess the amount of betterment tax payable by the person concerned after giving such person an opportunity of being heard and such person shall, within sixty days from the date of receipt of the notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2) such assessment shall be final.

(4) If the person concerned does not accept the assessment or fails to give the Board the information required by sub-section (2) within the period specified therein the Board shall make a reference to the District Court for determining the betterment tax payable by such person.

21. Manner of payment of betterment tax.- The betterment tax determined under section 20 shall be paid within such time and in such number of instalments not exceeding ten as may be specified by the Board together with interest at such rates as may be prescribed.

22. Recovery of betterment tax.- Where any person liable to pay betterment tax fails to pay the same within the time specified by the Board or makes default in payment of two consecutive instalments or any three instalments, the Board shall be entitled to recover the whole of the amount due together with interest from the said person or his successor-in-interest in such land in the manner provided in Chapter VII of the Karnataka Municipalities Act, 1964, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice sell the land or the interest of the said person or his successor-in-interest in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter.

23. Payment no bar for acquisition under a fresh declaration.- If any land, in respect of which the payment of a betterment tax has been accepted or determined under section 20 be subsequently required for any of the purposes of this Act, the acceptance or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

24. Power of Board to take up works for further development.- Notwithstanding anything contained in this Act, the Board may, with the previous sanction of the Government, take up such works in regard to any area as the Board considers necessary or desirable for the further development of that area.

25. Crediting betterment tax collected to the funds of the local authority in certain cases.- Where the increase in value of any land is as a result of the execution of a development or improvement scheme made at the request of a local authority and for which the local authority has placed at the disposal of the Board necessary funds, the betterment tax collected by the Board from the person concerned shall, after deducting ten percent thereof as collection charges, be credited by the Board to the local authority.

26. Board to execute schemes within three years.- The Board shall execute a development scheme or an improvement scheme within a period of three years from the date of sanction of the Scheme :

Provided that the Government may, by order, extend the time for execution.

CHAPTER IV GENERAL

27. Land vested in a local authority and required by the Board for formation or alteration of street to be vested temporarily in the Board.- Whenever under any development or improvement scheme, the whole or any part of any existing public street or other land vested in a local authority is included in the site of any part of a street to be formed, altered widened, diverted, raised, re-arranged or reconstructed by the Board, the Board shall give notice to the local authority concerned that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the "part required") is required by it as part of a street to be dealt with as aforesaid, and the part required shall, thereupon subject to the provisions of sub-section (1) of section 29, be vested in the Board.

28. Board to exercise powers and functions of local authorities.- (1) In any urban area or part thereof to which this Act applies, the Government may, by notification, declare that from such date and for such period and subject to such restrictions and modifications, if any, as may be specified in the notification, the powers and functions of the local authority or a standing committee thereof shall be exercised and discharged by the Board:

Provided that the local authority shall be consulted before making such declaration, if such area or part thereof lies within the limits of the local authority.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the local authority or any standing committee or officer thereof shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Board by such declaration.

(3) The Board may delegate any of the functions exercisable by it under sub-section (1) to any officer or servant of the Board.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control as may be laid down by the Board.

29. Streets on completion and open spaces to vest in and be maintained by the local authority.- (1) The Government, after consulting the local authority and on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any Scheme sanctioned by the Government and that such lamps, lamp-posts and other apparatus as are, in its opinion, necessary for the lighting thereof and should be provided by the Board have been so provided shall declare such street to be a public street, and such street shall thereupon vest or re-vest, as the case may be, in the local authority and the local authority shall thenceforward maintain, keep in repair,

light and cleanse such street. If the local authority concerned does not reply within sixty days when it is consulted by the Government, its concurrence shall be deemed to have been given.

(2) Any open space reserved for ventilation and the areas reserved for motor parks, playgrounds, public urinals and latrines, burial and cremation grounds in any part of the area within the jurisdiction of the local authority and provided by the Board as part of any development scheme or improvement scheme sanctioned by the Government shall be transferred on completion to the local authority and shall there upon vest in the local authority.

(3) Any dispute which arises between the Board and the local authority in regard to interpreting or implementing the provisions of this section shall be determined by the Government, whose decision shall be final.

30. Board not to sell or otherwise dispose of sites in certain cases.- The Board shall not sell or otherwise dispose of any sites for the purpose of constructing buildings thereon for the accommodation of persons until all the improvements specified to section 29 have been substantially provided for.

31. Forming of new extensions or layouts or making new private streets.- (1) Notwithstanding anything to the contrary in any law for the time being in force, no person shall form or attempt to form any extension or layout for the purpose of constructing buildings thereon without the express sanction in writing of the Board and except in accordance with such conditions as the Board may specify :

Provided that where any such extension or layout lies within the limits of a local authority, the Board shall not sanction the formation of such extension or layout without the concurrence of the local authority. The concurrence of the local authority shall be deemed to have been given if it fails to convey its opinion within sixty days after it is consulted :

Provided further that where the local authority and the Board do not agree on the formation of, or the conditions relating to the execution or layout, the matter shall be referred to the Government whose decision thereon shall be final.

(2) Any person intending to form an extension or layout or to make a new private street shall send to the Chairman, a written application with plans and estimates showing such particulars, as may be prescribed by bye-laws made by the Board.

(3) The provisions of this Act and of any rules or bye-laws made under it as to the level and width of streets and the height of buildings abutting thereon, shall apply also in the case of streets referred to in that sub-section shall be subject to the approval of the Board.

(4) Within six months after the receipt of any application under sub-section (2), the Board shall sanction the forming of the extension or layout or the making of streets on

such conditions as it may think fit or disallow it or ask for further information with regard to it.

(5) The Board may require the applicant to deposit, before sanctioning the application, the amount necessary for meeting the expenditure for making roads, side-drains, culverts, under-ground drainage and water supply and lighting and the charges for such other purposes as the applicant may be called upon by the Board to deposit, provided he agrees to transfer the ownership of the roads, drains, water supply mains and open spaces laid out by him to the Board permanently without claiming any compensation therefor.

(6) Such sanction may be refused,-

- (i) if the proposed street would conflict with any arrangements which have been made or which are, in the opinion of the Board likely to be made, for carrying out any general scheme of street improvement or other schemes of improvement or development by the Board ;
- (ii) if the proposed street does not conform to the provisions of this Act, and the rules and bye-laws made under it ;
- (iii) if the proposed street is not designed so as to connect at one end with a street which is already open ; or
- (iv) if the layout, in the opinion of the Board, cannot be fitted with any existing or proposed development or improvement schemes of the Board.

(7) No person shall form a layout or make any new private street without the sanction of or otherwise than in conformity with the conditions imposed in this behalf by the Board. If the Board requires further information from the applicant, no steps shall be taken by him to form the layout or make the street until orders have been passed by the Board after the receipt of such information:

Provided that the passing of such orders shall not, in any case, be delayed for more than six months after the Board has received all the information which it considers necessary to enable it to deal finally with the said application.

(8) If the Board does not refuse sanction within six months from the date of receipt of the application under sub-section (2) or when information is called for under sub-section (7), within six months from the date such information is furnished, such sanctions shall be deemed to have been granted and the applicant may proceed to form the extension or layout or to make the street but not so as to contravene any of the provisions of this Act and the rules or bye-laws made under it.

(9) Every extension or layout for the formation of which sanction is granted or deemed to have been granted under this section shall be in conformity with the Outline Development Plan or the Comprehensive Development Plan, if any, of the Planning Authority.

(10) Any person who forms or attempts to form any extension or layout in contravention of the provisions of sub-section (1) or sub-section (2) or makes any street without or otherwise than in conformity with the orders of the Board under sub section (7) shall be liable, on conviction, to fine which may extend to one thousand rupees.

32. Alteration or demolition of extension, layout or street.- (1) If any person forms an extension or layout or makes any street referred to in section 31 or puts up any building without or otherwise than in conformity with the orders of the Board under the said section, the Board may, whether or not such person be prosecuted under this Act, by notice,-

(a) require him to show sufficient cause by a written statement signed by him and sent to the Board on or before such day as may be specified in the notice, why such extension, layout or street should not be altered to the satisfaction of the Board or if such alteration be deemed impracticable by the Board, why such extension, layout or street should not be demolished, or

(b) require him to appear before the Board either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Board why such extension, layout or street should not be so altered or demolished, the Board, may for reasons to be recorded in writing direct the alteration or demolition of such extension, lay-out or street.

(3) If any person fails to comply with any direction issued under sub-section (2) the Board may carry out the direction and recover the cost incurred therefor from such person as if it were arrears of land revenue.

¹[32A. Prohibition of unauthorised occupation of land.- (1) Any person who unauthorisedly enters upon and uses or occupies any land belonging to the Board to the use or occupation of which he is not entitled or has ceased to be entitled, shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees.

(2) Any person who having unauthorisedly occupied, whether before or after the commencement of the Karnataka Municipal Corporations and Certain other Laws (Amendment) Act, 1984 any land belonging to the Board to the use or occupation of which he is not entitled or has ceased to be entitled, fails to vacate such land in pursuance of an order under sub-section (1) of section 5 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974), shall, on conviction, be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees and with a further

fine which may extend to fifty rupees per acre of land or part thereof for every day on which the occupation continues after the date of the first conviction for such offence.

(3) Whoever intentionally aids or abets the commission by any other person of an offence punishable under sub-section (1) or sub-section (2) shall, on conviction, be punishable with the same punishment provided for such offence under the said sub-sections.]¹

1. Section 32A Inserted by Act 34 of 1984 w.e.f. 26.6.1984.

33. Power of Board to order work to be carried out or to carry it out itself in default.- (1) The Board may,-

(a) if any person permitted to carry out the work relating to the forming of the extension or lay-out or the making of a street, does not carry it out ; or

(b) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewerred, conserved or lighted to the satisfaction of the Board,

by notice, require the person forming the extension or lay-out or the owners of such street or part and the owners of buildings and lands abutting such street or part, including in cases where the owners of the land or the building thereon are different the owners both of the land and of the building, to carry out any work which, in its opinion, may be necessary and within such time as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Board may, if it thinks fit, execute it and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1) in such proportions as may be determined by the Board, such expenses may be recovered from the persons concerned as if they were arrears of land revenue.

CHAPTER V ACQUISITION OF LAND

34. Board to have power to acquire land by agreement.- Subject to the provisions of this Act and with the previous approval of the Government the Board may enter into an agreement with the owner of any land or any interest therein whether situated within or without the urban area for the purchase or lease of such land or interest therein for the purpose of this Act:

¹[Provided that the Board may enter into an agreement with the previous approval of the Deputy Commissioner of the district where the total area of such land does not exceed five hectares and of the Divisional Commissioner of the division where the total area of such land exceeds five hectares but does not exceed ten hectares.]¹

1. Inserted by Act 19 of 1984 w.e.f. 21.4.1984.

35. Provisions applicable to the acquisition of land otherwise than by agreement.- (1) The acquisition otherwise than by agreement of land within or without

the urban area under this Act shall be regulated by the provisions, so far as they are applicable, of the Land Acquisition Act, 1894.

(2) For the purpose of sub-section (2) of section 50 of the Land Acquisition Act, 1894, the Board shall be deemed to be the local authority concerned.

(3) After the land vests in the Government under section 16 of the Land Acquisition Act, 1894 the Deputy Commissioner shall, upon payment of the cost of the acquisition, and upon the Board agreeing to pay any further costs which may be incurred on account of the acquisition, transfer the land to the Board, and the land shall thereupon vest in the Board.

CHAPTER VI PROPERTY AND FINANCE

36. Power of Government to transfer to Board lands belonging to it or to a local authority.- (1) The Government may, by notification, for the purposes of this Act and subject to such limitations and conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Board any land belonging to Government or to a local authority.

(2) No land belonging to a local authority shall be vested in the Board under sub-section (1) except after consulting such local authority.

(3) Whenever it appears to the Government that any land vested in the Board under sub-section (1) is not required by the Board for purposes of this Act or any other land vesting in the Board is required by the Government or local authority, the Government may, by notification, direct that the land shall revert in or stand transferred to the Government or the local authority concerned, as the case may be.

37. Power of Board to lease, sell or transfer property.- Subject to such restrictions, conditions and limitations as may be prescribed, the Board shall have power to lease, sell or otherwise transfer any movable or immovable property which belongs to it, and to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any development scheme.

¹37A. Power of the Bagalkot Town Development Authority to make bulk allotment.- Notwithstanding anything contained in this Act or development scheme sanctioned under this Act, the Bagalkot Town Development Authority may, subject to any restriction, condition and limitation as may be prescribed, make bulk allotment by way of sale, lease or otherwise of any land which belongs to it or is vested in, or acquired by it, for the purpose of any development scheme,-

- (i) to the State Government; or
- (ii) to the Central Government; or

- (iii) to any Corporation, Body or Organisation owned or controlled by the Central Government or the State Government; or
- (iv) to any Housing Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959); or
- (v) to any society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960); or
- (vi) to a trust create wholly for the charitable, educational or religious purpose;

Provided that prior approval of the Government shall be obtained for allotment of land to any category listed above except category (i)]¹

1. Section 37A Inserted by Act 12 of 2001 w.e.f. 11.4.2001.

38. Power of Board to borrow.- (1) The Board may, from time to time with the previous sanction of the Government and subject to such conditions as may be prescribed in this behalf borrow any sum required for the purpose of this Act.

(2) The rules made by the Government for the purpose of this section may empower the Board to borrow by the issue of debentures and to make arrangement with the bankers.

(3) Debentures issued by the Board shall be in such form as the Board may, with the sanction of the Government, from time to time determine.

(4) Every debenture shall be signed by the Chairman and one other member of the Board.

(5) Loans borrowed and debentures issued under this section may be guaranteed by the Government as to the repayment of principal and payment of interest at such rate as may be fixed by the Government.

39. Board Fund, the items to be credited to such Fund and its deposit.- (1) The Board shall have and maintain its own Fund to which shall be credited,-

- (a) all moneys received by the Board from the Government by way of grants, loans, advances or otherwise;
- (b) all fees, fines and charges received by the Board under this Act;
- (c) all moneys received by the Board from the disposal of lands, buildings or other property movable or immovable;
- (d) all moneys received by the Board by way of rents and profits or in any other manner from any other source.

(2) The Fund shall be applied by the Board in the administration of this Act and for no other purposes.

(3) The Board shall keep such sum of money out of its Fund as may be prescribed in the Government Treasury and any money in excess of it shall be deposited in a Scheduled Bank or invested in such manner as may be approved by the Government.

40. Laying of annual estimate of income and expenditure.- (1) The Chairman shall, at a special meeting to be held not later than the first day of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall, from time to time, direct.

(2) Such estimate shall make provision for the efficient administration of this Act and a copy of the estimate shall be sent by post or otherwise to each member of the Board at least ten clear days prior to the date of the meeting.

41. Board to approve or amend such estimates.- The Board shall consider the estimate so submitted to it and shall approve the same either unaltered or subject to such alterations as it thinks fit.

42. Estimates to be submitted to Government for sanction.- The estimate, as approved by the Board shall be submitted to the Government which may either sanction or disallow such estimate or any portion thereof and return the same for amendment. The Board shall forthwith amend the estimate so returned and shall re-submit the amended estimate to the Government. A copy of the estimate as sanctioned by the Government shall be sent to the local authorities concerned.

43. Supplementary estimates may be prepared and submitted when necessary.- The Board may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to it. Every such supplementary estimate shall be considered and approved by the Board and submitted to the Government for sanction and a copy of the estimate as sanctioned shall be sent to the local authority concerned, in the same manner as if it were an original annual estimate.

44. Provisions regarding expenditure.- No sum shall be expended by or on behalf of the Board, unless included in the estimate or a supplementary estimate :

Provided that an expenditure not exceeding twenty-five thousand rupees may be incurred, though not so included, in unforeseen circumstances or to satisfy a decree of a court and in such a case the Chairman shall make a report, as soon as practicable, to the Government indicating the circumstances in which the expenditure was incurred and the source from which it is proposed to be met :

Provided further that any such expenditure shall be included in a supplementary estimate to be approved and sanctioned in the manner laid down in section 43.

45. Power to make reappropriation.- Subject to such rules as may be made under this Act, the Board may within the sanctioned budget make reappropriations from one sub-head to another or from one minor head to another minor head under the same major head of account.

46. Audit of Accounts.- (1) The accounts of the Board shall be audited annually by an auditor appointed by the Government.

(2) The auditor shall, for the purpose of the audit, have access to all the accounts and other records of the Board.

(3) The Board shall pay from its fund such charges for the audit as may be prescribed.

47. Power of auditor to require production of documents and attendance of persons concerned.- (1) The Auditor may,-

- (a) require in writing the production of such vouchers, statement, returns, correspondence, notes or other documents in relation to the accounts as he may think fit;
- (b) require in writing any salaried servant of the Board accountable for or having the custody or control of such vouchers, statements, returns, correspondence, notes or other documents or of any property of the Board or any person having directly or indirectly by himself or his partner, any share or interest in any contract with or under the Board to appear in person before him at the Board office and answer any question ;
- (c) in the event of a clarification being required on any specific point from the Chairman or any officer or member in writing, require such person to furnish the clarification on such point.

(2) The auditor may, in any requisition made under sub-section (1) fix a reasonable period not being less than three days within which the said requisition shall be complied with.

(3) The auditor shall give to the Board not less than two weeks' notice in writing of the date on which he proposes to commence the audit :

Provided that notwithstanding anything contained in the sub-section, the auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence a special or detailed audit if so directed by the Government without giving notice.

48. Penalty for disobeying requisition under section 47.- Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clauses (a), (b) or (c) of sub-section (1) of section 47 shall, on conviction, be punished with fine which may extend to two hundred rupees:

Provided that no proceedings under this section shall be instituted except with the sanction of the Government or such other officer as the Government may authorise in this behalf :

Provided further that before giving such sanction the Government or the

authorised officer shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

49. Audit Report.- (1) The auditor shall include in his report a statement of,-

- (a) every payment which appears to him to be contrary to law;
- (b) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person;
- (c) the amount of any sum received which ought to have been but is not brought into account by any person, and
- (d) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (a), (b) and (c).

(2) Within three months after the completion of the audit, the auditor shall send a report on the accounts audited and examined to the Board.

50. Board to remedy defects.- (1) Within two months of the receipt of the report under section 49, the Chairman shall place it before a meeting of the Board together with a statement of the action taken or proposed to be taken to remedy any defect or irregularity that may have been pointed out in such report and an explanation in regard thereto and shall with the approval of the Board, remedy the defects or irregularities. He shall also as soon as may be, after the decision of the Board send to the Controller, State Accounts Department, intimation of having remedied the defects or irregularities pointed out in the report, or shall, within the said period, supply the Controller any further explanation in regard to such defects or irregularities as the Board may decide to give.

(2) On receipt of such intimation or explanation the Controller may,-

- (a) accept the explanation given by the Board and withdraw the objection;
- (b) direct that the matter be re-investigated at the next audit or at any earlier date; or
- (c) hold that the defects or irregularities have not been removed or remedied.

(3) The Controller, shall send a report to the Government and shall forward a copy of such report to the Chairman. The Controller shall state in the report whether in his opinion the defects or irregularities have or have not been removed or remedied and indicate whether the defects or irregularities can be regularised or whether they can be condoned. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged. ¹[The audited accounts and the report shall be laid before each House of the State Legislature as soon as may be, after it is received by the Government.]¹

1. Inserted by Act 13 of 1985 w.e.f. 10.10.1984.

(4) The Board shall include in its next administration report such portions of the report under section 49 as deal with defects and irregularities falling under clause (c)

of sub-section (2), the explanation if any, given under sub-section (1) and the final report of the Controller thereon under sub-section (3).

(5) Nothing in this section shall preclude the Controller, at any time from bringing to the notice of the Government any matter which appears to him to involve criminal misappropriation or fraud or deserves special attention or immediate investigation.

51. Government to surcharge or charge illegal payment or loss caused by negligence or misconduct.- (1) The Government may, after considering the report of the Controller and after taking the explanation of the person concerned or making such further enquiry as it may consider necessary, by order disallow any item which appears to it to be contrary to law and surcharge the same on the person making or authorising the making of the illegal payment; and may charge any person responsible therefor the amount of any deficiency or loss caused by the negligence or misconduct of that person, or any such amount received which ought to have been, but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

(2) The Government shall state in writing the reason for its decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(3) If a person to whom a copy of the Government decision is sent under sub-section (2) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

52. Recovery of surcharge and charge how made.- (1) The amount surcharged or charged shall be paid by the person concerned within one month from the date of communication of the order under section 51, into the treasury or bank holding the funds of the Board.

(2) The said sum, if not so paid, shall be recovered as arrears of land revenue.

CHAPTER VII

OFFICERS AND SERVANTS OF THE BOARD

53. Schedule of officers and servants to be submitted for sanction of Government.- The Board shall, from time to time, prepare and submit for the sanction of the Government a schedule of the staff of officers and servants whom it may consider necessary and proper to employ for its purposes. Such schedule shall also set forth the amount and nature of the salaries and allowances which the Board proposes for each such officer or servant. No alteration in the sanctioned schedule shall be made without prior sanction of the Government.

54. Appointments by whom to be made.- (1) Subject to the provisions of section 365 of the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), the rules

and bye-laws made under this Act and of the schedule for the time being in force sanctioned by the Government under section 53 the powers of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board (not being officers of the Government lent to or working under the Board) shall be exercised, in the case of officers and servants whose monthly salary does not exceed two hundred and fifty rupees by the Chairman and in every other case by the Board :

Provided that in the case of officers of the Government lent to the Board, the Chairman may exercise the powers of granting leave and sanctioning increments and after following the prescribed procedure, of withholding increments and shall report the fact to the Head of the Department to which such officer belongs.

Explanation.- For purposes of section 365 of the Karnataka Municipalities Act, 1964, the Board shall be deemed to be a local authority.

(2) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's misconduct or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance shall, subject to the aforesaid provisions, be exercised only by the Board.

(3) Any party aggrieved by an order of the Board under sub-section (2) may appeal to the Government within thirty days of the order.

CHAPTER VIII

CONTROL

55. Control by Government.- The Board shall carry out such directions as may be issued to it from time to time by the Government under the provisions of the Act for the efficient administration of the Board and its affairs.

56. Action in case of defaults by Board.- If the Board fails to carry out any direction issued under section 55 within the period, if any, fixed in such direction, the Government may make arrangements to take such action and recover all expenses connected therewith from out of the Board's Fund.

57. Power to cancel or modify order, etc.- If in the opinion of the Government the execution of any order or resolution of the Board or the doing of anything which is about to be done or being done by or on behalf of the Board is unjust, unlawful or improper or is causing or is likely to cause loss or damage to or prejudice to the interests of the Board or is causing or likely to cause injury or annoyance to the public or breach of the peace, the Government may, by order, cancel or modify such order or resolution or pass such other order as it deems fit :

Provided that before passing an order under this section, the Government shall give the Board an opportunity of making representation against the proposed order :

Provided further that pending action under this section, the Government may direct the stay of the execution of any order or resolution of the Board or the doing of anything by or on behalf of the Board subject to such conditions as it may think fit.

58. Supersession of the Board.- (1) If the Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or any other law or has abused its power or is acting in a manner prejudicial to the interests of the Board or its finances the Government may by notification, supersede and reconstitute the Board:

Provided that before issuing the notification under this sub-section the Government shall give an opportunity to the Board to make a representation why it should not be superseded and shall consider the representation, if any, made.

(2) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board shall be exercised by such officer or officers as the Government may appoint.

59. Dissolution of the Board.- (1) Where the Government is satisfied that the purpose for which the Board was established has been substantially achieved so as to render the existence of the Board unnecessary, it may, by order published in the official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the order and thereupon the Board shall be deemed to be dissolved accordingly.

(2) From the said date,-

(a) all properties, funds, dues which are vested in or releasible by the Board shall vest in or be releasible by the local authority concerned ;

(b) all Government lands placed at the disposal of the Board shall revert to the Government;

(c) all liabilities which are enforceable against the Board shall be enforceable against the local authority concerned; and

(d) for the purpose of carrying out any development which has not been fully carried out by the Board and for the purpose of realising the properties, funds and dues referred to in clause (a), the functions of the Board shall be discharged by the local authority concerned.

(3) When the Board is dissolved under sub-section (1), the Government may pass such orders as it deems necessary in respect of the officers and servants of the Board.

60. Penalty for being interested in contracts with the Board.- If any member or officer or servant of the Board knowingly acquires, directly or indirectly by himself or by a partner, employer or servant, any share or interest in any contract or employment with, by or on behalf of the Board, he shall be deemed to have committed the offence under section 168 of the Indian Penal Code :

Provided that a person shall not be deemed to have any share or interest, in such contract or employment by reason only of his having a share or interest if any, in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

61. Members and officers to be public servants.- Every member and every officer or other employee of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

62. Sanction of prosecutions.- No court shall take cognizance of an offence under this Act, the rules or bye-laws made thereunder except on the complaint made with the previous sanction of the Board by such officer as the Board may authorise in this behalf.

63. Fines to be credited to Board Fund.- All fines recovered under this Act by or under the order of a court shall be paid to the credit of the Board Fund.

64. Recovery of sums due.- Save as otherwise provided in section 22 all sums due by any person to the Board on account of sale proceeds of property vested in or acquired by the Board or otherwise howsoever and remaining in arrears after fifteen days from the date of service on such person of a notice of demand may be recovered in any one or more of the following ways, namely:-

(1) by distraint and sale, by or under the orders of the Board, of the movable property of such person ; and

(2) as arrears of land revenue, on the written application of the Board in this behalf to the Deputy Commissioner of the district in which proceedings are required to be taken.

65. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Board, the Chairman, member, officer or servant of the Board or any person acting under the orders or directions of the Board for anything which is in good faith done or intended to be done under this Act or any rule or bye-law made thereunder.

66. Service of notice.- Save as otherwise provided any notice or order issued or made under this Act shall be served in the prescribed manner.

67. Offences by companies.- (1) Where an offence under this Act is committed by a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, 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 an 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 that the commission of the offence 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 a body corporate and includes a firm or other association of individuals ; and

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

68. Effect of other laws.- (1) Save as provided in this Act the provisions of this Act shall be in addition to and not in derogation of any other law.

(2) Where a Board is constituted for and is functioning in any urban area the provisions contained in Chapter VIII of the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), shall not be applicable to such area.

CHAPTER IX MISCELLANEOUS

69. Rules.- (1) The Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-

- (a) allowances payable to the Chairman and non-official members;
- (b) the manner and form in which any contract of the Board may be executed under section 11;
- (c) the further particulars to be furnished in the application for sanction of a scheme under section 16;
- (d) the manner of payment of betterment tax;
- (e) the procedure, conditions and restrictions subject to which and the form in which the Board may let on hire, lease, sell or otherwise convey any movable or immovable property;
- (f) the amount of money to be kept by the Board in the Government Treasury;
- (g) the form in which, and the time within which, the budget estimates of the Board shall be prepared and submitted to the Government;
- (h) any other matter for which rules have to be made or necessary under this Act.

(3) In making a rule under this section, the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one

hundred rupees and in the case of continuing breach, with additional fine which may extend to fifty rupees for every day during which such breach continues after receipt of a notice from the Board requiring such person to discontinue the breach.

(4) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (5) every rule made under this Act shall have effect as if enacted in this Act.

(5) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, from the date on which the modification or annulment is notified by the Government in the official Gazette, 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 such rule.

70. Power of Board to make bye-laws.- (1) Subject to the provisions of this Act and the rules made thereunder the Board may from time to time, make, alter or rescind bye-laws,-

- (a) for regulating the delegation of the powers and duties of the Board to an officer of the Board ;
- (b) for the guidance of persons employed by it under this Act ;
- (c) for regulating the matters relating to the recruitment, discipline and other conditions of service of the officers and servants of the Board, not being officers of the Government lent to or working under the Board;
- (d) for the management , use and regulation of houses constructed under any scheme;
- (e) for regulating the construction and reconstruction of buildings in regard to the following matters, namely, the notice to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the building, the level and width of foundation, the stability of structure and materials to be used and the provision to be made for drainage, and ventilation;
- (f) for the forming of extensions or lay-outs and the laying out of private streets, the information and plans to be submitted with the application for permission to form extensions or lay-outs and to make private streets, and for regulating the level and width of streets and the height of buildings abutting thereon;
- (g) relating to the construction of footpaths, erection of street lights and planting of trees ; and

(h) generally for carrying out the purposes of this Act.

(2) In making a bye-law under sub-section (1), the Board may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing breach with additional fine which may extend to fifty rupees for every day during which such breach continues after notice is received from the Board requiring such person to discontinue the breach.

(3) Any such bye-law may also provide that a person contravening the same shall be required to remedy the mischief, if any caused by such breach.

(4) The Board shall, before making any bye-law under this section, publish in the official Gazette for the information of persons likely to be affected thereby, a draft of the proposed bye-law together with a notice specifying a date not being earlier than thirty days from the date of publication of the draft of the proposed bye-law on or after which the draft will be taken into consideration, and shall before making the bye-law consider any objection or suggestion received with respect to the said draft before the date so specified.

(5) No bye-law made by the Board under this section shall have effect until it has been approved by the Government and every such bye-law shall be submitted to the Government along with a statement containing the views of the Board on the objections and suggestions if any, received and a copy of the notice published under the sub-section (4) and every objection or suggestion received with respect to the draft bye-law.

(6) The Government while approving a bye-law may make any change therein which appears to it to be necessary.

(7) Every bye-law as approved by the Government shall be published in the official Gazette and shall come into force from such date not being earlier to the date of publication of the bye-laws in the Gazette as may be specified by the Board and when no such date is specified, on the date of such publication.

71. Rules and bye-laws to be exhibited.- The rules and bye-laws made under sections 69 and 70 shall be exhibited at such places as may be prescribed and copies shall be made available for sale by the Board.

72. Repeal of the Karnataka Ordinance No. 20 of 1975.- (1) The Karnataka Improvement Board Ordinance, 1975 (Karnataka Ordinance No. 20 of 1975) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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THE BANGALORE DEVELOPMENT AUTHORITY ACT, 1976
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STATEMENT OF OBJECTS AND REASONS

I

Act 12 of 1976.- At the conference of the Ministers for Housing and Urban Development held at Delhi in November 1971, it was agreed that a common Authority for the development of metropolitan cities should be set up.

Bangalore City with its population (as per last census) is a Metropolitan City.

Different Authorities like the City of Bangalore Municipal Corporation, the City Improvement Trust Board, the Karnataka Industrial Area Development Board, the Housing Board and the Bangalore City Planning Authority are exercising jurisdiction over the area. Some of the functions of these bodies like development, planning, etc., are overlapping creating thereby avoidable confusion, besides hampering co-ordinated development. It is, therefore, considered necessary to set up a single authority like the Delhi Development Authority for the city areas adjacent to it which in course of time will become part of the City.

For the speedy implementation of the above said objects as also the 20 point programme and for establishing a co-ordinating Central Authority, urgent action was called for. Moreover the haphazard and irregular growth would continue unless checked by the Development Authority and it may not be possible to rectify or correct mistakes in the future.

It was therefore necessary to issue the measure in the form of an Ordinance.

The Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 688 dated 5.2.1976. at page 45)

II

Amending Act 8 of 77.- The Bangalore Development Authority Act, 1976 came into force on the 20th day of December 1975. There is no provision under this Act for the reservation of seats for persons belonging to the scheduled castes, scheduled tribes and for women in the Bangalore Development Authority. It is also considered desirable to delegate to the Engineering Staff of the Bangalore Development Authority powers of scrutinising estimates to the same extent to which such powers have been delegated to the Engineering Staff of the Public Works Department so as to ensure quick implementation of development schemes.

As a number of housing schemes have been taken up in the Bangalore City by the Housing Board before the commencement of the Act, it is desirable to permit the Housing Board to execute these works in accordance with the said scheme. The Housing Board can also be permitted to take-up scheme in an area within the purview of the Bangalore Development Area, in conformity with the lay out plan of the Bangalore Development Authority. Clause (k) of Section 3(ii) refers to the Karnataka Road Transport corporation where the correct nomenclature of this Corporation is the Karnataka State Road Transport Corporation. This requires to be modified.

With a view to giving representation to persons belonging to Scheduled Castes and Scheduled Tribes as also to women, to delegate the financial powers to the Engineering members and officers for scrutinising the estimates, to indicate the correct nomenclature of the Karnataka State Road Transport Corporation and to

enabling the Karnataka Housing Board to undertake the housing activities in Bangalore, necessary amendments to the Bangalore Development Authority Act, 1976 are proposed.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 239 dated 28.3.1977 at page 4)

III

Amending Act 18 of 1981.- Due to his being burdened with very heavy administrative and the executive responsibilities the Chairman of the Bangalore Development Authority was not able to provide the necessary leadership with regard to policy matters of the Bangalore Development Authority. Government therefore considered that it was necessary in the interest of the better administration of the Authority to appoint a senior officer of the rank of a Secretary to Government, as Commissioner of the Authority for the purposes of the better and more effective administration of the Bangalore Development Authority so as to leave sufficient time to the Chairman to guide the proceedings of the Authority. As the matter was urgent an Ordinance was issued for the said purposes.

The Bill seeks to replace the said Ordinance.

(Obtained from L.A Bill No. 12 of 1981.)

IV

Amending Act 37 of 1982.- In the Bangalore Development Authority Act. 1976 there is no provision for transfer of the employees of the Authority. It is now proposed to transfer any officer or servant of the Authority to an equivalent post in any Municipal Corporation or Municipal council. Powers have been conferred on the State Government to issue directions in this behalf for compliance by the Local Authority. It is also considered necessary to have a representative from the Administrative Department, namely Housing and Urban Development Department as a member of the said Authority.

Hence the Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 817 dated 24.11.1982 at page 3.)

V

Amending Act 17 of 1984.- There is no provision in the Bangalore Development Authority Act making it obligatory on the part of the Authority to reserve any area for civic amenities and public parks and playgrounds. There is also no provision in the

Bangalore Development Authority Act prohibiting the allotment or diversion of areas or sites reserved for civic amenities, parks or playgrounds, for other purposes.

The Committee on Public Accounts in the Third Report (1979-80) has observed that many of the Boards and Corporations do not furnish their accounts for being presented to the Legislature after audit.

It is therefore considered necessary to amend the Act providing for the following:-

- (a) to define the term "civic amenity" ;
- (b) that at least fifteen percent of the total area of a layout should be reserved for public parks and playgrounds and an additional ten percent should be reserved for civic amenities ;
- (c) that the authority shall not have the power to dispose of sites reserved for parks, play grounds and other civic amenities for any other purposes;
- (d) fixing the responsibility on the Commissioner for the maintenance of accounts, the preparation of the annual statement of accounts and sending them to the State Government ;
- (e) requiring the State Government for getting the accounts audited to place them before the Legislature ; and
- (f) to enhance the power of the Chairman under section 50.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. .47 dated 18.1.1984 at page 5.)

VI

Amending Act 34 of 1984.- The problem of encroachments on lands belonging to Municipalities, Bangalore Development Authority, Improvement Boards and other Local Bodies has assumed serious proportions. It is necessary to provide deterrent punishment for such encroachments.

2. Hence it is proposed to introduce a provision to make encroachment on lands belonging to the City Improvement Trust Board, Mysore, Village Panchayats, Taluk Boards, Municipal Councils, Municipal Corporations, Improvement Boards and the Bangalore Development Authority an offence punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees. Further, it is also proposed that any person who had unauthorisedly occupied land belonging to any of the said bodies and who fails to vacate such land in pursuance of an order under Section 5(1) of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act 1974, shall on conviction be punished with imprisonment for a term which may extend to three years and with a further fine which

may extend to Rs.50 per acre of land or part thereof for every day on eviction. A person who intentionally aids or abets the commission of these offences shall also be liable to receive the same punishment. It is proposed to introduce this provision in the following statutes:

- (1) The City of Mysore Improvement Act, 1903
- (2) Karnataka Village Panchayats and Local Boards Act, 1959.
- (3) Karnataka Municipal Act, 1964.
- (4) Karnataka Municipal Corporations Act, 1976.
- (5) Karnataka Improvement Boards Act, 1976.
- (6) Bangalore Development Authority Act, 1976.

(3) It is also proposed to extend the application of Chapter III A of the Karnataka Slum Areas (Improvement and Clearance) Act 1974 to the whole State and to make the Tahsildar of the Taluk the licensing authority, where there is already no licensing authority.

Hence the Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 104 dated 6.2.1984 at page 9.)

VII

Amending Act 34 of 1986.- Under section 10 of the Bangalore Development Authority Act, the Commissioner has been empowered to sanction any estimate etc., if the value not exceeding one lakh rupees and the Authority may sanction any estimate etc., of the value exceeding rupees five lakhs. Now it is proposed to enhance this outer limit to rupees twenty lakhs and rupees fifty lakhs respectively.

2. Provision has been made to make the Commissioner of the Corporation of the City of Bangalore as ex-officio member of the Authority in place of an officer of the Health and Family Welfare Department.

3. At present the Commissioner has no discretion in implementing any resolution of the Authority even if such resolution contravenes any provision of the Act or any other law for the time being in force. It is proposed to empower the Commissioner to submit such resolution to Government for orders and not to implement such resolution etc., till he receives the orders of the Government thereon.

4. Provision has been made for submission of copies of resolutions to the Government and to empower the Government to cancel the resolution or order or repeal any resolution or bye-law.

5. Opportunities are also taken to make certain consequential amendments.

6. As the Karnataka Legislative Council was not in session and as the matter was very urgent, the Bangalore Development Authority (Amendment) Ordinance, 1986 (Karnataka Ordinance 6 of 1986) was promulgated.

This Bill seeks to replace the said Ordinance.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 626 dated 19.8.1986 at page 6.)

VIII

Amending Act 11 of 1988.- With a view to make the definition of 'civic amenity' more comprehensive and to provide for allotment of Civic Amenity sites not only to Government and Local bodies, but also to private organisations doing yeoman service to the public, amendment to clause (b) of section 2 is proposed.

Having regard to the nature of his duties the Secretary, Bangalore Development Authority, who is now an almost permanent invitee to the meeting of the Bangalore Development Authority, is proposed to be given statutory status and to be made ex-officio member. So it is proposed to amend section 3 and to insert a new section 12-A.

Hence the Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 71 dated 5.2.1988 at page 4.)

IX

Amending Act 18 of 1991.- The Bangalore Development Authority Act, 1976 was amended with effect from the twenty first day of April, 1984 and clause (bb) was inserted in section 2, defining the civic amenities. Section 38A was also inserted by the same amendment prohibiting the use of area reserved for Parks, Playgrounds and civic amenities for other purposes. But even after the aforesaid amendment, the Bangalore Development Authority allotted civic amenity sites for purposes other than those enumerated in clause (bb) of section 2, like mosques, churches, temples, private schools etc. The allotment of civic amenity sites for purposes other than those enumerated in clause (bb) were questioned in the High Court and the same was quashed on the ground that the Authority could not allot for such purposes. Representations were made to the Government and accordingly the Bangalore Development Authority Act was amended on seventh day of May, 1984 substituting clause (bb) with effect from the twenty first day of April, 1984 enlarging the definition of civic amenities, But the allotments made during the period from twenty first day of April, 1984 and the seventh day of May, 1988, for purposes other than those specified in clause (bb) as existed earlier were not saved by the 1988 amendments. It is

considered necessary to validate such allotments, if site is used for the purpose for which it is allotted.

As the matter was urgent, the Bangalore Development Authority (Amendment) Ordinance 1991 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 121 dated 20.3.1991 at page 127.)

X

Amending Act 6 of 1993.- The Bangalore Development Authority has been levying tax on land and building and also certain cesses on such tax on the strength of the power conferred on it under section 29 of the Bangalore Development Authority Act, 1976. The High Court in W.P. No. 4394 of 1988 and other connected matters has held that the Authority is not discharging municipal functions like maintaining public streets, supply of drinking water etc. It has further held that there is no specific provision to levy tax and fees. Accordingly the Writ Petition was allowed and the Authority was directed to refund the tax. This decision was confirmed in Writ Appeal No. 223 to 239 of 1992, with the result the Authority had to refund the tax levied and collected already unless suitable amendments are made in the Act.

The Bangalore Development Authority is in fact maintaining the streets and providing certain civic amenities within its jurisdiction. In the circumstances it was considered necessary to amend the Bangalore Development Authority Act, 1976.

(i) to specifically impose a duty on the Authority to maintain, keep in repair, light and cleanse street:

(ii) to empower the Authority to levy tax on land and buildings ;

(iii) to declare the Authority as a local authority for the purpose to levy and collection of certain cesses ;

(iv) to validate the levy and collection of tax on land and building and cesses on such tax.

Since, the matter was urgent and both the Houses were not in session the above amendments were carried out by promulgation of the Bangalore Development Authority (Amendment) Ordinance, 1992.

This Bill seeks to replace the said ordinance.

(Obtained from L.A. Bill No 3 of 1993.)

XI

Amending Act 17 of 1994.- Some of the bulk allotments made by the Authority in favour of the State and Central Government Organisations, House Building Co-operative Societies etc., have been quashed by the High Court of Karnataka in various Writ Petitions because there is no provision in the Act for making bulk allotment. Therefore, it was considered necessary to amend the Bangalore Development Authority Act,-

- (i) to take power to make bulk allotment;
- (ii) to validate bulk allotment made earlier.

Opportunities are also taken to make certain consequential amendments.

Hence this Bill.

(Obtained from a L.A. Bill No 36 of 1993.)

XII

Amending Act 26 of 1995.- The Bangalore Development Authority Act, 1976, provides for appointment of an engineer who shall be an officer of the Karnataka Engineering Service not below the rank of a Chief Engineer to the Bangalore Development Authority.

It is considered necessary to provide either for appointment of an engineer as above, or appointment of an engineer who is an officer employed in any undertaking owned or controlled by the State Government.

Hence the Bill.

(Obtained from L.A. Bill No 20 of 1995)

XIII

Amending Act 1 of 2000.- It is considered necessary to amend the Bangalore Development Authority Act, 1976, to provide for allotment of lands vested in Bangalore Development Authority or acquired by it, to the original owner or any other person who is in occupation of the land or has put up structure on the land which is in his occupation on the date of commencement of the Amendment subject to the condition of his paying the amount fixed by the Authority in cases where the Authority after carrying out a survey is of the opinion that the land so occupied cannot be used by it on account of existing structure or building thereon or it is not practicable to include such land for the purpose of development scheme or formation of site.

Hence the Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 302 dated 31.3.1999 at page 4.)