

KARNATAKA ACT NO 21 OF 2016
THE KARNATAKA STAMP (FOURTH AMENDMENT) ACT, 2016
Arrangement of Sections

Sections:

1. Short title and Commencement
2. Amendment of schedule

STATEMENT OF OBJECTS AND REASONS

Amending Act 21 of 2016.- Mines and Mineral (Development and Regulation) Act, 1957 (Central Act 67 of 1957) Act defines a "mining lease" as a lease granted for the purpose of undertaking mining operations, and further defines "mining operations" as any operations undertaken for the purpose of winning any mineral. Mining lease is essentially an instrument designed for regulation of mining operations and mining rights. It does not fully conform to all the characteristics of a lease of immovable property. The Possibility of privately owned and being part of the mining lease area is also very clearly contemplated under the Mines and Mineral (Development and Regulation) Act, 1957 as well as the Karnataka Minor Minerals Concession Rules, 1994. Therefore, there is a need to classify mining leases as a separate class of documents for the purpose of stamp duty, distinct from lease of immovable property. Separate provisions are also provided for lease granted by auction and granted by way other than auction.

Hon'ble Supreme Court in its order dated: 30.07.2015 has directed the State Government to conduct the auction of 15 'C' Category mines within outer limit of 32 weeks, preferably 26 weeks from the date of order in accordance with the amendments of Mines and Minerals (Development and Regulation) Act, 1957 and the Mineral (Auction) Rules, 2015 along with additional conditions.

The time line fixed by the Hon'ble Supreme Court has already expired in March, 2016 and in this connection an Interlocutory Application has been filed before the Hon'ble Supreme Court for extending time for auction of mines. The Hon'ble Supreme Court has not yet decided on Interlocutory Application filed by the Commerce and Industries Department. The Commissioner, Department of Mines and Geology has already extended the calendar of events four times. Making this legislation is very essential for the Commissioner, Department of Mines and Geology to give clarification to the bidders with respect to stamp duty and registration fee on the Mining Lease Development and Production Agreement (MDPA) and mining Lease Deed. The last date for giving clarification to the bidders is 22.06.2016. proposed legislation needs to be passed before this date. If the matter is further delayed then the Hon'ble Supreme Court may take it seriously and it will create a very difficult position for the State Government to explain the delay in the matter.

A new instrument called the Mine Development and Production Agreement has been introduced by the Minerals (Auction) Rules, 2015 and the Minerals (Other than Atomic and Hydrocarbons Energy) Minerals Rule 2016, and they also need to be specified for the purpose of stamp duty.

As the matter was urgent and the Karnataka Legislative Assembly was not in session, the Karnataka Stamp (Amendment) ordinance, 2016 (Karnataka ordinance 2 of 2016) was promulgated on 22.06.2016. This bill seeks to replace the said ordinance.

Hence the Bill.

[L.A. Bill No.21 of 2016 File No. Samvyashae 28 Shasana 2016]
[entry 63 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO 21 OF 2016

(First Published in the Karnataka Gazette Extra-ordinary on the Twenty Seventh day of July, 2016)

THE KARNATAKA STAMP (FOURTH AMENDMENT) ACT, 2016

(Received the assent of the Governor on the Twenty Sixth day of July, 2016)

An Act further to amend the Karnataka Stamp Act, 1957.

Whereas it is expedient further to amend the Karnataka Stamp Act, 1957 (Karnataka Act 34 of 1957) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty-seventh Year of Republic of India as follows:-

1. Short title and commencement.— (1) This Act may be called the Karnataka Stamp (Fourth Amendment) Act, 2016.(2) It shall be deemed to have come into force with effect from the 22nd day of June, 2016.**2. Amendment of schedule.**— In the Karnataka Stamp Act, 1957, (Karnataka Act 34 of 1957) in the schedule, in the article 30, after item (2), the following article shall be inserted, namely:-

Description of Instrument	Proper Stamp Duty
<p>"(3) Notwithstanding anything contained in clause (1) and (2) above, in respect of,- (a) Mine Development and Production Agreement (MDPA) and or Mining Lease granted through auctions:-</p>	
<p>(i) where the lease purports to be for a term exceeding one year and not exceeding ten years.</p>	<p>One rupee for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment based on the final price offer obtained in the auction calculated on the estimated average annual production as per the approved mining plan.</p>
<p>(ii) where the lease purports to be for a term exceeding ten years and not exceeding twenty years</p>	<p>Two rupees for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment based on the final price offer obtained in the auction calculated on the estimated average annual production as per the approved mining plan.</p>
<p>(iii) where the lease purports to be for a term exceeding twenty years and not exceeding thirty years</p>	<p>Three rupees for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment based on the final price offer obtained in the auction calculated on the estimated average annual production as per the approved mining plan.</p>
<p>(iv) where the lease purports to be for a term exceeding thirty years or in perpetuity or does not purport to be for any definite term.</p>	<p>Five rupees for every one hundred rupees or part thereof on the total amount or value of; four times the average annual royalty and four times the average annual payment based on the final price offer obtained in the auction calculated on the estimated average annual production as per the approved mining plan Provided that in any case when Mine Development And Production Agreement (MDPA) is duly stamped with the ad valorem stamp required for MDPAs as well as for a mining lease and a mining lease in pursuance of such Mine Development And Production Agreement is subsequently executed, the duty on such mining lease shall not exceed rupees fifty:</p>
<p>(b): Mine Development and Production Agreement (MDPA) and or Mining Lease granted other than by auctions.</p>	

(i) where the lease purports to be for a term exceeding one year and not exceeding ten years.	One rupee for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment as share of value of mineral calculated on the estimated average annual production as per the approved mining plan, premium, money advanced, security deposit and fine.
(ii) where the lease purports to be for a term exceeding ten years and not exceeding twenty years	Two rupees for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment as share of value of mineral calculated on the estimated average annual production as per the approved mining plan, premium, money advanced, security deposit and fine.
(iii) where the lease purports to be for a term exceeding twenty years and not exceeding thirty years	Three rupees for every one hundred rupees or part thereof on the total amount or value of; the average annual royalty and average annual payment as share of value of mineral calculated on the estimated average annual production as per the approved mining plan, premium, money advanced, security deposit and fine.
(iv) where the lease purports to be for a term exceeding thirty years or in perpetuity or does not purport to be for any definite term.	<p>Five rupees for every one hundred rupees or part thereof on the total amount or value of; four times the average annual royalty and four times the average annual payment as share of value of mineral calculated on the estimated average annual production as per the approved mining plan, premium, money advanced, security deposit and fine; or on the value of Estimated Resources whichever is higher;</p> <p>Provided that in any case when Mine Development And Production Agreement (MDPA) is duly stamped with the ad valorem stamp required for MDPAs as well as for mining lease and a mining lease in pursuance of such Mine Development And Production Agreement is subsequently executed, the duty on such mining lease shall not exceed rupees fifty:</p> <p>Explanation: (1) The term "money advanced and security deposit" in this Article means and includes the money advanced and security deposit including performance guarantee whether refundable or adjustable towards any other payments.</p> <p>(2) "Value of Estimated Resources" shall have the same meaning as that in the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.</p>

3. Repeal and savings.- (1) The Karnataka Stamp (Amendment) ordinance, 2016 (Karnataka ordinance 2 of 2016) is hereby repealed.

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

By Order and in the name of the Governor of Karnataka

K. DWARAKANATH BABU
Secretary to Government
Department of Parliamentary Affairs