

**THE KARNATAKA STATE CIVIL SERVICES (PREVENTION OF
STRIKES) ACT, 1966
ARRANGEMENT OF SECTIONS**

Statement of Object and Reasons

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition of strikes.
4. Penalty for strikes.
5. Penalty for instigation, etc.
6. Penalty for giving financial assistance.
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8. Offences by associations.
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STATEMENTS OF OBJECTS AND REASONS

सत्यमेव जयते

Act 30 of 1966.- As it was apprehended that certain organised bodies of Government employees would cause dislocation of work by resorting to strikes, it was considered necessary to provide for prevention of strikes by Government employees of the State. Since both the Houses of Legislature were not in session an Ordinance for this purpose was promulgated.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 187 dated 9-11-1966.)

II

Amending Act 6 of 1967.- In order to enforce the provisions of the Mysore State Civil Services (Prevention of Strikes) Act, 1966 effectively, it was found necessary to provide for punishment for an offence of instigation of a strike both with fine and imprisonment, and for the prosecution being given an opportunity to oppose an application for release on bail of persons accused or convicted of instigation of strikes. Provision was also considered necessary to ensure speedy trial of offences of this kind. An Ordinance was accordingly promulgated on 25th January 1967. This Bill is intended to replace the Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A as No. 80, dated 27-3-1967.)

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सत्यमेव जयते

¹[KARNATAKA]¹ ACT No. 30 OF 1966

(First published in the ¹[Karnataka Gazette]¹ Extraordinary on the Seventh day of December, 1966)

THE ¹[KARNATAKA STATE]¹ CIVIL SERVICES (PREVENTION OF STRIKES) ACT, 1966

(Received the assent of the Governor on the Seventh day of December 1966)

(As amended by Act 6 of 1967)

An Act, to provide for the prevention of strikes by civil servants of the ¹[State of Karnataka]¹.

WHEREAS it is expedient to provide for the prevention of strikes by civil servants of the ¹[State of Karnataka]¹.

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Seventeenth Year of the Republic of India, as follows :-

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka State]¹ Civil Services (Prevention of Strikes) Act, 1966.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(3) It shall come into force at once.

2. Definitions.- In this Act,-

(1) "State Civil Servant" means a person who is a member of a civil service of the ¹[State of Karnataka]¹ or holds any civil post under the ¹[State of Karnataka]¹ ;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) "strike" means a cessation of work (including any unauthorised absence from duty) by a body of State civil servants acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of State civil servants to work.

3. Prohibition of strike.- No State civil servant shall resort to strike.

4. Penalty for strikes.- Any State civil servant who commences, continues or otherwise acts in furtherance of a strike shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

5. Penalty for instigation, etc.- Any person who instigates or incites State civil servants to take part in, or otherwise acts in furtherance of a strike, shall be punished with imprisonment for a term which may extend to one year ¹[and with fine which may extend to one thousand rupees]¹.

1. Substituted by Act 6 of 1967 w.e.f. 20.4.1967

6. Penalty for giving financial assistance.- Any person who knowingly expends or applies any money in furtherance or support of a strike shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

7. Attempts, etc., to commit offence.- Any person who attempts to commit, or does any act preparatory to commission of any offence under this Act, shall be deemed to have committed such offence.

8. Offences by associations.- (1) Where an offence under this Act has been committed by an association, every person who at the time the offence was committed was in charge of, and was responsible to, the association for the conduct of the business of the association, as well as the association, 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 he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by an association and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any member of the executive or managing committee of the association or any manager, secretary or other officer of the association such member, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose of this section, "association" means any body of individuals whether incorporated or not.

9. Power to arrest without warrant.- Any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence punishable under this Act.

¹9A. Special Provision regarding bail.- No person accused or convicted of an offence under section 5 of this Act shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application

for such release and where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

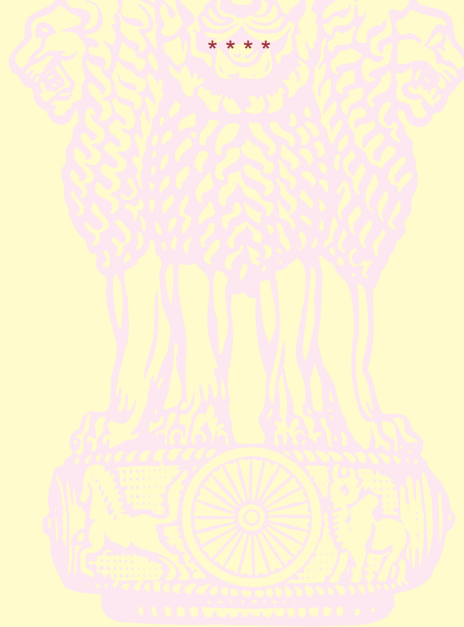
9B. Precedence for trials.- The trial of any offence under this Act in any court shall have precedence over the trial of any other offence pending in such court.¹

1. Section 9A & 9B inserted by Act 6 of 1967 w.e.f. 20.4.1967

10. Repeal of ¹[Karnataka]¹ Ordinance No.1 of 1966.- The ¹[Karnataka State]¹ Civil Services (Prevention of Strikes) Ordinance, 1966, is hereby repealed.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

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सत्यमेव जयते

THE KARNATAKA (ABOLITION OF CASH GRANTS) ACT, 1967

ARRANGEMENT OF SECTIONS

Sections :

1. Short Title, extent and commencement.
 2. Definitions.
 3. Application of Act.
 4. Abolition of certain grants and payment of compensation therefor.
 5. Power to make rules.
 6. Disposal of pending matters.
 7. Repeal.
- SCHEDULE.

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STATEMENT OF OBJECTS AND REASONS

Act 15 of 1967.- Under section 3 of the Hyderabad Abolition of Cash Grants Act, 1952, all cash grants specified in Part A of the Schedule to that Act were discontinued with effect from 1st April 1952, and the cash grants specified in Part C of that Schedule were discontinued from the 1st July 1954. The validity of this Act was questioned before the High Court of Hyderabad and the High Court held that the abolition of cash grants without payment of compensation was illegal and that the applicants were entitled to "rusums" discontinued under section 3 of that Act. The Government of Hyderabad appealed to the Supreme Court against the orders of the High Court, but the appeal was subsequently withdrawn by the Government of Andhra Pradesh. In order to provide for the abolition of the cash grants, and payment of compensation for such abolition, the Andhra Pradesh (Abolition of Cash Grants) Act, 1959 was passed by the Andhra Pradesh Legislature. The Government of Maharashtra is also undertaking legislation for the abolition of the cash grants and payment of compensation. It is considered necessary to undertake legislation in order to abolish the system of cash grants in the Hyderabad, Karnataka Area.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A, dated 26-7-1967, No. 155, at page 7.)

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¹[KARNATAKA]¹ ACT No. 15 OF 1967

(First Published in the ¹[Karnataka Gazette]¹ on the Twenty-first day of December, 1967)

THE ¹[KARNATAKA]¹ (ABOLITION OF CASH GRANTS) ACT, 1967

(Received the assent of the President on the Eleventh day of December, 1967)

(As on)

An act to discontinue certain classes of cash grants in the ¹[Gulbarga Area]¹ of the ¹[State of Karnataka]¹.

WHEREAS it is expedient to discontinue certain classes of cash grants in the ¹[Gulbarga Area]¹ of the ¹[State of Karnataka]¹ ;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Eighteenth Year of the Republic of India as follows :-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

1. Short title, extent and commencement .- (1) This Act may be called the ¹[Karnataka]¹ (Abolition of Cash Grants) Act, 1967.

(2) It extends to the ¹[Gulbarga Area]¹ of the ¹[State of Karnataka]¹.

(3) It shall come into force at once.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

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

(a) "Government" means the State Government ;

(b) "charitable institution" means any charitable establishment, with a specific location and known address which is dedicated to, or for the benefit of, or used as of right by, the public generally or any community or section thereof, for any pious, charitable or philanthropic purpose ;

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

(d) "religious institution" means any religious establishment (such as temple, shrine, mosque or the like) with a specific location and known address which is dedicated to, or used as of right by, the public generally or any community or section thereof, as a place of public religious worship.

3. Application of Act .- (1) This Act shall apply to any cash grant specified in the Schedule other than those mentioned in sub-section (2).

(2) Nothing contained in this Act shall apply to any such cash grant given in the

name, or for the support, of any religious or charitable institution or given to any person for the performance of any service or charity, such service or charity being of a public nature connected with any religious or charitable institution :

Provided that the payment of cash grant mentioned in this sub-section shall be made to the institution or to the person concerned only so long as the institution exists.

(3) For the removal of doubts, it is hereby declared that the provisions of section 5 of the Hyderabad Atiyat Enquiries Act, 1952 (Hyderabad Act X of 1952), as in force in the Hyderabad Area, shall apply to the cash grants continued by this Act as they apply to Atiyat grants under that Act.

(4) The Government may, by notification in the official Gazette, alter, add to or omit any of the entries in the Schedule.

4. Abolition of certain grants and payment of compensation therefor.- (1) Notwithstanding anything contained in any law, custom, usage, sanad or decree or order of a court or other authority and subject to the provisions of sub-section (2) all cash grants specified in Part A of the Schedule which were payable or enforceable during the year commencing on the 1st April, 1952 or any subsequent financial year, and all cash grants specified in part B and Part C of the Schedule which were payable or enforceable during the year commencing on the 1st day of April, 1954 or any subsequent financial year, shall be discontinued and cease to have effect,-

(a) in the case of cash grants specified in Part A of the Schedule - with effect from the 30th day of July, 1952 ; and

(b) in the case of cash grants specified in Part B and Part C of the Schedule-with effect from the 1st day of July, 1954.

(2) The grantee whose cash grant is abolished under sub-section (1) shall be paid compensation as follows :-

(i) in the case of a cash grant specified in Part A of the Schedule, a sum equivalent to four times the annual amount payable to the grantee ;

(ii) in the case of a cash grant specified in Part B of the Schedule, a sum equivalent to six times the annual amount payable to the grantee ; and

(iii) in the case of a cash grant specified in Part C of the Schedule, a sum equivalent to four times the annual amount payable to the grantee :

Provided that in respect of each of the cases specified in column (1) of the Table below, the cash grant specified in Part C shall be continued subject to the conditions specified in each case during the period mentioned in column (2), namely :-

TABLE

(1)	(2)
(1) Where the age of the grantee, whether male or female, was not less than 60 years on the 1st day of April, 1954	Till the date of the death of the grantee
(2) Where the age of the grantee was less than 60 years on the 1st day of April, 1954 , -	
(i) in the case of a male or an unmarried woman, if the the grantee is incapable of earning a livelihood on account of being blind, deaf, dumb and mute, mentally deranged, crippled or paralytic ;	From the date of abolition till date of the death of the grantee.
(ii) in the case of a widow .	So long as she remains a widow.
(3) Where the grantee is a minor, -	
(i) in the case of a male if such the cash grant is his only source of income	From the date of abolition till date of attainment of 18 years.
(ii) in the case of a female .	From the date of abolition till the date of marriage or the attainment of 18 years whichever is earlier.

(3) Where the amount of cash grant received by a male minor before attainment of 18 years of age, or by a female minor before such attainment or marriage, falls short of four times the annual amount of cash grant, the deficiency shall be made good to the male minor on his attaining 18 years of age, and to the female minor on her attaining 18 years of age or her marriage, whichever is earlier.

(4) Where a cash grant to which this Act applies is subject to the rendering of any service, the grantee shall, with effect from the date of discontinuation of the grant, stand relieved of the liability to render that service.

(5) The compensation payable under sub-section (2) for the cash grants specified in Part A and Part C of the Schedule shall be paid to the grantee in such manner and in such installments as may be prescribed ; and the compensation payable for the cash

grant specified in Part B of the Schedule shall be paid to him either in full or in annual installments not exceeding twelve.

5. Power to make rules .- (1) The Government may, by notification in the official Gazette, make rules to carry out all or any of the purposes of this Act.

(2) 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 successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, 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 that rule.

6. Disposal of pending matters .- All claims and all proceedings relating to cash grants pending on the date of commencement of this Act, before any authority shall, notwithstanding anything in any law, contract, decision or order of a court, be dealt with and disposed of in accordance with the provisions of this Act.

7. Repeal .- The Hyderabad (Abolition of Cash Grants) Act, 1952 (Hyderabad Act XXXIII of 1952), is hereby repealed.

SCHEDULE

(Part A)

Rusums payable to,-

- (1) Sardesmukhs,
- (2) Sardeshpandyas,
- (3) Deshmuks,
- (4) Deshapandyas,
- (5) Dastbandars (including mirasi-dastbandars),
- 1[(6) Choudhari,
- (7) Shettigiri]¹.

1. Inserted by Notification No. RD 26 INM 81 dt. 9.2.1988.

(Part B)

Mansab Maviza Jagir including Jagir Pension,
Mansab Maviza (Qarza),
Mansab Maviza Arasi,

Mansab Maviza Abkari,
 Mansab Maviza Sair,
 Mansab Maviza Aslaha, Kutub, Dookan, Safai,
 Mansab Imtiassi,
 Mansab Nazam Mahwars,
 Mahwarat Walajahi issued in lieu of Jagirs.

(Part C)

Ordinary Mansaba, Riayeti, Khas and Mutaferiqa Muhwars, Mash, Youmia, Mamool, Saliyans, Customs Mukasas and Agrahara, Mahwarat Walajahi (other than those issued in lieu of Jagirs) Tahir Sarishtadari, Wiquai Nigari.

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NOTIFICATION

Bangalore dated 9th February 1988 [No. RD 26 INM 81]

S.O. 654.- In exercise of the powers conferred by sub-section (4) of section 3 of the Karnataka (Abolition of Cash Grant) Act, 1967 (Karnataka Act 15 of 1967), the Government of Karnataka hereby makes the following amendment to (Part A) of the Schedule to the said Act, namely:-

After item (5) of (Part A) of the Schedule to the Karnataka (Abolition of Cash Grants) Act, 1967 (Karnataka Act 15 of 1967) the following items shall be inserted, namely:-

- "(6) Choudhari,
 (7) Shettigiri,"

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

D.K.Nagarathammani

*Under Secretary to Government,
 Revenue Department*

(Published in the Karnataka Gazette (Extraordinary) Part IV 2C(ii) as No 278 dated 28-4-1988.)

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THE KARNATAKA AGRICULTURAL PESTS AND DISEASES ACT, 1968
ARRANGEMENT OF SECTIONS

Statement of Objects and Reasons:

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Notification by the State Government of areas affected by pests, plant diseases or noxious weeds.
4. Power to issue directions.
5. Duties of occupier on the issue of notice under section 4.
6. Power to enter upon land or premises.
7. Procedure where measures prescribed to eradicate pests or plant diseases include removal or destruction of plants.
8. Notice to occupier to take remedial or preventive action.
9. Occupier failing to comply with the notice served on him commits an offence.
10. Recovery of costs.
11. Appeal against costs.
12. Obligation of village officers to report on insect pests, plant diseases or noxious weeds.
13. Penalties.
14. Cognizance of offences.
15. Offences by companies.
16. Protection of action taken under the Act.
17. Appointment of Inspecting Officers.
18. Delegation of powers.
19. Directions by State Government.
20. Power to make rules.
21. Repeal and savings.

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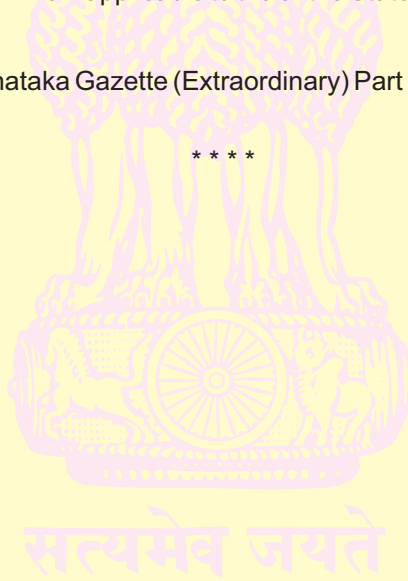
STATEMENT OF OBJECTS AND REASONS

Act 1 of 1969.-Agricultural crops of all kinds are subject to attack by various kinds of pests, and plant diseases which if left unchecked, would cause damage to the growing crops and results in loss of yield. Control of such pests and diseases is therefore of paramount importance in the agricultural economy of the country and would lead to a considerable saving of Agricultural Produce which would otherwise be lost to the country. It is with a view to organise proper and effective preventive and curative measures against pests and diseases, that this legislation is proposed. At present the Bombay Agricultural Pests and Diseases Act, 1947, the Coorg Agricultural Pests and Diseases Act, 1933, The Hyderabad Agricultural Pests and Diseases Regulation, 1352F, the Madras Destructive Insects and Pests Act, 1917, are in force in the different areas of the State. The provisions of these Acts are not uniform and it is necessary to have a uniform law applicable to the entire State.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 22-6-1967 at page 93.)

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¹[KARNATAKA ACT]¹ NO. 1 OF 1969

(First Published in the ¹[Karnataka Gazette]¹ on the Twenty-third day of January, 1969)

THE ¹[KARNATAKA]¹ AGRICULTURAL PESTS AND DISEASES ACT, 1968

(Received the assent of the Governor on the Tenth day of January, 1969)

An Act to prevent the introduction, spread or reappearance of pests, plant diseases and noxious weeds injurious to crops, plants or trees in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to take measures to prevent the introduction, spread or reappearance of pests, plant diseases and noxious weeds injurious to crops, plants, trees or water supply or obstruction to water-ways within the ¹[State of Karnataka]¹ and to make provision for other matters connected therewith;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the nineteenth year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Agricultural Pests and Diseases Act, 1968.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

(3) It shall come into force on such ²[date]² as the State Government may, by notification, appoint.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

2. Act came into force w.e.f. 13.10.1971 by notification No. AF 142 AMS 669 dated: 13.10.1971.

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

(1) "affected area" means any area declared by notification under section 3 to be an affected area;

(2) "Director of Agriculture" means any officer appointed by the State Government to be the Director of Agriculture and includes the Director of Horticulture and every person who for the time being performs the duties of the office of the Director of Agriculture or Director of Horticulture, as the case may be;

(3) "Deputy Director of Agriculture" means the officer appointed by the State Government to be the Deputy Director of Agriculture of a District or the District Horticultural Officer, and every person who for the time being performs the duties of the Deputy Director of Agriculture or the District Horticultural Officer, as the case may be;

(4) "Inspecting Officer" means an officer appointed under section 17;

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

(6) "notified area" means the area in respect of which a notification is issued under section 3;

(7) "noxious weed" means any weed declared by notification under section 3 to be a noxious weed;

(8) "occupier" means the person having for the time being the right of occupation of any land, premises or water, or his authorised agent or any person in actual occupation of the land, premises or water, and includes a local authority having such right of occupation or in such actual occupation;

(9) "parasite" means any plant or animal carrying on its existence wholly or in part on any agricultural crop, plant, tree, bush or herb, declared by notification under section 3 to be a parasite;

(10) "pest" means any insect, or vertebrate or invertebrate animal, which has been declared by a notification under section 3 to be a pest;

(11) "plant" includes all horticultural or agricultural crops, trees, bushes or herbs, and includes the fruits, leaves, trunk, roots, bark or cutting or any part thereof but does not include the seed:

Provided that the State Government may, by notification, direct the seed of any particular plant shall be deemed to be a plant;

(12) "plant disease" means any fungoid, bacterial virus, vegetable organism, parasitical or other disease declared by notification under section 3 to be a plant disease;

(13) "prescribed" means prescribed by rules made under this Act.

3. Notification by the State Government of areas affected by pests, plant diseases or noxious weeds.- Where it appears to the State Government that any disease, pest, parasite or weed is injurious to plants in any area and that it is necessary to take measures to eradicate such disease, parasite, pest or weed, or to prevent its introduction, spread or re-appearance, the State Government may, by notification, declare such area to be an affected area for such period as may be specified in such notification; and with reference to such area the State Government may by such notification also,-

(a) declare any disease, parasite, pest or weed to be a plant disease, parasite, pest or noxious weed for purposes of this Act;

(b) prohibit or restrict the movement or removal of any plant, soil or manure from one place to another or prescribe such other preventive or remedial measures as may be necessary in respect of such pest, disease or weed;

(c) direct that such preventive or remedial measures as may be specified shall be carried out to eradicate, destroy or prevent the introduction, spread or reappearance of any noxious weed, parasite, pest, or plant disease; and

(d) prohibit the plantation or growing of any plant within such area as may be specified, which is likely to be injurious to the other crops in the area so specified.

4. Power to issue directions.- (1) On the issue of a notification under section 3, the Deputy Director of Agriculture may, by notice,-

(i) direct every occupier within the affected area to carry out such preventive or remedial measures (including the removal or destruction of plants which are infested or likely to be infested) as he may specify in the notice, to eradicate, destroy or prevent the introduction, spread or reappearance of any plant disease, pest, parasite or noxious weed;

(ii) call upon any male person, not being below the age of eighteen years and residing within the said area, to render such assistance as may be specified in the notice in carrying out the measures referred to in clause (i):

Provided that,-

(a) no person who is not an occupier shall be called upon to render whole time service for a period exceeding seven days at a time and there shall be an interval of not less than ninety days before any such person is called upon to render whole time service after having already rendered such service, and

(b) no person who is, by reason of old age, physical disability or any other reasonable cause, incapable of rendering assistance, or who lives at a distance of more than eight kilometers from the place where his presence is required for the purpose of rendering assistance, shall be called upon to render such assistance; and

(iii) specify the area within which and the period during which the measures referred to in clause (i) are to be carried out.

(2) It shall not be necessary to notify every occupier under clause (i) of sub-section (1) or every other person whose assistance is required under clause (ii) of the said sub-section, and a proclamation in this behalf made by beat of drum or other customary mode in the area, village or locality, shall be deemed sufficient notice to all affected persons residing in that area, village or locality.

5. Duties of occupier on the issue of notice under section 4.- On the issue of a notice under section 4,-

(i) it shall be the duty of every occupier within the affected area to carry out the preventive or remedial measures specified in such notice; and

(ii) it shall be the duty of every male person residing within the said area to render assistance in such manner as has been specified in the notice.

6. Power to enter upon land or premises.- An Inspecting Officer may after giving due notice to the occupier or other person in charge, enter upon any land, water, or premises within the notified area for the purpose of ascertaining, whether,-

(i) any noxious weed, parasite, pest or plant disease exists on such land, water or premises; and

(ii) the preventive or remedial measures directed to be carried out, have been carried out.

7. Procedure where measures prescribed to eradicate pests or plant diseases include removal or destruction of plants.- Where the preventive or remedial measures directed to be carried out by a notification under section 3 include the removal or destruction of any plant in order to eradicate or prevent the introduction or reappearance of any pest or plant diseases any occupier who fails to remove or destroy such plant on or before the date specified in such notification shall be deemed to have committed an offence under this Act, and the removal or destruction of such plant may be carried out by the Inspecting Officer or under his supervision.

8. Notice to occupier to take remedial or preventive action.- (1) Where on inspection of any land, water or premises, an Inspecting Officer finds that the preventive or remedial measures specified under section 3 have not been carried out as directed, the Inspecting Officer may, subject to any general or special order of the prescribed officer, call upon the occupier, by notice in writing, to carry out, the preventive or remedial measures directed to be carried out, within such time as may be specified in such notice.

(2) The occupier may within seven days of the service upon him of such notice, prefer an appeal to the prescribed officer.

(3) On receipt of an appeal under sub-section (2), the prescribed officer shall, after giving the appellant an opportunity of being heard, pass such order thereon as he thinks fit, and where by virtue of such order, the appellant has to carry out preventive or remedial measures, the time within which such measures shall be carried out, shall also be specified in the order.

(4) An order passed under sub-section (3) shall be final and conclusive and shall not be called in question in any court of law.

9. Occupier failing to comply with the notice served on him commits an offence.- If any occupier upon whom notice has been served under section 8 fails to comply with the notice within the time specified by the Inspecting Officer, or, in cases where an appeal has been preferred, and the appellate order requires him to carry out preventive or remedial measures within a specified time, fails to carry out such measures within such time, he shall be deemed to have committed an offence under this Act and the preventive or remedial measures directed to be carried out, may be

carried out by the Inspecting Officer or under his supervision.

10. Recovery of costs.- The costs of any preventive or remedial measures carried out under section 7 or section 9 by the Inspecting Officer or under his supervision, shall be recoverable from the occupier as arrears of land revenue.

11. Appeal against costs.- (1) Any occupier referred to in section 10 may within thirty days from the date of the first demand of such costs, prefer an appeal to the prescribed officer on the grounds that,-

(i) the costs include charges for items other than the cost of labour, material or use of implements;

(ii) the charges for labour, material or use of implements are unreasonably high, or more than the expenditure actually incurred.

(2) On receipt of the appeal under sub-section (1), the prescribed officer shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(3) An order passed under sub-section (2), shall be final and conclusive and shall not be called in question in any court of law.

12. Obligation of village officers to report on insect pests, plant diseases or noxious weeds.- Every village officer of a village adjoining a notified area within the limits of which a pest, disease or weed similar to the insect pest, plant disease or noxious weed within the notified area appears, shall report the same to such officers as the State Government may from time to time specify in this behalf.

Explanation.- For purposes of this section, "village officer" includes the Village Accountant, the Village Panchayat Secretary and the Gramasevak.

13. Penalties.- (1) Whoever contravenes any prohibition, restriction or direction contained in a notification issued under section 3 shall, on conviction, be punished with fine which may extend to fifty rupees.

(2) Any occupier who is deemed to have committed an offence under this Act under section 7 or section 9, shall on conviction, be punished with fine which may extend to fifty rupees.

(3) Whoever commits a breach of the provisions of any rule made under section 20 shall, on conviction, be punished with fine which may extend to fifty rupees.

(4) Whoever voluntarily obstructs or offers any resistance to or impedes or otherwise interferes with,-

(a) any officer or person exercising any powers or performing any duties conferred or imposed on him by or in pursuance of the

provisions of this Act or otherwise discharging any functions in connection with preventive or remedial measures taken or to be taken under the provisions of this Act or any orders or directions made or given thereunder ; or

(b) any person, who is carrying out the orders or directions of any such officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of this Act or any orders, or directions made or given thereunder,

shall, on conviction, be punished with fine which may extend to five hundred rupees.

14. Cognizance of offences.- No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the Deputy Director of Agriculture.

15. Offences by companies.- (1) If the person committing an offence under this Act is a Company, every person who, at the time the offence was committed was in charge of, and was responsible to, the Company for the conduct of business of the Company, as well as the Company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to such 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 is attributable to any negligence 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 purposes of this section,-

(a) "company" means a body corporate and includes a firm or other association of individuals;

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

16. Protection of action taken under this Act.- No suit, prosecution or other legal proceedings shall lie against the State Government or any officer in respect of anything done or intended to be done in good faith under this Act, or for any damage caused by any action taken in good faith in carrying out the provisions of this Act.

17. Appointment of Inspecting Officers.- The State Government may from time

to time by notification, appoint Inspecting Officers for the purpose of exercising the powers and discharging the duties of an Inspecting Officer under this Act.

18. Delegation of powers.- The State Government may, by notification, delegate all or any of its powers under this Act, except those conferred by sections 18 and 19 to the Director of Agriculture or any other officer or to any local authority subject to such restrictions and conditions as may be specified in such notification:

Provided that the delegation of powers under section 3 shall not be made to any officer or authority other than the Director of Agriculture.

19. Directions by State Government.- The State Government may, by general or special orders, direct that the powers conferred on the officers by or under this Act, shall be exercised by such officers in such areas or in respect of such crops, as may be specified in such orders.

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

(2) 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 in which it is so laid 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 thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. Repeal and savings.- The Bombay Agricultural Pests and Diseases Act, 1947 (Bombay Act 43 of 1947), the Coorg Agricultural Pests and Diseases Act, 1933 (Coorg Act 2 of 1933), The Hyderabad Agricultural Pests and Diseases Regulation, 1352F, the Madras Agricultural Pests and Diseases Act, 1919 (Madras Act 3 of 1919) and the Mysore Destructive Insects and Pests Act, 1917 (Mysore Act 6 of 1917) as in force in the different areas of the ¹[State of Karnataka]¹ are hereby repealed:

Provided that section 6 of the ¹[Karnataka General Clauses Act, 1899 (Karnataka Act 3 of 1899)]¹ shall be applicable to such repeal and sections 8 and 24 of the said Act shall be applicable as if the said Acts had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

ಬೆಂಗಳೂರು, ದಿನಾಂಕ : 13ನೇ ಅಕ್ಟೋಬರ್ 1971 (ಕ್ರಮಾಂಕ : ಎರಿಫ್ 142 ಎಎಂಎಸ್ 69)

ಎಸ್.ಓ.ನಂ. 1734ಎ.- 1968ನೆಯ ಸಾಲಿನ ಮೈಸೂರು ವ್ಯವಸಾಯ ಸಂಬಂಧವಾದ ರೋಗ ಕೀಟಗಳು ಮತ್ತು ರೋಗಗಳ ಅಧಿನಿಯಮ (1969ರ ಮೈಸೂರು ಅಧಿನಿಯಮ ನಂ. 1)ದ 1ನೆಯ ಪ್ರಕರಣ (3)ನೆಯ ಉಪ-ಪ್ರಕರಣದಿಂದ ಪ್ರದಾನ ಮಾಡಲಾದ ಅಧಿಕಾರಗಳನ್ನು ಪ್ರಯೋಗಿಸಿ ಮೈಸೂರು ಸರ್ಕಾರದವರು, ಸದರಿ ಅಧಿನಿಯಮವು ಜಾರಿಗೆ ಬರತಕ್ಕ ದಿನಾಂಕವಾಗಿ 1971ರ ಅಕ್ಟೋಬರ್ ಮಾಹೆಯ 13ನೆಯ ದಿನಾಂಕವನ್ನು ಈ ಮೂಲಕ ಗೊತ್ತುಪಡಿಸಿದ್ದಾರೆ.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಎ. ನಾಯಕ್

ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿಗಳು,
ವ್ಯವಸಾಯ ಮತ್ತು ಅರಣ್ಯ ಇಲಾಖೆ.

THE KARNATAKA AGRICULTURAL PESTS AND DISEASES ACT, 1968 (KARNATAKA ACT NO. 1 OF 1969) has been amended by the following Acts, namely:-

Amendments (chronological)

Sl. No.	Act No. and Year	Sections Amended	Remarks
1.	1 of 1969	-	w.e.f. 13.10.71 AHF 142 AMS 69 dt.13.10.1971
2.	KAL Order 1973	-	w.e.f. 1.11.1973

Amendments (Section-wise)

Sections Amended	Act No. and Year	Remarks
-	-	-

THE KARNATAKA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1972

ARRANGEMENT OF SECTIONS

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. General liabilities of promoter.
4. Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered.
5. Promoter to maintain separate account or sums taken as advance or deposit and to be trustee therefor and disburse them for purposes for which given.
6. Responsibility for payment of outgoings till property is transferred.
7. After plans and specifications are disclosed no alterations or additions without consent of persons who have agreed to take the flats; and defects noticed within a year to be rectified.
8. Refund of amount paid with interest for failure to give possession within specified time or further time allowed.
9. No mortgage etc., to be created without consent of parties after execution of agreement for sale.
10. Promoter to take steps for formation of co-operative society or company.
11. Promoter to convey title, etc., and execute documents, according to agreement.
12. General liabilities of a person who takes a flat.
13. Manager not to cut off, with-hold, curtail or reduce essential supply or service.
14. Offences by promoter.
15. Offences by Companies.
16. Power to make rules.
17. Act to be in addition to Transfer of Property Act and to over-ride contract to the contrary.
18. Act not to apply to the State Government, Housing Board, etc.

* * * * *

STATEMENT OF OBJECTS AND REASONS

Act 16 of 1973.- Separate law is being made to declare that flats or apartments in multistoreyed building may, for all purposes, be heritable and transferable immovable property. Owners of such flats or apartments enjoy exclusive ownership of their flats or apartments while retaining an undivided interest in the common areas and facilities which are to be used and owned by all such owners jointly.

An enterprising individual or group of individuals may either construct out of his or their own funds multistoreyed buildings consisting of a number of self contained flats or apartments and sell them to individuals on ownership basis, or construct such buildings after collecting contributions from intending purchasers of such flats or apartments.

In the interest of the intending purchasers who advance funds it is necessary to regulate the construction, sale, management and transfer of flats or apartments by individuals or group of individuals who construct such multistoreyed buildings.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 2-12-1972 as No. 580.)

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सत्यमेव जयते

(First published in the ¹[Karnataka Gazette]¹ Extraordinary on the Twenty-third day of July, 1973)

THE ¹[KARNATAKA]¹ OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1972.

(Received the assent of the President on the Twenty-ninth day of June, 1973)

An Act to regulate in the ¹[State of Karnataka]¹ the promotion of the construction of, the sale and management and the transfer of flats on ownership basis.

WHEREAS it is expedient to make provision for the regulation of the promotion of the construction, sale and management and transfer of flats taken on ownership basis in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Twenty-third Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1972.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973

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

(3) It shall come into force on such ¹[date]¹ as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force on 01.04.1975 by notification. Text of the notification is at the end of the Act

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

(a) 'flat' means a separate and self-contained set of premises used or intended to be used for residence or office or show-room or shop or godown (and includes a garage), the premises forming part of a building;

Explanation.- Notwithstanding that provision is made for sanitary, washing, bathing or other conveniences as common to two or more sets of premises, the premises shall be deemed to be separate and self-contained;

(b) 'prescribed' means prescribed by rules made under this Act;

(c) 'promote' means a person who constructs or causes to be constructed a block or building of flats or apartments for the purpose of selling some or all of them to other persons or to a company, co-operative society or other association of persons and includes his assignees; and where the person who builds and the person who sells are

different persons, the term includes both;

(d) 'Registrar' means the Registrar as defined in the Karnataka Co-operative Societies Act, 1959 or, as the case may be, in the Companies Act, 1956;

(e) 'to construct a block or building of flats' includes to convert a building or part thereof into flats.

3. General liabilities of promoter.- (1) Notwithstanding anything contained in any other law, a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall in all transactions with persons intending to take or taking one or more of such flats, be liable to give or produce or cause to be given or produced the information and the documents hereinafter in this section mentioned.

(2) A promoter, who constructs or intends to construct such block or building of flats, shall,-

(a) make full and true disclosure of the nature of his title to the land on which the flats are constructed, or are to be constructed; such title to the land as aforesaid having been duly certified by an Advocate of not less than seven years standing;

(b) make full and true disclosure of all encumbrances on such land, including any right, title, interest or claim of any party in or over such land;

(c) allow inspection on reasonable notice of the plans and specifications of the building built or to be built on the land; such plans and specifications having been approved by the local authority which he is required so to do under any law for the time being in force;

(d) disclose the nature of fixtures, fittings and amenities (including the provision for one or more lifts) provided or to be provided;

(e) disclose on reasonable notice or demand if the promoter is himself the builder, the prescribed particulars as respects the design and the materials to be used in the construction of the building and if the promoter is not himself the builder disclose, on such notice or demand, all agreements (and where there is no written agreement, the details of all agreements) entered into by him with the architects and contractors regarding the design, materials and construction of the building;

(f) specify in writing the date by which possession of the flat is to be handed over;

(g) prepare and maintain a list of flats with their numbers already taken or agreed to be taken and the names and addresses of the parties and the price charged or agreed to be charged therefor, and the terms and conditions if any on which the flats are taken or agreed to be taken;

(h) state in writing, the precise nature of the organisation of persons to be constituted and to which title is to be passed, and the terms and conditions governing such organisation of persons who have taken or are to take the flats;

(i) not allow persons to enter into possession until a completion certificate where such certificate is required to be given under any law, is duly given to the local authority;

(j) make a full and true disclosure of all outgoings (including ground rent if any, municipal or other local taxes, taxes on income, water charges and electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any);

(k) make a full and true disclosure of such other information and documents in such manner as may be prescribed and give or demand true copies of such of the documents referred to in any of the clauses of this sub-section as may be prescribed at a reasonable charge therefor.

4. Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered.- Notwithstanding anything contained in any other law a promoter who intends to construct or constructs a block or building of flats, all or some of which are to be taken or are taken on ownership basis, shall, before he accepts any sum of money as advance payment or deposit, which shall not be more than twenty per cent of the sale price, enter into a written agreement for sale with each of such persons who are to take or have taken such flats, and the agreement shall be registered under the Registration Act, 1908 and such agreement shall contain the prescribed particulars; and to such agreement there shall be attached such documents or copies thereof, in respect of such matters, as may be prescribed.

5. Promoter to maintain separate account of sums taken as advance or deposit and to be trustee therefor and disburse them for purposes for which given.- The promoter shall maintain a separate account in any bank of sums taken by him, from persons intending to take or who have taken flats, as advance or deposit, including any sums so taken towards the share capital for the formation of a co-operative society or a company, or towards the outgoings (including ground rent, if any, municipal or other local taxes, taxes on income, water charges, electricity charges, revenue assessment, interest on any mortgage or other encumbrances, if any); and he shall hold the said moneys for the purposes for which they were given and shall disburse the moneys for those purposes, and shall on demand in writing by an officer appointed by a general or special order by the State Government for the purpose, make full and true disclosure of all transactions in respect of that account.

6. Responsibility for payment of outgoings till property is transferred.- A promoter shall, while he is in possession and where he collects from persons who

have taken over flats or are to take over flats sums for the payment of outgoings even thereafter, pay all outgoings (including ground rent, municipal or other local taxes, taxes on income, water charges, electricity-charges, revenue assessment, interest on any mortgage or other encumbrances, if any), until he transfers the property to the persons taking over the flats, or to the organisation of any such persons.

7. After plans and specifications are disclosed no alterations or additions without consent of persons who have agreed to take the flats; and defects noticed within a year to be rectified.- (1) After the plans and specifications of the building, as approved by the local authority as aforesaid, are disclosed or furnished to the person who agrees to take one or more flats, the promoter shall not make,-

(i) any alterations in the structures described therein in respect of the flat or flats which are agreed to be taken, without the previous consent of that person; or

(ii) any other alterations in the structure of the building, or construct any additional structures, without the previous consent of all the persons who have agreed to take the flats.

(2) Subject to the provisions of sub-section (1), the building shall be constructed and completed in accordance with the plans and specifications aforesaid.

(3) If any defect in the building or material used, or if any unauthorised change in the construction is brought to the notice of the promoter within a period of one year from the date of handing over possession, it shall wherever possible, be rectified by the promoter without further charge to the persons who have agreed to take the flats, and in other cases such persons shall be entitled to receive reasonable compensation for such defect or change.

(4) Where there is a dispute as regards any defect in the building or material used, or any unauthorised change in the construction or as to whether it is reasonably possible for the promoter to rectify any such defect or change or as regards the amount of reasonable compensation payable in respect of any such defect or change which cannot be, or is not, rectified by the promoter the matter shall, on payment of such fee as may be prescribed, be referred for decision to such officer not lower in rank than a Superintending Engineer as the State Government may by general or special order specify in this behalf, within a period of two years from the date of handing over possession. Such officer shall after such enquiry as he deems necessary, record his decision, which shall be final.

8. Refund of amount paid with interest for failure to give possession within specified time or further time allowed.- If,-

(a) the promoter fails to give possession in accordance with the terms of his agreement of a flat duly completed by the date specified, or any further date or dates agreed to by the parties; or

(b) the promoter for reasons beyond his control and of his agents, is unable to give possession of the flat by the date specified, or the further agreed date and a period of three months thereafter, or a further period of three months if those reasons still exist,

then, in any such case, the promoter shall be liable on demand (but without prejudice to any other remedies to which he may be liable) to refund the amounts already received by him in respect of the flat (with simple interest at nine per cent per annum from the date he received the sums till the date the amounts and interest thereon is refunded), and the amounts and the interest shall be a charge on the land and the construction, if any, thereon in which the flat is or was to be constructed to the extent of the amount due, but subject to any prior encumbrances.

9. No mortgage etc., to be created without consent of parties after execution of agreement for sale.- No promoter shall, after he executes an agreement to sell any flat, mortgage or create a charge on the flat or the land, without the previous consent in writing of the persons who take or agree to take the flats, and if any such mortgage or charge is made or created without such previous consent after the agreement referred to in section 4 is registered, it shall not affect the right and interest of such persons.

10. Promoter to take steps for formation of co-operative society or company.- (1) As soon as a minimum number of persons required to form a co-operative society or a company have taken flats, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organisation of persons who take the flats as a co-operative society, or as the case may be, as a company; and the promoter shall join, in respect of the flats which have not been taken, in such application for membership of a co-operative society or as the case may be, of a company.

(2) Nothing in sub-section (1) shall affect the right of the promoter to dispose of the remaining flats in accordance with the provisions of this Act.

11. Promoter to convey title, etc., and execute documents, according to agreement.- A promoter shall take all necessary steps to complete his title and convey to the organisation of persons, who take flats, which is registered either as a co-operative society or as a company as aforesaid, or to an association of flat-takers his right, title and interest in the land and building and execute all relevant documents therefor in accordance with the agreement executed under section 4 and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and also deliver all documents of title relating to the property which may be in his possession or power.

12. General liabilities of a person who takes a flat.- (1) Every person who has executed an agreement to take a flat shall pay at the proper time and place, the price, the municipal taxes, water and electricity charges, ground rent (if any), and other

public charges payable in respect of the flat taken by him and where a co-operative society or a company of persons taking the flats is to be constituted co-operate in the formation of such society or company as the case may be.

(2) Any person who has executed an agreement to take a flat and who, without reasonable excuse fails to comply with or contravenes sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

13. Manager not to cut off, with-hold, curtail or reduce essential supply or service.- (1) No person, who is a promoter, or who is in charge of management or connected with the management of a block or building of flats whether as member of a managing committee, Director, Secretary or otherwise, or is responsible for the maintenance thereof (hereinafter in this section referred to as "the manager"), shall, without just and sufficient cause, either by himself or through any person, cut off, with-hold or in any manner curtail or reduce, any essential supply or service enjoyed by the person who has taken a flat (or by any person in occupation thereof through or under him) in respect of the flat taken, or agreed to be taken by him.

(2) The person who has taken or agreed to take the flat or the occupier may, if the manager has contravened the provisions of sub-section (1), make an application to the Court for a direction to restore such supply or service.

(3) If the Court on enquiry finds that the applicant or the person through or under whom he is in occupation has been in enjoyment of the essential supply or service and that it was cut off or with-held or curtailed or reduced by the manager without just and sufficient cause, the Court shall make an order directing the manager to restore such supply or service before a date to be specified in the order.

(4) The Manager who fails to restore the supply or service before the date so specified, shall for each day during which the default continues thereafter be liable upon a further direction by the Court to that effect, to fine which may extend to one hundred rupees.

(5) Notwithstanding anything contained in any law for the time being in force,-

(a) in any area for which a Court of Small Causes is established under the Karnataka Small Causes Courts Act 1964, that Court; and

(b) elsewhere, the Court of the Civil Judge, shall have jurisdiction to decide any application made under sub-section (2) of and no other court shall have jurisdiction to entertain such application. No appeal shall lie from any order made on such application.

(6) The District Court, may, for the purpose of satisfying itself that the order made on an application made under sub-section (2) was according to law, call for the case in which such order was made and pass such order with respect thereto as it thinks fit.

(7) Any manager who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine or with both.

(8) An offence under sub-section (7) shall be a cognizable offence.

Explanation I.- In this section, essential supply or service includes the supply of water, electricity lights in passages and on stair cases, lifts and conservancy or sanitary service.

Explanation II.- For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the manager on account of which the essential supply or service is cut off by the local authority or any other competent authority.

14. Offences by promoter.- Any promoter who, without reasonable excuse, fails to comply with or contravenes any provisions of this Act or of any rule made thereunder shall (where no other penalty is expressly provided for) on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both; and a promoter who commits criminal breach of trust of any amount advanced or deposited with him for the purposes mentioned in section 5 shall, on conviction be punished with imprisonment for a term which may extend to four years, or with fine, or with both.

15. Offences by Companies.- (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of business by the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act 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 with the consent or connivance of, or is attributable to any negligence 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.

16. Power to make rules.- (1) The State Government may, subject to the condition of previous publication, by notification in the official Gazette, 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) the particulars as respects the design and the materials to be used in the construction of the building and the other information and documents to be disclosed, the manner in which disclosure to be made and the documents of which true copies shall be given by the promoter;

(b) the particulars to be contained in the agreement for sale and the documents or copies thereof to be attached to such agreement;

(c) the period within which the promoter shall submit an application for registration of a co-operative society or a company;

(d) the period within which the promoter shall execute the conveyance;

(e) any other matter which has to be, or may be, prescribed under this Act.

(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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.

17. Act to be in addition to Transfer of Property Act and to over-ride contract to the contrary.-The provisions of this Act, except where otherwise provided, shall be in addition to the provisions of the Transfer of Property Act, 1882, and shall take effect notwithstanding anything to the contrary contained in any contract.

18. Act not to apply to the State Government, Housing Board, etc.-Nothing contained in this act shall apply to the State Government or to the Karnataka Housing Board constituted under the Karnataka Housing Board Act, 1962 (Karnataka Act 10 of 1963) or to the Board of Trustees for the Improvement of the City of Mysore constituted under the City of Mysore Improvement Act, 1903 (Mysore Act 3 of 1903) or to the Board of Trustees for the Improvement of the City of Bangalore constituted under the City of Bangalore Improvement Act, 1945 (Mysore Act 5 of 1945).

* * * *

NOTIFICATION

Bangalore, dated 6th March 1975 [No. FD 27 KHB 75]

S.O. 753.- In exercise of the powers conferred under sub-section (3) of section 1 of the Karnataka Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1972 (Karnataka Act No. 16 of 1973), the Government of Karnataka hereby appoints the first day of April 1975 as the date on which the said Act shall come into force.

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

K.S.RASHEED,

Under Secretary to Government,

Finance Department (Housing).

(Published in the Karnataka Gazette (Extraordinary) Part IV-2c (ii) dated 10-3-1975 as No. 806.)

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सत्यमेव जयते

**THE KARNATAKA APARTMENT OWNERSHIP ACT, 1972.
ARRANGEMENT OF SECTIONS**

Statement of Objects and Reasons:

Sections:

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STATEMENT OF OBJECTS AND REASONS

Act 17 of 1973.- Consequent upon the shortage of lands in urban areas, the majority of the citizens of urban areas of the State cannot think in terms of owning houses on individual basis. Though there is a tendency to construct multi-storeyed flats, apartments and the like on ownership basis, intending persons cannot purchase flats, tenements, or apartments in multi-storied building as they will not have a marketable title thereto and cannot obtain any loan by mortgaging such flats, tenements, etc. Consequently tenements constructed by the Housing Board for example cannot be sold to the tenants who cannot raise any loan on the security of such tenements with the result that an enormous amount of capital will be locked up, which can be utilised for new constructions to meet the increasing demands for housing. It is, therefore, considered expedient that each apartment should for all purposes constitute a heritable and transferable immovable property, and that suitable legislation should provide for all matters connected therewith. It is felt that such a measure will not only enable many a person to own his apartment but it will at the same time enable institutions like Housing Boards to utilise their locked up capital in the construction of new buildings . The following notes on causes explain the important provisions in the Bill.

Clause 2- By this clause, the provisions of the Act are made applicable only to property, the sole owner or all of the owners of which submit the same to the provisions of the Act by duly executing a Declaration as provided in the Act.

Clause 4- Under this clause, each apartment together with its undivided interest in the common areas and facilities appurtenant to such apartment is constituted for all purposes a heritable and transferable immovable property.

Clause 5- By this clause, the owner of each apartment is given exclusive ownership and possession of his apartment and he is required to execute a Declaration that he submits his apartment to the provisions of the Act and a Deed of Apartment in relation to his apartment;

Clause 6- This clause specifies the common areas and facilities to which each apartment owner shall be entitled, and prohibits an apartment owner from bringing any action for partition or division of any part of such common areas, unless the property has been removed from the provisions of the Act.

The clause further provides for carrying out the work of maintenance, repair and replacement of the common areas and facilities as provided in the bye-laws.

Clause 7- This clause puts an obligation on each apartment owner to comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed to his apartment:

Clause 8- This clause prohibits the apartment owner from doing any work which would jeopardize the soundness or safety or the property or reduce the values thereof, or from adding any material structure or excavating any additional basement or cellar without the unanimous consent of all the other apartment owners being first obtained.

Clause 9- This clause indicates to what extent encumbrances against apartments and property can arise or be created.

Clause 10- This clause provides for the sharing of the common expenses by the apartment owners.

Clause 11- This clause mentions the particulars to be included in a Declaration.

Clause 12- This clause mentions the particulars to be included in a Deed of Apartment.

Clause 13- This clause provides for the registration of Declarations, Deeds of Apartments and copies of floor plans.

Clause 14- This clause provides for the removal of property from the provisions of the Act.

Clause 15- This clause provides that removal is no bar to subsequent resubmission of property to Act.

Clause 16- This clause provides for bye-laws and their contents.

Clause 17- This clause prohibits waiver of the use of enjoyment of any common areas and facilities by apartment owners to avoid liability to contribute towards the common expenses.

Clause 18- This clause provides for separate assessment of each apartment.

Clause 19- This clause constitutes all sums assessed by the Association of Apartment Owners in respect of any apartment but unpaid, a charge on such apartment.

Clause 20- This clause provides for insuring the property against loss or damage by fire and such other hazards in certain circumstances.

Clause 22- This clause provides for disposition of property in certain circumstances.

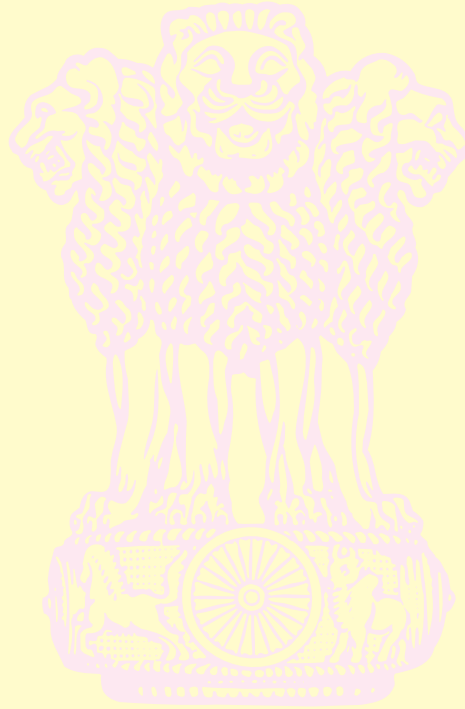
Clause 24. - Under this clause, the Act is made binding on apartment owners, tenants of such owners, employees of owners and tenants or any other person who may in any manner use property or any part thereof submitted to the provisions of the Act.

Clause 25- This clause confers rule making power on the State Government.

Clause 26- This clause provides that the Transfer of Property Act shall apply to every apartment as they apply to any immovable property and contracts to the contrary are over-ridden.

(Published in the Karnataka Gazette Part IV -2A (Extraordinary) No. 579 dated 2-12-1972 at page 21 to 24.)

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सत्यमेव जयते

¹[KARNATAKA]¹ ACT NO. 17 OF 1973

(First published in the ¹[Karnataka Gazette]¹, Extraordinary on the Twenty-third day of July, 1973).

THE ¹[KARNATAKA]¹ APARTMENT OWNERSHIP ACT, 1972.

(Received the assent of the President on the Fourteenth day of July, 1973)

An Act to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property and for matters connected therewith.

WHEREAS it is expedient to provide for the ownership of an individual apartment in a building and to make such apartment heritable and transferable property and to provide for matters connected therewith;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Twenty-third Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Apartment Ownership Act, 1972.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

(3) It shall come into force on such ²[date]² as the State Government may, by notification in the official gazette appoint.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

2. Act came into force w.e.f. 1.4.1975 by notification No. FD 28 KHB 75, dated 6.3.1975.

2. Application of the Act.- This Act applies only to property the sole owner or all of the owners of which submit the same to the provisions of this Act by duly executing and registering a Declaration as hereinafter provided:

Provided that, no property shall be submitted to the provisions of this Act, unless it is mainly used, or proposed to be used for residential purposes.

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

(a) "apartment" means a part of the property intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors (or part or parts thereof) in a building, intended to be used for residential purposes and with a direct exit to a public street, road or highway or to a common area leading to such street, road, or highway;

(b) "apartment owner" means the person or persons owning an apartment and an undivided interest in the common areas and facilities in the percentage specified and established in the Declaration;

(c) "apartment number" means the number, letter, or combination thereof designating the apartment in the Declaration;

(d) "association of apartment owners" means all of the apartment owners acting as a group in accordance with the bye-laws and Declaration.

(e) "building" means a building containing four or more apartments, or two or more

buildings, each containing two or more apartments, with a total of four or more apartments for all such buildings, and comprising a part of the property;

(f) "common areas and facilities" unless otherwise provided in the Declaration or lawful amendments thereto, means,-

(1) the land on which the building is located;

(2) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire-escapes, entrances and exits of the building;

(3) the basements, cellars, yards, gardens, parking areas and storage spaces;

(4) the premises for the lodging of janitors or persons employed for the management of the property;

(5) installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air-conditioning and incinerating;

(6) the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(7) such community and commercial facilities as may be provided for in the Declaration; and

(8) all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use;

(g) "common expenses" means,-

(1) all sums lawfully assessed against the apartment owners by the Association of Apartment Owners,

(2) expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(3) expenses agreed upon as common expenses by the bye-laws;

(4) expenses declared as common expenses by the provisions of this Act or by the Declaration or the bye-laws:

(h) "common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses;

(i) "competent authority" means in relation to building constructed or to be constructed by the Housing Board, the Secretary of the Housing Board and in any other case, the Registrar of Co-operative Societies as defined in the Karnataka Co-operative Societies Act, 1959;

(j) "Declaration" means the instrument by which the property is submitted to the provisions of this Act, as hereinafter provided, and such Declaration as from time to time may be lawfully amended;

(k) "Housing Board" means the Housing Board constituted under the Karnataka Housing Board Act, 1962 (Karnataka Act 10 of 1963);

(l) "joint family" means an undivided Hindu family and in the case of other persons, a group or unit, the members of which are by custom joint in possession or residence;

(m) "limited common areas and facilities" means those common areas and facilities designated in the Declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments;

(n) "majority" or "majority of apartment owners" means the apartment owners with fifty-one per cent or more of the votes in accordance with the percentages assigned in the Declaration to the apartments for voting purposes;

(o) "person" includes a joint family ;

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

(q) "property" means the land, the building, all improvements and structures thereon, all owned in freehold or held on lease or as occupant under any law relating to land revenue and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been, or are intended to be submitted to the provisions of this Act.

4. Status of apartments.- Each apartment, together with its undivided interest in the common areas and facilities appurtenant to such apartment, shall for all purposes constitute heritable and transferable immovable property within the meaning of any law for the time being in force in the State: and accordingly, an apartment owner may transfer his apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment by way of sale, mortgage, lease, gift, exchange or in any other manner whatsoever in the same manner to the same extent and subject to the same rights, privileges, obligations, liabilities, legal proceedings and remedies as any other immovable property, or make a bequest of the same under the laws applicable to the transfer and succession of immovable property.

5. Ownership of apartments.- (1) Each apartment owner shall be entitled to the exclusive ownership and possession of his apartment.

(2) Each apartment owner shall execute a Declaration that he submits his apartment to the provisions of this Act and a Deed of Apartment in relation to his apartment in the manner prescribed for the purpose.

6. Common areas and facilities.- (1) Each apartment owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the Declaration. Such percentage shall be computed by taking as a basis the value of the apartment in relation to the value of the property and such percentage shall reflect limited common areas and facilities.

(2) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the Declaration shall have permanent character, and shall not be altered without the consent of all of the apartment owners expressed in an amended Declaration duly executed and registered as provided in this Act. The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment to which it appertains, and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned in the conveyance or other instrument.

(3) The common areas and facilities shall remain undivided and no apartment owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this Act as provided in sections 14 and 22. Any covenant to the contrary shall be null and void.

(4) Each apartment owner may use the common areas and facilities in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other apartment owners.

(5) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bye-laws.

(6) The Association of Apartment Owners shall have the irrevocable right, to be exercised by the Manager or Board of Managers, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repair and replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common area and facilities or to another apartment or apartments.

7. Compliance with covenants, bye-laws and administrative provisions.- Each apartment owner shall comply strictly with the bye-laws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in the Declaration or in the Deed to his Apartment. Failure to comply with any of the same shall be a ground for an action to recover sums due for damages or injunctive relief or both maintainable by the Manager or Board of Managers on behalf of the Association of Apartment Owners or, in a proper case by an aggrieved apartment owner.

8. Certain work prohibited.- No apartment owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament nor may any apartment owner add any material structure or excavate any additional basement or cellar without in every such case the unanimous consent of all the other apartment owners being first obtained.

9. Encumbrances against apartments; removal from, encumbrances, effect of part payment.-

(1) Subsequent to recording the Declaration as provided in this Act, and while the property remains subject to this Act, no encumbrance of any nature shall thereafter arise or be effective against the property. During such period encumbrances may arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, in the same manner and under the same conditions in every respect as encumbrances may arise or be created upon or against any other separate parcel of property subject to individual ownership:

Provided that if during the period any encumbrance has arisen or been created against such apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment, no apartment and such percentage of undivided interest shall be partitioned or subdivided in interest:

Provided further that, no labour performed or materials furnished with the consent or at the request of an apartment owner or his agent or his contractor or sub-contractor shall be the basis for a charge or any encumbrance under the provisions of the Transfer of Property Act, 1882, against the apartment or any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labour performed and material furnished for the common areas and facilities if duly authorised by the Association of Apartment Owners, the Manager or Board of Managers in accordance with this Act, the Declaration or bye-laws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for a charge or encumbrance under the Act aforesaid against each of the apartments and shall be subject to the provisions of sub-section (2).

(2) In the event of a charge or any encumbrance against two or more apartments becoming effective, the apartment owners of the separate apartments may remove their apartments and the percentage of undivided interest in the common areas and facilities appurtenant to such apartments from the charge or encumbrance by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the Declaration. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the charge or encumbrance so paid, satisfied or discharged. Such partial payments, satisfaction or discharge shall not prevent the person having a charge or any other encumbrance from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common areas and facilities

appurtenant thereto not so paid, satisfied or discharged.

10. Common profits and expenses.- The common profits of the property shall be distributed among and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities.

11. Contents of Declaration.- (1) The Declaration shall contain the following particulars, namely:-

(a) description of the land on which the building and improvements are or are to be located; and whether the land is freehold or leasehold;

(b) description of the building stating the number of storeys and basements, the number of apartments and the principal materials of which it is or is to be constructed;

(c) the apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification;

(d) description of the common areas and facilities;

(e) description of the limited common areas and facilities, if any, stating to which apartments their use is reserved;

(f) value of the property and of each apartment, and the percentage of undivided interest in the common areas and facilities appurtenant to each apartment and its owner for all purposes, including voting; and a statement that the apartment and such percentage of undivided interest are not encumbered in any manner whatsoever on the date of the Declaration;

(g) statement of the purposes for which the building and each of the apartments are intended and restricted as to use ;

(h) the name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which shall be within the city, town or village in which the building is located:

(i) provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property;

(j) any other details in connection with the property which the person executing the Declaration may seem desirable to set forth consistent with this Act: and

(k) the method by which the Declaration may be amended, consistent with the provisions of this Act.

(2) A true copy each of the Declaration and bye-laws and all amendments to the Declaration or the bye-laws shall be filed in the office of the competent authority.

12. Contents of Deeds of Apartments.- (1) Deeds of Apartments shall include the following particulars, namely:-

(a) description of the land as provided in section 11 of this Act or the post office address of the property, including in either case the book, page and date of executing the Declaration the date and serial number of its registration under the Registration Act, 1908 and the date and other reference if any, of its filing with the competent authority;

(b) the apartment number of the apartment in the Declaration and any other data necessary for its proper identification;

(c) statement of the use for which the apartment is intended and restrictions on its use, if any;

(d) the percentage of undivided interest appertaining to the apartment in the common areas and facilities; and

(e) any further details which the parties to the Deed may deem desirable to set forth consistent with the Declaration and this Act.

(2) A true copy of every deed of Apartment shall be filed in the office of the competent authority.

13. Declarations, deeds of apartments and copies of floor plans to be registered.- (1) The Declaration and all amendments thereto and the Deed of Apartment in respect of each apartment and the floor plans of the buildings referred to in sub-section (2) shall be registered under the Registration Act, 1908.

(2) Simultaneously with the registration of the Declaration there shall be filed along with it a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments, stating the name of the building or that it has no name, and bearing the verified statement of an architect certifying that it is an accurate copy of portions of the plans of the buildings as filed with and approved by the local authority within whose jurisdiction the building is located. If such plans do not include a verified statement by such architect that such plans fully and accurately depict the layout location, apartment number and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment, an amendment to the Declaration to which shall be attached a verified statement of an architect certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.

(3) In all registration offices a book called " Register of Declarations and Deeds of Apartments under the Karnataka Apartment Ownership Act, 1972" and Index relating thereto shall be kept. The book and the Index shall be kept in such form and shall

contain such particulars as may be prescribed.

(4) It shall be the duty of every Manager or Board of Managers to send to the Sub-Registrar of the sub-district in which the property containing the apartment is situate, or if there is no Sub-Registrar for the area, to the Registrar of the district in which such property is situate, a certified copy of the Declaration and Deed of Apartment made in respect of every apartment contained in the building forming part of the property together with a memorandum containing such particulars as may be prescribed.

(5) The Sub-Registrar, or as the case may be, the Registrar shall register the Declaration along with floor plans of the building and the Deed of Apartment in the "Register of Declaration and Deeds of Apartments under the Karnataka Apartment Ownership Act, 1972" and shall also enter particulars in the Index kept under sub-section (3). Any person acquiring any apartment or any apartment owner shall be deemed to have notice of the Declaration and of the Deed of Apartment as from the date of its registration under this section.

(6) Except as provided in this section, the provisions of the Registration Act, 1908, shall mutatis mutandis apply to the registration of such Declarations and Deeds of Apartments, and the words and expression used in the section but not defined in this Act shall have the meaning assigned to them in the Registration Act, 1908.

14. Removal from provisions of this Act.- (1) All the apartment owners may remove a property from the provisions of this Act by an instrument to that effect duly executed:

Provided that, the holders of all charges and other encumbrances affecting any of the apartments consent thereto or agree, in either case by instruments duly executed, that their charges or encumbrances be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided .

(2) Upon the removal of the property from the provisions of this Act the property shall be deemed to be owned in common by the apartment owners. The undivided interest in the property owned in common which shall apportion to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

15. Removal no bar to subsequent resubmission of property to this Act. - The removal provided for in the preceding section shall in no way bar the subsequent re-submission of the property to the provisions of this Act.

16. Bye-laws and their contents.- (1) The administration of every property shall be governed by bye-laws, a true copy of which shall be annexed to the Declaration . No modification of or amendment to the bye-law shall be valid, unless set forth in an amendment to the Declaration and such amendment is duly recorded and a copy thereof is duly filed with the competent authority.

(2) The bye-laws shall provide for the following matters, namely:-

(a) The election from among the apartment owners, of a Board of Managers, the number of persons constituting the same, and that the terms of at least one-third of the members of such Board shall expire annually; the powers and duties of the Board; the compensation, if any, of the members of the Board; the method of removal from office of members of the Board; and whether or not the Board may engage the services of a Secretary, a Manager or Managing Agent, and specifying which of the powers and duties granted to the Board by this Act or otherwise may be delegated by the Board to either or both of them;

(b) method of calling meetings of the apartment owners; what percentage, if other than a majority of Apartment Owners, shall constitute a quorum;

(c) election of a President from among members of the Board of managers who shall preside over the meetings of such Board and of the Association of Apartment Owners;

(d) election of a Secretary who shall keep a minute book wherein resolutions shall be recorded;

(e) election of a Treasurer who shall keep the financial records and books of accounts;

(f) maintenance, repairs and replacement of the common areas and facilities and payments therefor;

(g) manner of collecting from the apartment owners their share of the common expenses;

(h) designation and removal of persons employed for the maintenance, repair and replacement of the common areas and facilities;

(i) the method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities;

(j) such restrictions on the requirements respecting the use and maintenance of the apartments and the use of the common areas and facilities not set forth in the Declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common areas and facilities by the several apartment owners; and

(k) the percentage of the votes required to amend the bye-laws.

(3) The bye-laws may also provide for the following matters namely:-

(a) subject to the provisions of this Act, provision for regulating transfer or partition of any apartment and percentage of undivided interest in the common areas and facilities appurtenant to such apartment, subject to such terms and conditions as

may be specified in the bye-laws:

(b) provisions enabling the Board of Managers to retain certain areas of the building and lease to non-residents for commercial purposes and for distribution of resulting proceeds to the apartment owners as income or application thereof in reduction of their common charges for maintaining the building; and

(c) any other provisions, not inconsistent with the provisions of this Act, relating to the audit and accounts and administration of the property and annual and special general meetings, annual report and the like.

17. Waiver of use of common areas and facilities; Abandonment of apartment.- No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities, or by abandonment of his apartment.

18. Separate assessment.- Notwithstanding anything to the contrary contained in any law relating to local authorities, each apartment and its percentage of undivided interest in the common areas and facilities appurtenant to such apartment (being an apartment submitted to the provisions of this Act) shall be deemed to be separate property for the purpose of assessment to tax on lands and buildings leviable under such law and shall be assessed and taxed, accordingly; and for this purpose, a local authority shall make all suitable rules to carry out the provisions of this section. Neither the building, the property nor any of the common areas and facilities shall be deemed to be separate property for the purposes of the levy of such tax.

19. Charge on property for common expenses.- All sums assessed by the Association of Apartment owners but unpaid for the share of common expenses chargeable to any apartment shall constitute a charge on such apartment prior to all other charges, except only (i) charge if any on the apartment for payment of Government and Municipal taxes and (ii) all sums unpaid on a first mortgage of the apartment.

20. Joint and several liability of vendor, etc, for unpaid common expenses.-
(1) Upon the sale of an apartment, the purchaser of the apartment shall be jointly and severally liable with the vendor for all unpaid assessments against the latter for his share of the common expenses upto the time of the sale without prejudice to the purchaser's or grantee's right to recover from the vendor the amount paid by the purchaser or grantee therefor.

(2) A purchaser referred to in sub-section (1) shall be entitled to a statement from the Secretary or Board of Managers, setting forth the amount of the unpaid assessment against the vendor and such purchaser or grantee shall not be liable for, nor shall the apartment sold be subject to a charge for any unpaid share of common expenses against such apartment accrued prior to such sale or bequest in excess of

the amount therein set forth.

21. Insurance.- (1) The Manager or Board of Managers, if required by the Declaration or the bye-laws or by a majority of the apartment owners, or at the request of a mortgagee having a first mortgage covering an apartment, shall have the authority to, and shall obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required, or requested.

(2) Insurance referred to in sub-section (1) shall be written in the name of the Manager or of the Board of Managers of the Association of the Apartment Owners as trustee for each of the apartment owners in the percentages established in the Declaration.

(3) Premiums in respect of insurance referred to in sub-section (1) shall be common expenses and such insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

22. Disposition of property; destruction or damage.- If within sixty days of the date of damage or destruction to all or part of the property, it is not determined by the Association of Apartment Owners to repair, reconstruct or rebuild, then and in that event,-

(a) the property shall be deemed to be owned in common by the apartment owners;

(b) the undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of the undivided interest previously owned by such owner in the common areas and facilities : (c) any encumbrances affecting any of the apartments shall be deemed to be transferred in accordance with the existing priority to the percentage of the undivided interest of the apartment owner in the property as provided herein:

(d) the property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in percentage equal to the percentage of undivided interest owned by each owner in the property after first paying out all the respective shares of the apartment owners to the extent sufficient for the purpose and all charges on the undivided interest in the property owned by each apartment owner.

23. Action.- Without limiting the rights of any apartment owner, actions may be brought by the Manager or Board of Managers, in either case in the discretion of the Board of Managers, on behalf of two or more of the apartment owners as their respective interest may appear with respect to any cause of action relating to the common areas and facilities or more than one apartment. Service of process on two or

more apartment owners in any action relating to the common areas and facilities or more than one apartment may be made on the person designated in the Declaration to receive service of process.

24. Act to be binding on apartment owners, tenants etc.- (1) All apartment owners, tenants of such owners, employees of owners and tenants, or any other person that may in any manner use property or any part thereof submitted to the provisions of this Act shall be subject to this Act and to the Declaration and the by-laws of the Association of Apartment Owners adopted pursuant to the provisions of this Act.

(2) All agreements, decisions and determinations law-fully made by the Association of Apartment Owners in accordance with the voting percentages established under this Act, Declaration or bye-laws, shall be deemed to be binding on all apartment owners.

25. Power to make rules- (1) The State Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(2) 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 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.

26. Removal of doubt.- For the removal of doubt, it is hereby declared that the provisions of the Transfer of Property Act, 1882, shall in so far as they are not inconsistent with the provisions of this Act, apply to every apartment together with its undivided interest in the common areas and facilities appurtenant to such apartment as those provisions apply in relation to any immovable property, and the provisions of this Act shall take effect, notwithstanding anything to the contrary contained in any contract.

27. Severability.- If any provision of this Act or any section, sentence, clause, phrase, or word, or application thereof in any circumstances is held invalid, the validity of the remainder of this Act and of the application of any such provision, section, sentence, clause, phrase, or word, in any other circumstances shall not be affected thereby.

NOTIFICATION**Bangalore, dated 6th March 1975 [No. FD 28 KHB 75]**

S.O.752.- In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Apartment Ownership Act, 1972 (Karnataka Act No. 17 of 1973), the Government of Karnataka hereby appoints the first day of April, 1975 as the date on which the said Act shall come into force.

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

K.S. RASHEED,

*Under Secretary to Government,
Finance Department (Housing).*

(Published in the Karnataka Gazette (Extraordinary) Part IV 2-C (ii) dated 10-3-1975 No. 605.)

* * * * *

The Karnataka Apartment Ownership Act, 1972 (Karnataka Act 17 of 1973) has been amended by the following Acts, namely:-

Amendments (Chronological)

Sl.No.	Act No. and year	Sections amended	Remarks
1.	17 of 1973	-	1.4.1975 FD 28 KHB 75 dated 6.3.1975
2.	KAL Order 1973	-	1.11.1973
Amendments (Section-wise)			
	Sections	Act No. and year	Remarks
	Title, Preamble	KAL Order 1973	w.e.f. 1.11.1973
	1(1)(2)	KAL Order 1973	w.e.f. 1.11.1973

THE KARNATAKA ACQUISITION OF LANDS FOR GRANT OF HOUSE SITES ACT, 1972
ARRANGEMENT OF SECTIONS

Statement of Objects and Reasons:

Sections:

1. Short title and commencement.
2. Definitions.
3. Acquisition of land.
4. Amount payable.
5. Application of Central Act 1 of 1894.
6. Delegation of powers by the State Government.
7. Rules.

* * * * *

STATEMENT OF OBJECTS AND REASONS

Act 18 of 1973.- The Government of India have recently introduced a scheme for provision of house sites to families of landless workers in rural areas under which 100 percent assistance is provided to the States towards acquisition of land and also towards development of house sites upto Rs. 150 per site.

2. The State Government have decided to implement the scheme on a massive scale and have issued orders in Government Order No. DPC 15 DRH 72, .

3. In order to implement the scheme expeditiously the lands required for the purpose have to be acquired without delay.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No 581, dated 2-12-1972 at page 6)

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सत्यमेव जयते

¹[KARNATAKA ACT]¹ No. 18 OF 1973

(First published in the ¹[Karnataka Gazette]¹ Extraordinary on the Twenty - third day of July, 1973)

THE ¹[KARNATAKA]¹ ACQUISITION OF LANDS FOR GRANT OF

HOUSE SITES ACT, 1972

(Received the assent of the President on the Eighteenth day of July, 1973)

An Act to provide for acquisition of lands for granting house sites to weaker sections of the people in the State.

WHEREAS it is expedient to provide for the acquisition of lands for the public purpose of granting house site to the weaker sections of the people in the State and for purposes connected therewith;

BE in enacted by the ¹[Karnataka]¹ State Legislature in the Twenty-third year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

1. Short title and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Acquisition of Lands for Grant of House Sites Act, 1972.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(2) It shall come into force at once.

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

(1) "Deputy Commissioner" includes any officer specially appointed by the State Government to perform the functions of a Deputy Commissioner under this Act;

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

(3) "weaker sections of people" means persons belonging to the Scheduled Castes or Scheduled Tribes, landless labourers and such other class or classes of persons as the State Government may, having regard to their economic backwardness, by notification, specify;

(4) the expression "land" and the expression "person interested" shall have the meanings respectively assigned to them in the Land Acquisition Act, 1894 (Central Act 1 of 1894) as amended by the Land Acquisition (¹[Karnataka]¹ Extension and Amendment) Act; 1961.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

3. Acquisition of land.- (1) If at any time, in the opinion of the State Government any land is required for the purpose of providing house sites to the weaker sections of people who are houseless, the State Government may, by notification, give notice of its intention to acquire such land.

(2) On the publication of a notification under sub-section (1), the State Government

shall serve notice upon the owner or where the owner is not the occupier, on the occupier of the land and on all such persons known or believed to be interested therein to show cause, within thirty days from the date of service of the notice, why the land should not be acquired.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) After orders are passed under sub-section (3), where the State Government is satisfied that any land should be acquired for the purpose specified in the notification issued under sub-section (1) a declaration shall, by notification, be made to that effect.

(5) On the publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.

(6) Where any land is vested in the State Government under sub-section (5), the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(7) If any person refuses or fails to comply with an order made under sub-section (6), the State Government or any officer authorised by the State Government in this behalf may take possession of the land and may for that purpose use such force as may be necessary.

4. Amount payable.- (1) Where any land is acquired by the State Government under this Act, the State Government shall pay of such acquisition an amount in accordance with the provisions of this section.

(2) Where the amount has been determined by agreement between the State Government and the person whose land has been acquired, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the State Government shall refer the case to the Deputy Commissioner for determination of the amount to be paid for such acquisition as also the person or persons to whom such amount shall be paid.

(4) On receipt of a reference under sub-section (3) the Deputy Commissioner shall serve notice on the owner or occupier of such land and on all persons known or

believed to be interested therein to appear before him and state their respective interests in the said land.

5. Application of Central Act 1 of 1894.- The provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) as amended by the Land Acquisition 1[Karnataka]1 Extension and Amendment) Act, 1961 shall, mutatis mutandis, apply in respect of enquiry and award by the Deputy Commissioner, the reference to Court, the apportionment of amount and the payment of amount in respect of lands acquired under this Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

6. Delegation of powers by the State Government.- The State Government may, by notification, delegate subject to such conditions and restrictions as may be specified in such notification, any of its powers under this Act except the power to make rules under section 7, to any of its officers.

7. Rules.- (1) The State Government may, by notification make rules for carrying out the purposes of this Act.

(2) 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 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.

सत्यमेव जयते

THE [KARNATAKA] ACQUISITION OF LANDS FOR GRANT OF HOUSE SITES ACT, 1972 (Karnataka Act No. 18 of 1973 has been amended by the following Acts, namely:-

Amendments (chronological)

Sl.No.	Act No. and year	Sections amended	Remarks
1)	Act No. 18 of 1973	-	w.e.f. 23.7.1973
2)	KAL Order 1973	Preamble Sections 1 and 5	w.e.f. 1.11.1973

Amendments (section-wise)			
Sl.No.	Sections	Act No. and year	
1.	Preamble	KAL Order 1973 w.e.f. 1.11.1973	

2. 1 KAL Order 1973 w.e.f. 1.11.1973

3.	5	KAL Order 1973 w.e.f. 1.11.1973	

सत्यमेव जयते

THE KARNATAKA (BELGAUM AND GULBARGA AREAS) RELIGIOUS AND CHARITABLE INAMS ABOLITION ACT, 1973

ARRANGEMENT OF SECTIONS

Statement of Objects and Reasons

Sections:

**CHAPTER I
PRELIMINARY**

1. Short title, extent, application and commencement.
2. Definitions.

**CHAPTER II
ABOLITION AND VESTING OF INAMS IN THE STATE AND ITS
CONSEQUENCES**

3. Abolition, vesting of inams and the consequence thereof.
4. Permanent tenants to be registered as occupants on certain conditions.
5. Protected tenants to be registered as occupants on certain conditions.
6. Other tenants to be tenants under State Government.
7. Pujari, archak, etc., to be registered as an occupant on certain conditions.
8. Lands and buildings to vest in the holder of a minor inam.
9. Lands and buildings to vest in inamdar.
10. Determination of claims for registration of occupancy and continuance of tenancy.
11. Entries to be made in the record of rights.
12. Liability to pay land revenue to State Government.
13. Vesting of certain buildings situated in an inam.
14. Right to agricultural land used for non-agricultural purposes.
15. Savings of right in certain cases.

**CHAPTER III
AMOUNT PAYABLE**

16. Amount Payable.
17. Deputy Commissioner to determine the amount.

**CHAPTER IV
PROVISIONS APPLICABLE TO TENANTS UNDER GOVERNMENT**

18. Application of this Chapter.
19. Rent.

20. Rights of tenants not alienable.
21. Rights of tenants to be heritable.
22. Termination of tenancy.
23. Procedure for termination of tenancy and recovery of rent.
24. Tenant when to be registered as occupant.
25. Extent of land which a person may be registered as an occupant.

CHAPTER V

MISCELLANEOUS

26. Disposal of land vesting in the State Government.
27. Revision by the Divisional Commissioner.
28. Control by the Divisional Commissioner.
29. Revision by the State Government.
30. Appeal from orders under sections 10, 12, 17 and 23.
31. Appeal to the High Court.
32. Wrong and excess payments to be recoverable as arrears of land revenue.
33. Enquiries by the Deputy Commissioner.
34. Fee payable on applications, petitions, etc., under this Act.
35. Jurisdiction of courts barred in certain cases.
36. Power to make rules.
37. Penalties.
38. Power to remove difficulties.
39. Laying of rules and orders before the State Legislature.

Summary of Amendments

STATEMENTS OF OBJECTS AND REASONS

I

Act 26 of 1973.- Except in the Bombay and Hyderabad areas of the State laws providing for abolition of religious and charitable inams are already in force in the

State. It is considered necessary to abolish such inams in these areas also, acquire all rights, title and interest of the inamdar and confer occupancy rights on the tenants. For the acquisition, only an amount equivalent to one year's net income of the inam is proposed to be paid annually so long as the religious and charitable institution exists.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 15-6-1972 as No.235 at page 27.)

II

Amending Act 53 of 1976.- Section 16 of the Mysore (Bombay and Hyderabad Areas) Religious and Charitable Inams Abolition Act, 1973 provides the quantum of compensation payable as annuity at twenty-five times the land revenue. It is proposed to revise this quantum so as to be equal to the rent permitted under the Karnataka Land Reforms Act, 1973 and also make changes with reference to certain incidental matters consequent on the alteration of the States name.

(Obtained from L.A. Bill No. 35 of 74).

* * * *

सत्यमेव जयते

¹[KARNATAKA]¹ ACT NO. 26 OF 1973

(First published in the ¹[Karnataka]¹ Gazette on the Thirteenth day of December, 1973)

THE ¹[KARNATAKA]¹ ¹[(BELGAUM AND GULBARGA AREAS)]¹ RELIGIOUS

AND CHARITABLE INAMS ABOLITION ACT, 1973)

(Received the assent of the President on the Twenty-Sixth day of November, 1973)

(As amended by Act 53 of 1976)

An Act to provide for the abolition of religious and charitable inams in the [Belgaum and Gulbarga Areas]¹ of the State of [Karnataka]¹.

WHEREAS it is expedient in the public interest to provide for the abolition of religious and charitable inams in the [Belgaum and Gulbarga Areas]¹ of the State of [Karnataka]¹ and for other matters connected therewith;

BE it enacted by the [Karnataka]¹ State Legislature in the Twenty-fourth year of the Republic of India as follows:-

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

CHAPTER I PRELIMINARY

1. Short title, extent, application and Commencement.- (1) This Act may be called the [Karnataka]¹ [(Belgaum and Gulbarga Areas)]¹ Religious and Charitable Inams Abolition Act, 1973.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(2) It extends to the [Belgaum and Gulbarga Areas]¹ of the State of [Karnataka]¹.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(3) It applies to inams held by or for the benefit of charitable or religious institutions in the [Belgaum and Gulbarga Areas]¹ of the State of [Karnataka]¹ but does not apply to revenue free sites granted by the State Government for the construction of schools, colleges, hospitals, dispensaries, religious or charitable institutions or other public works from which no profits is intended to be derived.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(4) It shall come into force on such [date]¹ as the State Government may, by notification, published in the official Gazette, appoint.

1. Notification bringing the Act into force is not available.

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

(a) "the Act" means the [Karnataka]¹ Land Revenue Act, 1964 ([Karnataka]¹ Act 12 of 1964);

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(b) "appointed date" means the date appointed under sub-section (4) of section 1;

© [Belgaum and Gulbarga Areas]¹ means the areas referred to in clauses (b) and

(c) of sub-section (1) of section 7 of the States Re-organisation Act, 1956 (Central Act 37 of 1956);

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(d) "Deputy Commissioner" includes any officer not below the rank of an Assistant Commissioner authorised by the State Government by notification published in the official gazette, to exercise the powers of a Deputy Commissioner under this Act;

(e) "inam" includes an inam village and a minor inam;

(f) "inamdar" means a religious or charitable institution owning an inam;

(g) "inam land" means land held by or on behalf of a religious or charitable institution as an inam and includes land held as Mashruth-ul-Kidmat Madath-a -Mash and also lands endowed as wakf-e-tamal and Wakf-e-nama;

(h) "inam village" means a village or portion of a village or hamlet or khandriga held by or on behalf of a religious or charitable institutions as an inam:

(i) "land records" means records maintained under the provisions of or for the purposes of the Act or any other law relevant for the purposes of this Act;

(j) "minor inam" means an alienated holding other than an inam village, situated in an alienated village or in an un-alienated village;

(k) "permanent tenant" means a person who under the Act is entitled to a tenancy in respect of any land used for agricultural purposes, the duration of which is co-extensive with the duration of the tenure of the inamadar, but, where the inamdar is an institution of religious worship shall not include a person rendering religious service in or maintaining the institution as a pujari, archak, mulla, kazi, mutawalli, muthsaddi, priest or holder of a similar office by whatever name called or a person rendering any service in any such institution and enjoying the benefit of any land comprised in the inam of such institution, without paying rent as such in money or in kind to that institution in respect of such land;

(l) "protected tenant" means a tenant of any land comprised in an inam if he has held it continuously and cultivated personally for a period of not less than twelve years prior to the appointed date and includes,-

(i) in the ¹[Belgaum Area]¹ a person who was recognised to be a protected tenant under the Bombay Tenancy and Agricultural Lands Act, 1948, as was in force in that area,

(ii) in the ¹[Gulbarga Area]¹ a person who was deemed to be a protected tenant under the Hyderabad Tenancy and Agricultural Lands Act, 1950, as was in force in that area,

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

prior to the coming into force of the ¹[Karnataka]¹ Land Reforms Act, 1961

(¹[Karnataka]¹ Act 10 of 1962), but, where the inamadar is an institution of religious worship shall not include a person rendering religious service in or maintaining the institution as a pujari, archak, mulla, kazi, mutawalli, muthsaddi, priest or the holder of a similar office by whatever name called or a person rendering any service in any such institution and enjoying the benefits of any land comprised in the inam of such institution, without paying rent as such in money or in kind to that institution in respect of such land.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

Explanation.- (1) If the tenant came to hold the land by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such

person, the period during which such other person held such land as a tenant shall be included in calculating the period of twelve years under this clause;

(2) If the tenant holding the land held, as a tenant. at any time within the twelve years before the appointed day from the same landlord in the same village any other land which he cultivated personally, the period during which he held such other land shall be included in calculating the period of twelve years under this clause;

(3) Where any land is held by two or more persons jointly as tenants all such persons shall if any one of them cultivated and continues to cultivate such land personally be deemed to be protected tenants in respect of such land;

(4) If a tenant had sub-let a land on account of any temporary disability, he shall be deemed for purposes of his acquiring rights of protected tenant to continue in possession and cultivate the land personally for the period of the sub-lease;

(m) "prescribed" means prescribed by rules made under this Act:

(n) "religious or charitable inam" means grant of a village, portion of a village or land with total or partial exemption from the payment of land revenue made to or for the benefit of a religious or charitable institution and entered as a religious or charitable inam (by whatever name called),-

(i) in the ¹[Belgaum Area]¹, in the alienation register or inams register maintained under the law relating to land revenue; and

(ii) in the ¹[Gulbarga Area]¹ in the Book of Endowments maintained under the Hyderabad Endowment Regulation, 1958 Fasli or the land records;

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

Explanation.- If any question arises whether any grant is a religious or charitable inam, such question shall be referred to the State Government whose decision shall be final.

(2) The words and expressions used, but not defined in this Act, shall have the meanings assigned to them in the Act or the ¹[Karnataka]¹ Land Reforms Act, 1961

(¹[Karnataka]¹ Act 10 of 1962).

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

CHAPTER II

ABOLITION AND VESTING OF INAMS IN THE STATE AND ITS CONSEQUENCES

3. Abolition, vesting of inams and the consequence thereof.- (1) Notwithstanding anything contained in any contract, grant or other instrument or in any other law for the time being in force, with effect from and on the appointed date all religious or charitable inams in the ¹[Belgaum and Gulbarga Areas]¹ of the State shall stand abolished.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(2) Save as otherwise expressly provided in this Act, with effect from and on the appointed date, the following consequences shall ensue, namely:-

(a) the provisions of the Act , relating to inams or alienated holding shall be deemed to have been repealed in their application to the inam or alienated holding and the provisions of the Act and all other enactments applicable to unalienated villages or lands shall apply to the said inam or alienated holdings;

(b) all rights, title and interest vesting in the inamdar including those in all communal lands, cultivated lands, un-cultivated lands, whether assessed or not, waste lands, pasture lands, forests, mines and minerals, quarries. rivers and streams, tanks and irrigation works, fisheries, and ferries shall cease and be vested absolutely in the State Government, free from all encumbrances;

(c) the inamdar shall cease to have any interest in the inam other than interests expressly saved by or under the provisions of this Act;

(d) all rents and land revenue including cesses and royalties accruing in respect of lands comprised in such inam on or after the appointed date shall be paid to the State Government and not to the inamadar and any payment made in contravention of this clause shall not be valid;

(e) all arrears of land revenue, whether as jodi or quit rent and cesses remaining lawfully due on the appointed date in respect of any such inam shall after such date, continue to be recoverable from the inamadar by whom they were payable and may, without prejudice to any other mode of recovery, be realised by the deduction of the amount of such arrears and cesses from the amount payable to such inamdar under this Act;

(f) no such inam shall be liable to attachment in execution of any decree or other process of any court and any attachment existing on the date of vesting or any order

for attachment passed before such date in respect of such inams shall cease to be in force;

(g) the State Government may, after removing any obstruction that may be offered, forthwith take possession of the inam and all accounts, registers, pattas, muchlikas, maps, plans and other documents relating to the inam which the State Government may require for the administration thereof:

Provided that the State Government shall not dispossess any person who is personally cultivating land in the inam until the Deputy Commissioner or the 1[Karnataka]1 Revenue Appellate Tribunal on appeal, if any, decide that such person is not actually entitled to be registered as the occupant or to be continued as a tenant under the provisions of this Act.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

Explanation.- For the purpose of this proviso, a person shall be deemed to be personally cultivating any land when he contributes his own physical labour or that of the members of his family in the cultivation of that land;

(h) the inamdar whose rights have vested in the State Government under clause (b) shall be entitled only to such amount from the State Government as provided in this Act;

(i) the relationship of landlord and tenant shall as between the inamdar and tenant, whether permanent, protected or otherwise, be extinguished;

(j) the relationship of a superior holder and an inferior holder shall as between the inamdar and the holder of a minor inam be extinguished;

(k) permanent tenants and protected tenants and other tenants in the inam and persons holding under them and holders of minor inams shall, as against the State Government, be entitled only to such rights and privileges and be subject to such conditions as are provided for by or under this Act, and any other rights and privileges which may have accrued to them shall cease and determine and shall not be enforceable against the State Government or such inamdar.

(3) Nothing contained in sub-section (1) and sub-section (2) shall operate as a bar to the recovery by the inamdar of any sum which becomes due to him before the date of vesting by virtue of his rights as inamdar and any such sum may be recovered by him by any process of law which, but for this Act, would be available to him.

4. Permanent tenants to be registered as occupants on certain conditions.-

(1) Subject to the provisions of sub-section (2) and of section 10 every permanent tenant of the inamdar shall, with effect from and on the appointed date, be entitled to be registered as an occupant in respect of all lands of which he was permanent tenant immediately before the appointed date.

(2) In addition to the annual land revenue payable in respect of the land, a permanent tenant entitled to be registered as an occupant of any land under sub-section (1) shall be liable to pay to the State Government as premium for acquisition of ownership of that land, an amount equal to twenty times the land revenue of such land and the amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment, the amount due shall be recovered as an arrear of land revenue due on the land in respect of which it is payable:

Provided that premium of such land shall not exceed fifteen times the difference between the rent and land revenue payable immediately before the appointed date by the permanent tenant to the inamdar:

Provided further that where a permanent tenant entitled to be registered as an occupant of land under sub-section (1) is shown, as an occupant in the settlement register and other records prepared under the Act or where the rent paid by a permanent tenant entitled to be registered as an occupant under sub-section (1), is equal to the land revenue, no premium shall be payable under this sub-section.

5. Protected tenants to be registered as occupants on certain conditions.- (1) Subject to the provision of sub-section (2) and of section 10 every protected tenant of the inamdar shall, with effect from and on the appointed date be entitled to be registered as an occupant in respect of lands of which he was a protected tenant immediately before the appointed date.

(2) In addition to the annual land revenue payable in respect of the land, a protected tenant entitled to be registered as an occupant of any land under sub-section (1), shall be liable to pay to the State Government as premium for acquisition of ownership of the land, an amount equal to fifty times the land revenue of such land. The amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment, the amount due shall be recovered as an arrear of land revenue due on the land in respect of which it is payable.

6. Other tenants to be tenants under State Government.- Every tenant of the inamdar other than a permanent tenant or a protected tenant shall, with effect from and on the appointed date and subject to the provisions of Chapter IV be entitled to be continued as a tenant under the State Government in respect of the land of which he was a tenant under the inamdar immediately before the date of vesting.

7. Pujari, archak, etc., to be registered as an occupant on certain conditions.- (1) Where the inamdar is an institution of religious worship, a person,-

- (I) rendering religious service in or maintaining the institution as a pujari, archak, mulla, kazi, mutawalli, muthsaddi, priest or the holder of a

similar office by whatever name called, or

(ii) rendering any service in such institution,

and personally cultivating for a continuous period of not less than three years prior to the appointed date by contributing his own physical labour or that of the members of his family and enjoying the benefits of any land comprised in the inam of such institution without paying rent as such in money or in kind to that institution in respect of such land shall, with effect from and on the appointed date and subject to the provisions of sub-section (2) and of section 25 be entitled to be registered as an occupant of such land.

(2) In addition to the annual land revenue payable in respect of the land, the person entitled to be registered as an occupant of any land under sub-section (1) shall be liable to pay to the State Government as premium for acquisition of ownership of that land an amount equal to one hundred times the land revenue of such land. The amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment, the amount due shall be recovered as an arrear of land revenue due on the land in respect of which it is payable.

8. Lands and buildings to vest in the holder of a minor inam.- (1) Subject to the provisions of sub-section (3), every holder of a minor inam shall, with effect from and on the appointed date, be entitled to be registered as an occupant of all lands which immediately before the appointed date were included in his holding, other than,-

(i) communal lands, un-cultivated lands, waste lands, gomal lands, forest lands, tank beds, mines, quarries, rivers, streams, tanks and irrigation works;

(ii) lands in respect of which any person is entitled to be registered under section 4 or section 5 or section 7 or is entitled to be continued as a tenant under section 6 and also the extent of land in respect of which the said person is not entitled to be registered in view of the restrictions in section 10 or section 25 as the case may be; and

(iii) lands upon which buildings owned by any person other than the holder of the minor inam have been erected.

(2) Subject to the provisions of sub-section (3) every building situated within the limits of the minor inam and which was owned immediately before the appointed date by the holder of the minor inam shall, with effect from and on the appointed date, vest in the holder of the minor inam.

(3) Notwithstanding anything contained in any law for the time being in force, the holder of a minor inam shall not be entitled to alienate the lands or the building vesting in him under sub-section (1) or sub-section (2), except by way of a simple mortgage to a society or a bank registered under the ¹[Karnataka] Co-operative Societies Act,

1959 (1[Karnataka]1 Act 11 of 1959) or to the State Bank of India and its subsidiaries or a bank specified in column (2) of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or to a company or a corporation owned by or in which not less than fifty percent of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government and which has been set up with a view to provide agricultural credit to cultivators:

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

Provided that nothing in this sub-section shall apply to any alienation effected with the previous sanction of the prescribed authority.

9. Lands and buildings to vest in inamdar.- (1) Subject to the provisions of sub-section (3) , every inamdar shall, with effect from and on the appointed date, be entitled to be registered as an occupant of all lands other than,-

(i) communal lands, un-cultivated lands, waste lands, gomal lands, forest lands, tank beds, mines, quarries, rivers, streams, tanks and irrigation works;

(ii) land in respect of which any person is entitled to be registered under section 4, section 5, section 7 or section 8 or is entitled to continue as a tenant under section 6 and also the extent of land in respect of which the said person is not entitled to be registered in view of the restrictions in section 10 or section 25, as the case may be; and

(iii) lands upon which buildings owned by any person other than the inamdar have been erected.

(2) Subject to the provisions of sub-section (3), every building situated within the limits of the inam which was owned immediately before the appointed date by the inamdar shall, with effect from and on the appointed date, vest in the inamdar.

(3) Notwithstanding anything contained in any law for the time being in force, an inamdar shall not be entitled to alienate the land or the building vesting in him under sub-section (1) or sub-section (2) except by way of a simple mortgage to a society or a bank registered under the 1[Karnataka]1 Co-operative Societies Act, 1959 (1[Karnataka]1 Act 11 of 1959) or to the State Bank of India and its subsidiaries or a bank specified in column (2) of the First Schedule to the Banking Companies (Acquisition and Transfer of Under-takings) Act, 1970 (Central Act 5 of 1970) or to a company or a corporation owned by or in which not less than fifty per cent of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government and which has been set up with a view to provide agricultural credit to cultivators:

Provided that nothing in this section shall apply to any alienation effected with the previous sanction of the prescribed authority.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

Explanation.- In this section "Inamdar" means an inamdar other than a holder of minor inam referred to in section 8.

10. Determination of claims for registration of occupancy and continuance of tenancy.- (1) A person entitled to be registered as an occupant under section 4 or section 5 or section 7 or section 8 or section 9, as the case may be, or to be contained as a tenant under section 6 may, in such form and manner as may be prescribed, make an application to the Deputy Commissioner within twelve months from the appointed date:

Provided that the Deputy Commissioner may on sufficient cause being shown accept such application after the expiry of twelve months but in no case he shall accept any application after the expiry of three years:

Provided further that the right of any person to be registered as an occupant shall after the expiry of the said period of three years stand extinguished and the land shall vest in the State absolutely.

(2) On receipt of the application under sub-section (1) or suo motu, the Deputy Commissioner shall examine the nature and history of all lands in respect of which a permanent tenant, protected tenant, the person referred to in section 7, the holder of a minor inam or an inamdar claims to be registered as an occupant under section 4 or section 5 or section 7 or section 8 or section 9 as the case may be, or in respect of which any person claims to be continued as tenant under section 6 and call for such other information as he may consider necessary and decide the land in respect of which the claim shall be allowed.

(3) Notwithstanding anything contained in section 4 or section 5, the Deputy Commissioner shall not allow the claim of any person for any land in excess of the ceiling area fixed under the 1[Karnataka]1 Land Reforms Act, 1961 (1[Karnataka]1 Act 10 of 1962) for the time being in force.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

11. Entries to be made in the record of rights.- (1) After the determination of claims under section 10, the Deputy Commissioner shall send the prescribed particulars of the decision to the officer maintaining the record of rights under the Act.

(2) On receipt of the particulars under sub-section (1) and notwithstanding anything contained in the Act, the officer concerned shall enter such particulars in the register.

12. Liability to pay land revenue to State Government.- (1) Every person, who becomes entitled to be registered as an occupant under section 4 or section 5 or section 7 or section 8 or section 9, in respect of any land shall, with effect from and on the appointed date, be liable to pay to the State Government as land revenue,-

(a) in the case of an inam to which survey and settlement has been introduced under the Act, an amount equal to the land revenue assessment fixed on such land during such survey and settlements; and

(b) in the case of an inam to which survey and settlement has not been introduced under the Act, an amount equal to the land revenue assessment levied on the same extent of similar land, in an adjoining unalienated village

(2) The Deputy Commissioner shall, after making such inquiry as he thinks fit, determine the land revenue payable under clause (b) of sub-section (1).

13. Vesting of certain building situated in an inam.- Every private building other than buildings which vest under sections 8 and 9 situated within the limits of an inam shall, with effect from and on the appointed date, vest in the person who owned it immediately before that date.

14. Right to agricultural land used for non-agricultural purposes.-Where any land used for agricultural purposes has been converted for any purposes not connected with agriculture, the holder of such land shall be entitled to keep the land, provided that such conversion was not void or illegal under any law in force at the time.

15. Saving or right in certain cases.- (1) Where before the appointed date an inamdar has created any right in any land which vests in the State Government, other than land registered under section 8 or section 9 (whether by way of lease or otherwise) including rights in any mines or minerals, fisheries, forests or ferries, the transaction shall be deemed to be valid and all rights and obligations arising thereunder on or after the appointed date shall be enforceable by or against the State Government:

Provided that the transaction was not void or illegal under any law in force at the time:

Provided further that where such right was created in any land, unless it relates to land registered under section 8 or section 9, the State Government may if in its opinion it is in the public interest so to do, by giving notice to the person concerned, terminate the right with effect from such date as may be specified in the notice, not being earlier than three months from the date of the notice.

(2) The person whose right has been terminated by the State Government under the second proviso to sub-section (1) shall be entitled to an amount from the State Government equal to the estimated net income of such person from the land for the unexpired portion of the period for which the right was created having regard to all the circumstances of the case.

CHAPTER III

AMOUNT PAYABLE

16. Amount payable.- In respect of an inam vesting in the State Government under this Act, the State Government shall so long as the religious or charitable institution exists, pay to the inamdar every year an amount equal to 1[ten]1 times the land revenue payable on the lands comprised in such inam. In the case of lands comprised in such inams, which are classified as dry but possesses facilities for irrigation from any source of water which is the property of State Government, the State Government shall pay annually to such inamdar an additional amount as specified below:-

- | | |
|--|-----------------------------|
| (i) where two crops of paddy can be raised in a year or where sugarcane can be raised. | Rupees sixty six per acre. |
| (ii) where one crop of paddy can be raised in a year . | Rupees forty four per acre. |
| (iii) where semi-dry, crops can be grown | Rupees twenty two per acre. |

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

17. Deputy Commissioner to determine the amount.- (1) The Deputy Commissioner shall by order determine the amount payable to an inamdar under section 16.

(2) A copy of every order passed under sub-section (1) shall be furnished to the inamdar concerned.

CHAPTER IV

PROVISIONS APPLICABLE TO TENANTS UNDER GOVERNMENT

18. Application of this Chapter.- The provisions of this Chapter shall apply to the tenants continued under section 6.

19. Rent.- Every tenant shall pay annually to the State Government rent which was being paid by him to the inamdar immediately before the appointed date:

Provided that such rent shall in no case exceed ten times the land revenue payable in respect of such land plus in the case of lands classified as dry but possessing facilities for irrigation from any source of water which is the property of the State Government,-

- | | |
|--|----------------------------|
| (l) where two crops of paddy can be raised in a year or where sugarcane can be raised. | Rupees sixty six per acre. |
|--|----------------------------|

(ii) where one crop of paddy can be raised in a year. Rupees forty four per acre.

(iii) where semi-dry, crops can be grown Rupees twenty two per acre:

Provided further that in the area notified by the State Government as malnad area, the rent in respect of the lands specified as dry land but exclusively used only for grazing or removing leaves shall be equal to the land revenue payable for such lands.

20. Rights of tenants not alienable.- Subject to the provisions of this Act a tenant shall not be entitled to alienate the land in respect of which he continues as a tenant under section 6 except by way of a simple mortgage to a co-operative society or a bank registered under the '[Karnataka]' Co-operative Societies Act, 1959 ('[Karnataka]' Act 11 of 1959), or the State Bank of India and its subsidiaries or a bank specified in column (2) of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Central Act 5 of 1970) or to a company or a corporation, owned or in which not less than fifty per cent of the share capital is held by the State Government or the Central Government or partly by the State Government and partly by the Central Government and which has been set up to provide agricultural credit to cultivators.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

21. Rights of tenants to be heritable-When a tenant dies the State Government shall be deemed to have continued the tenancy to the heirs of such tenant on the same terms and conditions on which such tenant was holding the land at the time of his death.

22. Termination of tenancy.-The tenancy of any land held by a tenant shall not be terminated unless such tenant,-

(a) has done any act which is destructive or permanently injurious to the land; or

(b) has used such land for a purposes other than agriculture; or

(c) has sub-let the land or assigned any interest therein except to the extent provided in section 20:

Provided that nothing in clause (c) shall apply to sub-letting of any land held by a tenant who is a widow or a minor or who is subject to physical or mental disability.

23. Procedure for termination of tenancy and recovery of rent.- (1) Where a tenancy is liable to be terminated under the provision of section 22, the Assistant Commissioner shall after giving an opportunity to the tenant to show cause why his tenancy should not be terminated, by an order in writing served on the tenant, terminate the tenancy and direct the tenant to quit the land within sixty days from the date of service of the order.

(2) If any person refuses or fails to comply with an order under sub-section (1), the Tahsildar may evict that person from and take possession of the land and may for that purpose use such force as may be necessary.

(3) Any person aggrieved by an order under sub-section (1), may within sixty days from the date of service of the order, prefer an appeal in writing to the Deputy Commissioner who may, after calling for a report from the Assistant Commissioner and after affording a reasonable opportunity to the appellant to be heard, pass such orders thereon as he thinks fit.

(4) Any arrears of rent due from a tenant shall be recoverable as an arrear of land revenue.

24. Tenant when to be registered as occupant.- (1) A tenant may, at any time after the commencement of this Act apply to the Deputy Commissioner in the prescribed manner for being registered as an occupant in respect of the land of which he is a tenant.

(2) The tenant shall be liable to pay to the State Government as premium for being registered as an occupant an amount equal to one hundred times the land revenue payable on that land. Such amount shall be payable in such number of annual instalments not exceeding ten and on or before such date as may be fixed by the prescribed authority.

(3) On payment to the State Government of such amount the tenant shall, subject to the provisions of section 25, be registered as an occupant of such land.

(4) Notwithstanding anything contained in the preceding sub-sections, where the tenant is in possession of land in excess of the extent specified in section 25, he shall not be registered as an occupant unless he surrenders to the prescribed authority such excess extent.

(5) In respect of the land of which the tenant is registered as an occupant under this section he shall be liable to pay the land revenue and the provision of section 12 shall mutatis mutandis apply in this behalf.

25. Extent of land which a person may be registered as an occupant.-The extent of land in respect of which is a person referred to in section 7, 8, 9 or 24 shall be entitled to be registered as occupant shall not together with any land held by him exceed such extent as may be prescribed.

CHAPTER V MISCELLANEOUS

26. Disposal of land vesting in the State Government.- Lands vesting in the State Government and in respect of which any person is not entitled to be registered

as an occupant under this Act shall be disposed of in accordance with the provisions of section 77 of the ¹[Karnataka]¹ Land Reforms Act, 1961.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

27. Revision by the Divisional Commissioner.- The Divisional Commissioner may, at any time, call for and examine the record of any order passed by the Deputy Commissioner under section 17 and if he considers that such order is erroneous in so far as it is prejudicial to the interests of the State revenues, he may, after making or causing to be made such enquiry as he deems necessary and after giving the person or persons affected a reasonable opportunity of being heard, pass such order thereon as the circumstances of the case justify including an order decreasing the amount payable or directing fresh determination by the deputy Commissioner:

Provided that no such order shall be made,-

- (1) where an appeal under section 30 has been preferred; or
- (2) after the expiry of four years from the date of the order sought to be revised.

Explanation.- In computing the period of limitation for the purposes of this section, any period during which any proceedings under this section is stayed by an order or an injunction by any court shall be excluded.

28. Control by the Divisional Commissioner.- The Divisional Commissioner shall within his jurisdiction have power,-

- (a) to superintend the taking over of inams and to make due arrangements for the administration thereof;
- (b) to issue instructions for the guidance of the Deputy Commissioner;
- (c) to cancel or revise any order of the Deputy Commissioner declaring whether a particular area is part of an inam or not.

29. Revision by the State Government.-The State Government may cancel or revise any order passed by the Divisional Commissioner under section 28.

30. Appeal from orders under sections 10,12,17 and 23.- Against any decision of the Deputy Commissioner under sections 10, 12, 17 and 23 the State Government may, within six months from the date of the decision and any person aggrieved by such decision may, within ninety days from the date of the decision, appeal to the ¹[Karnataka]¹ Revenue Appellate Tribunal whose decision shall be final.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

(2) If any question arises, whether any building falls within the scope of sub-section (2) of section 8 or sub-section (2) of section 9 or section 13, it shall be referred to the ¹[Karnataka]¹ Revenue Appellate Tribunal, whose decision shall be final.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

31. Appeal to the High Court.- (1) Any person aggrieved by an order of the Divisional Commissioner under section 27 may appeal to the High Court within ninety days from the date on which the order was communicated to him.

(2) The High Court shall after giving both the parties to the appeal a reasonable opportunity of being heard pass such order thereon as it thinks fit.

32. Wrong and excess payments to be recoverable as arrears of land revenue.- Where any payment made to any person is subsequently found to be not due to him or to be in excess of the amounts due to him by virtue of any order passed under this Act or otherwise the amount which is found to be not due or which is in excess, as the case may be, which cannot otherwise be adjusted by deduction from any amounts due to such person, shall be recoverable as if it were an arrear of land revenue.

33. Enquiries by the Deputy Commissioner.- (1) The Deputy Commissioner may, by general or special order, authorise any officer not below the rank of a Tahsildar sub-ordinate to him to hold enquires on his behalf under this Act:

Provided that the Deputy Commissioner may in respect of any enquiry held by any such officer direct such officer to hold a fresh or further enquiry or himself hold a fresh or further enquiry, if in his opinion a fresh or further enquiry is necessary.

(2) In respect of every enquiry under this Act by the Deputy Commissioner or any officer authorised under sub-section (1) the provisions of the Act relating to a formal enquiry shall apply, as if such enquiry is a formal enquiry under the Act.

34. Fee payable on applications, petitions, etc, under this Act.- Notwithstanding anything contained in the 1[Karnataka] Court-fees and Suits Valuation Act, 1958 (¹[Karnataka] Act 16 of 1958), the fees payable on any application, memorandum or appeal or petition under this Act or rules made thereunder shall be such as may be prescribed.

1. Substituted by Act 53 of 1976 w.e.f. 18.8.1976

35. Jurisdiction of courts barred in certain cases.- (1) No suit, prosecution or other proceeding shall lie against the State Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) No officer or servant of the State Government shall be liable in any civil or criminal proceedings in respect of any act done or purporting to be done under this Act or any rule made thereunder, if the act was done in good faith in the course of the execution of the duties or in the discharge of the functions imposed by or under this Act.

(3) In respect of any act done by any officer or servant of the State Government under colour or in excess of any such duty or function, no suit, prosecution or other

proceedings shall lie against such officer or servant without the previous sanction of the State Government and no such suit, prosecution or other proceedings shall be instituted after the expiry of one year from the date of the act complained of.

(4) Notwithstanding anything contained in any law for the time being in force, a Civil Court shall not entertain any application or suit,-

- (i) connected with any matter which has to be decided by the Deputy Commissioner under sections 10, 12, 17 and 23 of this Act; or
- (ii) relating to an order made by the Divisional Commissioner under section 27, and in respect of which a right of appeal has been conferred by section 30 or 31.

36. Power to make rule.- (1) The State Government may, by notification and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

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

- (a) all matters expressly required or allowed by this Act to be prescribed.
- (b) the procedure to be followed by the Deputy Commissioner and the officers or authorities appointed or having jurisdiction under this Act;
- (c) the time within which applications and appeals may be presented under this Act, in cases for which no specific provision in that behalf is made herein;
- (d) the application of the provisions of the Code of Civil Procedure, 1908 and the Limitation Act, 1963 to applications, appeals and proceedings, under this Act.

37. Penalties.- (1) If any person,-

- (a) wilfully fails or neglects to comply with any lawful order passed under this Act or contravenes any order; or
- (b) offers resistance or obstruction to the Deputy Commissioner taking charge or possession of any property which is vested in the State Government under this Act; or
- (c) furnishes information which he knows, or has reason to believe to be false or does not believe to be true, he shall, on conviction by a Magistrate, be punishable with imprisonment which may extend to three months or with fine which may extend to two hundred rupees or with both.

(2) No prosecution under sub-section (1) shall be instituted except with the previous sanction of the Deputy Commissioner.

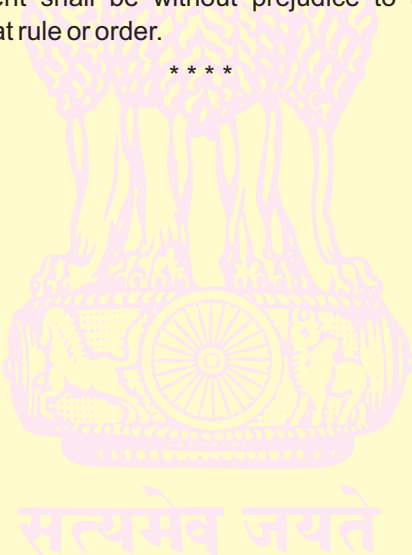
38. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order, not inconsistent

with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

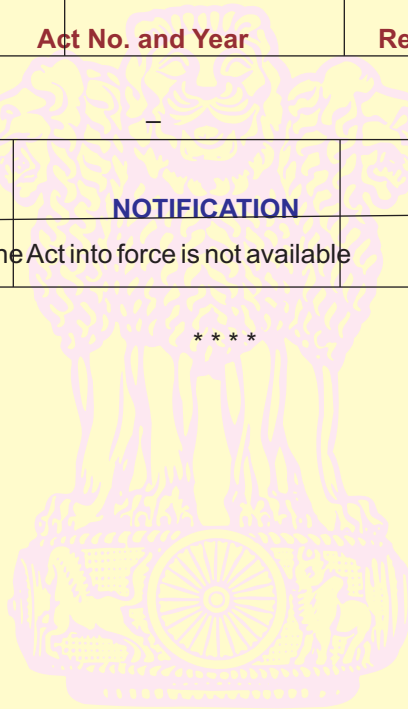
Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

39. Laying of rules and orders before the State Legislature.- Every rule made under section 36 and every order issued under section 38 shall be laid as soon as may be after it is made or issued 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 order or both House agree that the rule or order should not be made, the rule or order 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 or order.

* * * *



THE KARNATAKA (BELGAUM AND GULBARGA AREAS) RELIGIOUS AND CHARITABLE INAMS ABOLITION ACT, 1973 has been amended by the following Acts, namely:-

Amendments (Chronological)			
Sl. No.	Act No. and Year	Sections Amended	Remarks
1	26 of 1973	--	Notification not available.
Amendments (Section-wise)			
Sections Amended	Act No. and Year	Remarks	
—	—	—	
		NOTIFICATION	
Notification bringing the Act into force is not available			
* * * *			
 सत्यमेव जयते			
THE KARNATAKA PROVISIONAL COLLECTION OF TAXES ACT, 1974 ARRANGEMENT OF SECTIONS			

Statement of Object and Reasons

Sections:

1. Short title and commencement.
2. Definitions.
3. Power to make declaration under this Act.
4. Effect of declaration under this Act and duration thereof.
5. Certain refunds to be made when declarations ceases to have effect.

* * * *

STATEMENT OF OBJECTS AND REASONS

Act 2 of 1974.- The purpose of this Bill is to enable the State Government to provisionally collect taxes, pending enactment of the relevant legislation. Thus a Bill introduced in the Legislative Assembly for imposition or increase of tax may contain a declaration to the effect that it is in the public interest that any provision of the Bill shall have immediate effect. A similar legislation has been enacted by the Union Government and the Government of Maharashtra.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, as No. 400, dated 28-2-1974 at page 4.)

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KARNATAKA ACT No. 2 OF 1974

(First Published in the Karnataka Gazette Extraordinary on the Twenty-first day of March, 1974)

THE KARNATAKA PROVISIONAL COLLECTION OF TAXES ACT, 1974*(Received the assent of the Governor on the Twenty-first day of March, 1974)**(As on 1.12.2004)***An Act to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes.**

WHEREAS it is expedient to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes;

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

1. Short title and commencement.- (1) This Act may be called the Karnataka Provisional Collection of Taxes Act, 1974.

(2) It shall come into force at once.

2. Definitions.- In this Act,-

(1) "declared provision" means a provision in a Bill in respect of which a declaration has been made under section 3;

(2) "tax" includes any rate, cess, duty, fee, toll or other impost, whether general or local or special.

3. Power to make declaration under this Act.- Where a Bill to be introduced in the Karnataka Legislative Assembly on behalf of the State Government provides for the imposition or increase of a tax, the State Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.

4. Effect of declaration under this Act and duration thereof.- (1) A declared provision shall have the force of law immediately on the expiry of the day on which the Bill containing it is introduced.

(2) A declared provision shall cease to have the force of law under provisions of this Act,-

(a) when it come into operation as an enactment with or without amendment, or

(b) when the State Government, in pursuance of a motion passed by the Karnataka Legislative Assembly, directs by notification in the official Gazette, that it shall cease to have the force of law, or

(c) if it has not already ceased to have the force of law under clause (a) or clause (b), then on the expiry of the sixtieth day after the day on which the declared provision has the force of law under sub-section (1).

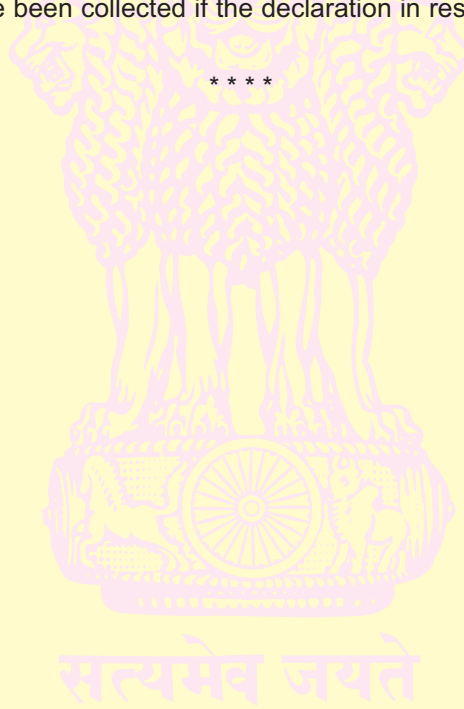
5. Certain refunds to be made when declaration ceases to have effect.- (1)

Where a declared provision came into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which such provision has the force which would not have been collected if the provision adopted in the enactment had been the declared provision:

Provided that the rate at which refunds of any tax may be made under this sub-section shall not exceed the difference between the rate of such tax proposed in the declared provision and the rate in force immediately prior to the day on which the declared provision has the force of law under sub-section (1) of section 4.

(2) Where a declared provision ceases to have the force of law under clause (b) or clause (c) of sub-section (2) of section 4, refunds shall be made of all taxes collected which would not have been collected if the declaration in respect of it had not been made.

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**THE KARNATAKA STATE CIVIL SERVICES (REGULATION OF PROMOTION,
PAY AND PENSION) ACT, 1973
ARRANGEMENT OF SECTIONS**

Statement of Objects and Reasons:

Sections:

1. Short Title and Commencement.
2. Definitions.
3. Promotions, etc., of Civil Servants.
4. Promotion, etc., of allottees.
5. Provision relating to reversion of allottees.
6. Provision relating to revision of pensions, etc.
7. Provision relating to payments to heirs of deceased allottees.
8. Sections not applicable to certain allottees.
9. Officiation.
- 9A. Rules.
10. Removal of difficulties.
11. Over-riding effect.
12. Repeal.
13. Savings.

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STATEMENT OF OBJECTS AND REASONS

I

Act 11 of 1974. - For reasons beyond control the finalisation of Inter-State Seniority Lists was unavoidably delayed. Information had to be collected from several offices and parent States clarification had to be obtained, documents and records had to be obtained, etc. In addition there were court proceedings results of which had to be awaited. In the meantime, in the exigencies of public service, promotions were being made on the basis of the provisional Inter-State Seniority Lists. These promotions are to be reviewed in the light of the changes made in the final inter-State seniority lists which have now been published in almost all departments. Demand for the same had been made and in a good number of cases courts have been approached. Directions have been given by courts to consider the case for retrospective promotions and to give consequential monetary benefits also. In some cases similar relief in more than one promotion has also been granted. In all these cases some other persons would have discharged the duties of those promotional posts having been promoted on the basis of the provisional lists and would have been paid the pay and allowances attached to the said posts Restrospective promotions as per court directions may

result in double payments - one set already paid and another set to the person now promoted. In other words two persons would be paid for discharging duties of one and the same post. All this involves very heavy financial burden on the State.

Besides it is well settled by several decisions that it is not legally permissible to appoint persons retrospectively to statutory posts. Retrospective promotions inevitably result in retrospective reversions and thereby render ineffective statutory functions discharged by the persons so reverted leading to complications. It is necessary to regulate all these matters. Hence Government issued the Mysore State Civil Services (Allottees) (Special) Rules, 1971 providing for review and prospective promotions. It was expected that the said rules would resolve the difficulties pointed out above. But when the said rules were pleaded the High Court in some cases directed that retrospective promotions and consequential financial benefits should be given. The view taken, apparently, is that the said rules do not prohibit making retrospective promotions and giving consequential monetary benefits. The State Government has filed appeals against some of these judgements to the Supreme Court but in cases where the court has fixed specified dates for implementing the directions contempt applications have been filed against the State. Unless the effect of the said judgements is taken away by suitable legislation Government will have to pay huge sums of money on the basis of retrospective promotions for work not done. It is felt not legally possible to overcome the court decisions by making rules under the proviso to article 309 of the Constitution.

Uniform provisions in the case of Civil servants other than allottees is necessary to avoid discrimination.

Hence the Bill.

Necessary approval of the Central Government in terms of the proviso to sub-section (7) of section 115 of the States Re-organisation Act, 1956 has been obtained.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 263, dated 15-3-1973 at page 12-13.)

सत्यमेव जयते
II

Amending Act 40 of 76 .- [By this Act, the Karnataka Service Examinations, Act, 1976 was enacted and therein certain consequential amendment were made to this Act and a new section 9A was inserted.]

III

Amending Act 25 of 1982 .- The Karnataka State Civil Services (Regulation of Promotion, Pay and Pension) Act, 1973 (Act 11 of 1973) was passed in the year 1974 providing for regulation of promotion, pay and pension and other conditions of service

of civil servants including those who were allotted or are deemed to have been allotted to serve in connection with the affairs of the new State under section 115 of the States Re-organisation Act, 1956.

2. The promotions made from 1-11-1956 were to be reviewed under section 4 (1) of the Act on the basis of the Final I.S.S Lists published in accordance with the decisions of the Government of India. While so reviewing the promotions it was noticed that some officers who were promoted earlier on the basis of their positions in the provisional I.S.S Lists were eligible for promotion on dates later than the dates of their actual promotion. This would mean that the earlier promotion was fortuitous and the pay was therefore required to be revised. There was no provision in the Act for regulation of pay in such cases. It was considered necessary to make a provision in the Act providing for refixation of pay in respect of such officers on the dates of eligibility.

3. Besides, there is an anomaly in the Karnataka Service Examinations Act, 1976. Section 8(2) of the said Act amends section 3 of the Karnataka State Civil Services (Regulation of Promotion, Pay and Pension) Act, 1973. The 1976 Act came into force with effect from 1-11-1956 while section 3 of the 1973 Act came into force with effect from 11-4-1974. The amending provision cannot come into force from a date anterior to the date on which the original provision came into force. To remove this anomaly Section 8 of the Karnataka Service Examinations Act, 1976 is sought to be amended suitably.

4. Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 223, dated 31-3-1981 page 4.)

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सत्यमेव जयते

¹[KARNATAKA] ACT No. 11 OF 1974

*(First Published in the Karnataka Gazette Extraordinary on the Eleventh day
of April, 1974)*

**THE ¹[KARNATAKA]¹ STATE CIVIL SERVICES (REGULATION OF
PROMOTION, PAY AND PENSION) ACT, 1973**

(Received the assent of the Governor on the Eleventh day of April, 1974)

(As amended by Karnataka Acts 40 of 1976 and 25 of 1982)

An Act to provide for the prospective promotions of civil servants and to regulate the pay, seniority, pension and other conditions of service of civil servants in the State of ¹[Karnataka]¹ including those that are allotted or deemed to be allotted to serve in connection with the affairs of the State of ¹[Karnataka]¹ under or in pursuance of section 115 of the States Reorganisation Act, 1956;

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

WHEREAS on the basis of the ranking of civil servants in the several inter-state seniority lists prepared in pursuance of sub-section (5) of section 115 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), courts have directed the making of retrospective promotions to statutory and other offices;

AND whereas as held by the Supreme Court in *Ajit Singh Vs. State of Punjab* reported in *All India Reporter* 1967, Supreme Court 856 and in *Income-Tax Officer, Alleppy Vs. N.C. Ponnose*, reported in *All India Reporter* 1970 Supreme Court 385 appointments of civil servants to offices in which statutory functions are exercisable cannot be made with retrospective effect;

AND whereas retrospective promotions involve payment of large sums of money to persons who have not worked in the promotional posts or offices concerned, to the detriment of the finances of the State, besides involving retrospective reversions rendering invalid the statutory functions discharged by the persons reverted ;

AND whereas retrospective promotions preclude the determination of the suitability of the civil servants to hold the promotional posts or offices and will enable them to continue in such posts or offices only on the ground of their eligibility to promotions, resulting in the continuance of even unsuitable civil servants in promotional posts or offices to the detriment of public interest ;

AND whereas it is necessary and expedient to provide against the said consequences;

AND whereas the Central Government has given previous approval under the proviso to sub-section (7) of section 115 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) communicated in letter No. 5/5/73 - SR (S) dated 22nd February, 1973 of the Government of India, Cabinet Secretariat, Department of Personnel and Administrative Reforms ;

Be it enacted by the ¹[Karnataka]¹ Legislature in the Twenty-fourth Year of the Republic of India as follows:-

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

1. Short title and Commencement .- (1) This Act may be called the ¹[Karnataka]¹ State Civil Services (Regulation of Promotion, Pay and Pension) Act 1973.

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

(2) This section and sections 2,4,5,6,7,8,9,10 and section 12 shall be deemed to have come into force on the first day of November, 1956 and the remaining sections shall come into force at once.

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

(a) 'allottee' means a Government servant allotted or deemed to have been allotted to serve in connection with the affairs of the State of ¹[Karnataka]¹ under or in pursuance of section 115 of the States Reorganisation Act 1956 (Central Act 37 of 1956);

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

(b) 'civil servant' means a person who is a member of civil service of the State of ¹[Karnataka]¹ or who holds a civil post under the State of ²[Karnataka]² and includes an allottee;

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

(c) 'final seniority list' means an inter-State seniority list of allottees prepared in accordance with the decisions of Central Government under the provisions of sub-section (5) of section 115 of the States Reorganisation Act 1956 (Central Act 37 of 1956);

(d) 'Inter-State seniority list' means an inter-State seniority list prepared from time to time, on the basis of the seniority in which the eligibility of an allottee to promotion to higher post or posts is considered.

(e) 'rules of recruitment' means the rules of recruitment made in respect of recruitment to any service, post, office or class of posts or offices.

3. Promotions, etc., of civil servants .- (1) No civil servant shall, -

¹[(a) be entitled to promotion to any post or office with effect from a retrospective date, except and to the extent specified in the rules made under this Act.]¹

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

(b) only on the ground of his seniority in a seniority list, be promoted to any post or office unless the authority competent to promote determines his eligibility and promotes him by a written order to officiate in such post or office; and no such civil servant shall, save as provided in section 9, be entitled to continue in such promoted post or office unless the said authority assesses the work of such civil servant in such post or office and declares by a written order that he had satisfactorily completed his officiation ;

(c) when promoted to officiate in any post or office save as provided in section 9, be entitled to be considered for promotion to the next higher post or office unless he is declared to have satisfactorily completed his officiation in the first promoted post or office.

(2) In matters not specified in sub-section (1), the provisions contained in sections 4,5,6,7 and 8 shall mutatis mutandis, be applicable.

4. Promotions, etc., of allottees .- (1) Where the seniority of an allottee as specified in the provisional Inter-State seniority list in any class of post or office has been altered in the final seniority list relating to that class, every promotion made on any date after the first day of November 1956, on the basis of seniority-cum-merit, shall be reviewed with reference to the qualifications and other conditions laid down in the rules of recruitment applicable at the relevant time for such promotion and the ranking in the final seniority list assigned to the allottees in that class of post or office. If any person senior in rank than the person promoted is held to be suitable for promotion on such date (hereinafter in this section referred to as the date of eligibility), an order shall, subject to section 9, be made promoting the said person to officiate in the said post or office with effect from a prospective date to be specified in the order.

(2) As soon as may be, after the person promoted under sub-section (1) is declared to have satisfactorily completed the period of officiation in the promoted post or office an order shall, subject to section 9, be made directing that he shall be entitled to initial pay on the date of actual promotion to the post or office as if he was holding the said post or office from the date of eligibility and drawn the pay and allowances accordingly, but such person shall not be entitled to payment of any arrears for the period prior to the date of his actual promotion. His rank in the seniority list of persons in the class or grade of service to which he is promoted shall be fixed as if he had been promoted to that class or grade of service on the date of eligibility.

(3) Where consequent upon the review of promotions made under sub-section (1), it is found that an allottee, who, before coming into force of sections 3, 11 and 13 had been promoted to a higher class or grade of service found eligible for promotion to that higher class or grade of service from a date prior to the date of actual promotion and subject to section 9, is declared to have satisfactorily completed the period of officiation in the promoted post or office, an order shall be made directing that he shall be entitled to initial pay on the date of actual promotion to the post or office as if he was holding the said post or office from the date on which he is found eligible for promotion and drawn the pay and allowances accordingly, but he shall not be entitled to payment of any arrears for the period prior to the date of the actual promotion. ¹[Where, on such review he is found eligible for promotion to a higher class or grade of service from a date subsequent to the date of his actual promotion to such class or grade of service, his pay on the date of eligibility shall be refixed as if he had been promoted on such

date but he shall not be liable to refund the excess pay and allowances drawn by him up to the date of issue of the order fixing the date of eligibility.]¹ His rank in the seniority list of persons in the class or grade of service to which he is promoted shall be fixed as if he had been promoted to that class or grade of service on the date on which he is found eligible for promotion.

1. Inserted by Act 25 of 1982 w.e.f. 1.11.1956.

(4) Where an order is made in respect of any allottee under sub-section (2) or as the case may be, under sub-section (3), and the ranking in the seniority list of persons in the promoted class or grade of service, as fixed by such order, stands revised, the promotions made from that class or grade of service to the next higher class or grade of service shall be reviewed in accordance with and subject to the provisions of sub-section (1) as if reference therein to the final seniority list were references to the aforesaid revised seniority list and the provisions of sub-section (2) shall, mutatis mutandis, be applicable to every promotion so made.

(5) The provisions of sub-section (4) shall, mutatis mutandis, be applicable in respect of promotions of allottees to the next higher classes or grades of the same service.

(6) The provisions of sub-section (3) shall, mutatis mutandis, be applicable in respect of review of promotions of allottees made under sub-sections (4) and (5).

(7) Where in respect of promotions on the basis of seniority-cum-merit from any class or grade of service to the next higher class or grade of service, the rules of recruitment require service for a minimum period in the former class or grade to become eligible for promotion, the said period shall in its application to an allottee eligible for promotion under this section, be deemed to be the period during which he satisfactorily completes the period of officiation in the post or office of that class or grade of service and no such minimum service shall be necessary in the case of an allottee whose record of service was satisfactory on the relevant dates of eligibility or the relevant dates on which he is found eligible for promotion.

(8) In respect of promotions from any class or grade of service by selection to the next higher class or grade of service, where an allottee would have been eligible for consideration if he had been promoted to the former class or grade of service on the basis of his seniority in the final seniority list, such allottee, shall, subject to section 9, be considered for selection to the next higher class or grade of service, immediately after he satisfactorily completes the period of officiation in the said former class or grade of service. If he is selected and promoted to the higher class or grade of service and satisfactorily completes his period of officiation in the said class or grade, he shall be entitled to initial pay on the date of actual promotion to the said class or grade as if he was holding the said post or office from the date on which his immediate junior in the lower class or grade was promoted to the said class or grade of service, but he shall

not be entitled to payment of any arrears for the period prior to the date of his actual promotion. His rank in the seniority list of the persons in the said class or grade shall be fixed as if he had been promoted on the date immediately preceding the date on which his immediate junior in the lower class or grade was promoted to the selection class or grade of service.

(9) An order under sub-section (2) in respect of an allottee who had been reduced to a lower stage in a time scale and whose increment had been withheld shall be subject to such modification as the State Government may, by order direct.

(10) No promotions of allottees made on the basis of any provisional inter-State seniority list shall be reviewed except after the publication of the final seniority list and in the manner provided in this section.

Explanation .- For purposes of this sub-section provisional inter-State seniority list includes every inter-State seniority list used as the basis for carrying on the day-to-day administration whether prepared by the State Government or declared by court as operative until the publication of the final seniority list.

5. Provision relating to reversion of allottees .- (1) Where consequent upon the review of promotions under section 4 any allottee promoted to any class of posts or offices is found not entitled to continue in that class, he shall be reverted to , -

(a) the class of posts or offices to which he would have been eligible for promotion on the basis of his rank in the final seniority list, or

(b) the class of posts or offices in which he would have continued on the basis of his rank in the final seniority list.

(2) Where any reversion is made under clause (a) of sub-section (1), the rank of the allottee in the seniority list of that class of posts or offices shall be fixed as if he had been promoted to that class of posts or offices on the basis of his rank in the final seniority list.

6. Provision relating to revision of pensions, etc .- Where consequent upon a review of promotions under section 4, it is found that any allottee who has retired from service before an order under sub-section (1), (3), (4) ,(5),(6) or (8) of section 4, is made, or before the expiry of the period of his officiation in the promoted post or office would have been eligible for promotion to the next higher class or grade of service under the said section if the final seniority list had been published on the first day of November, 1956, his pension and death-cum-retirement gratuity shall be revised with reference to the pay and allowances he would have drawn if he had been promoted to the next higher class or grade of service on the date on which he was found eligible for such promotion with reference to his rank in the final seniority list and the relevant recruitment rules, and as if he had satisfactorily completed the period of officiation in the said class or grade of service.

7. Provisions relating to payments to heirs of deceased allottees.- Where consequent upon a review of promotions under section 4, it is found that any allottee who before an order under sub-section (1), (3), (4), (5), (6) or (8) of section 4 is made, or before the expiry of the period of officiation in a promoted post or office has while in service or after retirement died, would have been eligible for promotion to the next higher class or grade or service on any day under the said section if the final seniority list had been published on the first day of November 1956, his pension and death-cum-retirement gratuity shall be revised, with reference to the pay and allowances he would have drawn if he had been promoted to the next higher class or grade of service on the date on which he was found eligible for such promotion with reference to his rank in the final seniority list and the relevant recruitment rules and as if he had satisfactorily completed the period of officiation in the said class or grade of service, and the excess amount payable on such revision of pension, and death-cum-retirement gratuity shall be paid to the heirs of the said deceased allottee.

8. Sections not applicable to certain allottees .- Provisions of sections 4,5,6 and 7 in so far as they relate to promotion on the basis of ranking in the final seniority list shall not be applicable to an allottee who ,-

- (a) has been dismissed, removed or compulsorily retired from service as a penalty;
- (b) has been reduced to a lower service, grade or post or office or whose promotion has been withheld as a penalty ;
- (c) has been retired from service in public interest ;
- (d) has been held unsuitable for promotion to any post or office or class of posts or offices ; or
- (e) after promotion has been reverted to the lower post or office on the ground of unsuitability to hold the higher post or office or class of posts or offices.

9. Officiation .- (1) Save as provided in sub-section (2) the rules relating to officiation made under the proviso to Article 309 of the Constitution of India shall apply for purposes of officiation under this Act.

(2) A civil servant shall be deemed to have satisfactorily completed the period of officiation in the promoted post or office and may be promoted to one or more higher classes or grades of service to which he is found eligible for promotion on the basis of his seniority in the seniority list including the final seniority list if his record of service on the date or dates on which he is found eligible for such promotion is satisfactory and indicates that he is eligible for promotion to the next higher cadre and if he possesses the qualifications prescribed in the rules of recruitment applicable at the relevant time for such promotion.

¹**[9A. Rules .-** (1) The State Government may make rules to carry out the purposes

of this Act.

(2) 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 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 such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.¹

1. Inserted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

10. Removal of difficulties .- If any difficulty arises in the application of this Act to any case, the State Government may make such orders as may be necessary for the purpose of removing the difficulty.

11. Over-riding effect .- (1) The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law or order having the force of law or rules made under the proviso to Article 309 of the Constitution of India for the time being in force or any provision regulating the conditions of service of any allottee or in any order made by virtue of any such law, rules or provisions.

(2) Notwithstanding anything contained in any judgement, decree or order of any court or other competent authority the rights to which a civil servant is entitled to in respect of matters to which the provisions of this Act are applicable, shall be determined in accordance with the provisions of this Act, and accordingly, any judgement, decree or order directing promotion or consideration for promotion of civil servants and payment of salaries and allowances consequent upon such promotion shall be reviewed and orders made in accordance with the provisions of this Act.

12. Repeal .- The 1[Karnataka]1 State Civil Services (Allottees) (Special) Rules, 1971 are hereby repealed.

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

13. Savings .- Save as provided in section 11, nothing in this Act shall be deemed to affect the operation of the provisions of the Constitution of India in relation to the determination of the condition of service of persons serving in connection with the affairs of the State of ¹[Karnataka]¹.

1. Substituted by Act 40 of 1976 and by Act 25 of 1982 w.e.f. 11.4.1974.

THE KARNATAKA STATE CIVIL SERVICES (REGULATION OF PROMOTION,

PAY AND PENSION) ACT, 1973 has been amended by the following Acts, namely.-

Amendments (Chronological)

Sl. No.	Act No. and Year	Sections Amended	Remarks
1.	11 of 1974	--	Sections 2,4 to 10 and 12 of the Act have come into force from 1.11.1956 and other sections from 11.4.1974.
2.	40 of 1976	Title, Preamble, 1(1), 2(a)(b), 3(a), 9A, 12, 13	1.11.1956
3.	25 of 1982	4(3)	27.7.1982
Amendments (Section-wise)			

Sections	No and Year of the Act	Remarks
Title, Preamble	40 of 1976	1.11.1956
1(1)	40 of 1976	1.11.1956
2(a)(b)	40 of 1976	1.11.1956
3(a)	40 of 1976	1.11.1956
4(3)	25 of 1982	27.7.1982
9A	40 of 1976	1.11.1956
12	40 of 1976	1.11.1956
13	40 of 1976	1.11.1956

**THE KARNATAKA STATE SERVANTS (DETERMINATION OF AGE) ACT, 1974
ARRANGEMENT OF SECTIONS**

Statement of Object and Reasons

Sections:

1. Short title.
2. Definition.
3. Determination of age on entry into State Services.
4. Bar of alteration of age except under the Act.
5. Alteration of age or date of birth of State servants.
6. Bar of jurisdiction of courts.

Summary of Amendments

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STATEMENT OF OBJECTS AND REASONS**I**

Act 22 of 1974. - At present the provisions contained in article 404 of the Karnataka Financial Code prescribe the procedure for determination of date of birth with reference to certain documents like an authenticated extract from the birth or the baptismal register, S.S.L.C. certificate, affidavits, etc.

Although the provisions of the Karnataka Financial Code have been issued under the Constitution of India, they do not have the effect of excluding civil courts from determining the date of birth for purposes of ascertaining the date of superannuation of Government servants. This has enabled Government servants to institute suits some time before the date of superannuation for determining their dates of birth and in many cases decrees have been passed determining the date of birth, which in many cases is different from the one determined under article 404 of the Karnataka Financial Code.

Determination of age, for service purposes will have to be done by Government taking into consideration all the relevant material. It is therefore considered necessary to vest the power in the Government and in the case of Government servants who are subject to the control of the High Court under article 235 of the Constitution of India in the High Court and exclude the jurisdiction of courts in the matter.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-308, dated 28-3-1973, at page 6.)

II

Amending Act 22 of 1977. - The Karnataka State Servants (Determination of

Age), Act, 1974 bars the jurisdiction of courts in the matter of the determination of age and date of birth of Government servants. But in certain cases, persons have obtained declarations regarding their age from courts before they entered Government service and produced them as evidence of their date of birth and age after entering Government service. It is not desirable to accept such declarations without verification as the decisions in these cases would not be after an effective contest, interests of Government not being affected as the plaintiff was not a Government servant.

In such cases even though Government might have been a party in each of the suits they would not have been effectively contested as the interests of Government were not directly involved.

It is therefore, proposed to amend the Act to make it clear that decree obtained by a person before he entered Government service shall not be binding on Government and that the age and date of birth of such a person shall also be determined in accordance with the Act after the person enters Government service.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-534, dated 8-7-1977, at page 3.)

III

Amending Act 22 of 1982.- Section 3 of the Karnataka State Servants (Determination of Age) Act, 1974, prescribes the procedure to be followed by the concerned appointing authority in determining and accepting the age and date of birth of a person on his entry into State service. Determination of age and acceptance of date of birth of the State Servant has to be considered and decided by the appointing authority on the basis of various documents, such as extract from birth or baptismal register, original horoscope or correspondence contemporaneous with the time and date of birth, entries in school and college records, etc.

2. The procedure required to be followed is elaborate. Apart from the possibility of abuse of this provision this has also led to large number of applications under section 5 for alteration of the date of birth on the ground that the age of the applicant has not been determined in accordance with the provisions of the Act. It is, therefore, proposed to amend section 3 of the Act to provide that in the case of persons who have passed the Secondary School Leaving Certificate examination or equivalent examination, the age and date of birth of State servant shall be accepted on the basis of entries in regard to the date of birth in the Secondary School Leaving Certificate or certificate of any other examination equivalent thereto which is also accepted as the proof of age for the purposes of recruitment.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-215, dated 19-3-1982, at page 3.)

IV

Amending Act 13 of 1984.- According to sub-section (2) of section 3 of the Karnataka State Servants (Determination of Age) Act, 1974 the power to determine the age and date of birth of a State Servant on his entry into the State Civil Services vests in the appointing authority. In relation to the members of the Judicial Service including munsiffs the appointing authority is the Governor. Accordingly the age and date of birth of persons appointed as Munsiffs are being determined with the approval of the Governor.

In view of the ruling given by the Supreme Court, reported in AIR 1981 SC 561 (B.S. Yadav Vs. State of Harayana) though the Legislature or the Governor has the power to regulate the conditions of service of judicial officers for laying down rules of general application, the High Court is the authority to regulate the conditions of the service of each judicial officer and in the light of this ruling the power to determine the age and date of birth of Judicial officer falls within the jurisdiction of the High Court. It is, therefore, considered necessary to amend section 3 of the said Act suitably.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-719, dated 12-8-1983 at page 2.)

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KARNATAKA ACT NO. 22 OF 1974

(First published in the Karnataka Gazette Extraordinary on the Eighteenth

day of June, 1974)

THE KARNATAKA STATE SERVANTS (DETERMINATION OF AGE) ACT, 1974

(Received the assent of the Governor on the Fifteenth day of June, 1974)

(As amended by Acts 22 of 1977, 22 of 1982 and 13 of 1984 and as on 1.4.2004)

An Act to provide for the determination of the age of State servants.

WHEREAS it is expedient to provide for the determination of the age of State servants in so far as it relates to the conditions of service as such State servants;

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

1. Short title.- This Act may be called the Karnataka State Servants (Determination of Age) Act, 1974.

2. Definition.- In this Act 'State servant' means a person who is a member of a civil service of the State of Karnataka or who holds a civil post under the State of Karnataka.

3. Determination of age on entry into State Services.- (1) Every person on appointment as a State servant shall declare his age along with the date of birth, and in support of such declaration shall furnish to the appointing authority documentary evidence, namely, an authenticated, extract from the birth or baptismal register, original horoscope or correspondence contemporaneous with the time of birth, indicating the date and time of birth, an authenticated copy or extract from the entries made in school or college records indicating the date of birth:

Provided that where any such document is not available, the reasons for its non-availability shall be furnished along with such other documentary evidence in support of the declaration of the age and date of birth as the appointing authority may require.

(2) The appointing authority shall ¹[notwithstanding anything contained in any judgment, decree or order of any court]¹ after considering the evidence produced by the State servant and after such enquiry as it deems fit, accept the age and date of birth which in its opinion is satisfactorily established; and shall inform the State servant and shall record or cause to be recorded in the service register or book or any other record of service of the State servant the age and date of birth so accepted:

1. Inserted by Act 22 of 1977 w.e.f. 29.7.1977

Provided that if the age and date of birth of a State servant has been determined by a decree of a civil court obtained by the State servant ¹[after he became such servant]¹ against the State Government and which has become final before the commencement of this Act, the age and date of birth so determined shall be accepted and recorded or caused to be recorded in the service register or book or any other

record of service of the State servant concerned.

1. Inserted by Act 22 of 1977 w.e.f. 29.7.1977

¹[Provided further that in the case of a State servant who has passed the Secondary School Leaving Certificate Examination or any other examination equivalent thereto, the date of birth and age specified in the certificate evidencing pass in such examination shall be accepted as his date of birth and age:]¹

1. Inserted by Act 22 of 1977 w.e.f. 29.7.1977

¹[Provided further that the powers of the appointing authority under sub-section (1) and sub-section (2) shall, in respect of a State Servant who is subject to the control of the High Court under Article 235 of the Constitution be exercisable by the High Court.]¹

1. Inserted by Act 13 of 1984 w.e.f. 19.4.1984

(3) Notwithstanding anything contained in sub-sections (1) and (2), the age and date of birth of a State servant accepted and recorded in his service register or book or any other record of service before the date of commencement of this Act in accordance with the rules then in force shall be deemed to be the age and date of birth of such State servant accepted and recorded in the service register or book or any other record of service under sub-section (2).

(4) The age and date of birth accepted and recorded or deemed to have been accepted and recorded in the service register or book or any other record of service under sub-section (2) or as the case may be sub-section (3), shall subject to any alteration made under section 5, be applicable for all purposes relating to the conditions of service including superannuation and retirement of the State servant concerned.

4. Bar of alteration of age except under the Act.- Notwithstanding anything contained in any law or any judgment, decree or order of any court or other authority, no alteration of the age or date of birth of a State servant as accepted and recorded or deemed to have been accepted and recorded in his service register or book or any other record of service under section 3 shall, in so far as it relates to his conditions of service as such State servant, be made except under section 5.

5. Alteration of age or date of birth of State servants.- (1) Subject to sub-section (2), the State Government may, at any time, after an inquiry, alter the age and date of birth of a State servant as recorded or deemed to have been recorded in his service register or book or any other record of service:

Provided that no such alteration shall be made if the age and date of birth of a State servant has been accepted and recorded or deemed to have been accepted and recorded in the service register or book or any other record of service in pursuance of a decree of a civil court obtained by the State servant ¹[after he became such servant]¹ against the State Government:

1. Inserted by Act 22 of 1977 w.e.f. 29.7.1977

Provided further that no such alteration shall be made without giving the State servant concerned a reasonable opportunity of being heard.

(2) No such alteration to the advantage of a State servant shall be made unless he has made an application for the purpose within three years from the date on which his age and date of birth is accepted and recorded in the service register or book or any other record of service or within one year from the date of commencement of this Act, whichever is later.

(3) The State Government may by notification in the official Gazette appoint such officer as it deems fit for the purpose of making an inquiry under this section:

Provided that the powers of the State Government under sub-section (1) and this sub-section shall in respect of the alteration of the age or date of birth of a State servant who,-

(i) is subject to the control of the High Court under Article 235 of the Constitution, be exercisable, by the High Court; and

(ii) is an officer and servant of the High Court, be exercisable by the Chief Justice or such other Judge or officer of the High Court as he may direct.

(4) The officer appointed under sub-section (3) shall have 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 the attendance of any person and examining him on oath;

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

(c) receiving evidence on affidavits;

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

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

(5) (a) The officer appointed under sub-section (3) shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228, of the Indian Penal Code, 1860 (Central Act 45 of 1860) is committed in the view or presence of the said officer, the said officer, may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of the Criminal Procedure, 1973 (Central Act 2 of 1974), forward the case to the Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(b) Any proceeding before the said officer shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

6. Bar of jurisdiction of courts.- (1) No court shall have jurisdiction to settle, decide or deal with any question which is required to be decided under this Act.

(2) No decision under this Act shall be questioned in any court of law.

* * * *

The Karnataka State Servants (Determination of Age) Act, 1974 (22 of 1974) has been amended by the following Acts, namely.-

Amendments (Chronological)

Sl. No.	No. and Year of the Act	Sections Amended	Remarks
1	22 of 1974	-	w.e.f. 18.6.1974
2	22 of 1977	3(2), 5(1)	w.e.f. 29.7.1977
3	22 of 1982	3(2)	w.e.f. 25.5.1982
4	13 of 1984	3(2)	w.e.f. 19.4.1984
Amendments (Section-wise)			

Sections	Act No. and Year	Remarks
3	a) 22 of 1977,	w.e.f. 29.7.1977
	b) 22 of 1982,	w.e.f. 25.5.1982
	c) 13 of 1984	w.e.f. 19.4.1984
5	22 of 1977	w.ef. 29.7.1977

**THE KARNATAKA LIFTS ACTS 1974
ARRANGEMENT OF SECTIONS**

Statement of Objects and Reasons**Sections:**

1. Short title, extent and commencement.
2. Definitions.
3. Permission to erect a lift.
4. Licence to use a lift.
5. Application for licence in case of existing lifts.
6. Lift not to be operated without a licence.
7. Additions and alterations to the lift installation.
8. Right to enter any building for inspection of lifts and lift installation.
9. Owner to give facilities for inspection.
10. Report of accident.
11. Delegation of powers of Government.
12. Inspection of lifts.
13. Recovery of fees.
14. Power to make rules.
15. Penalty.
16. Offences by companies.
17. Sanction for prosecution.
18. Service of notices, orders or documents.
19. Protection for acts done in good faith.
20. Saving.
21. Repeal.

* * * * *

STATEMENT OF OBJECTS AND REASONS

I

Act 24 of 1974.- Consequent upon the construction of many multistoreyed buildings with lifts, particularly in Bangalore City, the number of lifts working in the State is on the increase. A number of safety devices and safety precautions are necessary for operating the lifts in the interest of the safety of users. But they cannot be insisted upon in the absence of proper authority. The Bombay Lifts Act, 1939 is in force at present in the Bombay Area only. It is therefore proposed to enact a law on the line of the Bombay Act applicable throughout the State.

Hence this Bill.

(Published in the Karnataka Gazzete Part IV -2-A (Ex-ordinary) No 280 , dated 22.3.1973 is at page 12.)

II

Amending Act 22 of 1993.- Section 3 of the Karnataka Lifts Act, 1974 provides a period of six months for erection of Lifts from the date of granting of permission. It is observed that in practice due to various circumstances the erection of lifts cannot be completed within the stipulated period. It is therefore considered necessary to extend the period of six months to twelve months and also to extend such permission beyond twelve months on the recommendation of the authorised officer.

It is also considered necessary to increase the initial inspection fee under section 4 and annual inspection fee under section 12 from rupees one hundred to two hundred and fifty and from rupees fifty to one hundred respectively since the said fees have not been increased so far.

Hence the Bill.

(Obtained from Vide L.A Bill No. 9 of 1993 file No. LAW 8 LGM 93)

* * * * *

KARNATAKA ACT No. 24 OF 1974

(First published in the Karnataka Gazette Extraordinary on the Eighteenth

day of July, 1974)

THE KARNATAKA LIFTS ACT, 1974

(Received the assent of the Governor on the Sixth day of July, 1974)

(As Amended by Act 22 of 1993)

An Act to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the State of Karnataka.

WHEREAS it is expedient to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the State of Karnataka;

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

1. Short title, extent and commencement.-(1) This Act may be called the Karnataka Lifts Act, 1974.

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

(3) It shall come in to force on such '[date]' as the Government may, by notification, appoint.

1. Act came into force on 1.8.1976 by notification. Text of the notification is at the end of the Act

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

(a) "Government" means the State Government;

(b) "Inspector of Lifts" means an officer appointed as such by the Government;

(c) "licence" means a licence granted under section 4;

(d) "lift" means a hoisting mechanism equipped with a car which moves in a substantially vertical direction, is worked by power and is designed to carry passengers or goods or both;

(e) "lift car" means the cage or car of a lift used whether for the conveyance of passengers or goods or both and includes the floor or platform car frame, sling and enclosing body work but shall not include a hoist or lift to which the Factories Act, 1948 applies;

(f) "lift installation" includes the lift car, the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the lift;

(g) "lift way" means the shaft in which the lift car travels;

(h) "lift way enclosure" includes any permanent substantial structure surrounding

or enclosing the lift way;

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

(j) "power" means any form of energy which is not generated by human or animal agency; and

(k) "prescribed" means prescribed by rules made under this Act

3. Permission to erect a lift.- (1) Every owner of a place intending to instal a lift in such place after the commencement of this Act, shall make an application to such officer as the Government may authorise in this behalf for permission to erect such lift. Such application shall be in writing and in such form as may be prescribed. Such application shall specify,-

(a) the type of the lift;

(b) the rated maximum speed of the lift;

(c) the maker's or designer's rated capacity in weight;

(d) the maximum number of passengers in addition to the lift operator which the lift can carry;

(e) the total weight of the lift car carrying the maximum load;

(f) the weight of the counterweight;

(g) the number,description, weight and size of the supporting cables;

(h) the depth of the pit from the lowest part of the car when at the lowest floor;

(i) such details of the construction of the overhead arrangement with the weight and sizes of the beams as may be prescribed; and

(j) such other particulars as may be prescribed.

(2) On receipt of such application the officer authorised under this section shall, after making such enquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the Government. The Government may thereupon either grant or refuse the permission. Such permission shall be valid only for a period of ¹[twelve months]¹ from the date on which it is granted.

²[Provided that on an application being made to the authorised officer and on his recommendation, the Government, if satisfied, may extend the said period by a period not exceeding six months.]²

1. Substituted by Act 22 of 1993 w.e.f. 26.5.1993

2. Inserted by Act 22 of 1993 w.e.f. 26.5.1993

4. Licence to use a lift.- (1) Every owner of a place who is permitted to instal a lift under section 3,shall, within one month after the completion of the erection of such lift deliver or send or cause to be delivered or sent to such officer as the Government may

authorise in this behalf notice in writing of such completion and shall make an application to him for a licence for working the lift.

(2) An application for a licence made under subsection (1) shall be in such form as may be prescribed.

(3) On receipt of such application such officer as may be authorised in this behalf by the Government, after making such enquiry as may be necessary, forward the application with his remarks to the Government. The Government may, thereupon, either grant or refuse the licence.

(4) A fee of rupees ¹[two hundred and fifty]¹ shall be paid along with such application.

1. Substituted by Act 22 of 1993 w.e.f. 26.5.1993

5. Application for licence in case of existing lifts.- (1) Notwithstanding anything contained in sections 3 and 4, every owner of a place in which a lift has been installed before the date of the commencement of this Act, shall within two months from such date apply for a licence for the working of such lift.

(2) The provisions of sub-sections (2) to (4) of section 4 shall, so far as may be, apply to such application.

6. Lift not to be operated without a licence.- Subject to such rules as may be made in this behalf no lift shall be worked except under and in conformity with the terms of the licence granted in respect of the same:

Provided that nothing in this section shall apply to a lift installed at the date of the commencement of this Act, for a period of two months from such date or if an application for licence is made within that period in accordance with the provisions of section 5, until such application is finally disposed of under the said section.

7. Additions and alterations to the lift installation.- No addition or alterations other than those required to be made under sub-section (2) of section 8, shall be made to any lift installation except with the previous permission in writing of an officer authorised in this behalf by the Government.

8. Right to enter any building for inspection of lifts and lift installation.- (1) An officer authorised in this behalf by the Government may at any time after giving reasonable notice to the occupant enter upon any building in which a lift is installed or is being installed or in connection with which an application for a licence has been received, for the purpose of inspecting the lift or the lift installation or the site thereof.

(2) If on such inspection the officer is of the opinion that any lift in any building is in an unsafe condition, he may issue an order on the owner of the building or his agent appointed under sub-section (2) of section 10 requiring such repairs or alterations to

be made to such lift as he may deem necessary within the time specified therein and may also, if necessary, order the use of such lift to be discontinued until such repairs or alterations are made or such unsafe conditions is removed. The owner or his agent, as the case may be, shall thereupon comply with the order within the period specified therein and shall forthwith report in writing to the officer of having so complied.

(3) Any person aggrieved by an order of the officer under sub-section (2) may, within thirty days from the date of such order appeal to the Appellate Authority appointed in this behalf by the Government.

(4) Notwithstanding any appeal made under sub-section (3), any order to discontinue the use of a lift made by the officer under sub-section (2) shall be complied with unless the Appellate Authority has reversed such order.

(5) The order made by the officer under sub-section (2), subject to an appeal to the Appellate Authority, and the decision of the Appellate Authority on the appeal, shall be final.

9. Owner to give facilities for inspection.- The owner of a building in which a lift is installed or his agent appointed under sub-section (2) of section 10 shall afford all reasonable facilities to the officer for inspecting a lift under section 8 and whenever ordered to do so by the officer shall, at his own cost, procure at such inspection, the attendance of the person, if any, with whom he has entered into a contract for the erection or maintenance of the lift or a representative of such person who is competent to guide the officer in inspecting the lift.

10. Report of accident.- (1) Where any accident occurs in the operation of any lift which results or was likely to result in injury to any person, the owner of the building in which the lift is working or if such owner has appointed an agent and has communicated his name to the Inspector of Lifts under sub-section (3) such agent shall, as soon as may be, after such accident give notice with full details of the accident to the Inspector of lifts and also to the Commissioner of police of the City of Bangalore and elsewhere to the District Magistrate or such officer as the Government may by order specify and the lift installation shall not be interfered with in any way and the working of such lift shall not be resumed except with the written permission of the officer authorised in this behalf by the Government.

(2) For the purposes of sub-section (1), the owner of every building in which a lift has been installed may, and if such owner does not reside in such building shall, appoint an agent who shall be a resident in the town or village in which the building is situate to give notice of any accident occurring in the operation of the lift.

(3) The name of every agent appointed under sub-section (2) shall be communicated to the Inspector of Lifts.

11. Delegation of powers of Government.- The Government may by order

published in the official Gazette delegate any of the powers conferred on it by or under this Act (other than the power to make rules under section 14) subject to such conditions as may be specified in the order to such officer as it thinks fit.

12. Inspection of lifts.- Every lift shall be inspected at least once in three months by an officer authorised in this behalf by the Government. An annual fee of rupees ¹[one hundred] shall be charged for such inspection and such fee shall include the charges for the inspection of the motor.

1. Substituted by Act 22 of 1993 w.e.f. 26.5.1993

13. Recovery of fees.- All sums payable as fees under this Act shall be recoverable as arrears of land revenue.

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

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

(a) specifications for lifts;

(b) the manner in which erection plans of lifts shall be submitted;

(c) the manner in which the lifts may be tested;

(d) the form of application for the erection of a lift or a licence for working the same;

(e) the terms and conditions subject to which and the form in which the licences may be granted for the working of a lift under section 6;

(f) the manner in which and the terms subject to which the lifts shall be worked under section 6;

(g) the manner in which notice of accidents shall be given and the form of such notice, and

(h) the form of notice to be given under section 8.

(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 sessions 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 such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

15. Penalty.- Whoever contravenes any of provisions of this Act, rules or conditions of a licence or a direction given by the Inspector of Lifts under this Act or the rules shall, on conviction, be punishable with fine which may extend to one thousand rupees and in default to simple imprisonment which may extend to one month and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

16. Offences by companies.- (1) If a person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, 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 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 be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes 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.

17. Sanction for prosecution.- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Government.

18. Service of notices, orders or documents.- (1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,-

(a) where a Government is the addressee, at the office of the agent appointed under sub-section (2) of section 10;

(b) where a local authority is the addressee, at the office of the local authority.

(c) where a company is the addressee, at the registered office of the company or in the event of the registered office of the company not being in India, at the head office of the company in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required be authorised to be addressed to the owner or the agent of the owner, or the occupant of any premises shall be deemed to be properly addressed if addressed by the description of the 'owner' or 'agent of the owner' or 'occupant of the premises' (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered by affixing it on some conspicuous part of the premises.

19. Protection for acts done in good faith.- No suit, prosecution or other legal proceedings shall be instituted against any officer for anything which is in good faith done or intended to be done by or under this Act.

20. Saving.- Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910 or any rules made thereunder,

21. Repeal.- On the date on which this Act comes into force the Bombay Lifts Act, 1939 (Bombay Act 10 of 1939) as in force in the Belgaum Area shall stand repealed:

Provided that sections 8 and 24 of the 1[Karnataka]1 General Clauses Act, 1899 shall be applicable as if the said enactment had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

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NOTIFICATION

Bangalore dated 16th July 1976 [No. PWD 143 EIG 74]

S.O. 1843.- In exercise of the powers conferred by Sub-Section (3) of Section 1 of the Karnataka Lifts Act, 1974 (Karnataka Act No. 24 of 1974) the Government of Karnataka hereby appoints the 1st August 1976 as the date on which the said Act shall come into force. By Order and in the name of the Governor of Karnataka, BHIM RAO, Deputy Secretary to Government, P.W and Elec., Department. (Published in the Karnataka Gazette (Extraordinary) Part IV-2c (ii) dated 20-7-1976 as No. 3495.)

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THE KARNATAKA URBAN WATER SUPPLY AND DRAINAGE BOARD ACT, 1973 ARRANGEMENT OF SECTIONS

Statement of Object and Reasons

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1. Short title, extent and commencement.
2. Definitions.

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3. Creation and incorporation of the Board.
4. Constitution of the Board.
5. Appointment of Chairman, the Managing Director and Directors to be notified.
6. Term of office and conditions of service of the directors.
7. Disqualifications for appointmen as director of the Board.
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14. Appointment and functions of committees.
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37. Repayment of loans by the board.
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68. Power to make rules.

69. Power to make regulations.
70. Provision as to employees of the local authorities employed in connection with water supply and sewerage undertakings.
71. Continuation of appointments, notifications, rules, bye-laws etc.
- Summary of Amendments

* * * *

STATEMENTS OF OBJECTS AND REASONS.

I

Act 25 of 1974.- To undertake the investigation, preparation and execution of schemes for the regulation and development of drinking water and drainage facilities in the urban areas, it is considered necessary to have a statutory board at the State level which will help in bringing about co-ordination in the activities relating to the implementation of such schemes.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part-IV-2A, dated 26-2-1973, No. 180, at page 37.)

II

Amending Act 7 of 1976.- The Karnataka Urban Water Supply and Drainage Board Bill, 1973 was assented to by the President of India and has been published as Karnataka Act 25 of 1974.

While giving assent to the said Bill, the Government of India have suggested certain amendments, one of which relates to the amendment of section 9 of the Act.

Sub-section (1) of section 9 empowers the Board to appoint a Secretary, a Chief Engineer, an Accounts Officer and such other officer and Servants as it considers necessary for efficient performance of its functions. The proviso stipulates that the Board shall not without the previous approval of the Government, sanction the creation of, or appoint any person to any post, the maximum monthly salary of which exceeds on thousand and six hundred rupees.

The Government of India have suggested that the appointment of the Secretary, Chief Engineer and the Accounts Officer of the Board should be made with the approval of the Government.

Since the three posts being key posts in the Board, it is considered that there should be a limit of Government control over appointment of these posts.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary), dated 31-1-1976, Part IV-2A, No. 626, page 3.)

III

Amending Act 20 of 1977.- Section 29(4) of the Karnataka Urban Water Supply and Drainage Board Act, 1973 provides, all moneys and receipts forming part of the fund of the Karnataka Urban Water Supply and Drainage Board have either to be deposited into the Public Accounts of the Government or in the Reserve Bank of India or State Bank of India or any corresponding new Bank as defined in the Banking Companies (Acquisition and Transfer of undertakings) Act, 1970. Schedule Banks are not included in the list. Since many Schedule Banks have come forward to offer banking services to the Board, it is proposed to amend section 29 (4) of the Karnataka Urban Water Supply and Drainage Board Act so as to include Scheduled Banks also within its purview.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary), dated 3-2-1977, Part IV-2A, L.A. No. 16743, Page 2.)

IV

Amending Act 45 of 1981.- The Water Supply and Drainage System in Urban areas of the State are at present maintained by the concerned local bodies. The standard of maintenance of water supply by the urban local bodies has been on the whole, extremely poor. The local bodies, as a rule do not have qualified technical staff for operation and maintenance of the machinery and sophisticated equipment erected for the Water Supply/Drainage Systems, for prompt rectification of defects in water supply or proper supervision over the storage and distribution arrangements. Further, most of the local bodies have failed to levy adequate water rates to cover the cost of maintenance and consequently do not have sufficient funds to keep the water supply/drainage systems in good shape.

In view of these difficulties, it is considered necessary to entrust in a phased manner, the water supply and drainage schemes in urban areas to the Karnataka Water Supply and Drainage Board, which has the technical know how and capacity to maintain the schemes efficiently.

Under the provisions of the Karnataka Urban Water Supply and Drainage Board Act, the Board executed water supply and drainage schemes on behalf of local authorities and also such schemes as may be entrusted to it by Government. The Act does not empower the Board to maintain Water Supply Drainage Schemes or to collect water rates in respect of the water supplied. Amendments to the Act are therefore necessary to entrust these functions to the Board and to provide for take over of Water Supply and Drainage Schemes by the Board.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary), dated 25-3-1981, Part IV-2A, No. 194, Page 31.)

V

Amending Act 19 of 1993.- It is considered necessary to amend the Karnataka Urban Water Supply and Drainage Board Act, 1973 to make the Director of Municipal Administration as one of the directors of the Karnataka Urban Water Supply and Drainage Board. Opportunity is also taken to make consequential amendments due to bifurcation of the Department of Health and Municipal Administration into Housing and Urban Development Department and Health and Family Welfare Department.

Hence the Bill.

(Obtained from Vide L.A. Bill 10 of 1993, File LAW 64 LGN 91.)

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¹[KARNATAKA]¹ ACT No. 25 OF 1974

(First published in the Karnataka Gazette Extraordinary on the Twenty-first day of August, 1974)

THE ¹[KARNATAKA]¹ URBAN WATER SUPPLY AND DRAINAGE BOARD ACT, 1973.

(Received the assent of the President on the Fifteenth day of August, 1974)

(As Amended by Acts 7 of 1976, 20 of 1977, 45 of 1981 and 19 of 1993.)

An Act to provide for the establishment of a Water Supply and Drainage Board and the regulation and development of drinking water and drainage facilities in the urban areas of the State of ¹[Karnataka]¹.

WHEREAS it is expedient to provide for the establishment of a Water Supply and Drainage Board and the regulation and development of drinking water and drainage facilities in the urban areas of the State of ¹[Karnataka]¹ and for matters connected therewith ;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Twenty-fourth Year of the Republic of India as follows:-

1. Adopted by the Karnataka adoption of laws order 1973 w.e.f. 1.11.1973.

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Urban Water Supply and Drainage Board Act, 1973.

(2) It extends to the whole of the State of ¹[Karnataka]¹ other than the City of Bangalore.

1. Adopted by the Karnataka adoption of laws order 1973 w.e.f. 1.11.1973.

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

1. Act came into force on 15.10.1974.

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

1. Sub section 1 to 34 substituted by Act 45 of 1981 w.e.f. 1.10.1981.

(1) "Board" means the ¹[Karnataka]¹ Urban Water Supply and Drainage Board constituted under section 4;

1. Adopted by the Karnataka adoption of laws order 1973 w.e.f. 1.11.1973.

(2) "building" means a house, out-house, stable, latrine, urinal, shed, hut or any other structure, whether of masonry, bricks, wood, mud, metal or other material, but does not include any portable shelter;

(3) "bye-laws" means bye-laws made by the Board under this Act;

(4) "Chairman" means the Chairman of the Board;

(5) "committee" means any committee appointed under section 14;

(6) "communication pipe" means,-

(a) where the premises supplied with water abuts the street in which the main is laid, and the service pipe enters that premises otherwise than through the

outer wall of a building on the street and has a stopcock placed in that premises and as near to the boundary of the street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also,-

(i) where the communication pipe ends at a stopcock, that stopcock; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main;

(7) "director" means a director of the Board and includes the Chairman and the Managing Director;

(8) "drain" includes sewer, tunnel, a culvert, a ditch, a channel and any other device for carrying off sewage, offensive matter, polluted water, waste water, rain water or sub-soil water;

(9) "drainage" means the device for carrying off sewage, offensive matter, polluted water, waste water, rain water, or sub-soil water;

(10) "Executive Engineer" means the officer appointed by the Board to be the Executive Engineer and includes any officer placed in additional charge of the duties of the Executive Engineer;

(11) "Government" means the State Government;

(12) "land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street;

(13) "licenced plumber" means a person licenced under the provisions of this Act as a plumber;

(14) "local area" means an area within the jurisdiction of a local authority;

(15) "local authority" means a municipal corporation, a municipal council, a sanitary board or a notified area committee constituted or continued under any law for the time being in force;

(16) "main" means a pipe laid for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe;

(17) "occupier" includes,-

(a) any person who, for the time being, is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(b) an owner in occupation of, or otherwise using his land or building;

(c) a rent free tenant of any land or building;

(d) a licensee in occupation of any land or building; and

(e) any person who is liable to pay the owner damages for the use and occupation of any land or building;

(18) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building whether on his own account or an account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant;

(19) "premises" means any land or building or part of a building and includes,-

(a) the garden, ground and out-house, if any, appertaining to a building or part of a building; and

(b) any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof;

(20) "regulation" means a regulation made under this Act;

(21) "scheme" means any scheme relating to drinking water and drainage and such matters incidental thereto and includes a draft scheme prepared for the above purpose;

(22) "service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap;

(23) "sewage" means night soil and contents of latrines, urinals, cesspools or drains, and polluted water from sinks, bathrooms, stables, cattle sheds and other like places and includes trade effluents and discharges from manufactories of all kinds;

(24) "sewer" means a closed conduit for carrying off sewage, offensive matter, polluted water, waste water or sub-soil water;

(25) "shed" means a slight or temporary structure for shade or shelter;

(26) "street" includes any way, road, lane, square, court, alley, gully, passage, whether a thoroughfare or not and whether built upon or not over which the public have a right of way and also the roadway or footway over any bridge or cause-way;

(27) "supply pipe" means so much of any service pipe as is not a communication pipe;

(28) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at such premises, but does not include domestic sewage;

(29) "trade premises" means any premises used or intended to be used for carrying on any trade or industry;

(30) "trade refuse" means the refuse of any trade or industry;

(31) "trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk;

(32) "water course" includes any river, stream or channel whether natural or artificial;

(33) "water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths and other similar apparatus used in connection with the supply and use of water;

(34) "water works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water trucks, sluices, mains, culverts, pipes, hydrants, stand pipes and conduits and all lands, buildings, machinery, bridges and things used for or intended for the purposes of supplying water.]¹

CHAPTER II

CONSTITUTION OF THE BOARD

3. Creation and incorporation of the Board.- The duty of carrying out the provisions of this Act shall, subject to the restrictions, conditions and limitations therein contained be vested in a Board to be called the 1[Karnataka]1 Urban Water Supply and Drainage Board and such Board shall be a body corporate and have perpetual succession and a common seal and shall by the said name sue and be sued.

1. Substituted by Act 7 of 1976 w.e.f. 4.3.1976.

4. Constitution of the Board.- (1) The Board shall consist of,-

(a) a Chairman ;

(b) a Managing Director;

(c) ¹[four directors of whom one shall be the Director of Municipal Administration and three others]¹ to represent respectively the Government Secretariat Department

dealing in, -

1. Substituted by Act 19 of 1993 w.e.f. 18.5.1993.

(i) Finance;

¹[(ii) Housing and Urban Development;]¹

1. Substituted by Act 19 of 1993 w.e.f. 18.5.1993.

(iii) Public Works;

(d) four directors to represent the local authorities, one from each revenue division;

(e) eight other directors of whom four shall be persons possessing wide experience in the field of public health engineering with reference to water supply or drainage or disposal of industrial wastes, who are not employed by the Government or a local authority or a corporation owned or controlled by the Government.

(2) The Chairman and the Managing Director shall possess the prescribed qualifications. They and the other directors shall be appointed by the Government.

5. Appointment of Chairman, the Managing Director and Directors to be notified.- The appointment of the Chairman, the Managing Director and the official and non-official directors shall be notified in the official Gazette.

6. Term of office and conditions of service of the directors.- (1) All directors including the Chairman and the Managing Director shall hold office during the pleasure of the Government.

(2) Any director may, by writing addressed to the Government, resign his office and such resignation takes effect when accepted by Government.

(3) The conditions of service of the directors shall be such as may be prescribed.

(4) Any vacancy in the office of the directors may be filled by Government by appointing a person possessing the appropriate qualification specified in section 4.

7. Disqualifications for appointment as director of the Board.- (1) A person shall be disqualified for being appointed as, and for being, a director of the Board, if he,-

(a) has been sentenced for any offence involving moral turpitude, such sentence not having been reversed;

(b) is an undischarged insolvent;

(c) is of unsound mind;

(d) is an officer or servant of the Board;

(e) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by or on behalf of,

the Board;

(f) is a director or a secretary, manager or other officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Board.

(2) A person shall not be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of those clauses, by reasons only of his or the incorporated company of which he is a director, secretary, manager, or other officer, having a share or interest in,-

(i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;

(ii) any agreement for the loan of money or any security for the payment of money only;

(iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted;

(iv) the occasional sale to the Board, if the sum paid as consideration does not exceed two thousand rupees in any one year, of any article in which he or the incorporated company regularly trades.

(3) A person shall not also be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of the Board, by reason only of his being a share holder of such company:

Provided that such person discloses to the Government the nature and extent of the shares held by him.

Explanation.- For the purposes of clause (d) of sub-section (1) the Chairman or the Managing Director or any director shall not be deemed to be an officer or servant of the Board.

8. Removal of the Chairman and other non-official directors. - (1) If at any time it appears to the Government that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it shall by notification remove him from office after giving him a reasonable opportunity of showing cause.

(2) The Government may, by notification, remove any non-official director from office after giving him a reasonable opportunity of showing cause,-

(a) if he has, without the permission of the Board, been absent from the meetings of the Board for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he

attended, as the case may be, or within the said period, less than three meetings have been held, been absent from three consecutive meetings held after the said date ;

(b) if he, being a legal practitioner, acts or appears on behalf of any person other than the Board in any civil, criminal or other legal proceedings in which the Board is interested, either as a party or otherwise; or

(c) if he, in the opinion of the Government, is unsuitable or has become incapable of acting as a director or has so abused his position as a director as to render his continuance as such director detrimental to public interest.

(3) A non-official director removed under any of the provisions of clauses (a) and (b) of sub-section (2) shall unless otherwise directed by the Government be disqualified for appointment as a director for a period of three years from the date of his removal.

(4) A non-official director removed under clause (c) of sub-section (2) shall not be eligible for reappointment until he is declared by an order of the Government to be no longer ineligible.

CHAPTER III

OFFICERS AND MEMBERS OF THE STAFF OF THE BOARD

9. Appointment of Secretary, Chief Engineer, Accounts Officer and other officers and servants of the Board.- (1) The Board may appoint a Secretary, a Chief Engineer, an Accounts Officer and such other officers and servants as it considers necessary for the efficient performance of its functions:

¹[Provided that the appointment of the Secretary, Chief Engineer and the Accounts Officer shall be made with the previous approval of the Government.]¹

1. Substituted by Act 7 of 1976 w.e.f. 4.3.1976.

Provided further that in case of emergency,-

(a) the Managing Director may appoint, temporarily, for a period not exceeding three months such officers or servants as may, in his opinion, be required for the purpose of this Act, and the employment of whom for any particular work had not been prohibited by any resolution of the Board; and

(b) every appointment made under clause (a) shall be reported by the Managing Director to the Board at the next meeting.

10. Maintaining schedule of establishment.- (1) The Board shall prepare and maintain a schedule of establishment showing the number, designated and grades of the officers and servants (other than the employees who are paid by the day or whose pay is charged to temporary work), whom it considers necessary and proper to employ for the purpose of this Act, and also the amount and the nature of the salary, fees and

allowances to be paid to each such officer or servant.

(2) The schedule referred to in sub-section (1) shall be revised every year before the first May of that year and shall contain the particulars mentioned in that sub-section of the officers and servants of the Board employed on the 31st March immediately preceding. 11. Control by the Managing Director.- Subject to such regulations as may be framed by the Board, the Managing Director shall [be the Chief Executive Officer of the Board and shall] exercise supervision and control over the acts and proceedings of all the officers and servants of the Board.

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

CHAPTER IV CONDUCT AND BUSINESS OF THE BOARD

12. Meeting of the Board.- (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meetings including the quorum at meetings as may be prescribed by regulations:

Provided that the Board shall meet at least once in three months.

(2) The Chairman or in his absence, the Managing Director shall preside at a meeting of the Board.

(3) All questions at any meetings of the Board shall be decided by a majority of the votes of the directors present and voting and in the case of an equality of votes, the Chairman, or in his absence the Managing Director presiding, shall have and exercise a second or casting vote.

13. Temporary association of persons with Board for particular purposes.- (1) The Board may associate with itself in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in performing any of its functions under this Act:

Provided that the number of persons so associated shall not be more than four. (2) The Board may invite any person to offer his views on any subject discussed at any meeting of the Board.

(3) A person associated with the Board under sub-section (1) or invited for a discussion under sub-section (2) for any purpose shall have the right to take part in the discussions of the Board relevant to that purpose, but shall not have the right to vote at a meeting of the Board.

14. Appointment and functions of committees.- (1) The Board may from time to time, appoint committees consisting of such number of persons as it may think fit for the purpose of discharging such duties or performing such functions and on such

terms and conditions as may be prescribed by regulations. (2) The Chairman, or such other person as he may nominate in this behalf shall be the president of the committee and the committee shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by regulations. (3) All proceedings of the committee shall be subject to confirmation by the Board.

15. Acts of Board not to be invalidated by informality or vacancy.-No act done or proceedings taken under this Act by the Board or any committee shall be invalidated merely on the ground,-

- (a) of any vacancy or defect in the constitution of the Board or the committee; or
- (b) of any defect or irregularity in the appointment of a person acting as a director thereof; or
- (c) of any defect or irregularity in such act or proceeding not affecting the merits of the case.

CHAPTER V

POWERS AND FUNCTIONS OF THE BOARD

16. Functions of the Board.- (1) The Board shall be charged with the functions of providing financial assistance by way of loans and advances to the local authority in the State for assisting in providing for the following amenities, namely:-

- (i) water supply and drainage for urban areas; and
- (ii) other activities which are entrusted to the Board from time to time by the Government.

17. Other functions of the Board.- ¹[(1)]¹ The Board shall perform all or any of the following functions, namely:-

1. Re-numbered by Act 45 of 1981 w.e.f. 1.10.1981.

- (a) at the instance of the Government or a local authority ²[or suo motu]²,-
 - (i) investigating the nature and type of schemes that can be implemented in the area of any local authority for the provision of drinking water and drainage facilities;
 - (ii) planning and preparing of schemes including schemes covering areas falling within the jurisdiction of more than one local authority for the purpose of providing the supply of drinking water or drainage facilities;
 - (iii) executing such schemes under a phased programme for the provision of drinking water and drainage facilities within the areas of local authorities to which such schemes relate ;
 - ¹[(iv) operation and maintenance of drinking water supply and drainage undertakings either wholly or in part and subject to such terms and conditions as the

Government may specify;

(v) levy and collection of water rates, fees, rentals and other charges in respect of such undertakings as the State Government may specify.]¹

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(b) providing technical assistance or giving advice to local authorities in the execution and maintenance of urban water supply and drainage works;

(c) establishing and maintaining schemes incidental to urban water supply and drainage such as testing of water, designing of plant for purification of water, conducting research relating to urban water supply and maintaining farm schemes;

(d) any other matter which is supplemental, incidental or consequential to any of the above functions; and

(e) such other functions as may be prescribed.

¹[(2) No scheme estimated to cost more than ten lakhs of rupees shall be carried out by the Board except with the previous approval of the State Government.]¹

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

18. General powers of the Board.- The Board shall for the purpose of carrying out its functions under this Act. have the following powers, namely:-

(i) to acquire and hold such movable and immovable property as it deems necessary and to lease, sell or otherwise transfer any such property subject to such conditions as may be prescribed;

(ii) to acquire under the Land Acquisition Act, 1894 (Central Act I of 1894) any land or any interest therein required by the Board for implementing any schemes;

(iii) to incur expenditure and undertake any work in any area in the State for the preparation and execution of such schemes as it may consider necessary for the purpose of carrying out the provisions of this Act, or as the case may be, the functions entrusted to it by the Government ;

(iv) to enter into any contract; and

(v) to do all things necessary for the purpose of carrying out the provisions of this Act.

CHAPTER VI

INVESTIGATION, PREPARATION AND ¹[EXECUTION, MAINTENANCE ETC. OF SCHEMES]¹ BY THE BOARD

1. Substituted by Act 45 of 1981 w.e.f. 1.10.1981.

19. Cost of investigation of schemes.- The cost of investigation of any scheme

undertaken by the Board either at the instance of the Government or a local authority shall be borne by the local authority concerned. In case where the investigation is undertaken for more than one local authority, the cost of such investigation shall be borne by the local authorities concerned in such proportion as may be determined by the Board.

20. Preparation of draft schemes by the Board.-(1) As soon as the investigation undertaken by the Board is completed, the Board shall prepare in regard to the expenditure that is likely to be incurred an estimate of the schemes and also a sketch showing the salient features relating to the scheme and forward the same along with the report of the investigation to the local authority or authorities concerned.

(2) On receipt of the documents referred to in sub-section (1), the local authority concerned shall, within such time, as may be prescribed examine the report of the investigation of the scheme proposed to be implemented in its area with reference to the cost to be incurred for the scheme and with reference to its financial capacity to meet the cost of the scheme. If the local authority decides to get the scheme implemented, it shall pass a resolution within such time as may be prescribed authorising the Board to execute the scheme. The resolution so passed by the local authority shall specify clearly that the local authority shall meet the cost of execution of the scheme and its maintenance and also indicate the manner in which and the ways and means by which the cost of the scheme is proposed to be borne by such local authority.

(3) On receipt of the resolution and other particulars referred to in sub-section (2), the Board shall examine in general, the feasibility of implementation of the scheme in all its aspects and in particular the financial capacity of the local authority concerned. If on such examination the Board is satisfied about the feasibility of implementation of the scheme then the Board shall forward the draft scheme to the Government for their approval.

(4) Notwithstanding anything contained in any law for the time being in force, any resolution passed by any local authority under this section shall be final and any such resolution shall not be cancelled or rescinded or altered by such local authority except with the previous approval of the Government.

21. Approval of the scheme by the Government.-As soon as may be, after the submission of the draft scheme under sub-section (3) of section 20, the Government shall within such time as may be prescribed, either approve the said draft scheme or approve it with such modification, as it may consider necessary or return the said draft scheme to the Board to modify the draft scheme or to prepare a fresh draft scheme in accordance with such directions as the Government may issue in this behalf and resubmit it to the Government for approval.

22. Publication of approval of the draft scheme in the official Gazette.-(1) The

Government shall by notification publish its approval to the draft scheme.

(2) A notification published under sub-section (1) shall be conclusive evidence that the scheme has been duly made and approved. The scheme shall thereupon become final and shall be hereinafter called the "approved scheme".

23. Execution of approved scheme by the Board.-As soon as the notification under section 22 is published in the official Gazette, the Board shall execute the approved scheme in the areas of the local authority or authorities concerned.

24. Recovery of the cost of the scheme.- (1) The cost relating to the preparation and execution of any scheme by the Board including all incidental expenses connected therewith incurred by the Board shall be borne by the local authorities concerned on whose behalf such scheme was prepared and executed by the Board. In cases where the scheme was prepared and executed for more than one local authority, the cost of such scheme shall be borne by the local authorities concerned in such proportion as may be determined by the Board.

(2) The cost relating to the investigation, preparation and execution of any scheme by the Board including all incidental expenses connected therewith incurred by the Board shall be recoverable by the Board from the local authority concerned in such manner and in such number of installments and at such time or times as may be prescribed.

(3) In the event of any failure on the part of any local authority to pay the cost of the scheme to the Board, the Government shall pay to the Board, such cost or so much thereof as is remaining due and shall recover the same from the local authority concerned in such manner and in such number of instalments and at such time or times as may be prescribed.

(4) The Board may include in the cost of investigation, preparation and execution of any scheme or any other work undertaken by it, the supervision and centage charges at such rates as may be prescribed.

25. Power of Government to direct the Board to prepare and execute any scheme.- Notwithstanding anything contained in this Act or in any other law for the time being in force, if in the opinion of the Government, it is expedient in the public interest to investigate, prepare and execute any scheme in any area of a local authority, or where any local authority wilfully refuses or fails to pass any resolution for the execution of any scheme by the Board under sub-section (2) of section 20 and such refusal or failure in the opinion of the Government is without sufficient reasons, then, it may, by general or special order direct the Board to investigate, prepare and execute any scheme in any area of a local authority. The provisions of sections 19 to 22 (both inclusive) shall, so far as may be, apply to the preparation and execution of the scheme by the Board under this section. The cost relating to the investigation,

preparation and execution of the scheme by the Board under this section shall be paid by the Government to the Board and the same shall be recovered by the Government from the local authority concerned in such manner and in such number of installments and at such time or times as may be prescribed.

26. Power of the Board to agree or refuse to prepare and execute the scheme.- (1) In the case of schemes proposed by a local authority, the Board may agree to prepare and execute the scheme if it is satisfied that such scheme is necessary and feasible. The Board may refuse to prepare and execute such scheme if it is satisfied that such scheme is either unnecessary or not feasible or that it is otherwise un-executable.

(2) Any local authority deeming itself aggrieved by the refusal of the Board under sub-section (1), may, within two months from the date of receipt of the order of such refusal, appeal to the Government who may pass such orders thereon as it thinks fit and it shall be the duty of the Board or local authority to give effect to such orders accordingly.

27. Local authority to provide adequate facilities to the Board.-It shall be the duty of the local authority concerned to which any scheme relates, to provide necessary assistance to the Board for the proper execution of any approved scheme within the territorial limits of such local authority.

28. Power of local authority to undertake schemes.-No local authority shall without the approval of the Board investigate, prepare or execute any scheme :

Provided that no such approval shall be given by the Board if the cost of the scheme to be undertaken by the local authority exceeds or is likely to exceed fifty thousand rupees.

1[28A. Operation and maintenance etc. of the schemes by the Board.-(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, if in the opinion of the Government it is expedient in public interest so to do, it may, by order, direct the Board to investigate, prepare, and execute any scheme in any local area and, subject to such terms and conditions as it may specify, to operate and maintain all works connected with such scheme. The cost relating to such scheme shall be borne by the Board and it shall operate and maintain all works connected with such scheme and collect necessary water rates, rentals, fees and other charges relating thereto.

1. Sections 28A to 28H inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(2) Subject to the terms and conditions specified by the Government under sub-section (1),-

- (a) all the public reservoirs, tanks, cisterns, fountains, wells, pumps, pipes, taps, conduits and other works including the head works, reservoirs, the

rising mains, bridges, buildings, machinery, works, materials and other things connected with the water supply and drainage to such local area and all lands (not being private property) adjacent and appertaining to the same; and

(b) all sewers and all sewerage disposal works constructed in connection with drainage system in such local area, shall vest in the Board and be subject to its control.

(3) The Government may, subject to such conditions as may be specified, by order, transfer to the Board the water supply or drainage undertaking of any local authority and on such transfer, such undertaking along with all works and lands connected with such undertaking shall vest in the Board.

(4) (a) No person shall, except with the permission duly obtained from the Board or the Executive Engineer,-

(i) enter on any land vested in the Board along which a conduit or pipe or sewer runs or on any premises connected with water supply or drainage;

(ii) construct any building, well or other structure or street over any main or sewer belonging to the Board.

(b) If any building, well or other structure be so erected or any street be so constructed, the Executive Engineer may cause the same to be removed or otherwise dealt with as the Executive Engineer deems fit and the expenses incurred therefor shall be collected from the person contravening the provisions of sub-clause (ii) of clause (a).

28B. Water supply for domestic and other purposes.- (1) (a) The Executive Engineer may, on application by the owner or occupier of any building, arrange, in accordance with such regulations as may be prescribed, to supply water thereto for domestic consumption and use.

(b) The supply of water for domestic purposes under this Act, shall not be deemed to include any supply,-

(i) for any trade, manufacture or business;

(ii) for gardens or for purposes of irrigation;

(iii) for construction purposes;

(iv) for fountains, swimming baths, public baths or tanks or for any ornamental or mechanical purposes;

(v) for animals, where they are kept for sale or hire or for the sale of their produce or any preparation therefrom;

(vi) for the consumption and use by the inmates of hotels, boarding houses

and residential clubs;

(vii) for the consumption and use by the persons resorting to theaters and cinemas;

(viii) for constructing or for watering streets ; or

(ix) for washing vehicles where they are kept for sale or hire.

(c) No person shall, without the written permission of the Board, use or allow to be used water supplied for domestic purposes for any other purpose.

(2) The Board, may supply water for any purpose other than a domestic purpose on such terms and conditions and in such manner as may be prescribed by regulations.

(3) The Board may supply water to the Government or any local authority on such terms as to the charges and as to the period and the conditions of supply as may be prescribed by regulations.

28C. Power to lay mains, etc.- (1) Notwithstanding anything contained in any law for the time being in force, the Board may, whether within or without the limits of any local area, lay such mains or service pipes or other water fittings, and sewers as it may deem necessary,-

(a) in any street or any land vested in the Government, or any local authority or any other authority owned or controlled by the Government;

(b) with the consent of the owner and occupier on any land not forming part of a street and may, from time to time, inspect, repair, alter or renew or may, at any time, remove any main or sewer so laid whether by virtue of this section or otherwise :

Provided that where a consent required for the purpose of this sub-section is withheld, the Board may, after giving the owner or occupier of the land a written notice of its intention so to do, lay the main or sewer in, over or on that land even without such consent.

(2) Where the Board, in exercise of the powers under this section, lays a main or sewer in, over or on any land not forming part of a street or land referred to in clause (a) of sub-section (1) or inspect, repairs, alters, renews or removes a main or sewer so laid in, over or on any such land, it shall pay compensation to every person interested in that land for any damage done to that land by reason of the inspection, laying, repair, alteration, renewal or removal of the main or sewer.

(3) (a) If it appears to the Board that the only or the most convenient means of water supply to or sewerage of any premises is by laying any pipe or sewer over, under, along or across the immovable property of another person, the Board may, by order in writing, authorise the owner of the premises to lay or carry such pipes or sewers over, under, along or across such immovable property :

Provided that before making any such order, the Board shall give to the owner of

the immovable property a reasonable opportunity of showing cause within such time as may be prescribed by regulations made in this behalf as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe or sewer is laid.

(b) Upon the making of an order under clause (a), the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of laying a pipe or sewer, over, under, along or across such immovable property or for the purpose of repairing the same.

(c) In laying a pipe or sewer under this sub-section as little damage as possible shall be done to the immovable property and the owner of the premises shall,-

(i) cause the pipe or sewer to be laid with the least practicable delay;

(ii) fill in, reinstate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of laying such pipe or sewer;

(iii) pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the laying of such pipe or sewer.

(d) If the owner of the immovable property over, under, along or across which a pipe or sewer has been laid under this sub-section whilst such immovable property was not built upon desires to erect any building on such property, the Board shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe or sewer in such manner as shall be approved by it and to fill in, reinstate and make good the immovable property as if the pipe or sewer had not been placed or carried over, under, along or across the same :

Provided that no such requisition shall be made unless in the opinion of the Board it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe or sewer should be closed, removed or diverted.

28D. Power to provide meters, etc.- (1) The Board may provide a water meter and attach the same to the service pipe in the premises connected with Board water works.

(2) The cost of meters, the expenses of their installation, and the rent payable for use of meters, shall be such as may be prescribed by regulations, and shall be paid by the owner of the premises.

(3) The use, maintenance and testing of meters shall be regulated by regulations made in this behalf.

(4) Whenever water is supplied through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

28E. Power to enter premises and to cut off water supply, etc.- (1) The Executive Engineer or any officer authorised by the Board may, between sunrise and sunset enter any premises supplied with water by the Board in order to examine if there be any waste or misuse of such water and the Executive Engineer or such officer shall not be refused admittance to the premises nor shall be obstructed by any person in making his examination.

(2) The Board may test any water fitting used in connection with water supplied by the Board.

(3) The Board may cut off the supply of water from any premises,-

(a) if the premises is unoccupied;

(b) if the owner or occupier neglects to comply with any lawful order or requisition regarding water supply issued by the Board within the period specified therein;

(c) if any charges or any other sum due for water or for the cost of making a connection or the hire of a meter, or the cost of carrying out any work or test connected with the water supply which is chargeable to any person by or under this Act is not paid within fifteen days after a bill for such charges or sums has been presented or served;

(d) if after receipt of a notice from the Board requiring him to refrain from so doing, the owner or occupier continues to use the water or to permit it to be used in contravention of the provisions of this Act or any rule or regulation made thereunder;

(e) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap conveying water;

(f) if the owner or occupier refuses to admit any person authorised by the Board in this behalf into the premises which he proposes to enter for the purpose of executing any work or of placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents the Executive Engineer or any person authorised by the Board doing such work from placing or removing such apparatus or making such examination or inquiry;

(g) if any pipes, taps, works or fitting connected with the water supply are found on examination by the Board or any person authorised by it to be out of repair to such an extent as to cause waste or contamination of water;

(h) if the owner or occupier causes pipes, taps, works or fittings connected with the Board water supply to be placed, removed, repaired or otherwise interfered with in contravention of the provisions of this Act or of the rules or regulations made thereunder:

Provided that Board shall not cut off the supply of water unless notice of not less

than three days has been given to the owner or occupier of the premises.

(4) (a) The owner and the occupier of the premises shall be jointly and severally liable for the payment of all the sums referred to in clause (c) of sub-section (3).

(b) The sums referred to in clause (a) shall be charge on the premises.

(5) The expenses of cutting off of the supply shall be payable by the owner and the occupier of the premises jointly and severally.

(6) In a case under clause (c) of sub-section (3) as soon as any money for non-payment of which water has been cut off together with the expenses of cutting off of the supply has been paid by the owner or the occupier, the Board shall cause water to be supplied as before on payment of the cost of re-connecting the premises with the water works.

(7) Action taken under this section against any person shall be without prejudice to any penalties to which he may otherwise be liable.

28F. Work to be done by licenced plumber.- (1) No person other than a licenced plumber shall execute any work described in this Act and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Executive Engineer, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Executive Engineer the name of such plumber.

(3) When any work is executed except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Board without prejudice to the right of the Board to prosecute under this Act the person at whose instance such work has been executed.

(4) The Board may make regulations for the guidance of licensed plumbers and a copy of all such regulations shall be attached to every licence granted to a plumber by the Board.

(5) The Board may, from time to time, prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of this Act.

(6) No licenced plumber shall, for any work referred to in sub-section (5), demand or receive more than the charges prescribed therefor under that sub-section.

(7) The Board shall make regulations providing for,-

(a) the exercise of adequate control on all licensed plumbers;

(b) the inspection of all works carried out by them;

(c) the hearing and disposal of complaints made by the owners or occupiers of

premises with regard to the quality of work done, material used, delay in execution of work, and the charges made, by a licensed plumber.

(8) No licensed plumber shall contravene any of the regulations made under this section or execute carelessly or negligently any work under this Act or make use of bad materials, appliances or fittings.

(9) If any licensed plumber contravenes sub-section (8), his licence may be suspended or cancelled whether he is prosecuted under this Act or not.

28G. Prohibition of certain acts.- (1) No person shall,-

(a) wilfully obstruct any person acting under the authority of the Board in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purposes of setting out the lines of such work, or deface or destroy any work made for the same purposes; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Board; or

(c) unlawfully obstruct the flow of, or flush, draw off, divert, or take water from any water works belonging to the Board or any water course by which any such water is supplied; or

(d) unlawfully obstruct the flow of, or flush, draw off, divert or take sewage from any sewage work belonging to the Board; or

(e) obstruct any officer or other employee of the Board in the discharge of his duties under this Act or refuse or wilfully neglect to furnish him with the means

necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water work or sewage work ; or

(f) bathe in, at or upon any water work or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water work or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause water of any sink or drain or any steam engine or boiler or any polluted water to run or be brought into any water work, or do any other act whereby the water in any water work is fouled or is likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

28H. Drainage of premises etc.- (1) (a) Subject to such conditions as may be prescribed by regulations made in this behalf, the owner or occupier of any premises having a private drain, or the owner of any private drain within a local area may apply to the Board to have his drain made to communicate with the Board sewers and thereby

to discharge foul water and surface water from that premises or that private drain:

Provided that nothing in this sub-section shall entitle any person to discharge directly or indirectly into any Board sewer,-

(i) any trade effluent from any trade premises except in accordance with the regulations made in this behalf; or

(ii) any liquid or other matter the discharge of which into Board sewers is prohibited by or under this Act or any other law.

(b) Any person desirous of availing himself of the provisions of clause (a) shall give to the Board notice of his proposal, and at any time within one month after receipt thereof, the Board may, by notice to him, refuse to permit the communication to be made, if it appears to it that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the sewerage system and for the purpose of examining the mode of construction and condition of the drain it may, if necessary, require it to be laid open for inspection.

(c) The Board may, if it thinks fit, construct such part of the work necessary for connecting a private drain with a Board sewer as is in or under a public street and in such a case, the expenses incurred by the Board shall be paid by the owner or occupier of the premises, or, as the case may be, the owner of the private drain and shall be recoverable from the owner or occupier as an arrear of charges payable under this Act.

(2) (a) Where any premises are, in the opinion of the Board, without sufficient means of effectual drainage and a Board sewer or some place approved by the Board for the discharge of filth and other polluted and obnoxious matter is situated at a distance not exceeding thirty five meters from any part of the said premises, it may, by written notice, require the owner of the said premises,-

(i) to make a drain emptying into such Board sewer or place;

(ii) to construct a closed cesspool or soakage pit and fitting as may appear to the Board to be necessary for the purpose of gathering and receiving the filth and other polluted and obnoxious matter from and conveying the same off the said premises and effectually flushing such drain and every fixture connected therewith;

(iii) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is injurious to health;

(iv) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing, which is or is likely to be

injurious to health;

(v) to provide and set up all such appliances and fittings as may appear to the Board to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts by down-take pipes so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises;

(vi) to carry out any work to improve or remodel an existing drain which is inadequate, insufficient or faulty.

(b) Where, in any case not provided for in clause (a), any premises are, in the opinion of the Board, without sufficient means of effectual drainage, it may, by written notice, require the owner of the premises,-

(i) to construct a drain upto a point to be prescribed in such notice but not at a distance of more than thirty five meters from any part of the premises; or

(ii) to construct a closed cesspool or soakage pit and drain or drains emptying into such cesspool or soakage pit.

(c) Any requisition for the construction of any drain under clause (b) may contain any of the details specified in clause (a).

(3) (a) In areas in which Board sewers are provided it shall not be lawful to erect or to re-erect any premises or to occupy any such premises unless,-

(i) a drain be constructed of such size, materials and descriptions, at such level and with such fall as shall appear to the Board to be necessary for the effectual drainage of such premises;

(ii) there have been provided and set up on such premises such appliances and fittings as may appear to the Board to be necessary for the purposes of gathering or receiving the filth and other polluted matters and obnoxious matters from and conveying the same off the said premises and effectually flushing the drain of the said premises and every fixture connected therewith.

(b) The drain so constructed shall empty into a Board sewer.

(c) The provisions of this sub-section shall be applicable to premises any part of which is situated within a distance of thirty five meters from a Board sewer.

(4) Where a drain connecting any premises with a Board sewer is sufficient for the effectual drainage of such premises and is otherwise unobjectionable, but, is not, in the opinion of the Board, adapted to the general system of sewerage in the local area it may by written notice addressed to the owner of the premises, direct,-

(a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or

(b) that such drain shall, from such date as may be specified in the notice in this behalf, be used for the drainage of filth and polluted water only or of rain water and unpolluted sub-soil water only:

Provided that,-

(i) no drain may be closed, discontinued or destroyed by the Board under clause (a) except on condition of its providing another drain equally effectual of the drainage of the premises and communicating with any Board sewer which it thinks fit; and

(ii) the expenses of the construction of any drain so provided by the Board and of any work done under clause (a) shall be borne by the Board.]¹

CHAPTER VII FINANCE, ACCOUNTS AND AUDIT

29. Board's fund.- (1) The Board shall have its own fund.

(2) The Board may accept loans, grants, subventions, donations and gifts from the Central Government or State Government or a local authority or any individual or body or organisation whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all charges, all interests, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(4) All moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited into the public accounts of the Government under such detailed head of accounts as may be prescribed or in,-

- (a) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (Central Act 12 of 1934); or
- (b) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or
- ¹[(bb) any Scheduled Bank ; or]¹

1. Inserted by Act 20 of 1977 w.e.f. 29.7.1977.

- (c) any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 (Central Act 5 of 1970).

and the said account shall be operated upon by such officers of the Board as may be authorised by the Board and in such manner as may be prescribed:

Provided that the Board may invest any sums not required for immediate use in such securities or debentures as may be approved by the Government.

30. Subventions, loans and grants to the Board.- The Government may, from time to time, make subventions and grants or advance loans to the Board or any local authority for the purposes of this Act on such terms and conditions as the Government may in each case determine.

31. Power of the Board to borrow and lend.- (1) Subject to the provisions of this Act and the rules made thereunder and subject to such conditions as may be specified by the Government by a general or a special order issued in this behalf and with its previous approval, the Board may, from time to time, borrow money required for the purposes of this Act by any one or more of the following methods, namely:-

(a) raising loans from any bank or other financing institutions or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956); or

(b) raising loans from any corporation, owned or controlled by the Central Government or a State Government; or

(c) raising loans from the public by issue of bonds or debentures or stocks or otherwise in the form and manner approved by the Government.

(2) Subject to the provisions of this Act and to such conditions and limitations as may be prescribed, the Board may out of its funds grant loans and advances on such terms and conditions as it may determine, to any local authority for the provision, regulation or development of any scheme relating to water supply and drainage.

¹[31A. Board's power to levy rates etc.- The Board may, in respect of any water supply or sewerage undertaking vesting in it, levy rates, fees, rentals and other charges and may vary such rates, fees, rentals and other charges from time to time in order to provide sufficient revenue,-

(a) to cover operating expenses, taxes and interest payments and to provide for adequate maintenance and depreciation;

(b) to meet repayment of loans and other borrowings;

(c) to finance normal year to year improvements; and

(d) to provide for such other purposes beneficial to the promotion of water supply and sewerage.]¹

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

32. Guarantee by Government of loans.-The Government may guarantee in such manner as it thinks fit, the payment of the principal and interest of any loan proposed to be raised by the Board or any loan proposed to be given by the Board to any local authority in regard to the investigation, preparation or execution of schemes made under this Act :

Provided that Government shall, so long as any such guarantees are in force, lay before both Houses of the Legislature in every year during the budget session, a statement of the guarantees if any given during the current year and an up-to-date account of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantees or paid into the said Fund towards repayment of any moneys so paid out.

33. Form, signature, exchange, transfer and effect of debentures.- (1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board may with the previous sanction of the Government specify.

(2) All debentures shall be signed by the Managing Director or Secretary or by any one of the official directors of the Board.

(3) The holder of any debenture in any form specified under sub-section (1) may obtain in exchange therefor a debenture in any other form specified in the manner provided in sub-section (1) and upon such terms as the Board may determine.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer is specified therein.

(5) All coupons attached to debentures issued by the Board shall bear the signature of the Managing Director and such signature may be engraved, lithographed or impressed by any mechanical process.

34. Estimates of income and expenditure of the Board to be laid annually and considered by the Board.-(1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing year.

(2) Every such estimates shall make provision for the due fulfillment of all the liabilities of the Board and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form and shall contain such details, as the Board may, from time to time, specify.

(4) Every such estimate shall be compiled and a copy thereof sent, by post or otherwise, to each Director atleast ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

(5) A revised estimate, if any, including all the expenditure not covered in the original budget estimate shall be laid before the Board at a special meeting to be held in the month of December, in each year.

(6) The Board shall consider every estimate so laid before it and shall sanction the same, either without modifications or with such modifications as it may think fit.

35. Approval of Government to estimates.- (1) Every such estimate, as sanctioned by the Board, shall be submitted to the Government who may at any time within three months after receipt of the same, -

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, it shall forthwith proceed to amend it and shall resubmit the estimate as amended to the Government who may then approve it.

36. Supplementary estimate.- (1) The Board may at any time, during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before it at a special meeting.

(2) The provisions of sub-sections (3), (4) and (6) of section 34 and section 35 shall apply to every supplementary estimate.

37. Repayment of loans by the Board.- Loan taken by the Board shall be repaid by the Board within the period agreed upon by the Board by such of the following methods as may be approved by the Government, namely:-

(a) from a sinking fund established under section 38 in respect of the loan;

(b) by paying in equal yearly or half-yearly instalments of principal or of principal and interest, throughout the said period ;

(c) from money borrowed for the purposes;

(d) partly from the sinking fund established under section 38 in respect of the loan, and partly from money borrowed for the purpose; or

(e) from any other source, with the prior permission of the Government.

38. Establishment and maintenance of sinking and other funds.-The Board may constitute a sinking fund, a depreciation reserve fund and a development fund in such manner and in such form as may be prescribed by regulations. Such funds shall be invested in such manner as may be determined by the Board with the approval of the Government.

39. Annual reports, statistics and returns.- (1) The Board shall, as soon as may be, after the end of each year, prepare and submit to the Government before such date and in such form as may be prescribed a report giving an account of its activities during the previous year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next year; and the Government shall cause every such report to be laid before the State Legislature as soon as may be

after it is received by the Government.

(2) The Board shall furnish to the Government at such times and in such form and manner as may be prescribed or as the Government may direct, such statistics and returns and such particulars in regard to any proposed or existing scheme as the Government may from time to time require.

40. Accounts and audit.- (1) The accounts of the Board shall be maintained in such manner and in such form as may be prescribed by regulations. The Board shall prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Board shall be audited once in a year by such auditor as the Government may appoint in this behalf.

(3) The auditor appointed under sub-section (2) shall in connection with such audit, have such rights, privileges and authority as may be prescribed and in particular, the right to demand the production of books, accounts connected vouchers and other documents and to inspect any of the offices of the Board.

(4) The Secretary shall cause the report of the auditor to be printed and forward a printed copy thereof to each Director and shall place such report before the Board for submit a report thereon to the Government.

(5) The Board shall remedy forthwith any defects or irregularities that may be pointed out by the auditor and submit a report thereon to the Government.

41. Remuneration of auditor.- The Board shall pay to the said auditor such remuneration as the Government may direct.

42. Accounts and audit report to be forwarded to the Government and placed before the State Legislature.- (1) The accounts of the Board, as certified by the auditor, together with the audit report thereon shall be forwarded annually to the

Government and the Government may issue such instructions to the Board in respect thereof as it deems fit and the Board shall comply with such instructions.

(2) The Government shall,-

(a) cause the accounts of the Board together with the audit report thereon forwarded to it under sub-section (1) to be laid annually before the State Legislature ; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof for sale at a reasonable price.

43. Powers to write off irrecoverable amounts.-The Board may with the previous sanction of the Government write off any amount whatsoever due to it, whether under a contract or otherwise or any sum payable in connection therewith.

CHAPTER VIII

PENALTIES AND PROCEDURE

44. No disqualification in certain cases.-No person shall be disqualified for being chosen as, or for being a member of the Karnataka Legislative Assembly or of the Karnataka Legislative Council by reason only of the fact that he is a Chairman or a director of the Board.

¹[44A. Joint and several liability of owners and occupiers for offence in relation to water supply.-If any offence relating to water supply is committed under this Act on any premises connected with the Board water works, the owner, the person primarily liable for the payment of the charges for water, and the occupier of the said premises shall be jointly and severally liable for such offence.]¹

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

45. Penalty for obstructing contractor or removing mark.- If any person,-

(a) obstructs or molests any person with whom the Board has entered into a contract in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue of or in consequence, of this Act or any rule or regulation made thereunder, or

(b) remove any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act or any rule or regulation made or scheme sanctioned thereunder, he shall be punishable with fine which may extend to two hundred rupees.

46. Penalty for breach of the provisions of the Act.- Whoever contravenes any provisions of this Act or of any rule or regulation or scheme made or scheme sanctioned thereunder, ¹[or fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the said provisions]¹ shall, if no other penalty is provided for such contravention, be punishable,-

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(a) with fine which may extend to one hundred rupees; and

(b) in the case of a continuing contravention, with fine which may extend to fifty rupees for each day after the first during which the contravention continues.

47. Prosecution and trial of offences.- (1) No court shall take cognizance of any offence punishable under this Act or any rule or regulation or scheme made thereunder unless complaint of such offence is made by the Board or any officer authorised by it in this behalf within six months next after the commission thereof.

(2) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

48. Arrest of offenders.- (1) Any police officer not below the rank of a head constable, may arrest any person who commits in his presence, any offence against this Act or any rule or regulation or scheme made thereunder, if the name or address of such person be unknown to him and if such person on demand declines to give his name or address, or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or for any longer time than is necessary for bringing him before a magistrate and in no case shall such detention exceed twenty four hours from the time of arrest without the orders of a Magistrate.

49. Offences by companies.- (1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the 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 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 purposes 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.

CHAPTER IX

MISCELLANEOUS

50. Emergency powers of Managing Director.- The Managing Director may, in cases of emergency, direct the execution of any work or the doing of any act which requires the sanction of the Board if the immediate execution or the doing of which is, in his opinion, necessary for the service or safety of the public and may also direct that

the expenses of executing the work or of doing the act shall be paid from the funds of the Board :

Provided that,-

(a) he shall not act under this section in contravention of any direction of the Board or the Government prohibiting the execution of any particular work or the doing of any particular act ;

(b) he shall report the action taken by him under this section and the reasons thereof to the Board at its next meeting and shall also submit a copy of his report to the Government and the Board or the Government, as the case may be, may issue such directions as it or they may deem fit on such report.

51. Powers of Managing Director as to institution, composition etc., of legal proceedings and obtaining legal advice.- The Managing Director may, subject to the control of the Board,-

(a) institute, defend or withdraw from legal proceedings, instituted under this Act or any rules or regulations made thereunder ;

(b) compound any offence against this Act or any rules or regulations made thereunder which, under any law for the time being in force or the rule prescribed by the Government, may lawfully be compounded ;

(c) admit, compromise or withdraw any claim made under this Act or any rules or regulations or schemes made thereunder; and

(d) obtain such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain, or as may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

52. Delegation of powers.- (1) The Government may, by notification authorise any authority or officer to exercise any of the powers vested in it by this Act except the power to make rules under section 68 and may in like manner withdraw such authority.

(2) The Board may, by general or special order in writing delegate to the Chairman or Managing Director or any other director of the Board or the Secretary or any other officer of the Board such of its powers and functions under this Act except the power to acquire land under section 18 and to make regulations under section 69 as it may deem necessary and it may in like manner withdraw such authority.

(3) The exercise of any power delegated under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be specified in the notification or order and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf or as the case may be,

by the Board or such officer as may be empowered by the Board in this behalf.

(4) The Government or the Board, as the case may be, shall also have the power to control and revise the acts or proceedings of any officer so empowered.

53. Power of the Government to issue orders and directions to the Board or local authorities.- The Government may issue to the Board or to the local authority concerned such orders and directions as in its opinion are necessary or expedient for carrying out the purpose of this Act and the Board or such local authority as the case may be, shall give effect to all such orders and directions.

54. Duties of Police Officers.- (1) It shall be the duty of every Police Officer,-

(a) to co-operate with the Board for carrying into effect and enforcing the provisions of this Act or any rule or regulation or scheme made thereunder;

(b) to communicate without delay to the proper officer or servant of the Board any information which such police officer receives, of a design to commit, or of the commission of, any offence against this Act or any rule or regulation or scheme made thereunder; and

(c) to assist the Board or any officer or servant of the Board reasonably demanding the aid of such police officer for the lawful exercise of any power vesting in the Board or any such officer or servant under this Act or any rule or regulation or scheme made thereunder.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall be deemed to have committed the offence under section 65 (b) of the 1[Karnataka]1 Police Act, 1963 1[Karnataka]1 Act 4 of 1964).

1. Substituted by Act 7 of 1976 w.e.f. 4.3.1976.

55. Adjudication of disputes between the Board and local authorities.- (1) When a dispute exists between the Board and one or more than one other local authority or among local authorities in regard to any matter arising under the provisions of this Act, and the Government after considering the representations, if any made by the local authority or authorities is of the opinion that the parties are unable to settle it amicably among themselves, it may take cognizance of the dispute and decide it themselves.

(2) The decision of the Government thereon shall be binding on the Board and the local authorities concerned and shall not be liable to be questioned in any court of law.

¹55A. Non-liability of Board when supply reduced or not made in certain cases.- The Board shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water in the case of unusual drought, other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

1. Section 55A and 55B inserted by Act 45 of 1981 w.e.f. 1.10.1981.

55B. Right of user of conduits, lines etc.- (1) The Board may place or lay and maintain conduits and lines of mains or pipes and sewers over, under, along or across any immovable property whether within or without the local area without acquiring the same, and may at any time for the purpose of examining, repairing, altering or removing any conduits or lines of mains or pipes or sewers enter on any property over, under, along or across which the conduits or lines of mains or pipes have been placed :

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any conduit or line of mains or pipes or sewer is placed or laid.

(2) In the exercise of the powers conferred upon it by this section, the Board shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by it.]¹

56. Effect of other laws.- (1) The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force, regulating any of the matters dealt with in this Act :

Provided that nothing in this Act shall be deemed to prevent the local authority from discharging its duties in regard to the making, altering, repairing or renewing any water course of other work in respect of any area within the jurisdiction of that local authority under any law for the time being in force.

(2) Save as otherwise provided in this Act the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

57. Notice of suit against Board.- No suit shall be instituted against the Board, or any director, or any officer or servant of the Board, or any person acting under the direction of the Board, or of the Chairman or Managing Director or of any officer or servant of the Board, in respect of any act done or intended to be done under this Act or any rule or regulation or scheme made thereunder until the expiration of sixty days next after written notice has been delivered or left at the Board's office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims, and the plaint must contain a statement that such notice has been so delivered or not.

58. General power of the Board to pay compensation.- In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested by or under this Act in the Board or the Chairman or the Managing Director or any officer or servant of the Board.

59. Compensation to be paid by offenders for damage caused by them.- (1)

When any person is convicted of any offence under this Act or any rule or regulation or scheme made thereunder, the magistrate convicting such person may, on application made in this behalf by the Board or by its officer or servant authorised by it in this behalf, call upon such person forthwith to show cause as to why he should not pay compensation to the Board for the damage caused by his act or omission in respect of which he is convicted.

(2) The magistrate shall record and consider any cause which such person may show and if the magistrate, after making such inquiry as he may think fit, is satisfied that such person is liable to pay compensation, direct that compensation of such amount not exceeding one thousand rupees as he may determine, be paid by such person to the Board.

(3) The amount of compensation directed to be paid under sub-section (2), shall, if it be not paid forthwith, be recovered as if it were a fine imposed by the magistrate on such person.

60. Mode of recovery of dues.- If any amount due to the Board in accordance with the terms of contract or otherwise or any sum payable in connection therewith, has not been paid, the Board may, without prejudice to any other remedy provided by law, recover such amount or sum as arrears of land revenue.

61. Authentication of orders and other instruments of the Board.- (1) All orders and decisions of the Board shall be authenticated by the signature of the Secretary or any officer of the Board authorised in writing by the Board in this behalf.

(2) The Managing Director or any officer of the Board authorised in writing in this behalf may sign on behalf of the Board any agreement or other instrument to be executed on behalf of the Board.

62. Stamping signature of notices or bill.- Every notice or bill which is required by this Act or by any rule or regulation made thereunder to bear the signature of the Managing Director or any other director or of any officer or servant of the Board shall be deemed to be properly signed if it bears the facsimile of the signature of the Managing Director or of such other director or of such officer or servant, as the case may be, stamped thereupon.

63. Power of entry.- (1) The Managing Director or any person either generally or specially authorised by the Managing Director in this behalf may, with or without assistants or workmen, enter into or upon any land, in order,-

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the subsoil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and line by placing marks and cutting trenches;

(f) to place and maintain pipes, drains and other installations upon, along, across or under any land; or

(g) to do any other thing, whenever it is necessary to do so for any of the purposes of this Act or any rule or regulation made or scheme sanctioned thereunder or any scheme which the Board intends to frame thereunder :

Provided that,-

(a) no such entry shall be made between sunset and sunrise ;

(b) no dwelling house, and no public building or hut which is used as a dwelling place, shall be so entered, except with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry ;

(c) sufficient notice shall, in every instance be given even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to remove themselves to some part of the premises where their privacy will not be disturbed ;

(d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usage of the occupants of the premises entered.

(2) Whenever the Managing Director or a person authorised under sub-section (1) enters into or upon any land in pursuance of that sub-section, he shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid; and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

64. Protection of action taken in good faith.- (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of this Act or any rule or order or scheme made thereunder.

(2) No suit or other legal proceedings shall lie against the Government, the Board or any committee thereof for any damage caused or likely to be caused by any thing which is in good faith done or intended to be done in pursuance of this Act or of any rule or order or scheme made thereunder.

65. Officers and servants of the Board to be public servants.-All officers and servants of the Board, and any person entrusted with the execution of any function under this Act, shall be deemed to be public servants within the meaning of section 21

of the Indian Penal Code, 1860 (Central Act XLV of 1860).

66. The Board to be local authority under Central Act I of 1894 and Central Act IX of 1914.- The Board shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894 (Central Act 1 of 1894), and the Local Authorities Loans Act, 1914 (Central Act IX of 1914).

1[66A. Directions by the State Government.- (1) In the discharge of its functions the Board shall be guided by such directions on questions of policy as may be given to it by the State Government :

1. Section 66A to 66H inserted by Act 45 of 1981 w.e.f. 1.10.1981.

Provided that such directions shall be given after consultation with the Board.

(2) In case of any difference of opinion as to what is a question of policy the decision thereon of the State Government shall be final.

66B. Licenses and written permissions.- (1) Whenever it is provided in this Act or any rule or regulation made thereunder that a licence or a written permission may be granted for any purpose, such licence or written permission shall be signed by the Executive Engineer, or, as the case may be, by the officer empowered to grant the same under this Act or the rules or regulations made thereunder and shall specify in addition to any other matter required to be specified under any other provision of this Act or any provision of any rule or regulation made thereunder,-

- (a) the date of the grant thereof;
- (b) the purpose and the period (if any) for which it is granted;
- (c) restrictions or conditions, if any, subject to which it is granted :
- (d) the name and address of the person to whom it is granted; and,
- (e) the fee, if any, paid for the licence or written permission.

(2) Except as otherwise provided in this Act or any rule or regulation made thereunder, for every such licence or written permission, a fee may be charged at such rate as may from time to time be fixed by the Board and such fee shall be payable by the person to whom the licence or written permission is granted.

(3) Save as otherwise provided in this Act or any rule or regulation made thereunder any licence or written permission granted under this Act or any rule or regulation made thereunder may at any time be suspended or revoked by the Board or by the officer by whom it was granted, if it or he is satisfied that it has been secured by the grantee through misrepresentation or fraud or if any of its restrictions or conditions has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or any rule or regulation made thereunder relating to any matter for which the licence or permission

has been granted:

Provided that,-

(a) before making any order of suspension or revocation reasonable opportunity shall be afforded to the grantee of the licence or the written permission to show cause why it should not be suspended or revoked ;

(b) every such order shall contain a brief statement of the reasons for the suspension or revocation of the licence or the written permission.

(4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall, for all purposes of this Act or any rule made thereunder, be deemed to be without a licence or written permission until such time as the order suspending or revoking the licence or written permission is rescinded or until the licence or written permission renewed.

(5) Every grantee of any licence or written permission granted under this Act shall at all reasonable times while such licence or written permission remains in force, if so required by the Board or the authority by whom it was granted, produce such licence or written permission.

66C. Notices etc., to fix reasonable time.- Where any notice, bill, order, or requisition issued or made under this Act or any rules or regulations made thereunder requires anything to be done for the doing of which no time is fixed in this Act or the rule or the regulation made thereunder, the notice, bill, order or requisition shall specify a reasonable time for doing the same.

66D. Service of notice, etc.,- (1) Every notice, bill, summons, order, requisition or other document required or authorised by this Act or any rule or regulation, shall be deemed to be duly served,-

(a) where the person to be served is a company, if the document is addressed to the Secretary of the company at its registered office or at its principal office or place of business and is either,-

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company ;

(b) where the person to be served is a partnership firm, if the document is addressed to the partnership firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either,-

(i) sent by registered post, or

(ii) delivered at the said place of business ;

(c) where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the Secretary, Treasurer or other head

officer of that body, corporation or Society at its principal office and is either,-

(i) sent by registered post ; or

(ii) delivered at that office ;

(d) in any other case, if the document is addressed to the person to be served, and,-

(i) is given or tendered to him ; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the State of Karnataka, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building if any to which it relates, or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier" as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served,

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1) ; or

(b) if the document so addressed or a copy thereof is delivered to some person on the land or building or where there is no person on the land or building to whom it can be delivered, if affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises the Executive Engineer or any other officer authorised or empowered to do so may by notice in writing require the occupier of the premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in sections 61 and 62 and in this section shall apply to any summons issued under this Act by a court.

(7) A servant is not a member of the family within the meaning of this section.

66E. Service of bills for charges or notice of demand by ordinary post.-

Notwithstanding anything contained in section 66D a bill for any charges or a notice of demand may be served by sending it by ordinary post with a prepaid letter under a certificate of posting addressed to the appropriate person specified in section 66D at

his last known place of residence or business and in proving the service of every bill or notice so sent it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

66F. Power in case of non-compliance with notice, etc.- In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule or regulation made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the authority or officer at whose instance the notice, order or requisition has been issued, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or the work required to be done or executed by such person and all the expenses incurred on such account shall be payable to the Board on demand and if not paid within ten days after such demand, shall be recoverable, as an arrear of charges payable under this Act.

66G. Composition of offences.- (1) The Board or any officer of the Board authorised by it by general or special order in this behalf, may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act:

Provided that no offence shall be compounded which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Board unless and until the same has been complied with so far as such compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

66H. Validity of notices and other documents.-No notice, order, requisition, licence, permission in writing or any other document issued under this Act or any rule or regulation shall be invalid merely by reason of defect of form.]¹

67. Revision.- (1) The Government may ¹[either suo motu or on an application by an aggrieved person]¹ call for the records of any proceedings of the Board or any officer subordinate to the Board for the purpose of satisfying itself as to the legality or propriety of any order or proceedings and may pass such order with respect thereto as it thinks fit.

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(2) The Board may ¹[either suo motu or on an application by an aggrieved person]¹ call for the records of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceeding and may pass such order with respect thereto as it thinks fit.

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(3) No order under sub-section (1) or sub-section (2) shall be made to the prejudice of any person unless he has had a reasonable opportunity of being heard.

CHAPTER X

RULES AND REGULATIONS

68. Power to make rules.- (1) The Government may after previous publication make rules 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) all matters expressly required or allowed by this Act to be prescribed ;
- (b) the qualifications for appointment of, and the grant of leave of absence to, the Chairman and the Managing Director of the Board ;
- (c) the conditions of service of the Chairman, the Managing Director and the non-official directors including the payment of any honorarium or sitting fees for attending the meetings of the Board and any other allowances and the manner of filling casual vacancies in the office of the non-official directors of the Board;
- (d) the functions of the Board ;
- (e) the conditions of the acquisition and transfer of any property by the Board;
- (f) the time-limit within which the resolutions of the local authority, for the preparation and execution of schemes by the Board will have to be passed and communicated to the Board;
- (g) the time-limit within which the approval of the Government to the draft schemes prepared and forwarded by the Board, will have to be given;
- (h) the manner in which and the number of instalments and the time or times at which, the cost of the schemes shall be recovered ;
- (i) the manner of operation of funds by the Board ;
- (j) the mutual relationship of the Board and other local authorities in any matter in which they are jointly interested;
- (k) the borrowing and lending of money by the Board ;
- (l) the conditions and limitations for the grant of loans and advances by the Board to the local authorities;
- (m) the rights, privileges and authority of auditors appointed under this Act;
- (n) the form in which the reports of the Board will have to be prepared by the Board and the form and manner and the time limit for the submission of statistics and

returns by the Board to the Government;

(o) the manner in which the accounts of the Board will have to be published.

(3) All rules made under this Act shall be published in the official Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) 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 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.

69. Power to make regulations.- (1) The Board may, by notification, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed by regulations;

(b) the terms and the conditions of appointment and service and the scales of pay of officers and servants of the Board including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and servants of the Board;

(c) the supervision and control over the acts and proceedings of the officers and servants of the Board and the maintenance of discipline and conduct among the officers and servants of the Board ;

(d) the procedure in regard to the transaction of business at the meetings of the Board including the quorum;

(e) the purposes for which and the manner in which temporary association of persons may be made;

(f) the duties, the functions, the terms and conditions of service of the members of the Committees;

(g) the duties, the functions and the powers of the Chairman, the Managing Director, the Secretary and the Chief Engineer of the Board ;

(h) the manner and the form in which a sinking fund, a depreciation reserve fund and the development fund has to be constituted;

¹[(hh)]¹ the manner and the form relating to the maintenance of the Accounts of the Board;

1. Relettered by Act 45 of 1981 w.e.f. 1.10.1981.

¹[(I) the connection of water supply pipes for conveying to any premises supply of water from Board Water Works;

1. Clause (i) to (z) Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

(j) the making and renewing connection with Board Water Works;

(k) the power of the Board,-

(i) to stop the supply of water, whether for domestic purpose or not, or for gratuitous use;

(ii) to prohibit the sale and use of water for the purpose of business;

(iii) to alter the position of connections;

(iv) to take charge of private connections;

(v) to provide water by hydrants;

(l) the prohibition of,-

(i) fraudulent and unauthorised use of water ;

(ii) tampering with meters ; and

(iii) throwing or emptying into Board sewers certain matters;

(m) the licensing of plumbers and fitters; and for the compulsory employment of licensed plumbers and fitters;

(n) the size, material, quality, description and position of the pipes and fittings to be used for the purpose of any connection with or any communication from any Board Water Works and the stamping of pipes and fittings and the fees for such stamping;

(o) the size, material, quality and description of pipes, cisterns, and fittings which are found on an examination under the provisions of the Act to be so defective that they cannot be effectively repaired ;

(p) the provision and maintenance of meters when water is supplied by measurement and the maintenance of pipes; cisterns and other water works;

(q) the regulation or prohibition of,-

(1) the discharge or deposit of offensive or obstructive matter, polluted water or other polluted and obnoxious matter into sewers;

(2) the construction, alteration, maintenance, preservation, cleaning and repairs of

sewers, ventilation shafts, pipes, latrines, urinals, cesspools and other sewerage works;

(r) the cleaning of sewers, the prohibition of erection of buildings over sewers without the permission of the Board, the connection of private drains with Board sewers, the location and construction of cesspools, the covering and ventilation of cesspools;

(s) the period or periods, of the day during which trade effluents may be discharged from any trade premises into Board sewers;

(t) the exclusion from trade effluents of all condensing matter;

(u) the elimination from trade effluent, before it enters a Board sewer, of any constituent which, in the opinion of the Board would, either along or in combination with an matter with which it is likely to come into contact while passing through Board sewers, injure or obstruct these sewers or make specially difficult or expensive the treatment or disposal of the sewage from those sewers;

(v) the maximum quantity of trade effluent which may, without any consent or permission, be discharged from any trade premises into Board sewers on any one day and the highest rate at which trade effluent may without such consent or permission, be discharged from any trade premises into Board sewers;

(w) the regulation of the temperature of trade effluent at the time of its discharge into Board sewers and the securing of the neutrality of trade effluent (that is to say that it is neither acidic nor alkaline) at the time of such discharge;

(x) the provision and maintenance of such inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into Board sewers from trade premises;

(y) the provision and maintenance of such meters as may be required to measure the volume of any trade effluent being discharged from any trade premises into Board sewers and the testing of such meters;

(z) the charges to be paid to the Board by occupiers of trade premises for the reception of trade effluents into Board sewers and disposal thereof.¹

(3) No regulation or its cancellation or modification shall have effect until the same shall have been approved by the Government.

(4) The Government may, by notification, rescind any regulation made under this section and thereupon, the regulation shall cease to have effect.

¹[(5) In making any regulation under this section the Board may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees and in case of continuing breach with an additional fine which may extend to ten

rupees for every day during which the breach continues after the receipt of a notice from the Board to discontinue such breach.]¹

1. Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

¹[70. Provision as to employees of the local authorities employed in connection with water supply and sewerage undertakings.- (1) With effect from the date on which any water supply or sewerage undertaking of any local authority vests in the Board, every officer or other employee of the concerned local authority employed in connection with the water supply undertaking or the sewerage undertaking, as the case may be, shall stand transferred to and become an officer or other employee of the Board with such designation as the State Government may determine and shall hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held the same if he had continued to be an officer or employee of the local authority and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Board:

1. Section 70 and 71 Inserted by Act 45 of 1981 w.e.f. 1.10.1981.

Provided that any service rendered by such officer or employee under the local authority before such transfer shall be deemed to be service rendered under the Board.

71. Continuation of appointments, notification, rules, bye-laws etc.- (1) With effect from the date of vesting of the water supply or sewerage undertaking of any local authority in the Board.-

(a) any appointment, notification, order, tax, rates, rentals, fees and other charges, scheme, rule, bye-law, form or notice made or issued, and any licence or permission granted under the Karnataka Municipalities Act 1964 or any other law, in so far as it relates to the water supply or sewerage undertakings, shall continue in force and be deemed to have been made, issued or granted under the provisions of this Act until it is superseded or modified by any appointment, notification, tax, rates, rentals, fees and other charges, order, scheme, rule, bye-law, form, notice, licence or permission, made, issued, imposed or granted under this Act;

(b) all obligation and liabilities incurred, all contracts entered into, all matters and things engaged to be done by, with, or for the local authority in so far as it related to the operation and maintenance of such of the water supply or drainage undertakings as may be notified by the Government shall be deemed to have been incurred, entered into or engaged to be done by, with, or for the Board;

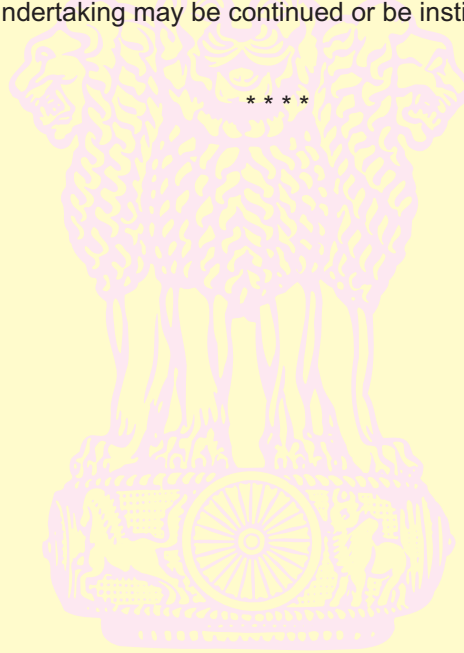
(c) all property, moveable and immovable and all interests of whatsoever nature and kind therein vested in the local authority in so far as they relate to the operation and maintenance of such of the water supply or drainage undertaking as may be

notified by the Government shall, with all rights of whatsoever description, used, enjoyed or possessed by the local authority in respect of the water supply or drainage undertaking, vest in the Board;

(d) all arrears of rates, (including water cess to be levied by the local authority in the form of tax assessed on building and lands) fees, rents and other sums due to the local authority in connection with the water supply or drainage undertaking shall be deemed to be due to the Board and shall be recoverable by it under this Act;

(e) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the local authority so far as they relate to the water supply or sewerage undertaking may be continued or be instituted by or against the Board.]¹

* * * *



सत्यमेव जयते

The Karnataka Urban Water Supply and Drainage Board Act, 1973(25 of 1974) has been amended by the following Acts namely:-

Amendments (Chronological)

Sl. No.	No. and year of the Act	Sections Amended	Remarks
1	25 of 1974	-	This Act came into force

w.e.f 15.10.1974
By Notification No. HMA
165 MNM 74 dt.9/10.10.74

2	7 of 1976	Preamble, 1(1),1(2),2(1), 3,9(1),54(2)	w.e.f 04.03.1976
3	20 of 1977	29(4)	w.e.f 29.7.1977
4	45 of 1981	2,11,17(1),17(2), Chapter -VI Heading 28A to 28H, 31A, 44A, 46,55A,55B,66A to 66H, 67(1), 67(2),69(2),69(5), 70,71	w.e.f 01.10.1981 By Notification No. HUD 89 MNS 79 dt. 1.10.1981
5	19 of 1993	4(1)	w.e.f 18.05.1993

Amendment (Section-wise)

Sections	Act No. and year	Remarks
Preamble	7 of 1976	w.e.f. 4.3.1976
1	7 of 1976	w.e.f. 4.3.1976
2	a) 45 of 1981	w.e.f. 1.10.1981

b) 7 of 1976

w.e.f. 4.3.1976

3	7 of 1976	w.e.f. 4.3.1976
4	19 of 1993	w.e.f. 18.5.1993
9	7 of 1976	w.e.f. 4.3.1976
11	45 of 1981	w.e.f. . 1.10.1981
17	45 of 1981	w.e.f. . 1.10.1981
Chapter-VI Heading	45 of 1981	w.e.f. 1.10.1981
28A	45 of 1981	w.e.f. 1.10.1981
28B	45 of 1981	w.e.f. 1.10.1981
28C	45 of 1981	w.e.f. 1.10.1981
28H	45 of 1981	w.e.f. 1.10.1981
29	20 of 1977	w.e.f. 29.7.1977
31A	45 of 1981	w.e.f. 1.10.1981
44A	45 of 1981	w.e.f. 1.10.1981
46	45 of 1981	w.e.f.1.10.1981
54	7 of 1976	w.e.f. 4.3.1976
55A	45 of 1981	w.e.f. . 1.10.1981
55B	45 of 1981	w.e.f. . 1.10.1981
66A	45 of 1981	w.e.f. . 1.10.1981
66B	45 of 1981	w.e.f. . 1.10.1981
66C	45 of 1981	w.e.f. . 1.10.1981
66D	45 of 1981	w.e.f. . 1.10.1981
66E	45 of 1981	w.e.f. . 1.10.1981

66F	45 of 1981	w.e.f. .1.10.1981
66G	45 of 1981	w.e.f. .1.10.1981
66H	45 of 1981	w.e.f. .1.10.1981
67	45 of 1981	w.e.f. .1.10.1981
69	45 of 1981	w.e.f. .1.10.1981
70	45 of 1981	w.e.f. .1.10.1981
71	45 of 1981	w.e.f. .1.10.1981

सत्यमेव जयते

NOTIFICATIONS I

Bangalore, dated 9-10th October 1974 [No. HMA 165 MNM 74]

S.O. 1758.- In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Urban Water Supply and Drainage Board Act, 1973 (Karnataka Act No. 25 of 1974), the Government of Karnataka hereby appoint the fifteenth day of October, Nineteen seventy four as the date on which the said Act shall come into force. By Order and in the name of the Governor of Karnataka, (C. N. NARASIMHAIAH) Under Secretary to Government, Health and Municipal Administration Department. (Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii) dated 10-10-1974,

as No. 3262.)

II

Bangalore, dated 1st October 1981 [No. HUD 89 MNS 79]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Urban Water Supply and Drainage Board (Amendment) Act, 1981 (Karnataka Act No. 45 of 1981), the Government of Karnataka hereby appoints the First day of October 1981 as the date on which the said Act shall come into force.

GOVERNOR OF KARNATAKA

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

(R.S. SUJATHA)

*Deputy Secretary to Government,
Housing & Urban Dev. Dept. (Housing).*

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii), dated 1-10-1984, as No. 736.)

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सत्यमेव जयते