

## THE KARNATAKA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS)

ACT, 1977

### ARRANGEMENT OF SECTIONS.

Statement of Object and Reasons

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Declaration of relief undertaking.
4. Power to specify industrial relations and other facilities temporarily.
5. Suspension or modification of certain remedies, etc.
6. Period of limitation.
7. Power to make rules.

SCHEDULE

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### STATEMENT OF OBJECTS AND REASONS

I

**Act 24 of 1977.-** 1. There are a number of sick undertakings, some of which have even remained closed for a considerable length of time resulting in loss of production, unemployment and hardship to employees, etc. It is necessary to revive these units, gear up production and provide employment.

2. The causes for sickness of these industries are mainly erosion of capital as a result of continuous losses, inadequate working capital because of the Commercial Banks and creditors choking up assistance, for fear of dilution of security, poor liquidity, pressure from creditors for settlement of claims and the labour unrest like strikes, lay-off, etc. The State Government have in consultation with the concerned financial institutions and commercial banks been taking active interest in rehabilitating most of such units; for example, Mysore Electro-Chemical Works Limited, Karnataka Steel and Wire Products Ltd., Tanfort Tyres Ltd., Sree Shankara Textile Mills, Mysore Tools Limited etc. In the case of Mysore Electro-Chemical Works Limited, the Industrial Reconstruction Corporation of India Limited, Calcutta (a Government of India Organisation) are the chief promoters for its rehabilitation. In all these cases, the State Government as also the financing institutions and Commercial Banks have reasons to apprehend that any effort to rehabilitate the undertakings by providing the required additional financial assistance might not have the desired result (successful

rehabilitation) as any move by creditors for liquidation of the Company (by filling a liquidation petition in the High Court) might retard nullify the entire efforts.

Hence this Bill.

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

## II

**Amending Act 23 of 1989.-** Section 3 of the Karnataka Relief Undertakings (Special Provision) Act, 1977 empowers the State Government to declare in public interest by a notification, any State industrial undertakings specified therein to be a relief undertaking for a period not exceeding two years, in the first instance and by

like notification to extend the period from time to time by any period not exceeding one year, so however that the aggregate period shall not be more than ten years.

It is considered necessary that certain State industrial undertakings require this relief measure for a further period of two years for the purpose of providing continued employment and to prevent their closure.

Further, as the aggregate period of ten years has expired in the case of Mysore Electrical Industries, it was considered necessary and expedient to immediately extend the period of relief.

This Bill seeks to replace the Karnataka Relief Undertakings (Special Provisions) (amendment) Ordinance, 1989 which was promulgated for the purposes stated above.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV - 2A No. 158 dated 23-3-1989 at page 3.)

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सत्यमेव जयते

**KARNATAKA ACT NO. 24 OF 1977**

*(First published in the Karnataka Gazette, Extraordinary on the Seventh day of September 1977)*

**THE KARNATAKA RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) ACT, 1977**

*(Received the assent of the President on the First day of September 1977)*

*(As Amended by Act 23 of 1989)*

**An Act to make temporary provisions in respect of industrial undertakings the running of which is considered essential as a measure of preventing or of providing relief against unemployment;**

WHEREAS it is expedient to enable the State Government to make special provisions in respect of industrial relations and other matters in relation to industrial undertaking the running of which is considered essential as a measure of preventing or of providing relief against unemployment;

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

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Relief Undertakings (Special Provisions) Act, 1977.

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

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

1. Act came into force on 5.10.1977 Vide Notification No. CI 208 PUM 77 dt. 4.10.1977

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

(1) 'Government company' shall have the same meaning assigned to it in section 617 of the Companies Act, 1956;

(2) 'industry' means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen and the word 'industrials' shall be construed accordingly;

(3) 'relief undertaking' means a State industrial undertaking declared as such under section 3;

(4) 'State industrial undertaking' means an industrial undertaking,-

(a) which is started or which or the management of which is under any law or agreement acquired or otherwise taken over by the State Government or by a

Government company and is run or proposed to be run by or under the authority of the State Government or a Government company; or

(b) to which any loan advanced or grant has been given or in respect of any loan whereof, a guarantee has been given by the State Government or a Government company or a Corporation owned or controlled by the State Government.

**3. Declaration of relief undertaking.-** The State Government may, if it is satisfied that it is necessary or expedient so to do in the public interest with a view to enable the continued running of State industrial undertaking as a measure of providing relief against unemployment, declare, by notification, that any State industrial undertaking shall on and from such date and for such period as may be specified in the notification be a relief undertaking:

Provided that the period so specified shall not exceed in the first instance two years but may by a like notification be extended from time to time by any period not exceeding one year at a time, so, however, that the aggregate shall not be more than <sup>1</sup>[twelve years]<sup>1</sup>.

1. Substituted by Act 23 of 1989 w.e.f. 9.1.1989

**4. Power to specify industrial relations and other facilities temporarily.-** (1) Notwithstanding any law, usage, custom, contract, instrument, decree, order, award, submission, settlement, standing order or other provisions whatsoever, the State Government may, if satisfied that it is necessary so to do for the purpose specified in section 3, by notification, direct,-

(a) that in relation to relief undertaking all or any of the enactments specified in the Schedule to this Act shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission as may be specified in such notification; or

(b) that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which any relief undertaking is a party or which may be applicable to any relief undertaking) immediately before the date on which the State industrial undertaking is declared to be a relief undertaking shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date shall remain suspended or shall be enforceable with such modifications and in such manner as may be specified in such notification.

(2) The notification issued under sub-section (1) shall have over-riding effect notwithstanding anything to the contrary contained in any other law, agreement, or instrument or decree or order of a court, tribunal, officer or other authority.

**5. Suspension or modification of certain remedies, etc.-** Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1) of section 4 and suspended or modified by a notification under that sub-

section shall, in accordance with the terms of the notification, be suspended or modified and all proceedings relating thereto pending before any court, tribunal or officer or other authority shall accordingly be stayed or be continued subject to such modification, so, however, that on the notification ceasing to have effect,-

(a) any right, privilege, obligation or liability so suspended or modified shall revive and be enforceable as if the notification had never been issued; and

(b) any proceeding so stayed shall be proceeded with subject to the provisions of any law which may then be in force from the stage which had been reached when the proceeding was stayed.

**6. Period of limitation.-** In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1) of section 4, the period during which it or the remedy for the enforcement thereof was suspended, shall be excluded.

**7. Power to make rules.-** (1) The State Government may, by notification, make rules to carry out the purposes of this Act.

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

## SCHEDULE

[See section 4 (1) (a) ]

1. The Industrial Employment (Standing Orders) Act, 1946 (Central Act 20 of 1946);
2. The Industrial Disputes Act, 1947 (Central Act 14 of 1947);
3. The Minimum Wages Act, 1948 (Central Act 11 of 1948);
4. The Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962).

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**COMMERCE AND INDUSTRIES SECRETARIAT.**

**NOTIFICATION**

**Bangalore, dated 4th October 1977 [No. CI 208 PUM 77]**

**G.S.R. 301.-** In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Relief Undertakings (Special Provisions) Act, 1977 (Karnataka Act 24 of 1977), the Government of Karnataka hereby appoints the Fifth day of October, 1977 as the date on which the said Act shall come into force.

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

(V. VENUGAPAL NAIDU,)

*Commissioner for Industries and Secretary to Government,  
Commerce and Industries Department.*

(Published in the Karnataka Gazette (Extraordinary) Part II - 2C (i) dated 4-10-1977 as Page No. 813.)

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**THE KARNATAKA CERTAIN INAMS ABOLITION ACT, 1977**  
**ARRANGEMENT OF SECTIONS**

Statement of Objects and Reasons:

Sections:

**CHAPTER I**  
**PRELIMINARY**

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

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

4. Abolition, vesting of inams and the consequences thereof.
5. Right to be registered as occupants.
6. Certain lands not to be registered.
7. Vesting of buildings.
8. Right to agricultural land used for non-agricultural purposes.
9. Liability to pay land revenue to the State Government.
10. Saving of right in certain cases.

**CHAPTER III**  
**REGISTRATION AS AN OCCUPANT**

11. Procedure for registration as an occupant.
12. Payment of premium, etc.

**CHAPTER IV**  
**DETERMINATION OF AMOUNT PAYABLE IN RESPECT OF PERSONAL INAMS**

13. Amount payable how determined.
14. Amount payable.
15. Payment of amount.
16. Interim payment.
17. Deputy Commissioner to determine total amount payable.

18. Notices to persons interested in account.
19. Apportionment of amount by the Deputy Commissioner.
20. Procedure for apportionment of amount.
21. Claims of creditors.
22. Devolution of interest in amount.

#### **CHAPTER V**

#### **AMOUNT PAYABLE IN RESPECT OF RELIGIOUS OR CHARITABLE INAMS**

23. Amount payable.
24. Deputy Commissioner to determine the amount.

#### **CHAPTER VI**

#### **MISCELLANEOUS**

25. Extent of land of which a person may be registered as an occupant.
26. Disposal of lands vesting in the State Government.
27. Revision by the Regional Commissioner.
28. Control by the Regional Commissioner.
29. Revision by the State Government.
30. Appeal from orders under sections 17, 19 and 24.
31. Wrong and excess payments to be recoverable as arrears of land revenue.
32. Enquiries by the Deputy Commissioner.
33. Fee payable on applications, petitions etc. under this Act.
34. Jurisdiction of courts barred in certain cases.
35. Power to make rules.
36. Penalties.
- 36A. Transfer of cases.
37. Power to remove difficulties.
38. Laying of rules and order before the State Legislature.

NOTIFICATION

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## STATEMENT OF OBJECTS AND REASONS

### I

**Act 10 of 1978.**- The following inam abolition laws have been in force in the State:-

- (1) The Bombay Personal Inams Abolition Act, 1952 (Bombay Act No. XLI of 1953).
- (2) The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bombay Act No. LXX of 1953)
- (3) The Bombay Merged Territories and Areas (Jagir Abolition) Act, 1953 (Bombay Act No. XXXIX of 1954).
- (4) The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bombay Act XXII of 1955).
- (5) The Hyderabad Abolition of Inams Act, 1955 (Hyderabad Act VIII of 1955).
- (6) The Madras Estates (Abolition and Conversion into Ryotwarit) Act, 1948 (Madras Act XXVI of 1948).
- (7) The Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act 1 of 1955).
- (8) The Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act XVIII of 1955).
- (9) The Bombay pargana and Kulkarni Vatan (Abolition) Act, 1950 (Bombay Act LX of 1950).
- (10) The Karnataka Village Offices Abolition Act, 1961 (Karnataka Act 14 of 1961).

Other inams are not covered by the aforesaid laws.

It is considered necessary to abolish all such tenures also so that all intermediate tenures in the State stand abolished.

Since the aforesaid inams are scattered here and there, a comprehensive piece of legislation to include them all in one Bill is proposed to be undertaken.

Hence this Bill.

(Obtained from L.A. Bill No. 64 of 1971 at page 20).

### II

**Amending Act 32 of 1979.**- (As appended to at the time of introduction of the Bill)

Under section 11 of the Karnataka Certain Inams Abolition Act, 1977 (Karnataka Act 10 of 1978), application for registration as occupant is required to be made within six months from the date when the Act is brought into force. The Act was brought into force on 15th June, 1978. Under section 10 of the Karnataka (Sandur Area) Inams Abolition Act, 1976 (Karnataka Act 54 of 1976) application for registration as occupant

is required to be made within six months from the date on which the Act is brought into force. The Act was brought into force on 8th November, 1976.

Since the Last date for receipt of applications for registration as occupants under the two Acts expired before the rules under the said Acts could be finalised, it is proposed to remove the difficulty thereby caused to the applicants by extending the last date for the receipt of applications, till 31st March, 1980 (Inclusive). Opportunity has also been taken to include a formal amendment to sub-section (4) of section 1 of the Karnataka (Sandur Area) Inams Abolition Act, 1976.

Hence the Bill.

(Obtained from L.C. Bill Copy of L.A. Bill No. 41 of 1979)

### III

**Amending Act 23 of 1981.-** The last date for making applications for registration as occupants of lands vested in the Government under the Mysore (Religious and Charitable) Inams Abolition Act, 1955, the (Sandur Area) Inams Abolition Act, 1976, and the Certain Inams Abolition Act, 1977 has expired. Representation have been received to extend the time as many bonafide occupants could not file their applications. It is considered necessary to extend the time till 30th June, 1981.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 3-2-1981 as No. 91 at page 4.)

### IV

**Amending Act 24 of 1984.-** Under the Mysore Religious and Charitable Inams Abolition Act, 1955, the (Sandur Area) Inams Abolition Act, 1976, the Karnataka Certain Inams Abolition Act, 1977 occupants of agricultural lands eligible for registration as occupants had to file applications within the specified time. The above Acts amended by Karnataka Act 23 of 1981 and time was extended upto 30th June, 1981.

Several presentations were received requesting for grant of further extension of time to file applications as quite a few small holders of Inams Lands were not aware of the need to file such applications.

With a view to helping such holders of Inams Lands, it is considered necessary to extend the time till 31st March 1984. An ordinance was promulgated to give effect to this decision. This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 23-1-1984 as No. 66 at page 4.)

### V

**Amending Act 29 of 1984.-** (As appended to at the time of Introduction of the Bill)

The enfranchised inams lands in the old Madras area viz., Bellary District and Kollegal Taluk of Mysore District were enfranchised (freed from encumbrance) by the then Government of Madras and they were transferable and heritable. Inams title deeds were also issued.

It was represented to Government that in view of the above the enfranchised inams should not be treated on par with other inams with regard to registration of occupancy rights and restrictions on transfer. With a view to remove the hardship caused to the holders of these enfranchised inam lands, it is considered necessary to simplify and modify the procedure for registration of occupancy rights, of these inamdars (other than tenants) and to relax the restrictions on alienations of such lands by them by amending the provisions of the Karnataka Certain Inams Abolition Act, 1977.

Hence the Bill.

(Obtained from the L.C. Bill Copy of L.A. Bill No. 27 of 1984.)

**VI**

**Amending Act 19 of 1986.-** In the Karnataka Land Reforms Act, 1961, there is no provision for preferring an appeal against the order passed by the Land Reforms Tribunal.

The High Court of Karnataka in Writ Petition No.28441/1981 has observed that the disposal of the cases by the Tribunal is not satisfactory and to facilitate proper adjudication of disputes a provision in the Act for preferring an appeal is desirable.

It is hence intended to provide for an appeal against decisions of the Land Reforms Tribunal by constituting an Appellate Authority.

It is also intended to waive the instalment of premium payable on or after 17th October 1984 by person registered as occupants of land equal to 10 acres of D Class land or less.

The Karnataka Land Reforms (Amendment) Ordinance 1985 (Karnataka Ordinance 18 of 1985) was promulgated for the said purposes.

This Bill seeks to replace the said Ordinance.

Opportunity is also taken to extend the jurisdiction of the Appellate Authority to the cases under the Mysore (personnel and Miscellaneous) Inams Abolition Act, 1954, the Mysore (Religious and Charitable) Inams Abolition Act 1955, the Karnataka (Sandur Area) Inams Abolition Act, 1976 and the Certain Inams Abolition Act, 1977, decided by the Land Reforms Tribunal

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 21-2-1986)

as No. 135 at page 11.)

## VII

**Amending Act 4 of 1987.-** The last date for filling the application before Land Tribunals for registration as occupants of land vested in the Government under the Mysore Religious and Charitable Inams Abolition Act, 1955, the Karnataka (Sandur Area) Inams Abolition Act, 1976 and the Karnataka Certain Inams Abolition Act, 1977 was 31st March, 1984 and 31st December 1984 in respect of enfranchised inams.

Since representations have been received to further extend the time, the Karnataka Ordinance 16 of 1986 was promulgated on Twenty-seventh November, 1986. The present Bill is intended to replace the Ordinance. It is also proposed to enhance the time in respect of enfranchised inams.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 23-1-1987 as No. 78 at page 4.)

## VIII

**Amending Act 18 of 1990.-** After the Karnataka land Reforms Act, 1961, was amended by Act 1 of 1974, it was expected that litigations pertaining to the tenancies would be disposed off early.

However, the Act was again amended by Act No. 19 of 1986, and provision was made for an appeal to the Land Reform Appellate Authority with two Official members, of whom one was a Civil Judge from the Judicial Department and another from the Revenue Department not below the rank of a Deputy Commissioner.

Earlier to the amendment Act No. 19 of 1986, the orders of the Land Tribunals were final and they could only be questioned before the High Court in it's Writ Jurisdiction.

However, from the past experience, it is found that the desired results were not forthcoming from the constitution of the Appellate Authorities. The system has also not proved to be beneficial in the majority of the cases.

Hence, after taking all factors into consideration, the Government decided to abolish the Land Reforms Appellate Authorities and to make the decision of the Tribunal final.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 28-6-1990 as No. 420 at page 7.)

**IX**

**Amending Act 3 of 1991.-** The last date for filling the application before Land Tribunal for registration as occupants of land vested in the Government under the Karnataka (Sandur Area) Inams Abolition Act, 1976 and the Karnataka Certain Inams Abolition Act, 1977 was 30th June, 1987, including the enfranchised inams also.

Since representations have been received to extend the time, it is considered necessary to further extend the time upto 31st day of March, 1991.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV- 2A dated 28-12-1990 as No. 672 at page 3.)

**X**

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

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

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

Hence the Bill.

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

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

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**KARNATAKA ACT No. 10 OF 1978**

*(First published in the Karnataka Gazette Extraordinary on the Eighth day of May 1978)*

**THE KARNATAKA CERTAIN INAMS ABOLITION ACT, 1977**

*(Received the assent of the President on the Third day of May, 1978)*

(As Amended by Acts 32 of 1979, 23 of 1981, 24 of 1984, 29 of 1984, 19 of 1986, 4 of 1987, 18 of 1990, 3 of 1991 and 17 of 2007)

**An Act to provide for the abolition of certain inams in the State of Karnataka.**

WHEREAS laws providing for abolition of certain personal, religious and charitable inams in the State are already in force ;

WHEREAS in certain areas of the State certain categories of inams are still existing ;

WHEREAS it is expedient in the public interest to provide for the abolition of all such remaining inams ;

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

**CHAPTER I  
PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act may be called the Karnataka Certain Inams Abolition Act, 1977.

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

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

1. The Act has come into force w.e.f. 5.6.1978 by notification. Text of the notification is at the end of the Act.

**2. Application.-** This Act shall apply to all inams including inams in enclave villages other than those referred to in the following :-

(1) The Bombay Personal Inams Abolition Act, 1952 (Bombay Act No. XLI of 1953).

(2) The Bombay Service Inams (Useful to Community) Abolition Act, 1953 (Bombay Act No. LXX of 1953).

(3) The Bombay Merged Territories and Areas (Jagir Abolition) Act, 1953 (Bombay Act No. XXXIX of 1954).

(4) The Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955 (Bombay Act XXII of 1955).

(5) The Hyderabad Abolition of Inams Act, 1955 (Hyderabad Act VIII of 1955).

(6) The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).

(7) The Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 (Mysore Act 1 of 1955).

(8) The Mysore (Religious and Charitable) Inams Abolition Act, 1955 (Mysore Act XVIII of 1955).

(9) The Bombay Paragana and Kulkarni Vatan (Abolition) Act, 1950 (Bombay Act LX of 1950).

(10) The Karnataka Village Offices Abolition Act, 1961 (Karnataka Act 14 of 1961).

(11) The Karnataka (Sandur Area) Inams Abolition Act, 1976 (Karnataka Act 54 of 1976).

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

(a) "Act: means the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964);

<sup>1</sup>[(aa) x x x]<sup>1</sup>

1. Inserted by Act 19 of 1986 w.e.f. 6.12.1985 and omitted by Act 18 of 1990 w.e.f. 8.10.1990

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

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

(d) "enclave villages" mean villages transferred from one State to another State according to the provisions of the Province and State (Absorption of Enclave) Order, 1950 and the India and Hyderabad (Exchange of Enclaves) Order, 1950;

<sup>1</sup>[(da) 'enfranchised inam' means an inam of which there is proof of enfranchisement as required under the Madras Enfranchised Inams Act, 1862 (Madras Act IV of 1862);]<sup>1</sup>

(e) "inam" includes an inam village and a minor inam, a jagir, whether personal, religious, charitable or otherwise;

(f) "inamdar" means , -

(i) in the case of a personal inam, a person holding in trust or owning for his own benefit an inam village or a share therein and includes the successors in interest of an inamdar; and

(a) where an inamdar is a minor or of unsound mind or an idiot, his guardian, committee, or other legal curator ;

(b) where an inamdar is a joint Hindu family such joint Hindu family ; and

(ii) in the case of a religious or charitable inam, the religious or charitable institution owning an inam ;

(g) "inam land" or "inam village" means a land or village, as the case may be held as an inam in trust or owned by a person for his own benefit ;

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

(i) "minor inam" means an alienated holding other than an inam village, situated in an alienated village or in an unalienated village ;

(j) "person" includes a religious or charitable institution and in the case of a joint Hindu family such joint Hindu family ;

(k) "personal inam" means a grant of a village or land with total or partial exemption from the payment of land revenue made to a person and entered in the land records as an inam, other than a 'devadaya' or 'dharmadaya' and does not include religious or charitable inam ;

(l) "religious institution" includes a temple ;

(m) "religious or charitable inam" means grant of a village, portion of a village or land with total or partial exemption from the payment of land revenue made to or for the benefit of a religious or charitable institution.

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

(n) "Tribunal" means the Tribunal constituted under section 48 of the Karnataka Land Reforms Act, 1961.

(2) The words and expressions used, but not defined in this Act, shall have the meaning assigned to them in the Act or the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962).

## CHAPTER II

### ABOLITION AND VESTING OF INAMS IN THE STATE AND ITS CONSEQUENCES

**4. Abolition, vesting of inams and the consequences thereof.-** (1) Notwithstanding anything contained in any contract, grant or other instrument or in any decree or order of court or in any other law for the time being in force, with effect from and on



the appointed date, the inam tenure of all inams and minor inams to which this Act applies under section 2 shall stand abolished.

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

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

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

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

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

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

(f) no such inam shall be liable to attachment in execution of any decree or other process of any court and any attachment existing, on the date of vesting or any other order for attachment passed before such date in respect of such inam village or minor inam shall cease to be in force ;

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

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

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

(j) the tenants in the inam and persons holding under them and holders of minor inams shall, as against the State Government, be entitled only to such rights and privileges and be subject to such conditions as are provided for by or under the Karnataka Land Reforms Act, 1961 and any other rights and privileges which may have accrued to them in the inam before the date of vesting against the inamdar shall cease and determine and shall not be enforceable against the State Government or such inamdar.

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

**5. Right to be registered as occupants.-** Save as otherwise provided in this Act, with effect from and on the appointed date , -

(1) every tenant of the inamdar or holder of a minor inam shall be entitled to be registered as an occupant of lands in respect of which he was a tenant immediately before first day of March, 1974 ;

(2) where the inamdar is an institution of religious worship, a person, -

(i) rendering religious service in or maintaining the institution as a pujari, archak or the holder of a similar office by whatever name called, or

(ii) rendering any service in such institution, and personally cultivating for a continuous period of not less than three years prior to the first day of March, 1974, by contributing his own physical labour or that of the members of his family and enjoying the benefits of any land comprised in the inam of such institution without paying rent as such in money or in kind to that institution in respect of such land, shall be entitled to be registered as an occupant of such land ;

(3) every inamdar including the holder of a minor inam shall be entitled to be registered as an occupant of all lands it was personally cultivating immediately before the said date.

**6. Certain lands not to be registered.-** No holder of a minor inam and no inamdar shall be entitled to be registered as an occupant of, -

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

(ii) lands on which buildings owned by any person other than such holder of minor inam are erected.

**7. Vesting of buildings.-** (1) Every building other than a building referred to in sub-section (2) situated within the limits of a minor inam or an inam which was owned immediately before the appointed date by the holder of a minor inam or the inamdar, as the case may be, shall with effect from such date vest in the holder of minor inam or the inamdar.

(2) Every private building situated within the limits of an inam shall, with effect from the said date, vest in the person who owned it immediately before that date.

(3) Notwithstanding anything in sub-sections (1) and (2), where a tenant is in occupation of a dwelling house on a site belonging to the inamdar or the holder of a minor inam such tenant shall not be evicted therefrom but shall be conferred with ownership thereof and the site on payment of such amount as the Tribunal may fix having regard to,-

- (i) the land revenue payable on the land ;
- (ii) who constructed the dwelling house ; and
- (iii) such other factors as may be prescribed.

**8. Right to agricultural land used for non-agricultural purposes.-** (1) Where any land used for agricultural purpose has been converted to non-agricultural purpose the holder of such land shall, subject to the provisions of sub-section (3) of section 7 and the other provisions of this section, be entitled to keep the land.

(2) Where the land converted was at the time of conversion in the occupation of a tenant and the converted land has not been put to non-agricultural use for which was converted, such land shall, subject to the other provisions of this Act, be registered in the name of the tenant :

Provided that if the State Government is satisfied that the holder had done everything possible to put such land into non-agricultural use but could not do so for reasons beyond his control it, may, by order in writing permit the holder to retain the land :

Provided further that in the case referred to in the preceding proviso, the tenant shall,-

(i) notwithstanding anything in the Karnataka Land Reforms Act, 1961 be treated as a displaced tenant for purposes of section 77 of that Act;

(ii) be paid an amount equal to one hundred times the land revenue of the land of which he was a tenant and the said amount shall be deducted from the amount payable to the inamdar under this Act.

**9. Liability to pay land revenue to the State Government.-** (1) Every person who becomes entitled to be registered as an occupant under section 5 in respect any land

shall with effect from and on the appointed date be liable to pay to the State Government as land revenue,-

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

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

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

**10. Saving of right in certain cases.-** (1) Where before the appointed date an inamdar has created any right in any land which vests in the State Government, other than land registered under section 5 including rights in any mines or minerals, quarries, fisheries, ferries or forest, the transactions shall be deemed to be valid and all rights and obligations arising thereunder on or after the appointed date be enforceable by or against the State Government :

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

Provided further that where such right was created in any land, unless it relates to lands registered under section 5, the State Government may, if in its opinion, it is in the public interest to do so, by notice given to the person concerned, terminate the right with effect from such date as may be specified in the notice, not being earlier than three months from the date thereof.

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

(3) Any right or privilege exercised or enjoyed by any person in respect of uncultivated jamma lands immediately before the appointed date shall, notwithstanding anything in this Act and until other provision is made in this behalf, continue to be exercised or enjoyed.

### CHAPTER III

#### REGISTRATION AS AN OCCUPANT

**11. Procedure for registration as an occupant.-** <sup>1</sup>[(1)]<sup>1</sup> Every person entitled to be registered as an occupant under this Act shall make an application to the Tribunal constituted under the Karnataka Land Reforms Act, 1961 <sup>2</sup>[on or before <sup>3</sup>[31st day of

March, 1991]<sup>2</sup>. Such application shall be disposed of by the Tribunal as if it is an application made under the said Act:

<sup>4</sup>[Provided that where the inam is an enfranchised inam, such application by the inamdar including holder of minor inam shall be made to the Tahsildar on or before the <sup>3</sup>[thirty-first day of March, 1991]<sup>3</sup>. The application shall be decided by the Tahsildar after issuing individual notices to the concerned inamdars and after such verification and enquiry held in such manner as may be prescribed.]<sup>4</sup>

1. Renumbered by Act 19 of 1986 w.e.f. 6.12.1985.
2. Substituted by Act 23 of 1981 w.e.f. 5.6.1978.
3. Substituted by Act 3 of 1991 w.e.f. 5.6.1978.
4. Inserted by Act 29 of 1984 w.e.f. 5.5.1984.

<sup>1</sup>[2 (a) (b) x x x]<sup>1</sup>

1. Inserted by Act 19 of 1986 w.e.f. 6.12.1985 and omitted by Act 18 of 1990 w.e.f. 8.10.1990.

**12. Payment of premium, etc.-** (1) The right of an inamdar or other person to be registered as an occupant under this Act shall be subject to the payment by him to the State Government of a premium as specified below:-

- (i) an inamdar: six times the land revenue of the lands to be registered;
- (ii) other persons referred to in section 5 : one hundred times the land revenue of the lands to be registered.

(2) The said right shall also be subject to the further conditions that the land registered shall not be alienated in any manner or partitioned except with the previous sanction of the Deputy Commissioner and on payment of an amount equal to twenty times the land revenue of the lands concerned, which shall be in addition to the amount already paid as premium:

<sup>3</sup>[Provided that such sanction shall not be necessary for an inamdar including the holder of a minor inam to alienate the land of which he is registered as an occupant in an enfranchised inam.]<sup>3</sup>

## CHAPTER IV

### DETERMINATION OF AMOUNT PAYABLE IN RESPECT OF PERSONAL INAMS

**13. Amount payable how determined.-** (1) The amount payable in respect of a personal inam shall be determined in accordance with the provisions of this Chapter.

(2) The amount shall be determined for the inam as a whole and not separately for each of the interests therein.

**14. Amount payable.-** (1) The amount payable in respect of an inam other than a religious or charitable inam vesting in the State Government under this Act shall be the aggregate of the following, namely :-

(i) a sum equal to ten times the net annual income from the lands held by the tenants entitled to be registered under section 5 of this Act ;

(ii) the value, as determined by the Forest Department of such of the sandalwood trees on the said land as are actually existing on the appointed day and registered in accordance with the rules made under the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964) ; and

(iii) in respect of the income from minor forest produce (other than sandalwood) an amount equal to three times the average net annual income from minor produce derived by the inamdar in the previous three years :

Provided that where the particulars necessary to compute the average net annual income are not available for the full period, or where the particulars available appear in material respects to be incorrect, the computation may be made in such manner as may be prescribed.

(2) For purposes of sub-section (1), the net annual income shall be deemed to be,-

(i) in respect of lands held by a permanent tenant, the land revenue of such lands less the proportionate land revenue, jodi, quit rent or peshkush paid by the inamdar to the State Government, as determined in the prescribed manner ;

(ii) in respect of lands held by other tenants, ten times the land revenue of such lands less the proportionate land revenue, jodi, quit rent or peshkush paid by the inamdar to the State Government, determined in the prescribed manner.

**15. Payment of amount.-** (1) The amount shall be due as from the appointed date and shall carry interest at the rate of two and three-fourths per cent per annum from the appointed date to the date of payment.

(2) The amount payable under this Act, may, in accordance with the rules made in this behalf, be paid in one or more of the following modes, namely:-

(i) in cash, in full or in annual installments not exceeding ten ;

(ii) in bonds, either negotiable or non negotiable, carrying interest at the rate specified in sub-section (1) and of guaranteed face value maturing within a specified period not exceeding ten years :

Provided that the amount payable under the bonds issued under this clause may be repaid in such number of installments not exceeding ten as may be prescribed.

**16. Interim payment.-** (1) Where the amount is not paid to an inamdar within a period of six months from the date of vesting, the State Government shall, subject to

such restrictions and conditions as to security, repayment or otherwise, as may be prescribed, direct the payment to each such inamdar of interim amount which shall be equal to one-fifth of the estimated amount payable.

(2) Interest at the rate specified in sub-section (1) of section 15 on the estimated amount payable or on the balance of the estimated amount payable after deducting the interim payment under sub-section (1) may be paid every year until the amount payable is determined under section 17, -

(a) if there are no persons interested in the amount other than such inamdar, to such inamdar ;

(b) if there are persons other than the inamdar, interested in the amount who have made claims under section 18, to such person or persons and in such proportions as all the persons interested in the amount may by agreement in writing specify.

(3) The interim amount payable under sub-section (1), and the interest payable under sub-section (2) may be paid in the prescribed manner.

**17. Deputy Commissioner to determine total amount payable.**- (1) The Deputy Commissioner shall, after giving the applicant a reasonable opportunity to make his representation in regard thereto in writing or orally, determine in accordance with such of the foregoing provisions as may be applicable, to the inam, the total amount payable in respect of the inam:

Provided that no such determination shall be made by the Deputy Commissioner without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.

(2) Any inamdar or other person interested may, within such time as may be prescribed or such further time as the Deputy Commissioner may, in his discretion allow, apply in writing to the Deputy Commissioner for a copy of the data on the basis of which he proposes to determine the total amount payable.

(3) On receipt of such application, the Deputy Commissioner shall furnish the data aforesaid to the applicant.

(4) A copy of every order passed under sub-section (1) shall be communicated to every inamdar concerned, and also to every applicant under sub-section (2).

**18. Notices to persons interested in amount.**- (1) As soon as may be after the appointed date the Deputy Commissioner shall, -

(a) publish copies of the notification under sub-section (3) of section 1, at a convenient place in and in the vicinity of the inam ;

(b) cause public notice to be given at a convenient place in or near the inam, requiring that claims of all persons interested in the amount or in any portion thereof,

including the inamdar, the members of his family claiming any such portion whether by way of a share or by way of maintenance or otherwise, and creditors whose debts are secured by the mortgage of or as a charge on the inam or any part thereof, other than lands and buildings which vest in the inamdar under section 5 or section 7, shall be made to him, together with nature and particulars of such claims, in person or by agent at a time and place therein mentioned, such time not being earlier than sixty days from the date of publication of the notice. Such notice shall also be published in the official Gazette.

(2) Every claim against the amount payable which is not made to the Deputy Commissioner within the time aforesaid shall cease to be enforceable, except in cases where the Deputy Commissioner, for sufficient cause permits a claim to be made beyond the period aforesaid.

**19. Apportionment of amount by the Deputy Commissioner.-** The Deputy Commissioner shall, after giving notice to all persons who claim under section 18 and to any others whom he considers to be interested, make enquiry into the validity of the claims received, by him and determine the persons who, in his opinion, are entitled to the amount and the amount to which each of them is entitled.

**20. Procedure for apportionment of amount.-** (1) As a preliminary to such determination, the Deputy Commissioner shall apportion the amount among the inamdar and any other persons whose rights or interests in the inam have passed to and vested in the State Government under clause (b) of sub-section (2) of section 4 including persons who are entitled to be maintained from the inam and its income, as far as possible, in accordance with the value of their respective interests in the inam.

(2) The value of the interests shall be ascertained in such manner as may be prescribed.

**21. Claims of creditors.-** (1) After the amount has been apportioned among the persons referred to in section 20 or where it is more convenient to do so pending the apportionment, the Deputy Commissioner shall take into consideration the application of the secured creditors referred to in section 19 and decide the amount to which each such creditor is entitled and the person or persons out of whose share or shares of the amount such amount should be paid :

Provided that any amount due to the State Government either as land revenue or otherwise shall first be deducted from the amount payable.

(2) The amount payable by the State Government to secured creditors on account of holding any mortgage or charge, notwithstanding anything contained in any law for the time being in force, shall not exceed the amount payable in respect of the inam or portion thereof.



**22. Devolution of interest in amount.-** Where it is alleged that the interest of any person entitled to receive payment of any portion of the amount has devolved on any other person or persons whether by act of parties or by operation of law, the Deputy Commissioner shall, after giving the parties an opportunity of being heard, determine whether there has been any devolution of the interest and if so, on whom it has devolved.

## CHAPTER V

### AMOUNT PAYABLE IN RESPECT OF RELIGIOUS OR CHARITABLE INAMS

**23. Amount payable.-** In respect of religious or charitable inams vesting in the State Government under this Act, the State Government shall so long as the religious or charitable institutions exist, pay to the inamdar every year a sum equal to ten times the land revenue payable on the land comprised in such inams.

**24. Deputy Commissioner to determine the amount.-** (1) The Deputy Commissioner shall, by order, determine the amount payable to an inamdar under section 23.

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

## CHAPTER VI

### MISCELLANEOUS

**25. Extent of land of which a person may be registered as an occupant.-** The extent of land in respect of which a person referred to in section 5 shall be entitled to be registered as an occupant shall not, together with any land held by him, exceed the extent fixed under the Karnataka Land Reforms Act, 1961.

**26. Disposal of lands vesting in the State Government.-** Lands vesting in the State Government and in respect of which any person is not entitled to be registered as an occupant under this Act shall be disposed of in accordance with the rules framed from time to time under the Act for disposal of lands belonging to the State Government.

**27. Revision by the <sup>1</sup>[Regional Commissioner]<sup>1</sup>.-** The <sup>1</sup>[Regional Commissioner]<sup>1</sup> may, at any time, call for and examine the record of any order passed by the Deputy Commissioner under section 17 or section 24 and if he considers that such order is erroneous in so far as it is prejudicial to the interest of the State Revenues he may, after making or causing to be made such enquiry as he deems necessary and after giving the person or persons affected a reasonable opportunity of being heard, pass such order thereon as the circumstances of the case justify including an order decreasing the amount payable or directing a fresh determination by the Deputy Commissioner:

Provided that no such order shall be made ,-

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

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

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

**28. Control by the 1[Regional Commissioner]1.-** The 1[Regional Commissioner]<sup>1</sup> shall, within his jurisdiction have power,-

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

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

**29. Revision by the State Government.-** The State Government may cancel or revise any order passed by the 1[Regional Commissioner]<sup>1</sup> under section 28.

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

**30. Appeal from orders under sections 17, 19 and 24.-** (1) Against any decision of the Deputy Commissioner under sections 17, 19 and 24 the State Government may, within six months from the date of the decision and any person aggrieved by such decision may, within ninety days from the date of the decision, appeal to the Karnataka Appellate Tribunal, whose decision shall be final.

(2) If any question arises, whether any building falls within the scope of sub-section (2) of section 7, it shall be referred to the Karnataka Appellate Tribunal, whose decision shall be final.

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

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

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

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

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

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

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

(3) In respect of any act done by any officer or servant of the State Government under colour or in excess of any such duty or function, no suit, prosecution or other proceedings shall lie against such officer or servant without the previous sanction of the State Government and no such suit, prosecution or other proceedings shall be instituted after the expiry of one year from the date of the act complained of.

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

(i) connected with any matter which has to be decided by the Deputy Commissioner under sections 17, 19 and 24 of this Act ; or

(ii) relating to an order made by the Divisional Commissioner under section 27 in respect of which a right of appeal has been conferred by section 29 or 30.

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

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

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

(b) the procedure to be followed by the Deputy Commissioner and the officers or authorities appointed or having jurisdiction under this Act;

(c) the time within which applications and appeals may be presented under this Act in cases for which no specific provision in that behalf is made herein ;

(d) the application of the provisions of the Code of Civil Procedure, 1908 and the Limitation Act, 1963, to applications, appeals and proceedings, under this Act.

**36. Penalties.-** (1) If any person,-

(a) wilfully fails or neglects to comply with any lawful order passed under this Act or contravenes any such order; or

(b) offers resistance or obstruction to the Deputy Commissioner taking charge or possession of any property which is vested in the State Government under this Act; or

(c) furnishes information which he knows or has reason to believe to be false or does not believe to be true, he shall, on conviction by a magistrate, be punishable with imprisonment which may extend to three months or with fine which may extend to two hundred rupees or with both.

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

<sup>1</sup>[36A. Transfer of cases.- Any application pending before a tribunal on the date of the commencement of the Karnataka certain Inams Abolition (Amendment) Act, 1984, to which the proviso to section 11 would be applicable if it were file after such commencement, shall be transferred to the Tahsildar and shall be disposed of by him as if it had been filed before him.]<sup>1</sup>

1. Inserted by Act 29 of 1984 w.e.f. 5.5.1984.

**37. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

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

**38. Laying of rules and orders before the State Legislature .-** Every rule made under section 35 and every order issued under section 37 shall be laid as soon as may be after it is made or issued before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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 from the date on which the modification or annulment is notified by the State Government in the official Gazette, have effect only in such modified form or be of no effect as the cas may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

\* \* \* \*

### NOTIFICATION

**Bangalore, dated 15th/16th June 1978 [No. RD 31 IMA 78]**

**S.O. 1535.-** In exercise of the powers conferred by sub-section (3) of section 1 of the Karnataka Certain Inams Abolition Act 1977 (Karnataka Act No. 10 of 1978), the Government of Karnataka appoints the 5th June 1978 as the date on which this Act shall come into force.

By Order and in the name of the Governor of Karnataka

(KEMPAREDDY),

*Under Secretary to Government*

*Revenue Department.*

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii) dated 16-6-1978 as No. 960)

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सत्यमेव जयते

**THE KARNATAKA SCHEDULED CASTES AND SCHEDULED TRIBES  
(PROHIBITION OF TRANSFER OF CERTAIN LANDS) ACT, 1978**

**ARRANGEMENT OF SECTIONS**

Statement of Object and Reasons

Sections:

1. Short title and commencement.
2. Declaration under article 31C of the Constitution.
3. Definitions.
4. Prohibition to transfer of granted lands.
5. Resumption and restitution of granted lands.
- 5A. Appeal to the Deputy Commissioner.
6. Prohibition of registration of transfer of granted lands.
7. Exemption.
8. Penalty, etc.
9. Protection of action taken in good faith.
10. Power to make rules.
11. Act to override other laws.
12. Power to remove difficulties.

\* \* \* \* \*

**STATEMENT OF OBJECTS AND REASONS**

**I**

**Act 2 of 1979.-** The non-alienation clause contained in the existing Land Grant Rules and the provision for cancellation of grants where the land is alienated in contravention of the above said provision are found not sufficient to help the Scheduled Castes and Scheduled Tribes grantees whose ignorance and poverty have been exploited by persons belonging to the affluent and powerful sections to obtain sales or mortgages either for a nominal consideration or for no consideration at all and they have become the victims of circumstances. To fulfil the purposes of the grant, the land even if it has been alienated, should be restored to the original grantee or his heirs.

The Government of India has also been urging the State Government for enacting a legislation to prevent alienation of lands granted to Scheduled Castes and

Scheduled Tribes by Government on the lines of the model legislation prepared by it and circulated to the State Government.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 30-6-1978 as No. 1000 at page7.)

II

**Amending Act 3 of 1984.-** It has been considered necessary to make a provision for an appeal to District Judge against an order passed by Assistant Commissioner under the Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 23-1-1984 as No. 67 at page 4.)

III

**Amending Act 8 of 1992.-** The Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer Certain Lands) Act, 1978 does not provide for preferring an appeal to the Deputy Commissioner, by the grantee of the granted land, if the Assistant Commissioner acting under sub-section (1) of section 5 holds that the transfer is not null and void.

With a view to eliminate hardship and to minimise the burden of cost to such a grantee, it is proposed to make a provision for preferring an appeal to the Deputy Commissioner against such order made by the Assistant Commissioner.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 16-3-1992 as No. 144 at page 66.)

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सत्यमेव जयते

**KARNATAKA ACT NO. 2 OF 1979**

*(First published in the Karnataka Gazette Extraordinary on the First day  
of January, 1979)*

**THE KARNATAKA SCHEDULED CASTES AND SCHEDULED TRIBES  
(PROHIBITION OF TRANSFER OF CERTAIN LANDS) ACT, 1978**

*( Received the assent of the President on the Eighteenth day of  
December, 1978)*

(As Amended by Acts of 3 of 1984 and 8 of 1992)

**An Act to provide for the prohibition of transfer of certain lands granted by government to persons belonging to the Scheduled Castes and Scheduled Tribes in the State.**

WHEREAS it is expedient to provide for the prohibition of transfer and for restoration of lands granted by the Government to persons belonging to the Scheduled Castes and Scheduled Tribes in the State;

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

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978.

(2) It shall come into force at once.

**2. Declaration under article 31C of the Constitution.-** It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles laid down in article 46 of the Constitution.

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

(a) "bank" means,-

(i) a co-operative society (including a co-operative bank);

(ii) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

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

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

(v) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(vi) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;



(vii) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance Co-operation Act, 1963;

(viii) the Karnataka State Agro-Industries Corporation, a company incorporated under the Companies Act, 1956;

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

(x) any other financial institution owned or controlled by the Government or the Central Government and notified by the Government as a bank for the purpose of this Act;

(b) "granted land" means any land granted by the Government to a person belonging to any of the Scheduled Castes or the Scheduled Tribes and includes land allotted or granted to such person under the relevant law for the time being in force relating to agrarian reforms or land ceilings or abolition of inams, other than that relating to hereditary offices or rights and the word "granted" shall be construed accordingly;

(c) "Government" means the Government of Karnataka;

(d) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the Constitution;

(e) "transfer" means a sale, gift, exchange, mortgage (with or without possession), lease or any other transaction not being a partition among members of a family or a testamentary disposition and includes the creation of a charge or an agreement to sell, exchange, mortgage or lease or enter into any other transaction.

(2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Karnataka Land Revenue Act, 1964.

**4. Prohibition of transfer of granted lands.-** (1) Notwithstanding anything in any law, agreement, contract or instrument, any transfer of granted land made either before or after the commencement of this Act, in contravention of the terms of the grant of such land or the law providing for such grant, or sub-section (2) shall be null and void and no right, title or interest in such land shall be conveyed or be deemed ever to have conveyed by such transfer.

(2) No person shall, after the commencement of this Act, transfer or acquire by transfer any granted land without the previous permission of the Government.

(3) The provisions of sub-sections (1) and (2) shall apply also to the sale of any land in execution of a decree or order of a civil court or of any award or order of any other authority.

**5. Resumption and restitution of granted lands.-** (1) Where, on application by any interested person or on information given in writing by any person or suo-motu, and after such enquiry as he deems necessary, the Assistant Commissioner is satisfied that the transfer of any granted land is null and void under sub-section (1) of section 4, he may,-

(a) by order take possession of such land after evicting all persons in possession thereof in such manner as may be prescribed:

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

(b) restore such land to the original grantee or his legal heir. Where it is not reasonably practicable to restore the land to such grantee or legal heir; such land shall be deemed to have vested in the Government free from all encumbrances. The Government may grant such land to a person belonging to any of the Scheduled Castes or Scheduled Tribes in accordance with the rules relating to grant of land.

<sup>1</sup>[(1A) After an enquiry referred to in sub-section (1) the Assistant Commissioner may, if he is satisfied that transfer of any granted land is not null and void pass an order accordingly.]<sup>1</sup>

1. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

(2) <sup>1</sup>[Subject to the orders of the Deputy Commissioner under section 5A, any order passed]<sup>1</sup> under <sup>2</sup>[sub-section (1) and (1A)]<sup>2</sup> shall be final and shall not be questioned in any court of law and no injunction shall be granted by any court in respect of any proceeding taken or about to be taken by the Assistant Commissioner in pursuance of any power conferred by or under this Act.

1. Substituted by Act 3 of 1984 w.e.f. 3.3.1984.

2. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

(3) For the purposes of this section, where any granted land is in the possession of a person, other than the original grantee or his legal heir, it shall be presumed, until the contrary is proved, that such person has acquired the land by a transfer which is null and void under the provisions of sub-section (1) of section 4.

**<sup>1</sup>[5A. Appeal to the Deputy Commissioner.-** (1) Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1984 by the Assistant Commissioner to take possession of land under clause (a) of sub-section (1) of section 5 or to restore the land under clause (b) of the said sub-section may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

1. Sub-section 1, 1A, 2 inserted by Act 3 of 1984 w.e.f. 3.3.1984.

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1) if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an order passed by the Assistant Commissioner before the date of such commencement if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.

<sup>1</sup>[(1A) Any person aggrieved by an order passed after the commencement of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) (Amendment) Act, 1992, by the Assistant Commissioner under sub-section (1A) of section 5, may prefer an appeal to the Deputy Commissioner having jurisdiction within a period of three months from the date on which the order was communicated to him:

1. Inserted by Act 8 of 1992 w.e.f. 13.4.1992.

Provided that the Deputy Commissioner may admit an appeal preferred against such order after the period referred to in sub-section (1A), if satisfied that the appellant had sufficient cause for not preferring the appeal within that period:

Provided further that the Deputy Commissioner shall admit an appeal against an order passed by the Assistant Commissioner holding that transfer of any granted land is not null and void before the date of such commencement, if, on the said date, a writ petition preferred against such order or an appeal preferred against the order passed in such writ petition is pending in any court.]<sup>1</sup>

(2) The Deputy Commissioner shall dispose of the appeal in the prescribed manner and the order passed by him shall be final.]<sup>1</sup>

**6. Prohibition of registration of transfer of granted lands.**-Notwithstanding anything in the Registration Act, 1908 on or after the commencement of this Act, no registering officer shall accept for registration any document relating to the transfer of, or to the creation of any interest in, any granted land included in a list of granted lands furnished to the registering officer except where such transfer is in accordance with this Act or the terms of the grant of such land or the law providing for such grant.

**7. Exemption.**- Nothing in this Act shall apply to the transfer of granted lands in favour of the Government, the Central Government, a local authority or a bank either before or after the commencement of this Act.

**8. Penalty, etc.**- (1) Whoever acquires any granted land in contravention of the provisions of sub-section (2) of section 4 shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Notwithstanding anything in the Code of Criminal Procedure 1973, the offence punishable under sub-section (1) shall be cognizable.

**9. Protection of action taken in good faith.-** (1) No suit, prosecution or other legal proceedings shall lie against any person or officer for anything which is, in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provision of this Act or for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

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

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

**11. Act to override other laws.-** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or any decree or order of a court, tribunal or other authority.

**12. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the Government may by general or special order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

**THE KARNATAKA TAX ON LUXURIES ACT, 1979**  
**ARRANGEMENTS OF SECTIONS**

Statements of Objects and Reasons

Sections:

1. Short title, extent and commencement.

**CHAPTER I**  
**PRELIMINARY**

2. Definitions.
  - 2A. Instructions to subordinate authorities.
  - 2B. Jurisdiction of Officers.
  - 2C. Change of Incumbent of an Office.

**CHAPTER II**  
**LEVY OF TAX ON LUXURY PROVIDED IN HOTELS, LODGING HOUSES,  
HEALTH CLUBS, ETC. AND MARRIAGE HALLS.**

3. Levy and collection of tax on luxury provided in a hotel.
  - 3A. Omitted
  - 3B. Tax on luxuries like health club etc.
  - 3C. Levy and collection of tax on charges for marriage hall.
  - 3D. Levy and Collection of Tax on Luxury provided in a club.
  - 3E. Levy and Collection of Tax on Luxury provided in a hospital.
4. Mode of collection of tax.
  - 4A. Registration of proprietors [xxx]
  - 4AA. Declaration of charges for marriage hall.

**CHAPTER III Omitted**

- 4B. [xxx]
- 4C. [xxx].

**CHAPTER IV**  
**RETURN ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF  
TAXES**

5. Returns.
  - 5A. Payment of tax in advance.

6. Assessment and collection of tax.
- 6A. Collection of tax by a registered proprietor [xxx] and forfeiture of illegal or excess collection of taxes
7. Imposition of penalty in certain cases.
- 7A. Assessment of escaped tax.
8. Payment of tax and penalty.
- 8A. Recovery of tax from certain other persons.
- 8B. Liability of firms.
- 8C. Tax payable on transfer of business etc.

#### **CHAPTER V APPEALS AND REVISIONS**

9. Appeal.
10. Revisional powers of Joint Commissioner and Commissioner.
- 10A. Rectification of mistakes.
11. Appeal to the Appellate Tribunal.

#### **CHAPTER VI MISCELLANEOUS**

- 11A. Revision by High Court.
- 11B. Appeal to High Court.
12. Payment of interest.
- 12A. Power of State Government to exempt or reduce tax.
- 12B. Maintenance of Accounts and issue of sale bills or cash memorandum.
13. Offences and Penalties.
14. Offences by companies.
15. Compounding of offences.
16. Powers to enforce attendance etc.
17. Powers of inspection of accounts and documents and search of hotels, etc.
- 17A. [xxx]
18. [xxx]
- 18A. Assessment, etc. not to be questioned in prosecution.
19. Bar of proceedings.

- 20. Power to make rules.
- 20A. Laying of notifications before the State Legislature.
- 21. Power to remove difficulties.

SCHEDULE Omitted.

\* \* \* \*

## STATEMENT OF OBJECTS AND REASONS

### I

**Act 22 of 1979.**- In order to augment the revenues of the State it is proposed to levy a tax on luxuries provided in hotels and lodging houses.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 261 dated 27-3-1979 at page 15.)

### II

**Amending Act 9 of 1981.**- According to the existing provisions of Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, tax ranging from 1 1/2 % to 7% of the lodging charges is collected if the charges per person per day are Rs. 30/- and above. In the Budget speech for the year 1981-82, it has been indicated that the tax on luxuries shall be increased, so as to include hotels with lodging charges of Rs 20/- per day, per person and above. The luxury tax proposed to be levied ranges from 5% to 10% of the lodging charges and it will cover a larger number of hotels. This is proposed in order to augment the revenues of the State by an amount of Rs. 30 lakhs per annum.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 198 dated 26-3-1981.)

### III

**Amending Act 18 of 1982.**- According to the existing provisions of the Karnataka Tax on Luxuries (Hotel and Lodging houses) Act, 1979 tax ranging from 5 per cent of the lodging charges is collected if the charges per person per day are Rs. 20 and above. It has been decided to raise the minimum limit of lodging charges from Rs. 20 to Rs. 25 per day per head in respect of liability to pay tax for the reason that a room with a rent of Rs. 20 per person per day can hardly be regarded as a 'Luxury' at the current price levels. The financial implication on account of the enhancement of the limit from Rs. 20 to Rs. 25 may be about Rs. 10 lakhs per annum.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 27-3-1982 as, No 226.)

(Obtained from L.A. Bill No. 11 of 1982.)

#### IV

**Amending Act 21 of 1985.-** In the Budget-Speech for the year 1985-86 the Chief Minister indicated that the levy and collection of tax on luxury provided in the Hotels are on as based charges, collected per room per day.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 414 dated 1-8-1985 at page 5.)

#### V

**Amending Act 10 of 1986.-** It is proposed to amendment the Karnataka Tax on Luxuries (Hotel and Lodging Houses) Act, 1979 empowering the Government to collect tax from registered proprietors and to streamline the tax collection procedure.

Hence the Bill.

(Obtained from L.A. Bill No. 25 of 1986.)

#### VI

**Amending Act 12 of 1987.-** To give effect to the proposal made in the budget speech, it is proposed to amend the Karnataka Tax on Luxuries (Hotel and Lodging Houses) Act, 1976. Hence the Bill.

(Obtained from L.A. Bill No. 16 of 1987.)

#### VII

**Amending Act 17 of 1989.-** To give effect to the proposals made in the Budget speech it is proposed to amend the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No.163 dated 27-3-1989 at page 3.)

#### VIII

**Amending Act 11 of 1993.-** It is considered necessary to amend the Karnataka tax on Luxuries (Hotel and Lodging Houses) Act, 1979, the Karnataka Tax on Professions, Traders Callings and Employments Act, 1976, the Karnataka Entertainments Tax Act, 1958 and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the



budget speech and matters connected therewith.

Hence the Bill.

(Obtained from L.A. Bill No. 15 of 1993.)

## IX

**Amending Act 6 of 1995.-** It is considered necessary to amend the Karnataka Sale Tax Act, 1957, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Entertainment Tax Act, 1958, the Karnataka Tax on Entry of Goods Act, 1979, Karnataka Tax on Luxuries, (Hotels and Lodging House) Act, 1979, the Mysore Betting Tax Act, 1932 and to give effect to the proposals made in the Budget speech and matters connected therewith.

Hence this Bill.

(Obtained from L.A. Bill No. 4 of 1995.)

## X

**Amending Act 5 of 1996.-** It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, the Karnataka Tax on professions, Trades, Callings and Employments Act, 1976, the Karnataka Entertainments Tax Act, 1958, the Karnataka Agricultural Income Tax Act, 1957, and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the Budget speech and matters connected therewith proposals made in the Budget speech and matters connected therewith.

Hence this Bill.

(Obtained from L.A. Bill No. 12 of 1996.)

## XI

**Amending Act 15 of 1996.-** It is considered necessary to make amendments to the following enactments.

1. xxx

2. Consequent to the amendment of section 3 of the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, Clause (5) of section 2 thereof is proposed to be amended.

3. xxxx

5. Certain consequential amendments are also made.

(Obtained from L.A. Bill No. 23 of 1996)

## XII

**Amending Act 7 of 1997.**- It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels, Lodging Houses and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Professions, Trades, callings and Employments Act, 1976 (Karnataka Act 35 of 1976), the Karnataka Excise Act 1966 (Karnataka Act 21 of 1966), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Mysore Betting Tax Act 1932 (Mysore Act IX of 1932, and to give effect to the proposals made in the budget speech and matters connected therewith. Certain consequential amendments are also made.

Hence this Bill.

(Obtained from L.A. Bill No. 12 of 1997 )

## XIII

**Amending Act 3 of 1998.**- It is considered necessary to amend the Karnataka Taxation Laws Amendment Act, 1997. (Karnataka Act 27 of 1979). the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries (Hotels, Lodging Houses and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979) the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976 (Karnataka Act 35 of 1976). the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of

1958), the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and to give collect to the proposals made in the Budget Speech and matters connected therewith. Certain consequent amendments are also made.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 349, dated 26-3-1998.)

## XIV

**Amending Act 4 of 1999.**- It is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Tax on entry of goods Act 1979 (Karnataka Act 27 of 1979) the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential

amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 6 of 1999.)

### XV

**Amending Act 5 of 2000.-** It is considered necessary to amend the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill. No. 6 of 2000.)

### XVI

**Amending Act 2 of 2001.-** Gutkha which is a product containing among other mainly arecanut and tobacco was subject to sales tax at 15% till 31.3.2000 and at 16% from 1.4.2000 under the Karnataka Sales Tax, 1957. Apart from this, gutkha is also liable for 4% entry tax under the Karnataka Tax on Entry of Goods Act, 1979 and in cases where entry tax is not payable it is liable for 4% luxuries tax under the Karnataka Tax on Luxuries Act, 1979.

As per the agreement made with the Union Government by all States, the States have agreed for levy and collection of Additional Duty of Excise in lieu of sales tax by the Union Government under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 on tobacco (and also on tobacco products, textiles and sugar). The Additional duty of Excise so collected by the Union Government is shared among all the States and any state levying sales tax on these goods would lose its share from such Additional duty of Excise collected.

Till 31.3.1992 tobacco and its products, textiles and sugar had been generally exempted from sales tax under the Karnataka Sales Tax, 1957. However by an amendment to the Fifth Schedule with effect from 1.4.92, exemption of sales tax was confined only to the goods which are specified from time to time in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957. This was done to empower the State to levy sales tax on those goods on which no Additional Duty of Excise in lieu of sales tax, was proposed to be levied by the Union Government. Accordingly sales tax was being levied by the State on tobacco and its products.

Similarly, certain other states were also levying sales tax on tobacco and its

products, which were not specified under the Additional duties of Excise (Goods of Special Importance) Act, 1957. The levy of Sales Tax by the State of Andhra Pradesh on gutkha, which was not specified under the Additional Duties of Excise (Goods of special Importance) Act, 1957. The levy of sales tax by the State of Andhra Pradesh on gutkha, which was not specified under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 was questioned before Supreme Court in M/s Kothari Products Limited Vs. Govt. of Andhra Pradesh and the Apex Court in its judgement dated 25.1.2000 has held that gutkha is tobacco specified under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and therefore not liable for sales tax. As the ratio of the aforesaid case is also applicable to the State, it is not possible to continue to levy of sales tax on gutkha in the State.

Discontinuance of sales tax on gutkha would entail a revenue loss of about rupees thirty crores per annum.

It was therefore considered necessary to increase the rate of luxury tax on gutkha from 4% to 20% by amending the Karnataka Luxuries Tax Act, 1979 which was in addition to the existing entry tax at 4%.

As the matter was urgent, the Karnataka Tax on Luxuries (Amendment) Ordinance, 2001 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Vide L.A. Bill No. 3 of 2001 File No. SAMVYASHAE 4 SHASANA 2001)

## XVII

**Amending Act 5 of 2001.-** To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Tax on Professionals, Trades, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976) and the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957). Certain consequential amendments are also made.

Hence the Bill.

(Vide L.A. Bill No. 7 of 2001 File No. SAMVYASHAE 9 SHASANA 2001)

## XVIII

**Amending Act 5 of 2002.-** It is considered necessary to amend the Karnataka Agricultural Income Tax, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Taxes on Luxuries Act, 1979, the Karnataka Taxes on Entry of Goods Act, 1979 and

the Karnataka Entertainment Tax Act, 1958

to give effect to the proposal made in the Budget speech and matters connected therewith.

Certain consequential and incidental amendments are also made

Hence the Bill.

(Vide L.A. Bill No. 12 of 2002 File No. SAMVYASHAE 18 SHASANA 2002)

## XIX

**Amending Act 7 of 2003.-** To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976, the Karnataka Tax on Luxuries Act, 1979, the Karnataka Tax on Entry of Goods Act, 1979 and the Karnataka Electricity (Taxation on Consumption) Act, 1959.

Hence the Bill.

[L.A. Bill No. 9 of 2003]

(Entries 46, 52, 53, 54, 60 and 62 of List-II of the Seventh Schedule to the Constitution of India)

## XX

**Amending Act 3 of 2004.-** The Hon'ble High Court of Karnataka in S.T.R.P. numbers 46 to 57/2003 has held that tax cannot be levied on civil works like asphaltting and repairing of roads under the existing provisions of the Karnataka Sales Tax Act, 1957. However, taxes have been levied and collected on such civil works from 1st April 1986 relying on the existing entries. In view of the decision of the Hon'ble High Court, it is considered necessary to incorporate an enabling provision to levy such tax by amending the Karnataka Sales Tax Act, 1957 with retrospective effect.

Similarly, the Hon'ble High Court of Karnataka in W. P. Nos. 8607-8608/2003 has held that the tax cannot be levied on works contract of processing and supplying of photographs, photo prints and photo negatives under the existing provisions of the Karnataka Sales Tax Act, 1957. The Hon'ble High court has held that though the State Legislature has the power to levy tax on such works contracts, in view of the relevant entry having been struck down by the Hon'ble Supreme Court, in September 1999, tax cannot be levied and collected on such works contracts till the relevant entry is re-introduced in the Karnataka Sales Tax Act, 1957. Taxes have been levied and collected on such works contracts from 1st July 1989. In view of the decision of the Hon'ble Supreme Court and the High Court, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 with retrospective effect.

It is also considered necessary that there should be a provision under the Karnataka Sales Tax Act, 1957 to constitute a Settlement Commission to reduce long pending disputes and recover tax arrears expeditiously.

The rate of sales tax being levied at present on Camphor is 5%. Whereas the Empowered Committee of State Finance Ministers has appealed to all the States / UTs to adopt the floor rates on all items. Hence, the rate of sales tax on Camphor is being increased to the floor rate of 8% by amending the Karnataka Sales Tax Act, 1957.

It is also considered necessary to amend the Karnataka Tax on Luxuries Act, 1979, to give tax relief to clubs situated within areas outside municipal corporations and to give tax relief to senior citizens and members of a youth club registered or recognised by the Department of Youth Services.

It is also considered necessary to omit the provisions under the Karnataka Entertainments Tax Act, 1958 relating to collection of service charges by the owners of theatres.

Hence the Bill.

[L.A. BILL No. 6 OF 2004]

## XXI

**Amending Act 26 of 2004.-** To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Mysore Betting Tax Act, 1932(Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957(Karnataka Act 25 of 1957), the Karnataka Entertainments Tax Act, 1958(Karnataka Act 30 of 1958), the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976(Karnataka Act 35 of 1976), the Karnataka Tax on Luxuries Act, 1979) and the Karnataka Tax on Entry of Goods Act, 1979(Karnataka Act 27 of 1979).

Opportunity is also taken to rationalize certain provisions of the said Acts and also to codify and make certain consequential amendments to implement reliefs already announced.

Hence the Bill.

[L.A. BILL No. 18 OF 2004]

## XXII

**Amending Act 5 of 2006.-** It is considered necessary to amend the Karnataka Agriculture Income Tax Act, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposal made in the Budget and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 6 of 2006]

### XXIII

**Amending Act 5 of 2007.-** It is considered necessary to amend the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith and also to amend the Karnataka Sales Tax Act, 1957 to provide for a provision for empowering the State Government to withdraw any notification issued under section 8-A either prospectively or retrospectively to give effect to the decision taken by the State Government with regard to discontinuance of sales tax based incentives to industries as a part of national consensus to bring in reforms in State taxes.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 22 of 2007]

[Entries 54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

### XXIV

**Amending Act 6 of 2008.-** It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith or incidental thereto.

Opportunity is also taken to rationalise taxation and make certain consequential amendments also.

Hence the Bill.

(LA Bill No. 3 of 2008, File No. DPAL 11 Shasana 2008)

[Entry 62 of List II of the Seventh Schedule to the Constitution of India.]

### XXIV

**Amending Act 7 of 2009.-** It is considered necessary to amend the Mysore Betting tax Act, 1932, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

(LA Bill No. 21 of 2009, File No. DPAL 13 Shasana 2009)

[Entry 62 List II of the Seventh Schedule to the Constitution of India.]

### XXV

**Amending Act 5 of 2010.-** It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith and specifically to,

- (i) amend the Karnataka Sales Tax Act, 1957 to provide for levy of tax on supply of goods by an association or a body of persons like clubs, registered or unregistered, to its members retrospectively from second day of February, 1983 from which day by the forty-sixth amendment to the Constitution of India, the State Legislature was empowered to levy tax on such transactions so as to remove doubts raised in this regard because of the judgment of the Hon'ble High Court of Karnataka in the case of Century Club and Others versus The State of Mysore and another, declaring the provisions made in the Karnataka Sales Tax Act, 1957 before such constitutional amendment for levy of tax on such transactions as void and inoperative.
- (ii) provide for collection of entry tax in advance under the Karnataka Tax on Entry of Goods Act, 1979 at the point of sugar factories selling sugar to dealers who subsequently cause entry of such sugar into any local area in the State.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 9 of 2010, File No. DPAL 12 Shasana 2010]

[Entries 52, 54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

### XXVI

**Amending Act 15 of 2011.-** It is considered necessary to amend the Mysore Betting Tax Act, 1932, the Mysore Race Courses Licensing Act, 1932, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to,



- (i) extend the application of the Betting Tax Act, 1932 and the Mysore Race Courses Licensing Act, 1952 for the whole of State of Karnataka;
- (ii) to omit certain redundant provisions and the Schedules in the Betting Tax Act, 1932 and the Mysore Race Courses Licensing Act, 1952;
- (iii) to repeal certain redundant enactments; and
- (iv) give effect to the proposals made in the Budget and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No.11 of 2011, File No.Samvyashae 13 Shasana 2011]

[Entries 34,52, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

## XXVII

**Amending Act 18 of 2012.:** It is considered necessary to amend the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 4 of 2012, File No. Samvyashae 24 Shasana 2012]

[Entries 46, 52, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

\* \* \* \* \*

सत्यमेव जयते

**KARNATAKA ACT No. 22 OF 1979**

*(First published in the Karnataka Gazette Extraordinary on the Thirty First day of March 1979)*

**THE KARNATAKA TAX ON LUXURIES ACT, 1979**

*( Received the assent of the Governor on the Thirty-first day of March 1979)*

(As Amended by Acts 9 of 1981, 18 of 1982, 21 of 1985, 10 of 1986, 12 of 1987, 17 of 1989, 11 of 1993, 6 of 1995, 5 of 1996, 15 of 1996, 7 of 1997, 3 of 1998, 4 of 1999, 5 of 2000, 2 of 2001, 5 of 2001, 5 of 2002, 7 of 2003, 3 of 2004, 26 of 2004, 5 of 2006, 5 of 2007, 6 of 2008, 7 of 2009, 5 of 2010 15 of 2011 and 18 of 2012)

**An Act to provide for the levy and collection of a tax on luxuries <sup>1</sup>[x x x]<sup>1</sup>.**

WHEREAS it is expedient to provide for the levy and collection of tax on luxuries <sup>1</sup>[x x x]<sup>1</sup> and for matters connected therewith:

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

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1997

**1. Short title, extent and commencement.-** (1) This Act may be called the Karnataka Tax on Luxuries <sup>1</sup>[x x x]<sup>1</sup> Act, 1979.

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1997.

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

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

1. Act came into force on 1.6.1979 Text of notification is at the end of the Act.

**<sup>1</sup>[CHAPTER I  
PRELIMINARY]<sup>1</sup>**

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

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

<sup>1</sup>[(1)"Charges for lodging" include charges for air-conditioning, telephone, telephone calls, television, radio, music, extra beds and the like but do not include any charges for food, drink, laundry or other amenities]<sup>1</sup>;

1. Substituted by Act 7 of 2003 w.e.f. 1.4.2000

**Explanation.-** If any question arises whether any charges are charged for lodging, such question shall be referred to the State Government and the decision of the State Government shall be final and shall not be called in question in any court ;

<sup>1</sup>[(1A) "Charges for marriage hall" include charges for air conditioning, chairs, utensils and vessels, shamiana, electricity, water, fuel, interior or exterior decoration <sup>2</sup>[or any amount received by way of donation or charity or by whatever name called in relation to letting out the marriage hall]<sup>2</sup> but do not include any charges for food and drinks;

**Explanation.-** If any question arises whether any charges are charges for marriage hall, such question shall be referred to <sup>3</sup>[the Commissioner]<sup>3</sup> and decision of <sup>3</sup>[the Commissioner]<sup>3</sup> shall be final and shall not be called in question in any Court]<sup>1</sup> ;

1. Clause 1A and explanation inserted by Act 6 of 1995 w.e.f. 1.4.1995
2. Substituted by Act 5 of 2000 w.e.f. 1.4.2000
3. Substituted by Act 4 of 1999 w.e.f. 1.4.1999

<sup>1</sup><sup>2</sup>[(1B)]<sup>2</sup> "Commisioner" means the Commissioner of Commercial Taxes appointed under section 3 of Karnataka Sales Tax Act, 1957;]<sup>1</sup>

1. Inserted by Act 10 of 1986 w.e.f. 31.3.1986
2. Renumbered by Act 6 of 1995 w.e.f. 1.4.1995.

<sup>1</sup>[(1-C) <sup>2</sup>["Charges for luxuries provided in a hospital"]<sup>2</sup> means charges for accommodation provided in a hospital for any patient or inmate or resident, by whatever name called and his attendant including charges for air-conditioning, telephone, telephone calls, television, radio, music, extra beds and the like but does not include any charges for food, drink, laundry or other amenities, medicines, medical including consultation, testing, diagnostic and nursing services, therapeutic services or other similar services;]<sup>1</sup>

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.
2. Deemed always to have been Substituted by Act 5 of 2007 w.e.f. 1.6.1979.

<sup>1</sup>[(1-D) "Additional Commissioner" means the Additional Commissioner of Commercial Taxes appointed under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004);]<sup>1</sup>

1. Inserted by Act 15 of 2011 w.e.f. 1.4.2011.

(2) "concessional rate" in relation to luxury provided <sup>1</sup>[in a hotel or a marriage hall]<sup>1</sup> means a rate lower than the normal rate fixed for such luxury <sup>1</sup>[by the proprietor of a hotel or a marriage hall]<sup>1</sup> or lower than that fixed by the Government or any other authority under any law for the time being in force;

1. Substituted by Act 5 of 2001 w.e.f. 1.4.2001.

<sup>1</sup>[(3) "Hospital" includes a nursing home, therapy center, rejuvenation or recuperation center, nature care or cure center, ayurvedic cure or care or any

treatment center, personal care center and beauty treatment center, by whatever name called]<sup>1</sup>;

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

(4) "hotel" means a building or part of a building where lodging accommodation, with or without board is by way of business provided for a monetary consideration, and includes a lodging house <sup>1</sup>[club]<sup>1</sup> <sup>2</sup>[and holiday resorts]<sup>2</sup>;

1. Inserted by Act 5 of 2000 w.e.f. 1.6.1979.

2. Inserted by Act 6 of 1995 w.e.f. 1.4.1995.

**<sup>1</sup>[Explanation.-** A club, a lodging house and a holiday resort for which charges are collected for providing accommodation whether or not in the course of business shall be deemed to be a hotel for the purpose of this Act.]<sup>1</sup>

1. Inserted by Act 5 of 2000 w.e.f. 1.6.1979.

<sup>1</sup>[(4A) "Joint Commissioner" means the Joint Commissioner of Commercial Taxes appointed under section 3 of the Karnataka Sales Tax Act, 1957;]<sup>1</sup>

1. Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

<sup>1</sup>[(4B) "Luxuries" means <sup>2</sup>[services]<sup>2</sup> ministering to enjoyment, comfort or pleasure extraordinary to necessities of life;]<sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 5 of 2006 w.e.f. 1.4.2006

<sup>1</sup>[(5) "luxury provided in a hotel' means,-

(i) accommodation for lodging provided in a hotel, the rate of charges for which (including charges for air-conditioning, telephone, television, radio, music, extra beds and other amenities for which charges are compulsorily payable, but excluding charges for food and drinks) is not less than <sup>2</sup>[one hundred and fifty]<sup>2</sup> rupees per room per day;

(ii) provision in hotels, whether to residents or others of such facility as health club, beauty parlour, swimming pools, conference hall and the like for which charges are separately made;]<sup>1</sup>

1. Substituted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Substituted by Act 15 of 1996 w.e.f. 1.4.1996.

<sup>1</sup>[(5A) "Luxury Tax Officer" <sup>2</sup>[means a Commercial Tax Officer or an]<sup>2</sup> Assistant Commissioner of Commercial Taxes or Deputy Commissioner of Commercial Taxes appointed under Section 3 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957)]<sup>1</sup>

1. Inserted by Act 10 of 1986 w.e.f. 31.3.1986 and substituted by Act 5 of 2001 w.e.f. 1.4.2001.

2. Substituted by Act 5 of 2006 w.e.f. 1.4.2006

<sup>2</sup>[(5-B) "Marriage Hall" means,-

- (i) Kalyana Mantap, Shadi Mahal, Community Hall, a building or part of a building or a temporary structure or a property as defined in section 3 of the Transfer of Property Act, 1882 where accommodation is provided for marriage or reception or matters related therewith or for organizing any official, social or business function whether functions are conducted in such place regularly or not;
- (ii) Seminar, convention, banquets, meeting or exhibition hall or a temporary structure or a property as defined in section 3 of the Transfer of Property Act, 1882 where accommodation is provided for marriage or reception or matters related therewith or for organizing any official, social or business function whether functions are conducted in such place regularly or not;
- (iii) Any other pace or temporary structure as may be specified by the Commissioner, where accommodation is provided for marriage or reception or matters related therewith or for organizing any official, social or business function whether functions are conducted in such place regularly or not.]<sup>2</sup>

1. Inserted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Substituted by Act 18 of 2012 w.e.f. 1.4.2012.

<sup>1</sup>[(6) "Proprietor, in relation to a Hotel or a Marriage Hall or a Club or a Hospital" means any person who is owning or holding a hotel or a marriage hall or hospital in any capacity recognized by law or the Secretary or Manager or any other person entrusted with the management of a club or hospital, and includes, the person who for the time being is in-charge of the management of the hotel or marriage hall or club or hospital;"]<sup>1</sup>

1. Substituted by Act 26 of 2004 w.e.f. 1.8.2004.

(6A) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(6B) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(7) "tax" means the luxury tax levied and collected under this Act.;

<sup>1</sup>[(8) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(9) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(10) "year" means the year commencing on the first day of April;

(11) Words and expressions used in this Act, but not defined shall have the meaning assigned to them in the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);<sup>1</sup>

**<sup>1</sup>[2A. Instructions to subordinate authorities.** - (1) The State Government or the Commissioner may, from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act, as they may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner:

Provided that no such orders, instructions, or directions shall be issued so as to interfere with the discretion of any Appellate Authority in the exercise of its appellate functions.

(2) All officers and persons employed in the execution of this Act, shall observe and follow such administrative instructions as may be issued to them for their guidance by the Joint Commissioner within whose jurisdiction they perform their functions.]<sup>1</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

**<sup>1</sup>[2-B. Jurisdiction of officers.** - (1) The Joint Commissioners shall perform their functions in respect of such areas or of such proprietors or stockist or classes of proprietors or stockists or of such cases or classes of cases as the Commissioner may direct.

(2) The Luxury Tax Officers shall perform their functions in respect of such areas or of such proprietors or stockists or classes of proprietors or stockists or such cases or classes of cases as the Commissioner may direct.

**2-C. Change of incumbent of an office.** - Whenever in respect of any proceeding under this Act, a Luxury Tax Officer or any other officer ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the authority or officer so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the proprietor or stockist may demand that before the proceeding is so continued the previous proceedings or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.]<sup>1</sup>

1. Sections 2-B and 2-C inserted by Act 5 of 2001 w.e.f. 1.4.2001.

**<sup>1</sup>[CHAPTER II  
LEVY OF TAX ON LUXURY PROVIDED IN HOTELS, LODGING HOUSES,  
HEALTH CLUBS, ETC. AND MARRIAGE HALLS]<sup>1</sup>**

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

**<sup>1</sup>[3. Levy and collection of tax on luxury provided in a hotel.-** (1) Subject to the provisions of this Act, there shall be levied and collected a tax on the luxury provided in a hotel in respect of every room (to be known as 'Luxury Tax') at the following rates, namely:-

Serial Number	Charges	Rate of tax
1	Where the charges for lodging per room per day are not less than five hundred rupees but not more than one thousand rupees	Four per cent of such charges
2	Where the charges for lodging per room per day are more than one thousand rupees but not more than two thousand rupees than two thousand rupees	<sup>2</sup> [Eight per cent of such charges] <sup>2</sup>
3	Where the charges for lodging per room per day are more than two thousand rupees	<sup>2</sup> [Twelve per cent of such charges] <sup>2</sup>

Provided that where charges for lodging are payable otherwise than on daily basis, then, for the purposes of determining the tax liability under this section, the charges shall be computed as for a day, based on the period of lodging for which the charges are payable.

Provided further that where any charges for lodging are paid by any person who is a member of the Foreign Diplomatic Mission in India, other than such foreign diplomatic mission as may be notified then such person shall be exempt from payment of tax.];<sup>1</sup>

1. Substituted by Act 7 of 2009 w.e.f. 1.4.2009.

2. Substituted by Act 5 of 2010 w.e.f. 1.4.2010.

<sup>1</sup>[Proviso x x x]<sup>1</sup>

1. Inserted by Act 5 of 2001 w.e.f. 30.11.1998 and Omitted by the same Act w.e.f. 31.3.2000.

<sup>1</sup>[(1A) tax levied under sub-section (1), shall be paid by every proprietor.]<sup>1</sup>

1. Inserted by Act 4 of 1999 w.e.f. 1.4.1999.

<sup>1</sup><sup>2</sup>[(1B)]<sup>2</sup> Notwithstanding anything contained in sub-section (1), no tax shall be levied and collected from a hotelier to the extent of tax not collected by him during the period from the 1st day of August, 1985 to the 31st day of March, 1986.]<sup>1</sup>

1. Inserted by Act 12 of 1987 w.e.f. 1.4.1987.

2. Renumbered by Act 4 of 1999 w.e.f. 1.4.1999.

<sup>1</sup>[(2) x x x]<sup>1</sup>

1. Omitted by Act 21 of 1985 w.e.f. 1.8.1985

(3) In computing the amount of tax payable under this section, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise.

<sup>1</sup><sup>2</sup>[3A. x x x]<sup>2</sup>

1. Section 3A to 3C Inserted by Act 6 of 1995 w.e.f. 1.4.1995

2. Omitted by Act 3 of 1998 w.e.f. 1.4.1998.

**3B. Tax on luxuries like health club etc.-** There shall be levied and collected a tax at the rate of 1[ten per cent]1 on the charges collected for luxuries provided in a hotel for residents or others such as health club, beauty parlour, swimming pool, conference hall and the like when such charges are collected separately.

1. Substituted by Act 7 of 2009 w.e.f. 1.4.2009.

<sup>1</sup>**3C. Levy and collection of tax on charges for marriage hall.-** Subject to the provisions of this Act, where charges for luxury provided in a marriage hall are not less than <sup>2</sup>[five thousand]<sup>2</sup> rupees per day there shall be levied and collected a tax at the rate of 3[ten per cent]3 of such charges.]<sup>1</sup>

1. Substituted by Act 5 of 2000 w.e.f. 1.4.2000.

2. Substituted by Act 7 of 2003 w.e.f. 1.4.2003.

3. Substituted by Act 7 of 2009 w.e.f. 1.4.2009.

Provided that where charges for marriage hall are payable otherwise than on daily basis, then for the purposes of determining the tax liability under this section, the charges shall be computed as for a day based on the period of occupancy for which the charges are payable.]<sup>1</sup>

<sup>1</sup>**3-D. Levy and collection of tax on luxury provided in a club.-** (1) There shall be levied and collected a tax on luxuries provided in a club to the members who are required to pay any amount as fee, deposit, donation or any other such charges by whatever name called, at the rate as specified in column (3) of the table below.



SI. No.	Location of club	Rate of tax
(1)	(2)	(3)
1.	Corporation area	Six hundred rupees per member per annum
2.	Other areas	Three hundred rupees per member per annum

Provided that no tax shall be payable in respect of a member who has attained sixty five years of age and who is not a corporate member subject to such conditions as may be prescribed.

Provided further that no tax shall be payable in respect of a member of a Youth club registered or recognised as such by the Department of Youth Services.

(2) The tax levied under sub-section (1) shall be paid by every proprietor within such period and in such manner as may be prescribed.

**Explanation I.-** For the purpose of this Section, luxuries means more than one of the facilities like card room, bar, billiards room, snooker room, tennis court, swimming pool, sauna, jacuzzi and the like, gymnasium, golf course, internet facility, video, video compact disk, digital video disk and computer games.

**Explanation II.-** Where any corporate membership or similar membership allows use of luxuries provided in a club by more than one person (other than a person who is a dependent of the member), tax shall be levied and collected in respect of every such person."<sup>1</sup>

1. Inserted by Act 7 of 2003 w.e.f. 1.4.2003 and deemed to have been substituted by Act 3 of 2004 w.e.f. 1.4.2003.

**1["3-E. Levy and collection of tax on luxury provided in a hospital.-**<sup>2</sup>[(1) There shall be levied and collected a tax at the rate of eight per cent on the charges collected for luxuries provided in a hospital in a room such as accommodation, air conditioning, telephone, telephone calls, television, radio, music, extra beds and the like, where such charges are more than one thousand rupees per day per room.]<sup>2</sup>

(2) The tax levied under sub-section (1) shall be paid by every proprietor within such period and in such manner as may be prescribed."<sup>1</sup>

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.
2. Deemed always to have been Substituted by Act 5 of 2007 w.e.f.1.6.1979

**4. Mode of collection of tax.-** (1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink or other amenities, if any (being amenities referred to in clause (5) of section 2), then the <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities, if any, being

amenities referred to in clause (5) of section 2, for the purpose of calculating the tax under this Act.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated to the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the charges for luxury provided in the hotel.

<sup>1</sup>[(3) Where luxury provided in a hotel to any person is charged at a concessional rate, then the tax on such luxury, shall be levied and collected on such lower charges where such lower charges are allowed as a result of any discount allowed in general or is in accordance with the terms of a contract or agreement entered into in a particular case and also where such discount allowed is published in tariff cards or displayed or disclosed in writing, in any manner for information.;]<sup>1</sup>

1. Substituted by Act 7 of 2009 w.e.f. 1.4.2009.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then, in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.

<sup>1</sup>[(5) x x x]<sup>1</sup>

1. Omitted by Act 10 Of 1986 w.e.f. 31.3.1986

**<sup>1</sup>[4A. <sup>2</sup>[Registration of proprietors <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup>-(1) Every proprietor <sup>3</sup>[xxx]<sup>3</sup> liable to pay tax under this Act shall get himself registered under this Act in such manner and within such period as may be prescribed and shall pay a registration fee of two hundred and fifty rupees.**

<sup>4</sup>[Provided that the Commissioner may notify the website in which an application for registration shall be made electronically in the manner specified in the said notification.]<sup>4</sup>

1. Sub-section 1 to 6 Inserted by Act 21 of 1985 w.e.f. 1.8.1985.

2. Substituted by Act 7 of 1987 w.e.f. 1.4.1987.

3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

4. Inserted by Act 15 of 2011 w.e.f. 1.4.2011.

(2) The registration granted shall be valid for one year and shall be renewed from year to year on payment of the fee specified in sub-section (1).

(3) Where, however, the proprietor <sup>1</sup>[xxx]<sup>1</sup> is already registered under the Karnataka Sales Tax Act, 1957, then, he shall not be liable to pay the registration or renewal fee prescribed under this section.

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(4) The <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> may for good and sufficient reasons, demand from a proprietor <sup>2</sup>[xxx]<sup>2</sup> liable to pay tax under this Act, security for due payment of tax and on such demand the proprietor <sup>2</sup>[xxx]<sup>2</sup> shall furnish security within eight days from the date of receipt of the order demanding security.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
2. Inserted by Act 7 of 1997 w.e.f. 1.4.1997 and Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(5) The amount of security payable under sub-section (4) shall not exceed an amount equivalent to one fourth of tax anticipated for the year from the proprietor <sup>1</sup>[xxx]<sup>1</sup>. The <sup>2</sup>[Luxury Tax Officer]<sup>2</sup> may demand an additional security, if he has reason to believe that the security furnished already is inadequate.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997 and Omitted by Act 5 of 2006 w.e.f. 1.4.2006.
2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(6) The security furnished shall be maintained in full unless the <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> is satisfied that there are no reasons for its continuance or until the registration certificate is cancelled.]<sup>1</sup>

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

<sup>1</sup>[(7) Where a proprietor <sup>2</sup>[xxx]<sup>2</sup> has more than one place of business, the registration certificate shall cover all such places of business. The Luxury Tax Officer shall issue copies of the registration certificates to the proprietor or the stockist for exhibition at each of his places of business.

1. Sub-sections (7) to (10) Inserted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(8) A proprietor <sup>1</sup>[xxx]<sup>1</sup> registered under sub-section (1) shall be entitled to have his registration cancelled if he is able to prove to the satisfaction of the Luxury Tax Officer that he has discontinued, transferred or otherwise disposed off his business.

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(9) The Luxury Tax Officer shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.

(10) A certificate of registration shall be personal to the proprietor <sup>1</sup>[xxx]<sup>1</sup> to whom it is granted and shall not be transferable.]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[4-AA. Declaration of charges for marriage hall.-** (1) Every proprietor of a marriage hall liable to pay tax under this Act, shall declare the normal rate fixed for luxury provided by him in such manner and within such period as may be prescribed.

(2) Where luxury provided in a marriage hall to any person is not charged at all, or is charged at a concessional rate, then the tax on such luxury, shall be levied and collected as if full charges for such luxury were paid to the proprietor of the marriage hall.]<sup>1</sup>

1. Section 4AA Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

4B.<sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

<sup>1</sup>[4-C.<sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

## CHAPTER IV

### RETURN, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAXES]<sup>1</sup>

**<sup>1</sup>[5. Returns.-** (1) Notwithstanding anything contained in section 5A, every <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> liable to pay tax under this Act shall furnish to the assessing authority within sixty days of the expiry of the year, a return in the prescribed form.

<sup>3</sup>[Provided that the specified class of proprietors as may be notified by the Commissioner shall submit the return in the prescribed form, electronically through internet in the manner specified in the said notification.]<sup>3</sup>

1. Section 5 and 5A Substituted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

3. Inserted by Act 5 of 2010 w.e.f. 1.4.2010.

(2) Before any <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> submits any return under sub-section (1), he shall in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under section 5-A and shall furnish along with the return satisfactory proof of the payment of such tax, and a return without such proof of payment shall not be deemed to have been filed. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

<sup>3</sup>[Provided that the specified class of proprietors as may be notified by the Commissioner shall pay the tax payable on the basis of the return under sub-section (1), by electronic remittance through internet in the manner specified in the said notification.]<sup>3</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

3. Inserted by Act 5 of 2010 w.e.f. 1.4.2010

(3) Every return shall be verified in the prescribed manner.

**5A. Payment of tax in advance.-** (1) Every <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> liable to pay tax under this Act shall furnish to the assessing authority within twenty days of the expiry of a month, a statement in the prescribed form, showing therein the whole amount of tax due from him according to such statement.

<sup>3</sup>[Provided that the specified class of proprietors as may be notified by the Commissioner shall submit the statement in the prescribed form, electronically through internet in the manner specified in the said notification.]<sup>3</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.
3. Inserted by Act 5 of 2010 w.e.f.1.4.2010.

(2) Every statement under sub-section (1) shall be accompanied by a treasury challan in proof of payment of the full amount of tax due according to the statement, and a statement without such proof of payment shall not be deemed to have been duly filed and the amount so payable shall for the purpose of section 7 and section 8 be deemed to be tax due under this Act from such <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup>.

<sup>3</sup>[Provided that the specified class of proprietors as may be notified by the Commissioner shall pay the tax payable on the basis of the statement under sub-section (1), by electronic remittance through internet in the manner specified in the said notification.]<sup>3</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.
3. Inserted by Act 5 of 2010 w.e.f. 1.4.2010.

<sup>1</sup>[(2-A) If default is committed in the payment of tax for any month beyond ten days whether or not a statement as required under sub-section (1) is filed; or if the amount of tax paid is less than the amount of tax payable for any month, the dealer defaulting payment of tax or making short-payment of tax shall, in addition to the tax, pay interest calculated at the rate of two per cent per month from the date of such default or short-payment to the date of payment of such tax or upto the date specified for payment of tax assessed under section 6, as the case may be.]<sup>1</sup>

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

(3) If no such statement is submitted by any <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> under sub-section (1) before the date specified therein or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> provisionally for that month to the best of his judgement, recording the reasons for such assessment and proceed to demand and collect the tax on the basis of such assessment :

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

Provided that before taking action under sub-section (3) the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> shall be given an opportunity of being heard.]<sup>1</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**6. Assessment and collection of tax.**- <sup>1</sup>[(1) Every proprietor shall be deemed to have been assessed to tax based on the return submitted by him under sub-section (1) of section 5, except in cases where the Commissioner may notify the requirement of production of accounts by the proprietor before the Luxury Tax Officer within six months from the date of submitting the return, in support of a return submitted for any period and such authority shall proceed to assess such proprietor,-

- (a) on the basis of the return submitted where he is satisfied the return submitted is correct and complete, or
- (b) to the best of his judgment, where the return submitted appears to be incorrect or incomplete, after giving the proprietor a reasonable opportunity of showing cause against such assessment in writing.

Provided that nothing in this sub-section shall apply to a return submitted for any year upto the year ending 31st March, 2012]<sup>1</sup>

1. Substituted by Act 18 of 2012 w.e.f. 1.4.2012.

(b) On the date specified in the notice, or as soon as may be thereafter, the <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> shall, after considering all the evidence which may be produced, assess the amount of tax due from the <sup>1</sup>[proprietor or stockist]<sup>1</sup>.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(c) If the <sup>1</sup>[proprietor <sup>3</sup>[or stockist]<sup>3</sup>]<sup>1</sup> fails to comply with the terms of the notice issued to him under clause (a), the <sup>2</sup>[Luxury Tax Officer]<sup>2</sup> shall assess to the best of his judgement, the amount of tax due from him.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(3) If a <sup>1</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>1</sup> liable to pay tax under this Act fails to furnish a return in respect of any period within the period specified in sub-section (1) of section 5, the <sup>2</sup>[Luxury Tax Officer]<sup>2</sup> shall, after giving the <sup>1</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>1</sup> a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax if any, due from him.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(4) Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence under this Act.

**<sup>1</sup>[6A. Collection of tax by a registered <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> and forfeiture of illegal or excess collection of taxes.-** 2[(1) A proprietor <sup>3</sup>[xxx]<sup>3</sup> who is not registered under this Act, shall not collect any amount by way of tax or purporting to be by way of tax under this Act, nor shall a registered proprietor <sup>3</sup>[xxx]<sup>3</sup> collect any amount by way of tax or purporting to be by way of tax at a rate exceeding the rate specified under this Act at which he is liable to pay tax.]<sup>2</sup>

1. Section 6A sub-sections (1) and (2) Clauses (a) and (b) Inserted by Act 10 of 1986 w.e.f.31.3.1986.
2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) If any <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> contravenes the provisions of sub-section (1), the Luxury Tax officer, after giving such <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> a reasonable opportunity of being heard,-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(a) shall, by order in writing, forfeit in favour of the State Government the amount unauthorisedly collected or collected in excess of the prescribed rate ; and

(b) may, in addition, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the amount so collected.]<sup>1</sup>

**7. Imposition of penalty in certain cases.-** Where any <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> liable to pay tax under this Act,-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
  2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.
- (a) fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 5, or
  - (b) while furnishing a return under sub-section (1) of section 5 fails, without sufficient cause or neglects, to pay into government treasury the whole amount of tax due firm him according to such return as required by sub-section (2) of section 5, or
  - (c) fails without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 6, or

(d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax, the <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> may impose upon such <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> by way of penalty, in addition to any tax assessed under section 6, a sum not exceeding one and a half times the amount of the tax.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

<sup>1</sup>[xxx]<sup>1</sup>

1. Proviso omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[7A. Assessment of escaped tax.-** (1) Where for any reason the whole or any part of the <sup>2</sup>[charges for lodging, charges for luxuries provided in a hotel for residents or others, charges for luxuries provided in a marriage hall <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> has escaped assessment to tax or has been assessed at a lower rate than the rate at which it is assessable, the Luxury Tax Officer may, at any time within a period of five years from the expiry of the <sup>2</sup>[year]<sup>2</sup> to which the tax relates, proceed to assess to the best of his judgement the tax payable on such charges after issuing a notice to the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>1</sup> and after making such enquiry as he considers necessary.

1. Section 7A sub-sections (1) and (2) Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) In making an assessment under sub-section (1) the Luxury Tax Officer may, if he is satisfied that the tax escaped from assessment is due to willful non-disclosure of the charges for lodging by the proprietor <sup>1</sup>[xxx]<sup>1</sup>, after giving a reasonable opportunity of showing cause, direct the proprietor <sup>1</sup>[xxx]<sup>1</sup> to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed.]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**8. Payment of tax and penalty.-** (1) (a) The amount of tax,-

(i) due where returns have been furnished without full payment therefore ;

(ii) assessed for any period <sup>1</sup>[x x x]<sup>1</sup> less any sum already paid by the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> in respect of such period ;

1. Omitted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.



(b) the amount of penalty, if any, levied <sup>1</sup>[under this Act]<sup>1</sup>, shall be paid by the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> <sup>1</sup>[in such manner as may be prescribed and]<sup>1</sup> by such date as may be specified in the notice issued by the <sup>1</sup>[Luxury Tax Officer]<sup>1</sup> for this purpose being a date not later than thirty days from the date of service of notice :

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986
2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

<sup>1</sup>[Proviso xxx]<sup>1</sup>

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1977.

<sup>1</sup>[Provided that the specified class of proprietors as may be notified by the Commissioner shall pay the tax or any other amount due under this Act, by electronic remittance through internet in the manner specified in the said notification.]<sup>1</sup>

1. Inserted by Act 5 of 2010 w.e.f. 1..4.2010.

<sup>1</sup>[(1A) If default is made in making payment in accordance with sub-section (1),-

(i) the whole of the amount towards tax or penalty out-standing on the date of default shall become immediately due and shall be a charge on the properties of the proprietor liable to pay such tax or penalty, and

(ii) the proprietor liable to pay such tax or penalty shall be liable to pay simple interest at two per cent of the amount of the tax or penalty due for each month or part thereof for the period for which the tax or penalty remains unpaid.]<sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

<sup>1</sup>[(2) Any tax or penalty which remains unpaid on the date specified in the notice of payment <sup>2</sup>[x x x]<sup>2</sup> shall be recoverable,-

1. Sub-section (2) Clause (a) and (b) Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
2. Omitted by Act 7 of 1997 w.e.f. 1.4.1997.

(a) as if it were an arrear of land revenue ; or

<sup>1</sup>[(aa) by attachment and sale or by sale without attachment of any property of such proprietor <sup>2</sup>[xxx]<sup>2</sup> or any other person by the Luxury Tax Officer or any prescribed officer in accordance with such rules as may be prescribed;]<sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(b) on application to any magistrate by such magistrate, as it it were a fine imposed by him.]<sup>1</sup>

<sup>1</sup>[(3) Notwithstanding anything contained in sub-section (1-A), where the amount of penalty does not exceed five lakh rupees, the Commissioner and in other cases, the State Government, may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty payable in respect of any period by any proprietor <sup>2</sup>[xxx]<sup>2</sup><sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[8A. Recovery of tax from certain other persons.-** (1) The Luxury Tax Officer may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup>, at his last address known to the Luxury Tax Officer) require any person from whom money is due to the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> or any person who holds or may subsequently hold money for or on account of the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> to pay to the Luxury Tax Officer either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money, becomes due or is held) so much of the money as is sufficient to pay the amount due by the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> in respect of arrears of tax or penalty or the whole of the money when it is equal to or less than that amount.

1. Sections 8A to 8C inserted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) The Luxury Tax Officer may at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with the notice under this section shall be deemed to have made the payment under the authority of the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> and the receipt of the Luxury Tax Officer shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(4) Any person discharging any liability to the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> after receipt of the notice referred to in this section shall be personally liable to the Luxury Tax Officer to the extent of the liability discharged or to the extent of the liability of the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> for the amount due under this Act, whichever is less.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the <sup>1</sup>[proprietor

<sup>2</sup>[xxx]<sup>2</sup><sup>1</sup> or that he does not hold any money for or on account of the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup>, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the Luxury Tax Officer.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(6) Any amount which a person is required to pay to the Luxury Tax Officer or for which he is personally liable to the Luxury Tax Officer under this section shall, if it remains unpaid be a charge on the properties of the said person and may be recovered in the manner specified in section 8.

**Explanation.-** For the purposes of this section, the amount due to <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> or money held for or on account of <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> shall be computed after taking into account such claims, if any, as may have fallen due for payment by such <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> to such person and as may be lawfully subsisting.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**8B. Liability of firms.-** (1) Where any firm is liable to pay any tax or penalty or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax or penalty or other amount under this Act retires he shall, notwithstanding any contract to the contrary, be liable to pay the tax or penalty or other amount remaining unpaid at the time of his retirement and any tax or penalty or other amount upto the date of retirement, though unassessed.

(3) When a firm liable to pay the tax or penalty under this Act is dissolved or discontinued, the assessment of the tax and imposition of penalty shall be made as if no dissolution or discontinuance of the firm had taken place and every person who was, at the time of dissolution or discontinuance, a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

**8C. Tax payable on transfer of business etc.-** (1) When the ownership of the business of a <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> liable to pay tax or penalty or any other amount under this Act is transferred and the transferor and the transferee shall jointly and severally be liable to pay tax or penalty or any other amount under this Act in respect of such business which remains unpaid at the time of transfer and for the purpose of recovery from the transferee, such transferee shall be deemed to be the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> liable to pay the tax or penalty or other amount under this Act.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) Where a <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> dies, his executor, administrator or other legal representative shall be deemed to be the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> for the purpose of this Act and the provisions of this Act shall apply to him in respect of the business of the deceased <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> :

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

Provided that, in respect of any tax or penalty assessed as payable by any such <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> or any tax or penalty which would have been payable by him under this Act, if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(3) When an undivided Hindu family or Aliya Santhana family liable to pay tax or penalty is partitioned, the assessment of the tax and the imposition of the penalty shall be made as if no partition of the family has taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.]<sup>1</sup>

## <sup>1</sup>[CHAPTER V APPEALS AND REVISIONS]<sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

**<sup>1</sup>[9. Appeals.-** (1) Any proprietor objecting to any order or proceedings passed under the provisions of this Act, by the Luxury Tax Officer, may appeal to the Appellate Authority as may be prescribed.

(2) The appeal shall be preferred,-

- (a) in respect of an order of assessment, within thirty days from the date on which the notice of assessment, was served on the appellant, and
- (b) in respect of any other order or proceedings, within thirty days from the date on which the order was communicated to the appellant:

Provided that the Appellate Authority may admit an appeal preferred after the period as aforesaid, but within a further period of one hundred and eighty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) (a) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amount due shall be paid in accordance with the order or proceedings against which an appeal has been preferred.

(b) No appeal against an order of assessment shall be entertained by the Appellate Authority, unless it is accompanied by satisfactory proof of the payment of, tax and other amount due if any, not disputed in the appeal and one half of the tax or other amount disputed in appeal.

Provided that the Appellate Authority may, in its discretion, stay payment of the balance half of tax or other amount disputed in appeal, if the appellant furnishes security to its satisfaction in such form and in such manner as may be prescribed:

Provided further that where any application filed for staying proceedings of recovery of any tax or other amount has not been disposed of by the Appellate Authority within a period of thirty days from the date of such application, it shall be deemed that the Appellate Authority has made an order, staying proceedings of recovery of such tax or other amount subject to payment of one half of the tax or other amount disputed and furnishing of sufficient security to the satisfaction of the Luxury Tax Officer in regard to the remaining half of such tax or amount within a further period of fifteen days:

Provided also that where an order staying proceedings of recovery of any tax or other amount is passed in any proceedings relating to an appeal under sub-section (1), the Appellate Authority shall dispose of the appeal within a period of one hundred twenty days from the date of such order:

Provided also that if such appeal is not so disposed of within the period specified in third proviso, the order of stay shall stand vacated after the expiry of the said period and the Appellate Authority shall not make any further order staying proceedings of recovery of the said tax or other amount.

(4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the Appellate Authority may, after giving the appellant a reasonable opportunity of being heard,-

(a) in the case of an order of assessment or penalty,-

(i) confirm, reduce or enhance the assessment including any part thereof whether or not such part is objected to in the appeal;

(ii) pass such other orders as it may think fit; and

(b) in the case of any other order or proceedings, confirm, cancel or vary such order.

Provided that in disposing of an appeal, the Appellate Authority shall not set aside any order or proceedings of assessment or any other order and direct the Luxury Tax Officer to make a fresh assessment or to make a fresh order:

Provided further that the Appellate Authority shall pass an order disposing of an appeal, within a period of thirty days from the date on which the hearing of the case was concluded and where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Appellate Authority shall fix a future date for passing the order, and such day shall not be a day beyond sixty days from the date on which the hearing of the case was concluded, with due notice of the same to the appellant.

(6) Every order passed on appeal under this section shall, subject to the provisions of sections 11 and 11-A, be final.

**Explanation.-** Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008 shall be subject to this section.;

1. Substituted by Act 6 of 2008 w.e.f. 1.8.2008.

**<sup>1</sup>[10. Revisional powers of <sup>2</sup>[Joint Commissioner, Additional Commissioner and]<sup>2</sup> Commissioner.-** (1) The Joint Commissioner may of his own motion, call for and examine the records of any order passed or proceedings recorded under the provisions of this Act by a Luxury Tax Officer sub-ordinate to him, for the purpose of satisfying himself as to the legality or propriety of such orders or as to the regularity of such proceedings in so far as it is prejudicial to the interest of revenue, and may pass such order with reference thereto as he thinks fit.

1. Section 10 substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

<sup>1</sup>[(1-A) The Additional Commissioner may of his own motion, call for and examine the record of any order passed or proceedings recorded under the provisions of this Act by any officer, who is not above the rank of a Joint Commissioner, for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceeding insofar as it is prejudicial to the interest of revenue, and pass such orders with reference thereto as he thinks fit.]<sup>1</sup>

1. Inserted by Act 15 of 2011 w.e.f. 1.4.2011.

(2) The Commissioner may of his own motion, call for and examine the record of any order passed or proceeding recorded under the provisions of this Act by a <sup>1</sup>[Additional Commissioner]<sup>1</sup> subordinate to him for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceeding in so far as it is prejudicial to the interest of revenue, and pass such orders with reference thereto as he thinks fit.

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

(3) The powers under <sup>1</sup>[sub-sections (1), (1-A) and (2)]<sup>1</sup> shall be exercisable only with a period of four years from the date on which the order was passed.

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

(4) No order shall be passed under <sup>1</sup>[sub-section (1),(1-A) or (2)]<sup>1</sup> enhancing any assessment, unless an opportunity has been given to the proprietor or the stockist to show cause against the proposed enhancement.

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

(5) The power under this section shall not be exercisable in respect of matters subjected to appeal under section 9.

(6) Every order passed in revision under <sup>1</sup>[sub-section (1) of (2)]<sup>1</sup> shall, subject to the provisions of section 10A and sub-section (2) of this section, be final.

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

(7) Every order passed in revision under sub-section (2), shall subject to the provisions of sections 10A and 11B, be final.

**Explanation I.-** For the purposes of this section, "the record" shall include all records relating to any proceedings under this Act available at the time of examination by the Commissioner or the <sup>1</sup>[Additional Commissioner or the Joint Commissioner.]<sup>1</sup>

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

**Explanation II.-** In computing the period of limitation under this section, the period during which any proceedings under this section is stayed by an order or injunction of any court shall be excluded.]<sup>1</sup>

**<sup>1</sup>[10A. Rectification of mistakes.-** (1) With a view to rectifying any mistake apparent from the record, the Luxury Tax Officer, the appellate authority or the revising authority may, at any time within five years from the date of an order passed by him or it as the case may be, amend such order:

1. Section 10A 1 to 3 Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

Provided that an amendment which has the effect of enhancing an assessment or otherwise, increasing the liability of the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> shall not be made unless the Luxury Tax Officer, the appellate authority or the revising authority, as the case may be, has given notice to the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> of his or its intention and has allowed the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>]<sup>1</sup> an opportunity of being heard.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) An order passed under sub-section (1) shall be deemed to be an order passed under same provision of law under which the original order, the mistake in which was rectified had been passed.

(3) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund which may be due to the <sup>1</sup>[proprietor <sup>2</sup>[xxx]<sup>2</sup>].<sup>1</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[11. Appeal to the Appellate Tribunal.-** (1) Any officer empowered by the State Government in this behalf or any other person objecting to an order passed by the appellate authority under section 9 or an order passed by a revisional authority under sub-section (1) of section 10, may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him:

1. Section 11 Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

Provided that the Appellate Tribunal may admit an appeal preferred after the period of sixty days aforesaid but within a further period of one hundred and eighty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(2) The officer authorised under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Joint Commissioner has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file at any time before the appeal is finally heard, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Joint Commissioner, as the case may be, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

(3) The appeal or the memorandum of cross-objections shall be in the prescribed form, shall be verified in the prescribed manner, and in the case of an appeal preferred by any person other than an officer empowered by the State Government under sub-section (1), shall be accompanied by <sup>1</sup>[proof of payment of one half of the tax or other amount disputed and also]<sup>1</sup> a fee equal to two per cent of the amount of assessment objected to: Provided that the sum payable shall in no case be less than two hundred rupees or more than one thousand rupees.

1. Inserted by Act 6 of 2008 w.e.f. 1.8.2008.

(4) Notwithstanding that an appeal has been preferred under sub-section (1), the payment of tax or penalty or any other amount, payable in accordance with any order passed by the Joint Commissioner under section 9 or sub-section (1) of section 10, shall not be stayed by the Appellate Tribunal during pendency of the appeal.

(5) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit :



Provided that if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of :

Provided further that if as a result of the appeal any change becomes necessary in the assessment which is the subject-matter of the appeal, the Appellate Tribunal may authorise the Luxury Tax Officer to amend the assessment and the Luxury tax Officer shall amend the assessment accordingly and, thereupon, any amount over-paid by the assessee shall be refunded to him without interest, or any additional amount of tax due from him shall be collected in accordance with the provisions of the Act, as the case may be.

<sup>1</sup>[(6) Notwithstanding that an appeal has been preferred under sub-section (1), and notwithstanding anything contained in any other law, tax or any other amount shall be paid in accordance with the assessment or other order made in the case:

Provided that the Appellate Tribunal may, in its discretion, stay the payment of the balance half of the tax or other amount disputed, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed:

Provided further that the Appellate Tribunal shall dispose of such appeal within a period of one hundred eighty days from the date of the order staying proceedings of recovery of such half of the tax or other amount and, if such appeal is not so disposed of within the period specified, the order of stay shall stand vacated and the Appellate Tribunal shall not make any further order staying proceedings of recovery of the said tax or other amount.

**Explanation.-** Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008 shall be subject to this section.]<sup>1</sup>

1. Substituted by Act 6 of 2008 w.e.f. 1.8.2008.

(7) (a) The Appellate Tribunal may, on the application either of the appellant or of the respondent, review any order passed by it under sub-section (5) on the basis of facts which were not before it when it passed the order:

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which the application relates was communicated to the applicant and , where the application is preferred by any person other than an officer empowered by the State Government under sub-section (1), it

shall be accompanied by a fee equal to that which had been paid in respect of the appeal :

Provided that if the application for review is preferred within ninety days from the date on which the order to which application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(8) With a view to rectifying any mistake apparent from the record, the Appellate Tribunal may, at any time, but within five years from the date of any order passed by it under sub-section (5) or sub-section (7), amend such order:

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

(9) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have the power to award costs to either of the parties to the appeal or review.

(10) Every order passed by the Appellate Tribunal under sub-section (5) or sub-section (7) or sub-section (8), shall be communicated to the appellant, the respondent, the authority on whose order the appeal was preferred, the Joint commissioner concerned and the Commissioner.

(11) Every order passed by the Appellate Tribunal under sub-section (5) shall, subject to the provisions of sub-section (4) of section 11A, be final.]<sup>1</sup>

## [CHAPTER VI MISCELLANEOUS

**11A. Revision by High Court.**- (1) Within <sup>1</sup>[one hundred and eighty days] <sup>1</sup>from the date on which an order under section 11 was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law :

Provided that the High Court may admit a petition preferred after the period of <sup>1</sup>[one hundred and eighty days] <sup>1</sup> aforesaid, if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period.

1. Substituted by Act 57 of 2010 w.e.f. 1.4.2010.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by any person other than an officer empowered by the State Government under sub-section (1) of section 11, be accompanied by a fee of one hundred rupees.

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

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

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

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

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

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

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

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

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

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

**11B. Appeal to High Court.**- (1) Any assessee objecting to an order passed under sub-section (2) of section 10, may appeal to the High Court within sixty days from the date on which the order was communicated to him :

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.]<sup>1</sup>

1. Chapter heading Sections 11A and 11B Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

**<sup>1</sup>[12. Payment of interest.-** Where any amount refundable to any person under an order made under any provision of this Act is not refunded to him within ninety days,-

- (a) of the date of such order, if that order is made by the refunding authority, or
- (b) of the date or receipt of such order by the refunding authority, if that order is made by an authority other than the refunding authority, the refunding authority shall pay such person simple interest at the rate of twelve percent per annum on the said amount from the date immediately following the expiry of the said ninety days to the day of the refund :

Provided that the interest shall be calculated on the balance of the amount remaining after adjusting out of refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

***Explanation.-*** If the delay in granting the refund within the aforesaid period of ninety days is attributable to the person to whom the refund is payable, the period of such delay shall be excluded for the purpose of calculation of interest.]<sup>1</sup>

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

**<sup>1</sup>[12-A. Power of State Government to exempt or reduce tax or permit payment of composition amount.-** The State Government may, if in its opinion, it is necessary in the public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification,-

- (a) exempt or reduce the tax payable under this Act in respect of specified class of hotels, marriage halls, clubs and hospitals; and,
- (b) permit payment of an amount by way of composition in lieu of the tax payable under this Act in respect of specified class of hotels.]<sup>1</sup>

1. Substituted by Act 15 of 2011 w.e.f. 1.4.2011.

**<sup>1</sup>[12B Maintenance of accounts and issue of sale bills or cash memorandum.-**

(1) Every registered proprietor, <sup>2</sup>[and every proprietor]<sup>2</sup> liable to get himself registered under this Act shall maintain and keep true and complete accounts relating to his business as well as such other registers or records as may be prescribed in this regard. All such accounts, registers or records shall be retained by him in his safe custody till his assessment or re-assessment, as the case may be, for the relevant

year is completed or, in cases where any appeal, revision or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

1. Substituted by Act 2 of 2001 w.e.f. 23.1.2001.

2. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) Every proprietor liable to pay luxury tax under the Act shall issue a bill or cash memorandum in respect of the charges for lodging accommodation or charges for marriage hall recovered by him from a guest or any person and shall specify in such bill or cash memorandum, the full name of the hotel or marriage hall, the amount of luxury tax recovered, the name of the guest or any person from whom it is recovered and where the charges are recovered in any foreign exchange, the name of the currency.

(3) <sup>1</sup>[xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[13. Offences and Penalties.-** (1) Any proprietor <sup>2</sup>[xxx]<sup>2</sup> who.-

- (a) is obliged to get himself registered under this Act does not get so registered; or
- (b) fails to submit a return as required by the provisions of this Act, or the Rules made thereunder; or
- (c) fails to submit a statement as required under Section 5-A; or
- (d) fails to pay within the time allowed any tax assessed on him or any penalty levied on him under this Act; or
- (e) fails to keep true and complete accounts; or
- (f) fails to issue a bill or cash memorandum in accordance with the provisions of sub-sections (2) and (3) of Section 12-B; or
- (g) fails to comply with a notice issued under sub-section (1) of Section 17,

shall on conviction be punished with a simple imprisonment for a term which may extend to six months or with fine which shall not be less than one thousand rupees which may extend to five thousand rupees or with both.

1. Section 13 Substituted by Act 5 of 2001 w.e.f. 1.4.2001.

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) Any person who.-

- (a) carries on business as a proprietor <sup>1</sup>[xxx]<sup>1</sup> without furnishing the security demanded under sub-section (4) of Section 4-A; or

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

- (b) willfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder; or

- (c) willfully submits an untrue statement under sub-section (1) of Section 5-A; or
- (d) fraudulently evades the payment of any tax or other amount payable by him under this Act; or
- (e) collects any amount by way of tax or purporting to be by way of tax in contravention of sub-section (1) of Section 6-A; or
- (f) prevents or obstructs inspection, entry, search or seizure by an Officer empowered under this Act; or
- (g) prevents or obstructs inspection of any vehicle or boat or goods transported otherwise or seizure of goods by an Officer-in-charge of a check post or barrier or any Officer empowered under this Act; or
- (h) dishonestly objects to or fails to comply with the terms of a notice issued to him under Section 8-A; or
- (i) willfully acts in contravention of any of the provisions of this Act or the rules made thereunder,

shall, on conviction in addition to the recovery of any tax or other amount that may be due from him, be punishable with simple imprisonment which may extend to twelve months or with a fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of continuance of the offence.]<sup>1</sup>

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

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

**Explanation.-** For the purposes of this section-

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

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

**15. Compounding of offences.-** (1) Subject to such conditions as may be prescribed, the <sup>1</sup>[Luxury Tax Officer or any officer authorised under sub-section (1) of section 17 may]<sup>1</sup>, either before or after the institution of proceedings for an offence under this Act, permit any person who has committed or is suspected to have committed the offence to compound the offence on payment of such sum, not exceeding double the amount of tax to which the offence relates <sup>1</sup>[as the Luxury Tax Officer or such authorised officer may]<sup>1</sup> determine.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(2) On payment of such sum as may be determined by the <sup>1</sup>[Luxury Tax Officer or the authorised officer]<sup>1</sup> under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

**16. Powers to enforce attendance etc.-** All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit, in respect of enforcing the attendance of and examining, any person on oath or affirmation or for compelling the production of any document.

**17. Powers of inspection of accounts and documents and <sup>1</sup>[search of hotel, etc]<sup>1</sup>.-** (1) The <sup>1</sup>[Luxury Tax Officer or any officer authorised by the State Government in this behalf]<sup>1</sup> may, subject to such conditions as may be prescribed require any proprietor <sup>2</sup>[xxx]<sup>2</sup> to produce before him the working records of accounts, registers or other documents or to furnish any information relating to <sup>1</sup>[his business]<sup>1</sup> as may be necessary for the purposes of this Act.

1. Substituted by Act 5 of 2001 w.e.f. 1.4.2001

2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(2) All working records of accounts, registers or other documents relating to the business of any hotel <sup>2</sup>[lodging house, health club, beauty parlour, swimming pool, conference hall and the like, business of marriage hall and]<sup>2</sup> <sup>3</sup>[management of hospital]<sup>3</sup> shall at all reasonable times be open to inspection by the <sup>1</sup>[Luxury Tax Officer or the authorised officer]<sup>1</sup> and the <sup>1</sup>[Luxury Tax Officer or the authorised officer]<sup>1</sup> may take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of testing the accuracy of the charges for such luxury <sup>4</sup>[xxx]<sup>4</sup> or for informing himself as to the particulars regarding which information is required for the purpose of this Act or any rules thereunder as would appear to him necessary.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
3. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.
4. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

(3) If the <sup>1</sup>[Luxury Tax Officer or the authorised officer]<sup>1</sup> has reason to believe that any <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> has evaded or is attempting to evade the payment of tax due from him, he may for reasons to be recorded in writing, seize such records of accounts, registers or other documents of the <sup>2</sup>[proprietor <sup>3</sup>[xxx]<sup>3</sup>]<sup>2</sup> as may be necessary and shall grant a receipt for the same and shall retain the same so long only as may be necessary in connection with any proceeding under this Act or for a prosecution:

<sup>4</sup>[Provided that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him , in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.]<sup>4</sup>

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.
2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997
3. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.
4. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

<sup>1</sup>[(4) For the purposes of this Act, the Luxury Tax Officer or the person authorised by him in this behalf or the officer authorised under sub-section (1), may enter and search any hotel or any place of business of the proprietor or any other place where the Luxury Tax Officer or the officer authorised under sub-section (1) has reason to believe that the proprietor keeps, or is for the time being keeping, any records of accounts, registers or other documents relating to his business.]<sup>1</sup>

1. Sub-section 4 Substituted by Act 5 of 2007 w.e.f. 1.4.2006.

<sup>1</sup>[17Axxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

<sup>1</sup>[18. xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

**<sup>1</sup>[18A. Assessment, etc. not to be questioned in prosecution.-** The validity of the assessment of any tax or other amount made under this Act or the liability of any person to pay any tax or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceedings whether under this Act or otherwise.]<sup>1</sup>



1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997

**19. Bar of proceedings.-** (1) No suit shall lie in any Civil Court to set aside or modify an assessment made or order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

**20. Power to make rules.-** (1) The State Government may make rules for securing the payment of the tax and generally for carrying into effect the provisions of this Act.

(2) Any rule under this Act may be made with retrospective effect and when such rule is made, the reasons for making the rules shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (3), every rule made under this Act shall have effect as if enacted in this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session 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.

**<sup>1</sup>[20A. Laying of notifications before the State Legislature.-** Every notification issued under the provisions of this Act shall be laid as soon as may be after it is published, 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 two or more successive sessions immediately following, and if both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification 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 the notification]<sup>1</sup>

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997

**21. Power to remove difficulties.-**If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions as may appear to it to be necessary or expedient for removing the difficulty.

<sup>1</sup>[SCHEDULE

xxx]<sup>1</sup>

1. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

\* \* \* \*

**NOTIFICATION**

**Bangalore dated 31-5-1979 [No. FD 54 CSL 79]**

**S.O. 1271.-** In exercise of the powers conferred by sub-section (3) of section of the Karnataka Tax on Luxuries (Hotels and Lodging Housed) Act, 1979 (Karnataka Act No. 22 of 1979), the Government of karnataka hereby appoints the 1st day of June, 1979 as the date on which the said Act shall come into force.

By Order and in the name of Governor of Karnataka,

(L.S. JAGIRDAR)

*Secretary to Government,*

*Finance Department (CT).*

\* \* \* \*

