

## **Karnataka Tourism Trade (Facilitation And Regulation) Act, 2015**

### **21 OF 2015**

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## **Karnataka Tourism Trade (Facilitation And Regulation) Act, 2015**

### **21 OF 2015**

An Act to facilitate and regulate tourism trade in the State.

Whereas it is expedient to provide for facilitation and regulation of tourism trade in the State of Karnataka and for the matters connected therewith or incidental thereto;

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

## **CHAPTER 1 PRELIMINARY**

### **1. Short title and commencement :-**

(1) This Act may be called the Karnataka Tourism Trade (Facilitation and Regulation) Act, 2015.

(2) It shall come into force on such date, as far as possible not later than six months from the date of its publication in the Official

Gazette, as the Government may, by notification appoint.

## **2. Definitions :-**

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

(a) "Council" means the State tourism council constituted under section 3;

(b) "Chairperson" means the Chairperson of the Council constituted under section 3;

(c) "Government" means the State Government;

(d) "Government agency" means a Government undertaking, Local Authority or body or corporation established by or under any law and owned or controlled by the Government or any other body or authority owned or controlled by the Government, holding not less than fifty-one percent of paid-up share capital in such corporation or body;

( e ) "Government tourism entities" shall include any State Government Department or Government entities responsible for or entrusted with the development and promotion of tourist destination or tourism;

(f) "Local authority" means any Gram panchayat, Town panchayat, Municipal council, Municipal corporation, development authority or other statutory authority which is a local self Government entrusted with the control or management of any area;

(g) "Malpractice" means,-

(i) touting which shall include pestering any tourist or group of tourists for availing facilities of shopping, accommodation, transportation, sightseeing or even going to the extent of harassing tourist to visit any particular premises or establishment, or tourism operator connected with tourism trade or any other establishment where tourist would like to stay or purchase something;  
Explanation.- Any recognized, registered or bonafide tourism operator already engaged by any tourist or whose services were hired or resorted by the tourist voluntarily, when receives or contacts any tourist at any place where tourist visits, such person while so receiving or contacting shall not be treated as a tout within the meaning of this clause;

(ii) charging a price higher than that displayed or declared;

(iii) charging remuneration higher than that fixed;

(iv) failure to display prices;

(v) failure to display tariff;

(vi) failure to give cash memo or credit memo;

- (vii) failure to execute an order according to terms agreed within reasonable time after the expiry of the period for performance of the obligation;
- (viii) charging tariff higher than fixed and displayed;
- (ix) the receiving and paying of any monetary gratification or commission for touting, coercing or forcing the tourist;
- (x) use of misleading names and logos such as palace, fort, haveli even when requisite characteristics of such places are missing; or showing of incorrect star rating of a hotel or showing names or abbreviations and logos similar to those which are in existence since long and reputed as such; with the intention to attract the tourists or people at large by colourable imitation of established and reputed name of bonafide service providers or public bodies; and
- (xi) any uncalled for person waiting outside any tourist place and hotel with intent to follow any tourist without his wishes;

Explanation.-For the purposes of this clause,-

(I) delay or fault in service owing to mechanical or natural failure of any system or apparatus despite due care and caution would not amount to be malpractice;

(II) inability of any service provider to perform its commitments owing to vis major or State action, shall not be treated as a malpractice;

(h) "Member" means member of the Council constituted under Section 3;

(i) "Member Secretary" means the member secretary of the Council constituted under Section 3;

(j) "Nuisance" includes any act of commission or omission or carrying on of any activity, process, operation which causes or is likely to cause injury, danger, annoyance to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

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

(l) "Prescribed Authority" means authority appointed by the Government by rules for the purpose of this Act. Different Authorities may be prescribed for different provisions of the Act;

(m) "Public Private Partnership" means an arrangement between Government or its agency on one side and a private sector participant on the other, for the provision of public assets or related services for public benefit, through investments being made by or management undertaken by the private sector participant for a specified period of time, where there is a substantial risk sharing between the Government and the private sector participant and

where the private sector participant receives performance linked payments that conform to specified, pre-determined and measurable performance standards;

(n) "Regulations" means regulations made under this Act;

(o) "Tour guide" means a person who, for reward, accompanies tourists visiting any tourist destination and furnishes information or comments with regard to any matter of significance, historical, archaeological, botanical, ethnological, cultural, social or other interest with respect to such location;

(p) "Tourism trade" means and includes such class of facilities, service, activities or products relating to tourism, as may be prescribed, provided to a tourist in a premises or by any person or travel agency regularly or occasionally and includes facilities services or activities relating to tourism including medical tourism, eco tourism, rural tourism, water tourism, caravan tourism and adventure tourism or any other class of tourism by whatever name called and home stay, hotel, resort, wellness centre, visitor information centre, interpretation centre, water sports, boat house, way side amenity, dormitories as may be prescribed.

(q) "Tourism operator" in relation to a tourism trade, means any person, company, association or firm or any other body who conducts or operates a tourism trade or who is responsible for its management;

(r) "Tourist" means a person travelling to and staying in a place outside his usual place of residence for more than twenty-four hours, but not more than one consecutive year, for any purpose not being a work related activity remunerated from within the place visited;

Explanation: For the purposes of this clause,-

(i) person coming to establish residence in the State;

(ii) persons visiting their home town or native place on a short visit for meeting relatives and friends, attending official work, social and religious functions etc. and stay in their own homes or with the relatives and friends and not using any tourism Facilities;

(iii) foreigners resident in the State having taken up job or occupation in the State; shall not be regarded as tourists;

(s) "Tourist destination" means any area, place, site or location in the State where tourist visit frequently and notified as such by the Government in this behalf;

(t) "Tourist mitra" means the tourist mitra appointed under Section 17;

( u ) "Touting" includes enticing, misguiding or coercing for

shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, including the precincts thereof, any person, establishment, dealer or manufacturer for personal consideration;

Explanation.- Whoever loiters around airports, railway stations, bus stands, markets or any other places frequented by tourists with the intention of offering unsolicited service to the tourist or pestering or coercing to use any such service and exhibits such conduct so as to show such intention (like following, arguing, communicating or otherwise drawing attention of tourists through words or gestures or placards or pamphlets and thereby causing obstruction or annoyance to tourists or general public) and otherwise has no reasonable explanation for frequenting in such place shall be deemed to have committed the act of touting.

(v) "Travel Agent" means any person or agency who, arranges for, advises on, or undertakes to provide travel arrangements for tourists including ticketing, transportation, visa, accommodation, guided tours, organised excursions or such other arrangements as may be prescribed;

(w) "Vice Chairperson" shall means the vice chairperson of the Council constituted under Section 3.

## **CHAPTER 2 INSTITUTIONAL FRAMEWORK**

### **3. Constitution of State Tourism Council :-**

(1) The State Government shall, as soon as possible after the commencement of this Act, but not later than six months from the date of commencement of this Act by notification, constitute a council to be called the "Karnataka State Tourism Council" (hereinafter referred to as "the Council") consisting of the following members, namely;-

(a)	The Chief Minister, Government of Karnataka	Chairperson
(b)	The Minister for Tourism, Government of Karnataka	Vice Chairperson
(c)	The Additional Chief Secretary to Government, Department of Tourism	Member
(d)	The Principal Secretary to Government, Department of Finance	Member
(e)	The Additional Chief Secretary to Government, Department of Home	Member
(f)	The Principal Secretary to Government, Department of Infrastructure development	Member
	The Secretary to Government, Department of	

(g)	Information Technology	Member
(h)	The Principal Secretary to Government, Department of Revenue	Member
(i)	The Principal Secretary to Government, Department of Public Works and Inland water transport	Member
(j)	The Principal Secretary to Government, Department of Kannada, Culture and Information	Member
(k)	The Additional Chief Secretary to Government, Department of Forest, Ecology and Environment	Member
(l)	The Director, Department of Tourism	Member Secretary
(m)	Six members nominated by the State Government from amongst the concerned stakeholders of travel and tourism sector having adequate knowledge and professional experience of at least fifteen years in their respective field and in a position to provide insights in formulating strategies for promotion of tourism in the State of which atleast one shall be a person belonging to the Scheduled Castes or the Scheduled Tribes and one shall be a woman.	Non-official Members

Provided that, the Chairperson may invite any person as he deems necessary to be a special invitee to the Council.

(2) The headquarters of the Council shall be at Bengaluru or at such other place as may be notified by the Government.

#### **4. Term of office and conditions of services of the non-official members :-**

(1) Subject to the pleasure of the Government, the nominated non-official members shall hold office for a period not exceeding three years. However, the non-official members may be reappointed for a further period of three years.

(2) A non-official member may resign his office by writing in person addressed to the Government but shall continue in office until his resignation is accepted.

(3) A non-official member shall receive such allowances as may be provided in regulations.

#### **5. Powers of the chairperson :-**

(1) The chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Council.

(2) The chairperson shall, preside over the meetings of the council as well as exercise and discharge the powers and functions of the council as are vested in him in accordance with the regulations.

## **6. Meetings of the Council :-**

(1) The council shall meet at such times and places and observe such procedure in regard to transaction of business at the meetings including the quorum as may be provided in the regulations.

(2) When the chairperson of the council, or in his absence the vice-chairperson, and in the absence of both the chairperson and the Vice-chairperson, any other member chosen by the members present from amongst themselves shall preside over the meeting of the council.

(3) All questions at a meeting of the council shall be decided by a majority of the votes of the members present and voting and, in the case of any equality of votes, the person presiding shall have a second or casting vote.

(4) No act or proceeding of the council shall be invalid merely by reason of, -

(a) any vacancy in, or any defect in the constitution of the council; or

(b) any defect in the appointment of a person acting as a chairperson or vice-chairperson or member of the council; or

(c) any irregularity in the procedure of the council not affecting the merits of the case.

## **7. Powers and functions of the council :-**

(1) The council shall,-

(a) act as an apex body in the matter relating to the development and promotion of tourism;

(b) make recommendations to the Government on the matter relating to development and promotion of tourism;

(c) advise and give suggestions to the Government tourism entities in discharge of its functions under this Act;

(d) coordinate and support marketing or promotion activity in relation to tourism conducted by the Government tourism entities;

(e) work collaboratively with Central Government, neighbouring states and other tourism related agencies to develop state tourism sector; and

(f) any other powers or functions as may be prescribed.

(2) The council shall have power to do all things expedient or reasonably necessary for, or incidental to, the performance of its functions.

(3) The council may through regulations establish one or more



committees as it may deem necessary to assist council in carrying out its functions and may vest such of its functions as it considers appropriate to the committees so established.

(4) All proceedings of the council shall be authenticated by the member secretary.

### **CHAPTER 3** REGISTRATION, RECOGNITION AND GRADING OF TOURISM TRADE RELATED ACTIVITIES

#### **8. Registration, Recognition and Grading :-**

(1) Every category of tourism trade in the tourist destination shall be registered, recognised and graded in accordance with the procedures set out in the rules made under this Act from time to time.

(2) The rules issued under sub-section (1) may in particular make provision,-

(a) as to the standard and norms of the tourism trade intended to be registered under the Act;

(b) for the charging of annual or other periodical fees for registration, recognition, renewal and grading;

(c) for the issue and display of certificates of registration and the display of signs indicating that a tourism trade is registered;

(d) for the inspection of tourism trade and for powers of entry for that purpose;

(e) for requiring the criteria in accordance with which the classification or grading is carried out;

(f) for the publication of any criteria so determined;

(g) as to the form and contents of the register or registers to be maintained under the rules and as to the tourism trade to be registered therein;

(h) benefits or incentives available for registered or graded tourism trade; and

(i) such other supplementary and incidental provisions as the Government may find necessary or expedient.

(3) No person shall conduct or operate any of the tourism trade in any tourist destination with respect to which the rules and regulating such tourism trade is made under this Act, unless such category of tourism trade is registered, recognised or graded: Provided that a person who is carrying on any category of tourism trade on the date of commencement of the rules regulating such category of trade may continue to carry on such trade if he has made application for registration, recognition or grading under this

Act unless it is rejected: Provided, further that where a tourism trade is registered by Government of India, such tourism trade may be exempted from registration and grading under this Act. The tourism operator of such facility shall provide a copy of the certificate of registration or grading, as the case may be, issued by Government of India to Department of Tourism. On verification of such certificate, the Department of Tourism may exempt such tourism trade from the requirement of registration or grading under this Act.

(4) Any person found contravening sub-section (3) with respect to any tourism trade after expiry of one year from the date of commencement of this Act, shall be guilty of an offence and on conviction be liable to a fine not exceeding rupees ten thousand .

(5) Where any person continues to contravene the provisions of sub-section (3) even after the imposition of penalties under sub-section (4), shall on conviction, be punished with simple imprisonment for a term which may extend to two months or with fine or with both.

## **9. Application for registration, recognition and grading of tourism trade :-**

The tourism operator who is conducting or operating or intends to conduct or operate any category of a tourism trade in a tourist destination shall within six months from the date of commencement of the rules with regard to such category of tourism trade, apply to the prescribed authority for registration, recognition and grading of tourism trade in such manner and in such form and along with such fee as may be prescribed.

## **10. Procedure for registration, recognition and grading of tourism trade :-**

(1) On receipt of an application for registration, recognition or grading of any tourism trade, the prescribed authority shall cause inspection under sub-section (3) and if it is of the opinion that the requirements for such registration, recognition and grading, as the case may be have been complied with, register, recognise and grade such tourism trade. Where the prescribed authority is of the opinion that the rules have not been complied with, it may refuse to register, recognise and grade the tourism trade for the reasons to be recorded.

(2) The prescribed authority shall verify an application for

registration, recognition and grading of a tourism trade within ninety days following the date of receipt of such application.

(3) Before registering, recognising or grading of a tourism trade, the prescribed authority,-

(a) shall inspect the tourism trade or shall cause the tourism trade to be inspected through an authorized officer or Government agency;

(b) may call for a report from any authorized officer or Government agency appointed for the purpose of assisting them in taking decision on registration, recognition or grading;

(c) may make or cause to be made such further investigations in regard thereto as it considers necessary.

(4) On the registration, recognition or grading of tourism trade, the prescribed authority shall issue to the tourism trade a certificate in the form prescribed.

### **11. Maintaining records of registration :-**

(1) Before or as soon as possible after the publication of any rules under sub-section (1) of Section 8 requiring the registration, recognition and grading of any class of tourism trade, the Department of Tourism shall establish a cell for maintaining records of tourism trade registered, recognised and graded under this Act.

(2) The Department of Tourism shall also maintain the records and notify from time to time the tourism trade that are registered recognized or graded by Government of India.

### **12. Publication of registered or recognised tourism trade :-**

The Department of Tourism shall publish, once in a year or at such other intervals as the Government may direct, a list of tourism trades that have been registered and recognised together with such information as it thinks proper in relation to the grades and standards of such facilities and any other matter of interest to tourists.

### **13. Cancellation of Registration and recognition :-**

(1) Whenever it comes to the notice of the prescribed authority and if it considers that there has been a failure in respect of a registered and recognised tourism trade to comply with any of the prescribed conditions or requirements regarding registration, recognition or grading, the prescribed authority may give notice to

the tourism operator of such tourism trade requiring him to comply with the conditions or requirements, within a period not exceeding thirty days of such notice, failure of which shall render the registration, recognition or grading liable for cancellation.

(2) The tourist operator of a registered and recognised tourism trade in respect of which a notice has been issued under sub-section (1) shall, before the expiry of the period specified in the notice, make written reply to the prescribed authority giving reasons as to continue the registration and recognition.

(3) If, upon the expiry of the period specified in a notice given in terms of sub-section (1), the prescribed authority considers that the condition or requirement has not been complied with and that no good reason has been shown as to why the tourism trade concerned should remain registered and recognised, it may cancel the registration and recognition of the tourism trade, and give notice of cancellation to the tourism operator.

#### **14. Re-gradation :-**

(1) The prescribed authority may at any time on inspection done by it or any authorised officer after giving a tourism operator a reasonable opportunity of making written representations in the matter, re-grade the tourism trade if, in its opinion, reasonable and sufficient grounds exist for doing so.

(2) The tourism operator whose tourism trade has been graded may, subject to such conditions and accompanied by such fee as may be prescribed, apply to the prescribed authority in the prescribed form and manner for the re-grading of the tourism trade.

(3) The prescribed authority shall consider any application made under sub-section (2) and give its decision and take action as it considers appropriate.

#### **15. Renewal of recognition and grading :-**

Recognition or grading certificate obtained with regard to any tourism trade under this Act shall be renewed once in every five years in such manner along with such fee as may be prescribed in the rules issued with respect to such tourism trade.

### **CHAPTER 4 LICENSING**

#### **16. Tour Guides License :-**

(1) License shall be issued by the prescribed authority to the tour guides in accordance with the procedure set out in the rules made under this Act. The rules shall also prescribe the educational qualification, syllabus, training and procedure for selection of the tour guides.

(2) The prescribed authority shall regulate the matter as to the number of tour guide licenses to be issued in the tourist destination.

(3) The tour guide licensee under sub-section (1) shall hold an identity card, which shall be displayed in the manner prescribed.

(4) The prescribed authority may refuse to issue tour guide license to a person under this section if that person,-

(a) is convicted of any criminal offence, within five years immediately preceding the date of his application for registration; or

(b) has history or record of being a criminal; or

(c) does not fall within the qualification provided under this section; and shall inform that person the reasons for such refusal

(5) Every tour guide licensed under this Act shall be required to,-

(a) comply with the rules made under this Act;

(b) use approved route or trails to guide the tourists; and

(c) be polite, hospitable, helpful and friendly to tourists or visitors.

(6) Any person may, lodge a complaint in writing with the prescribed authority against any tour guide who has contravened any provisions of this Act or rules made thereunder.

(7) Where the prescribed authority is satisfied that the tour guide has contravened any of the provisions of this Act, he may suspend or cancel the licence of such tour guide.

(8) Any person found acting as a tour guide, without obtaining licence from the prescribed authority, shall be liable to a fine not exceeding rupees two thousand upon the matter being reported to the prescribed authority by tourist mitra or any officer of Department of Tourism. On such report, the prescribed authority shall hold enquiry and afford opportunity of hearing to the person concerned before passing orders for fine and whoever repeats or continues to act as a tour guide, having been fined for such offence, shall be arrested without warrant by any police officer not below the rank of sub-inspector.

(9) Any person arrested under sub-section (8) shall be produced before the Judicial Magistrate having jurisdiction and such person shall, on conviction, be punished with simple imprisonment for a term which may extend to fifteen days or with a fine which may

extend to rupees two thousand or with both.

## **CHAPTER 5 TOURIST MITRA**

### **17. Tourist mitra :-**

(1) A group of specially trained cadre known as tourist mitra shall be appointed in a tourist destination by the Department of Tourism on such terms and conditions as may be specified by it from time to time with prior approval of the Government to ensure necessary assistance to the tourists and to protect the tourist against any kind of harassment: Provided that the Department of Tourism may by notification designate any employee of the authority or organisation in charge of management of tourist destination as tourist mitra in consultation with that authority or organisation.

(2) The tourist mitra shall discharge such functions as are assigned to him under this Act and such other functions as the state Government may assign to him in accordance with law for the time being in force in the State in collaboration and co-ordination with the Department of Tourism.

(3) The Department of Tourism shall deploy the tourist mitra at various places in the tourist destination in consultation with the Deputy Commissioner of the District and Superintendent of Police incharge of that area.

(4) The officer incharge of the Department of Tourism having jurisdiction over the local area comprising the tourist destination shall have power to give directions to the tourist mitra if and when such occasion arises and he shall comply with those directions in the matters of functions assigned to him under this Act or the rules or regulations made there under.

(5) The tourist mitra shall keep watch on Nuisance, Touts, hawkers, etc. for enforcing the provisions of this Act, tourist mitra shall patrol the tourist destinations and inform the concerned Police officer at police station having jurisdiction for initiating appropriate action against the illegal hawkers and touts etc.

(6) The tourist mitra shall wear name tag and such uniform and insignia and other accessories as may be determined by the state Government and shall carry a photo identity card duly displayed on their person.

(7) The state Government may make rules not inconsistent with the provision of this Act or any other law for the time being in force for regulating the tourist mitra.

## **CHAPTER 6** DEVELOPMENT AND PROMOTION OF TOURIST DESTINATIONS

### **18. Public Private Sector Partnership and formation of joint venture :-**

(1) The Government tourist entities shall engage with the private sector under a suitable Public Private Partnership framework or joint venture arrangements to bring in private sector investment in developing, promoting, operating and maintaining tourism infrastructure and facilities subject to such rules as may be prescribed.

(2) The Government may make necessary rules for adoption of tourist destinations

## **CHAPTER 7** INFORMATION ON TOURISM

### **19. Statistical information :-**

(1) Each and every owner or operator of the tourism trade whether registered under the provisions of this Act or not, shall be duty bound to furnish such statistical information or statistical data and at such intervals and in such form to such authority as may be prescribed.

(2) If any person, company, association or firm or any other body when required to furnish any information or statistics in terms of sub-section (1),-

(a) without just cause, fails or refuses to furnish the information or statistics concerned; or

(b) knowingly furnishes any information or statistics which is false in a material respect or misleading; shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand and upon second or subsequent non-compliance, be liable to a fine which may extend to rupees two thousand.

(3) Where any person, company, association or firm or any other body bound to furnish statistical information in terms of the provisions contained in sub-section (1), continues to contravene the provisions of said sub-section even after the imposition of penalties under sub-section (2), shall on conviction, be punished with simple imprisonment for a term which may extend to two months or with fine or with both.

### **20. Database development and dissemination of information on Tourism :-**

- (1) The Department of Tourism shall establish a comprehensive tourism database for the tourism sector in the state.
- (2) The Department of Tourism shall, in respect of the data and information that it holds, progressively make the data and information available and accessible, through any means, to all the stakeholders.
- (3) The Department of Tourism shall, to facilitate the tourist and to promote tourism sector, encourage setting up of various systems and facilities like tourist information desks, centres etc. for dissemination of information on tourism.

## **CHAPTER 8 MISCELLANEOUS**

### **21. Duties of the Government :-**

It shall be incumbent on the Government to make reasonable and adequate provision by any means or measures it is lawfully competent to use or take, for each of the following matters,-  
construction and maintenance of road or rail to tourist destinations;  
(a) provision for basic facilities and better access to the differently abled in the tourist destinations;  
(b) provision for basic facilities for women to meet their needs in the tourist destinations;  
(c) safety and security of tourist; and  
(d) any other duties as may be prescribed.

### **22. Duties of the Local Authorities towards public health and sanitation etc :-**

- (1) Notwithstanding anything contained in any law in the State, the Local Authorities under whose local areas, the places of tourist destinations are situated, shall have the duty to ensure cleanliness and check defacement and defiling of the properties in their respective local area and also to effectively enforce the laws prohibiting littering on streets and public places and maintain cleanliness of roads, drain, man holes and maintenance of street lights and prevention of encroachments in and around tourist destination.
- (2) The Department of Tourism shall oversee the compliance of provisions contained in subsection (1) and may issue directions to the concerned local authorities for strict compliance of their statutory duty and in case of persistent non-compliance and



default, intimate action against erring local authorities in accordance with the laws governing such local authorities.

**23. Prohibition of certain activities in tourist destinations :-**

(1) No person shall,-

(a) commit any act of touting or malpractice against any tourist or engage in begging or hawking articles for sale at any tourist destination;

(b) abet commission of any act of touting or malpractice against any tourist and begging or hawking of articles for sale in tourist destination; and

(c) attempt to commit any act of touting or malpractice against any tourist in tourist destination.

(2) Any person who,-

(a) contravenes the provisions of clause (a) of sub-section (1) shall on conviction be punished with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both;

(b) contravenes the provisions of clause(b) of sub-section (1), shall on conviction be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

(c) contravenes the provisions of clause(c) of sub-section (1), shall on conviction be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

(3) Any person who engages himself in hawking articles for sale and committed offence under sub section (1) shall be dispersed by the tourist mitra and such person shall be directed to leave the area and remove himself beyond that area. The tourist mitra shall record the entry of this fact in a diary which shall be maintained by him in the prescribed manner.

(4) Whenever any person to whom direction has been given under sub-section (3) to remove himself from the tourist destination-

(a) fails to remove himself as directed; or

(b) having removed himself, re-enters the area or part thereof shall be apprehended and removed from that area by any police officer and released outside that area and entry of such apprehension and release shall be recorded in the daily diary maintained at the police station.

(5) Whoever further engages himself in hawking articles for sale,

even after having committed violation under sub-section (3) and his consequential removal under sub-section (4), the offender shall be arrested by any Police Officer and shall be produced before any officer not below the rank of Tahasildar authorised in this regard by the Deputy Commissioner of the local area where the offence is committed, who shall record the statement of the Police Officer as well as of the offender and peruse the daily diary or other record showing events of violation of this Act by the offender and after hearing the offender and the Police Officer record his findings in a summary manner and where the offender is found to be guilty of violation of prohibition as aforesaid in this section, the prescribed officer shall impose a fine not exceeding rupees five hundred for violation of provisions of sub-section (4).

(6) Whoever commits any subsequent violation of the prohibition imposed on hawking articles for sale in any tourist destination even after having been punished under sub-section (5), shall be arrested without warrant by any Police Officer and the offender shall be produced before the Judicial magistrate, having jurisdiction, and shall, on conviction, be punished with imprisonment which may extend to one year or with a fine which may extend to rupees three thousand or with both.

#### **24. Protection and Maintenance of the tourist destination :-**

(1) The Government may, by notification in the official Gazette, designate any officer of and above the rank of Group B of the Government to be the competent authority for protection and maintenance of the tourist destination either for the whole of the State or for each district of the State.

(2) No person, company, association or firm or any other body shall cause any nuisance or carry out any activity, process, operation, etc or omit to prevent or remove the nuisance, which damages or deteriorates or is likely to damage or deteriorate or is capable of being damaged or deteriorated or has damaged or deteriorated the tourism potentiality of any tourist destination.

(3) The competent authority, either on its own motion or upon a complaint received or upon reference made to it, may, by an order in writing after giving prior notice, prohibit any nuisance being caused or prevent any such activity, process, operation as referred to in sub-section (2) above being carried out, if in the opinion of the said competent authority, it has damaged or deteriorated or is likely to damage or deteriorate the tourism potentiality of any

tourist destination, and pass such interim orders as it deems fit.

(4) If, in the opinion of the competent authority, a nuisance is having impact on the tourism potentiality, it shall issue notice to the owner, occupier, lessee, charterer or any person enjoying right of usage or has control of the object which has contributed to the nuisance and such person shall within a period of fifteen days from the date of receipt of such notice, abate or remove the same, and unless the same is removed or abated by the said person within the said period of fifteen days or such further time as may be extended by the competent authority, but not exceeding three months, the competent authority shall cause removal of such nuisance.

(5) On the failure of the owner, occupier, lessee, charterer or any person against whom notice of removal of nuisance is issued, to comply with the order of removal of such nuisance within the time fixed by the competent authority, the material thing or object of nuisance shall stand forfeited and vest in the Government, except that when such material thing or object is sold in public auction, any sum over and above the cost of removal of nuisance, shall be payable to its owner. In case the cost of removal exceeds the sale price in auction the balance shall be recovered from the concerned owner, as provided in sub-section (6).

(6) The expenses and costs incurred, if any, the competent authority in removing or abating such nuisance, shall be recovered from the person who has caused such nuisance or from the owner or occupier of the object which has contributed to the nuisance, in the same manner as arrears of land revenue.

(7) Any property, thing, material or object, which is a nuisance under this Act, may be disposed off or dealt with by the Government, in the manner it deems fit.

(8) Whoever contravenes any of the provisions of this Act or fails to comply with any order or directions given under the Act or obstructs any person acting under the orders or directions of the competent authority from exercising its powers and performing its functions under this Act, shall on conviction be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years or with fine which may extend to rupees five thousand or with both.

## **25. Punishment for false display of recognition :-**

(1) If any person, company, association or firm or any other body who falsely represent any tourism trade as registered or graded

under this Act, the prescribed authority shall impose fine not exceeding rupees fifty thousand for the first of such offence, and not exceeding rupees one lakh for second or subsequent offence: Provided that before ordering imposition of fine, the prescribed authority shall, afford reasonable opportunity of hearing to the person, company, association or firm or any other body concerned.

(2) Where any person, company, association or firm or any other body, even after imposition of fine under sub-section (1) continues to display or show that he is recognised or registered as such, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine or with both.

## **26. Punishment for unauthorised usage of Government Tourism brand :-**

(1) No person, company, association or firm or any other body shall use any brand belonging to Government tourism entities without the permission or authorisation.

(2) Any person, company, association or firm or any other body contravenes the provisions of sub-section (1) shall be liable to pay penalty not exceeding rupees fifty thousand for the first of such offence, and not exceeding rupees one lakh for second or subsequent offence: Provided that before ordering imposition of penalty, the prescribed authority shall, afford reasonable opportunity of hearing to the person, company, association or firm or any other body concerned.

(3) The Prescribed Authority shall have the powers to undertake inspection to examine compliance of sub-section (1).

(4) Where any person, company, association or firm or any other body, even after imposition of penalty under sub-section (1) continues to use the Government Tourism Brand, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine or with both.

## **27. Protection of action taken in good faith :-**

No suit, claim, or other legal proceedings shall lie against the Government or the council or the chairperson or other members of the Council or the staff or representatives of the council or the tourist mitra in respect of anything which is in good faith done or intended to be done under this Act or any rules or regulations or orders made or framed thereunder.

## **28. Cognizance of offences by courts :-**

No court shall take cognizance of any offence punishable under Chapter III, IV, VII and VIII of this Act save on the complaint made by or under the authority of the Government or the prescribed authority.

## **29. Appeal :-**

(1) Any person aggrieved by the order passed or decision made by the prescribed or competent authority under this Act may within thirty days from the date of receipt of communication of the order or the decision of the prescribed or competent authority appeal to the Appellate Authority. The Appellate Authority shall be appointed in such manner as may be prescribed.

(2) The Appellate Authority shall after following such procedure as may be prescribed dispose off the appeal within a period of two months from the date of its receipt.

## **30. Offences by Companies :-**

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

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this Section,-

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

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

**31. Powers of the prescribed or competent authority and appellate authority to summon :-**

(1) The prescribed or competent authority and the appellate authority shall have all the powers which are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely-

(i) summoning and enforcing attendance of a person against whom inquiry is to be conducted and witnesses required in connection therewith;

(ii) compelling the production of any document; and

(iii) examining witnesses on oath.

(2) In addition to that which is provided under sub-section (1), the prescribed or competent authority shall have power to summon or examine suo motu any person whose evidence in his opinion appear to be material for reaching at a just conclusion in any matter being inquired into by him.

(3) For the purpose of enforcing the attendance of witnesses and other persons referred above, the local limits of jurisdiction of the prescribed or competent authority shall extend to whole of the State.

**32. Act to over ride other laws :-**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other Karnataka law for the time being in force or any custom or usage or instrument having effect by virtue of any such law.

**33. Recovery of dues :-**

The amount of penalty or fine imposed under the provisions of this Act, if not paid by the person liable to pay within sixty days from the date of final order imposing penalty or fine shall be recoverable as an arrears of land revenue.

**34. Power to remove difficulties :-**

(1) If any difficulty arises in giving effect to the provisions of this Act or the rules, regulations, scheme or orders made hereunder, the Government may by an order published in the Official Gazette, make such provision, not inconsistent with the provisions of this

Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as may be after they are made, be laid before both house of the State Legislature and shall be subject to such modification by way of amendments or repeal as the Legislature may make either in the same session or in the next session.

### **35. Power to make regulations :-**

The Council may make regulations, with the approval of the Government, by notification in the Official Gazette, for the proper discharge and smooth performance of its functions under this Act.

### **36. Power to make rules :-**

(1) The Government may after previous publication, by notification, make rules for carrying 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 in which it is so laid or the sessions 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.

### **37. Delegation of powers :-**

(1) The Government may, by notification, direct that any power exercisable by the Government except the power to make rules under this Act shall be exercisable by an officer of the Government, subject to such terms as may be specified in such notification.

(2) The Government may by rules, authorise the Prescribed Authority to delegate any or all of its function to such other officer, as may be prescribed therein.