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STATEMENT OF OBJECTS AND REASONS

I

Act 6 of 1980.- Three Command Area Development Authorities for the integrated development and for ensuring rapid and optimum utilisation of irrigation potential created under the Major Irrigation Projects, namely (1) Thungabhadra Project, (2) Malaprabha and Ghataprabha Project, (3) Cauvery Basin Projects (consisting of Krishnarajasagar, Kabini, Hemavathy and Harangi Projects), were constituted in January, 1974. Subsequently, a separate Command Area Development Authority for the development of Upper Krishna Project and Bhadra Project were created in September, 1977 and December 1979 respectively.

The Command Area Development Authorities have been created by administrative / executive orders of Government. Therefore, at present, they play only a promotional role in the integrated development of the Command Areas through co-ordination of the activities of the various departments and institutions operating in the area.

Land development work is a key factor in utilisation of irrigation facilities. In the absence of a suitable legislation, it has not become possible to ensure systematic and scientific development of lands.

Further increasing attention is being paid for providing institutional finance for land development. Eligible farmers, who are willing to avail Institutional finance, get loans from the financing banks in the normal course. But, it is found that as much as 20 per cent of the land is held by persons ineligible to raise institutional finance for want of proper title to the lands, and other reasons, or persons, though eligible, are unwilling to develop their lands by raising loans. The Command Area Development Authority has to be a statutory body to borrow necessary funds for development of lands belonging to ineligible farmers.

Therefore, it has been found necessary to make CADA statutory bodies, and to empower them to enforce land development on compulsory basis as also to borrow and lend money for land development and other purposes.

The special features of the Bill are summarised below :-

1. Formulation of schemes for the comprehensive development of the command areas.
2. Construction of field channels and field drains and ensuring proper maintenance of irrigation system under a pipe outlet.
3. Compulsory and systematic land development on a pipe-outlet basis with option to land holders to develop lands themselves as per approved plan.
4. Compulsory and systematic land development on a pipeoutlet basis with option to land holders to develop lands themselves .
5. Localisation of Command Areas and enforcement of cropping pattern.
6. Alteration of field boundaries, wherever necessary for systematic land development.
7. Empowering the CADA to borrow and lend money necessary for the due discharge of its functions.
8. Around development of the farmers in the area in respect of agriculture, sericulture, animal husbandry, fisheries, horticulture, farm forestry, Communication and

co-operation.

9. Constitution of a fund for the Authority.
10. Provision for offences and penalties.

The Karnataka Legislative Assembly was not in session and as the matter was urgent an Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 120 dated 25-2-1980 at page 31-33.)

II

Amending Act 44 of 1986.- As per clause (c) of sub-section (1) of section 4 of the Karnataka Command Area Development Act, 1980 the Additional Secretary to Government, Planning Department (Command Area Development) is one of the members of the Authority.

However, by Government Order No. DPAR 358 SGO 83, dated 29th November, 1983 the subject relating to Command Area Development was transferred from the Planning Department to the Public Works, Command Area Development and Electricity Department. Hence, it is necessary to amend the clause (c) of sub-section (1) of section 4 of the Karnataka Command Areas Development Act, 1980 to substitute "The Additional Secretary to Government (CAD), Public Works, Command Area Development and Electricity Department".

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A as No. 629 dated 19-8-1986 at page 3.)

III

Amending Act 33 of 1987.- It is necessary to amend section 4 of the Command Areas Development Act, 1980 to include Chief Secretaries of the concerned Zilla Parishads as Members of the Command Areas Development Authority.

(Obtained from file L.C. Bill No. 4 of 1987 in file LAW 53LGN 87.)

IV

Amending Act 32 of 1995.- It is considered necessary to amend the Karnataka Command Areas Development Act, 1980 to include the following as members of the Authority:-

(1) The Engineers-in-Chief of the respective Command Area Authority in addition to the Chief Engineers ;

(2) To enable the Joint Directors of Agriculture and Joint Registrars of Co-operative Societies to represent as nominees of the Director of Agriculture or the Registrar of Co-operative Societies as the case may be, to attend the meetings of the Authority.

(Obtained from L.A. Bill No. 28 of 1995 in file LAW 10 LGN 94).

V

Amending Act 25 of 2003 .- The Annual Reports prepared by the Authority every year is placed before each House of the Legislature, as provided in the Act. But, there is no specific provision to place the CADA accounts audited and certified by the Controller of State Accounts before each of the Houses of the State Legislature.

It is, therefore, considered necessary to amend section 24 of the Act to

provide for placing the accounts audited before each House of the State Legislature alongwith the Annual Reports, as soon as it is received by the State Government.

Hence the Bill.

(L.C. Bill No. 2 of 2003)

VI

Amending Act 34 of 2012.- It is considered necessary to amend the Karnataka Command Areas Development Act, 1980, to provide for,-

- (1) appointment of an Engineer-in-Chief or Chief Engineer or Superintending Engineer as the Administrator of the Authority and the Director of Command Area Development Authority and the Chief Executive Officer;
- (2) establishment of a Directorate for all Command Area Development Authorities; and
- (3) entrusting the work of supervising and co-ordinating with all authorities and make recommendations to and advice the Government on policy matters on the activities of the authorities.

Hence, the Bill.

[L.A. Bill No.21 of 2012, File No. Samvyashae 18 Shasana 2012]

[Entries 32 and 41 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO. 6 OF 1980

(First published in the Karnataka Gazette Extraordinary on the Twenty-fifth day of March 1980)

THE KARNATAKA COMMAND AREAS DEVELOPMENT ACT, 1980

(Received the assent of the President on the eighteenth day of March, 1980)

(As Amended by Act 44 of 1986, 33 of 1987, 32 of 1995, 25 of 2003 and 34 of 2012)

An Act to make provisions for the development of areas benefitted by irrigation projects in the State of Karnataka;

WHEREAS it is expedient to make provisions for comprehensive and systematic development of the areas in which lands benefitted by irrigation projects are situated and matters incidental thereto;

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

CHAPTER I

PRELIMINARY

1. Short title and Commencement.- (1) This Act may be called the Karnataka Command Areas Development Act, 1980.

(2) It shall be deemed to have come into force on the Eleventh day of December, 1979.

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

(1) "Authority" means a Command Area Development Authority constituted under section 3 ;

(2) "agricultural labourer" means a person who does not hold any land whether as owner or tenant or mortgagee with possession and whose principal means of livelihood is manual labour on land ;

(3) "Command Area" in relation to one or more irrigation projects means such area as may be notified by the State Government, comprising among other lands, lands benefitted by such irrigation project or projects ;

(4) "comprehensive development" in relation to a Command Area includes,-

(a) bringing the land records up-to-date for consolidation of land holdings, land survey and mapping with aerial photographs ;

(b) conservation of land and water ;

(c) construction of field channels with related structures ;

(d) construction of field drains with related structures ;

(e) land shaping including grading, levelling; bunding and the like;

(f) realignment of field boundaries and rectangularisation of plots and consolidation of land holdings under a pipe-outlet or under an adjacent pipe-outlet for efficient farm management;

(g) lining of field channels with suitable material to prevent seepage of water.

(h) construction and upgrading of ayacut roads with related structures;

(i) grouping of small holdings in a contiguous area nearer the outlet and larger ones farther away ;

(j) other ancillary measures to avoid wastage of water and prevent water-logging, salinity, alkalinity and the like ;

(k) conjunctive use of surface and ground water for multiple cropping and proper utilisation of available water resources ;

(l) all round development of the farm in the areas pertaining to agriculture, horticulture, sericulture, farm forestry, animal husbandry, fisheries, communication, agro-based industry and co-operation ;

(5) "credit agency" means,-

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

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

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

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

(v) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 ;

(vi) the Agro-Industries Corporation as defined in clause (c) of section 2 of the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 ;

(vii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 ; and

(viii) any other financial institution notified by the State Government as a credit agency for the purpose of this Act ;

(6) "distribution system" includes,-

(a) all main canals, branch canals, distributories, sub-distributories and channels between an outlet and field channels constructed for the supply and distribution of water for irrigation ;

(b) all works, structures and appliances connected with the distribution of water for irrigation ;

(c) all field channels and farm channels and related structures under a pipe-outlet ;

(7) "drainage system" includes,-

(a) channels either natural or artificial for the discharge of waste or surplus water and all works connected therewith or ancillary thereto ;

(b) all connecting drains and main drains to drain off surplus water;

(c) all field drains and related structures under a pipe-outlet ;

(8) "field channel;" means regulated water course or hikkal having capacity not exceeding one cubic feet per second or 0.028 cumec maintained by the land owner or by any other agency on his behalf to receive supply of water from a pipe-outlet ;

(9) "field drain" means a channel excavated and maintained by the land holder or by any other agency on his behalf to discharge waste or surplus water from the land holding under a pipe-outlet ;

(10) "ineligible person" means a person not eligible for ordinary land development loans and belonging to one of the following categories, namely:-

- (i) farmers occupying lands without any valid title to mortgage such lands ;
- (ii) minors without guardians ;
- (iii) farmers occupying Government lands which have not been assigned to them or Government lands assigned but which revert to Government in case the assignee mortgages the same ;
- (iv) farmers occupying lands alienated by women prior to the coming into force of the Hindu Succession Act, 1956 ;
- (v) land holders holding lands in excess of the ceiling under the Karnataka Land Reforms Act, 1961 ;
- (vi) land holders unable to get loan from any credit agency because of overdues which are to be cleared before obtaining any loan for further capital investment ; and
- (vii) farmers who are unwilling to apply for land development loans ;

(11) "irrigation system under a pipe-outlet" includes the filed channels, filed drains, and ayacut roads with all the related structures thereto ;

(12) "land holder" means a person in actual possession of the land, whether as an owner or as a tenant or sub-tenant or as a mortgagee in possession or as a licensee or otherwise and includes a person who is likely to be benefitted by any development work under this Act and the expression "land holding" shall be construed as land held by a land holder ;

(13) "member" means member of an Authority ;

(14) "pipe-outlet" means an opening or contrivance constructed by the State Government in an irrigation system through which water is delivered at the periphery of a block of land the extent of which ordinarily not exceeding forty hectares ;

(15) "Scheduled Castes" and "Scheduled Tribes" shall have the meaning assigned to it in the Constitution ;

(16) "small farmer" means a person who holds whether as owner, tenant or mortgagee with possession or partly in one capacity or partly in another capacity not more than two and a half acres of 'A' class of land specified in part 'A' of Schedule I of the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962) or not more than five acres of any other class of land.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF THE AUTHORITY

3. Constitution of the Authority.- (1) As soon as may be after the commencement of this Act, the State Government may, by notification, constitute Authority for the development of each Command Area.

(2) The Authority shall be a body corporate by the name "Command Area Development Authority of" having perpetual succession and a common seal with power, subject to the provisions of this Act to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

4. Composition of the Authority .- (1) The Authority shall consist of the following members, namely :-

(a) ten persons nominated by the State Government of whom one shall be a small farmer, one shall be a person belonging to scheduled castes or scheduled tribes, one shall be an agricultural labourer, and one shall be a rural artisan;

(b) one person nominated by the State Government to represent banks and financial institutions ;

¹[(c) the Deputy Secretary to Government (Command Area Development Authority), Irrigation Department;]¹

1. Substituted by Act 44 of 1986 w.e.f. 29.10.1996 and again substituted by Act 32 of 1995 w.e.f. 22.11.1995.

¹[(cc) the Chief Secretaries of the concerned Zilla Parishads;]¹

1. Inserted by Act 33 of 1987 w.e.f. 13.11.1987.

(d) the Director of Agriculture ¹[or his nominee not below the rank of Joint Director of Agriculture;]¹

1. Inserted by Act 32 of 1995 w.e.f. 22.11.1995.

(e) ¹[the Engineer-in-Chief and]¹ the Chief Engineers of the concerned irrigation project or projects;

1. Inserted by Act 32 of 1995 w.e.f. 22.11.1995.

(f) the Registrar of Co-operative Societies ¹[or his nominee not below the rank of Joint Registrar of Co-operative Societies]¹;

1. Inserted by Act 32 of 1995 w.e.f. 22.11.1995.

(g) the Director of Town Planning ;

(h) the Commissioner and Secretary to Government, Finance Department ;

(i) the Vice-Chancellor of the University of Agricultural Sciences ;

(j) the Deputy Commissioners of the concerned revenue districts ;

(k) the Administrator appointed under section 11.

(2) The State Government shall appoint,-

(i) one of the members as the Chairman ; and

(ii) one of the members or any officer of the Authority as the Secretary of the Authority.

5. Disqualification for the membership of the Authority.- (1) A person shall be disqualified for being nominated as, and for being, a member,-

(a) if he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) if he is unsound mind and is so declared by a competent court; or

(c) if he is an undischarged insolvent ; or

(d) if he has been removed or dismissed from the service of the Central Government or the State Government or a Corporation owned or controlled by the Central Government or the State Government or from the membership of the Authority ;
or

(e) if he has directly or indirectly, by himself or by his partner, any share or interest in any work done by the order of the Authority or in any contract or employment with or under or by or on behalf of the Authority ; or

(f) if he is employed as a legal practitioner on behalf of the Authority or accepts employment as legal practitioner against the Authority.

(2) A person shall not be disqualified under clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of the said clause, by reason only of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Authority is inserted.

6. Term of office and conditions of service.- (1) Notwithstanding anything contained in section 7, the Chairman and every other nominated member shall hold office during the pleasure of the State Government and their conditions of service shall be such as may be prescribed.

(2) Subject to the provisions of sub-section (1), the Chairman and every other nominated member shall hold office for three years from the date of nomination, but they shall be eligible for re-nomination.

(3) The Chairman or any other nominated member may at any time resign his office by a letter of resignation addressed to the State Government:

Provided that the resignation shall not take effect until it is accepted.

7. Removal of a member.- (1) The State Government shall remove the Chairman or a nominated member, if he,-

- (a) becomes subject to any of the disqualifications specified in section 5 ; or
- (b) refuses to act or becomes incapable of acting ; or
- (c) without obtaining leave of absence from the Authority absents from three consecutive meetings of the Authority ; or
- (d) in the opinion of the State Government has so abused his position as to render his continuance detrimental to the interest of the Authority.

(2) No order of removal of the Chairman or a nominated member under sub-section (1), shall be made unless such member has been given an opportunity of making his representation.

8. Casual vacancies.- (1) Any casual vacancy caused by resignation of a member or by any other reason may be filled by the State Government by nomination and the person so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(2) No act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of the Authority, or any irregularity in the procedure of the Authority not affecting the merits of the case.

9. Meetings of the Authority.- (1) The Authority shall meet at least once in three months ordinarily at the office of the Authority, or at such other place within the Command Area as the Chairman may decide and shall, subject to the provisions of sub-sections (2), (3) and (4) observe such rules of procedure in regard to the transaction of business at its meeting as may be provided by regulations.

(2) The Chairman or in his absence any member chosen by the members present from among themselves, shall preside at a meeting of the Authority.

(3) If any member, being the Vice-Chancellor of the Agricultural University, or an officer of the State Government, is unable to attend any meeting of the Authority, he may under intimation to the Chairman, authorise his immediate subordinate officer in writing, to do so.

(4) All questions at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding will have a second or casting vote.

(5) Quorum for a meeting of the Authority shall be five.

(6) The Authority may associate with itself in such manner and for such purposes as may be provided by regulations, any person whose assistance or advice it may desire in performing any of its functions under the Act. The person so associated shall have the right to take part in the meetings of the Authority relating to that purpose but shall not be entitled to vote.

CHAPTER III

FUNCTIONS OF THE AUTHORITY

10. Functions of the Authority .- The Authority shall have the following functions, namely :-

- (1) to formulate and implement schemes for the comprehensive development of the Command Area ;
- (2) to prevent land erosion and water-logging ;
- (3) to improve soil fertility and regulation of cropping pattern ;
- (4) to ensure the efficient maintenance of field channels and filed drains by the farmers within the Command Area ;
- (5) localisation and delocalisation of lands for various crops ;
- (6) ensuring supplies of all inputs and services ;
- (7) promotion and setting up of rural growth centres for integrated development of the Command Area ;
- (8) development of marketing, processing and storage facilities and adequate communication system ;
- (9) arranging for credit facilities to the farmers and artisans ;
- (10) organising agricultural co-operatives and associations ;
- (11) construction of field channels and connected drains ;
- (12) to borrow and lend money necessary for the due discharge of its functions ;
- (13) conjunctive use of surface and ground water ;
- (14) to determine the payment of compensation as provided in sub-section (4) of section 12 ;
- (15) to set up agricultural demonstration farms and promote extension activities ; and
- (16) to do such other acts not inconsistent with the provisions of this Act, as may be prescribed.

CHAPTER IV

ADMINISTRATOR AND OTHER OFFICERS

11. Administrator and other Officers .- (1) The State Government shall, by notification, appoint to an Authority,-

(a) ¹[an officer of the Karnataka Water Resource Engineering Service in the grade of Engineer-in-Chief or Chief Engineer or Superintending Engineer shall be the Administrator of the Authority who shall, subject to the general superintendence and control of the Authority and the Director of Command Areas Development to be the Chief Executive Officer of the Authority and shall exercise and discharge such powers and duties as may be prescribed or delegated to him by the Authority.]¹

(b) an officer of the Agriculture Department not below the rank of a Joint Director of Agriculture, as the Land Development Officer (Agriculture);

(c) an officer of the Irrigation Department not below the rank of a Superintending Engineer, as the Land Development Officer (Engineering);

(d) an officer of the Co-operation Department not below the rank of a Joint Registrar of Co-operative Societies, as the Land Development Officer (Co-operation) ; and

(e) an officer of the State Accounts Department of the Government not below the rank of a Deputy Controller of State Accounts, as the Chief Accounts Officer of the Authority.

(2) The Land Development Officers and the Chief Accounts Officer shall be subordinate to the Administrator and shall exercise such powers and discharge such duties as may be assigned to them by the Administrator.

(3) Subject to such rules as may be prescribed, the Authority may appoint such other officers and employees as it may deem necessary for the efficient discharge of its functions.

(4) The terms and conditions of service of the officers specified in sub-section (1) and of the officers and employees appointed under sub-section (3), shall be such as may be prescribed.

1. Substituted by Act 34 of 2012 w.e.f. 30.08.2012

¹[11A. **Establishment of Directorate.**- The State Government may, by notification, establish a Directorate for all Command Area Development Authorities and appoint an officer of the rank of Secretary to Government as Director and such officers and staff as may be prescribed, to supervise and co-ordinate with all Authorities and make recommendations to or advise the Government on policy matters on activities of the Authorities.]¹

1. Inserted by Act 34 of 2012 w.e.f. 30.08.2012

CHAPTER V

SCHEMES

12. Preparation of the Schemes.- (1) Every Authority shall prepare a scheme for the comprehensive development of the Command Area or any phase of it in such manner as may be prescribed.

(2) Any scheme so prepared shall amongst others, set out the following, namely:-

- (a) area proposed to be covered under the scheme ;
- (b) the work or works to be executed ;
- (c) the phasing of the scheme both areawise and workwise ;
- (d) the sketch plan of the area proposed to be covered under the scheme;
- (e) the reallocation or the realignment if any, of a pipe-outlet or the existing irrigation system ;
- (f) the survey numbers covered ;
- (g) field boundaries as existing and as proposed ;
- (h) the compensation to be given to or recovered from the land holders;
- (i) the cost involved in the scheme as well as in each phase thereof;
- (j) the charges or dues to be levied on the beneficiaries ; and
- (k) such other matters and particulars as may be prescribed.

(3) The Authority may also from time to time make and take up any new or additional schemes in the Command Area.

(4) The scheme shall provide for the payment of compensation to any affected land holder for the reduction in the extent of his holding under the above scheme and for recovery of compensation from any other landholder who is benefited in getting more extent of land under the scheme. The amount of compensation shall be determined so far as practicable in accordance with the provisions of the Land Acquisition Act, 1894 :

Provided that nothing in sub-section (4) shall preclude the determination of the amount of compensation by agreement with the benefited and affected land holders and thereupon the amount so determined shall be the amount payable to such affected land holder.

13. Procedure on completion of the scheme.- (1) When a development scheme has been prepared, the Authority shall by notification publish the same in the official Gazette inviting objections and suggestions, if any, from all persons likely to be affected thereby, within thirty days from the date of such publication in the official Gazette.

(2) The said notification shall also be published in the village chavadies, the notice boards of the office of the concerned village panchayats, the notice boards of the concerned taluk offices and the offices of the Deputy Commissioners of the districts in which the lands proposed to be included in the scheme are situate.

14. Sanction of the scheme .- (1) After the publication of the scheme as aforesaid and after considering the objections, if any, received in respect thereof the Authority shall, after making such modifications therein as it deems necessary, sanction the scheme.

(2) The scheme as sanctioned under sub-section (1) shall be notified in the official Gazette and shall be published in the manner specified in sub-section (2) of section 13.

15. Consequences of notification .- Upon the sanction of the scheme or any phase thereof by the Authority under section 14 (hereinafter called as the approved scheme), the following consequences shall ensue namely:-

(1) the Authority may require any department of the State Government, any statutory or corporate body controlled by the State Government functioning within the area of operation of the approved scheme to follow such directions in respect of such matters as are specified in the approved scheme.

(2) all development plans relating to land development drawn by any department of the State Government or any local or statutory authority or body, or any corporation controlled by the State Government shall be intimated to the Authority and shall be executed with its approval and subject to such modifications or changes, if any, as the Authority may suggest and also subject to such directions as the Authority may give.

(3) the Authority shall be deemed to be empowered to take all necessary action for the implementation of the approved scheme including levy of cost of works and other charges and to give directions to land holders with regard to the following matters, namely:-

- (a) the crops which are to be raised and the rotation of such crops;
- (b) provision for drainage in the farm ;
- (c) distance of wells, tube-wells, pumps and other sources of irrigation from the distribution system ;
- (d) erection and removal of fences over lands ;

(e) submission of returns within such time and in such manner as may be provided by regulations containing a true and accurate statement regarding the following matters, namely :-

- (i) area of land cultivated by him, the classification of such land, his interest therein and encumbrances on such land, if any ;
- (ii) the nature and quantity of agricultural produce raised by him;
- (f) such other matters as may be specified by regulations.

16. Execution of the scheme.- (1) Upon the sanction of the scheme, the Authority may execute the same through such agency as it deems fit :

Provided that in the case of land development work as specified in the approved scheme, it may require land holders concerned to intimate the Authority within one month of the notification of the scheme under section 14 whether he decides to carryout the work according to the approved scheme by himself and, if so, his agreement to complete the work within the time as may be fixed by the Authority and he shall also be liable to pay proportionate cost of survey, supervision, and any other amount as may be determined by the Authority.

(2) When the land holder fails to carry out the work as provided in the proviso to sub-section (1), the Authority shall, carryout or get carried out the land development work, and, -

(a) the land development so carried out shall be deemed to have been done with the consent of the land holder for whose benefit it is intended;

(b) subject to such rules as may be prescribed the proportionate cost of works including survey, supervision, and any other amount as may be certified by the Authority shall be a charge on the land and provisions of sub-section (3) of section 20 shall *mutatis mutandis* apply for recovery thereof.

(3) In order to provide for the physical planning, the Land Development Officer (Engineering), shall have the power to effect realignment of field boundaries and in the process, to alter the area of the land held by the land holders in the Command Area or any other adjoining area.

(4) The realignment and changes in the land holdings so made shall have effect notwithstanding anything inconsistent therewith contained in any other enactment and shall be duly mutated in the record of rights.

(5) Holder of any land included in the approved scheme for comprehensive land development may deposit with the Authority the amount required for such land development as determined by the Authority and the Authority shall carryout the land development under the scheme by itself or through an agency decided by the Authority.

CHAPTER VI

LOCALISATION OF COMMAND AREAS AND REGULATION OF CROPPING PATTERN

17. Power to specify principles of localisation.- (1) The State Government may, having regard to the resources of land and water, nature of soil, climate and other technical considerations, by order, specify for each Command Area, the principles of localisation for the purpose of irrigation.

(2) The State Government may, having regard to the advancement in technology of land and water management and other agronomic practices alter from time to time by order the principles of localisation so specified for any Command Area.

18. Classification of lands for raising different crops according to availability of water.- (1) Subject to such directions as may be issued, from time to time by the State Government, the Authority or the officer authorised by the Authority may, in any year, having regard to the quantity of water available in any irrigation system within its jurisdiction, classify, by an order, within such time and in such manner as may be prescribed lands included in the irrigation system under a pipe-outlet for the purpose of raising such kind of crops under such pipe-outlet as may be specified in the order to regulate the supply of water for irrigation.

(2) Whenever the Authority is satisfied that for the better cultivation of land and the optimum utilisation of water resources of an irrigation system under a pipe-outlet or for accelerated land development or for any other reasons it is expedient in public interest, the Authority may, by notification, specify the cropping pattern, the period of sowing, the duration of crop, and the kinds of crops that shall not be grown on any land under such irrigation system under a pipe-outlet.

(3) On the publication of a notification under sub-section (2), no person shall grow or allow to grow any prohibited crop on any land under the irrigation system under a pipe-outlet and no person shall sow or plant or allow the sowing or planting of any other crop at any time other than the period, or allow such crop to remain beyond the duration, specified in respect thereof in such notification.

19. Stoppage of water supply .- The supply of water to any land which is entitled to such supply under section 17 or 18 shall not be stopped except,-

(a) whenever and so long as it is necessary to stop such supply for the purpose for executing any work ordered by the Authority ;

(b) whenever and so long as any field-channel by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water thereof ;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of land holders entitled to water ;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or the misuse of water ;

(e) within the periods fixed from time to time by the Authority, of which, due notice shall be given ; and

(f) whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so.

CHAPTER VII

CREDIT FACILITIES

20. Credit facilities for development of lands for ineligible persons.- (1) For taking up land development in the lands in the possession of ineligible persons, the Authority may raise loans on their behalf from a credit agency on such terms and conditions as may be mutually agreed upon between the Authority and the credit agency concerned for the purpose of meeting the cost of carrying out such development as may be provided for in the scheme approved :

Provided that the loans so raised shall be deemed to have been raised with the consent of the ineligible persons concerned.

Explanation.- For the purposes of this section subject to such rules as may be prescribed, the cost of land development includes such cost of survey, supervision, and any other amount as may be determined by the Authority.

(2) Notwithstanding anything in any law for the time being in force, the loan referred to in sub-section (1), shall be a first charge on the lands in the possession of ineligible persons concerned.

(3) The amount to be recovered from each ineligible person shall be the entire cost of work as determined under sub-section (1), and the same shall be recovered with interest at such rate and in such annual installments as may be fixed by the Authority and if not recovered in the usual course, shall be recovered as arrears of land revenue.

(4) The Authority shall be liable to repay the loan borrowed under sub-section (1) from the credit agency as per the terms and conditions of repayment as agreed upon at the time of borrowing.

21. Alterations of extent or boundaries of mortgaged land under the approved scheme for land development .- Where, on the implementation of the approved scheme for comprehensive land development, the extent or the boundaries of the mortgaged land gets altered, such altered land shall alone form the substituted security for the loan.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT

22. Funds of the Authority .- (1) The Authority shall have and maintain a separate fund to which shall be credited,-

- (a) all moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise ;
- (b) grant-in-aid and loans made available by the Central Government for developmental activities in the Command Area under the Central Sector Schemes ;
- (c) any other funds provided for taking up any of the various development activities for specified programmes ;
- (d) loans raised by the Authority from financing agencies ; and
- (e) all other funds received by the Authority from any other source.

(2) The fund shall be applied for the purpose of the Act in such manner as may be prescribed.

23. Budget of the Authority .- The Authority shall prepare in such form and at such time every year as may be prescribed a budget for the next financial year showing estimated receipts and expenditure of the Authority in respect of the administration of the Act, and shall forward to the State Government or such other authority, such number of copies thereof as may be prescribed.

24. Accounts and Audit .- (1) The Authority shall maintain a true and proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be prescribed.

(2) The accounts of the Authority shall be subject to audit annually by the Controller of State Accounts and as certified by the Controller of State Accounts together

with audit report thereof, shall be forwarded annually to the State Government. ¹[The audited accounts and the report shall be laid before each House of the State Legislature as soon as may be, after it is received by the State Government.]¹

1. Inserted by Act 25 of 2003 w.e.f. 20.5.2003.

25. Annual Reports .- The Authority shall prepare for every year a report of its activities under this Act, during that year and submit the report to the State Government in such form on or before such date as may be prescribed and the State Government shall cause the same to be laid before each House of the Legislature.

CHAPTER IX

OFFENCES AND PENALTIES

26. Penalties .- (1) Whoever, voluntarily or without proper authority,-

- (a) damages, alters, enlarges, or obstructs any irrigation system under a pipe-outlet ;
- (b) interferes with, increases, or diminishes the water supply in or the flow of water from, through, over or under any irrigation system under a pipe-outlet ;
- (c) being responsible for maintenance of the irrigation system under a pipe-outlet, neglects to take proper precautions for the prevention of wastage of the water thereof or interferes with the authorised distribution of water therefrom or uses water in an unauthorised manner or in such manner as to cause damage to the adjacent land holding;
- (d) corrupts or fouls, the water of any irrigation system under a pipe-outlet so as to render it less fit for the purpose for which it is ordinarily used;
- (e) destroys, defaces or removes any level marks or water-gauge or any other work or sign fixed by the Authority or a public servant;
- (f) opens, shuts, or obstructs or attempts to open, shut, or obstruct any sluice or outlet or any other similar contrivance in any irrigation system under a pipe-outlet or drainage system;
- (g) uses water unlawfully or unauthorisedly or agrees to or allows to grow any crop in contravention of any notification under this Act,

shall on conviction, be punished with imprisonment which may extend to two years or with fine which shall not be less than one thousand rupees, but may extend to five thousand rupees or with both:

Provided that in the case of a continuing offence, a fine not exceeding one hundred rupees per day shall also be imposed during the period of the continuance of the offence.

(2) While convicting any person under sub-section (1), the magistrate may order that the said person shall remove the obstruction or repair the damage, sluice or outlet or replace the level mark, water gauge or other work in respect of which the conviction has taken place, within a period to be specified in such order. If such person neglects or refuses to obey such order within the period so fixed, the Authority may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person as arrears of land revenue.

27. Liability when person using water unauthorisedly cannot be found.- (1) If water supplied through a field channel is used in any unauthorised manner, and if the

person by whose act or negligence such use has occurred cannot be found after such enquiry as the Authority may deem sufficient, the Authority shall after giving not less than one month's notice to the holders and occupiers of all lands benefitted thereby and after hearing their representations if any, make an order for the recovery of such charges as may be prescribed for such use from such holders and occupiers in such proportion as it may deem fit.

(2) All charges for the unauthorised use of water determined under sub-section (1), shall be recoverable as arrears of land revenue.

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

29. Punishment under other Laws not barred .- Nothing in this Act, shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act :

Provided that no person shall be prosecuted and punished for the same offence more than once.

30. Offences under this Act, to be cognizable .- All offences under this Act, shall be cognizable.

31. Power to remove and take into custody person obstructing.- Any officer or authority incharge of or employed on any irrigation system under a pipe-outlet may remove from the land or any building thereon or may take into custody without a warrant and forthwith hand over to a police officer in-charge of the nearest police station, any person who within his view,-

(a) wilfully damages, alters, enlarges or obstructs any irrigation system under a pipe-outlet; or

(b) without proper authority interferes with the supply or flow of water in or from any irrigation system under a pipe-outlet so as to endanger, damage or render less useful such irrigation system under a pipe-outlet:

Provided that every person so taken into custody shall be produced before the nearest magistrate within a period of twenty four hours of such custody excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

32. Payment of fine as reward to informant.- (1) Whenever any person is sentenced to fine under this Act the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, may direct that the whole or part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

(2) If any such fine is ordered to be paid as reward by a court whose decision is subject to appeal, the amount ordered to be so paid, shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal is preferred until after the disposal of the appeal.

33. Composition of offences .- (1) Any officer authorised by the Authority may accept from any person who has committed or in respect of whom a reasonable belief can be inferred that he has committed an offence punishable under this Act, or the rules made thereunder, a sum of money not exceeding two hundred rupees, by way of composition for such offence.

(2) On payment of such sum of money, the said person if in custody, shall be released and no further proceedings shall be taken against him in regard to the offence so compounded.

CHAPTER X MISCELLANEOUS

34. Obligation of land holders of land adjacent to Command Areas.- Where, for the safety of an irrigation system under a pipe-outlet in a Command Area and for other technical reasons it is considered necessary to take any conservation measures like contour bounding, drainage and trenching in land adjacent to the lands under the Command Area, the Authority shall have and exercise all the powers under the Karnataka Land Improvement Act, 1961 (Karnataka Act 6 of 1962) and the rules made thereunder in respect of soil conservation measures required to be taken therein.

35. Formation of units .- All lands comprised in the Command Area under a pipe-outlet shall form a single unit for purposes of,-

- (i) comprehensive land development ; and
- (ii) maintenance and upkeep of irrigation system under a pipe-outlet.

36. Power to enter, survey etc .- Any Land Development Officer or any other officer authorised by the Authority in this behalf, with or without assistants or workmen may,-

(a) enter upon any land in the Command Area of an irrigation system under a pipe-outlet or lands adjacent thereto and undertake survey or take levels thereon for preparing a scheme for systematic land development ;

(b) dig and bore into top soil or sub-soil and collect a soil samples for technical investigation ;

(c) make and set up suitable land marks, and level marks for the said purpose ; and

(d) do all other acts necessary for the proper conduct of any inquiry or investigation relating to any existing or proposed scheme for comprehensive land development :

Provided that if the Land Development Officer proposes to enter into any building or any enclosed court-yard attached to a dwelling house, he shall give the occupier of such building or court-yard atleast a day's notice in writing of his intention to do so, if the occupier denies entry on oral request.

37. Charge leviable .- The Authority may levy and collect charges for the maintenance and repairs of irrigation channels or drain channels from the beneficiaries where maintenance of such channels is done by the Authority.

38. Fees for Service .- The Authority may charge such fees as may be specified in the rules made under this Act, for rendering any service to any person.

39. Members of the Authority and members of the staff of the Authority to be public servants .- Members of the Authority and the members of the staff of the Authority shall, while acting or purporting to act in pursuance of any of the provisions of

this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

40. Protection for acts done in good faith .- No suit, prosecution or other legal proceedings shall lie against the State Government, the Authority or the Chairman or other members of the Authority or any officer or servant of the State Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Act, or any rule made thereunder.

41. Recovery of dues as arrears of land revenue .- Whenever any sum is due to be paid by any land holder under sub-section (2) of section 16 has not been paid within the time prescribed for such payment, it shall be recoverable with interest at such rates as may be prescribed in the same manner as arrears of land Revenue.

42. Offences by companies .- (1) If the person committing an offence under this Act, is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(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 that the commission of the offence is attributable to any neglect 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 purposes of this section,-

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(sb) “director” in relation to a firm means a partner in the firm.

43. Bar of jurisdiction of civil courts .- (1) No order passed or proceeding taken by an officer or authority under this Act, shall be called in question in any court in any suit or application and no injunction shall be granted by any court in respect of any action taken or about to be taken by such officer or authority in pursuance of any power conferred by or under this Act.

(2) No suit, prosecution or other proceeding shall lie against any officer or servant of the State Government for any act done or purported to be done under this Act, without the previous sanction of the State Government.

(3) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of execution of duties or the discharge of the functions imposed by or under this Act.

(4) Save as otherwise provided in this Act no suit shall be instituted against the State Government in respect of any act done unless the suit is instituted within six months from the date of the act complained of.

(5) In the case of an intended suit against any officer or servant of the State Government under sub-section (1), the person intending to sue shall be bound to give the officer or servant, as the case may be, at least one month's notice of the intended suit with sufficient description of the cause of action failing which such suit shall be dismissed.

44. Power to summon and examine witness .- Any officer empowered under this Act, to conduct any enquiry may exercise such powers connected with the summoning and examining of the witnesses and the production of documents as are conferred on a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and any such enquiry shall be deemed to be a judicial proceeding.

45. Revision .- (1) The State Government may, either *suo-motu* at any time or on an application made within the prescribed period by any person interested, call for and examine the record relating to any decision or order passed or proceeding taken by any Authority or officer subordinate to it under this Act, for the purpose of satisfying itself as to the legality or propriety or regularity of such decision or order or proceedings and if in any case, it appears to it that any such decision, order or proceedings should be modified, annulled, reversed or remitted for reconsideration it may pass orders accordingly:

Provided that no orders adversely affecting any person shall be passed under this sub-section unless such person has been given an opportunity of making a representation.

(2) The State Government may stay the execution of any such decision, order, or proceeding pending the exercise of its powers under sub-section (1).

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

(2) A rule under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both houses of the State Legislature.

(3) Every rule made under this Act shall, immediately after it is made be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of thirty days which may be comprised in one session, or two or more successive sessions, and if before the expiration of the sessions in which it is so laid or the session immediately following, both houses agree in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

(4) Any person contravening any rule made under this Act for the contravention of which no special penalty is provided shall be punished with imprisonment for a term

which may extend to one month or with fine which may extend to five hundred rupees or with both :

Provided that no prosecution under this sub-section shall be instituted without the previous sanction of the Administrator.

47. Regulations.- Every Authority may with the previous approval of the State Government, after previous publication, by notification, in the official Gazette, make regulations not inconsistent with this Act and the rules made thereunder for enabling it to discharge its functions under this Act.

48. Directions by the State Government.- In the discharge of its functions, every Authority shall be guided by such directions and instructions as may be given to it by the State Government.

49. Act to over-ride other laws .- (1) The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority.

(2) For removal of doubts it is hereby declared that the provisions of the Karnataka Land Improvement Act, 1961 and the Karnataka Irrigation Act, 1965 and the rules made thereunder shall apply to the extent such provisions are not inconsistent with the provisions of this Act.

50. Power to remove difficulties .- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions not inconsistent with the provisions of this Act as appear them to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such notification shall be issued under this section after the expiry of two years from the date of commencement of this Act.

(2) Every notification issued under this section shall be laid before each House of the State Legislature, and the provisions of sub-section (2) of section 46, shall apply in respect of a rule made under this Act.

51. Repeal of Karnataka Ordinance No. 21 of 1979 .- (1) The Karnataka Command Areas Development (Second) Ordinance, 1979 (Karnataka Ordinance No. 21 of 1979) is hereby repealed.

(3) Notwithstanding such repeal any action taken or any appointment, notification, order, scheme, rule, form or bye-law made or issued under the said Ordinance shall be deemed to have been taken, made or issued under this Act and any reference therein to the said Ordinance shall be deemed to be a reference to this Act and shall continue in force accordingly unless and until superseded by any action taken or any appointment, notification, order, scheme, rule, form or bye-law made or issued under this Act.

KARNATAKA ACT NO. 34 OF 2012

(First Published in the Karnataka Gazette Extra-ordinary on the thirtieth day of August, 2012)

THE KARNATAKA COMMAND AREAS DEVELOPMENT (AMENDMENT) ACT, 2012

(Received the assent of the Governor on the twenty seventh day of August, 2012)

An Act, further to amend the Karnataka Command Areas Development Act, 1980.

Whereas it is expedient further to amend the Karnataka Command Areas Development Act, 1980 (Karnataka Act 6 of 1980) for the purposes hereinafter appearing;

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

1. Short title and commencement.- (1) This Act may be called the Karnataka Command Areas Development (Amendment) Act, 2012.

(2) It shall come into force at once.

Sections 11 and 11A are incorporated in principal Act.

2. Amendment of section 11.- In the Karnataka Command Areas Development Act, 1980 (Karnataka Act 6 of 1980) (hereinafter referred as the principal Act), in section 11, in sub-section (1), for clause (a), the following shall be substituted, namely:-

"(a) an officer of the Karnataka Water Resource Engineering Service in the grade of Engineer-in-Chief or Chief Engineer or Superintending Engineer shall be the Administrator of the Authority who shall, subject to the general superintendence and control of the Authority and the Director of Command Areas Development to be the Chief Executive Officer of the Authority and shall exercise and discharge such powers and duties as may be prescribed or delegated to him by the Authority."

3. Insertion of new section 11A.- After section 11 of the principal Act, the following shall be inserted, namely:-

"11A. Establishment of Directorate.- The State Government may, by notification, establish a Directorate for all Command Area Development Authorities and appoint an officer of the rank of Secretary to Government as Director and such officers and staff as may be prescribed, to supervise and co-ordinate with all Authorities and make recommendations to or advice the Government on policy matters on activities of the Authorities."