

THE KARNATAKA PUBLIC MONEYS (RECOVERY OF DUES) ACT, 1979

ARRANGEMENT OF SECTIONS

[Statement of Object and Reasons](#)

Sections:

1. [Short title and commencement](#)
2. [Definitions](#)
3. [Recovery of certain dues as arrears of land revenue](#)
4. [Savings](#)
5. [Power to make rules](#)
6. [Repeal and validation etc.](#)

STATEMENT OF OBJECTS AND REASONS

I

Act 16 of 1980.- To assist the commercial banks in their lending programmes especially to those who are closely inter-linked with the objectives of the Government, the Karnataka Public Moneys (Recovery of Dues) Act, 1976 was enacted and it provided for recoveries of commercial banks loans as arrears of land revenue in so far as these loan were given to schemes notified by Government as "State Sponsored Schemes". The operation of this Act has revealed that there are several other schemes which are considered by Government as "Socially desirable schemes" in which there may not be any financial participation by the State Government but they are vital to the fulfillment of the Government objectives and the commercial banks will have to be encouraged to support those programmes with a view to bringing about such a synchronisation, an amendment to this Act incorporating the socially desirable schemes, their definition and components is necessary. When the amendment Bill was referred to the Law Department for taking further action, it observed that while enacting the Karnataka Public Moneys (Recovery of Dues) Act, 1976, the assent of the President of India was not obtained even though some of the provisions of the said Act were repugnant to the existing Central law falling under Entry 13 List III of the Seventh Schedule to the Constitution of India and that the validity of the Act was being challenged in a court of law on that basis. To remedy the defect, it has become necessary to promulgate a new Act with retrospective effect with a provision to validate the action taken under the Public Moneys (Recovery of Dues) Act, 1976.

Hence this Bill.

(Published in the Karnataka Gazette Part-IV-2A (Extraordinary), dated 16th May 1979, No.471, at page 8-9.)

II

Amending Act 48 of 1981.- To assist the commercial banks in their lending programmes especially those which are closely inter-linked with the objective of the Government, the Karnataka Public Moneys (Recovery of Dues) Act, 1979 was enacted.

While communicating the assent of the President to the said Legislation the Ministry of Home Affairs Government of India suggested that the definition of the 'Banking Company' may be amended as now proposed in this Bill.

Hence the Bill.

(Published in the Karnataka Gazette Part-IV-2A (Extraordinary), dated 3rd February 1981, No.103, at page 4.)

III

Amending Act 37 of 1985.- The Bill proposes to amend the Karnataka Public Moneys (Recovery of Dues) Act 1979, for the following purposes:-

Clause 3.- to specify the future rate of interest to be recovered.

Hence the Bill.

(Published in the Karnataka Gazette Part-IV-2A (Extraordinary), dated 5th August 1985, No. 426, at page 2.)

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KARNATAKA ACT No. 16 OF 1980

*(First published in the Karnataka Gazette Extraordinary dated
Twenty fourth day of April, 1980)*

THE KARNATAKA PUBLIC MONEYS (RECOVERY OF DUES) ACT, 1979

*(Received the assent of the President on the Eighteenth
day of April, 1980)*

(As Amended by Act 48 of 1981 and 37 of 1985)

An Act to provide for the speedy recovery of certain classes of dues.

WHEREAS it is expedient to provide for the speedy recovery of certain classes of dues;

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

1. Short title and commencement.- (1) This Act may be called the Karnataka Public Moneys (Recovery of Dues) Act, 1979.

(2) Section 6 shall come into force at once. Other sections shall be deemed to have come into force on the fifteenth day of June 1976.

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

¹[(a) "banking company" means,-

(i) a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959);

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);

(v) a Regional Rural Bank constituted under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);

(vi) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

(vii) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (Central Act 10 of 1963); and

(viii) the Agricultural Finance Corporation Limited, a company incorporated under the Indian Companies Act, 1956 (Central Act 1 of 1956).]¹

1. Substituted by Act 48 of 1981 w.e.f. 15.6.1976

(b) "Corporation" means the Karnataka State Financial Corporation constituted under the State Financial Corporation Act, 1951 and includes any other corporation owned or controlled by the Central Government or the State Government which the State Government may, by notification, specify;

(c) "financial assistance" means any financial assistance,-

(i) for establishing, expanding, modernising, renovating or running any industrial undertaking; or

(ii) for purposes of vocational training; or

(iii) for the development of agriculture, horticulture, animal husbandry or agro-industry; or

(iv) for purposes of any other kind of planned development; or

(v) for relief against distress;

(d) "Government company" means a Government Company as defined in section 617 of the Companies Act, 1956;

(e) "industrial concern" has the meaning assigned to it in the State Financial Corporation Act, 1951 as amended from time to time;

(f) "Industrial undertaking" includes any undertaking for the manufacture, preservation, storage or processing of goods, or mining, or the hotel industry or the transport of passengers or goods, or the generation or distribution of electricity or any other form of power, or for the development of any contiguous area of land as an industrial estate;

Explanation.-The expression "processing of goods" includes any act of process for producing, preparing or making an article by subjecting any material to a manual, chemical, electrical or any other like operation.

(g) "person" includes a legal representative or an assignee;

(h) "State sponsored scheme" means a scheme sponsored by way of financial assistance by the State Government under which the State Government either,-

(i) advances money to a banking company or a Government Company for the purposes of disbursing loans, advances or grants or for the purposes of sale of goods on credit or hire purchase;

(ii) guarantees or agrees to guarantee the repayment of a loan advance or grant or the payment of the price of goods sold on credit or hire purchase;

(i) "socially desirable scheme" means a scheme notified as such by the State Government under which a banking company advances money to any person by way of loan.

3. Recovery of certain dues as arrears of land revenue.- (1) Where any person is party,-

(A) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire-purchase of goods sold to him by the State Government or the Corporation, by way of financial assistance; or

(B) to any agreement relating to a loan, advance or grant to him or relating to credit in respect of or relating to hire-purchase of, goods sold to him by a banking company or a Government company, as the case may be, under a State sponsored scheme; or

(C) to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern; or

(D) to any agreement providing that any money payable thereunder to the State Government shall be recoverable as arrears of land revenue;

and such person,-

(a) makes any default in payment of the loan or advance or any instalment thereof; or

- (b) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or portion or any instalment thereof; or
- (c) otherwise fails to comply with the terms of the agreement, then,-
 - (i) in the case of the State Government, such officer as the State Government may by notification authorise in this behalf;
 - (ii) in the case of a Corporation or a Government Company, the Managing Director thereof; and
 - (iii) in the case of banking company, the local agent thereof by whatever name called,

may, send a certificate to the Deputy Commissioner, mentioning the sum due from such persons and requesting that such sum together with the cost of the proceedings and future interest at the ¹[agreed rate within the limits prescribed by the Reserve Bank of India and other Government Financing or Re-financing institutions from time to time]¹ upto the date of recovery be recovered as if it were arrear of land revenue. A certificate sent to the Deputy Commissioner may be withdrawn at any time.

1. Substituted by Act 37 of 1985 w.e.f. 21.10.1985

(2) The Deputy Commissioner on receiving the certificate shall proceed to recover the amount stated therein as an arrear of land revenue.

(3) On an application made by a banking company and on its furnishing a statement of accounts in respect of any sum due to it from any person in respect of a loan given to him under a socially desirable scheme the prescribed officer may, after making such enquiry as he deems fit, and after giving such person a reasonable opportunity of being heard, grant a certificate specifying the sum due.

(4) A certificate so granted by the prescribed officer shall be final and may be sent to the Deputy Commissioner by the banking company. The sum stated therein to be due and interest thereon at the ¹[agreed rate within the limits prescribed by the Reserve Bank of India and other Government Financing or Re-financing institutions from time to time]¹ upto the date of recovery together with the cost of the proceedings shall be recoverable as an arrear of land revenue. A certificate sent to the Deputy Commissioner may be withdrawn at any time .

1. Substituted by Act 37 of 1985 w.e.f. 21.10.1985

(5) No suit for the recovery of any sum due as aforesaid shall lie in a civil court against any person referred to therein if proceedings to recover the same are pending before the Deputy Commissioner:

Provided that in computing the period of limitation for the recovery of any such sum through court, the period during which the filing of a suit in a court is barred shall be excluded.

4. Savings.- (1) Nothing in section 3 shall,-

(a) affect any interest of the State Government, the Corporation, a Government Company or any banking company, in any property, created by any mortgage, charge, pledge or other encumbrance; or

(b) affect any right or remedy against any person other than a person referred to in that section, in respect of a contract or indemnity or guarantee entered into in relation to an agreement referred to in that section or in respect of any interest referred to in clause (a).

(2) Where the property of any person referred to in section 3 is subject to any mortgage, charge, pledge or other encumbrance in favour of the State Government, the Corporation, a Government Company or a Banking Company, then,-

(a) in every case of a pledge or hypothecation of goods, proceedings shall first be taken for sale of the goods pledged or hypothecated and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance as if it were an arrear of land revenue:

Provided that where the State Government is of the opinion that it is necessary so to do for safeguarding the recovery of the sum due to it or to the Corporation, a Government Company or a Banking Company, as the case may be, it may for reasons to be recorded direct proceedings to be taken for recovery of the sum due, as if it were an arrear of land revenue before or at the same time the proceedings are taken for sale of the goods pledged;

(b) in every case of a mortgage, charge or other encumbrance on immovable property, such property or, as the case may be, the interest of the defaulter therein, shall first be sold in proceedings for recovery of the sum due from that person as if it were an arrear of land revenue, and any other proceedings may be taken thereafter only if the Deputy Commissioner certifies that there is no prospect of realisation of the entire sum due through the first mentioned process within a reasonable time.

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

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall 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.

6. Repeal and validation, etc.-(1) The Karnataka Public Moneys (Recovery of Dues) Act, 1976 (Karnataka Act No. 79 of 1976) is hereby repealed.

(2) Notwithstanding any judgement, decree or order of any court, anything done or any action taken (including rules or orders made, notices or certificates issued and proceedings initiated to recover any amount) or purported to have been done or taken under the Karnataka Public Moneys (Recovery of Dues) Act, 1976 (hereinafter referred to as the 1976 Act) shall be deemed to be as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act, which under sub-section (3) of section 1 shall be deemed to have come into force on the 15th day of June, 1976, and accordingly no suit or other legal proceedings shall be maintained or continued in any court questioning the validity of anything done or any action taken or purported to have been done or taken under the 1976 Act on the ground that the said Act is unconstitutional or void as it has not been reserved for the assent of the President and assented to by the President.

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