

**PENDING PROPOSAL WITH GOVERNMENT OF INDIA
AND PENDING PROPOSALS FOR WHICH CLARIFICATIONS HAVE TO BE
FURNISHED BY THE STATE GOVERNMENT**

(As On April 30, 2020)

Department Name: DEPARTMENT OF PARLIAMENTARY AFFAIRS

PART I: PENDING PROPOSAL WITH GOVERNMENT OF INDIA

**Subject: (1) The Industrial Disputes and Certain other laws
(Karnataka Amendment) Ordinance, 2020**

Category: for obtaining previous instruction of the Honourable President of India for the Ordinance

Proposal Classification A Proposal Code DPAL

Reference Date	Reference Number	Ministry
11.05.2020	DPAL27Shasana 2020	Ministry of Home Affairs

As the State of Karnataka has prepared a draft Ordinance called The Industrial Disputes and Certain other laws (Karnataka Amendment) Ordinance, 2020, to provide measures to boost ease of doing business in the State of Karnataka and also to extend the total numbers of hours of overtime work beyond eight hours in a day in public interest as requested by Ministry of Labour and Employment, Government of India.

As the Subject matter of the Ordinance falls under entries 7, 22, 24, and 36 of list III of the seventh schedule to the constitution of India. The provisions of the Industrial Disputes and Certain other laws (Karnataka Amendment) Ordinance 2020, are repugnant to the provisions of section 25 K of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), Sections 2 and 65 of the Factories Act, 1948 (Central Act 63 of 1948) and section 1 of Contract Labour (Regulation and Abolition) Act, 1970 (Central Act No.47 of 1970), which are Central Laws in the concurrent list which are in force. Therefore previous instructions of the Honorable President is required

before issue of the Ordinance as per the provision of the proviso to clause (1) of the Article 213 of the Constitution of India.

Therefore, it is requested to obtain and communicate the previous instructions of the Honorable President to the Industrial Disputes and Certain other laws (Karnataka Amendment) Ordinance, 2020 at an early date.

Present Status:

The letter along with 6 copies of the ordinance sent to the Ministry of Home Affairs on 11.05.2020, for obtain and communicate the previous instructions of the Honorable President to the Industrial Disputes and Certain other laws (Karnataka Amendment) Ordinance, 2020

**PART II: PENDING PROPOSAL FOR WHICH CLARIFICATIONS
HAVE TO BE FURNISHED BY THE STATE GOVERNMENT**

Subject: (1) The Karnataka Transgenic And Genetically Modified Cotton Seeds (Fixation of Sale Price And Payment of Compensation) Bill, 2015 (CSC/KN/180).

Category: For obtaining the Assent of the Honourable President of India to the Bill.

UID Number: CSC/KN/180

Proposal Classification

A

Proposal Code DPAL

Reference Date	Reference Number	Ministry
29.08.2015	DPAL 42 Shasana 2015	Ministry of Home Affairs
09.11.2015	DPAL 42 Shasana 2015	Ministry of Home Affairs
20.01.2016	DPAL 42 Shasana 2015	Ministry of Home Affairs
18.03.2016	DPAL 42 Shasana 2015	Agriculture Department
29.03.2016	No.RCK.PS.61.2016	Resident Commissioner
18.04.2016	DPAL 42 Shasana 2015	Agriculture Department
04.05.2016	DPAL 42 Shasana 2015	Agriculture Department
25.05.2016	NO.17/38/2015.Judl&PP	Ministry of Home Affairs
20.06.2016	DPAL 42 Shasana 2015	Agriculture Department
16.07.2016	DPAL 42 Shasana 2015	Ministry of Home Affairs
26.09.2016	DPAL 42 Shasana 2015	Ministry of Home Affairs
30.12.2016	DPAL 42 Shasana 2015	Ministry of Home Affairs
07.02.2017	DPAL 42 Shasana 2015	Agriculture Department
28.03.2017	DPAL 42 Shasana 2015	Ministry of Home Affairs
28.04.2017	DPAL 42 Shasana 2015	Ministry of Home Affairs

24.07.2017	DPAL 42 Shasana 2015	Agriculture Department
28.10.2017	DPAL 42 Shasana 2015	Agriculture Department
11.10.2017	NO.17/38/2015.Judl&PP	Ministry of Home Affairs
18.12.2017	DPAL 42 Shasana 2015	Agriculture Department
26.02.2018	No. 17/38/2015- Judl& PP	Ministry of Home Affairs
16.03.2018	DPAL 42 Shasana 2015	Agriculture Department
26.04.2018	DPAL 42 Shasana 2015	Agriculture Department
05.07.2018	DPAL 42 Shasana 2015	Agriculture Department
21.07.2018	DPAL 42 Shasana 2015	Agriculture Department
03.09.2018	DPAL 42 Shasana 2015	Ministry of Home Affairs
29.10.2018	DPAL 42 Shasana 2015	Ministry of Home Affairs
06.12.2018	DPAL 42 Shasana 2015	Ministry of Home Affairs
01.03.2019	DPAL 42 Shasana 2015	Ministry of Home Affairs
22.05.2019	DPAL 42 Shasana 2015	Ministry of Home Affairs
24.07.2019	DPAL 42 Shasana 2015	Ministry of Home Affairs
16.08.2019	DPAL 42 Shasana 2015	Ministry of Home Affairs
24.10.2019	DPAL 42 Shasana 2015	Ministry of Home Affairs
18.11.2019	No. 17/38/2015-Judl., & PP	Agriculture Department
27.11.2019	DPAL 42 Shasana 2015	Agriculture Department
20.01.2020	DPAL 42 Shasana 2015	Agriculture Department

At present there are no provisions in the present Seed laws to fix price for transgenic and genetically modified cotton seeds and payment of compensation in case of crop failure of such cotton seeds in the Karnataka State. As a result, the vendor and producers of transgenic and genetically modified cotton seeds are exploiting poor farmers by collecting exorbitant prices from the farmers. Further, as there is no provisions in the present Seed Laws to pay compensation, to farmers in case of crop failure due to defective or sub standard transgenic and genetically modified cotton seeds, the farmers face problems and incur financial loss.

Hence, it has become imperative on the part of the State in the interest of the farmers in the Karnataka State to fix sale price of transgenic and genetically modified cotton seeds and also make provisions to compensate farmers in case of failure of transgenic and genetically modified cotton crops by fixing the responsibility on the concerned seeds producer to compensate farmers suitably thus mitigating their hardship, evolve adequate and effective mechanism to prove the quality of the transgenic and genetically modified cotton seeds.

During Khaarif 2013, when instances of transgenic and genetically modified cotton crop failure in an area of 60,450 ha. in the districts of Haveri, Dharwad, Gadag, Belgaum, Chitradurga, Davanagere and Bellary. It was very difficult to provide compensation to the aggrieved farmers, as there was no adequate provisions in the existing laws to compensate the aggrieved farmers, in case of crop failure. As a special case, the State Government has compensated the farmers to the tune of Rs. 36.35 crores.

The present Seed Laws implemented in the State are enacted by the Central Government. Hence amendments in this regard and other lacunae to the present Central Seed Legislation were proposed by the State Government to the Central Government during last two decades, but it is yet to be passed.

Accordingly, the Karnataka Transgenic And Genetically Modified Cotton Seeds (Fixation of Sale Price And Payment of Compensation) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 31.07.2015. The said Bill was passed in the Legislative Assembly on 31.07.2015 and passed in the Legislative Council on 01.08.2015.

The subject matter of the Bill falls under entry 14 and 26 of list II and entry 33 of list III of the Seventh Schedule to the Constitution of India. The provisions of the Bill are repugnant to the Essential Commodities Act, 1955 and the Seed (Control) Order, 1983 and the Seed Act, 1966 (Central Act 54 of 1966) which are Central laws in force. Therefore, it is required to be reserved for the assent of the Honourable President of India as required by clause (2) of Article 254 of the Constitution of India.

Therefore, the Honourable Governor has been pleased to reserve the Karnataka Transgenic and Genetically Modified Cotton Seeds (Fixation of Sale Price And Payment of Compensation) Bill, 2015 under Article 200 of the Constitution of India for the consideration of the President as required by clause (2) of Article 254 of the Constitution of India.

The Ministry of Home Affairs vide its letter dated: 25.02.2016 has sought the comments / clarifications of the State Government to process the said Bill.

The said letter was sent to the Agriculture Department with a request to furnish the information sought by Government of India.

The Ministry of Home Affairs vide its Office Memorandum dated 4.2.2016 has issued guidelines on State Legislations on time limits and modalities to be adhered to by the State Government.

The MHA had required clarification from the State Government and Secretary, DPAL Govt. of Karnataka has also written a letter to Principal Secretary, Department of Agriculture on 18-04-2016 to expedite the clarifications. It would be desirable that Agriculture Department provides the clarification at the earliest which would enable us getting Presidential assent.

Reminders were sent to Secretary to Government, Department of Agriculture furnish clarification sought by Government of India vide letter no dated 16.07.2016.

The clarification of State Government has been communicated to Government of India vide letter No. DPAL 42 Shasana 2015, Dated: 16.07.2016 and reminders had been sent vide letters at 26.09.2016 and 30.12.2016.

The comments of ministry of Agriculture and Farmers Welfare has been sent to administrative Department vide letter of even number dt.07.02.2017.

The Department of Agriculture (Planning) Government of Karnataka had furnished its comments in the prescribed template and the same has been forwarded to the ministry of Home Affairs, Government of India vide letter No.DPAL 42 Shasana 2015, Dt. 28/03/2017.

A reminder letter No.CM 270 GOI 2017 dated 20.06.2017 has been sent on 22.06.2017 by the Hon'ble Chief Minister to the Hon'ble Prime Minister of India. A letter No. 17/38/2015-Judl &PP for Clarification sought by Ministry of Home Affairs Government of India has been sent to Department of Agriculture on 24.07.2017 and reminder letter sent to Agricultural Department on dated: 28.10.2017.

The Ministry of Home Affairs Government of India vide letter dated: 11.10.2017 and 20.11.2017 has sought clarification and same has been forwarded to Department of Agriculture vide letter dated: 18.12.2017. The main file of even number was sent to the Agriculture Department on 09.02.2018 and requested to take a decision regarding the said Bill. The letter of Government of India dated 26.02.2018 and 11.06.2018 had been sent to the Agricultural Department vide letter dated 26.04.2018 05.07.2018 to decide as to withdrawal of the said Bill.

The letter of Ministry of Home Affairs dated: 12.07.2018 has been sent to Agricultural Department vide letter of even number dated: 21.07.2018.

In pursuance to the discussion on 31.08.2018 with Additional Secretary, and discussion held with special secretary (cs) on 06.08.2019 ministry of Home Affairs, Government of India it is clarified that the subject Matter of cotton seed falls under entry 33 of list III, but does not fall under any of the entry in list-I. Hence it was requested to obtain the assent of the Honourable President of India, vide letter dated: 03.09.2018, 29.10.2010, 06.12.2018 and 01.03.2019.

The Agriculture Department of Government of Karnataka vide Letter No. AGD 44 AGC 2018, dated: 23.01.2019 had said that the pendency of the Bill is hindering the efforts in forming the comprehensive policy for the use of cotton seeds, Therefore it is communicated to Govt. Of India that this Govt. would like to pursue the Bill further. Hence, the Government of India was requested to obtain the assent of the Honourable President of India vide letter dated 01.03.2019, 22/05/2019,21/06/2019 24.07.2019, 16.08.2019 and 24.10.2019. In the letter dated:16.08.2019, it is clarified that (i) the Bill does not attract interstate trade (ii)the Bill does not shield faulty seed producer (iii) the proposed Bill is progressive Legislation and protects the farmers from being cheated by companies. It also provide for compensation to farmers who have incurred loss due to supply of faulty/defective seeds.

PRESENT STATUS: Ministry of Agriculture & Farmers Welfare, vide letter No. 11-07/2015-SD.IV(Pt.) dated: 07-11-2019 has observed and opined that,

“DAC & FW does not support the Karnataka Transgenic and Generically Modified Cotton Seeds (Fixation of Sale Price and Payment of Compensation) Bill, 2015 as in India only BT Cotton approved (BG-1 & BG-II) for commercial cultivation. In addition, Seeds is an item of Inter State Trade and Commerce and hence MoA& FW, Government of India has already issued Cotton Seed Price (Control) Order, 2015 on 07-12.2015 under section (3) of Essential Commodities Act, 1955 and under this order GoI fixes BT Cotton Seed price every year. Moreover, seeds related policies are formulated by DAC&FW, MoA&FW, Govt., of India and implemented by State Governments, hence DAC&FW does not support enactment of separate bill for every state herein Karnataka.

So far as Compensation to farmers is concerned, this provision is already considered in Seeds Bill, 2019, which is under active consideration.”

Therefore, the Government of India, Ministry of Home Affairs vide letter dated: 18.11.2019 referred under reference (13), above has requested that, the Government of Karnataka may consider withdrawing the said Bill.

The letter of Government of India along with enclosures had been forwarded to Agricultural Department on 27.11.2019 to take a decision regarding withdrawal or any other Administrative decision with regard to the Bill, and Reminder has been sent on 20.01.2020 to Administrative department to take decision. The main file is pending with Agricultural Department.

Subject (2):The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum- Grabbers and Video or Audio Pirates (Amendment) Ordinance, 2018.

Category Previous instruction of the President to the draft Ordinance

UID Number:

Proposal Classification

A

Proposal Code DPAL

Reference Date	Reference Number	Ministry
07.10.2014	DPAL 30Shasana 2014	Ministry of Home Affairs
10.11.2016 and 28.12.2016	No.17/26/2014 -Judl& PP,	Ministry of Home Affairs
02.02.2018	DPAL 30 Shasana 2014	Ministry of Home Affairs
26/07/2018	14/02/2018-Judl & PP,	Ministry of Home Affairs
26.10.2018	DPAL 30 Shasana 2014	Ministry of Home Affairs
22.03.2019.	23/30/2018-Judl & PP	Ministry of Home Affairs
10.01.2019	DPAL 30 Shasana 2014	Ministry of Home Affairs
19.09.2019	17/26/2014-Judl. & PP	Ministry of Home Affairs
18.10.2019	DPAL 30 Shasana 2014	Ministry of Home Affairs
28.11.2019	No. 17/26/2014Judl., & PP	Ministry of Home Affairs
14.02.2020	DPAL 30 Shasana 2014	Ministry of Home Affairs

The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video or Audio Pirates (Amendment) Bill, 2014, was sent to Government of India with a request to obtain and communicate the assent of the President of India, vide letter dated: 07.10.2014.

The Ministry of Home Affairs, Government of India vide its letter dated. 10.11.2016 and 28.12.2016 has requested to send the clarifications on the observations of the Ministry of Environment, Forest, Climate Change.

The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum- Grabbers and Video or Audio Pirates (Amendment) Ordinance, 2018 was sent vide letter dated: 02.02.2018 to Ministry of Home Affairs with a request to obtain and communicate the previous instructions of His Excellency the President of India to the said Ordinance.

The Ministry of Home Affairs in its letter No.14/02/2018-Judl & PP, dated: 26/07/2018 has requested the State Government to provide for clarification from the State Government regarding comments of the Ministry of Electronics & Information Technology vide OM No. 7 (72)/2014-CD, dated 17.07.2018 regarding omission of provisions relating to digital offenders and the same had been sent to the Home Department vide letter of even number dated: 10.08.2018.

State Government in letter, dated: 26.10.2018 has informed that the State of Karnataka Government has agreed to omit the words "digital offenders" from the said Ordinance as suggested by the Ministry of Electronics and Information Technology vide OM No. 7 (72)/2014-CD, dated 17.07.2018.

The Government of India, Ministry of Home Affairs in its letter No. 23/30/2018-Judl & PP, dated: 22.03.2019. has suggested to withdraw The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum- Grabbers and Video or Audio Pirates (Amendment) Bill, 2014.

During discussion with Central Government, it has suggested to state Government to amend the Ordinance. As suggested by Government of India, a draft modified The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Gamblers, Goondas, Immoral Traffic Offenders, Slum- Grabbers and Video or Audio Pirates (Amendment) Ordinance, 2018 was sent with letter dated: 10.01.2019 to the Central Government to obtain and Communicate to His Excellency the President of India.

The Government of India vide letter No. 17/26/2014-Judl. & PP, dated: 19.09.2019 had returned the three authentic copies of the Bill.

In this background it was once again requested to obtain the previous instructions of His Excellency the President of India to the draft Ordinance and communicate early, vide letter Dated: 18.10.2019.

PRESENT STATUS: The Ministry of Commerce and Industry vide letter dated: 28.11.2019 has proposed to substitute the words “record embodying any part of the sound track” by the words “sound recording” in view of the fact that the word “record” has already been substituted by the words “sound recording” vide Copy Right (A) Act, 1994.

Accordingly, the Department of Parliamentary Affairs and Legislation has prepared a new draft ordinance and sent it along with the main file NO: DPAL 30 SHASANA 2014 dated on 29/11/2019 to Home Department to take approval of Hon’ble Chief Minister.

A reminder had been sent to Home department with a request to send the main file after obtaining the approval of the Hon’ble Chief Minister to the said ordinance.

Subject (3): The Right of Children to Free and compulsory Education (Karnataka Amendment) Bill, 2015

Category: For obtaining Assent of the Honourable President of India to the Bill

UID Number: CSC/KN/190

Proposal Classification A Proposal Code DPAL

Reference Date	Reference Number	Ministry
22.05.2015	DPAL 05 Shasana 2015	Ministry of Home Affairs
07.07.2015 24.07.2015 05.08.2015 and 05.11.2015	No. 17/26/2015-judl & PP	Ministry of Home Affairs
04.08.2015	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
26.10.2015	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
09.12.2015	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)

29.03.2016	No.RCK.PS.61.2016	Resident Commissioner
05.06.2017	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
16.08.2017	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
21.10.2017	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
18.12.2017	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
19.03.2018	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
02.07.2018	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
21.07.2018	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
09.01.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
29.03.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
08.05.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
24.06.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
13.08.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
06.11.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
09.12.2019	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)
22.01.2020	DPAL 05 Shasana 2015	Education Department (Primary and Secondary)

The State Government constituted the language policy regarding the medium of instruction from 1st std to 5th std in 1994. In Government order No. ED 24 PGC 1994 dated 29.04.1994 the State Government ordered that the mother tongue or Kannada shall be the medium of instruction in all schools recognized by the State Government from the academic year 1994-95.

But, some private schools had taken permission to run the school in Kannada medium and are running in English medium, by violating the language policy.

Karnataka State unaided School Management Association has Questioned the language policy in different stages in the court. The full bench of the Hon'ble High court of Karnataka has quashed the Government order No. ED 24 PGC 1994, dated 24.4.1994 in W.P.No 14863/1994 (Education) dated 2.7.2008.

State Government questioned the above order dated 2.7.2008 before the Hon'ble Supreme Court of India vide WP No. 290/2009. The Hon'ble Supreme Court has issued an interim order dated 21.07.2009, directing to maintain the status quo. The case was then transferred to the Constitutional Bench on 5.7.2013. The Hon'ble Supreme Court in Civil Appeal No. 5166-5190/2013 dated 6.5.2014 has ordered that "government cannot impose mother tongue for teaching children at primary level".

In the present situation, as the language policy of the State was rejected by the Hon'ble Supreme Court of India, the State Government has filed a Review Petition No. 1878-1911/2014. The Review Petition was dismissed on 9.9.2014.

Article 350A of Constitution reads as follows:-

“350A. facilities for instruction in mother-tongue at primary stage.- It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.”

It is the constitutional duty of the concerned states to provide primary school education to the child in his/her mother tongue as per the Article 350A of the constitution. It was discussed in detail with Educationists, intellectuals and writers who unanimously opined the necessity of primary education in mother tongue.

Article 21A reads as follows, namely:-

“21A. Right to education.-The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

Therefore, this Government would like to determine by law, the manner of compulsory education to children from the age of six to fourteen years.

Therefore, it is considered necessary to amend the Right of children to Free and Compulsory Education Act, 2009, (Central Act 35 of 2009) to

provide Primary Education (1st Std to 5th Std) in Child's mother tongue or in Kannada" in the State of Karnataka.

Accordingly, The Right of Children to Free and compulsory Education (Karnataka Amendment) Bill, 2015 was introduced in the Karnataka Legislative Assembly on 26/03/2015. The said Bill was passed in the Legislative Assembly on 31/03/2015 and in the Legislative Council on 01/04/2015.

The subject matter of the Bill falls under entry 25 of List III of the Seventh Schedule to the Constitution of India. The provisions of the Bill are repugnant to item (f) of sub-section (2) of section 29 of the Right of Children to Free and compulsory Education Act, 2009 (Central Act 35 of 2009) which is a central law in force. Therefore, the Bill has to be reserved for the assent of His Excellency the President of India as required by clause (2) of Article 254 of the Constitution of India.

Therefore, Hon'ble Governor of Karnataka is pleased to reserve the said Bill for the consideration of the President under Article 200 and as required by clause (2) of Article 254 of the Constitution of India.

Accordingly the Government of India was requested to obtain the assent of His Excellency the President of India vide letter dated 22.05.2015.

The Legal Cell, Karnataka Bhavan has sent a fax on 26.06.2015 enclosing the Status Report as on 23.06.2015 and has reported that the above said Bill has been referred to the Legislative Department, Ministry of Human Resources Development (School Education) and Ministry of Home Affairs (Human Rights Division), and the comments of the Legislative Department had been sent to Ministry of Home Affairs on 23.06.2015.

The Legal Cell, Karnataka Bhavan has sent a fax on 18.08.2015 and has reported that the above said Bill has been referred to the Legislative Department, Ministry of Human Resources Development (Department of School Education and Literacy) dated 2.7.2015 for clarifications/views of the State Government and pending with Government of Karnataka.

The Government of India vide Letters dated: 07.07.2015, 24.07.2015, 05.08.2015 and 05.11.2015 requested to communicate the comments of the State Government with regard to the observations of Ministry of HRD and accordingly vide letters dated: 04.08.2015, 25.08.2015, 26.10.2015 and 09.12.2015 the Education Department was requested to furnish the said views immediately. A reminder letter sent to Education Department dated: 21.10.2017, 18.12.2017, 19.03.2018 and 21.07.2018

The Resident Commissioner, Karnataka Bhavan vide letter dated 29.03.2016 has stated that the Ministry of Home Affairs is awaiting clarification from the State Government.

The MHA is awaiting comments from Department of School Education in the Ministry of HRD to ascertain the legality of invoking article 350A of the Indian Constitution. Once we obtain the comments from MHA, we may have to take internal view.

The Ministry of Home Affairs vide letter dated: 13.12.2018 has asked the State Government to furnish clarifications on views of HRD (Department of School Education and Literacy) and Ministry of Law and Justice (Department of Legal Affairs.)

The Ministry of Home Affairs vide letter dated: 13.12.2018 has asked the State Government to furnish clarifications on view of HRD (Department of School Education and Literacy) and Ministry of Law and Justice (Department of Legal Affairs.)

PRESENT STATUS: The proposal to clarify Government of India is still pending in Education Department since 04.08.2015. The letter sent to Education Department on 08.05.2019, 24.06.2019, 13.08.2019, 06.11.2019, 09.12.2019 and 22.01.2020 to take a decision regarding withdrawal of the Bill or to furnish the clarification regarding the Bill. A reminder had been sent in this regard.

Subject (4): Karnataka Rajya Vishwa vidyanilayagala Vidheyaka, 2017

Category Assent of the President to the Bill

UID Number:

Proposal Classification

A

Proposal Code DPAL

Reference Date	Reference Number	Ministry
06.03.2019	DPAL 26 Shasana 2017	Ministry of Home Affairs
06.05.2019	DPAL 26 Shasana 2017	Ministry of Home Affairs
17.07.2019	DPAL 26 Shasana 2017	Ministry of Home Affairs
21.08.2019	DPAL 26 Shasana 2017	Ministry of Home Affairs

26.09.2019	DPAL 26 Shasana 2017	Principal Secretary to Government Higher Education Department
13.09.2019	No. 17/18/2019 Judl.,& PP	Ministry of Home Affairs
08.01.2020	DPAL 26 Shasana 2017	Higher Education Department

The Karnataka State Universities Act, 2000 (Karnataka Act 29 of 2001) was a comprehensive enactment, which replaced the earlier enactment, viz., the Karnataka State Universities Act, 1976 (Karnataka Act 28 of 1976) relating to the State Universities coming under the purview of the department of Higher Education in the State Government and to replace several Acts in force establishing such Universities.

Presently, there are six Universities Acts in force and each one differs in its functioning. It is considered necessary to bring uniformity in monitoring of these Universities by the State Government.

Therefore, the new legislation proposed herein aims at consolidating and enhancing the performance and to bring uniformity in administration of all such State Universities but by retaining their special characters in academic attainment, research, extension and related activities, so that these factors can effectively be used in their future development:

Provided that, these do not conflict with the newly enacted provisions pertaining to the governance and financial management of the Universities.

The Karnataka State Universities Bill, 2017 brings together all the State Universities existing under the purview of the Department of Higher Education under one umbrella, to ensure that there are common rules to be followed by all of them regarding their administration and functioning.

Keeping the above objectives in view the following significant changes are being brought about in this Bill, namely:-

- (1) The search-cum-selection committee for appointment of a Vice Chancellor under this Bill consists of eminent academicians only not below the rank Vice-Chancellors, Former Vice-chancellors or Directors of Institutes of National Importance.
- (2) The Senate, Syndicate or Executive Council in the repealed Acts shall be renamed as Executive Council.
- (3) Qualifications for the nomination of Executive Council and Academic Council members are specified in the Bill for effective deliberations and maintaining the Academic Standards of the University.

- (4) Qualification for the appointment of Vice-chancellor specified in the new Bill.
- (5) Arrangement of work during the vacancy in the office of the Vice Chancellor is provided existing Registrar (Evaluation) is renamed as Controller of Examination for better administration and smooth functioning of University.
- (6) A common recruitment board shall be established by the State Government for the initial direct recruitment to the Universities for teaching and non-teaching staff in the State to enhance the quality and to bring transparency in the process.
- (7) A common board for infrastructure development shall be established by the State Government for all the State Universities to avoid irregularities and to speed up the process as per the norms.
- (8) The special characters of Unitary or Cluster Universities has been preserved and provision is made for their proper functioning and control.
- (9) The Chancellor shall exercise all the powers in consultation with the State Government for uniform, speedy and effective decision making process.

Therefore, it is considered necessary to enact the Karnataka State Universities Bill, 2017 by repealing the following Acts, namely:-

- (a) The Karnataka State Universities Act, 2000 (Karnataka Act 29 of 2001);
- (b) The Visvesvaraya Technological University Act, 1994 (Karnataka Act 39 of 1994);
- (c) The Karnataka State Open University Act, 1992 (Karnataka Act 46 of 1994);
- (d) The Karnataka Rajya Dr. Gangubai Hangal Sangeetha mattu Pradarshaka Kalegala Vishwavidyalaya Act, 2009 (Karnataka Act 25 of 2009);
- (e) The Karnataka Samskrita Vishwavidyalaya Act, 2009 (Karnataka Act 13 of 2010); and
- (f) The Karnataka Janapada Vishwavidyalaya Act, 2011 (Karnataka Act 11 of 2012).

Accordingly, the Karnataka State Universities Bill, 2017 was introduced on 14.06.2017 and passed with amendments by the Karnataka State Legislative Assembly on 20.06.2017.

The said Bill was laid before the Karnataka Legislative Council for consideration on 15.11.2017. The Honourable Chairman, Karnataka Legislative Council constituted a Select Committee in the chairmanship of Honourable Higher Education Minister and referred the said Bill to it on 29.11.2017.

The Select Committee constituted by the Honourable Chairman has submitted its report with certain recommendations and after incorporation of the said recommendations and the Bill was passed by the Karnataka Legislative Council on 21.02.2018 and again the said Bill was sent to the Karnataka Legislative Assembly for reconsideration.

The Karnataka Legislative Assembly once again has passed the Karnataka State Universities Bill, 2017 on 23.2.2018 as passed by the Karnataka Legislative Council with amendments after reconsideration.

Accordingly, three authentic copies of Karnataka Rajya Vishwa vidyanilayagala Vidheyaka, 2017 in Kannada Language as passed by both the Houses of the State Legislature are submitted to the Honourable Governor on 14.03.2018 for his assent to the said Bill under article 200 of the Constitution of India.

After perusal of the file, the Honourable Governor of Karnataka has reserved the Bill for consideration of the Honourable President of India under Article 200 of the constitution of India and returned the file with following observations, namely:-

“Perused the Bill and the Submission Note.

Entry-66, List-1 of 7th Schedule is the field of Legislation of Union of India, Whereas Entry-25 of Concurrent list is the field of Legislation for Union of India as well as States. Entry-25 of List-3 (Concurrent list) is subjected to the Provisions of entry-66 of list-1.

Entry-66 of List-1 of 7th Schedule reads thus:-

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

Entry-25 of List-3 of 7th schedule reads thus:-

25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

Article -254 of the constitution of India, deals with the inconsistency between laws made by the parliament and laws made by the legislature of the State.

The University Grants Commission Act and the Rules/Regulations made there-under are the law made by the parliament and prima facie certain aspects dealt under the bill may have repugnancy to or covered under the Central Act/Rules/Regulations Inter alia the very competency of the State Legislature on the subject covered under Entry-66 is doubtful.

Without expressing any opinion on the bill, I deem it proper to reserve the bill for the consideration of the Honourable president under article 200 of the constitution. Accordingly, the bill is reserved for the consideration of the President.”

sd/-
VajubhaiVala
Governor of Karnataka

The subject matter of the Bill falls under entry 25 of List III of the Seventh Schedule to the Constitution of India. No provisions of the said Bill falls under entry 66 of List I of the constitution and are not repugnant to any provisions of the Central Acts in force. Therefore, the said Bill need not be reserved for the consideration of the President.

Whereas Honourable Supreme court of India in CA No. 5946-5947, Kalyani Mathivanan Vs. K.V. Jeyaraj and Others has held as follows,-

“In view of the discussion as made above, we hold:

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(vi) UGC Regulations, 2010 is directory for the Universities, Colleges and other higher educational institutions under the purview of the State Legislation as the matter has been left to the State Government to adopt and implement the scheme.

Thus, UGC regulation 2010 is partly mandatory and is partly directory.

(v) UGC regulation 2010 having not adopted by the State Tamil Nadu, the question of conflict between State Legislation and Statutes framed under Central Legislation does not arise. Once it is adopted by the State Government, the State Legislation to be amended appropriately. In such case also there shall be no conflict between the State Legislation and the Central Legislation.”

In view of the above Judgment, it may be construed that the provisions of certain Regulations made under University Grants Commission Act are not mandatory but only advisory in nature. State Government may adopt or may not adopt them. Therefore, they may not create any repugnancy to Central Law. The State may not adopt those regulations. No provision of this Bill falls under entry 66 of List I, but they fall under entry 25 of List III of the Constitution. Therefore, the Karnataka State Legislature is competent to enact the Karnataka State Universities Bill, 2017. However, three authentic copies of the Karnataka Rajya Vishwavidyanilayagala Vidheyaka, 2017 as passed by both the houses of State Legislature are herewith sent for the consideration of the President as reserved by the Honourable Governor under Article 200 constitution of India.

Six copies of the Bill, three authentic copies of the parchment were sent to Government of India with a request to obtain the assent of H.E. the President vide letter dated: 06.03.2019.

In a reminder letter dated: 06.05.2019, Government of India Home Ministry has been requested to obtain and communicate the assent of His Excellency the President of India. And a remainder had been sent on 17.07.2019 and 21.08.2019. Hon'ble Chief Minister has also met Hon'ble' Union Home Minister on 17.08.2019 in this regard.

Present Status: The Ministry of Home Affairs (Central Government) vide its letter dt: 13.09.019 had sought clarifications regarding the observations of union Human Resource Department and the same has been sent to Higher Education Department for clarification son 26.09.2019.

The Department of Parliamentary Affairs has furnished the clarifications and sent the main file NO: DPAL26 SHASANA 2017 on 06/12/2019 to Education Department (Higher Education)to take the administrative decision in this regard. A reminder had been sent on 08.01.2020.