

Karnataka Municipalities (Amendment) Act, 2003

31 of 2003

[20 August 2003]

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Karnataka Municipalities (Amendment) Act, 2003

[20 August 2003]

An Act further to amend the Karnataka Municipalities Act, 1964. Whereas it is expedient further to amend the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964) for the purposes hereinafter appearing: Be it enacted by the Karnataka State Legislature in the fifty-fourth year of the Republic of India, as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Karnataka Municipalities (Amendment) Act, 2003.

(2) (a) Clause (3) and (4) of Section 2, item (c) of sub-clause (ii) of clause (1) of section 5, clause (1) of section 11, clauses (c), (d) and (e) of sub-section (2) of section 101 proposed to be substituted by clause (2) of section 11, sub-clauses (i), (ii) and (iv) of clause (3) of section 11, sub-clause (i) of clause (1) of section 12, sections 25, 26, 27 and 30 shall be deemed to have come into force on nineteenth day of November 2001;

(b) items (d) and (e) of sub-clause (ii) of clause (1) and clauses (2) and (3) of section 5, section 6, clause (a) and (b) of sub-section (2) of section 101 proposed to be substituted by clause (2) section 11 and sub-clause (iii) of clause (3) of section 11, sub-clauses (ii) and (iii) of clause (1) and clause (2) of section 12 and sections 13, 15, 17 and 33 shall be deemed to have come into force with effect from the sixteenth day of June 2003; and

(c) the remaining provisions shall come into force at once.

2. Amendment Of Section 2 :-

In section 2 of the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964) (hereinafter referred to as the principal Act),-

(1) clause (5) shall be omitted;

(2) after clause (8), the following clause shall be inserted, namely:-

"(8A) "Director of Municipal Administration" means the Director of Municipal Administration appointed under sub-section (1-A) of section 388,"

(3) in clause (27A),-

(i) for the words "value of any buildings or lands or both" the words "value of any buildings including any land occupied by it or vacant land or both" shall be substituted;

- (ii) for the words "tax on buildings or land or both" the words "tax on buildings or vacant land or both" shall be substituted;
- (4) after clause (28-A), the following shall be inserted, namely:-
"(28-B) "Vacant land" means land not built upon".

3. Amendment Of Section 3 :-

In section 3 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:-"Provided that if a District Head Quarters is situated in such smaller urban area the Governor may, specify such area to be a city municipal area even though it contains population of less than fifty thousand."

4. Amendment Of Section 42 :-

In section 42 of the principal Act, in sub-section (9),-

- (i) for the words "majority of not less than two thirds of the total number of councillors" the words "majority of the total number of councillors having voting right and by a majority of not less than two thirds of the councillors having voting right present and voting" shall be substituted,
- (ii) in the proviso, for the words "total number of councillors" the words "total number of councillors having voting right" shall be substituted.

5. Amendment Of Section 94 :-

In section 94 of the principal Act,-

- (1) in sub-section (1),-
 - (i) clause (a) shall be omitted;
 - (ii) in clause (b),
 - (a) the words "with the sanction of the Government and" shall be omitted;
 - (b) for the words and figures "specified in Schedule III, IV, VI and VII", the words "specified in this Act" shall be substituted;
 - (c) for sub-clause (i), the following shall be substituted, namely:-
"(i) a tax on building or vacant lands or both situated within the municipal area (hereinafter referred to as property tax);"
 - (d) sub-clauses (iii), (iv), (viii) and (ix) shall be omitted;
 - (e) the provisos and Explanation (i) and (ii) thereof shall be omitted;
- (2) after sub-section (1), the following sub-sections shall be inserted, namely:-

"(1-A) The following buildings and vacant lands shall be exempted from the property tax, namely:-

(a) places set apart for public worship and either actually so used or used for no other purpose;

(b) choultries for occupation of which no rent is charged and choultries the rent charged for the occupation of which is used exclusively for charitable purpose;

(c) places used for the charitable purpose of sheltering the destitute or animals and orphanages, homes and schools for the deaf and dumb, asylum for the aged and fallen women and such similar institutions run purely on philanthropic lines as are approved by the State Government;

(d) such ancient monuments protected under the Karnataka Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1961 (Karnataka Act 7 of 1962) and Ancient Monuments and Archaeological Sites and Remains Act, 1958 (Central Act 24 of 1958) or parts thereof as are not used as residential quarters or public offices;

(e) charitable hospitals and dispensaries but not including residential quarters attached thereto;

(f) such hospitals and dispensaries maintained by railway administration as may from time to time be notified by the State Government, but not including residential quarters attached thereto;

(g) burial and cremation grounds included in the list published by the Municipal Commissioner or Chief Officer;

(h) Government lands set apart for free recreational purposes and such other Government land as may be notified by the Government which in the opinion of the State Government no income could be derived;

(i) buildings or vacant lands exclusively used for,-

(i) student hostels, which are not established or conducted for profit;

(ii) educational purposes by recognized educational institutions;

(j) buildings or vacant lands belonging to the Central Government or any State Government used for the purposes of Government and not used or intended to be used for residential or commercial purposes;

(k) buildings or vacant lands belonging to the Bangalore Development Authority, the Karnataka Housing Board, the Urban Development Authorities constituted under the Karnataka Urban Development Authorities Act, 1987 or any local authority, the

possession of which has not been delivered to any person, in pursuance of any grant, allotment or lease;

(l) land which is registered as land used for agricultural purpose in the revenue accounts of State Government and is actually used for cultivation of crops;

Provided that nothing contained in clauses (a), (c) and (e) shall be deemed to exempt from property tax, any building or vacant land for which rent is payable by the person or persons using the same for the purposes referred to in the said clauses:

Provided further that for the purposes of clause (j), a certificate issued by the Government or any officer duly authorised by the Government that any building or land is used for the purposes of the State Government and not used or intended to be used for residential or commercial purposes shall be binding on the municipal council.

(1-B) No tax shall be levied on any advertisement which,-

(a) is exhibited with the window of any building if the advertisement relates to the trade, profession or business carried on in that building; or

(b) relates to trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to sale or letting of such land or building or any effects therein or any sale, entertainment or meeting to be held on or upon or in, the same; or

(c) relates to the name of the land or building, upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building; or

(d) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration;

(e) relates to any activity of the State Government;

(f) relates to any public meeting".

(3) in sub-section (2), for the words, figures and brackets "sub-section (1)" the words figure, letter and brackets "sub-section (1A)" shall be substituted.

6. Omission Of Sections 94A :-

Section 94A of the principal Act shall be omitted.

7. Omission Of Sections 95 And 96 :-

Sections 95 and 96 of the principal Act shall be omitted.

8. Substitution Of Section 97 :-

For section 97 of the principal Act, the following section shall be substituted, namely:-

"97. Publication of resolution with notice.-

(1) A municipal council shall by a resolution passed at a general meeting levy any tax specified in section 94 and in such resolution specify the classes of persons or properties which shall be made liable and the amount or rate at which the tax shall be levied. When such a resolution has been passed the municipal council shall publish a notice of such resolution in the notice board of its office and by advertisement in local newspapers.

(2) The publication of such notice shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act and the rules made thereunder."

9. Amendment Of Section 99 :-

In section 99 of the principal Act,-

(1) in sub-section (1) after the words "municipal area" the words "and transitional area" shall be inserted;

(2) in sub-section (3) after the words "municipal council" the words "or Town Panchayat" shall be inserted.

10. Omission Of Section 100 :-

Section 100 of the principal Act shall be omitted.

11. Amendment Of Section 101 :-

In section 101 of the principal Act,-

(1) in sub-section (1), for the words "or lands or both", the words "or vacant land or both" shall be substituted;

(2) for sub-section (2), the following shall be substituted, namely:-

"(2) The property tax shall be levied in case of,-

(a) commercial building at such percentage not being less than 0.5 percent (rupees five per thousand) and not more than one and half per cent of taxable capital value of the building.

(b) residential building and buildings other than commercial at such percentage not being less than 0.3 per cent (rupees three per thousand) and not more than 0.6 per cent (rupees six per thousand) of taxable capital value of the building.

(c) vacant land measuring not above one thousand square meters,

at not less than 0.1 per cent (rupees one per thousand) and not more than 0.2 per cent (rupees two per thousand) of taxable capital value of land.

(d) vacant land measuring above one thousand square meters but not above four thousand square meters, at not less than 0.025 per cent (rupees twenty five per lakh) and not more than 0.05 (rupees fifty per lakh) of taxable capital value of land.

(e) vacant land measuring above four thousand square meters, at not less than 0.01 per cent (rupees ten per lakh) and not more than 0.02 per cent (rupees twenty per lakh) of taxable capital value of land.

(3) in sub-section (3),-

(i) for the words "lands or both" the words "vacant land or both" shall be substituted;

(ii) for the word "land" wherever it occurs, the words "vacant land" shall be substituted;

(iii) Explanation shall be omitted.

(iv) after the proviso, the following proviso shall be inserted, namely:-

"Provided further that vacant land to a maximum of fifty square meters around the residential buildings constructed on sites measuring up to two hundred and twenty five square meters shall be exempted from levy of property tax."

12. Amendment Of Section 102 :-

In section 102 of the principal Act,-

(1) in sub-section (1),-

(i) for the words "together with its land", the words "together with the land occupied by it" shall be substituted;

(ii) for the words "estimated market value of the land notified by the Government", the words "market value guidelines of properties published" shall be substituted;

(iii) for the words "the estimated cost of erecting the building minus depreciation at the time of assessment, determined as far as may be based on the method adopted by the Public Works Department" the words, figures and letter "assessed having regard to the market value guidelines of properties published under section 45B of the Karnataka Stamp Act, 1957 minus depreciation at the time of assessment as may be notified by the Government from time to time" shall be substituted;

(2) in sub-section (2), for the words "estimated market value of the

land notified by the Government" the words "market value guidelines of properties published" shall be substituted.

13. Amendment Of Section 103 :-

In section 103 of the principal Act, for the words "any building or part of a building" the words "any residential building or part of a residential building" shall be substituted.

14. Omission Of Section 104 :-

Section 104 of the principal Act shall be omitted.

15. Amendment Of Section 105 :-

In section 105 of the principal Act,-

(1) in sub-section (4),-

(i) after the words, figure and brackets "under sub-section (1)" the words figure and brackets "or fails to pay in advance full amount of property tax as required under sub-section (2)" shall be inserted;

(ii) for the words "land and building", the words "vacant land and building" shall be substituted.

(2) in sub-section (5),-

(i) for clause (a), the following shall be substituted, namely:-

"(a) at the rate of two per cent per month of the amount of property tax assessed and due in case of failure to pay amount of property tax due and to submit a return,"

(ii) after clause (b), the following shall be inserted, namely:-

"(c) one hundred rupees in case of failure to submit return after payment of property tax in full."

(3) in sub-section (8), after the words "commencement of every year" the words "If default is made in making payment the person liable to pay shall pay a penalty at the rate of two percent per month of the amount of tax remaining unpaid after the expiry of the period" shall be inserted;

(4) in sub-section (9), for the words " building or land" the words "building or vacant land" shall be substituted.

16. Amendment Of Section 106 :-

In section 106 of the principal Act, sub-section (2) shall be omitted.

17. Omission Of Section 109 :-

Section 109 of the principal Act shall be omitted.

18. Amendment Of Section 110 :-

In section 110 of the principal Act, for sub-section (1) the following shall be substituted, namely:-

"(1) Every tax imposed in the form of property tax shall be payable primarily-

(a) if the property is held from Government or municipal council or town Panchayat, by the actual occupier;

(b) if the property is held by the owner, by the owner;

(c) if the property is let, from the lessor;

(d) if the property is sub-let, from the superior lessor;

(e) if the property is not let, from the person in whom the right to let the same vests;

(f) if the vacant land has been let for any term exceeding one year to a tenant and such tenant has built building upon the vacant land, the property tax upon such vacant land and building erected thereon shall be primarily payable by the said tenant."

19. Omission Of Section 110A :-

Section 110A of the principal Act shall be omitted.

20. Amendment Of Section 111 :-

In section 111 of the principal Act in sub-sections (1) and (2) for the word "municipal council", the words "Municipal Commissioner or the Chief Officer" shall be substituted.

21. Amendment Of Section 112 :-

In section 112 of principal Act, sub-section (2) shall be omitted.

22. Substitution Of Section 113 :-

For section 113 of the principal Act, the following section shall be substituted, namely:-

"113. Name of transferee to be entered in property tax register.- Whenever such transfer comes to the knowledge of the Municipal Commissioner or Chief Officer through such notice the name of the transferee shall be entered in the property tax register."

23. Omission Of Section 128, 129 And 132 :-

Sections 128, 129 and 132 of the principal Act shall be omitted.

24. Substitution Of Section 141 :-

For section 141 of the principal Act the following section shall be substituted, namely:-

"141. Power of the Government to require municipal council to impose taxes.-The Government may by notification require the municipal council or Town Panchayat to impose any tax specified in the notification as may be imposed under section 94 in such manner and to such extent as the Government considers fit and the municipal council or the Town Panchayat, as the case may be, shall forthwith proceed to impose the tax in accordance with the requisition."

25. Amendment Of Section 147 :-

In the proviso to section 147 of the principal Act, the words "building or land" in two places where they occur, the words "building or vacant land" shall be substituted.

26. Amendment Of Section 150 :-

In section 150 of the principal Act, in sub-section (4), for the words "assessment list" the words "property tax register" shall be substituted.

27. Amendment Of Section 151 :-

In section 151 of the principal Act,-

(1) in the heading, for the word "land" the words "vacant land" shall be substituted.

(2) for the words " a tax on lands or buildings or both" the words "property tax" shall be substituted;

(3) for the words, "buildings or land" in two places where they occur, the words, "building or vacant land" shall be substituted.

28. Amendment Of Section 321 :-

In section 321 of the principal Act,

(i) in sub-section (1), for the words "Commissioner or the Deputy Commissioner ", the words "Director of Municipal Administration, Deputy Commissioner, Assistant Commissioner or Tahsildar" shall be substituted;

- (ii) in sub-section (2), for the word "Commissioner", the words "Director of Municipal Administration" shall be substituted;
- (iii) after sub-section (2), the following shall be inserted, namely:-
"(2A) The Government may by notification, delegate to any other officer such of its powers or power conferred on any officer under this Act except the power to make rules."
- (iv) in sub-section (3), for the words, figure and brackets "sub-sections (1) or (2)" the words, figure, letter and brackets "sub-section (1), (2) or (2A)" shall be substituted.

29. Amendment Of Section 388 :-

In section 388 of the principal Act,

- (i) after sub-section (1) the following shall be inserted, namely:-
"(1A) the State Government may, by notification, appoint a Director of Municipal Administration to perform the functions entrusted under this Act."
- (ii) in sub-section (2), the words and figures "on the issue of such notification, any notification issued under section 321 delegating such powers to the Commissioner or the Deputy Commissioner shall stand rescinded and they shall cease to exercise the powers delegated to the Director" shall be omitted.
- (iii) in sub-section (3), the words "the Commissioner or" occurring in two places shall be omitted.
- (iv) after sub-section (3), the following shall be inserted, namely:-
"(3A) The Government may, by notification, delegate to the Deputy Commissioner any of the powers exercisable by the Director."

30. Substitution Of The Expressions "Building Or Land Or Both" Etc. :-

In any other place in the principal Act, for the expression,-

- (i) "taxes on building or land" the expression "property tax" shall be substituted;
- (ii) "buildings or land or both", the expression "buildings or vacant land or both" shall be substituted;
- (iii) "building or land" and "land or building", the expression "building or vacant land" and "vacant land or building" shall respectively be substituted.

31. Substitution Of The Word "Commissioner" :-

In the principal Act,

- (i) for the word "Commissioner" in sub-section (2) of section 71 and clause (b) of the proviso to section 83, the words "Deputy Commissioner shall be substituted; and
- (ii) for the word "Commissioner" wherever it occurs in any other place, the words "Director of Municipal Administration" shall be substituted.

32. Transitory Provision :-

Notwithstanding anything contained in the principal Act as amended by this Act, for the years 2002-2003 and 2003-2004.-

- (i) property tax payable shall be paid within thirtieth September 2003 and on such payment no penalty shall be levied;
- (ii) if the person liable to pay property tax files the return and also pays the tax due before thirtieth September 2003, he shall be allowed a rebate of five percent of the tax payable by him.

33. Validation Of Assessment :-

Anything done or any action taken or purporting to have done or taken (including any notices or orders issued and all proceedings held for the levy, assessment, reassessment, revision of assessment and collection of tax or amount purported to have been collected by way of tax) in relation to such levy, assessment or collection under the provisions of the principal Act before the publication of this Act shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made taken or done under the principal Act as amended by this Act and accordingly,-

- (a) all acts, proceedings or things done by any authority in connection with the levy, assessment or collection of such tax shall, for all purposes be deemed to be and to have been always been made, done or taken in accordance with law;
- (b) no suit or proceedings shall be maintained or continued in any court or tribunal or before any authority for the refund of any such tax; and
- (c) no court shall enforce any decree or order directing the refund of any such tax.

34. Repeal And Savings :-

- (1) The Karnataka Municipalities (Amendment) Ordinance, 2003 (Karnataka Ordinance 3 of 2003) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.