

# THE KARNATAKA PORTS (LANDING AND SHIPPING FEES) ACT, 1961

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#### STATEMENTS OF OBJECTS AND REASONS

**Act 20 of 1961.-** The existing legislation in regard to the levy of fees on landing, shipping and storage of goods and on passengers embarking and disembarking at the several minor ports of the State is different in the North and South Kanara Districts. The procedure in vogue for the collection and credit of ports revenue and the operation of the accounts are likewise different in the two areas. It is found necessary in the interest of administrative convenience to have uniform legislative in regard to the levy of such fees and the procedure for collection and utilisation of the proceeds.

It is proposed to create a Port Fees Fund to which all the receipts from the different levies will be credited and in which the receipts on account of the levies under the Indian Ports Act will also be merged.

(Obtained from LAW 103 LGN 58.)

## II

**Amending Act 8 of 1980.-** The regulation, conservancy and improvement of the Mangalore Minor Port were vested in the Mangalore Port Trust Board under the Mangalore Port Trust Act 1953.

After commissioning the New Mangalore harbour, no steamer is calling at the old port and only small sailing vessels carrying coastal cargo, viz., tiles, fish, salt, etc., are calling at the port. The steamer traffic stands diverted to New Mangalore harbour where better facilities are available. Thus, the revenue of the Old Port has steeply declined and the port is at present in a financial crisis. With the meagre income it is impossible to maintain the Old Port with the existing set up.

If the old port is taken over by the State Government under the Directorate of Ports and Inland Water Transport development works can be carried out by the State Government. As the Ports Department has got its own organisation for administration and maintenance of minor organisation for administration and maintenance of minor ports, it can take the old Mangalore Port under its control and it may not e necessary to have a separate Port Trust for Mangalore when all the other minor ports are being administered and maintained by the Department of Ports and Inland Water Transport. The old port may also be maintained properly as a fishing port in addition to its commercial activities to serve the coastal trade of tiles, salt etc.,

If the old Mangalore port under the Port Trust is transferred to the Government of India, the fishermen might be charged higher wharfage and other charges with the result it may adversely affect the progress of mechanised fishing in that port. It will also cause hardship to the fishermen who are now residing in Bengre, (opposite to old Mangalore Port) if they are displaced consequent to the old Mangalore Port being taken over by the Government of India. On the contrary, if this land is transferred to the Ports Department the whole area of Bengre can be developed as a fish processing complex for which it is ideally suited.

If the old Mangalore Port is transferred to the Department of Ports and Inland Water Transport, this centre can, at a future date, be developed as an important all weather fishing harbour like Malpe, with Central assistance and the second stage of development, namely, deepening the bar and the river mouth with provision of break waters can be taken up in due course. The Mangalore Port Trust was an autonomous body primarily interested in the development and conservancy of the commercial Port and it would not have been enthusiastic about taking up such development of the fishing industry. It is uneconomical to run the port with its present setup. The financial position of the Mangalore Port Trust Fund and the Mangalore Port Fund is poor and it has become impossible to run the conservancy and administration of the port any further.

It is, therefore, proposed to transfer the administration of the Mangalore Port to State Government under the Directorate of Ports and Inland Water Transport in Karnataka, for being administered with other minor ports in the State by repealing the Mangalore Port Trust Act 1953.

As the matter was very urgent an Ordinance was promulgated. Hence the Bill to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 5th March 1980 as No.166 at pages 5-7.)

### III

**Amending Act 9 of 2007.-** The Karnataka Ports (Landing and Shipping Fees) Act, 1961 was enacted in 1961 and the penalty incorporated therein was also fixed keeping in view the limit at that time. Therefore in order to bring the provisions of the Act more effectively, it is considered necessary to increase the amount of penalty for violation of the provisions of the Act.

Hence the Bill.

[L.A.Bill No. 4 of 2007]

[Entry 31 of List III of the Seventh Schedule to the Constitution of India.]

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**<sup>1</sup>[KARNATAKA ACT]<sup>1</sup> No. 20 OF 1961**

(First published in the <sup>1</sup> [Karnataka Gazette]<sup>1</sup> on the Twenty-eighth day of September, 1961.)

**THE <sup>2</sup>[KARNATAKA]<sup>2</sup> PORTS (LANDING AND SHIPPING FEES) ACT, 1961**

(Received the assent of the President on the Twenty-first day of September, 1961.)

( As amended by Act 8 of 1980 and 9 of 2007)

An Act to provide for the levy of fees on landing, shipping and storage of goods, and on passengers embarking and disembarking within the ports of the <sup>1</sup>[State of Karnataka]<sup>1</sup> and for certain other purposes.

WHEREAS it is expedient to provide for the levy of fees on landing, shipping and storage of goods, and on passengers embarking and disembarking within the ports in the <sup>1</sup>[State of Karnataka]<sup>1</sup> and for certain other purposes;

BE it enacted by the <sup>1</sup>[Karnataka State]<sup>1</sup> Legislature in the Twelfth Year of the Republic of India as follows:—

**1. Short title, extent, commencement and application.**—(1) This Act may be called the <sup>1</sup>[Karnataka]<sup>1</sup> Ports (Landing and Shipping Fees) Act, 1961.

(2) It shall extend to the whole of the <sup>1</sup>[State of Karnataka]<sup>1</sup>.

(3) It shall come into force on such <sup>2</sup>[date]<sup>2</sup> as the State Government may by notification appoint.

(4) It shall apply to all ports in the <sup>1</sup>[State of Karnataka]<sup>1</sup> <sup>3</sup>[x x]<sup>3</sup>.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973
2. Act came into force on 15<sup>th</sup> July 1964 by Notification No. PWD 75 CSP 61 dt. 6<sup>th</sup> July 1964
3. Omitted by Act 8 of 1980 w.e.f. 1.1.1980

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

(a) “drift” includes timber or other floating matter, whether the same is in the possession or under the control of any person or not;

(b) “goods” include wares and merchandise of every description and also vehicles, animals, packages and other articles;

(c) “notification” means a notification published in the official Gazette;

(d) “owner” when used in relation to goods or drift includes any consignor, consignee, shipper, or agent for the sale, custody, landing, or shipping of such goods or drift;

(e) “passenger” means any person not below the age of three years carried in a vessel, other than the master and crew and the owner, his family and his servants;

(f) “port” means the area included within the limits of a port to which all or any of the provisions of the Indian Ports Act, 1908 (Central Act XV of 1908) are for the time being applicable other than a major port;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “vessel” includes anything made for the conveyance mainly by water of human beings or property.

**3. Levy of fees on goods Shipped, etc.,** -(1) <sup>1</sup> [Fees at such rates and subject to

such conditions]<sup>1</sup> as may be prescribed shall be levied <sup>1</sup>[on]<sup>1</sup>—

(a) all passengers embarking or disembarking at any port,

(b) goods landed from or shipped into any vessel lying or being within the limits of any port,

(c) goods stored at any place provided for the purpose within the limits of any port, and

(d) animals or vehicles bringing or removing goods to or from, or plying for hire within the limits of any port;

<sup>2</sup>[(e) transshipping of passengers or goods between vessels in the harbour of any port;

(f) landing and shipping of passengers or goods from or to such vessels, from or to any wharf, quay, pier, dock, land, building or place in any port;

(g) crantage or portorage of goods on any such place;

(h) property or place in any port, used for the purpose of,—

(i) approaching or lying at or alongside any moorings, wharf, quay, pier, dock, land, building or place as aforesaid, by vessels or boats;

- (ii) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place as aforesaid, by animals or vehicles carrying passengers or goods;
- (iii) leasing of land or sheds in any port by owners of goods imported or intended for export or by steamer agents;
- (iv) any other use of any land, works or appliances in any port;
- (i) any other service in respect of vessels, passengers or goods in any port.]<sup>2</sup>

in the <sup>3</sup>[State of Karnataka]<sup>3</sup>:

Provided that the State Government may by notification exempt any class of goods, passengers, vessels, animals or vehicles, wholly or partly from any fee to which the same may be liable under this section.

<sup>2</sup>[Provided further that different fees and different conditions may be prescribed for the port of Mangalore.]<sup>2</sup>

(2) Any person who evades or attempts to evade payment of fees fixed under sub-section (1) shall be liable to pay such penalty not exceeding twice the fees payable, as may be prescribed.

(3) The fees and penalties prescribed under sub-sections (1) and (2) shall be payable in addition to all tolls or charges lawfully levied within any port.

1. Substituted by Act 8 of 1980 w.e.f. 1.1.1980

2. Inserted by Act 8 of 1980 w.e.f. 1.1.1980

3. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

**4. Powers and duties under this Act by whom to be exercised and performed.**—The levy of fees and penalties under this Act shall be made and all other powers and duties conferred and imposed by this Act or by any rules made hereunder, shall be exercised and performed by such officers and such persons as the State Government may from time to time direct in this behalf.

**5. Detention of goods until payment of fees made.**—(1) The officers and persons whose duty it may be to levy fees and penalties under this Act, shall have power to detain goods until the lawful fees and penalties are paid.

(2) When goods are so detained, a notice in writing shall be given by the officer detaining the goods to the owner or consignee, if his address is known, stating the amount of fees, penalties and charges payable in respect

of such goods. If the amount due is not paid by the owner or consignee within a period of thirty days from the date on which such amount becomes payable or within fourteen days from the date of notice, whichever is later, it shall be lawful for such officer of Government to sell or cause to be sold by public auction, the said goods, and after paying the expenses of such detention and sale and double the amount of the fees and penalties by way of fine, to pay the surplus, if any, of the proceeds of the sale, to the owner or consignee or other person entitled thereto, if claimed within six months from the date of the sale:

Provided that if the goods are of perishable nature it shall be lawful for the officer to sell the same or cause them to be sold within such period as may be prescribed but not less than twenty-four hours after such fees became payable.

**6. Liability of owner causing damage to pier, jetty, etc.**—Where any vessel or drift fouls any pier, jetty, wharf or quay and causes damage thereto, the owner or the master of the vessel or the owner of the drift, or where any person, causes damage to any pier, jetty, wharf or quay, such person shall be liable for the amount of damage caused. Such amount may be ascertained in the prescribed manner and recovered either by seizure and sale of such vessel or drift and of any property thereon or in such other manner as may be prescribed.

**7. Expenditure of fees received under this Act.**—All fees and other amounts received under this Act may be expended for the following purposes, namely:—

- (a) provision for improvement of facilities for storage and handling of cargo;
- (b) provision for improvement of facilities for passengers;
- (c) provision for payment of expenses for the administration of this Act;
- (d) generally for such items of works and services essential for the efficient functioning of the port.

**8. Port Fees Fund Account.**—(1) For every port there shall be a separate account called the Port Fees Fund Account with which shall be merged the Port Fund Account and the General Account of the Port specified in section 36 of the Indian Ports Act, 1908 (Central Act XV of 1908). Such account shall be kept and maintained by such authority and in such manner as may be prescribed.

(2) All moneys received under this Act, all moneys received under the Indian Ports Act, 1908, to be credited in the Port Fund Account and all other moneys received on account of any port under any other law or otherwise, shall be credited in the Port Fees Fund Account of that port.

**9. Grouping of ports.**—(1) The State Government may by notification direct that for the purposes of section 8, any number of ports in the State shall be regarded as constituting a single port, and thereupon all moneys to be credited to the Port Fees Fund Account under section 8 shall form a common Port Fund Account called the '[Karnataka Ports Funds Account]' which shall be available for the payment of all expenses incurred for the sake of any of the ports.

(2) Where ports are grouped under sub-section (1), the following consequences shall ensue, namely:—

(a) the State Government may make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorised by this Act and the Indian Ports Act, 1908; and

(b) the State Government may exercise the authority under this Act and under section 34 of the Indian Ports Act, 1908, as regards all the ports in the group collectively or as regards any of them separately.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

**10. Rules.**—(1) The State Government may, after previous publication, by notification make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules may be made,—

(a) appointing places where goods or particular classes of goods intended for shipment or landed from ships within the port are to be placed for the purpose of assessing the fees payable under this Act and places where passengers may embark or disembark;

(b) prescribing the fees and penalties payable under section 3;

(c) regulating the manner in which such fees shall be assessed and the time when they shall be paid;

(d) providing for the manner in which table of fees shall be displayed at any port;

(e) providing for the ascertainment and recovery of the amount of any damage that may be caused to a pier, jetty, wharf or quay in a port by any person or by any vessel or drift;

(f) prescribing the uniforms or badges to be worn by officers and persons exercising powers under section 4;

(g) providing for management of the traffic over, in or about and to and from every area within the port limits;

(h) prescribing the authority and the manner of maintaining the Port Fees Fund Account and the <sup>1</sup>[Karnataka Ports Funds Account]<sup>1</sup>

(i) generally for carrying out the purposes of this Act.

(3) Any rule made under this section may provide that a breach thereof shall, on conviction, be punished with fine which may extend to <sup>2</sup>[One lakh rupees]<sup>2</sup> and when the breach is a continuing one with further fine which may extend to <sup>2</sup>[five thousand rupees]<sup>2</sup> for every day after the first during which the breach continues.

1. Adapted by the Karnataka Adaptation of Laws Order 1973 w.e.f. 1.11.1973

2. Substituted by Act 9 of 2007 w.e.f. 28.04.2007

(4) 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 or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions 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 be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Adapted by the Karnataka Adaptation of Laws Order 1973 w.e.f. 1.11.1973

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

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this section has been committed by a company and it is

proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purpose of this section,—

- (a) “company” means any 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.

**12. Effect of Act.**—The provisions of this Act shall have effect notwithstanding anything inconsistent with the provisions of the Indian Ports Act, 1908 (Central Act XV of 1908).

**13. Protection of officers, etc.**—(1) All officers and all persons appointed or authorised to perform any duty or exercise any power under any provisions of this Act or under any rule or order made thereunder shall be deemed when acting or purporting to act in pursuance of any of the provisions of this Act, or any rule or order made thereunder to be public servants within the meaning of section 21 of the Indian Penal Code.

(2) No suit, prosecution or other legal proceeding shall lie against any officer or person appointed or authorised to perform any duty or exercise any power under any provision of this Act or under any rule or order made thereunder for anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against the State Government for any damage caused by anything in good faith done or intended to be done under this Act.

**14. Repeal and savings.**—The Madras Outports Landing and Shipping Fees Act, 1885 (Madras Act III of 1885) and the Bombay Landing and Wharfage Fees Act, 1882 (Bombay Act VII of 1882), are hereby repealed:

Provided that section 6 of the <sup>1</sup>[Karnataka]<sup>1</sup> General Clauses Act, 1899 (<sup>1</sup>[Karnataka]<sup>1</sup> Act III of 1899), shall be applicable in respect of such repeal and sections 8 and 24 of the said Act shall be applicable as if the said Acts had been repealed and re enacted by this Act.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

**NOTIFICATION**

**Bangalore, dated 6<sup>th</sup> July, 1964 [No.PWD 75 CSP 61]**

**S.O.936.-** In exercise of the powers conferred by sub-section (3) of section 1 of the Mysore Ports (Landing and Shipping Fees)Act 1961 (Mysore Act No. 20 of 1961), the Government of Mysore hereby appoints 15<sup>th</sup> July 1964 as the date on which the said Act shall come into force.

By Order and in the name of the  
Governor of Karnataka

(M.V. PANDIT)  
Deputy Secretary,

(Published in the Karnataka Gazette Part IV-2C (ii) dated 9<sup>th</sup> July, 1964 at page 9)

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