



KARNATAKA ACT NO. 28 OF 2023

THE KARNATAKA CONDUCT OF GOVERNMENT LITIGATION ACT, 2023

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STATEMENT OF OBJECTS AND REASONS

Act 28 of 2023.- There are Rules, Orders, Notifications, circulars., etc with regard to conduct of State Litigations before the Law Courts and Statutory Tribunals in the State. Further, it is considered necessary to enact an effective Legislation to ensure efficient and responsible conduct of Government Litigation before the Law Courts and Statutory Tribunals in the State.

Hence, the Bill

[L.A. Bill No. 14 of 2023, File No. SAMVYASHAE 21 SHASANA 2023]

[Entry 12 and 13 of List III of the Seventh Schedule to the Constitution of India.]

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KARNATAKA ACT NO. 28 OF 2023

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THE KARNATAKA CONDUCT OF GOVERNMENT LITIGATION ACT, 2023

(Received the assent of the Governor on the 27th day of July, 2023)

An Act to ensure efficient and responsible conduct in the matter of handling Government Litigation before the Law Courts and Statutory Tribunals in the State.

Whereas it is expedient to provide by law to ensure efficient and responsible conduct in the matter of handling Government Litigation before the Law Courts and Statutory Tribunals in the State.

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

CHAPTER I PRELIMINARY

1. Short title, commencement and application:- (1) This Act may be called the Karnataka Conduct of Government Litigation Act, 2023.

(2) It shall come into force on such date as the State Government may by ¹[notification]¹ in the Official Gazette appoint.

1. This Act has come into force w.e.f. 02.09.2023. by Notification No. LAW/LCE/136/2023 Dated: 02.09.2023. (See the text notification at the end of the Act)

(3) The provisions of this Act shall apply to the conduct of litigation by or on behalf of the Government of Karnataka or any officer of the Government in his official capacity, before Law Courts and Statutory tribunals in the State.

2. Exemptions.- Nothing in this Act shall apply to applications seeking conferment of occupancy rights or the determination of surplus land under the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962).

3. Definitions.- (1) In this Act, unless the context otherwise requires.-

(a) "**Case**" means any proceeding pending in a Court of Law or a statutory tribunal to which the State Government or any of its officers in his official capacity, is a party;

(b) "**Departmental Secretary**" means the Secretary to Government in the Administrative Department having



allocation of the business concerned in the matter of the case, under the Karnataka Government (Allocation of Business) Rules, 1977 and includes the Head of the Department concerned in the context of cases pending before trial courts;

- (c) **“District Level Committee”** means a committee constituted under section 78 of the Act;
- (d) **"Government"** means the State Government;
- (e) **"Head of the Legal Cell"** means an officer appointed as Head of the Legal Cell, or any other officer notified as such by the Government;
- (f) **“Incorporation of Technology”** means and includes the court case monitoring system and such other software as developed by NIC, e-governance or such other agency as specified by the Government from time to time;
- (g) **"Law Officer"** has the same meaning as in the Karnataka Law Officers (Appointment and Conditions of Service) Rules, 1977;
- (h) **"Legal Cell"** means the Legal Cell established in each of the Secretariat Departments of the Karnataka Government Secretariat;
- (i) **"Litigation Conducting Officer "** means, in relation to each case, the Officer in the department concerned who is placed in charge of the conduct of litigation in that case;
- (j) **"Nodal Officer"** means an officer appointed as Nodal Officer by the Government by Notification; and
- (k) **“State Level Committee”** means a committee constituted under section 77 of the Act.

(2) All the other words used but not defined in this Act shall have the same meaning as assigned to them in the Karnataka General Clauses Act, 1899 (Karnataka Act No.III of 1899).

CHAPTER II

CASES FILED BY THE GOVERNMENT

4. Government permission required for institution of cases.- Subject to general or special orders made by the Government in this behalf, no case on behalf



of the Government or any of its officers shall be instituted in a Court against any person or authority without the sanction of the Government granted in accordance with the provisions of this Act.

5. Procedure for institution.- (1) Where it appears to an officer of the Government that it is reasonably necessary to institute a case for protecting any right or interest or any property of the Government or to prevent injury or damage to such right, interest or property, he shall forthwith submit to the Government, through proper channel, a detailed report of the facts and circumstances of the case.

(2) The report under sub-section (1), shall contain the following particulars, namely.-

- (a) a brief history of the case;
- (b) the facts and circumstances calling for institution of the case;
- (c) the date and place of occurrence of the cause of action;
- (d) nature of violation, default or injury;
- (e) form and probable extent of damage or claim;
- (f) copies of the evidence upon which the claim is based and of the provisions of the law, rules, notifications, orders, circulars or records, inspection of which is considered necessary for a proper elucidation of the case;
- (g) points of objection that are likely or open to be urged by the opponents in the case;
- (h) evidence, both oral and documentary, which may or is likely to be pressed into service against the claim;
- (i) where the proposed case is for recovery of money,
 - (i) a report of whether the institution of the case is necessary notwithstanding the fact that the possibility of recovery is doubtful, with reasons for the conclusion;
 - (ii) the financial status and position of assets of the persons against whom the case is proposed to be filed in order to know whether it is possible to obtain



satisfaction of the decree that may be passed against him.

- (j) particulars of all earlier litigation, if any, between the parties and the result thereof;
- (k) particulars of earlier litigation, if any, involving similar questions and the result thereof;
- (l) special grounds which render the filing of the case necessary and the consequences of not filing the case; and
- (m) other particulars as may be prescribed.

(3) If the Officer making the report is an Officer subordinate to the Secretary, Head of the Department, shall on receipt of such a report examine the matter and forward the matter and the report along with his remarks to the Departmental Secretary.

(4) If after considering the report the Departmental Secretary is satisfied that it is necessary to file a case, he shall refer the case to the Head of the Legal Cell of the Department along with particulars of:-

- (i) the Officer who is conversant with the facts of the case;
- (ii) the Officer who shall be the Litigation Conducting Officer for the case; and
- (iii) the officer who is to sign and verify the pleadings and affidavits in the case and shall also indicate the date within which the case should be filed in the Court.

6. Sanction of Prosecution.- (1) Upon receipt of the reference from the Departmental Secretary, the Head of the Legal cell shall examine the legality of the case, call for such further or additional information, documents or evidence and such files as he may think necessary and take a final decision in the matter. If the Head of the Legal cell decides to file a case he shall refer the case to the Law Department for order of sanction to file the case:

(2) The Law Department may, after considering all aspects of the case, may either reject the proposal or approve the proposal. In case it has rejected, it shall inform the Head of the Legal Cell giving reasons for the rejection and copy thereof sent to the Departmental Secretary. Where the Law Department approves the proposal it shall sanction the institution of the case and inform the Head of the



Legal Cell concerned and the Departmental Secretary and also authorize the Law Officer to be in charge of the litigation to file the case within a date, not later than the date of bar by limitation, to be specified in the authorization.

7. Preparation of plaint.- (1) The Head of the Legal Cell concerned shall thereupon coordinate with the Litigation Conducting Officer and the concerned Law Officer and get a draft plaint or petition prepared by the Law Officer, and submit the same to the Law Department for approval.

(2) The Law Department shall examine the draft, ensure that all the points both legal and factual are pleaded, accord approval and forward the approved plaint or petition to the Litigation Conducting Officer.

(3) The Litigation Conducting Officer shall then get it signed and verified by the officer who is authorized to sign and verify the pleading and thereafter entrust the same along with required number of copies thereof to the Law Officer concerned for presentation before the Court well within the date indicated in the sanction order or within the date of bar of limitation, whichever is earlier.

8. Procedure after presentation.- (1) The Law Officer shall forward a true copy of the plaint and its enclosures as actually presented to the Court along with the date of presentation of the plaint, to the Government in the Law Department, and where the case is required to be filed in a Court of Civil Judge (Junior division), also to the Director of Prosecutions and Government Litigation.

(2) The Law Officer shall intimate the number of the case as soon as it is registered and shall also forward true copies of the written statements, counter and other pleadings filed by the defendant, filing of Interim application and obtaining Ad-Interim Temporary Injunction, issues framed in the suit and amendments if any to the pleadings or issues, as and when such are filed in the court. Expenses of obtaining certified copies wherever necessary shall be incurred and paid out of the contingency fund as provided in Article 240(b) of the Karnataka Financial Code.

9. Responsibilities of Litigation Conducting Officer.- (1) It shall be the duty of the Litigation Conducting Officer to regularly watch the progress of the case and to give necessary instructions to the Law Officer to whom the case is entrusted, at all stages till the final disposal of the case. Before instructing the Law Officer, wherever necessary, he shall obtain the order of his official superior or any higher officer in such manner as he considers proper.



(2) The Litigation Conducting Officer shall, wherever necessary or expedient, take steps for obtaining appropriate interlocutory orders like attachment before judgment, temporary injunction, order of status-quo ante and the like and shall take such other steps as are available under the code of Civil Procedure or other laws for protection and preservation of government property and for the effective prosecution of the case.

10. Procedure in urgent cases.- (1) In case of urgency such as where it is necessary to act immediately to protect any right, interest or property of the Government, or the delay would otherwise be prejudicial to the interests of the Government, then, notwithstanding anything contained in section 9, the Officer referred to in sub-section (1) thereof, may, if he is a Group-A Officer, on his own responsibility, and if he is not a Group A Officer with the approval of his official superior who is a Group A Officer get the case filed in consultation with any Law Officer.

(2) As soon as may be after the case is filed, he shall bring the fact to the notice of the Departmental Secretary and forward his report under section 5 in the manner specified therein:

Provided that, in such a case, the Departmental Secretary may after scrutiny and in consultation with the Law Department, record his reasons for withdrawal of the case and withdraw the case, at any time.

11. Procedure in case of notice under section 80 of the Civil Procedure Code, 1908.- (1) On the receipt of a notice under section 80 of the Code of Civil Procedure, 1908, the officer receiving the notice shall as soon as may be after such receipt; seek para wise remarks from the officers concerned and forward it to the Departmental Secretary. The Departmental Secretary shall examine the claim made in the notice and the para-wise remarks there-against and take a final decision including the possibility of recording a settlement out of Court, within fifteen days from the date of the receipt of the notice.

(2) The Departmental Secretary shall, while examining a case, have due regard to the following aspects, namely.-

- (i) in regard to a claim which has already been examined and rejected, consider whether any new point which has not been examined earlier has been raised. Such a new point, if any, shall be thoroughly examined and it shall be considered



whether the earlier decision requires to be revised. If the Law Department had not been consulted earlier or if new points have been raised, the advice of the Law Department shall be obtained before taking a final decision; and

- (ii) in regard to a claim which is still under consideration or which has not been examined examine the same and take a decision as early as possible in consultation with the Law Department.

(3) While making a reference to the Law Department the Departmental Secretary shall prepare and forward a self-contained note giving the history of the claim and the para-wise comments on the various allegations made in the notice.

(4) If the claim is genuine and requires to be admitted, the Departmental Secretary shall take immediate action to settle the claim forthwith. If the claim can be admitted in part only, no response shall be sent without consulting the Law Department.

(5) In case of claims arising out of an agreement or contract, where there is a provision in the agreement for referring the matter to arbitration or otherwise where there is provision in law to seek remedy by way of appeal, review or revision alternatively, the party may be advised in the reply to the Notice, to avail the alternative remedies if he so chooses.

12. Examination of claim.- (1) Every such notice shall be treated on "top priority" basis and dealt with accordingly and the examination of the claim shall be completed and response sent within sixty days from the date of receipt.

(2) The Law Department shall not endorse its opinion on the file that the filing of the case may be awaited or that the case if filed may be resisted, without examining the claim in detail. The main lines of defense that are available to Government and the citations in support thereof shall be recorded succinctly on the file.

13. Application to Writ Petitions.- The provisions of sections 4 to 10 and 12 above, shall apply mutatis mutandis to filing of writ petitions by the Government.



CHAPTER III

CASES FILED AGAINST THE GOVERNMENT

14. Summons and appearance.- (1) Where in a case other than a Writ Petition instituted against the State Government or against an officer of the State Government in his official capacity, summons or notice thereof is served on such or any other officer of the State Government, such officer shall unless he is himself the Departmental Secretary, report the fact of such summons or notice to the Departmental Secretary, who shall make a request to the Law Secretary to authorize a Law Officer to appear for the Government in the case and ensure that the case is not heard or decided ex-parte.

(2) The Departmental Secretary shall indicate to the authorized Law Officer the name of the officer who is conversant with the subject matter or the facts of the case, the name of the officer who is to verify and sign the pleading to be filed in the case and of the Litigation Conducting Officer for the case and shall also furnish to the Law Officer, copies of all documents necessary for defending the case and at the request of the Law Officer entrust the files relating to the matter to the Law Officer.

(3) Where a summons or notice in a case is addressed to the Chief Secretary to Government, the Head of the Legal Cell in the concerned department shall receive the same. The Head of the Legal Cell shall send request to the Law Department to authorize a Law Officer to appear on behalf of the Government and also forward a copy of the pleading and Interim applications received by him to the Departmental Secretary and to the Head of the Department for taking necessary action, to offer remarks and to forward the report and papers indicated in subsection (2).

15. Preparing Defense Statement.- (1) The authorized Law Officer shall obtain from the Departmental Secretary, and where the case concerns more than one department from all the concerned Departmental Secretaries, details of the facts and circumstances leading to the institution of the case together with the para-wise remarks in respect of the averments made in the petition, plaint or any interim application and prepare the Statement of Objections or as the case may be, the Written Statement to be filed into Court in appropriate time.

(2) Where different departments are sued jointly or if the claim in a suit relates to the acts of two or more departments, the authorized Law Officer shall



with least possible delay, communicate with each one of the Departmental Secretaries and/or other officers named in the plaint or petition and arrange to set up, if possible, a common line of defense and prepare a common Statement of Objections or as the case may be a common Written Statement.

16. Sanctioning defense.- If upon examination of the case the Law Secretary finds that the Government needs to defend against the claim, he shall forthwith issue orders sanctioning the defense and instructing a Law Officer to appear and defend the Government or, as the case may be, the Officer or officers sued in the case. The order shall also specify the officer who shall be the Litigation Conducting Officer for the case and the officer who is authorised to sign and verify the pleadings.

17. Approval of the defense.- The authorized Law Officer shall after preparing the Statement of Objections or as the case may be the Written Statement, put up the same to the Law Secretary accompanied by the copies of the plaint, petition or other pleadings in the case, copies of para-wise remarks and relevant documents seeking his approval of the defense. The Law Secretary shall also be kept informed of. –

- (a) the date fixed by the Court for the first or next hearing;
- (b) whether notice under Section 80 of the Code of Civil Procedure 1908 has been given by the plaintiff and if so, the date of delivery of such notice, and the authority to which such notice was given, along with a copy of such notice; and
- (c) the name and other particulars of the officer who is conversant with the facts of the case, the Litigation Conducting Officer for the case and the name of the officer who is to be authorized to sign and verify the pleadings.

18. Duties and Responsibilities of the Law Officer.- (1) It shall be the duty of the authorized Law Officer:

- (a) to study the case with reference to the case law on the subject and raise all points of defense open to the Government;
- (b) not to treat the drafting of the written statement or counter as a matter of routine;



- (c) to go through the para-wise remarks, the relevant files and acquaint himself fully with the facts of the case after discussion with the concerned officers;
- (d) to prepare and forward the draft written statement or counter along with the connected records to the Law Secretary for approval of the defense;
- (e) where the matter is urgent, to take the draft and the records personally to the Law Secretary and obtain his approval thereto;
- (f) to file the statement of defense or the counter or other pleading and documents into court in proper time;
- (g) to draft of the pleadings properly;
- (h) to send copies of all pleadings filed in Court to the Law Secretary;
- (i) to conduct the case with utmost care and vigilance; and
- (j) to do such other things as the State Government may from time to time require from him

(2) It shall be the responsibility of the Law Officer to see that sufficient extension of time, if necessary by filing application, is obtained for the purpose of filling written statement or counter and to see that in no case, any order against the Government or an Officer is passed by the Court ex-parte.

(3) In cases of urgent necessity the Law Officer may, in consultation with the Departmental Secretary or the Officer concerned, prepare the final written statement or counter in defense of the claim and file it before the Court and later obtain ratification from the Law Secretary who may after scrutiny direct an additional written statement or counter to be filed,

(4) Where in any case an Interim Order is passed ex-parte against the Government It shall be the duty of the law officer to contact the Litigation Conducting Officer and to take necessary steps to get the order vacated, by filling proper application. For that purpose it is not necessary to wait for specific instruction or direction from the concerned Departmental Secretary or the Law Secretary

19. Powers and Functions of the Law Secretary.- (1) The Law Secretary shall have the power to call for such further information, documents or records as may be found necessary, to require the presence of any officer for consultation and



to make any correction, addition or alteration in the draft written statement or counter.

(2) It shall be obligatory on the Law Secretary,

- (a) not to treat the scrutiny of case papers, documents and the draft defense, counter or other pleading as a matter of routine;
- (b) to take care that no admissions that are not warranted by the records are made to the Court;
- (c) to ensure that all points of defense, factual and legal, as are open to be taken are properly and adequately raised and included in the final written argument; and
- (d) to do all other things as are required to be done for effective conduct of the case.

20. Duties of the Litigation Conducting Officer.- (1) The Litigation Conducting Officer shall watch the progress of the case regularly and furnish all information and records required by the authorized Law Officer at all stages till the final disposal of the case including appeal, review or revision if any filed. In doing so he shall obtain, wherever necessary, orders of the official superior or any other higher Officer.

(2) The Litigation Conducting Officer shall get the required number of copies of the statement of defense, counter or other pleadings prepared and get it signed and verified by the Officer authorised to sign and verify and then hand over the same to the Law Officer for presentation before the Court.

(3) Where any interim order is passed in any case affecting the interest of the Government the Litigation Conducting Officer shall act through the Law Officer to get such order vacated.

CHAPTER IV

CONDUCT OF CASES

21. Framing of Issues.-Wherever issues are framed in a case the Law Officer shall verify whether all necessary and proper issues required to be framed in the case have been framed or not. If, the issues framed are defective in any manner, or if proper issues have not been framed he shall file necessary application for amendment, deletion or for framing of additional issues. He shall send a true copy of the issues so framed or amended, as the case may be to the Law Secretary.



22. Assistance through the trial.- (1) The Litigation Conducting Officer shall regularly watch the progress of the case and provide the Law Officer concerned with all necessary documents, files, evidence and assistance so as to facilitate effective conduct of the case. He shall personally attend the Court and assist the Law Officer in the trial of the case. If for any valid reason however he is unable to attend personally, he may on his own responsibility with the permission of his official superior depute a responsible officer who is thoroughly conversant with the facts of the case and who is capable of giving adequate and necessary instructions to the Law Officer for effectively prosecuting the case.

(2) Every Officer of the department concerned whose presence is required by the Law Officer has a duty to go before the Law Officer and furnish information called for by him. The Law Officer shall not hold the departmental officers for any more time than what is reasonably required. By mutual arrangement they may meet at any commonplace including the official chambers of the officer. The Law Officer shall prepare himself for the trial of the case well in advance and shall not seek adjournment of the case without proper excuse.

(3) The Departmental Secretary and the Head of the Department shall ensure that the Litigation Conducting Officers discharge their functions effectively and diligently and in the best interest of the Government. Either or both of them may issue such instructions as each of them may consider necessary, including the steps to be taken in the event of change of the Litigation Conducting Officer. As soon as a new Litigation Conducting Officer takes over, his name and address shall be intimated to the Law Officer and the Law Secretary.

23. Production and Custody of Documents.- The following steps shall be taken to make available the documents for purposes of the trial, namely, -

- (a) All available documentary evidence shall be diligently collected carefully examined and produced before the Court on or before the day fixed for its reception;
- (b) Making application for adjournment for production of document shall as far as possible be avoided and such application on behalf of the opposite party shall, unless they are made for sufficient reasons, be resisted as they tend to prolong the litigation and give opportunities for fabrication of false evidence;



- (c) When a suit is instituted upon a document, the document sued upon shall be produced in Court along with the plaint as required under Order 7, Rule 14 of the Code of Civil Procedure 1908;
- (d) The Law Officer shall take steps to get important and valuable documents kept in safe custody in Court. The Officers handing over important documents to the Law Officer, either for production in Court or for reference, shall take proper acknowledgement there-for from the Law Officer. Whenever documents are produced in Court, they shall be produced along with a list obtaining due acknowledgment from the Court;
- (e) Wherever certified copies or extracts or photo copies of documents are admissible, production of the originals shall be avoided;
- (f) Whenever production of a particular document in a file is necessary, only such document shall be produced in Court and the production of the entire file of the department should be avoided;
- (g) Whenever production of a document in original is found necessary, an authenticated copy (preferably a photo copy) of such document shall be retained in the department file along with a note to the effect that the original has been filed in Court mentioning the case number, year, and the date of production;
- (h) Documents filed by the opponents shall be carefully examined and compared with the originals wherever possible at the earliest opportunity and efforts made to find out the genuineness or authenticity of the documents so produced; and
- (i) Objections relating to admissibility, genuineness or such other grounds shall be taken at the earliest. The Law Officer shall obtain certified copies of all documents produced by the opponents and secure them in the file.

The production of the documents in the possession of the Government or its Officers when lawfully required by the Court shall not be resisted except for valid and sufficient reasons;

24. Witnesses.- (1) The Law Officer shall, in consultation with the Litigation Conducting Officer and other officers concerned with the case, prepare a list of witnesses whose evidence, in his opinion, is necessary to substantiate the case of



the Government. The witness list shall be filed in the Court well within the time fixed by the Court for the purpose.

(2) The Litigation Conducting Officer shall secure the witnesses for examination before the Court by obtaining process of the Court wherever necessary. If evidence of an Officer in service is necessary, the Law Officer and the Litigation Conducting Officer shall request, in writing, the Officer to attend the Court and a copy of that letter shall be sent to the official superior of such Officer with a request to permit the officer to attend the Court. The Officer in question and his official superior shall comply with such request .

25. Examination on commission.- (1) The Law Officer, in consultation with the Litigation Conducting Officer, shall take steps for issue of commission for local inspection or for examination of witnesses, wherever it is necessary.

(2) As the case progresses the Law Secretary shall ensure that all necessary witnesses are examined.

(3) Expenses in this regard shall be borne out of the contingencies of the department concerned as provided in Article 240(b) of the Karnataka Financial Code.

26. Safeguarding Government interest.- (1) The Law Officer shall exercise due discretion in safeguarding the interest of the Government in the best manner. Wherever there is a difference of opinion between the Law Officer and the Litigation Conducting Officer with regard to the proper course of action in conducting the case, the Law Officer shall make a reference to the Law Secretary and take action according to his instructions.

(2) The Law Officer shall not concede any claim or part thereof against the Government or enter into any compromise in any proceedings before any Court without the written authority of a responsible officer in the Law Department or the Director of Prosecutions and Government Litigation, as the case may be. No such authority shall be given without consulting the Departmental Secretary concerned.

(a) He shall firmly oppose any proposal for compromise that is prejudicial to the interest of the Government; and

(b) He shall obtain and maintain copies of all interim and final orders passed by the Court, get copies thereof made with the assistance of the Litigation Conducting Officer and send a copy thereof to the Law Department.



27. Certified copies.- (1) The Law Officer shall apply for certified copies of the judgment and decree or order immediately after pronouncement, without any loss of time. In cases, where the decision has gone against the Government, he shall examine whether there are valid grounds to take the matter in appeal, revision or review and forward his report along with the certified copy of the judgment and decree or order, copies of documents produced in the case and the depositions of witnesses examined on both sides, to the Law Secretary within three days of the receipt of the certified copies.

(2) Whenever certified copies of the judgment and decree in a First Appeal are forwarded as required by sub-section (1) above the Law Officer shall also obtain and forward certified copies of the judgment and decree of the Trial Court. To avoid delay in obtaining such copies the Law Officer shall apply and obtain such copies well in advance.

28. Appeallable cases.- (1) On receipt of the certificate copy of the judgment and decree or order along with the opinion of the Law Officer, the Law Department shall consider and decide on taking the matter further in appeal, revision or review. Appeal or other appropriate proceeding shall invariably be filed in all cases where the judgment has the effect of affecting the title of the Government to any immovable property.

(2) If it is decided to so agitate the matter in appeal, necessary orders authorizing filing of the appeal, review or revision shall be issued immediately and a copy of the order shall be sent to the concerned Law Officer and the Litigation Conducting Officer along with a note indicating the grounds available for appeal etc., and supporting case law. Copies of the communication shall also be sent to the Head of the Department and the Departmental Secretary.

(3) The procedure indicated in this sub-section shall mutatis mutandis apply to preferring second appeals.

(4) If the Officer of the Legal Cell concerned decides that the matter need not be pursued in appeal review or revision against the orders of the Karnataka Administrative Tribunal or Central Administrative Tribunal or against any decision of the High Court, the Legal Cell shall refer the matter to the Law Secretary for taking the final decision.



All monies required by the Litigation Conducting Officer towards expenses for the purposes specified in these rules shall be incurred as provided in Article 240(b) of the Karnataka Financial Code.

CHAPTER V

APPEAL REVIEW AND REVISION

29. Appeal by the Government.- (1) Where orders are issued authorizing filing of appeal, review or revision, the Litigation Conducting Officer shall approach the concerned Law Officer and give him necessary instruction to prepare the memorandum of appeal, review or revision and to present the same before the concerned Court well within the period of limitation.

(2) The Law Officer shall examine and take all relevant and available pleas in the memorandum and to present it before the Court in due time. Copy of the memorandum filed into the Court, shall be sent to the Law Secretary, who shall examine and satisfy himself that all relevant available pleas have been taken. In case there is any omission or infirmity, the Law Officer shall be directed to file additional grounds of appeal to court. The Law Officer shall also inform the number and particulars of the appeal, review or revision filed to the Law Department.

(3) Wherever an appeal, review or revision is filed it shall be the duty of the Litigation Conducting Officer and the Law Officer to move the Appellate Court immediately with appropriate Interlocutory Applications for an order of stay of the order of Lower Court's or other appropriate relief. Such application shall, be filed without waiting for specific orders of the Law Department.

(4) In cases where there is delay in preferring the appeal Memorandum of Appeal shall be presented to the Court along with Application seeking to condone the delay supported by proper affidavit explaining the reasons for the delay, sworn to by a competent Officer.

(5) Where there is delay in preferring the appeal, review or revision, the officer responsible for such delay, the Law Secretary shall communicate about the lapse to the Departmental Secretary for taking suitable action.

30. Appeals against the Government.- (1) Where an appeal, review or revision is instituted against the State Government and notice thereof is served on any officer he shall take such action as is indicated in section 29 and the provisions thereof shall mutatis mutandis apply to such proceedings.



(2) The Law Officer shall, in all such cases apply for certified copies of the Trial Judgment and Decree as also the Order in First Appeal for purpose of filing the second appeal.

(3) The Law Officer shall consider whether there is necessity of preferring cross-objections in an appeal and if it is decided to prefer cross-objections the Law Officer may prepare the draft of it in consultation with the Litigation Conducting Officer and file it into Court after taking approval of the Law Secretary, well within the limitation period. If there is no sufficient time to take the approval of the Law Secretary he may file the cross objection and take ratification.

31. General.- (1) Provisions of Chapter IV regarding conduct of cases shall mutatis mutandis apply to proceedings in appeals, reviews and revisions.

(2) As soon as proceedings in a case are concluded, the Law Officer shall communicate the result of the proceedings to the Litigation Conducting Officer and the Head of the Legal Cell and the Departmental Secretary. As soon as copy of the order in appeal or as the case may be, review or revision is received, the Law Officer shall forward it to the Law Secretary along with his opinion about the feasibility of pursuing the case further. The Law Secretary shall examine the matter and forward his report of the case to the Departmental Secretary.

CHAPTER VI

WRIT PETITIONS FILED AGAINST THE GOVERNMENT

32. Writ Petitions filed against the Government.- (1) Writ petitions are normally instituted against the state as represented by the Chief Secretary or the Departmental Secretary, the Deputy Commissioner of the concerned district or any officer connected with the subject matter of the claim, in his official capacity.

(2) Where the Court notice is addressed to the Chief Secretary it shall be received by the Head of the Legal Cell of the Department of Personnel and Administrative Reforms and forwarded to the Departmental Secretary.

(3) In other cases the notice shall be received by the officer named in the petition. Where the notice is served on a subordinate officer, he shall immediately forward the notice along with five sets of the copies of the writ petition and the annexure to the Departmental Secretary.



(4) Where such notice is served on the Departmental Secretary or is received by him from the Solicitor in the Law Department or is sent by the subordinate officer under sub section (3) the Departmental Secretary shall thereupon immediately forward the same along with five copies of the writ petition and its enclosures to the Law Secretary indicating the names of officers who.-

- (i) is conversant with the facts of the case;
- (ii) shall be the Litigation Conducting Officer in the case; and
- (iii) shall verify and sign the pleadings.

33. Taking notice upon direction.- Where the High Court directs a Government Pleader or Advocate to take notice of any writ petition, such pleader or advocate shall obtain copy of the writ petition and the enclosures if any meant for service on the respondents from the Court and forward them along with his covering letter to the Law Department and shall mark a copy of the covering letter to the Departmental Secretary.

34. Procedure after notice.- (1) On receipt of the copies of the writ petition and documents the Departmental Secretary shall see whether any interim relief is claimed against the Government and whether it is necessary to put in appearance immediately on behalf of the Government. Where he considers it necessary to oppose the petition, he shall forthwith issue necessary order authorising a Law Officer to appear and defend the interests of the State and its officers if any, and also to oppose grant of any interim relief prejudicial to the interests of the State or of any officer of the Government.

(2) The Authorisation shall also give the names of the Litigation Conducting Officer and the officer who shall verify and sign the pleadings. A copy of the Authorisation shall also be sent to the Departmental Secretary.

(3) In case an interim order is already passed in the case against the Government the Law officer shall take appropriate steps immediately for vacation of the order and for this purpose require the Departmental Secretary to furnish to him forthwith all necessary facts, particulars and documents relevant to the case.

35. Draft Counter Statement.- (1) Upon receipt of notice or information about filing of a case and/or the copy of the authorisation the Departmental Secretary shall ensure that the Law Officer is posted with the necessary facts and particulars in the form of parawise remarks and the relevant files and records are furnished to him for preparing the statement of objections and other necessary



pleadings. Copy of the parawise remarks shall also be sent to the Law Secretary for his information and further action. The Litigation Conducting Officer shall with the assistance of such Officers as he may deem necessary give instructions to and assist the Law Officer and the Law Secretary, in the preparation of the draft counter statement.

(2) On receipt of the parawise remarks and the connected records, the Law Officer concerned shall prepare the draft of the counter statement and other pleadings in the case send it along with the relevant files and records to the Law Department for scrutiny and approval of the draft.

36. Approval of Draft.- The Law Secretary shall before giving approval to the draft counter statement consult the Departmental Secretary who shall upon reference to him get the facts verified from the concerned officers, certify that the facts are verified and found correct and also indicate the name of the Officer who shall swear to the affidavit.

37. Conduct of cases.- In other respects, the provisions of chapter III shall apply mutatis-mutandis to conduct of writ proceedings.

38. Writ Appeals.- The provision of chapter V shall apply mutatis-mutandis to appeals against orders in writ proceedings.

CHAPTER VII

SUPREME COURT LITIGATION

39. Cases filed by the State Government.- (1) If in any case filed by or against the Government further action lies in the form of an Appeal or Special Leave Petition, the Law Secretary shall examine the feasibility of bringing such action before the Supreme Court.

(2) Where the order of the High Court is likely to be followed in other cases adversely affecting the interest of the Government, an appeal or petition must be filed having regard to the merits of the case, irrespective of the actual implication of the order in that particular case.

(3) In other cases the Law Secretary shall, having regard to the merits of the case and the implication of the Court order and in consultation with the Departmental Secretary, take such decision at least one month prior to the last date for filing the appeal.



40. Issue of Authorisation.- In case where it is decided to file appeal the Law Secretary shall issue Order of Authorisation, to the Advocate General or the Law Officer who has handled the case in the High Court or any other Law Officer attached to the office of the Advocate General to conduct the case before the Supreme Court and require him to draft the petition or as the case may be, appeal and other necessary pleadings to be filed in the Court.

41. Other requirements about the Order.- The order shall also indicate the name of the Advocate on Record who shall handle the case in the Supreme Court, the last date for filling the petition or appeal, gist of the case, points to be urged before the Supreme Court and also the steps to be taken by the Office of the Advocate General. Copies of the Authorisation shall be sent to the Advocate General, the concerned Advocate on Record, the concerned Departmental Secretary, the Head of the Department concerned and to the Officers who are arrayed in the case.

42. Duty of Law Officer.- The Law Officer shall prepare the necessary pleadings including stay petition wherever necessary with the assistance of the Litigation Conducting Officer or any other officer of the concerned department and prepare the final pleadings, in consultation with the Law Secretary.

43. Advocate General to coordinate.- The Advocate General shall, in consultation with the Law Secretary, take all steps in the matter of conducting the case. He shall coordinate in obtaining the required number of copies of the pleadings and sending them same along with all necessary documents, certified copies, etc., to the Advocate on Record along with the amount required to meet the Court fee, process charges, typing and other charges and out of pocket expenses, so as to reach the Advocate on Record at least five days in advance of the last date for filling the case. Copies of the petition and other pleadings shall also be sent to the Law Secretary and the Departmental Secretary, for reference.

44. Cases filed against the Government.- (1) Upon receipt of notice of Court in respect of a special leave petition or writ petition or Writ Appeal filed in the Supreme Court against the state or any of its Officers, the Departmental Secretary or the concerned officer through the Departmental Secretary shall send the same to the Law Secretary along with copies of the petition and other pleadings, made out in five sets. The Law Secretary shall, by order authorize one of the Advocates on



Record to appear before the Supreme Court and oppose the case including interim claims if any.

(2) The Authorization Order shall indicate the Law Officer who shall prepare the pleadings, the name of the Litigation Conducting Officer and the name of the Advocate on Record who is authorised to handle the case. The copies of the order shall be sent to the concerned Advocate on Record, along with the notice of the Court, copy of the petition and its enclosures, the Law Officer authorised to prepare the draft of the counter to be filed in the case and send it to the Departmental Secretary and to other officers involved in the case.

(3) The Departmental Secretary or the officer, as the case may be, shall furnish to the Law Officer paragraph-wise remarks and a note on the facts of the case indicating the points of defense available to the Government. The Law Officer shall prepare the necessary pleadings on behalf of the State Government and its officers, with the assistance of the Litigation Conducting Officer and finalize the defense statement, in consultation with the Law Secretary.

(4) The Advocate General shall send the same expeditiously to the Advocate on Record, along with the prescribed Court fee and other expenses. A copy of the pleadings prepared by the Law Officer shall also be sent for reference immediately to the Law Secretary and the Departmental Secretary.

45. Expenses of the Advocate on record.- (1) The office of the Advocate General shall on receipt of an order either to file a case or to defend a case before the Supreme Court, take immediate steps to send to the Advocate on Record such amount towards court fee, process charges, typing and other charges including out of pocket expenses as may be prescribed.

(2) Any other expenditure made in excess of the amounts specified as above shall be reimbursed to the Advocate on record upon his furnishing detailed accounts in respect of each item of such expenditure, supported by vouchers. Expenses required for the preparation of the paper book and for cyclostyling the records shall be met by the office of the Advocate General on receipt of claim from the Advocates on Record.

(3) The money for expenditure shall be sent along with the pleadings or immediately thereafter or immediately after receipt of the Government Order authorising the filing or defending of a case. The Advocate General shall also ensure that the papers and the money reach the Advocate on Record at least five



days before the last date, so that the papers could be filed before the Court within the period of limitation. The fact of having sent the amount towards Court fees and other expenses to Advocates on Record shall invariably be communicated to the Departmental Secretary and in criminal matters to the concerned Superintendents of Police and also the Law Department. The Departmental Secretaries and the concerned Superintendents of Police shall make necessary entries in their office records, and take such further steps in the matter as may be necessary for the purpose of maintenance of accounts and for effecting recoveries, wherever necessary.

46. Duties of the Advocate on Record.- (1) The Advocate on Records shall on receipt of the Authorisation, contact the Law Secretary and ensure that the pleadings and the records of the case are secured and on receipt of the same take immediate steps to file the case well within time. He shall also take steps to file necessary applications to get operation of the impugned order or judgment of the High Court stayed where such orders are made against the Government. He shall immediately after the filing of the case report, the action taken by him and the result of such action along with the Case Number to the Law Secretary and the Advocate General.

(2) The Advocate on Record shall conduct the case in accordance with the Supreme Court Rules of Practice and in consultation with and according to the directions of the Law Secretary and the Advocate General.

(3) The Advocate on Record shall, where he is not confident of arguing the case effectively himself, engage the services of a senior counsel from the panel of Senior Advocates prepared by the Government. It shall be the duty of the Advocate on Record to keep the Law Secretary and the Advocate General informed of the progress of the case from time to time.

(4) The Advocate on Record shall study the case fully and understand the case thoroughly, if necessary, with the assistance of the officers of the concerned department or the Law Department and brief the Senior Advocate well in advance.

(5) The Advocate on Record shall not, without the written authority from the Head of the Legal Cell of the concerned Administrative Department, concede any claim or part thereof, prejudicial to the interests of the Government.

(6) The provisions of chapter V shall mutatis mutandis apply to the conduct of cases before the Supreme Court.



CHAPTER VIII

LAND ACQUISITION CASES

47. Authorisation to conduct cases.- (1) Whenever a reference of a case is made to the Authority under any law providing for acquisition of land by the Government, the concerned Deputy Commissioner and any officer specially designated by the Government shall authorise a Law Officer to conduct the case on his behalf.

(2) The concerned Deputy Commissioner and any officer specially designated by the Government shall maintain a register of all such references indicating the names of parties, description of the land acquired, the claim made by the petitioner and other particulars as may be prescribed.

48. Documents to be made available.- (1) The concerned Deputy Commissioner and any officer specially designated by the Government shall forward to the Law Officer the file relating to case and all other documentary and oral evidence relied upon by him in passing the Award.

(2) The following records namely:-

- (a) extracts of Record of Rights, RTC, Pahani and Khaneshumari register extracts;
- (b) Average Yield Notification;
- (c) Documents prepared under the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964) and other agrarian laws to show the nature of the soil, source of irrigation and such other material relevant for determining the value of the land;
- (d) if reliance is placed on sale deeds of similarly situated lands in the neighborhood sold in the recent past, then copies of such sale deeds; and
- (e) Date of preliminary notification, as mentioned in the APMC records or other records of similarly situated lands in the neighborhood.

- shall be made available to the Law Officer by the concerned Deputy Commissioner and any officer specially designated by the Government.

49. Conducting Evidence.- (1) The Law Officer shall bear in mind the following guidelines while leading evidence, generally,-



- (a) if reliance is placed on sale deeds of similarly situated lands in the neighborhood sold in the recent past, then evidence to establish the dissimilarity and remoteness of the land compared to the land in question;
- (b) where the Public Works Department has valued the buildings in the land, the Law Officer shall examine the Officer who has valued the buildings;
- (c) to adduce necessary oral and documentary evidence so as to establish the correct value of the land acquired;
- (d) to bring on record as much material as is in the case file and is relevant for supporting the award made by the concerned Deputy Commissioner and any officer specially designated by the Government; and
- (e) to study the file and produce copies of the record of rights and other documents referred to above in the above said file before the Authority and get them marked in the case.

50. Certain obligations of the concerned Deputy Commissioner and any officer specially designated by the Government.- It shall be the duty of the concerned Deputy Commissioner and any officer specially designated by the Government:

- (a) to examine as to whether such application is filed within time and is maintainable and to pass orders thereon as expeditiously as possible;
- (b) to assist the Law Officer in the conduct of the case and to get the PWD Officers and other Officers and other witnesses for examination in the Authority;
- (c) to watch the progress of the case in the Authority and give all necessary assistance to the Law Officer;
- (d) furnish the entire file in which award has been made, to the Law Officer;
- (e) In cases where the claimant approaches the Authority under the Right to Fair Compensation and Transparency in Land



Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013),-

- (i) verify whether such an application is maintainable, whether the allegation made therein are correct;
- (ii) verify whether he had filed the application under sub-section(1) of section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013) within the period of limitation; and
- (iii) file necessary objections and produce all relevant evidence before the Authority.

51. Forged and make believe documents.- Where in any case before the Authority it comes to the notice of the Government that,-

- (a) forged, anti-dated or bogus reference under sub-section (1) of section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013) have been filed or sent to Authority claiming that it has been sent pursuant to a direction of the Authority when in fact no such direction is issued by the Authority;
- (b) copies of non-existent, bogus or forged applications said to have been made to the concerned Deputy Commissioner and any officer specially designated by the Government have been filed in the Authority along with application under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013);
- (c) bogus or forged receipts said to have been given by the concerned Deputy Commissioner and any officer specially designated by the Government for having received application under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013) have been filed into the Authority; and
- (d) false allegation of filing application under sub-section (1) of section 64 of the Right to Fair Compensation and Transparency in Land



Acquisition, Rehabilitation and Re-settlement Act, 2013 (Central Act 30 of 2013) before the concerned Deputy Commissioner and any officer specially designated by the Government and the concerned Deputy Commissioner and any officer specially designated by the Government making a reference under that section.

it shall be the duty of the concerned Deputy Commissioner and any officer specially designated by the Government and the Law Officer to verify the records and bring all such incidents to the notice of the Authority and also assist the Authority in wading away false records and to take appropriate criminal action against the culprits.

52. Enhancement of compensation.- (1) The Law Officer shall obtain certified copies of the decree, and the award immediately after pronouncement of the award irrespective of whether the order is for or against the Government.

(2) Where the Authority has awarded higher compensation the concerned Deputy Commissioner and any officer specially designated by the Government shall forthwith inform the Revenue Commissioner and the Law Secretary about the enhancement of compensation to enable the Revenue Commissioner to take necessary steps to get additional allotments for meeting the additional expenditure relatable to the enhancement.

(3) The Law Officer shall send one copy of the Award and decree to the concerned Deputy Commissioner and any officer specially designated by the Government and another copy to the Law Secretary along with his opinion about the competency of filling of an appeal A copy each of the opinion shall also be sent to the concerned Deputy Commissioner and any officer specially designated by the Government and the Revenue Commissioner. The opinion shall indicate the actual enhanced compensation granted by the Authority.

(4) The Revenue Commissioner shall within the time allowed by the Authority get necessary amount sanctioned for payment of the additional compensation.

(5) Whenever a certified copy of the Award and decree passed by the Authority is forwarded it shall invariably accompany a certified copy of the award passed by the concerned Deputy Commissioner and any officer specially designated by the Government.



53. Appeal against Award of Authority.- (1) The Law Department shall examine the Award of the Authority and decide on whether there are valid grounds to challenge the Award in appeal. If it is decided to file an appeal, an order shall be made and copies thereof shall be sent to the concerned Law Officer authorised to file the appeal, the concerned Deputy Commissioner and any officer specially designated by the Government and to the Revenue Commissioner:

Provided that, where the Legal Cell in the Department decides not to prefer appeal, the records and papers concerning the case shall be referred to the Law Department for approval of such decision.

(2) Where the Law Department approves the decision of the Legal Cell or otherwise decides not to prefer appeal it shall communicate the same immediately to the concerned Deputy Commissioner and any officer specially designated by the Government to enable him take steps to deposit the amount of excess compensation as per the award passed by the Authority.

54. Deposit of amount.- (1) The concerned Deputy Commissioner and any officer specially designated by the Government shall intimate the fact of such deposit to the Law Officer concerned, to the Legal Cell and to the Law Department.

(2) The fact of such deposit shall be entered by the concerned Deputy Commissioner and any officer specially designated by the Government in such form as may be prescribed.

(3) The Law Officer shall maintain separate file for each case and shall record in his file the details of the deposit. He shall also preserve copies of all documents petitions and papers filed into the Authority by him and the other side. The concerned Deputy Commissioner and any officer specially designated by the Government shall give him all necessary assistance in the matter:

Provided that, no such deposit shall be made by the concerned Deputy Commissioner and any officer specially designated by the Government except after obtaining orders from the Law Secretary who shall not pass orders unless he has examined the competency of filing appeal against the order of the Authority.

(4) Where in a case decision is taken to prefer appeal against the award the concerned Deputy Commissioner and any officer specially designated by the Government is constrained to deposit the enhanced amount in the Authority the Law Officer shall apply to the Authority for an order restraining the party to draw the amount unless he has given adequate security is given for the amount.



(5) Where the Law Department decides to prefer an appeal, the Law Officer concerned shall prepare and file appropriate memorandum of appeal urging all available pleas. It shall be the duty of the Law Officer to move the High Court for an order staying the operation of the judgment and award of the Authority even if there is no direction to do so, from the Law Department. Where execution of the award is taken out, before the Government could obtain stay of the Award from the High Court, the concerned Deputy Commissioner and any officer specially designated by the Government shall give instructions to the Law Officer to obtain stay of its Award before the Authority.

(6) The provisions of Chapter V or as the case may be Chapter VII shall apply mutatis mutandis for prosecuting or defending appeals against the order of the Authority before the High Court and for prosecuting or defending cases before the Supreme Court, respectively.

Explanation: For the purpose of this Chapter “Authority” shall have the same meaning as assigned to it in clause (f) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013).

CHAPTER IX

Cases before the Motor Accident Claims Tribunal

55. Procedure in Accident Claims.- (1) In all cases before the Motor Accident Claims Tribunal where the Karnataka Government Insurance Department is a respondent, the Director of the Karnataka Government Insurance Department shall give to the Law Officer all particulars of the insurance policy and also give instructions for preparing the objection statement and conducting the case.. The Director shall also see that suitable objection statement shall incorporate all available pleas including challenge against maintainability of the claim, reasonableness of the amount of compensation claimed and about the bar of claim by limitation, if any. A copy of the Policy issued, shall also be produced to the Court.

(2) Where the Government is the owner of the vehicle involved in the accident it shall be the duty of the Officer-in-charge of the vehicle and the driver of the vehicle to instruct the Law Officer suitably and to take all pleas available in the circumstances of the case for defending the claim.



CHAPTER X

EXECUTION CASES

56. Decrees in favour of Government.- (1) As soon as may be after a decree or order is made in favor of the Government, the Litigation Conducting Officer obtain through the Law Officer concerned a certified copy of the decree or order and unless otherwise instructed, proceed to make efforts to recover the decree amount out of Court from the Judgment Debtor.

(2) If the amount due cannot be so recovered, the particulars of the property, moveable or immovable, including securities, amounts held in Court deposit, decrees obtained by judgment debtor belonging to the judgment debtor shall be ascertained and steps taken immediately to obtain attachment of such property. If such property has already been attached before judgment, application for sale of such property shall be made.

(3) Whenever a decree or order of a Court is varied or reversed in any appeal, revision or other proceedings the Law Officer shall take action under relevant law to seek restitution and inform the Head of the Legal Cell through proper channel about the steps taken and the result thereof.

(4) Where action is not taken for obtaining satisfaction of the decree as provided above, the concerned Litigation Conducting Officer shall after consulting the Law Officer submit a report to the Departmental Secretary through proper channel furnishing the date on which the period of limitation for the execution of the decree expires, any information coming to his knowledge as facilitates the recovery of the money due to the Government under the decree and the reasons for not taking action or the delay in taking such action.

(5) If the delay is on account of the Law Officer, an advance copy of the report shall also be sent to the Head of the Legal Cell.

(6) The Departmental Secretary shall forward the report to the Law Department along with his comments, if any, requesting it to take steps to execute the decree, if possible. The Law Department shall take appropriate steps as it may consider.

57. Remittance of amount recovered.- (1) All amounts due under a decree recovered by the Law Officer on behalf of the Government shall be paid into the



Treasury to the credit of the Department concerned under proper head of account under intimation to the Litigation Conducting Officer.

(2) Where any amount due under a decree is recovered out of Court or where satisfaction of a decree is otherwise obtained, the Law Officer shall be instructed to certify such recoveries or satisfaction to the Court under Order 21 of the Code of Civil Procedure.

58. Attachment of Property.- (1) Whenever an order is obtained for attachment of the judgment debtor's property, the Litigation Conducting Officer concerned shall depute some official who can identify the property, to accompany the attaching officer to identify the property.

(2) In cases where a third party stakes claim to the attached property, the Litigation Conducting Officer with the assistance of the Officer on whose report the property was attached shall collect evidence as would show that the attached property belonged to the judgment debtor. Such officer shall also be instructed to be present in Court to assist the Law Officer when the case comes up for enquiry or trial.

59. Bad Debts.- All available steps for recovery of the decretal dues shall be unremittingly continued until the expiry of the period of limitation. If the recovery of the amounts due under the decree becomes impracticable even after taking all steps necessary for such recovery, then the concerned Litigation Conducting Officer shall make a report, through proper channel, to the Government to write-off such amount. The Head of the Legal Cell shall also be informed about it.

60. Maintenance of Registers.- (1) The Deputy Commissioners, Head of office and the Heads of Departments shall maintain registers in the form prescribed showing the amounts due to the Government under decrees, the particulars of the decree and the details of each stage of the Execution Proceedings.

(2) Deputy Commissioners shall specify therein particulars of Court fees and costs of the suit in forma pauper is payable to Government under Order 33 or Order 44 of the Code of Civil Procedure 1908 as the case may be.

61. Decrees against the Government.- (1) Where a decree is passed against the Government either for payment of money or for other relief and where decision has been taken by the Government, not to prefer an appeal, review or revision it shall be the duty of the concerned Litigation Conducting Officer and the department to take necessary steps to get necessary amount sanctioned for the



purpose to satisfy the decree without any delay. No scope should be given to the decree holder to execute the decree and attach the properties of the Government and embarrass the Government.

(2) The Litigation Conducting Officer or the Law Officer shall as soon as he comes to know of the passing of a decree or the filing of execution thereupon, move the Court and seek for extension of time for satisfying the decree without waiting for direction from the Law Secretary or the Departmental Secretary and simultaneously inform the Deputy Commissioner, the Head of the Department or the Chief Secretary and other officer from whom the amount is sought to be realised requiring them to arrange for complying with the decree or file objections to the decree.

62. Procedure upon notice.- (1) After receipt of the notice of execution, the judgment debtor and the Litigation Conducting Officer shall intimate the Law Department about the execution and assist the Law Officer in drafting objections against the execution.

(2) Draft objections prepared by the Law Officer shall be sent to the Law Department for approval. If there is no time to take approval of the Law Department the Law Officer may file the objections into Court and seek ratification of the action taken.

(3) The provisions of Chapter – III shall mutatis mutandis apply to the signature and verification of the objections to the execution petition and the conduct of the case.

(4) If the objections raised by the state against execution of the decree are rejected, the Litigation Conducting Officer shall, through the Law Officer obtain the certified copy of the order and send it to Law Department for necessary opinion and further action.

(5) If decision is taken not to prefer any review, appeal or revision on such order, the Litigation Conducting Officer shall expeditiously take necessary steps for complying the decree.

63. Procedure where no appeal is filed.- (1) In the case of a decree for possession of immovable property unless an appeal is filed and stay is obtained, efforts shall be made to see that possession is delivered to the decree holder within the time set by the Court. If for any compelling reason, such delivery is not



possible, efforts shall be made to move the Court, which passed the decree for extension of time for delivery of possession.

(2) In the case of a decree for injunction against the State and its officers, which is prohibitory in nature, unless an appeal is filed and operation of such decree is stayed or suspended, scrupulous efforts shall be made to see that such decree is obeyed.

(3) In the case of a decree for mandatory injunction, it shall be complied with meticulously if decision has been taken not to prefer an appeal, review or revision.

CHAPTER XI

CRIMINAL CASES

64. Duties of the Prosecutors.- It shall be the duty of the Prosecutor in charge of a criminal case to:

- (a) ensure that necessary and proper charges are framed against the accused and that plea is recorded according to law. He shall take steps to get the charges amended wherever necessary;
- (b) take necessary steps to get the summons and warrants issued by the Court to secure the presence of the witnesses in due time;
- (c) instruct the police to keep necessary number of witnesses in attendance, examine all necessary witnesses and to place the entire case of the prosecution before the Court;
- (d) ensure that all relevant documents and properties are marked as exhibits or as the case may be, as material objects through competent witnesses;
- (e) Ensure proper coordination and co-operation of the police in getting the summons served and warrants duly executed in appropriate time and returned to Court in good time;
- (f) enforce the attendance of the witnesses in general, and police and official witnesses and investigating officers in particular, for giving evidence before Court; and
- (g) render assistance to the Court to achieve smooth and speedy disposal of the cases.



(2) Upon the committal of a case by the Magistrate to the Sessions Court, the Prosecutor shall forward the case papers to the concerned Public Prosecutor as early as possible, but not later than one week from the date of commitment.

65. Procedure after Judgment.- (1) In every case ending in an acquittal or conviction only for a minor offence the accused having been acquitted of serious offences or where the Court gives a lesser sentence or where the case ends in acquittal of only some of the accused before the Court by any Magistrate or Sessions Judge, the Prosecutor in charge of the said case shall obtain a certified copy of the judgment and submit it within fifteen days from the date of judgment along with his opinion indicating the grounds for filing or not filing an appeal, to the concerned Deputy Director of Prosecutions. Where the Prosecutor recommends filing of appeal, review or revision against the judgment or order an appellate or revisional Court he shall invariably send the certified copies of the judgment or order of the Trial Court along with the order of the Appellate Court.

(2) Every proposal to file an appeal or revision shall be examined and decision taken by the Deputy Director concerned in consultation with the Deputy Inspector General of Police. and in cases in which he is not authorised to take a decision himself he shall forward a certified copy of the judgment together with his views to the Deputy Inspector General of Police and to the Director of Prosecutions without any delay keeping in view of the period of limitation. Subject to his powers in the matter of taking final decision the Director of Prosecutions and Government Litigation shall take final decision in the matter referred to him by the Deputy Director.

(3) The Director of Prosecutions and Government Litigation shall forward the certified copy of the order or judgment, whether original, appellate or revisional, passed by the Sessions Court or by the Magistrate in respect of an offence, the maximum punishment for which exceeds ten years imprisonment, to the Home Department along-with his opinion as to the advisability of filing an appeal or revision against such order or judgment. If that order or judgment is of an appellate or revisional authority and if he recommends an appeal or revision, a copy of the order or judgment of the original Court shall also be sent to the Home Department at least ten days before the last date for filing of the appeal or revision, as the case may be, indicating the last date in bold letters.



(4) On receipt of the said papers, the Home Department shall examine the matter in detail with reference to Court decisions and take a decision whether to file or not to file an appeal or revision. If it is decided to file an appeal or revision the main grounds on which the order of the lower Court is to be challenged shall be indicated in the file. It would not be correct for the Home Department to take summary decision without recording the reasons. Case law, if any, in support of the decision shall also be indicated.

66. Appealable cases.- (1) If it is decided that the order requires to be challenged in appeal or in revision, an order authorising the concerned Law Officer to prefer an appeal or revision, as the case may be, shall be issued. Copy of such order shall be sent to the Director of Prosecutions and Government Litigation and Director General of Police along with,

- (a) the copy of the order sent to the Law Officer;
- (b) a note containing the main grounds to be canvassed before the Court; and
- (c) Citations, if any, in support thereof.

(2) On receipt of the order, the Law Officer shall prepare the memorandum of appeal or application for revision, as the case may be, and file the same before the Court within the period of limitation. A copy of the memorandum of appeal or application so prepared and filed before the Court along with a copy of the order of the Lower Court shall be sent to the Home Department, which shall maintain a separate file in respect of each case containing copies of all relevant papers. The concerned Secretary to Government, Home Department shall watch the progress of the case and give such periodical instructions as he considers necessary to the Law Officer.

67. Non-appealable cases.- Where there are no grounds to file an appeal or revision, the Secretary to Government, Home Department shall forward a note to the Minister for Law and take his approval on record.

68. Appeals against the Government.- When an appeal or other proceedings is instituted against the State Government and a notice in respect thereof is served on any officer of the Government, he shall send it to the Home Department and a copy thereof shall be sent to the Director of Prosecutions and Government Litigation who shall examine the case and send a report indicating the



pleas to be urged before the Court. On receiving such report, the Secretary to Government Home Department shall examine the matter with a view to improvising it and if satisfied, authorize the Law Officer, by order, to appear for the State Government. A copy of the order shall be sent to the Law Officer along with the note about the points to be urged in defence.

69. Procedure upon disposal.- (1) As soon as may be after the disposal of the appeal, revision or other proceedings are disposed of by the High Court the Law Officer shall communicate the result of appeal to the Secretary to Government, Home Department and the Director of Prosecutions and shall, without loss of time, secure a certified copy of the judgment or order, as the case may be.

(2) Soon after obtaining the certified copy, the Law Officer shall forward the same to the Secretary to Government, Home Department with his opinion about the prospects of agitating the matter further in the Supreme Court. On receipt of the certified copy of the judgment or order along with the opinion of the Law Officer, the Home Department shall take a considered decision supported by cogent reasons for not proceeding further with the case.

(3) Where it is decided to pursue the case further before the Supreme Court, the Secretary to Government, Home Department shall issue necessary orders indicating the form of the action.

70. Non- appealable cases.- Where the Secretary to Government, Home Department decides that there are no grounds to take the matter further, he shall send a note to the Law Minister, in consultation with Law Department and obtain his approval on record.

71. Specific Duties of Prosecuting Officers.- The Director of Prosecutions shall while examining the matter under sub-section (2) of section 65, verify whether the case has gone against the Government because of any fault of the Investigating Officers or of the Officer-in-charge of the Prosecutions, and communicate his views to the Officer concerned. If in the opinion of the Director of Prosecution it amounts to misconduct, he shall initiate disciplinary action against the officer, unless he has no power to do so, in which case the case shall be reported to the Home Secretary for taking further action.

(2) The Prosecutors shall discharge their duties subject to the control and supervision of the Director and the Deputy Director of Prosecutions.



(3) The Superintendents of Police should invariably attend the Sessions Courts and watch the trial of Sessions cases especially murder and other heinous offences.

CHAPTER XII

Miscellaneous

72. Maintenance of Registers and Furnishing of Quarterly Reports.- (1)

Every District Government Pleader, Additional Government Pleader, Assistant Government Pleader, Assistant Public Prosecutor-cum-Assistant Government Pleader shall maintain a register of cases entrusted to him in the prescribed form, and shall keep the register up-to-date. Whenever another officer is appointed in his place he shall hand over the Register along with all the records relating to pending and disposed of cases, to his successor.

(2) Every Government Pleader shall send, in the respect of cases before the District and Sessions Court to the Law Secretary, and to the Director of Prosecutions and Government Litigation in respect of cases pending in a Court of Civil Judge (Junior Division), in the first week of January, April, July and October of each year, a list of cases he is authorized to conduct in the prescribed form and shall also send a copy of the quarterly returns to the Deputy Commissioner concerned.

(3) Every Government Pleader shall also send to the Deputy Commissioner concerned by the third of every month a list of.-

(a) execution cases which are pending against the State indicating the name of the officer or authority who has to comply with the decree; and

(b) cases pending in his Court wherein progress, including preparation of pleadings and conduct of evidence, cannot be made for want of instructions and assistance from any of the officers or authorities in the district. The nature of the instructions and assistance required may be indicated therein.

(4) Every Government Pleader, if circumstances requires shall, personally meet the concerned Deputy Commissioner and draw his attention to the difficulties experienced in the conduct of litigation.



73. Duties of the Deputy Commissioners.- (1) It shall be the duty of every Deputy Commissioner to keep effective control and watch over the Government Litigation relating to his district irrespective of the department to which it belongs. He shall cause to be maintained individual files in respect of every such case and make necessary arrangements to watch the progress of each such case by entrusting the work to a senior officer of his department.

(2) The Deputy Commissioner shall personally supervise the progress made in every case at least once in a month to ensure that the cases are conducted effectively and that all material documents and information are being supplied to the Law Officer.

(3) On receipt of the information from the District Government Pleaders, Additional District Government Pleaders and Assistant Government Pleaders under sub-section (2), about the difficulties experienced by them in the conduct of Government Litigation either in preparing the pleading or in making further progress in the case, the Deputy Commissioner shall make necessary arrangements to ensure that the Government Pleaders get necessary instructions from the concerned officers and direct the concerned officers of other departments give all necessary assistance to the Government Pleader.

(4) On receipt of the information on the pending execution cases, the Deputy Commissioner shall immediately,-

- (a) make every necessary effort to ensure that Court decrees are complied with and avoid unnecessary embarrassment of having movables of the Government Offices attached and sold in auction; and
- (b) inform the Head of the Department concerned about the decree requesting him to take steps to satisfy the decree.

74. Duties of the Heads of Department.- It shall be the duty of every head of the Department:

- (a) to keep effective watch and control over the Government Litigation relating to his department;
- (b) to maintain individual files in respect of every case relating to his department and make necessary arrangements to watch the



progress of every case by entrusting such work to an officer of fairly senior cadre;

- (c) to personally supervise the progress made in each case at least once in a month; and
- (d) to ensure that all necessary documents and information are given to the Law Secretary, the Law Officer and the Prosecuting Officer.

75. Power to issue directions.- The Government may, from time to time issue general or special instructions in the matter of conduct of litigation on behalf of the Government or its officers acting in their official capacity and such directions shall have effect as if they are part of these provisions of the Act.

76. Nodal Officer.- The Nodal Officer appointed by the concerned department shall perform such duties and functions as may be prescribed.

77. State Level Committee.- The Government may, constitute a committee called the State Level Committee under the Chairmanship of a person nominated by the Government. The qualification of the Chairman, Members, the number of members, their term of office, the remuneration, the powers and functions, the procedure to be followed shall be such as may be prescribed.

78. District Level Committee.- The Government may, constitute a committee called the District Level Committee under the Chairmanship of a person nominated by the Government. The qualification of the Chairman, Members, the number of members, their term of office, the remuneration, the powers and functions, the procedure to be followed shall be such as may be prescribed.

79. Functions of the State and District Level Committee.- The State Level Committee and the District Level Committee shall in consultation with the department concerned, and the concerned Government Advocate monitor the stand of the Government in each case and shall verify the written arguments and shall suggest modifications if any. The State Level Committee and District Level Committee may take assistance of experts.



80. Uploading of Court Cases.- Each Department of the Secretariat, the Heads of the Departments, State Government Boards, Corporations, Authorities, Autonomous Institutions, concerned Government Officers, the Deputy Commissioners, Chief Executive Officers of the Zilla Panchayat, Superintendent of Police of the district shall use the Court Case Monitoring System [CCMS] as developed by the State Government for tracking, follow-up and timely action on each case in Hon'ble High Court, Hon'ble Karnataka State Administrative Tribunal and Hon'ble Supreme Court.

81. Duties and Responsibilities of AG/AAG/HGA/AGA/ Government Advocate.- Without prejudice to the foregoing provisions, the Government may prescribe by rules the duties and responsibilities of AG/AAG/HGA/AGA/Government Advocate.

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

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or to be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything done under that rule.

83. Savings.- The rules, orders, Notifications, Circulars, etc., issued prior to the commencement of this Act shall be deemed to have been issued under this Act.

The above translation of ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ವ್ಯಾಜ್ಯ ನಿರ್ವಹಣೆ ಅಧಿನಿಯಮ, 2023 (2023 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 28) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.



THAAWARCHAND GEHLOT
GOVERNOR OF KARNATAKA

By Order and in the name of
the Governor of Karnataka,

G.SRIDHAR

Secretary to Government
Department of Parliamentary
Affairs and Legislation

GOVERNMENT OF KARNATAKA

EO. No. LAW-LCE//136/ 2023

Karnataka Government Secretariat,
Vidhanasoudha,
Bengaluru, dated: 02.09.2023.

NOTIFICATION

In exercise of Powers conferred under sub-section (2) of Section 1 of THE KARNATAKA CONDUCT OF GOVERNMENT LITIGATION ACT, 2023 (Karnataka Act No. 28 of 2023), it is hereby notified by Government of Karnataka that THE KARNATAKA CONDUCT OF GOVERNMENT LITIGATION ACT, 2023 shall come into effect from 02.09.2023.

By Order and in the name of
Governor of Karnataka

(MALATHI C.)

Under Secretary to Government
(Admin-1)
Law, Justice and Human Rights
Department.