

**THE KARNATAKA PUBLIC PREMISES (EVICTION OF UNAUTHORISED
OCCUPANTS) ACT, 1974**

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STATEMENT OF OBJECTS AND REASONS

I

Act 32 of 1974.- The Public Premises (Eviction of Unauthorised Occupants) Act, 1961 (Mysore Act 3 of 1962) was enacted to provide for a speedy remedy for the eviction of unauthorised occupants from public premises.

In Northern India Caterers Private Ltd, Vs. The state of Punjab (A.I.R. 1967, S.C. 1581, the Supreme Court declared section 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 (31 of 1959), void on the ground that the section is discriminatory and violative of Article 14 of the Constitution, in as much in it conferred an additional remedy over and above the usual remedy by way of suit and provided two alternative remedies to the Government, leaving it to the unguided discretion of the Collector to resort to one or the other of the procedures. The object and procedure prescribed by the Public Premises (Eviction of Unauthorised Occupants) Act 1958 the Central Act being similar to those in the Punjab Act and in order to avoid a risk of the Central Act also being struck down by the Supreme Court, if challenged, on similar grounds of discrimination, Central Act of 1958 was suitably amended by the Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 1968 (Central Act) in order to overcome the decrees of the Court . By the amendment Act civil courts were precluded from entertaining any suit or proceeding in respect of the eviction of persons who are in unauthorised occupation of public premises and in respect of the recovery the arrears of rent or damages from such persons.

The vires of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, as amended by the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1968 (Central Act) was again recently challenged by way of writ petitions in the Delhi High Court and certain other High Courts. By a majority judgement, the Delhi High Court in P.L.Mehra Vs D.R. Khanna (AIR 1972 Delhi 1) have held the whole of the Act as void under Article 13(2) of the Constitution as it was found to contravene Article 14 thereof. The Court also observed that as the Act of 1958 (Central Act) was void, the amending Act of 1968 (Central Act) was also ineffective, Similar views have also been held by the High Court of Allahabad (in AIR 1971 All, 268). Since the court decisions referred to above created serious difficulties for the Government in as much as the proceedings taken by the competent officers appointed under the Act either for the eviction of persons who are in unauthorised occupation of public premises or for the recovery of rent or damages from such persons having been found to be null and void the Central Act of 1958 was reenacted as central Act 40 of 1971, to restore a speedy remedy for the eviction of persons who are in unauthorised occupation of public premises keeping in view at the same time the necessity of complying with the provisions of the Constitution and the judicial pronouncements, referred to above.

The Mysore Public Premises (Eviction of Unauthorised Occupants) Act, 1961 (Mysore Act 3 of 1962) is also on the lines of the Central Act of 1958. Further this Act was also amended Mysore Act 32 of 1969 on the lines of the Central Amendment Act of 1968. The provisions of this Act are therefore vulnerable like those the Central Act.

In view of the position explained above it is necessary and safe to re-enact the Mysore Act also and accordingly, it is proposed to re-enact the Mysore Public Premises (Eviction of Unauthorised Occupants) Act, 1961 as amended from time to time. The law proposed to be re-enacted is to be given retrospective effect from 18th January 1962 the date on which the 1961 Act came into force. It is also proposed to make a suitable validating provision providing that anything done or any action taken or purported to have been done or taken under the 1961 Act shall be deemed to be as valid and effective as if such thing or action was taken or done under the corresponding provisions of the proposed law.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) dated 12-3-1973, Part IV-2A, as No. 250 at page 13.)

II

Amending Act 1 of 1977.- The Karnataka State Road Transport Corporation authorities are experiencing the difficulty of evicting the occupants of their buildings and premises unauthorisedly occupied i.e. occupied either after the employees to whom the quarters have been allotted ceased to be the employees of the Corporation, or the occupants of their buildings given for running refreshment rooms, tea stalls and allied catering establishments on lease and licence basis, refuse to vacate the premises after the period of the lease and licence had expired.

2. Provision exists in the Karnataka Public premises (Eviction of Unauthorised Occupants) Act, 1974 to evict such unauthorised occupants by the competent officer appointed for the purpose in respect of public premises which also includes corporations established by or under a State Act and owned or controlled by the State Government.

3. The Karnataka State Road Transport Corporation has been established under a Central enactment and hence the provisions of the Karnataka Public Premises (Eviction of Unauthorised occupants) Act, 1974 are not applicable to this Corporation.

4. In the circumstances it has become necessary to amend section 2 of the said Act to bring the Karnataka State Road Transport Corporation within the purview of the said Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, as No. 4468 dated 13-11- 1976 at page 2-3.)

III

Amending Act 28 of 1981.- The Thungabhadra Board and the Karnataka Wakf Board have requested the State Government to suitably amend the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 so that the unauthorised occupation of the properties under the management of the Tungabhadra Board or belonging to a wakf under the management of the Wakf Board, could be dealt with effectively.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 95 dated 3-2-1981 at page 4.)

IV

Amending Act 49 of 1986.- Item (i) of clause (a) of section 3 of the Karnataka Public Premises (Eviction of unauthorised occupants) Act, 1974 empowers the State Government to appoint officers not below the rank of a Class I Officer of the State Civil Services, as competent officers in respect of premises belonging to State Government.

However, it is found from past experience that the said officers are overburdened with duties and therefore it is proposed to make a provision in the said Act to appoint officers not below the rank of Group 'B' Officers as competent Officers.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, as No.658 dated 29-8- 1986 at page 3.)

V

Amending Act 16 of 1991.- Note.- By this Act the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 and some other Acts have been amended. Some consequential amendments are made to the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 extending the provisions of the Act to premises of market committees. Which is extracted below.

“xx xx xx xx

(25) To amend the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act 1974 to extend the provisions of the Act to premises of market committees.

xx xx xx xx”

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 26-3-1991, No.137.)

VI

Amending Act 4 of 1993.- It was considered necessary to include the premises belonging to, and taken on lease by or on behalf of the Universities within the meaning of the term "public premises" and to include Improvement Boards, Zilla Parishads, Mandal Panchayats, Bangalore Development Authority and Urban Development Authorities within the meaning of the term 'local authority' by amending the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

Accordingly the Karnataka Public Premises (Eviction of Unauthorised Occupants) (Amendment), Ordinance, 1992 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Obtained from LA Bill No. 32 of 1992, file No. LAW 74 LGN 92.)

VII

Amending Act 15 of 1995.- Section 2 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974, is proposed to be amended to bring it in consonance with the Karnataka Panchayat Raj Act, 1993.

Hence the Bill.

(Obtained from LA Bill No. 10 of 1995, file No. LAW 57 LGN 94.)

VIII

Amending Act 22 of 1999.- It is considered necessary to bring all the Wakf Institutions registered with the Karnataka State Board of Wakfs within the purview of Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974, by amending the said Act.

Hence the Bill.

(Obtained from LC Bill No. 1 of 1999, file No. DPAL 4 LGN 99.)

IX

Amending Act 14 of 2000.- In the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974, the definition of Public Premises, among others, includes "any company as defined in section 3 of the Companies Act, 1955 (Central Act 1 of 1956) in which less than fifty one percent of the paid up share capital is held by the State Government.

However it does not include a company which is a subsidiary of a Government Company. In the absence of inclusion of a subsidiary company in the definition, certain practical difficulties are encountered in implementing the Act. The Companies Act and

the Central Public Premises (Eviction of Unauthorised Occupants) Act, 1971, specifically refer to subsidiary company of Government company also.

Therefore to make it more clear it is considered necessary to include a subsidiary company of a Government Company in sub-clause (ii) of Clause (e) of section 2 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

Hence the Bill.

(Obtained from L.A. Bill No. 4 of 2000.)

X

Amending Act 33 of 2001.- There has been before the State Government, a long standing public demand to bring about a uniform law to provide for the regulation of all Charitable Endowments and Hindu Religious Institutions in the State. Which are now regulated under different enactments, having local application in different parts of the State, namely:-

- (1) The Karnataka Religious and Charitable Institutions Act, 1927;
- (2) The Madras Hindu Religious and Charitable Endowment Act, 1951;
- (3) The Bombay Public Trust Act, 1950;
- (4) The Hyderabad Endowment Act, Regulations, 2349F; and
- (5) The Coorg Temple Funds Management Act, 1956.

It is therefore proposed to enact a new law to replace the several local Acts to bring about uniformity in the matter of regulating, by law, the various Charitable Endowment and Hindu Religious Institutions, especially.

(1) To make the law applicable generally to all Charitable Endowments and Hindu Religious Institutions, which on the date of commencement of the Act were managed by or receiving annuity, taldik or other grants from the State Government, and to other Hindu Religious Institutions which though not under the management of the State Government, require by reason of mismanagement, to be regulated by the State Government after notifying them as Declared Institutions.

(2) to provide that the Charitable Institution and Trusts registered under the Karnataka Societies Registration Act, 1960 or under the Indian Trust Act, 1882 and which are not under the management of the Government shall continue to be autonomous;

(3) to create Common Pool Fund out of surplus funds of the Notified Religious Institutions, donations etc., for the maintenance and improvement of needy institutions, managed by an independent committee;

(4) to provide for the founder trustees or their lineal descendants to be nominated to the managing committee as Chairman, in keeping with the decision of the Supreme Court of India.

(5) to regulate improper alienation or disposal of property belonging to a notified or declared institution by nullifying unlawful transfers and providing for expenditures eviction of unauthorised occupants of property belonging to such institutions; and

(6) to make certain other regulations necessary in the local conditions.

Hence the Bill.

(L.C. Bill No. 4 of 1997 - File No. LAW 112 LGN 1981)

XI

Amending Act 21 of 2002.- Certain other consequential amendments are also proposed.

The Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974) is also proposed to be amended to include the Board in the definition of ``Public Premises``.

Hence the Bill.

(Vide File No. SAMVYASHAE 17 SHASANA2001 dated. 11.9.2002)

XII

Amending Act 20 of 2004.- The Institute for social and economic change is a registered society under the Karnataka Societies Registration Act, 1960 and is funded by Central Government and the State Government. The Institute for social and economic change holds 40 acres of land granted to it on long term lease by the Bangalore University as per the direction of the Government of Karnataka. In order to protect the land from the unauthorized occupation it is considered necessary to include the Institute for social and economic change, Bangalore in the definition of public premises appearing in clause (e) of section 2 of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

Hence the Bill.

(L.A Bill No. 25 of 2003)

(Entries 18 and 35 of List II of the Seventh Schedule to the Constitution of India)

XIII

Amending Act 18 of 2005.- Sub-clause (vii) of clause (e) of section 2 defines public premises as a University Established under the Karnataka State Universities Act, 1976 (Karnataka Act 28 of 1976) or the University of Agricultural Sciences Act,

1963 (Karnataka Act 22 of 1963). The Karnataka State Universities Act, 1976, has been repealed in the Karnataka State Universities Act, 2000 (Karnataka Act 29 of 2001). Many new Universities have also been established. It is considered necessary to bring all the Universities established or deemed to have been established by or under any law of the State Legislature within the definition of public premises.

Hence the Bill. (LC Bill 5 of 2005)

IX

Amending Act 15 of 2006.- It is considered necessary to extend the provisions of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 to Co-operative Societies and Federations of Co-operative Societies established by law in the State in which Government Property or Share is involved. Hence the Bill. (L.C. Bill No.8 of 2005)

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सत्यमेव जयते

KARNATAKA ACT No. 32 OF 1974

(First published in the Karnataka Gazette Extraordinary on the Seventh day of October, 1974)

THE KARNATAKA PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1974

(Received the assent of the President on the First day of October, 1974)

(As Amended by Acts 1 of 1977, 28 of 1981, 49 of 1986, 16 of 1991, 4 of 1993, 15 of 1995, 22 of 1999 and 14 of 2000, 33 of 2001, 21 of 2002, 20 of 2004, 18 of 2005 and 15 of 2006)

An Act to provide for the eviction of unauthorised occupants from public premises and for certain incidental matters.

WHEREAS it is expedient to provide for the eviction of unauthorised occupants from public premises and for matters connected therewith or incidental thereto;

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

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

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

(3) It shall be deemed to have come into force on the 18th January, 1962 except sections 12 and 19 which shall come into force at once.

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

(a) "competent officer" means an officer appointed as such by the State Government under section 3;

(b) "corporate authority" means, any company or corporation referred to in sub-clauses (ii) and (iii) of clause (e) of this section;

(c) "premises" means any land or any building or hut or part of a building or hut and includes,-

(i) the garden, grounds and out-houses if any, appertaining to such building or hut or part of a building or hut; and

(ii) any fittings affixed to such building or hut or part of a building or hut for the more beneficial enjoyment thereof;

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

(e) "public premises" means any premises belonging to or allotted to State Government or taken on lease or requisitioned by or on behalf of the State

Government and includes any premises belonging to or taken on lease by or on behalf of,-

(i) a local authority;

(ii) any company as defined in section 3 of the Companies Act, 1955 (Central Act 1 of 1956) in which not less than fifty one percent of the paid up share capital is held by the State Government;¹[or any company which is a subsidiary (within the meaning of the said Act) of the first mentioned company"]¹;

1. Inserted by Act 14 of 2000 w.e.f. 27.4.2000

(iii) any corporation (not being a company as defined in section 3 of the Companies, Act, 1956) established by or under ¹[a Central Act or]¹ a State Act and owned or controlled by the State Government; and

1. Inserted by Act 1 of 1977 w.e.f. 21.2.1977

¹[(iii-a) the Institute for social and economic change, Bangalore.]¹

1. Inserted by Act 20 of 2004 w.e.f. 19.3.2004.

¹[(iv) a Notified Institution or Declared Institution under the Karnataka Hindu Religious Institutions and Charitable Endowments Act 1997.]¹

1. Substituted by Act 33 of 2001 w.e.f. 1.5.2003 by Notification. Text of the Notification is at the end of the Act.

¹²[(v) a wakf registered with the Karnataka State Board of Wakfs;]²

(vi) the State Government and the Government of Andhra Pradesh jointly, and under the management or administrative control of the Tungabhadra Board constituted by the Government of India under sub-section (4) of section 66 of the Andhra State Act, 1953 (Central Act 30 of 1953).]¹

1. Inserted by Act 28 of 1981 w.e.f. 30.9.1980

2. Substituted by Act 22 of 1999 w.e.f. 4.8.1999

¹[(vii) a University established or deemed to have been established by or under any law of the State Legislature]¹

1. Inserted by Act 4 of 1993 w.e.f. 8.10.1991 and again Substituted by Act 18 of 2005 w.e.f. 27.5.2005.

¹[(viii) A Co-operative Society or a Federation of Co-operative Societies established under any law in force in the State in which the Government Property or share is involved.]¹

1. Inserted by Act 15 of 2006 w.e.f. 02.8.2006

Explanation.- For the purposes of this clause 'local authority' means,-

(a) a municipal corporation;

(b) a town or city municipal council;

¹[(bb) a market committee established under the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (Karnataka Act 27 of 1966);]¹

1. Inserted by Act 16 of 1991 w.e.f. 1.8.1991

¹[(c)an Improvement Board established under the Karnataka Improvement Boards Act, 1976 (Karnataka Act 11 of 1976);

1. Substituted by Act 4 of 1993 w.e.f. 8.10.1992

¹[(d) a Zilla Panchayat or Taluk Panchayat or a Grama Panchayat established under the Karnataka Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993).]¹

1. Substituted by Act 15 of 1995 w.e.f. 15.5.1995

(e) the Bangalore Development Authority constituted under the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976);

(f) an Urban Development Authority constituted under the Karnataka Urban Development Authorities Act, 1987 (Karnataka Act 34 of 1987).]¹

1. Clause (c) to (f) Inserted by Act 4 of 1993 w.e.f. 8.10.1992

¹[(g) the Karnataka Slum Clearance Board established under the Karnataka Slum Areas (Improvement and Clearance) Act, 1973]¹

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001

(f) "rent" in relation to any public premises, means the consideration payable periodically for the authorised occupation of the premises and includes,-

(i) any charge for electricity, water or any other services in connection with the occupation of the premises.

(ii) any tax (by whatever name called) payable in respect of the premises, where such charge or tax is payable by the State Government, local authority or the corporate authority;

(g) "unauthorised occupation", in relation to any public premises, means the occupation by any person of the public premises, without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

3. Appointment of competent officers.-The State Government may, by notification,-

(a) appoint,-

(i) in respect of its premises such officers, not below the rank of a ¹[Group B]¹ officer of the State Civil Services;

1. Substituted by Act 49 of 1986 w.e.f. 30.12.1986

(ii) in respect of any premises of a local authority such officers of the local authority ¹[x x x]² [or such officer not below the rank of Group "B" officer of the State Civil Services.]²

1. Omitted by Act 28 of 1981 w.e.f. 30.9.1980

2. Inserted by Act 4 of 1993 w.e.f. 8.10.1992

(iii) in respect of any premises of a corporate authority, such officers of the corporate authority ¹[: and]¹

1. Inserted by Act 28 of 1981 w.e.f. 30.9.1980

¹[(iv) in respect of any other premises, an officer of the State Civil services or of any other authority;]¹

as it thinks fit to be competent officers for the purpose of this Act; and

1. Inserted by Act 28 of 1981 w.e.f. 30.9.1980

(b) define the local limits within which or the categories of public premises in respect of which the competent officers shall exercise the powers conferred and perform the duties imposed, on competent officers by or under this Act

4. Issue of notice to show cause against order of eviction.-(1) If the competent officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted, the competent officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall, -

- (a) specify the grounds on which the order of eviction is proposed to be made; and
- (b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of or claim interest in the public premises to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The competent officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Where the competent officer shows or has reason to believe that any persons are in occupation of the public premises then, without prejudice to the provisions of sub-section (3) he shall cause a copy of the notice to be served on every such person

by registered post or by delivering or tendering it to that person or failing service by the means aforesaid in such other manner as may be prescribed.

5. Eviction of unauthorised occupants.-(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the competent officer is satisfied that the public premises are in unauthorised occupation, the competent officer may on a date to be fixed for the purpose, make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction within forty-five days from the date of affixture of the order under sub-section (1), the competent officer or any, other officer duly authorised by the competent officer in this behalf may evict that person from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

6. Disposal of property left on public premises by unauthorised occupants.-(1) Where any persons have been evicted from any public premises under section 5, the competent officer may, after giving fourteen days' notice to the persons from whom possession of the public premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality and after proclaiming the contents of the notice in the locality by beat of drum, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1) the sale proceeds shall, after deducting the expenses of the sale and the amount, if any, due to the State Government or a local authority or a corporate authority on account of arrears of rent, damages or costs, be paid to such person or persons, as may appear to the competent officer to be entitled to the same:

Provided that where the competent officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the civil court of competent jurisdiction and the decision of the court thereon shall be final.

7. Power to recover rent or damages in respect of public premises as arrears of land revenue.-(1) Where any person is in arrears of rent payable to the State Government or a local authority or a corporate authority in respect of any public premises, the competent officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order.

(2) Where any person is, or has at any time been, in unauthorised occupation of any public premises, the competent officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of the use and occupation of such premises and may, by order, require that person to pay the damages within such time and in such instalments as may be specified in the order.

(3) No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the competent officer.

8. Rent to be recovered by deduction from salary or wages of employee.- Without prejudice to the provisions of section 7, where any person to whom public premises have been allotted is an employee of the State Government, or a local authority or a corporate authority and is in arrears of rent payable in respect of such public premises allotted to him, the amount of rent due in respect of such premises shall on a requisition in writing in that behalf by the competent officer be liable to be deducted from the salary or wages payable to such person. On receipt of such requisition, the head of the Government department or officer under whom such person is employed or the officer of a local authority or a corporate authority disbursing the salary of such person, as the case may be, shall deduct from the salary or wages payable to such person the amount specified in the requisition, and pay the amount so deducted to the competent officer in satisfaction of the amount due by him.

9. Powers of competent officers.- A competent officer shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, 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 documents;
- (c) any other matter which may be prescribed.

10. Appeals.- (1) An appeal shall lie from every order of the competent officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the District Judge, having jurisdiction over the area.

(2) An appeal under sub-section (1) shall be preferred,-

- (i) in the case of an appeal from an order under section 5 within thirty days from the date of affixture of the order under sub-section (1) of that section; and

- (ii) in the case of an appeal from an order under section 7 within thirty days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the competent officer, the appellate officer may stay the enforcement of that order for such period and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(5) The cost of any appeal under this section shall be in the discretion of the appellate officer.

11. Finality of orders.- Save as otherwise expressly provided in this Act, every order made by a competent officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or execution proceedings and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

12. Offences and penalty.- (1) If any person who has been evicted from any public premises under this Act again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) Any magistrate convicting a person under sub-section (1) may make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken against him under this Act.

13. Power to obtain information.- If the prescribed officer has reason to believe that any person or persons are in unauthorised occupation of any public premises, he or any other officer authorised by him in this behalf may require those persons or any other person to furnish information relating to the names and other particulars of the persons in occupation of the public premises and every person so required shall be bound to furnish the information in his possession.

14. Liability of heirs and legal representatives.- (1) Where any person against whom any proceeding for the determination of arrears of rent or for the assessment of damages is to be or has been taken dies before the proceeding is taken or during the pendency thereof, the proceeding may be taken or, as the case may be, continued against the heirs or legal representatives of that person.

(2) Any amount due to the State Government or the local authority or the corporate authority from any person whether by way of arrears of rent or damages or costs shall, after the death of the person, be payable by his

heirs or legal representatives but their liability shall be limited to the extent of the assets of the deceased in their hands.

15. Recovery of rent, etc. as an arrear of land revenue.- If any person refuses or fails to pay the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or the cost awarded to the State Government or the local authority or the corporate authority under sub-section (5) of section 10 or any portion of such rent, damages or costs within the time, if any, specified therefor in the order relating thereto, the competent officer may issue a certificate for the amount due to the Deputy Commissioner who shall proceed to recover the same as an arrear of land revenue.

16. Bar of jurisdiction.- No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in un-authorised occupation of any public premises or the recovery of the arrears of rent payable under sub-section (1) of section 7 or the damages payable under sub-section (2) of that section or the costs awarded to the State Government or the local authority or the corporate authority under sub-section (5) of section 10 or any portion of such rent, damages or costs.

17. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the State Government or the local authority or the corporate authority or the appellate officer or the competent officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

18. Power to make rules.- (1) The State Government may, by notification make rules for carrying 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 form of any notice required or authorised to be given under this Act and the manner in which it may be served;
- (b) the holding of inquiries under this Act;
- (c) the procedure to be followed in taking possession of public premises;
- (d) the manner in which and the principles according to which damages for unauthorised occupation may be assessed;
- (e) the manner in which appeals may be preferred and the procedure to be followed in appeals;
- (f) any other matter which has to be or may be prescribed.

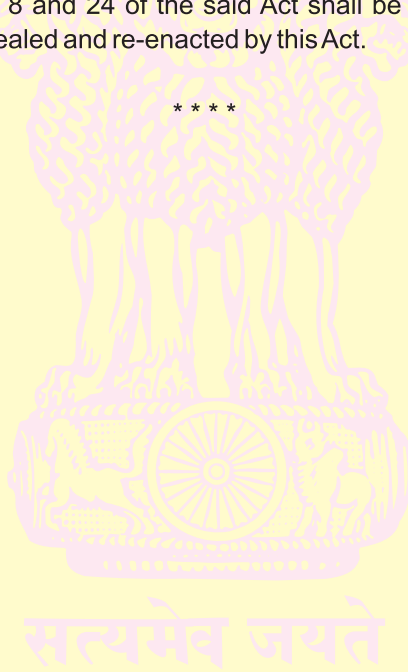
(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total

period of thirty days which may be comprised in one session or in two 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.

19. Repeal and savings.-The Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1961 (Karnataka Act 3 of 1962) is hereby repealed :

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

* * * *



NOTIFICATION

Bangalore, dated 27th July 1991 [No CMW 115 MRE 91]

S.O. 830.- In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Agricultural Produce Marketing (Regulation) and Certain Other Laws (Amendment) Act, 1991 (Karnataka Act 16 of 1991), the Government of Karnataka hereby appoints First August 1991 as the date on which the provisions of section 1, 2 to 20, 22, 23, 28 to 33, 35, 36, 38, 42 to 44, 49, 51 to 55 and 57 to 59 of the said Amendment Act shall come into force.

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

C.R.BHAGIRATHAMMA,

Under Secretary to Government,

Co-operation Department.

(Published in the Karnataka Gazette (Extraordinary), dated 30-07-1991 Part IV-2-C(ii), No. 519.)

ಕಂದಾಯ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ : ಕಂಕಾ172:ಮುಸೇವಿ:2001, ಬೆಂಗಳೂರು, ದಿನಾಂಕ:30ನೇ ಏಪ್ರಿಲ್ 2003

ಕರ್ನಾಟಕ ಹಿಂದೂ ಧಾರ್ಮಿಕ ಸಂಸ್ಥೆಗಳು ಮತ್ತು ಧರ್ಮದಾಯ ದತ್ತಿಗಳ ಅಧಿನಿಯಮ, 1997ರ (2001ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ, 33) 1ನೇ ಪ್ರಕರಣದ (3)ನೇ ಉಪ ಪ್ರಕರಣದಿಂದ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಿ, ಹಿಂದೂ ಧಾರ್ಮಿಕ ಸಂಸ್ಥೆಗಳು ಮತ್ತು ಧರ್ಮದಾಯ ದತ್ತಿಗಳ ಎಲ್ಲಾ ವರ್ಗಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು 2003ರ ಮೇ ಒಂದನೇ ದಿನಾಂಕವನ್ನು ಏ ಅಧಿನಿಯಮದ ಎಲ್ಲಾ ಉಪಬಂಧಗಳು ಜಾರಿಗೆ ಬರತಕ್ಕ ದಿನಾಂಕವೆಂದು ಈ ಮೂಲಕ ಗೊತ್ತುಪಡಿಸುತ್ತದೆ.

ಕಂದಾಯ ಇಲಾಖೆ (ಮುಜರಾಯಿ)

सत्यमेव जयते

**REVENUE SECRETARIAT
NOTIFICATION**

No. RD/172/Musevi/2001, Bangalore, dated 30th April, 2003

In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 (Karnataka Act 33 of 2001), the Government of Karnataka hereby appoints the First May 2003 to be the date on which all the provisions of the Act shall come into force in respect of all clauses of Hindu Religious Institutions and Charitable Endowments.

By Order and in the name of the Governor of Karnataka,
B.M. Sannalingannavar
*Under Secretary to Government,
Revenue Department (Muzarai).*

(Published in the Karnataka Gazette Part IV-A Extra Ordinary No. 464 dated 1-5-2003)

* * * * *

सत्यमेव जयते

**THE KARNATAKA PUBLIC PREMISES (EVICTION OF UNAUTHORISED
OCCUPANTS) (AMENDMENT) BILL, 2005**

(L.C. Bill No.5 of 2005)

STATEMENT OF OBJECTS AND REASONS

Sub-clause (vii) of clause (e) of section 2 defines public premises as a University Established under the Karnataka State Universities Act, 1976 (Karnataka Act 28 of 1976) or the University of Agricultural Sciences Act, 1963 (Karnataka Act 22 of 1963). The Karnataka State Universities Act, 1976, has been repealed in the Karnataka State Universities Act, 2000 (Karnataka Act 29 of 2001). Many new Universities have also been established. It is considered necessary to bring all the Universities established or deemed to have been established by or under any law of the State Legislature within the definition of public premises.

Hence the Bill.

**THE KARNATAKA PUBLIC PREMISES (EVICTION OF UNAUTHORISED
OCCUPANTS) (AMENDMENT) BILL, 2005**

(L.C. Bill No.5 of 2005)

A Bill further to amend the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974.

Whereas it is expedient further to amend the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-sixth year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Public Premises (Eviction of Unauthorised Occupants) (Amendment) Act, 2005.

(2) It shall come into force at once.

2. Amendment of Section 2.- In section 2, in clause (e), for sub-clause (vii) of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 (Karnataka Act 32 of 1974), the following shall be substituted, namely:-

"(vii) University established or deemed to have been established by or under any law of the State Legislature."

* * * * *

THE KARNATAKA SLUM AREAS (IMPROVEMENT AND CLEARANCE)

ACT, 1973.

ARRANGMENT OF SECTIONS

Statement of Objects and Reasons

Sections:

**CHAPTER I
PRELIMINARY**

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

**CHAPTER II
DECLARATION OF SLUM AREAS**

3. Declaration of Slum Areas.

**CHAPTER III
PREVENTION OF GROWTH OF SLUMS**

4. Registration of building in slum areas.
5. Restriction of building, etc., in slum areas.

**CHAPTER III A
PROHIBITION OF UN-AUTHORISED CONSTRUCTIONS**

- 5A. Application.
- 5B. Prohibition of construction of building without previous permission.
- 5C. Demolition of buildings unlawfully commenced, carried on or completed.
- 5D. The Karnataka Municipal Corporation Act, 1978 and other laws not effected.

**CHAPTER IV
IMPROVEMENT OF SLUM AREA**

6. Power of prescribed authority to require execution of works of improvement in slum areas.
7. Power to execute works of improvement to slum areas and to recover expenses.
8. Expenses of maintenance of works of improvement, etc., to be recoverable from the occupiers of the land or building.

9. Power of prescribed authority to order demolition of building unfit for human habitation.
10. Procedure to be followed where demolition order has been made.

CHAPTER V

SLUM CLEARANCE AND RE-DEVELOPMENT

11. Power to declare any slum area to be slum clearance area.
12. Obligation to clear area and demolish buildings.
13. Power to clear slum clearance areas.
14. Owner may re-develop.
15. Power of prescribed authority to re-develop clearance area.
16. Rules to provide for transfer to previous occupants.

CHAPTER VI

ACQUISITION OF LAND

17. Power to acquire land.
18. Land acquired to vest in Government free from all encumbrances.
19. Right to receive amount.
20. Amount Payable. 21. Appeal against order fixing the amount.
22. Apportionment of amount.
23. Payment of amount.
24. Payment of interest.
25. Appeal to High Court.
26. Power of prescribed authority in relation to determination of amount.
- 26A. The Board to have power to acquire land by agreement.
27. Use of land acquired.
- 27A. Carrying out the development and allotment of sites etc.,
- 27B. Recovery of sums due to the Board.

CHAPTER VII

PROTECTION OF TENANTS IN SLUM AREAS FROM EVICTION

28. Proceedings for eviction of tenants not to be taken without permission of the prescribed authority.
29. Appeal against order refusing permission.

30. Restoration of possession of premises vacated by a tenant.
31. Rent of buildings in slum areas.
32. Chapter not to apply to tenants of certain buildings.

CHAPTER VIII

THE KARNATAKA SLUM CLEARANCE BOARD

33. Establishment of the Karnataka Slum Clearance Board.
34. Constitution of the Board.
35. Vacancy not to invalidate proceedings.
36. Conditions of service of Chairman and other members.
37. Appointment of officers and servants.
- 37A. Powers and duties of the Commissioner.
38. Conditions of service of officers and servants.
39. General disqualification of members, officers and servants.
40. Functions of the Board.
41. Finance, accounts and audit.
42. No disqualification in certain cases.
43. Power of Board to make regulations.
44. Board to comply with directions of Government.
45. Powers of the State Housing Board to cease.
46. Transfer of certain assets and liabilities of the State Housing Board to the Board.
47. Board to enforce certain contracts and agreements.
48. Payment of certain amount by the State Housing Board to the Board.

CHAPTER IX

MISCELLANEOUS

49. Board to exercise the powers of prescribed authority.
50. Service of notices and orders.
51. Powers of entry.
52. Power of inspection.
53. Power to enter land adjoining land where work is in progress.
54. Power to enter into building.

55. Entry to be made in the day time.
56. Occupier's consent ordinarily to be obtained.
57. Powers of eviction.
58. Power to remove dangerous or offensive trades from slum areas.
59. Appeal.
60. Order of demolition of buildings in certain cases.
61. Disposal of proceeds of sale of materials of demolished building and recovery of expenses.
62. Penalties.
63. Offences by companies.
64. Prosecution and trial of offences.
65. Composition of offences.
66. Bar of jurisdiction of civil courts.
67. Prescribed authority, etc, to be public servants.
68. Protection of action taken in good faith.
69. Delegation of powers of Government.
70. Act to override other laws.
71. Power to make rules.
72. Application of the Act to certain pending cases of acquisition.
73. Laying of rules and notifications.

* * * * *

STATEMENTS OF OBJECTS AND REASONS

I

Act 33 of 1974.- The Mysore Slum Areas (Improvement and Clearance) Act, 1958 (Mysore Act 8 of 1959) which was enacted for the improvement and clearance of slum areas in the State was struck down by the High Court and the appeal preferred by the State Government against the decision is pending before the Supreme Court.

Though local bodies have been effecting improvements to slums and have also cleared a few of them, the progress made so far has been very meagre and it is found that without adequate powers it has not been possible effectively to check the increase in the growth of slums and also clear the slums which are unfit for human habitation. A number of schemes for the improvement and clearance of slums are to be quickly implemented with financial assistance given by the Government of India. It has

therefore become necessary to enact a law immediately to provide for the improvement and clearance of slums in the State.

Hence this Bill.

(Published in the Karnataka Gazette Part IV - 2A (Extraordinary) No. 213 dated 28-2-1973.)

II

Amending Act 21 of 1978.- The name of the State was changed from Mysore to Karnataka with effect from 1-11-1973. By the Karnataka Adaptation of Laws Order, 1973, the word "Mysore" occurring in various enactments, rules and notifications, then in force was substituted wherever necessary by the word "Karnataka". In the Acts specified in Schedule I introduced in the Legislature earlier to 1st November, 1973 but published thereafter the word "Mysore" continue to exist. Therefore it is proposed to make the necessary consequential amendments to the said Acts also.

Hence this Bill.

(Published in the Karnataka Gazette Part IV - 2A (Extraordinary) No.1050 dated 14-7-1978 at page 5.)

III

Amending Act 19 of 1981.- New slums are coming up in the cities and it is necessary to curb the tendency to put up new slums. This object is sought to be achieved by prohibition of unauthorised construction of buildings, demolition of buildings unlawfully commenced and by taking action against the middlemen who encourage unlawful constructions.

It is also intended to ban trades, like trading in arrack or toddy or other intoxicants, pawn broking and money lending near the slums.

Hence this Bill.

(Published in the Karnataka Gazette Part IV - 2A (Extraordinary) No. 94 dated 3-2-1981 at page 6.)

IV

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

2. Hence it is proposed to introduce a provision to make encroachment on lands belonging to the City Improvement , Trust Board, Mysore, Village Panchayats, Taluk Boards, Municipal Councils, Municipal Corporations, Improvement Boards and the Bangalore Development Authority an offence punishable with imprisonment for a term

which may extend to three years and with fine which may extend to five thousand rupees. Further, it is also proposed that any person who had unauthorisedly occupied land belonging to any of the said bodies and who fails to vacate such land in pursuance of an order under Section 5(1) of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act 1974, shall on conviction be punished with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees, and with a further fine which may extend to Rs. 50 per acre of land or part thereof for every day on which the occupation continues after the date of first conviction. A person who intentionally aids or abets the commission of these offences shall also be liable to receive the same punishment. It is proposed to introduce this provision in the following statutes:

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

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

Hence this Bill.

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

V

Amending Act 26 of 1986.- The State Government is experiencing a lot of difficulty in getting the vacant lands in Urban Areas of the State for the implementation of Environmental Improvement of Urban Slums under the provisions of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 (Karnataka Act 33 of 1974). One of the main reasons for this is the low rate of compensation fixed (i.e., 100 times of property tax) in the present provision of section 20 of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973. Hence, it is proposed to amend section 20 of the said Act to enhance the rate of compensation from the present 100 times to 300 times the Property Tax.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV - 2A No. 60 dated 29-1-1986 at page 3.)

VI

Amending Act 7 of 1988.- The Government have power to acquire land under Section 17 of Karnataka Slum Areas (Improvement and Clearance) Act, 1973 for the purpose of redeveloping the Slum Clearance area or for rehabilitation of the slum dwellers. The Karnataka Slum Clearance Board has no powers to acquire land by agreement. The Board may expedite rehabilitation of slum dwellers if the land is acquired by agreement. Hence it is proposed to introduce a new section 26A giving the Karnataka Slum Clearance Board powers to acquire any land by agreement.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV - 2A No. 75 dated 5-2-1988 at page 3.)

VII

Amending Act 21 of 2002.- It is considered necessary to amend the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 (Karnataka Act 33 of 1974),-

(a) to provide for transfer of lands belonging to the Government or a Local Authority to the Board free of cost for the purpose of carrying out improvement, development, clearance or development of the land or erection of building thereon;

(b) to empower the Board to carryout development on the land transferred to or rested in the Board and to form layout;

(c) to empower the Board to lease, allot, sell or otherwise transfer the sites formed in the layout to the slum dwellers;

(d) to provide for recovery of sums due to the Board;

(e) to change the composition of the Board;

(f) to change the nomenclature of "Chief Executive Officer" as Commissioner and to specify his powers and duties.

(obtained from LC Bill No. 1 of 2002 vide file No. DAPL 17 LGN 2001)

¹[KARNATAKA]¹ ACT NO. 33 of 1974

(First published in the ¹[Karnataka]¹ Gazette Extraordinary on the Seventh day of October, 1974)

THE ¹[KARNATAKA]¹ SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1973

(Received the assent of the President on the First day of October, 1974)

(As amended by Karnataka Acts 21 of 1978, 19 of 1981, 34 of 1984, 26 of 1986, 7 of 1988 and 21 of 2002.)

An Act to provide for the improvement and clearance of slums in the State of ¹[Karnataka]¹.

WHEREAS the number of slums in certain areas in the State of ¹[Karnataka]¹ is increasing and is a source of danger to public health and sanitation of the said areas;

1. Adapted by the Karnataka Adaptations of Laws order 1973 w.e.f. 1.11.1923

And whereas under the existing law it has not been possible effectively to check the increase, to eliminate congestion and to provide for basic needs such as streets, water-supply and drainage and to clear the slums which are unfit for human habitation;

And whereas to obviate this difficulty it is expedient to provide for the removal of unhygienic and insanitary conditions prevailing in the slums, for better accommodation and improved living conditions for slum dwellers, for the promotion of public health generally and for the acquisition of land for the purpose of improving, developing or redeveloping slum areas, clearance of slums and rehabilitation of slum dwellers;

And whereas the Constitution of India enjoins, as a Directive Principle of State Policy that the State should improve public health;

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

1. Adapted by the Karnataka Adaptations of Laws order 1973 w.e.f. 1.11.1923

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Slum Areas (Improvement and Clearance) Act, 1973.

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

1. Substituted by Act 21 of 1978 w.e.f. 1.11.1974

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

1. Act came into force on 1.11.1974 by notification, Text of the notification is at the end of the Act.

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

(a) "Board" means the ¹[Karnataka]¹ Slum Clearance Board, established under section 33;

1. Substituted by Act 21 of 1978 w.e.f. 1.11.1974

(b) "building" includes a house, out-house, stable, latrine, shed, hut, wall and any other such structure, whether of masonry, bricks, wood, mud, metal or any other materials whatsoever, but does not include plant or machinery comprised in a building;

(c) "court" means the District Court having jurisdiction;

(d) "erection" in relation to a building includes extension, alteration or re-erection;

(e) "Government" means the State Government;

¹(ee) "hut" means any building, which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever material made;]¹

1. Inserted by Act 19 of 1981 w.e.f. 30.12.1980

(f) "land" includes building and benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

¹[(ff) "licensing authority" means the authority competent under any law for the time being in force to grant permission for the execution of work relating to construction or re-construction of any building]¹ ²[and where there is no such authority, such authority as the State Government may by notification specify and until, such notification is made, the Tahsildar of the Taluk concerned.]²

1. Inserted by Act 19 of 1981 w.e.f. 30.12.1980

2. Inserted by Act 34 of 1984 w.e.f. 26.6.1984

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

(h) "occupier" includes,-

(i) an owner in occupation of, or otherwise using his land or building;

(ii) 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;

(iii) a rent-free tenant of any land or building;

(iv) a licensee in occupation of any land or building; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(i) "owner" includes any person, who is receiving or is entitled to receive the rent of any land or building, whether on his own account or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the land or building were let to a tenant;

(j) "person interested" in relation to any land or building, includes any person claiming, or entitled to claim an interest in the compensation payable on account of the acquisition of that land or building under this Act:

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

(l) "prescribed authority" means any authority or person authorised by the Government in this regard by notification;

(m) "slum area" means any area declared to be slum area under sub-section (1) of section 3;

(n) "slum clearance area" means any slum area declared to be slum clearance area under sub-section (1) of section 11;

(o) "State Housing Board" means the ¹[Karnataka]¹ Housing Board established under the ¹[Karnataka]¹ Housing Board Act, 1962 (¹[Karnataka]¹ Act 10 of 1963);

1. Substituted by Act 21 of 1978 w.e.f. 1.11.1974

(p) "work of improvement" in relation to any building in a slum area include the execution of any one or more of the following works, namely:-

(i) necessary repair;

(ii) structural alteration;

(iii) provision of light points, water-taps and bathing places;

(iv) construction of drains, open or covered;

(v) provision of latrines, including conversion of dry latrines into water-borne latrines;

(vi) provision of additional or improved fixtures or fittings;

(vii) opening up or paving of court yards;

(viii) removal of rubbish; and

(ix) any other work including the demolition of any building or any part thereof which in the opinion of the prescribed authority is necessary for executing any of the works specified above.

CHAPTER II

DECLARATION OF SLUM AREAS

3. Declaration of slum areas.- (1) Where the Government is satisfied, that,-

- (a) any area is or is likely to be a source of danger to health, safety or convenience of the public of that area or of its neighborhood, by reason of the area being low-lying, insanitary, squalid, over-crowded or otherwise; or
- (b) the buildings in any area, used or intended to be used for human habitation are,-
 - (i) in any respects, unfit for human habitation; or

(ii) by reason of dilapidation, over crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, it may, by notification, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation, for the purposes of this Act regard shall be had to its condition in respect of the following matters, that is to say,-

- (i) repair,
- (ii) stability,
- (iii) freedom from damp,
- (iv) natural light and air,
- (v) water-supply,
- (vi) drainage and sanitary conveniences,
- (vii) facilities for storage, preparation and cooking of food and for the disposal of waste water,

and the building shall be deemed to be unfit as aforesaid, if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation.

CHAPTER III

PREVENTION OF GROWTH OF SLUMS

4. Registration of building in slum areas.-(1) (a) Within the period specified in clause (b), the owner or occupier of every building situated in any slum area shall send to the prescribed authority a statement in such form as may be prescribed.

(b) The statement under clause (a) shall be sent within such period as may be prescribed.

(2) On receipt of the statement under sub-section (1) the prescribed authority shall, on being satisfied about the correctness of the statement, register the building in a register maintained for the purpose and containing such particulars as may be prescribed and shall issue in the prescribed form, a registration certificate to the owner or occupier of the building.

5. Restriction on building, etc., in slum areas.- (1) The prescribed authority may, by notification direct that no person shall erect any building in a slum area except with the previous permission in writing of such authority.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such cesser.

(3) Every person desiring to obtain permission referred to in sub-section (1) shall make an application in writing to the prescribed authority, in such form and containing such information in respect of the erection of the building to which the application relates as may be prescribed.

(4) On receipt of such application, the prescribed authority, after making such enquiry as it considers necessary shall, by order in writing,-

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission: Provided that before making an order refusing such permission, the applicant shall be given an opportunity to show cause why the permission should not be refused.

(5) Nothing contained in sub-section (1) shall apply to,-

(a) any works of improvement required to be executed by a notice under sub-section (1) of section 6 or in pursuance of an undertaking given under sub-section (2) of section 9; or

(b) the erection of any building in any area in respect of which a notification has been issued under sub-section (1) of section 11.

¹ [CHAPTER III

A PROHIBITION OF UN-AUTHORISED CONSTRUCTIONS

¹[5A. **Application.-**This Chapter shall extend to the whole of the State of Karnataka]¹.

1. substituted by Act 34 of 1984 w.e.f. 26.6.1984

5B. Prohibition of construction of building without previous permission.-(1) (a) After the coming into force of this chapter ¹[x x x]¹, no construction or reconstruction of a building shall ¹[x x x]¹ be begun by any person unless and until permission for the

execution of the work relating to such construction or reconstruction is granted to such person ¹[x x x]¹ by the licensing authority.

1. Omitted by Act 34 of 1984 w.e.f. 26.6.1984

(b) No person shall collect any rent or other charges, by whatever name called, from the occupant of any building constructed or reconstructed in contravention of clause (a).

(2) Any person who contravenes the provisions of sub-section (1) or who abets such contravention shall, on conviction, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees.

Provided that,-

(i) in the case of a first offence the term of imprisonment shall not be less than six months and the amount of fine shall not be less than five hundred rupees; and

(ii) in the case of a second or subsequent offence the term of imprisonment shall not be less than one year and the amount of fine shall not be less than one thousand rupees.

5C. Demolition of buildings unlawfully commenced, carried on or completed.- (1) If the Board is satisfied that the construction or reconstruction of any building has been commenced or is being carried on or has been completed without obtaining the permission of the licensing authority, under the relevant law, the Board may make a provisional order requiring the owner or the builder or the occupier of the building to demolish the work done and may also direct that the owner or the builder shall refrain from proceeding with the work of construction or reconstruction of the building.

(2) The Board shall serve a copy of the provisional order made under sub-section (1) on the owner or builder or the occupier of the building together with a notice requiring him to show cause within a reasonable time to be specified in such notice why the order should not be confirmed.

(3) If the owner or the builder or the occupier fails to show cause to the satisfaction of the Board, it may confirm the order, with such modifications as it may think fit, and such order shall then be binding on the owner, the builder and the occupier and the Board may take any measure or do anything which may, in its opinion be necessary, for giving due effect to the order and expenses incurred for the purpose shall be recovered from the owner, the builder and the occupier, as arrears of land revenue. The Board may seize the materials and tools used for the construction or reconstruction of the building and may sell them and apply the sale proceeds towards the expenses incurred.

(4) If the work of construction or reconstruction of any building is commenced in contravention of the provisions of sub-section (1) of section 5B and the Board is of the opinion that immediate action should be taken, then, notwithstanding anything contained in this Chapter a notice to be given under sub-section (2) shall not be of less duration than twenty four hours and shall be deemed to be duly served if it is affixed in some conspicuous part of the building to which the notice relates and published by proclamation at or near such building and accompanied by beat of drum, and upon such affixation and publication, all persons concerned shall be deemed to have been duly informed of the matters stated therein.

(5) The Government may call for and examine the records of any proceedings of the Board under this section and after such enquiry as it thinks fit, if the Government is satisfied that the order of the Board is contrary to law, pass such orders thereon as the Government deems fit:

Provided that no order shall be made to the prejudice of any party unless he has had an opportunity of being heard.

5D. The Karnataka Municipal Corporation Act, 1976 and other laws not affected.- Nothing in this Chapter shall be deemed to affect the operation of the Karnataka Municipal Corporations Act, 1976 or the Karnataka Municipalities Act, 1964 or any other law or the rules made thereunder and the provisions of this Chapter shall be in addition to and not in derogation of the provisions of said Acts, laws and the rules.]¹

1. Inserted by Act 19 of 1981 w.e.f. 30.12.1980

CHAPTER IV

IMPROVEMENT OF SLUM AREAS

6. Power of prescribed authority to require execution of works of improvement in slum areas.- (1) Where the prescribed authority is satisfied that at a reasonable expense,-

(a) any slum area or any part thereof is capable of being improved so as not to be a source of danger to the health, safety or convenience of the public of that area; or

(b) any building being unfit for human habitation in a slum area can be rendered fit for human habitation,

it may serve upon the owner of the slum area or part thereof or of the building, as the case may be, a notice requiring him within such time not being less than sixty days, as may be specified in the notice, to execute the works of improvement specified therein:

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water-taps, bathing places, construction of drains, open or

covered, as the case may be, provision of water-borne latrines or removal of rubbish and such works are to be executed outside the building, the notice shall be served upon the owner of the land.

(2) In addition to serving a notice under sub-section (1) on the owner concerned, the prescribed authority may serve a copy of the notice on any other person having an interest in the slum area or part thereof or the building or the land on which the building stands, whether as a lessee, mortgagee or otherwise.

(3) In determining for the purposes of this Act whether at a reasonable expense the slum area or part thereof can be improved or the building rendered fit for human habitation, regard shall be had to the estimated cost of the works of improvement of the slum area or part thereof or of the works necessary to render the building fit for human habitation and the estimated value that the slum area or part thereof or the building will have when such works are completed.

7. Power to execute works of improvement to slum areas and to recover expenses.- (1) If a notice under sub-section (1) of section 6 is not complied with, then, after the expiration of the time specified in the notice, the prescribed authority may itself execute the works required to be executed by the notice.

(2) All expenses incurred by the prescribed authority under this section together with interest, at such rate as the Government may, by order, fix from the date when a demand for the expenses is made until payment, may be recovered by the prescribed authority from the owner of the slum area or part thereof or of the building or of the land, on which the building stands, as the case may be, as arrears of land revenue and all such expenses and interest shall constitute a charge upon the slum area or part thereof or the building or the land on which the building stands, as the case may be:

Provided that if the owner proves that he,-

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the prescribed authority,

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

8. Expenses of maintenance of works of improvement, etc., to be recoverable from the occupiers of the land or building.- (1) Where works of improvement have been executed in relation to any land or building in a slum area in pursuance of the provisions of sections 6 and 7 the expenses incurred by the prescribed authority, or as the case may be, by any local authority, in connection with the maintenance of such works of improvement or the enjoyment of amenities and conveniences rendered possible by such works, may be recovered from the occupier or occupiers of the land or building as arrears of land revenue.

(2) The amount of expenses referred to in sub-section (1) shall be determined by order by the prescribed authority and in the case of expenses incurred by the local authority, the prescribed authority shall consult the local authority before passing an order determining the amount of expenses incurred by the local authority.

9. Power of prescribed authority to order demolition of building unfit for human habitation.- (1) Where the prescribed authority on a report from the local authority concerned or the State Housing Board or the Board or an officer authorised by the Government for this purpose is satisfied that any building being unfit for human habitation in a slum area is not capable at reasonable expense of being rendered so fit, it shall serve upon the owner of the building and upon any other person having an interest in the building whether as lessee, mortgagee or otherwise, a notice to show cause, within such time as may be specified in such notice, as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears in pursuance thereof before the prescribed authority and gives an undertaking to that authority that such person shall, within such period as may be specified by the said authority, execute such works of improvement in relation to the building, as will in the opinion of the said authority, render the building fit for human habitation or that it shall not be used for human habitation until such authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the prescribed authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the prescribed authority shall forthwith make an order of demolition of the building requiring that the building shall be demolished within such period as may be prescribed.

10. Procedure to be followed where demolition order has been made.- Where an order of demolition of building under section 9 has been made, the owner of the building or any other person having an interest therein shall demolish that building, within the period mentioned in sub-section (3) of section 9, and if the building is not demolished within the said period, the prescribed authority shall enter and demolish the building and subject to the provisions of section 61, sell the materials thereof.

CHAPTER V

SLUM CLEARANCE AND RE-DEVELOPMENT

11. Power to declare any slum area to be slum clearance area.- (1) Where the Government, on a report from the Board or the prescribed authority or the local authority concerned or the State Housing Board or an officer authorised by the

Government for this purpose is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the clearance of such area and the demolition of all the buildings in the area, it may, by notification, declare the area to be a slum clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act:

Provided that before issuing such notification the Government shall call upon the owners of the lands and buildings in such slum area to show cause why such declaration should not be made and after considering the cause if any, shown by such owners, it may pass such orders as it may deem fit.

(2) Any part of the slum area or any building in the slum area which is not unfit for human habitation or dangerous or injurious to safety, health or morals may be excluded from the notification under sub-section (1) if the Government considers it necessary.

(3) The notification under sub-section (1) shall specify each of the buildings to be demolished and the area to be cleared.

12. Obligation to clear area and demolish buildings.- When a slum area has been declared to be a slum clearance area under sub-section (1) of section 11, the owners of the lands and the buildings in that area shall clear the area and demolish the buildings before the expiration of such period as may be prescribed.

13. Power to clear slum clearance areas.- If any slum clearance area is not cleared or the buildings demolished before the expiration of the period mentioned in section 12 the prescribed authority shall enter and clear the area and demolish the buildings and subject to the provisions of section 61, sell the materials thereof.

14. Owner may re-develop.- (1) Subject to the provisions of this Act, where a notification under sub-section (1) of section 11 has been issued, the owner of the land to which the notification applies may re-develop the land in accordance with plans approved by the prescribed authority and subject to such restrictions and conditions (including condition with regard to the time within which the re-development shall be completed), if any, as that authority may think fit to impose:

Provided that an owner who is aggrieved, by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the prescribed authority to cancel or modify any such restriction or condition, may, within such time as may be prescribed, appeal to the Government and the Government shall make such order in the matter as it thinks proper and its decision shall be final.

(2) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (1).

15. Power of prescribed authority to re-develop clearance area.- (1) Notwithstanding anything contained in sub-section (1) of section 14, the prescribed authority may, at any time, after the land has been cleared and the buildings have been demolished in accordance with the foregoing provisions of this Chapter but before the work of re-development of that land has been commenced by the owner, by order, determine to re-develop the land if such authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared and the buildings have been demolished in accordance with the foregoing provisions of this Chapter, and the prescribed authority is satisfied that the land has been, or is being re-developed by the owner thereof in contravention of plans approved by such authority or any restrictions or conditions imposed under sub-section (1) of section 14, or has not been re-developed within the time, if any, specified under such conditions, it may, by order determine to re-develop the land:

Provided that before passing an order under sub-section (1) or sub-section (2), the owner shall be given an opportunity to show cause why the order should not be passed.

(3) All expenses incurred by the prescribed authority under this section, together with interest at such rate as the Government may, by order, fix from the date when a demand for the expenses is made until payment, may be recovered by the prescribed authority from the owner of the land as arrears of land revenue and all such expenses and interest shall constitute a charge upon the land and the building.

(4) The amount of expenses referred to in sub-section (3) shall be determined by order by the prescribed authority.

16. Rules to provide for transfer to previous occupants.- Subject to the provisions of this Act, the Government may, by rules, provide for or regulate the transfer, and the conditions of such transfer to persons who, immediately before the declaration of any slum area to be a slum clearance area, were occupying lands or buildings in that area or lands or buildings in such slum clearance area after its re-development.

CHAPTER VI ACQUISITION OF LAND

17. Power to acquire land.- Where the Government is satisfied that, for the purpose of executing any work of improvement in relation to any slum area or any building in such area or for the purpose of re-developing any slum clearance area, or for the purpose of rehabilitating slum dwellers, it is necessary to acquire any land within, adjoining or surrounded, by any such area, it may acquire the land by

publishing in the official Gazette, a notice to the effect that it has been decided to acquire the land in pursuance of this section:

Provided that before publishing such notice, the Government shall call upon the owner or any other person who, in the opinion of the Government, may be interested in such land, to show cause why it should not be acquired; and after considering the cause, if any, shown by the owner or any other person interested in the land, the Government may pass such orders as it deems fit.

18. Land acquired to vest in Government free from all encumbrances.- When a notice under section 17 is published in the official Gazette, the land to which the said notice relates shall, on and from the date on which the notice is so published, vest absolutely in the Government free from all encumbrances.

19. Right to receive amount.- Every person having any interest in any land acquired under this Act shall be entitled to receive and be paid amount as hereinafter provided.

20. Amount payable.- (1) The amount payable in respect of any land acquired under this Act, shall be 1three hundred]1 times the property tax payable in respect of such land on the date of publication of the notice referred to in section 17, under the municipal law applicable to such area and where no such property tax is payable in respect of such land, the property tax payable in respect of similar land adjacent thereto.

1. Substituted by Act 26 of 1986 w.e.f. 28.5.1986

(2) The prescribed authority shall, after holding an enquiry in the prescribed manner, determine by order the amount payable under sub-section (1) and publish the said order in the official Gazette. A copy of the said order shall be communicated to the owner of the land and every person interested therein.

(3) Where the owner of the land and the owner of the building on such land are different, the prescribed authority shall apportion the amount between the owner of the land and the owner of the building (in the same proportion as the value of the land bears to the value of the building on the date of the acquisition).

21. Appeal against order fixing the amount.- Any person who does not agree to the amount determined by the prescribed authority under sub-section (2) of section 20 may prefer an appeal to the court within such period as may be prescribed.

22. Apportionment of amount.-(1) Where several persons claim to be interested in the amount determined, the prescribed authority shall determine the persons who in its opinion are entitled to receive the amount and the sum payable to each of them.

(2) If any dispute arises as to the apportionment of the amount or any part thereof, or as to the persons to whom the same or any part thereof is payable, the prescribed

authority may refer such dispute to the decision of the court and the court shall in deciding any such dispute follow, as far as may be, the provisions of Part III of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

23. Payment of amount.-(1) After the amount has been determined, the prescribed authority shall tender payment of the amount to the persons entitled thereto and shall pay it to them.

(2) If the persons entitled to the amount do not consent to receive it or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the amount or as to the apportionment of it, the prescribed authority shall deposit the amount in the court, and the court shall deal with the amount so deposited in the manner laid down in sections 32 and 33 of the Land Acquisition Act, 1894 (Central Act 1 of 1894).

24. Payment of interest.- When the amount is not paid or deposited on or before taking possession of the land, the prescribed authority shall pay the amount with interest thereon at the rate of five per cent per annum from the time of so taking possession until it shall have been so paid or deposited and such interest shall be paid or deposited by the prescribed authority in the same manner as provided for the amount.

25. Appeal to High Court.- Subject to the provisions of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, a second appeal shall only lie to the High Court from any decision of the court under this Act.

26. Power of prescribed authority in relation to determination of amount.- (1) The prescribed authority may, for the purpose of carrying out the provisions of sections 20, 22, 23 and 24 by order require any person to furnish such information in his possession relating to any land which is acquired under this Act as may be specified in such order.

(2) The prescribed authority shall, while holding an enquiry under this Act, have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

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

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

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

¹[26A. The Board to have power to acquire land by agreement.- (1) Notwithstanding anything contained in sections 17 and 20, the Board may, with the previous approval of the Government, enter into an agreement with any person for the acquisition, from him, by purchase, lease or exchange of any land within, adjoining or surrounded by any slum area or slum clearance area, or any interest in such land which is needed for the purpose of executing any work of improvement in relation to any slum area or any building in such area or for the purpose of redeveloping any slum clearance area, or for the purpose of rehabilitating slum dwellers.

(2) Where any land is acquired under-section (1), the Board may undertake the measures referred to in sub-section (1) of section 27 in accordance with such plans as may be approved by the Government and subject to such directions as may from time to time, be given by the Government.]¹

1. Inserted by Act 7 of 1988 w.e.f. 25.4.1988

27. Use of land acquired ¹[or land transferred by the Government or the local authority]¹ .- (1) Where any land has been acquired under this Act, the Government may undertake or cause to be undertaken such measures as may be necessary for the improvement, development, clearance or re-development of the land, or the erection of any building or buildings thereon, in accordance with such plan as may be approved by it.

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

(2) (i) For the purpose of undertaking the measures referred to in sub-section (1), the Government may either hold the land under its own control and management and undertake such measures itself or through the Board on such terms and conditions as may be determined by it, or transfer the land to the local authority concerned or the Board for the purpose of undertaking those measures.

(ii) Where the land is transferred as provided in clause (i), such land shall vest in the local authority concerned or the Board, as the case may be, and the local authority or the Board shall,-

(a) pay to the Government the cost of acquisition of the land or such portion thereof as the Government may determine in such case; and

(b) undertake the measures referred to in sub-section (1) in accordance with such plans as may be approved by the Government, and subject to such directions as may, from time to time, be given by the Government.

¹ [3. Where any slum area is located on the land belonging to the Government or any local authority the Government or the local authority may subject to such restrictions and conditions as it may impose, transfer to, and vest in, the Board such land free of cost for the purpose of undertaking such measures as may be necessary

for improvement, development, clearance or redevelopment of the land or erection of building or buildings thereon.]¹

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

¹ [27A. Carrying out the development and allotment of sites etc.- (1) Subject to section 27, the Board shall form layout on the lands transferred to and vested in it under sub-section (2) or (3) of section 27 by realigning internal roads for easy and convenient movement of the slum dwellers and for improving the hygienic conditions. The Board may undertake all measures necessary for improvement clearance development or redevelopment of such land and erection of building thereon.

(2) The Board may, for the purpose of forming layout under sub-section (1) demolish any structure or building in a slum area in accordance with section 10 and the persons affected by such demolition shall, as far as, may be accommodated within the same slum area and if it is not possible they shall be accommodated in the area available in the adjacent slum area or any other area meant for rehabilitation of slum dwellers.

(3) Subject to such restrictions, conditions and limitations as may be prescribed, the Board, shall have power to lease, allot, sell or otherwise transfer the sites formed in the layout under sub-section(1) or dwelling unit of any building constructed in such layout.

27B. Recovery of sums due to the Board.- (1) All cost damages, penalties, charges, rent contribution or any other sum which under this Act or any rule made thereunder are due by any person to the Board be demanded by the prescribed authority by issuing a notice of demand to such person and indicating therein the liability incurred in default of payment, and may be recovered in the prescribed manner if within one month from the date of service of notice, such person does not make payment to the Board;

(2) Any person disputing the demand made in the notice issued under sub-section(1) may prefer an appeal under section 59, within thirty days from the date of service of the notice and the provisions of that section shall mutatis mutandis apply;]¹

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

CHAPTER VII

PROTECTION OF TENANTS IN SLUM AREAS FROM EVICTION

28. Proceedings for eviction of tenants not to be taken without permission of the prescribed authority.- (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the prescribed authority,-

(a) institute, after the commencement of this Act, any suit or proceedings for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; and

(b) where any decree or order is obtained in any suit or proceedings, instituted before such commencement for the eviction of tenant from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the prescribed authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the prescribed authority after giving an opportunity to the parties of being heard and after making such summary enquiry into the circumstances of the case as it thinks fit, shall, by order in writing, either grant or refuse to grant such permission.

(4) In granting or refusing to grant permission under sub-section (3), the prescribed authority shall take into account the following factors, namely:-

(a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

(b) whether the eviction is in the interest of improvement and clearance of the slum area;

(c) such other factors, if any, as may be prescribed.

(5) Where the prescribed authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

29. Appeal against order refusing permission.- Any person aggrieved by an order of the prescribed authority refusing to grant the permission under sub-section (4) of section 5 or under sub-section (3) of section 28 may, within such time as may be prescribed, prefer an appeal to the Government and the Government may, after hearing the appellant, decide such appeal and its decision shall be final.

30. Restoration of possession of premises vacated by a tenant.-(1) Where a tenant in occupation of any building in a slum area vacates any building or is evicted therefrom on the ground that it was required for the purposes of executing any work of improvement or for the purpose of re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the prescribed authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be.

(2) On receipt of such declaration, the prescribed authority shall, by order, require the owner of the building to furnish to it, within such time as may be prescribed, the

plans of the work of improvement or re-erection of the building and estimates of the cost thereof and such other particulars as may be necessary and shall, on the basis of such plans and estimates and particulars, if any, furnished and having regard to the provisions of sub-section (3) of section 31 and after holding such enquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(3) The rent provisionally determined under sub-section (2) shall be communicated in the prescribed manner to the tenant and the owner.

(4) If the tenant, after the receipt of such communication, intimates in writing to the prescribed authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1) he would pay to the owner, until the rent is finally determined under section 31, the rent provisionally determined under sub-section (2), the prescribed authority shall direct the owner to place the tenant in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

31. Rent of buildings in slum areas.- (1) Where any building in a slum area is let to a tenant after the execution of any work of improvement or after it has been re-erected, the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to a tenant other than a tenant who is placed in possession of the building in pursuance of a direction issued under sub-section (4) of section 30, the tenant shall be liable to pay to the owner,-

(a) if there is a general law relating to the control of rents in force in the area in which the building is situated and applicable to that building the rent determined in accordance with the provisions of that law or the agreed rent whichever is less;

(b) if there is no such law in force in such area, such rent as may be agreed to between the owner and the tenant.

(3) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (4) of section 30, the tenant shall, notwithstanding any law relating to the control of rents in force in the area, be liable to pay to the owners,-

(a) if any work of improvement has been executed in relation to the building, an annual rent of a sum equivalent to the aggregate of the following amounts, namely,-

(i) the annual rent the tenant was paying immediately before he vacated the building for the purpose of execution of the work of improvement;

(ii) six per cent of the cost of the work of improvement; and

(iii) six per cent of a sum equivalent to the amount payable in respect of any land which may have been acquired for the purpose of effecting such improvement;

(b) if the building has been re-erected, an annual rent of a sum equivalent to four per cent of the aggregate cost of re-erection of the building and the cost of the land on which the building is re-erected.

Explanation.- For the purpose of this clause, the cost of the land shall be deemed to be a sum equivalent to the amount payable in respect of the land as if it were acquired under this Act.

(4) The rent payable by a tenant in respect of any building under sub-section (3) shall, on an application made by the tenant or the owner, be determined by the authority referred to in sub-section (5) :

Provided that an application for determination of such rent by the owner or the tenant shall not except for sufficient cause, be entertained by such authority after the expiry of ninety days from the date of completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made, shall be,-

(a) where there is a general law relating to the control of rents in force in the area in which the building is situate, the authority to whom application may be made for fixing of rents of buildings situate in that area; and for the purposes of determining the rent under this section that authority may exercise all or any of the powers it has under the said general law; and the provisions of such law including provisions relating to appeals shall apply accordingly;

(b) if there is no such law in force in that area, such authority as may be specified by rules made in this behalf by the Government and such rules may provide the procedure that will be followed by that authority in determining the rent and also for appeals against the decision of such authority.

(6) Where the rent is finally determined under this section, then the amount of rent paid by the tenant shall be adjusted against the rent so finally determined and if the amount so paid falls short of, or is in excess of, the rent finally determined, the tenant shall pay the deficiency or be entitled to a refund, as the case may be. 32. Chapter not to apply to tenants of certain buildings.- Nothing in this Chapter shall apply to or in relation to a tenant of any building situate in a slum area and belonging to the Government or the Board or any local authority.

CHAPTER VIII

THE '[KARNATAKA]' SLUM CLEARANCE BOARD

33. Establishment of the 1[Karnataka]1 Slum Clearance Board.-(1) With effect from such date as the Government may, by notification, appoint in this behalf, there shall be established a Board by the name of the '[Karnataka]1 Slum Clearance Board.

1. Substituted by Act 21 of 1978 w.e.f. 1.11.1994.

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

34. Constitution of the Board.- '[1] The Board shall consist of a Chairman and other official and non-official members as specified in sub-section (2) ; (2) The Board shall consist of,-

- (a) A Chairman who shall be appointed by the Government;
- (b) Commissioner, Karnataka Housing Board;
- (c) the Commissioner of the Board shall be the Member Secretary;
- (d) A representative of the Finance Department, Government of Karnataka, not below the rank of a Deputy Secretary to Government;
- (e) A representative of the Housing Department, Government of Karnataka, not below the rank of Deputy Secretary to Government;
- (f) The Director of Town Planning, Government of Karnataka;
- (g) A representative of Health and Family Welfare Services Department, Government of Karnataka, not below the rank of a Joint Director;
- (h) A representative of the Bangalore Mahanagara Palike not below the rank of a Deputy Commissioner;
- (l) A representative of the Directorate of Social Welfare, Government of Karnataka, not below the rank of a Joint Director;
- (j) the regional Chief of the Housing and Urban Development Corporation or his nominee;
- (k) five non-official members nominated by the Government, and out of whom one shall be a woman and one shall be a person belonging to the Scheduled Caste or Scheduled Tribe.]'

1. Substituted by Act 21 of 2002 w.e.f. 17.11.2001.

(3) Subject to the provisions of sub-section (2) the term of office of the Chairman and other members shall be for a period of three years.

(4) Notwithstanding anything contained in this section the Chairman and other members of the Board shall continue in office after the expiry of their term till their successors are appointed under this section. 35. Vacancy not to invalidate proceedings.- No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in the office of the Chairman or among the other members of the Board or any defect in their appointment.

36. Conditions of service of Chairman and other members.- The conditions of service of the Chairman and other members shall be such as may be prescribed.

37. Appointment of officers and servants.-¹[(1) The Government shall appoint an officer not below the rank of a Deputy Secretary to Government to be the Commissioner of the Board.]¹

1. Substituted by Act 21 of 2002 w.e.f. 17.11.2001.

(2) The ¹[Commissioner]¹ shall be the Chief Executive Officer of the Board.

1. Substituted by Act 21 of 2002 w.e.f. 17.11.2001.

(3) The Board may appoint such other officials and servants as it considers necessary for the efficient performance of its functions.

¹[37A. Powers and duties of the Commissioner.- The Commissioner of the Board shall in addition to performing such functions as may be conferred on him by or under this Act or under any other law for the time being in force,-

(a) carry out the resolutions of the Board:

Provided that, if in the opinion of the Commissioner any resolution of the Board contravenes any provisions of this Act or of any other law or any rule, notification, regulations or bye law made or issued under this Act, or any other law or any order passed by the Government, or is prejudicial or detrimental to the interest of the Board he shall, within fifteen days of passing of such resolution refer the matter to the Government and inform the Board at its next meeting, of the action taken by him and until the orders of the Government on such reference are received, the Commissioner shall not be bound to give effect to such resolution.

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

(c) carry out and execute such scheme and works as the Government may direct and incur necessary expenditure thereon;

(d) be responsible for implementing the scheme of the Board;

(e) operate the accounts of the Board and be responsible for the maintenance of the accounts of the Board;

(f) exercise supervision and control over the accounts and proceedings of the Board and over the officers and servants of the Board in the matters of executive administration;

(g) furnish to the Government a copy of the minutes of the proceedings of the Board and any other information which the Government may, from time to time, call for; and

(h) authenticate by his signature all permissions, orders, decisions; notices and other documents of the Board and the orders of the Board]¹

1. Substituted by Act 21 of 2002 w.e.f. 17.11.2001.

38. Conditions of service of officers and servants.- (1) The pay and other conditions of service of the officers and servants of the Board shall be such as may be prescribed.

(2) Where any officer or servant of the State Housing Board is appointed in the Board, his conditions of service (including conditions as to pay, provident fund, pension and gratuity) shall be subject to such rules as may be made in this behalf by the Government.

39. General disqualification of members, officers and servants.- No person who has directly or indirectly by himself, or his partner or agent, any share or interest

in any contract by or on behalf of the Board, shall become or remain a member or officer or servant of the Board.

40. Functions of the Board.- The functions of the Board shall be,-

(a) to exercise the powers of the prescribed authority in cases where the Government has, by notification directed that the powers of the prescribed authority shall be exercised by the Board;

(b) such other functions as may be prescribed.

41. Finance, accounts and audit.- The provisions of Chapter VII of the ¹[Karnataka]¹ Housing Board Act, 1962 (¹[Karnataka]¹ Act 10 of 1963), relating to finance, accounts and audit shall apply, as far as may be, to the Board as the said provisions apply to the State Housing Board.

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

42. No disqualification in certain cases.- No person shall be disqualified for being chosen as, or for being a member of the ¹[Karnataka]¹ Legislative Assembly or of the ¹[Karnataka]¹ Legislative Council by reason only of the fact that he is the Chairman or a member of the Board.

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

43. Power of Board to make regulations.- The Board may make regulations in regard to the meeting of the Board and the conduct of business, ¹ [including quorum in the meeting]¹.

1. Substituted by Act 21 of 2002 w.e.f. 17.11.2001.

44. Board to comply with directions of Government.- It shall be the duty of the Board to comply with such directions, as the Government may, from time to time, issue either generally or in regard to any particular matter.

45. Powers of the State Housing Board to cease.- With effect from the date of the establishment of the Board, the State Housing Board shall cease to exercise any function under the ¹[Karnataka]¹ Housing Board Act, 1962 (¹[Karnataka]¹ Act 10 of 1963), in respect of matters dealt with in this Act.

1. Inserted by Act 21 of 2002 w.e.f. 17.11.2001.

46. Transfer of certain assets and liabilities of the State Housing Board to the Board.- (1) All property, assets, rights and liabilities of the State Housing Board shall, in so far as such property, assets, rights and liabilities are relatable immediately before the date of the establishment of the Board to the improvement of the slum area, the clearance of the slum area and the re-development of the slum clearance area, stand transferred to and be vested in the Board.

(2) (a) If any dispute arises whether any property assets, rights and liabilities stand transferred to and vested in the Board under sub-section (1), the dispute shall be referred to the decision of the Government and its decision shall be final.

(b) Before giving any decision on any such dispute the Government shall give an opportunity to the State Housing Board and the Board to make representations.

47. Board to enforce certain contracts and agreements.- (1) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the establishment of the Board and to which the State Housing Board is a party, in so far as such contracts, agreements and instruments are relatable to the improvement of a slum area, the clearance of a slum area and the re-development of the slum clearance area shall be of as full force and effect against or in favour of the Board and may be enforced or acted upon as fully and effectually as if, instead of the State Housing Board, the Board has been a party thereto or as if they had been entered into or issued in favour of the Board.

(2) If on the date of the establishment of the Board, any suit, appeal or other legal proceeding of whatever nature by or against the State Housing Board is pending then such suit, appeal or other legal proceeding in so far as it is relatable to the improvement of the slum area, the clearance of a slum area and the re-development of a slum clearance area, shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Board of the property, assets, rights and liabilities of the State Housing Board or of anything done under this Act, but the suit, appeal or other legal proceeding may be continued, prosecuted and enforced by or against the Board.

Explanation.- For the purpose of this sub-section, 'legal proceeding' includes any proceeding under the Land Acquisition Act, 1894 (Central Act I of 1894). 48. Payment of certain amount by the State Housing Board to the Board.- Subject to the provisions of section 46 the State Housing Board shall, out of its funds as on the date of the establishment of the Board, pay to the Board, such amount as the Government may, in consultation with the State Housing Board specify.

CHAPTER IX MISCELLANEOUS

49. Board to exercise the powers of prescribed authority.- The Government may, by notification, direct that any power exercisable by the prescribed authority under this Act, may be exercised by the Board, in such cases and subject to such conditions, if any, as may be specified in the notification and on the issue of such notification, the prescribed authority shall not exercise the power in respect of the matters specified in such notification.

50. Service of notices and orders.- (1) Save as otherwise provided in this Act and subject to the provisions of this section and of any rules made in this behalf, every notice issued or order made under this Act shall,-

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the official Gazette;

(b) in the case of any notice or order affecting an individual, corporation or firm be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person,-

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered by delivering or tendering it to the head of the office in which such person is employed, or to any adult male servant of such person, or to any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(iii) failing service by any of the means aforesaid, by post or by affixing a copy of the said notice or order on some conspicuous part of the land or building to which it relates.

(2) Where the notice or order cannot be served without undue delay, due to any dispute in the ownership of the land or building or due to the person to whom the notice

or order is intended being not readily traceable, the notice, or order may be served by publishing it in the official Gazette, and where possible by affixing a copy thereof on some conspicuous part of the land or building to which it relates.

51. Powers of entry.- It shall be lawful for any person authorised by the prescribed authority in this behalf to enter into or upon any land or building in any slum area or slum clearance area with or without assistance of workmen in order to make any enquiry, inspection, measurement valuation or survey, or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

52. Power of inspection.- (1) The Government may, by general or special order, authorise any person,- (a) to inspect any drain, latrine, urinal, cess-pool, pipe, sewer or channel in or any land or building in a slum area or slum clearance area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be:

(b) to examine works under construction in the slum area or to take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain, or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated or made good, as the case may be, by the Government.

53. Power to enter land adjoining land where work is in progress.-(1) Any person authorised by the Government in this behalf may, with or without assistants or workmen, enter on any land within forty-five meters of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purpose connected with the carrying on of the same.

(2) The person so authorised shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage, as may be and compensation shall be payable by the Government to the owner or occupier of such land or to both for any such damage whether permanent or temporary in accordance with such rules as may be made.

54. Power to enter into building.- It shall be lawful for any person authorised by the prescribed authority in this behalf to enter into any place or to open or cause to be opened any door, gate or other barrier,- (a) if he considers the opening thereof necessary for the purpose of such entry; and (b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

55. Entry to be made in the day time.- No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

56. Occupier's consent ordinarily to be obtained.- Save as provided in this Act, no land or building shall be entered without the consent of the occupier, or if there be no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

57. Powers of eviction.- Notwithstanding anything contained in this Act, where the prescribed authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of,-

- (i) any notice, order or direction issued by the prescribed authority; or
- (ii) any notice or direction issued by the owner,

it shall, if satisfied that such eviction is necessary to carry out the purposes of the Act, by order direct the eviction of the occupants from the building, in such manner and within such time as may be specified in the order, and may for that purpose use or cause to be used such force as may be necessary:

Provided that, before making any order under this section, the prescribed authority shall call upon the occupants of the building to show cause why they should not be evicted therefrom and after considering the cause, if any, shown by such occupants, it may pass such orders as it deems fit.

58. Power to remove dangerous or offensive trades from slum areas.- The prescribed authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order:

Provided that before making any order under this section the prescribed authority shall call upon the person carrying on the trade to show cause why the order should not be made and after considering the cause, if any, shown by such person, it may pass such orders as it deems fit.

¹[Explanation.- For the purposes of this section "dangerous or offensive trade" includes,-

- (a) trading in arrack or toddy or other intoxicants; and
- (b) pawn broking or money lending except by a co-operative society or a banking company.]¹

1. Inserted by Act 19 of 1981 w.e.f. 30.12.1980.

59. Appeal.- (1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued by the prescribed authority may, within such time as may be prescribed, appeal to the Government.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal, the Government may, for sufficient cause, order the stay of all proceedings relating to the enforcement of the notice, order or direction appealed against.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had an opportunity of being heard.

(5) The decision of the Government on appeal shall be final and shall not be questioned in any court.

60. Order of demolition of buildings in certain cases.- Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of any restriction or condition imposed under section 14 or of a plan for the redevelopment of any slum clearance area or in contravention of any notice, order or direction issued under this Act, the prescribed authority may, in addition to any other remedy that may be resorted to under this Act, or under any law, make an order directing that such building shall be demolished by the owner thereof, within such time not exceeding sixty days, as may be specified in the order, and on the failure of the owner to comply with the order within the time specified, the prescribed authority, may itself cause the building to be demolished and subject to the provisions of section 61, sell the materials thereof :

Provided that, before making any order under this section, the prescribed authority shall call upon the owner to show cause why the order should not be made and after considering the cause, if any, shown by such owner, it may pass such orders as it deems fit.

61. Disposal of proceeds of sale of materials of demolished building and recovery of expenses.- (1) Where the materials of any building demolished by the prescribed authority, under section 10, section 13 or section 60 are sold, the prescribed authority shall apply the proceeds of such sale in or towards payment of the

expenses incurred by that authority under that section and pay any surplus accruing from such sale to the owner or other person entitled thereto on demand made within twelve months from the date of sale. If no such demand is made, such surplus shall be deposited with the Government or authority specified by it.

(2) Any expenses referred to in sub-section (1) if not satisfied out of the sale proceeds of the materials of any building referred to in that sub-section, may be recovered by the prescribed authority from the owner of the building or any other person having an interest therein as arrears of land revenue.

62. Penalties.-(1) Any person who,-

(a) commences or causes to be commenced any work in contravention of any restriction or condition imposed under section 14 or of any plan for the redevelopment of a slum clearance area; or

(b) contravenes or fails to comply with any other provision of this Act or of any rule made thereunder or of any notice, order or direction issued under this Act,

shall be punishable for the first offence with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both and for a second or any subsequent offence with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.

(2) Any person who obstructs any person authorised under this Act to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

63. 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 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.

64. Prosecution and trial of offences.- (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the prescribed authority.

(2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

65. Composition of offences.- (1) The prescribed authority may by general or special order either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

(2) When 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 compounded.

66. Bar of jurisdiction of civil courts.- Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or the prescribed authority is, empowered by or under this Act, to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

67. Prescribed authority, etc., to be public servants.- The prescribed authority and any person authorised by it under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

68. 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 of any rule or order made thereunder.

(2) No suit or legal proceeding shall lie against the Government or the prescribed authority or any authority or officer subordinate to the Government or the prescribed authority for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of this Act or of any rule or order made thereunder.

69. Delegation of powers of Government.- (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 acquire land under section 17 and the power to make rules under section 71); and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any officer so empowered.

70. Act to override other laws.- The provisions of this Act and the rules made thereunder 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.

71. Power to make rules.- (1) The Government may, by notification and after previous publication make rules for carrying out all or any of the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the fees payable in respect of any application or statement under this Act;

(c) the manner of authentication of notices, orders and other instruments of the prescribed authority; and

(d) the preparation of plans for the development of any slum area or slum clearance area and matters to be included in such plans.

¹[(e) restrictions, if any, on the exercise of powers by the Board under section 5C.]¹

1. Inserted by Act 19 of 1981 w.e.f. 30.12.1980.

72. Application of the Act to certain pending cases of acquisition.-(1) The provisions of this Act shall apply also to any case or cases in which the proceedings have been started before the commencement of this Act for the acquisition of any land in a slum area under the Land Acquisition Act, 1894 (Central Act I of 1894) (hereinafter in this section referred to as the said Act), but no award has been made by the Deputy Commissioner under section 11 of the said Act before such commencement, as if,-

(i) the notification published under sub-section (1) of section 4 of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under sub-section (1) of section 9 of the said Act,

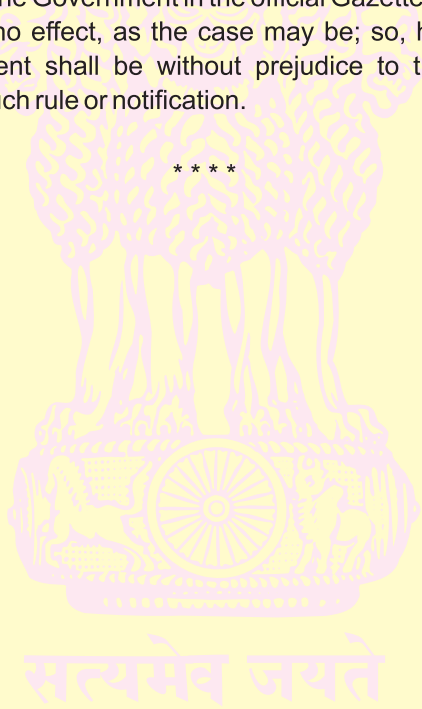
were a notice to show cause against the acquisition of the land served by the Government under the proviso to section 17 of this Act.

(2) Nothing contained in sub-section (1) shall apply in relation to any land unless and until after the Government has published a notice in the official Gazette to the

effect that the said land is required for any of the purposes specified in section 17 of this Act.

73. Laying of rules and notifications.- Every rule made or notification issued under section 69 of this Act 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 successive sessions aforesaid both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 or notification.

* * * *



The Karnataka Slum Areas (Improvement and Clearance) Act, 1973 (33 of 1974) has been amended by the following Acts, namely:-

Amendments (Chronological)

| Sl.No. | No.and year of the Act | Sections Amended | Remarks |
|--------|------------------------|---|--|
| 1. | 33 of 1974 | - | w.e.f 1.11.1974 Notification No.HMA213 MNI 74 dt.29.10.74- |
| 2. | 21 of 1978 | Preamble, 1,2,2(o) 33, Chapter VIII, 33(1), 41,42,45, | w.e.f 1.11.1974 |
| 3. | 19 of 1981 | 2(ee),2(ff),Chapter-III A, 5C, 5D 58,71(2),(e),5A, 5B, 5C, 5D | w.e.f 30.12.1980 |
| 4. | 34 of 1984 | 2(ff),5A,5B, | w.e.f 26.6.1984 |
| 5. | 26 of 1986 | 20, | w.e.f 28.5.1986 |
| 6. | 7 of 1988 | 26A | w.e.f 25.4.1988 |
| 7. | 21 of 2002 | 27,27(3),27A,27B, 34(1) (2), 37(1) & (2),37A,43, | w.e.f 17.11.2001 |

Amendments (section wise)

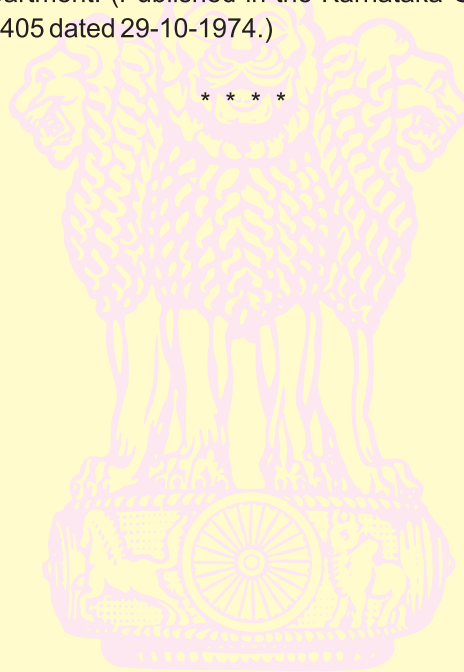
| Sections | Act No. and year | Remarks |
|----------|---|---|
| Preamble | 21 of 1978 | w.e.f. 1.11.1974 |
| 1 | 21 of 1978 | w.e.f. 1.11.1974 |
| 2 | a) 21 of 1978 b) 19 of 1981 c) 34 of 1984 | w.e.f. 1.11.1974 w.e.f. 30.12.1980 w.e.f. 26.6.1984 |

| | | |
|--------------|--------------------------------|---------------------------------------|
| Chapter IIIA | 34 of 1984 | w.e.f. 26.6.1984 |
| 5A | a) 19 of 1981 b) 34 of 1984 | w.e.f. 30.12.1980 w.e.f. 26.6.1984 |
| 5B | b) 19 of 1981 b) 34 of 1984 | w.e.f. 30.12.1980 w.e.f. 26.6.1984 |
| 5C | c) 19 of 1981 b) 34 of 1984 | w.e.f. 30.12.1980 w.e.f. 26.6.1984 |
| 5D | d) 19 of 1981 b) 34 of 1984 | w.e.f. 30.12.1980 w.e.f. 26.6.1984 |
| 20 | 26 of 1986 | w.e.f. 28.5.1986 |
| 26A | 7 of 1988 | w.e.f. 25.4.1988 |
| 27 | 21 of 2002 | w.e.f. 17.11.2001 |
| 27A | 21 of 2002 | w.e.f. 17.11.2001 |
| 27B | 21 of 2002 | w.e.f. 17.11.2001 |
| 33 | 21 of 1978 | w.e.f. 1.11.1974 |
| 34 | 21 of 2002 | w.e.f. 17.11.2001 |
| 37 | 21 of 2002 | w.e.f. 17.11.2001 |
| 37A | 21 of 2002 | w.e.f. 17.11.2001 |
| 41 | 21 of 1978 | w.e.f. 1.11.1974 |
| 42 | 21 of 1978 | w.e.f. 1.11.1974 |
| 43 | 21 of 2002 | w.e.f. 17.11.2001 |
| 45 | 21 of 1978 | w.e.f. 1.11.1974 |
| 58 | 19 of 1981 | w.e.f. 30.12.1980 |
| 71 | 19 of 1981 | w.e.f. 30.12.1980 |

NOTIFICATION**Bangalore, dated 29th October 1974.[No. HMA 213 MNI 74].**

S.O. 1875.- In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 (Karnataka Act 33 of 1974), the Government of Karnataka hereby appoints the 1st November 1974 as the date on which the said Act shall come into force. By Order and in the name of the Governor of Karnataka. K.G. RAJANNA. Under Secretary to Government, Health and Municipal Admn. Department. (Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii) as No. 3405 dated 29-10-1974.)

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सत्यमेव जयते

**THE KARNATAKA ELECTRICITY SUPPLY UNDERTAKINGS (ACQUISITION)
ACT, 1974**

ARRANGEMENT OF SECTIONS

Statements of Objects and Reasons:

Sections:

1. Short title, extent and commencement.
2. Declaration.
3. Definitions.
4. Undertakings of the companies to vest in the Government.
5. Amount to be given to companies.
6. General effect of vesting.
7. Deductions from the amount.
- 7A. Application to the Tribunal
8. Duty to deliver possession of property acquired and documents relating thereto.
9. Duty of the company to supply particulars.
10. Right of Government to disclaim certain agreement.
11. Provisions respecting the officers and employees of the company.
12. Provident and other funds.
13. Transaction resulting in dissipation of assets.
14. Constitution and powers of Tribunal.
15. Penalties.
16. Offences by companies.
17. Protection of action taken under the Act.
18. Power to make rules.
19. Power to remove difficulties.
20. Laying of rules and orders before the State legislature.
21. Effect of other laws.
22. Act to apply to undertaking voluntarily handed over to Government.

SCHEDULE.

* * * * *

STATEMENTS OF OBJECTS AND REASONS

I

Act 36 of 1974.- Seven private electrical undertakings are presently engaged in the distribution and supply of electricity in their respective licensed areas in the Belgaum Division of the State under the licenses granted to them by the erstwhile Bombay Government under section 3 of the Indian Electricity Act 1910. In addition to these, a co-operative society set up under the Pilot Scheme of the Government of India has also been authorised under Indian Electricity Act to distribute power within the Hukkeri Taluk of the State. The period of licenses granted to the seven private electrical undertaking by the erstwhile Bombay Government vary from 30 to 40 years. As and when the licenses expire, the State Electricity Board has under the provision of section 6 of the Indian Electricity Act the option of purchasing the undertakings after giving necessary notice to the licensees, in writing and the licensees are required to sell their undertaking to the Board.

With the importance given by Government to the Rural Electrification Programme for economic development of the rural areas, it has been found that the growing demands for the rural parts of the licensed area may not be met adequately by the licensees and the interest of the consumers in these area will be better served by the Board with its vast organisational and material resources at its disposal. In the present changed circumstances, it is also considered that it will not be a healthy practice to allow private licensees to function when the Statutory Electricity Board charged with the same duty is functioning in the State. To do away with this anomalous situation, it is considered necessary to take over all the private electrical undertakings by a special legislation so that the supply of power to the consumers in the respective licensed area will be smooth and satisfactory as in the case of other areas where electricity is applied by the State Electricity Board.

It is accordingly proposed to take over all the seven private electrical undertakings and hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A, as No. 789, dated 13-5-1974 at page 22.)

II

Amending Act 5 of 1976.- Sub-section (2) of section 13 of the Act enables the Government to make an application for relief in respect of any of the transactions enumerated in sub-section (1) which, in the opinion of Government, is unreasonable or made with lack of prudence, within one year from the date of vesting to a Tribunal to be constituted under section 14.

Writ petitions were filed in the High court of Karnataka challenging the validity of the Act and also against the possession by the Karnataka Electricity Board of the

undertakings which have been taken over by Government. These writ petitions were admitted and a stay was also granted by the High Court of Karnataka. Against the stay both the State Government and the Karnataka Electricity Board preferred appeals which were allowed with certain restrictions but the possession of the undertaking by the Karnataka Electricity Board remained unaltered.

Consequent to the litigations that ensued immediately after the vesting date, the majority of ex-licensees did not hand over all documents pertaining to the undertakings vested in Government and few documents were handed over by others. Also the restrictions imposed by the High Court, rendered the Karnataka Electricity Board unable to take action under sub-section (3) of section 8 of the Act to secure possession of all the assets and documents of the undertakings. Hence it was considered necessary to extend the period of limitation for making application for relief under section 13 from one year to two years.

(Obtained from L.A. Bill No. 3 of 1976.)

(Published as Notification No.10884 LA dated 20.1.1976 in Karnataka Gazette dated 22-1-1976 at page 27.)

III

Amending Act 6 of 1977.- Sub-section (2) of section 13 of the Act enables the Government to make an application for relief in respect of any of the transactions enumerated in sub-section (1) which, in the opinion of Government, is unreasonable or made with lack of prudence, within one year from the date of vesting to a Tribunal to be constituted under section 14.

Writ petitions were filed in the High Court of Karnataka challenging the validity of the Act and also against the possession by the Karnataka Electricity Board of the undertakings which have been taken over by Government. These writ petitions were admitted and a stay was also granted by the High Court of Karnataka. Against the stay both the State Government and the Karnataka Electricity Board preferred appeals which were allowed with certain restrictions but the possession of the undertaking by the Karnataka Electricity Board remained unaltered.

Consequent to the litigations that ensued immediately after the vesting date, the majority of ex-licensees did not hand over all documents pertaining to the undertakings vested in Government and few documents were handed over by others. Also the restrictions imposed by the High Court, rendered the Karnataka Electricity Board unable to take action under sub-section (3) of section 8 of the Act to secure possession of all the assets and documents of the undertakings. Hence it was considered necessary to extend the period of limitation for making application for relief under section 13 from two years to three years.

In the circumstances, an Ordinance was promulgated. This Bill seeks to replace

the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A, as No. 238, dated 28-3-1977 at pages 2-3.)

IV

Amending Act 23 of 1978.- Sub-section (2) of section 13 of the Act enables the Government to make an application for relief in respect of any of the transactions enumerated in sub-section (1) which, in the opinion of Government, is unreasonable or made with lack of prudence, within one year from the date of vesting to a Tribunal to be constituted under section 14.

Writ petitions were filed in the High court of Karnataka challenging the validity of the Act and also against the possession by the Karnataka Electricity Board of the undertakings which have been taken over by Government. These writ petitions were admitted and a stay was also granted by the High Court of Karnataka. Against the stay both the State Government and the Karnataka Electricity Board preferred appeals which were allowed with certain restrictions but the possession of the undertaking by the Karnataka Electricity Board remained unaltered.

Consequent to the litigations that ensued immediately after the vesting date, the majority of ex-licensees did not hand over all documents pertaining to the undertakings vested in Government and few documents were handed over by others. Also the restrictions imposed by the High Court, rendered the Karnataka Electricity Board unable to take action under sub-section (3) of section 8 of the Act to secure possession of all the assets and documents of the undertakings. Hence it was considered necessary to extend the period of limitation for making application for relief under section 13 from three year to five years.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A, as No. 1128, dated 9-8-1978 at page 3.)

V

Amending Act 14 of 1981.- In the Karnataka Electricity Supply Undertakings (Acquisition) Act 1974 by which seven private electric companies were taken over by the Government, the amount payable for acquisition is determined on the book value of the assets. There is no provision now in the Act for payment of solatium. Normally, in the case of acquisitions, solatium is paid in view of the compulsory nature of the acquisition. Analogous statutes in several other States provide for the payment of such solatium. In these circumstances and having considered the representation made by the Companies, it is intended to provide for payment of solatium at ten per cent by suitably amending the Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A, as No. 101, dated 3-2-1981 at page 3.)

VI

Amending Act 9 of 1995.- The High Court of Karnataka in their order in W.P.Nos 6761/1974 and 6762/1974 struck down the Karnataka Electricity supply Undertakings (Acquisition) Act, 1974 (Karnataka Act 36 of 1974) on the ground that the Act was unworkable as it did not provide for some machinery or adjudicatory forum for resolution of the dispute arising from the provisions of the Act, particularly section 5, 6 and 7. The matter is now pending before the Supreme court in Civil appeal No. 2573 / 74 of 1982 and likely to be listed for final hearing shortly.

Therefore, it is considered necessary to amend the Act to provide for making application to the tribunal constituted under section 14 in respect of disputes arising from sections 5, 6 & 7.

Since the matter was urgent and the Karnataka Legislative Assembly was not in session, the Karnataka Electricity Supply Undertaking (Acquisition) (Amendment) Ordinance, 1995 (Karnataka Ordinance 2 of 1995) was promulgated to achieve the above object.

Hence the Bill.

(Obtained from L.A. Bill No. 7 of 1995.)

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सत्यमेव जयते

KARNATAKA ACT NO. 36 OF 1974

(First published in the Karnataka Gazette, Extraordinary on the Seventeenth day of December, 1974)

**THE KARNATAKA ELECTRICITY SUPPLY UNDERTAKINGS
(ACQUISITION) ACT, 1974**

(Received the assent of the President on the Twelfth day of December, 1974).

(As Amended by Acts 5 of 1976, 6 of 1977, 23 of 1978, 14 of 1981, 9 of 1995.)

An Act to provide for the acquisition of electrical undertakings in the State of Karnataka, supplying electricity for the purpose of ensuring better supply of electricity to the general public.

WHEREAS it is expedient for the purpose of ensuring better supply of electricity to the general public, to provide for the acquisition of electrical undertakings in the State of Karnataka supplying electricity to the public other than such undertakings belonging to and under the control of, (a) the Karnataka Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (Central Act LIV of 1948) and (b) a co-operative society, and matters connected therewith and incidental thereto;

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 Electricity Supply Undertakings (Acquisition) Act, 1974.

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

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

1. Act came into force on 18.12.1974 by notification No. PWD 17 EIG 73 dated 18.12.1974

2. Declaration.- In pursuance of Article 31C of the Constitution of India, it is hereby declared that the provisions of this Act are enacted for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of Article 39 of the Constitution.

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

(1) 'account year' means the company's financial year;

(2) 'annual account' means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act, or where no such account has to be rendered under that Act, the account of the undertaking normally made up for the account year of the undertaking and audited by a Chartered

Accountant in practice within the meaning of the Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949);

(3) 'appointed date' means the date appointed under sub-section (3) of section 1;

(4) 'Board' means the Karnataka Electricity Board constituted under section 5 of the Electricity Supply Act, 1948 (Central Act LIV of 1948);

(5) 'companies' means the Amalgamated Electricity Company Limited, Belgaum, the Nipani Electricity Company Limited, Nipani, the Karwar, Electric Supply and Trading Company Limited, Karwar, the Kanara Electric Supply Company Limited, Sirsi and includes the following concerns engaged in the business of supplying electricity to the public, namely:-

(a) Manvi Brothers, Gadag;

(b) Manvi Brothers, Byadgi;

(c) Manvi Brothers, Ranebennur; and 'company' means any of the companies aforesaid;

(6) 'document' in relation to an undertaking, includes its books, accounts, registers, maps, plans, section drawings, records of survey and all other documents of whatever nature relating to the undertaking;

(7) 'Electricity Act' means the Indian Electricity Act, 1910 (Central Act 9 of 1910);

(8) 'Electricity (Supply) Act' means the Electricity Supply Act, 1948 (Central Act LIV of 1948);

(9) 'fixed assets' includes works, spare parts, stores, stocks, instruments, tools, motor and other vehicles, office and other equipments and furniture;

(10) 'Government' means the State Government;

(11) 'intangible assets' means any amount paid on account of goodwill, underwriters' commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting electricity supply;

(12) 'Tribunal' means the Tribunal constituted under section 14;

(13) 'undertaking' means an undertaking engaged in the business of supplying electricity to the public;

(14) 'vesting date' means the date on which the undertaking vest in the Government under sub-section (1) of section 4;

(15) 'works' includes electric supply-lines and any lands, buildings, workshops, projects, machinery, plant or apparatus, required to supply electricity and to carry into effect the objects of a licence granted for the supply of electricity under the Electricity Act;

(16) words and expressions used herein and not defined in this Act but defined in the Electricity Act, or the rules made under that Act, shall have the meanings respectively assigned to them in that Act or those rules.

4. Undertakings of the Companies to vest in the Government.- (1) With effect on and from the appointed date the undertakings of the companies shall, by virtue of this Act, stand transferred to and vest in the Government.

(2) Every company which after the vesting date, was in possession of, or deriving any benefit from the undertaking vested in the Government under sub-section (1) shall be liable to pay to the Government, for the period, after such vesting for which it was in such possession or deriving such benefit, an amount as compensation for the use, occupation or enjoyment of that undertaking as the prescribed authority may fix in the prescribed manner. Such authority shall take into consideration such factors as may be prescribed.

5. Amount to be given to Companies.- (1) The amount to be given to a company, the undertaking of which vests in the Government under this Act, shall be determined and paid in the manner hereinafter provided.

(2) The amount to be given shall be the aggregate value of the sums specified below:-

(i) the book value of all completed works in beneficial use pertaining to the undertaking and handed over to the Government (excluding works paid for by consumers) less depreciation calculated in the manner specified in the Schedule;

(ii) the book value of all works in progress handed over to the Government, excluding works paid for by consumers or prospective consumers;

(iii) the book value of all stores including spare parts handed over to the Government and in the case of used stores and spare parts, such sum as may be decided upon by mutual agreement between the Government and the companies;

(iv) the book value of all other fixed assets in use on the vesting date and handed over to the Government less depreciation calculated in the manner specified in the Schedule;

(v) the book value of all plant and equipment existing on the vesting date but no longer in use owing to wear and tear or to obsolescence, to the extent such value has not been written off in the books of the company less depreciation calculated in the manner specified in the Schedule;

(vi) the book value of all intangible assets to the extent such value has not been written off in the books of the companies;

(vii) the sum due from consumers in respect of every hire-purchase agreement referred to in section 6 (1) (ii) less a sum which bears to the difference between the

total sum of the instalments and the original cost of the material or equipment, the same proportion as the sum due bears to the total sum of the instalments;

(viii) any sum paid actually by the company in respect of every contract referred to in section 6 (1) (iii).

¹[(ix) a sum equal to ten percent of the aggregate of the amounts specified in clauses (i) to (vi), in consideration of the compulsory nature of acquisition;]¹

1. Inserted by Act 14 of 1981 w.e.f. 07.04.1981.

Explanation.- (a) For the purposes of this sub-section the book value of any fixed asset means its original cost, and shall comprise,-

(i) the purchase price paid by the company for the asset, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking;

(ii) interest charges on capital expenditure incurred from borrowed money and shown in the books of the undertaking as properly attributable to the asset up to the date of bringing it into beneficial use, at a rate not exceeding six percent per annum;

(iii) cost of supervision actually incurred, but not exceeding fifteen percent of the sum referred to in paragraph (i).

(b) Where any asset was acquired after the expiry of the period to which the latest annual account relates, or where no annual account has to be rendered under the Electricity Act, the book value of the asset shall be such sum as may be decided upon by the Government after giving an opportunity of being heard to the companies.

(3) The amount to be given according to sub-section (2) less the amounts to be deducted therefrom as provided in this Act shall be the amount due and shall carry interest at the rate of five percent per annum from the vesting date.

(4) The amount due may, subject to rules made in this behalf, be paid in full or in instalments not exceeding five or in bonds, negotiable or non-negotiable carrying interest at the rate specified in sub-section (3) and of guaranteed face value maturing within a specified period not exceeding ten years.

6. General effect of vesting.- (1) The Undertakings of the companies vesting in the Government under section 4 shall be deemed to consist only of property, rights, liabilities and obligations specified hereunder,-

(i) all the fixed assets of the companies and all documents relating to the undertakings;

(ii) all the rights, liabilities and obligations of the companies under hire purchase agreements, if any, for the supply of materials or equipment made bona fide before the vesting date;

(iii) all the rights, liabilities and obligations of the companies under any other contract entered into bona fide before the vesting date not being a contract relating to the borrowing or lending of money.

(2) All the assets specified in item (i) of sub-section (1) shall vest in the Government free from any debts, mortgages or similar obligations of the companies for attaching to the undertakings:

Provided that such debts, mortgages or obligations shall attach to the amount to be given under this Act for the assets.

(3) In the case of undertakings which vest in the Government under this Act, the licence granted or deemed to be granted for supplying electricity shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the companies under any agreement to supply electricity entered into before that date shall devolve on the Government:

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the Government and in force on the vesting date, the agreement shall be voidable at the option of the Government.

(4) The Government may, by notification, provide for the transfer to, and vesting in, the Board, in such manner and subject to such conditions as may be specified in the notification, of property, rights, liabilities and obligations which have vested in the Government under this Act and thereupon, such property, rights, liabilities and obligations shall stand transferred to, and vest in the Board.

7. Deductions from the amount.- The Government shall be entitled to deduct the following sums from the amount to be given to a company under this Act:-

(a) the sum, if any, already given in advance by way of any amount to be given under section 5;

(b) the sum, if any, specified under sub-section (2) of section 4;

(c) the sum, if any, which may be, or ordered to be, deducted under section 9 or 11;

(d) the sum due, if any, from the company to the Government or the Board for electricity supplied by the Board for any period prior to one month immediately preceding the vesting date;

(e) all other sums and arrears of interest, if any, thereon due from the company to the Government or the Board except loans and arrears of interest, if any, thereon:

Provided that instalments of such loans and arrears of interest, if any, thereon which have accrued due during any period prior to one month immediately preceding the vesting date and outstanding on that date shall be deducted;

(f) the sum, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the sum of such loss being deemed to be the sum by which the market value of such property or rights exceeds the amount payable therefor under this Act, together with any income which might have been realised as aforesaid;

(g) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date in so far as they have not been paid over by the company to the Government, less the sums which according to the books of the company are due from the consumers to the company for electricity supplied by it before the date;

(h) all advances from consumers and prospective consumers, and all sums which have been or ought to be set aside to the credit of the consumer's fund in so far as such advances or sums have not been paid over by the Company to the Government.

Explanation.- For the purposes of this clause, "Consumers' fund" shall, for any account year prior to the date on which the Sixth Schedule to the Electricity Supply Act came into force mean the amount referred to as such in the bulk supply agreement and, for any account year on and from the said date, it shall mean the amount specified in paragraph II (1) of the said Schedule as the amount to be set apart for distribution to consumers;

(i) if, under any law, award, agreement, contract of service or otherwise, the salary, wages, leave salary, bonus, pension, gratuity, provident fund, security deposit or other payment, becomes payable to a member of the staff after a specified period of service rendered by such member in connection with the undertaking, such member having been transferred to the Government,-

(a) before the expiry of such specified period, a sum equal to the sum which bears to the full salary, wages, leave salary, bonus, pension, gratuity, provident fund, security deposit or other payment payable after the expiry of the said specified period, the same proportion as the period upto the vesting date bears to the whole of the said specified period;

(b) after the expiry of such specified period, a sum equal to full such salary, wages, leave salary, bonus, pension, gratuity, provident fund, security deposit or other payment:

Provided that where any reserve fund has been created towards the salary, wages, leave salary, bonus, pension, gratuity, provident fund, security deposit or other payment referred to in this clause and such reserve fund shall vest in the Government under this Act, the amount of such reserve fund so vested shall not be deducted under this clause;

(j) sums, if any, in the credit of development rebate reserve, contingencies, reserves, tariff and dividend control reserve, consumers rebate reserve, reserve for bad and doubtful debts or any other reserve fund.

[7A. Application to the Tribunal.- Any person disputing,-

- (i) the amount determinable and payable under section 5; or,
- (ii) as to which property, rights, liabilities and obligations of the companies vest in the Government under section 6; or
- (iii) the amount liable to be deducted under section 7;

may within three months from the date of commencement of the Karnataka Electricity Supply Undertakings (Acquisition) (Amendment) Act, 1995, apply to the Tribunal.

Provided that the Tribunal may entertain such application after the period specified above if it is satisfied that the person making the application had sufficient cause for not making the application within that period.]¹

1. Section 7A Inserted by Act 9 of 1995 w.e.f. 18.12.1974.

8. Duty to deliver possession of property acquired and documents relating thereto.- (1) In respect of property vesting in the Government under section 4 every person in whose possession or custody or under whose control the property may be, shall deliver up the property to such officer or authority appointed by the Government for the purpose, forthwith and until it is delivered such person shall from the vesting date be deemed to be in possession, custody or control of the property on behalf of the Government.

(2) Any person who on the vesting date has in his possession or custody or under his control any document which has vested in the Government under this Act shall be liable to account for such document to the Government and shall deliver it up to the officer or authority referred to in sub-section (1).

(3) Without prejudice to the other provisions contained in this section it shall be lawful for such officer or authority to take all necessary steps for securing possession of all the assets and document which have vested in the Government under section 4.

9. Duty of the company to supply particulars.- (1) In respect of the undertaking of a company vesting in the Government under this Act, the company shall, within two months from the vesting date or such further period as the Government may allow in this behalf, furnish to the Government,-

(a) particulars of the book debts and investments belonging to and all liabilities and obligations of the company subsisting immediately before the vesting date; and

(b) particulars of all agreements entered into by the company and in force on the vesting date including any agreements whether express or implied relating to leave, pension, gratuity and other terms of service of any officer or other employee of the

company under which by virtue of this Act the Government has or will or may have liabilities or obligations and for this purpose the Government shall afford the company all reasonable facilities.

(2) If the company fails to supply to the Government particulars of book debts, liabilities and agreement within the time allowed to it for the purpose under sub-section (1), nothing contained in this Act shall have effect so as to transfer any such book debts, liabilities and agreements or to vest the same in the Government:

Provided that nothing in this sub-section shall apply to any agreement if any party to such agreement supplies to the Government, particulars of the agreements within two months from the vesting date and the Government, within a period of six months after such submission of particulars accept the liabilities under the agreement.

(2) The Government may, by notice in writing within a period of six months after submission of the particulars referred to under sub-section (1) intimate to the company that such book debts and investments as are specified in the notice are not included in the property vesting in the Government, whereupon the amount provided by section 5 shall stand reduced by the amount of such excluded book debts and investments and the right of the company to recover and retain such excluded book debts shall remain unaffected by this Act.

10. Right of Government to disclaim certain agreement.- (1) Where it appears to the Government that the making of any such agreement as is referred to in section 9 or any of the terms thereof under which the Government has or will have liabilities was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, the Government may, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such agreement and thereafter the agreement shall have effect accordingly:

Provided that no agreement shall be cancelled or varied except after giving to the parties to the agreement a reasonable opportunity of being heard.

(2) Any person, aggrieved by an order made under sub-section (1) may within such time as may be prescribed make an application to the Tribunal for the variation or reversal of such order and thereupon the Tribunal may confirm, modify or vary such order.

11. Provisions respecting the officers and employees of the company.- (1) Subject to the provisions of sections 10 and 13, every officer or other employee (except a Director, Advisor, Consumer or Auditor) employed before the vesting date in connection with the affairs of the undertakings which have vested in the Government by virtue of this Act, shall become as from that date, an officer or other employee as the case may be, of the Government and shall hold his office or service by the same tenure, at the same remuneration and upon the same terms and conditions and with

the same rights and privileges as to pension, gratuity and other matters as he would have held under the company if its undertakings had not vested in the Government and shall continue to do so unless and until his employment under the Government is terminated after giving him three calendar months notice in writing or paying him three months pay in lieu of such notice or until his remuneration, terms and conditions including the privileges as to pension and gratuity are altered by rules or orders made by the Government:

Provided that nothing contained in this sub-section shall apply to any officer or employee who has by notice in writing given to the Government or to any person nominated in this behalf by the Government, within thirty days from the appointed day intimated his intention of not becoming an officer or other employee of the Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947) or in any other law for the time being in force, the transfer of the services of any officer or other employee of the company by virtue of this Act shall not entitle any such officer or other employee to any compensation under this Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

12. Provident and other funds.- (1) Where a company has established a provident fund, superannuation, welfare or other fund for the benefit of its officers or other employees, the moneys relatable to the officers or other employees whose services have become transferred by or under this Act to the Government shall out of the moneys standing on the vesting date to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to and vest in the Government.

(2) The moneys which stand transferred under sub-section (1) to the Government shall be dealt with by the Government in such manner as may be prescribed.

13. Transaction resulting in dissipation of assets.- (1) This section shall apply where the company has, after the first day of January 1972 and before the vesting date,-

- (a) made any payment to any person without consideration or for an inadequate consideration;
- (b) sold or disposed of any of its properties or rights without consideration or for an inadequate consideration;
- (c) acquired any property or rights for an excessive consideration;
- (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the company;

- (e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the company exceeding any benefit accruing to the company; or
- (f) sold or otherwise transferred any equipment or machinery or other property of book value exceeding rupees ten thousand; and

the payment, sale, disposal, acquisition, agreement or variation thereof or other transaction or transfer, was not reasonably necessary for the purpose of carrying on the undertakings of the company, or was made with lack of prudence on the part of the company regard being had, in either case, to the circumstances at the time.

(2) The Government may, at any time, within ¹[five year]¹ from the vesting date, apply for relief to the Tribunal in respect of any transaction to which in the opinion of the Government this section applies and all parties to the transaction shall, unless the Tribunal otherwise directs, be made parties to the application.

1. Substituted by Act 23 of 1978 w.e.f. 18.12.1974.

(3) Where the Tribunal is satisfied that the transaction in respect of which an application is made is a transaction to which this section applies, then, unless, the Tribunal is also satisfied that the transaction was a proper transaction made in the ordinary course of business, regard being had to the circumstances at the time, and was not in any way connected with any provisions made by this Act, or in anticipation of the making of any such provision, the Tribunal shall make such order against any of the parties to the application as it thinks just having regard to the extent to which the parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case.

(4) Where an application is made to the Tribunal under this section in respect of any transaction and the application is determined in favour of the Government, the Tribunal shall have exclusive jurisdiction to determine any claims outstanding in respect of the transaction. On any such application, the Tribunal may order that Government deduct from the amount payable to the company under this Act, such amount as it may consider to be the loss sustained by the Government by virtue of any transaction referred to in sub-section (1).

(5) Any amount ordered by the Tribunal to be deducted from the amount under sub-section (4) shall be a first charge on the amount payable to the company and shall have priority over the claims of any person in respect of the amount payable to the company.

(6) For the purpose of satisfying the first charge referred to in sub-section (5), the Government shall withhold ten per centum of the amount payable to the company under section 5.

(7) After satisfying the first charge in favour of the Government under sub-section (5), the balance, if any of the amount withheld under sub-section (6), shall be paid to the company:

Provided that the Tribunal may at any earlier time order payment of such amount as is in excess of the amount which in its opinion would be sufficient to satisfy the first charge under sub-section (5):

Provided further that all payments under this sub-section shall be made in cash with interest at half percent from the vesting date.

14. Constitution and powers of Tribunal.- (1) The Government shall by notification constitute a tribunal consisting of an officer not below the rank of a District judge.

(2) For the purpose of deciding any matter ¹[under sections 5, 6, 7, 7A, 10 and 13]¹ the Tribunal may require any or all the parties to state their case in respect of such matter and may call upon them to adduce such evidence as may be necessary for the determination of the case.

1. Substituted by Act 9 of 1995 w.e.f. 18.12.1974

(3) The Tribunal shall have the powers of a Civil Court while trying a suit under the Code of Civil Procedure 1908 (Central Act V of 1908) in respect of the following matters:-

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) such other matters as may be prescribed.

(4) The Tribunal may regulate its own procedure and review its decision in the event of there being a mistake on the fact of the record or correct any arithmetical or clerical error therein but subject thereto and subject to the provisions of sub-section (5), the decision of the Tribunal on any matter within its jurisdiction shall be final and shall not be called in question in any court of law.

(5) The Government or any person aggrieved by any order of the Tribunal may, within thirty days from the date of the order, appeal to the High Court of Karnataka and the High Court may pass such orders thereon as it thinks fit.

15. Penalties.- (1) If any person wilfully withholds or fails to deliver to the Government as required by section 8 any documents which may be in his possession or wrongfully obtains possession of any property of the company which has vested in

the Government under this Act, or having any such property in his possession wrongfully withholds it from the Government, or wilfully applies to purposes other than those expressed in or authorised by this Act, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees, or with both and in the cases of a continuing offence with additional fine which may extend to five hundred rupees for every day after the first during which the offence continues and may be ordered by the court trying the offence to deliver up or refund within the time to be fixed by the court any such document or property improperly obtained or wrongfully withheld or wilfully misapplied, and in default, to suffer imprisonment for a further period which may extend to one year.

(2) Whoever fails without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder, or any direction or order issued in pursuance thereof shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to five thousand rupees and in the case of a continuing offence with additional fine which may extend to five hundred rupees for every day after the first during which the offence continues.

(3) No court shall take cognizance of any offence punishable under this section except with the previous sanction of the Government or of an officer authorised by it in this behalf.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed 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 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 any 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. Protection of action taken under the Act.- No suit, prosecution, or other legal proceeding shall lie against the Government or any officer or servant of the Government or any person acting under the direction of the Government or of any officer or servant of the Government in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

18. Power to make rules.- The Government may by notification make rules to carry out the purposes of this Act.

19. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notified order, not inconsistent with the provisions of this Act remove 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.

20. Laying of rules and orders before the State Legislature.- Every rule made under this Act and every order issued under section 19 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 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 order or both Houses agree that the rule, or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule or order.

21. Effect of other laws.- (1) No provision of the Electricity Act or of the Electricity Supply Act or of any rule made under any of those Acts or of any instrument having effect by virtue of any of those Acts or any rule made thereunder shall in so far as it is inconsistent with any of the provisions of this Act have any effect.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to and not in derogation of the Electricity Act and the Electricity Supply Act.

22. Act to apply to undertaking voluntarily handed over to Government.- Where an undertaking has been voluntarily handed over by a company to the Government before the commencement of this Act, and the Government have taken possession of such undertaking, the provisions of this Act shall apply to such undertaking as if such undertaking vests in the Government under this Act. All the provisions of this Act shall accordingly apply to such undertaking:

Provided that where under this Act any period is to be computed from the vesting date, such period shall, in relation to any undertaking to which this section applies, be computed from the date of the publication of this Act in the official Gazette.

SCHEDULE
(See Section 5)

For purposes of payment of amount under section 5 the depreciation shall be calculated at annual rates arrived at by dividing ninety percent of the book value of each asset by the number of years of life of the asset as specified in the Table below. For the account year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the last completed account year till the vesting date, the depreciation shall be calculated pro rata. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

TABLE

| Description of assets | Number of years or period |
|--------------------------------------|-----------------------------------|
| 1 | 2 |
| A. Land owned under full title | Infinite |
| B. Land held under lease, - | The period of lease or the |
| (a) for investment in the land | period remaining unexpired on the |
| | assignment of the lease. |
| (b) for cost of clearing site | The period of the lease remaining |
| | unexpired at the date of clearing |
| | the site. |
| C. Assets purchased new, - | |
| (a) Building and Civil engineering | |
| works of a permanent character, | |
| not mentioned above. | |
| (i) Offices and show rooms | Fifty |
| (ii) Temporary erections such | |
| as wooden structures | Five |
| (iii) Others | Fifty |
| (b) Transformer, transformer | |
| kiosk, sub-station equipment | |
| and other fixed apparatus | |
| (including plant foundations), - | |

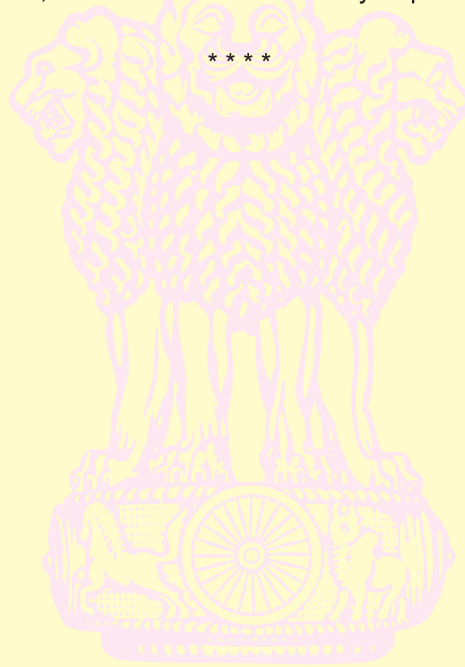
| | | | |
|--|----|----|---|
| (i) Transformers (including foundations) having a rating of 100 kilovolt amperes and over | .. | .. | Thirty-five |
| (ii) Others | .. | .. | Twenty-five |
| (c) Switchgear, including cable connections | .. | .. | Twenty |
| (d) Batteries | .. | .. | Ten |
| (e) (1) Underground cables, including joint boxes and disconnecting boxes | .. | .. | Forty |
| (2) Cable duct system | .. | .. | Sixty |
| (f) Overhead lines including supports,- | | | |
| (i) lines on steel or reinforced concrete supports operating at nominal voltages higher than 13.2 kilo volts | .. | .. | Thirty |
| (ii) other lines on steel or reinforced concrete supports | .. | .. | Twenty-five |
| (iii) Lines on wood supports | .. | .. | Twenty |
| (g) Meters | .. | .. | Fifteen |
| (h) Self-propelled vehicles | .. | .. | Seven |
| (l) Station machine tools | .. | .. | Twenty |
| (j) (i) Office furniture and fittings | .. | .. | Twenty |
| (ii) Office equipment | .. | .. | Ten |
| (k) Apparatus let on hire,- | | | |
| (i) Other than motors | .. | .. | Seven |
| (ii) Motors | .. | .. | Twenty |
| D. Assets purchased second hand and assets not otherwise provided for in this table. | | | Such reasonable period as the Government determine in each case having regard to the nature, age and condition of the asset at the time of its acquisition by the Government. |

NOTIFICATION

Bangalore dated 18-12-1974 [No. PWD 17 EIG 73]

S.O. 2591.- In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Electricity Supply Undertakings (Acquisition) Act, 1974 (Karnataka Act 36 of 1974), the Government of Karnataka hereby appoints the 18th day of December 1974 as the date on which the said Act shall come into force. By Order and in the name of the Governor of Karnataka S. VARADAN, Commissioner for Public Works and Secretary to Government, Public Works and Electricity Department.

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सत्यमेव जयते