

Banglore Development Authority Act, 1976

Chapter 8 - Miscellaneous

The Authority may authorise any person to enter into or upon any land or building with or without assistants or workmen for the purpose of,-

- (a) making any enquiry, inspection, measurement or survey or taking levels of such land or building;
- (b) examining works under construction and ascertaining the course of sewers and drains ;
- (c) digging or boring into the sub-soil ;
- (d) setting out boundaries and intended lines of work ;
- (e) making such levels, boundaries and lines by placing marks and cutting trenches ;
- (f) ascertaining whether any land is being or has been developed in contravention of any plan or in contravention of any condition subject to which such permission has been granted ; or
- (g) doing any other thing necessary for the efficient administration of this Act :

Provided that,-

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building ;
- (ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building ;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

Section 53 - Directions by the Authority

- (1) The Authority in order to carry out the purpose of this Act may issue directions to the Bangalore Water Supply and Sewerage Board, Karnataka Electricity Board and such other bodies as are connected with developmental activities in the City and provide the funds required to comply with the same.
- (2) Notwithstanding anything in any other law for the time being in force every such direction shall be complied with by the body to whom they are issued. On failure it shall be competent for the Authority to take necessary action in this behalf and recover expenses if any incurred therefor from the body concerned.
- (3) Any dispute which arises between the Authority and the Boards or other bodies referred to in sub-section (1) in respect of the directions issued to them shall be determined by the Government whose decision shall be final.

Section 54 - Offences by companies

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act 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 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 a body corporate and includes a firm or other association of individuals ; and

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

Section 55 - Fines when realised to be credited to the Bangalore Development Fund

All fines realised in connection with prosecutions under this Act shall be paid to the credit of the Bangalore Development Fund.

Section 56 - Composition of offences

(1) The Authority or any person authorised by the Authority by general or special order, may, either before or after the institution of proceedings compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

Section 57 - Omitted

[1](#)[57. x x x]

1. Omitted by Act 18 of 1981 w.e.f. 30.12.1980.

Section 58 - Members and officers to be public servants

Every member and every officer and other employee of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Section 59 - Jurisdiction of courts

No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

Section 60 - Sanction of prosecution

No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority.

Section 61 - Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Section 62 - Power to delegate

The Authority may, by notification direct that any power exercisable by it under this Act except the power to make regulations may also be exercised by the 1[Commissioner] or 2[such whole time member or officer] of the Authority as may be specified in the notification subject to such restrictions and conditions as may be specified therein.

1. Substituted by Act 18 of 1981 w.e.f. 30.12.1980.

2. Substituted by Act 8 of 1977 w.e.f. 4.3.1977.

Section 62A - Appeal against assessment etc.

1[62A. Appeal against assessment etc.

(1) Any person aggrieved by the assessment, levy or imposition of any tax under section 28B may, within a period of one month next after service of notice of demand, appeal to such authority as the Government may, by notification, specify (hereinafter referred to as the Appellate Authority) ;

Provided that any person aggrieved by assessment, levy or imposition of any tax made after the 24th day of July, 1992, may, prefer an appeal against such assessment levy or imposition of tax, within a period of one month from the date of coming into force of the provisions of this section :

Provided further that the Appellate Authority may admit an appeal after the expiry of the period specified above, if sufficient cause is shown to its satisfaction for not preferring it within the said period.

(2) No such appeal shall be heard and determined unless,-

(a) a memorandum of appeal in writing stating the grounds on which the demand made is disputed has been presented ; and

(b) the amount admitted by the appellant has been paid or deposited by him in the office of the Authority.

(3) The Appellate Authority shall, after giving a reasonable opportunity of being heard to both the parties pass such order as it deems fit. This decision of the Appellate Authority in any appeal under this section shall be final.]

1. Inserted by Act 6 of 1993 w.e.f. 10.12.1993.

Section 63 - Revision

(1) The Government may call for the records of any proceedings of the Authority or any officer subordinate to the Authority for the purpose of satisfying itself as to the legality or propriety of any order or proceedings and may pass such order with respect thereto as it thinks fit.

(2) The Authority may call for the records of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceedings and may pass such order with respect thereto as it thinks fit.

(3) No order under sub-section (1) or sub-section (2) shall be made to the prejudice of any person unless he has had an opportunity of making representation.

Section 64 - Notice of suit against the Authority

1[(1)] No suit or other proceedings shall be commenced against the Authority or any member or any officer or servant of the Authority or against any person acting under the direction of the Authority, the member or officer of the Authority for anything done, or purporting to have been done, in pursuance of the Act or a rule, regulation or bye-law made thereunder without giving to the Authority one month's previous notice in writing of the intended suit or other proceedings, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceedings nor after tender of sufficient amends.

2[(2)] A suit to obtain an urgent or immediate relief against the Authority or any member or any officer or servant of the Authority in respect of any act done or purporting to be done by such officer or servant in his official capacity may be instituted with the leave of the Court, without serving any notice as required by sub-section (1) but the Court shall not grant relief in the suit whether inter alia or otherwise except after giving to the Authority, officer or servant, as the case may be, a reasonable opportunity of showing cause in respect of relief prayed for in the suit :

Provided that the Court shall if it is satisfied after hearing the parties that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with requirements of sub-section (1).]

1. Renumbered by Act 17 of 1994 w.e.f. 31.3.1994.

2. Inserted by Act 17 of 1994 w.e.f. 31.3.1994.

Section 65 - Governments power to give directions to the Authority

The Government may give such directions to the Authority as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the Authority to comply with such directions.

Section 65A - Transfer of employees

1[65A. Transfer of employees

(1) Notwithstanding anything contained in this Act, or in any law for the time being in force, the State Government may transfer any officer or servant of the authority to the service of any local authority.

(2) The State Government shall have power to issue such general or special directions as it thinks necessary for the purpose of giving due effect to transfers made under sub-section (1) and such directions shall be complied with by the local Authority concerned.]

1. Inserted by Act 37 of 1982 w.e.f. 31.12.1982.

Section 65B - Submission of copies of resolution and Governments power to cancel the resolution or order

1[65B. Submission of copies of resolution and Government's power to cancel the resolution or order.-

(1) The Commissioner shall submit to the Government copies of all resolutions of the Authority.

(2) If the Government is of opinion that the execution of any resolution or order issued by or on behalf of the Authority or the doing of any act which is about to be done or is being done by or on behalf of the Authority is in contravention of or in excess of the powers conferred by this Act or any other law for the time being in force or is likely to lead to a breach of peace or to cause injury or annoyance to the public or to any class or body of persons or is prejudicial to the interests of the Authority, it may, by order in writing suspend the execution of such resolution or order or prohibit the doing of any such act after issuing a notice to the Authority to show cause, within the specified period which shall not be less than fifteen days, why,-

(a) the resolution or order may not be cancelled in whole or in part, or,

(b) any regulation or bye-law concerned may not be repealed in whole or in part.

(3) Upon consideration of the reply, if any, received from the Authority and after such inquiry as it thinks fit, Government may pass orders cancelling the resolution or order or repealing the regulation or bye-law and communicate the same to the Authority.

(4) Government may at any time , on further representation by the Authority or otherwise, revise, modify or revoke an order passed under sub-section (3).]

1. Inserted by Act 34 of 1986 w.e.f. 6.6.1986.

Section 66 - Default in performance of duty

(1) If the Government is satisfied that the Authority has made default in performing any duty imposed on it by or under this Act it may fix a period for the performance of that duty.

(2) If in the opinion of the Government the Authority fails or neglects to perform such duty within the period so fixed for its performance, it shall be lawful for the Government, notwithstanding anything contained in section 5 to supersede and reconstitute the Authority in the prescribed manner.

(3) After the supersession of the Authority and until it is reconstituted, the powers, duties and functions of the Authority under this Act shall be carried on by the Government or by such officer or officers as the Government may appoint for this purpose.

Section 67 - Amendment of the Karnataka Town and Country Planning Act, 1961

(1) In the Karnataka Town and Country Planning Act , 1961 (Karnataka Act 11 of 1963),

(a) in section 2, for item (i) of sub-clause (a) of clause (7), the following item shall be substituted namely:-

(i) the local planning area comprising the City of Bangalore, the Bangalore Development Authority, and,

(b) after section 81-A, the following section shall be inserted, namely:-

81-B. Consequences to ensue upon the constitution of the Bangalore Development Authority.- Notwithstanding anything contained in this Act, with effect from the date on which the Bangalore Development Authority is constituted under the Bangalore Development Authority Act, 1976 the following consequences shall ensue,-

(i) the Bangalore Development Authority shall be the local Planning Authority for the local planning area comprising the City of Bangalore with jurisdiction over the area which the City Planning Authority for the City of Bangalore had jurisdiction immediately before the date on which the Bangalore Development Authority is constituted ;

(ii) the Bangalore Development Authority shall exercise the powers, perform the functions and discharge the duties under this Act as if it were a Local Planning Authority constituted for the Bangalore City ;

(iii) the City Planning Authority shall stand dissolved and upon such dissolution,-

(a) anything done or any action taken (including any appointment, notification, order, scheme or bye-law made or issued), any commencement certificate or permission granted by the Bangalore City Local Planning Authority shall be deemed to have been done, taken, made, issued or granted under the provisions of this Act by the Bangalore Development Authority and continue to be in force until it is superseded by anything done or any action taken, any appointment, notification, order, scheme, or bye-law, made or issued, commencement certificate or permission granted by the Bangalore Development Authority under the provisions of this Act ;

(b) all obligations and liabilities incurred, all contracts entered into, all matters and things engaged to be done, by, with or for the Bangalore City Local Planning Authority shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Bangalore Development Authority.

(c) all property movable and immovable and all interests of whatsoever nature and kind therein vested in the Bangalore City Local Planning Authority shall with all rights of whatsoever description used, enjoyed or possessed by the Bangalore City Local Planning Authority, vest in the Bangalore Development Authority ;

(d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Bangalore City Local Planning Authority may be continued or be instituted by or against the Bangalore Development Authority."

Section 68 - Housing Board not to undertake any Housing Scheme after the commencement of this Act

The Housing Board established under the Karnataka Housing Board Act, 1962 (Karnataka Act 10 of 1963) shall not undertake any Housing Scheme in any area within the Bangalore Metropolitan Area except in conformity with the layout plan of the Bangalore Development Authority :

Provided that any Housing Scheme undertaken by the Karnataka Housing board before the commencement of this Act shall be executed by the said Board in accordance with the said scheme.]

1. Substituted by Act 8 of 1977 w.e.f. 4.3.1977.

Section 69 - Power to make rules

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- (1) The Government may by notification make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-
- (a) for the guidance of the Authority and persons connected with the administration of this Act or in cases not expressly provided for herein;
 - (b) the manner of election of members by the Councillors of the Corporation ;
 - (c) the conditions of service of the Chairman and other members of the Authority;
 - (d) the manner of appointment of committees and the period of such appointment ;
 - (e) the terms and conditions subject to which the Authority may take up development scheme or work and execute it ;
 - (f) the particulars to be specified in the application of the scheme;
 - (g) the restrictions, conditions and limitations subject to which the Authority may lease, sell or transfer movable or immovable property ;
 - (h) regulating the allotment or sale by auction of sites by the Authority;
 - (i) the manner of reconstitution of the Authority ;
 - (j) any other matter which has to be or may be prescribed by rules.
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Section 70 - Power to make regulations

- (1) The Authority may, with the previous approval of the Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder to carryout the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for,-
- (a) the summoning and holding of meetings of the Authority the time and place where such meetings are to be held, the conduct of business at such meeting and the number of members necessary to form a quorum thereat ;
 - (b) giving instructions to the Committees ;
 - (c) the form of contract or agreement of be entered into by the Authority;
 - (d) the appointment of persons for enforcement of processes for recovery of dues ;
 - (e) the procedure to be followed for the carrying out the functions of the Authority under Chapters II and III ;
 - (f) for regulating the grant of leave, leave allowances, pensions and gratuities and other maters relating to conditions of service of the officers and servants of the Authority not being officers in Government service lent to the Authority ;
 - (g) any other matter which is to be prescribed by regulations under the Act;
- (2) The Government may, by notification, rescind any regulation made under this section and thereupon, the said regulation shall cease to have effect.
- (3) All regulations made under this section shall be published in the official Gazette.
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Section 71 - Power to make bye-laws

(1) The Authority may, with the previous approval of the Government make bye-laws not inconsistent with the rules or the regulations made under this Act, in respect of the following matters, namely:-

(a) the management, use and regulation of houses constructed under any scheme ;

(b) regulating the construction and reconstruction of building in regard to such matters as the following, namely:- the notice to be given previous to erection the plans to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the buildings, the level and width of foundation, the stability of structure, the materials to be used and the provision to be made for the drainage and ventilation; and

(c) the forming of extensions or lay-outs and the laying out of private streets, for determining the information and plans to be submitted with applications for permission to form extensions or lay-outs and to make private streets; and for regulating the level and width of streets and the height of buildings abutting thereon.

(2) The Government may, by notification, rescind any bye-law made under this section and thereupon, the said bye-law shall cease to have effect.

(3) All bye-laws made under this section shall be published in the Official Gazette and also in at least two newspapers in English and Kannada having large circulation in the City of Bangalore.

Section 72 - Penalty for breach of the provisions of the Act

Whoever contravenes any of the provisions of this Act or of any rule, regulation, or bye-law or scheme made or sanctioned thereunder shall be punished with fine which may extend to twenty-five rupees and in the case of a continuing contravention, with fine which may extend to five rupees for each day after the first during which the contravention continues.

Section 73 - Act to override other laws

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Section 74 - Removal of difficulties

Notwithstanding any thing contained in this Act if any difficulty arises in giving effect to the provisions of this Act the Government may, by order published in the official Gazette not inconsistent with the provisions of this Act remove the difficulty.

Section 75 - Dissolution of the Authority

(1) The Government may, by notification, declare that with effect from such date as may be specified in the notification, the Authority shall be dissolved:

Provided that no such declaration shall be made by the Government unless a resolution to that effect has been moved in and passed by both Houses of the State Legislature.

(2) With effect from the date specified in the notification under sub-section (1), -

(a) all properties, funds and dues which are vested in and realisable by the Authority shall vest in and be realisable by the Government ;

(b) all liabilities enforceable against the Authority shall be enforceable against the Government to the extent of the properties, funds and dues vested in and realised by the Government.

(3) Nothing in this section shall affect the liability of the Government in respect of loans or debentures guaranteed under sub-section (5) of section 39.

Section 76 - Repeal and savings

(1) On the issue of the notification under sub-section (1) of section 3 constituting the Bangalore Development Authority, the City of Bangalore Improvement Act, 1945 (Mysore Act 5 of 1945) shall stand repealed.

(2) On such repeal the Board constituted under the said Act shall stand dissolved and all the members thereof including the Chairman shall cease to hold office.

(3) Subject to the provisions of sub-section (2) nothing in sub-section (1) shall affect,-

(a) the previous operation of the said Act or and thing duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act ; or

(d) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, punishment may be imposed as if this Act had not been enacted :

Provided that all the assets and liabilities of, and all contracts made by or on behalf of the Board of Trustees for the improvement of the City of Bangalore before the date of commencement of this Act and subsisting on that day shall subject, to such conditions as may be specified by the State Government, devolve on the Authority :

Provided further that anything done or any action taken (including any appointment, notification, rule, regulation, order, scheme or bye-law made or issued, any permission granted) under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act :

Provided also that any reference in any enactment or in any instrument to any provision of the repealed Act shall unless a different intention appears be construed as reference to the corresponding provision of this Act.

(4) Notwithstanding the provisions of sub-section (1).-

(a) every officer and other employee serving under the Board constituted under the City of Bangalore Improvement Act, 1945 immediately before the date of commencement of this Act shall, on and from such date, be transferred to and become an officer or other employee of the Authority and shall hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held the same if the Act had not been repealed and shall continue to do so unless and until such tenure remuneration and terms and conditions are duly altered by the Authority:

Provided that any service rendered by any such officer or other employee before the repeal of the City of Bangalore Improvement Act, 1945 shall be deemed to be service rendered under the Authority :

Provided further that the Authority may employ any such officer or other employee for the discharge of such functions under this Act as it may think proper and every such officer or other employee shall discharge those functions accordingly ;

(b) the City of Bangalore Improvement (Allotment of Sites) Rules, 1972 and the City of Bangalore Improvement (Disposal of Corner Sites and Commercial Sites) Rules, 1972 relating to allotment of sites shall be continued to be in force unless and until superseded by or under the provisions of this Act as if the provisions of the said rules had not been repealed, but references to the Board shall be construed as references to the Authority.

Section 77 - Repeal of Karnataka Ordinance No. 29 of 1975

(1) The Bangalore Development Authority Ordinance 1975 (Karnataka Ordinance No. 29 of 1975) is hereby repealed.

(2) Notwithstanding such repeal any thing done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provision of this Act.