

KARNATAKA ACT NO. 32 OF 2014

THE KARNATAKA TANK CONSERVATION AND DEVELOPMENT AUTHORITY ACT, 2014



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STATEMENT OF OBJECTS AND REASONS

I

Act 32 of 2014.- In the Budget speech for the year 2013-14 it is declared that an Authority to develop tanks and lakes will be constituted in the State. Therefore, it is considered necessary to provided for,-

- (a) establishment of the Karnataka Tank Development Authority, having necessary powers and functions for, improvement of all tanks, ponds, lakes in the rural areas of the Karnataka State, and to improve Ground Water;
- (b) eviction of encroachment of tanks, protection and Development of Water Bodies etc., and
- (c) other matters connected therewith or incidental thereto.

Hence, the Bill.

[L.A. Bill No.42 of 2014, File No. Samvyashae 19 Shasana 2014]

[entries 17 and 32 of List II of the Seventh Schedule to the Constitution of India]

II

Amending Act 15 of 2018.- It is considered necessary to amend the Karnataka Tank Conservation Development Authority Act, 2014 (Karnataka Act 32 of 2014) to strengthen the Tank Development Authority and repeal the Karnataka Lake Conservation and Development Act, 2014 (Karnataka Act 10 of 2015), to transfer all tanks located within the limits of Municipal Corporations including Bruhath Bengaluru Mahanagara Palike to the control of Minor Irrigation and Ground Water Development Department.

An opportunity is also taken to make certain consequential amendments also.

Hence, the Bill.

[L.A. Bill No.60 of 2018 File No. Samvyashae 11 Shasana 2018]

[entries 17 and 32 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO. 32 OF 2014

(First Published in the Karnataka Gazette Extra-ordinary on the Sixth day of September, 2014)

**THE KARNATAKA TANK CONSERVATION AND DEVELOPMENT AUTHORITY ACT, 2014**

(Received the assent of the Governor on the Second day of September, 2014)

(As amended by Act 15 of 2018)

An Act to provide for establishment of a Tank Conservation and Development Authority and other matters connected therewith or incidental thereto;

Whereas, the Apex Court has already ruled that right to water is a part of right to life guaranteed by Article 21 of the Constitution of India.

Whereas, due to rapid urbanization, industrialization and population explosion, water bodies like tanks and ponds are being converted into urban and industrial land use after breaking bund and draining water;

Whereas, in the State there are large number of tanks which are main source of the agriculture, drinking water and rural Industries. These tanks are managed, protected, conserved and rejuvenated by various Government Departments like Minor Irrigation, Rural Development and Panchayat Raj, Forest Department, ¹[Urban Development Department]¹ etc.,

Whereas, such destruction of water bodies leads to acute shortage of water and rapid depletion of ground water and thereby affecting availability of water for irrigation, drinking and consumption by live stock, besides affecting aquatic flora and fauna and accordingly there is an urgent need for protection, conservation and rejuvenation of water bodies by a Single Authority.

And now therefore, it is expedient to provide for establishment of a Tank Conservation and Development Authority having necessary powers and functions to achieve the object of protection, conservation and rejuvenation of water bodies, and for other matters connected therewith or incidental thereto.

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

1. Inserted by Act 15 of 2018 w.e.f 26.03.2018

CHAPTER - I PRELIMINARY

1. Short title, commencement and application. - (1) This Act may be called the Karnataka Tank Conservation and Development Authority Act, 2014.

(2) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.

(3) It applies to all the Tanks, ponds, lakes in the Karnataka State ¹[XXX]¹ or any other water bodies as may be notified by the Government.

1. Omitted by Act 15 of 2018 w.e.f 26.03.2018

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

(a) "Authorized officer" means any officer appointed by the Government under section 11;

(b) "Authority" means the Karnataka Tank Conservation and Development Authority constituted under section 3;

(c) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under section 8;

(d) "Designated Officer" means any officer who may belongs to any of the departments of Minor Irrigation or Rural Development and Panchayat Raj or Forest Department ¹[Urban Development Department]¹ and appointed or designated as such by the Authority under section 10;

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

(f) "Industry" includes any operation or process or treatment and disposal system, which consumes, water or any other liquid or gives rise to sewage effluents or trade effluents, but does not include any hydro power unit;

(g) "Tank" or "Ponds" or "Lake" means an inland water-body irrespective of whether it contains water or not, but mentioned in revenue records as sarkari kere, kharab kere, kunte, katte or by any

other name and includes the peripheral catchment areas (Rajakaluve) main feeder inlet and other inlets, bunds, weirs, sluices, draft channels, outlets and the main channels of drainages to and fro; but does not include, - ²[XXX]² tanks which has command area more than 2000 Hectors and above.

(h) "Landscape" includes all forms of trees, shrubs, grasses whether naturally growing or planted in water bodies to enhance aesthetic value;

(i) "Surface water" includes water occurring on the land of tanks as defined above;

(2) Words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964) and Karnataka Irrigation Act, 1964.

1. Inserted by Act 15 of 2018 w.e.f 26.03.2018
2. Omitted by Act 15 of 2018 w.e.f 26.03.2018

CHAPTER - II

KARNATAKA TANK CONSERVATION AND DEVELOPMENT AUTHORITY

3. Constitution of the Authority.- (1) As soon as may be after the date of commencement of this Act, the Government shall constitute an Authority to be called the Karnataka Tank Conservation and Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act to hold property and shall by the said name sue or be sued.

(3) The Karnataka Tank Conservation and Development Authority shall consist of the following members, namely:-

¹ [(a)	The Chief Minister	Chairperson
(a-1)	The Minister for Minor Irrigation and Ground Water Development	Vice Chairperson] ¹
(b)	The Principal Secretary to Government, Finance Department.	Member
(c)	The Principal Secretary to Government, Department of Law or his nominee not less than the rank of Additional Secretary	Member
(d)	The Principal Secretary to Government, Forest, Ecology and Environment Department.	Member
(e)	The Principal Secretary to Government, Rural Development and Panchayat Raj Department.	Member
(f)	The Principal Secretary to Government, Revenue Department.	Member
(g)	The Principal Secretary to Government, Urban Development Department.	Member
(h)	The Principal Secretary to Government, Agriculture Department.	Member
(i)	The Principal Secretary to Government, Animal Husbandry and Fisheries Department.	Member
(j)	The Chief Engineer South, (Minor Irrigation), Bangalore	Member
(k)	Four non-official members nominated by the Government from amongst experts in the field of environment and ecology or tank or ponds or lake conservation, of whom at least one shall be a woman and one shall be a person belonging to the Scheduled Castes and one shall be a person belonging to the Scheduled Tribes.	Non Official Member
¹ [(ka)	The Member Secretary, Karnataka State Pollution Control Board, Bengaluru;	-Member

(kb)	The Chairman, Bengaluru Water Supply and Sewerage Board, Bengaluru;	-Member
(kc)	The Commissioner, Bengaluru Development Authority, Bengaluru;	-Member
(kd)	The Commissioner, Bruhath Bengaluru Mahanagara Palike, Bengaluru";	-Member
(ke)	The Chairman, Karnataka Urban Water Supply and Sewerage Board	-Member] ¹
(l)	Principal Secretary/ Secretary to Government, Minor Irrigation	Member Secretary Ex-Officio, Chief Executive Officer of the Authority



(4) Subject to the pleasure of the Government, term of office of non-official members shall be as prescribed by the Government, they shall not be eligible for re-appointment.

(5) The non-official members shall be entitled to receive such allowances as may be prescribed.

²[XXXXXX]²

1. Inserted by Act 15 of 2018 w.e.f 26.03.2018

2. Omitted by Act 15 of 2018 w.e.f 26.03.2018

4. Meetings of the Authority.- (1) The Authority shall meet at least once in three months.

(2) The Chairperson shall preside over the meeting of the Authority or if for any reason, he is unable to attend any meeting, ¹[the Vice Chairperson shall preside or if for any reason, he is also unable to attend such meeting then]¹ any other member chosen by the members present at the meeting shall preside.

(3) Quorum for a meeting of the Authority shall be one third of the total number of members.

(4) Save as otherwise expressly provided by or under this Act, the procedure for conduct of business at the meeting of the Authority shall be such as may be specified in the rules.

1. Inserted by Act 15 of 2018 w.e.f 26.03.2018

5. Functions of the Authority.- Subject to the provisions of this Act and the rules made thereunder, the functions of the Authority shall be:-

(1) to exercise regulatory control over all the tanks within its jurisdictions including prevention and removal of encroachment of tank;

(2) to protect, conserve, reclaim, regenerate and restore tanks, ponds, lakes to facilitate recharge of depleting ground water by promoting integrated approach with the assistance of concerned Government departments, local and other authorities;

(3) to take up environmental impact assessment studies for any or all tanks;

(4) to take up environmental planning and mapping of tanks and their surrounding areas with the help of geographical information system and prepare database and atlas of tanks and their catchments;

(5) to prepare a plan for integrated development of tanks and monitor the expenditure and development of tanks;

(6) to desilt the tank and to encourage the Water resource efficiency and agricultural productivity through integrated approach to land and water management for a balanced economic growth and sustainability in agriculture.

(7) to encourage to integrate various farm enterprises to utilize full potential of the farmer and their natural resource base to maximize their income, employment and economic sustainability

(8) to encourage Fisheries and allied activity for generation of additional income.

(9) to improve and also create habitat (wet lands) for aquatic biodiversity, water birds and aquatic plants by reducing sullage and non-point sewage impacts;

¹[(10) To facilitate for impounding water through storm water, draining system, reduce siltation of tanks by taking appropriate soil and water conservation measures.]¹

(11) to improve and monitor water quality, conserve tank ecology on need basis and to protect them against domestic and industrial pollution;

¹[(12) To utilize or allow to utilize the tanks for the purpose of drinking water, irrigation, tourism or any other purpose as the authority may determine.]¹

(13) to encourage participation of communities and voluntary agencies in development of tank and to launch public awareness programmes for tank conservation, preservation and protection;

(14) to advise on any matter that may be referred to it by the Government or any institution.

(15) to promote integrated and coordinated applied research on all the relevant issues pertaining to tanks;

(16) to do such other acts as the Authority may consider necessary, conducive or incidental, directly or indirectly, to achieve the object of this Act.

(17) to create a strong data base of all tanks in the state and record all the developmental activities taken up to the tanks periodically

1. Substituted by Act 15 of 2018 w.e.f. 26.03.2018.

6. Powers of the Authority.- Subject to the provisions of this Act and the rules made thereunder, powers of the Authority shall be,-

(1) to cause entry upon or authorize any officer to enter upon any land, to survey, demarcate and make a map of tanks;

(2) to receive grants, donations, contributions, deposits and rents, and to levy fees or charges for development and maintenance of tanks at such rates approved by the Government;

(3) to grant ¹[clearance]¹ to any project proposal made by any Government Department or organization or association or person interested in developing, maintaining, conserving or protecting a tank and also to take up such activities on its own which shall be approved by the Government;

(4) to invite experts as and when required to its meetings;

(5) to constitute sub-committees as may deemed necessary for the purpose of research, implementation, studies, approval of projects, conservation, preservation and any other purpose relating to tank; and

(6) to take up survey of tank boundary, detect encroachment, if any, and to remove encroachments and erect boundary pillars and to fence them to prevent encroachment of the tank.

(7) to direct the designated officer or any other officer of any department including water users society or association to implement the development plans of tanks and to perform other functions specified in this Act.

²[(8) To call for any information from any department of the State Government or any local Authority or any other person which is required by it in the exercise of its powers and the performance of its functions under this Act or the rules or regulations made thereunder, and such department, Authority or person shall be bound to furnish such information.

(9) To alter, extend or abridge the purpose for which is established or merge or take over any other organization wholly or partially in furtherance of the objective of the Authority.]²

1. Substituted by Act 15 of 2018 w.e.f. 26.03.2018.

2. Inserted by Act 15 of 2018. W.e.f. 26.03.2018.

¹[**6A. Removal of a member.-** The Government may remove from the Authority any non official member who, in its opinion has,-

(1) been adjudged as an insolvent, or

(2) been convicted of an offence which involves moral turpitude; or

(3) become physical or mentally incapable of acting as a member; or

(4) so abused his position as to render his continuance in office detrimental to the public interest; or

(5) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.]¹

1. Inserted by Act 15 of 2018. W.e.f. 26.03.2018.

7. Powers of Chair person.- The Chair person shall be the head of the Authority and shall;-

(a) convene, preside at and conduct meetings of the Authority;

(b) discharge all duties conferred and exercise all powers conferred on him by or under this Act.

8. The Chief Executive Officer.- (1) The Principal Secretary or Secretary to the Government in charge of Minor Irrigation shall be the Ex-officio Chief Executive Officer of the Authority.

(2) Subject to the general powers of the Authority and the Chair person, overall powers to carrying out, the provisions of this Act or to carryout the duties imposed or powers conferred upon the Authority under any other law for the time being in force shall vest in the Chief Executive Officer and who shall also;-

(a) perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or under any other law for the time being in force;

(b) carry into effect the resolutions of the Authority;

(c) conduct all affairs of the Authority;

(d) supervise and control execution of all schemes and works of the Authority or entrusted by the Government or any other Authority;

(e) draw and disburse monies out of the fund of the Authority;

(f) exercise control over the officers and officials of the Authority;

(g) authenticate by his signature all permissions, orders, decisions, notices and other documents of the Authority;

¹[(ga) seek funds for the rejuvenation or development or maintenance of tanks.]¹

(h) exercise such other powers and discharge such other functions and perform such other duties as may be prescribed.

1. Inserted by Act 15 of 2018. w.e.f. 26.03.2018.

9. Officers and other employees of the Authority.- (1) The Government shall provide the Authority with such officers and employees as may be necessary for the efficient discharge of the functions of the Authority.

(2) the method of recruitment, the salaries and allowances payable to and other terms and conditions of service of the officers and other employees appointed for the purpose of the Authority shall be such, as may be prescribed.

¹[(3) The Authority may, with the prior approval of the State Government, create such number and category of post of officers and other employees in the Authority as it considers necessary to carry out its functions under this Act.

(4) The Authority may, also engage such experts and technical persons on contract basis as it considers necessary to carry out its functions under this Act.]¹

1. Inserted by Act 15 of 2018. w.e.f. 26.03.2018.

10. Designated officer.- (1) The Authority may designate or appoint any officer of the Government ¹[not below the rank of Assistant Executive Engineer]¹ as designated officer to be in charge of one or more tanks, ponds, lakes of district wise to ensure their protection, conservation, development and for any other purpose.

(2) the designated officers shall exercise powers under the Act and such other powers as the Authority may by a special or general order confer upon them.

(3) The designated officer shall also be competent to receive complaints from any person regarding the contraventions of the provisions of this Act.

1. Inserted by Act 15 of 2018. W.e.f. 26.03.2018.

11. Authorized Officer.- The Government may appoint an officer of the Government not below the rank of a Group 'A' officer ¹[Group 'A' Senior Officer of Revenue Department]¹ of the State Civil Services as Authorised officer, who shall exercise powers under this Act and such other powers as may be specified by the Government from time to time.

1. Substituted by Act 15 of 2018 w.e.f. 26.03.2018.

CHAPTER - III PROTECTION OF TANKS

12. Acts prohibited in tanks.- Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government departments, corporation or any local or other authority and their agents or employees or any body on their behalf shall,-

- (1) use the tank for any purpose other than storage or impounding of water or for the purpose mentioned in clause (9) of section 5;
- (2) construct any structure on tank land, occupy any tank land or part thereof or cause any obstruction at the natural or normal course of inflow or outflow of water into, or from, the tanks on the upstream and or downstream ¹[XXX]¹;
- ²[(3) make any construction or carry on any commercial or recreational or industrial activity within thirty meters from the outer boundary of the tanks.]²
- (4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the tank by using vehicle or otherwise;
- (5) discharge untreated sewage into the tank directly or indirectly;
- ²[(6) Construct roads, bridges and allied works within tank area including the tank bund. The Authority may grant permission for such works only after ensuring that the original capacity of the tanks is not reduced even after such work".]²
- (7) breach bund, waste weir including lowering raising the height of the waste weir from its original height or remove fence, boundary stones or any hoarding or any sign board erected by the authority; and
- (8) do any other act which is detrimental directly or indirectly to the tanks.

Provided that nothing in this Act shall prohibit withdrawal of water for drinking or irrigation or any other purpose, for human consumption from any tank be specified by the Authority from time to time.

Provided further that nothing in this Act shall prohibit stocking of fish seeds and development of fisheries (except the fish which are dangerous or harmful to the aquatic eco-system of the tank) by the Government and its licensee, lessees or contractor in any tank specified by the Authority from time to time.

1. Omitted by Act 15 of 2018 w.e.f 26.03.2018.

2. Substituted by Act 15 of 2018 w.e.f. 26.03.2018.

13. Protection of tanks.- (1) The Authority may direct any Officer of the Government or any local or other authority who is the custodian, or in control, of any tank to permanently demarcate its boundaries and to take such other measures as may be necessary.

(2) The Authority may issue general or specific directions to any officer of the Government department or any local or other Authority who is the custodian or in control of any tank to take such measures as are necessary and expedient to remove encroachment or unauthorized occupation of such tank and prevent its recurrence.

(3) The Authority may by order specify any tank as a heritage site or bio-conservation site or protected site, or reserve it for any special purpose in view of its historical, ecological or environmental importance and prevent from being put to any other alternate use and may specify its utilization, if any.

¹[(4) The Authority may issue specific directions to any Officer of the Government or local bodies to assist the custodians of any tank in the protection of the tanks.]¹

1. Inserted by Act 15 of 2018 w.e.f. 16.03.2018.

14. Powers to Seize.- (1) When there is reason to believe that an offence punishable under section 12 has been committed, any instrument, implement, machinery, device, tool, boat, vehicle or any other material or object used in committing any such offence, may be seized by the Designated officer or any other officer empowered by the Authority in this behalf (hereinafter referred to as empowered officer)

(2) The Designated officer or empowered officer seizing any property, vehicle, material or object under sub-section (1) shall place on them a mark indicating that the same has been so seized and shall as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure is made. The procedure for seizures shall be as specified in the Code of Criminal Procedure, 1973.

Provided that where the seized property, vehicle, material or object is believed to belong to the Central or ¹[the State Government]¹ or a local or other authority or if the offender is unknown, the Designated officer or empowered officer shall report to the Authorised officer.

²[(3) The arrested persons shall be produced before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.]²

1. Substituted by Act 15 of 2018 w.e.f. 26.03.2018.

2. Inserted by Act 15 of 2018 w.e.f. 26.03.2018.

15. Power to release property seized under section 14.- Where the seized property is such that it cannot be conveniently be produced before the Magistrate or the Authorized Officer as the case may be, it may be released by the Authorised officer to the owner thereof on his executing a Bank guarantee and a bond undertaking to produce the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made or before the Authorised officer.

16. Confiscation by the Authorized officer.- (1) The designated officer or empowered officer seizing the property under section 14 shall, without any unreasonable delay produce the property, before the Authorized Officer;

(2) When any seized property is produced before the Authorised Officer and he is satisfied that an offence prohibited under section 12 has been committed using such property, the Authorised Officer may whether or not a prosecution is instituted for the commission of such offence, order confiscation of the property so seized.

(3) Where the authorised Officer, passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order confiscated property or any part thereof to be sold in public auction;

(4) where any confiscated property is sold, as aforesaid, the proceeds thereof, after deduction of expenses of any such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under sub-section (2), is set aside or annulled by an order under Section 17 or 18 be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

17. Issue of show cause notice before confiscation.- (1) No order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other property shall be made under section 14 except after giving notice in writing to the person from whom it is seized and considering his objection, if any:

Provided that no order confiscating a motor vehicle shall be made except after giving a notice in writing to the registered owner thereof, if in the opinion of the Authorised Officer, it is practicable to do so, and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other property shall be made if the owner of the instrument, implement, machinery, device, tool, boat, vehicle or any other property proves to the satisfaction of the Authorized Officer that it was used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the instrument, implement, machinery, device, tool, boat, vehicle or any other property and that each of them has taken all reasonable and necessary precautions against such use.

18. Revision.- the Chief Executive Officer may before the expiry of thirty days from the date of the order of the Authorised Officer under section 16, suo motu call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass orders as he deems fit.

19. Appeal.- (1) Any person aggrieved by an order passed under Section 16 or Section 18 may within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property in respect to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the Authorised Officer, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under this section shall be final and shall not be questioned in any court of law.

20. Order of confiscation not to interfere with other punishments.- The order of any confiscation under section 15 or 16 or 17 or 18 shall not prevent the infliction of any punishment to which the person prosecuted thereby is liable, under this Act.

21. Property confiscated when to vest in the Government.- when an order for confiscation of any property has been passed under Section 15 or 16 or 17 or 18 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof (or if it has

been sold under subsection (3) of section 16 the sale proceeds thereof) as the case may be; shall vest in the Government free from all encumbrances.

Provided that no such order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.



22. Power to remove encroachment.- (1) Notwithstanding anything contained in the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 (Karnataka Act 32 of 1974) any person who is found to be unauthorizedly occupying any tank land or part thereof may, without prejudice to any other action that may be taken against him under any other provisions of the Act, or any other law for the time being in force, be summarily evicted by the Designated Officer or any other officer authorised by the authority in this behalf:

Provided that no person shall be evicted under this sub-section without giving a reasonable opportunity of being heard.

(2) Every order for eviction passed under sub-section (1) shall be in writing and shall be served on the person unauthorizedly occupying tank land by tendering or delivering a copy thereof to such person or by sending a copy thereof by registered post or if he refuses to receive it or evades service, by pasting it on a prominent part of the property in occupation by him or by publication in a news paper having wide circulation in the area.

(3) Any crop including trees raised in the tank land and any buildings or other construction erected thereon by the unauthorized occupant shall also, if not removed by him within thirty days of the order of eviction passed in sub section (1), be liable to forfeiture or to summary removal.

(4) Any property forfeited under sub-section (3) shall vest in the Authority and which may dispose of it, in such manner as deemed fit and the cost of removal of any crop, trees, building or other construction and the expenditure incurred for restoring the tank to its original condition shall be recoverable from the person evicted as if it were an arrears of land revenue or in any other manner as may be prescribed.

(5) Any person aggrieved by order of the designated officer or other officer authorized by the Authority under sub-section (1), may, within thirty days from the date of the order, appeal against such order to the District and Sessions Judge and in such manner as may be prescribed and the order passed under sub-section (1) shall, subject to the decision in such appeal be final.

¹[(6) The Deputy Commissioner and the Superintendent of Police of the District shall render support as may be required by the Authority to remove the encroachment from any tank.]¹

1. Inserted by Act 15 of 2018 w.e.f. 26.03.2018.

CHAPTER - IV PENALTIES AND PROCEDURES

23. Penalty for contravention of section 12.- Whoever contravenes the provisions of section 12 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with a fine of not less than ten thousand rupees but which may extend to rupees twenty thousand.

24. Penalty for causing obstruction to an officers.- Whoever, (1) obstructs any Designated officer, Authorized officer, empowered officer or any person acting under the orders or directions of the Authority or the authorized or designated officer from exercising his powers, discharging his function or performing his duties under this Act or the rules, or regulation made there under; or

(2) damages any works or property of the Authority; or

(3) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or any notice or other matter put up, inscribed or placed, by or under the directions of the Authority or any authorized officer or designated officer;

Shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees.

25. Penalty for failure to report unlawful occupation of tank.- Being an officer or servant of the Authority or the Government or any local or other authority entrusted with the responsibility of report of unlawful occupation or use of tank or maintenance and protection of tank, fails to report or to take action to remove such unlawful occupation or to maintain or protect tank shall punished with such disciplinary penalty after departmental enquiry or with a fine of rupees ten thousand.

26. Punishment for wrongful seizure.- Any officer, who vexatiously and unnecessarily seizes any property on the pretence of seizing property liable to forfeiture under this Act shall be punished with such penalty as prescribed in the relevant disciplinary rules and with fine which may extend to five thousand rupees.

27. Penalty for contravention of certain provisions of the Act.- Whoever contravenes any other provisions of this Act or any rules or regulations made there under or fails to comply with any order or direction given under this Act, for which no penalty has been specifically provided, shall be punishable with imprisonment which may extend to one year and with fine which may extend to five thousand rupees.

28. Enhanced penalty after previous conviction under section 23.- If any person, who has been convicted of any offence under section 23 is again found guilty of an offence involving a contravention of the same provision, shall on the second and on every subsequent conviction be punishable with imprisonment for a term which shall not be less than six months and with a fine of rupees one lakh.

29. Abetment of offence.- Whoever abets any offence punishable by or under this Act or attempts to commit any such offence shall be punished with a penalty provided by or under this Act for committing such offence.

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

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment 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.

Explanation: For the purposes of this section:-

- a) "Company" means any body corporate and includes a firm or other association of individuals,
- b) "Director " in relation to a firm means a partner in the firm, in relation to the association, the Secretary or the President of the association as the case may be.
- c)

31. Offences by Government department.- Where an offence under this Act has been committed by any department of the Government or any local or other authority, the head of the department of the Government, or as the case may be, the Chief Executive Officer (by whatever name called) who is in charge of such local or other authority 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 section render such head of the department or as the case may be, the Chief Executive Officer liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

32. Arrest without warrant.- (1) Any police officer or designated officer or empowered officer may without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been committed in any offence under this Act punishable with imprisonment for one year or more if such person refuses to give his name and residence address or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Any person arrested under this section shall be informed , as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within a period of twenty four hours of such arrest excluding the time necessary for journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

33. Power to release on bond a person arrested.- Any Police Officer or designated officer who has arrested any person under section 32 may release such person on his executing a bond with

proper surety to appear, if and when so required, before the Magistrate having jurisdiction in the case or before the officer in charge of the nearest Police Station.



34. Cognizance of offences.- The offence under this Act shall be cognizable.

CHAPTER - V

FUND, ACCOUNTS AND AUDIT OF THE AUTHORITY

35. Fund of the Authority.- (1) The Authority shall have its own fund and the amount which may from time to time, be paid to it by the Government and all other receipts (by way of gifts, grant, penalties, fees, charges or otherwise) shall be carried to the fund of the Authority and all the payments for the Authority made there from.

(2) The Authority may spend such sum as it deems fit for performing its duties and discharging its functions under this Act. Such sum shall be treated as expenditure payable out of the fund of the Authority.

¹[XXX]¹

1. Omitted by Act 15 of 2018 w.e.f. 26.03.2018.

36. Accounts and Audit.- (1) The Authority shall maintain proper accounts and other records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Authority shall be audited by the State Accounts Department or such auditor appointed by the Government.

(3) The said auditor shall have the right to demand production of books, accounts, connected vouchers and other documents and papers and to inspect any offices of the Authority.

(4) The Authority shall send a copy of the report of the auditor together with an audited copy to the Government within nine months from the end of each financial year.

(5) The Government shall, as soon as may be after the receipt of the audit report under sub-section (4) cause the same to be laid before both the Houses of the State Legislature.

37. Annual report.- The Authority shall during each financial year prepare in such form as may be prescribed the annual report giving full accounts of its activities under this Act during the previous financial year and copies thereof shall be sent to the Government within four months from the last date of the previous financial year and the Government shall cause such report to be laid before both the Houses of the State Legislature within a period of nine months from the last date of previous financial year.

38. Budget.- The Authority shall during each financial year prepare in such form and at such time as may be prescribed, a budget in respect of financial year next ensuing showing the estimated receipt and expenditure, and copy thereof shall be forwarded to the Government.

39. Borrowing power of Authority.- The Authority may, with the consent of the Government, or in accordance with the terms of any general or special authority given to it by the Government, borrow money from any source, by way of loans or issue of bonds, debentures or such other instruments as it may deem fit for the discharge of all or any of its function under this Act.

40. Mode of making contract.- The Chief Executive Officer shall execute contracts and agreements on behalf of the Authority in respect of matters which he is empowered to carry out under the provisions of this Act. He may execute such contracts or agreements on behalf of the Authority up to such amount as may be specified by the Government from time to time. In all other cases he shall execute a contract or agreement only with the sanction of the Authority.

CHAPTER - VI

MISCELLANEOUS

41. Officers of Government, Local authorities, etc, to assist.- All officers of the Government, any local or other authority or water user society or Association shall render such help and assistance and furnish such information to the Authority as it may require for the discharge of its functions, and shall make available to the Authority or any other officer authorized in this behalf for

inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.



42. Bar of jurisdiction.- Whenever any instrument, implement, machinery, device, tool, boat, vehicle or any other-property is seized under section 14, the Authorized officer under section 15 and 16 or the Chief Executive Officer under section 18 or the Sessions Judge hearing appeal under section 19 shall have powers to exercise in accordance with the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force, any other officer, Court, Tribunal or Authority shall not have jurisdiction to make any order with regard to the custody, possession, delivery, disposal or distribution of such property.

43. Officers to be public servants.- The Chairperson, members, officers and other employees of the Authority and every other officer exercising any of the powers conferred by this Act or the rules made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

44. Protection of action taken in good faith.- No suit, prosecution or any other legal proceedings shall lie against the Authority or the Chair person or the member of the Authority or any officer or employee of the Authority or any person appointed or authorized by the Authority under this Act, in respect of anything done or omitted to be done in good faith under this Act or the rules or regulations made thereunder.

45. Suits or prosecution in respect of acts done under colour of duty.- (1) In any case of alleged offence by designated officer, empowered officer or any other officer or employee of the Authority or of a wrong alleged to have been done by such designated officer empowered officer or their officer or employee of authority by any act done under colour of duty or in excess of such duty or authority under this Act, or wherein it shall appear to the Court that the offence, if committed or done was of the aforesaid character, the prosecution or suit shall not be entertained against them except with the previous sanction of the Government.

(2) In the case of an intended suit on account of such wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer at least three month's notice of the intended suit with sufficient description of the wrong complained of failing which such suit shall not be maintainable.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state whether any, and if so what tender of amends has been made by the defendant. A copy of the said notice, shall be annexed to the plaint endorsed with a declaration by the plaintiff of the time and manner of service thereof.

46. Delegation of powers.- The Authority may, by notification delegate to any officer or authority subordinate to it, any of the powers conferred on it or any officer subordinate to it under this Act to be exercised by such officer of authority subject to such restrictions and conditions, if any, as may be specified in the said notification.

47. Effect of other laws.- (1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act of omission, which also constitutes an offence under this Act, or from being liable under such other law to any higher punishment or penalty other than that provided in this Act or the rule s made thereunder:

Provided that no person shall be punished twice for the same offence.

48. Removal of difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of this Act, remover difficulties.

49. Notice of suit against the Authority etc.,- (1) No suit or other proceedings shall be commenced against the Authority, Chairperson or any member of the Authority for anything done or purporting to have been done in pursuance of this Act or the rules or regulation made there under without giving three month's notice in writing of the intended suit or other proceedings and of the

cause thereof but not after six months from the accrual of the cause of such suit or other proceedings or not after tender of sufficient amends.

(2) A suit to obtain an urgent or immediate relief against the Authority Chairperson or any member of the Authority in respect of any act done or purporting to be done by the Authority, Chair Person or such member in its or as the case may be, his official capacity may be instituted with the leave of the Court, without serving any notice as required by sub-section (1) but the Court shall not grant relief in the suit whether interim or otherwise except after giving to the Authority, Chair Person, member, as the case may be, a reasonable opportunity of showing cause in respect of relief prayed for in the suit.

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

(2) Every rule made under this Act shall be laid down as soon as may be 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 the Houses agree in making any modification in the rule or both the Houses agree that the rule shall not be made, the rule shall thereafter have effect in such modified form or 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 rule.

51. Power to make regulations.- The Authority may, subject to the provisions of this Act and the rules made there under and with the previous sanctions of the Government by notification after previous publication may make regulations to carry out the purposes of this Act in so far as it relates to its functions, powers and duties.

The above translation of ಕರ್ನಾಟಕ ಕೆರೆ ಸಂರಕ್ಷಣೆ ಮತ್ತು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಅಧಿನಿಯಮ, 2014 (2014ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 32) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA

By Order and in the name of
the Governor of Karnataka

S.B. GUNJIGAVI
Secretary to Government ,
Department of Parliamentary Affairs

KARNATAKA ACT NO. 15 OF 2018

(First Published in the Karnataka Gazette Extra-ordinary on the Twenty Sixth Day of March 2018)

**THE KARNATAKA TANK CONSERVATION AND DEVELOPMENT AUTHORITY AND CERTAIN OTHER LAW (AMENDMENT) ACT, 2018**

(Received the assent of the Governor on the Twenty-Third day of March 2018)

An Act to amend the Karnataka Tank Conservation and Development Authority Act, 2014 (Karnataka Act 32 of 2014) and to repeal the Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act 10 of 2015);

Whereas it is expedient to amend the Karnataka Tank Conservation and Development Authority Act, 2014 (Karnataka Act 32 of 2014) and to repeal the Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act 10 of 2015) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty-ninth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Tank Conservation and Development Authority and Certain Other Law (Amendment) Act, 2018

(2) It shall come into force at once.

19. Repeal and Savings of the Karnataka Act 10 of 2015.- (1) The Karnataka Lake Conservation and Development Authority Act, 2014 (Karnataka Act No.10 of 2015) is hereby repealed.

Provided that such repeal shall not affect,-

(a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act, so repealed;

(c) any penalty, forfeiture, or punishment incurred in respect of any offence committed under the Act so repealed; or

(d) any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if this Act had not been passed.

Sections 1,2,3,4,5,6,8,9,10,11,12,13,14,22,35 and New Section 6A are Incorporated in the Principal Act