

The Karnataka State Civil Services (Regulation of Transfer of Medical Officers and other Staff) Act, 2011

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Act 2 of 2011

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The Karnataka State Civil Services (Regulation of Transfer of Medical Officers and other Staff) Act, 2011(Karnataka Act No. 2 of 2011)Statement of Objects and Reasons - Act 2 of 2011. - It is considered necessary to regulate transfer of Medical Officers as well as other staff in Health and Family Welfare Department and Ayush Department, so as to ensure availability of Medical officers and other staff in Government hospitals in rural areas, thereby achieving the following objectives, namely:-(a) Transparency in transfer through process of counseling;(b) Ensuring minimum years of service in rural area in respect of Medical Officers and other staff;(c) Ensuring that Specialists or Senior Specialists work in a post commensurate with their qualification.Hence, the Bill. (L.C.Bill No. 01 of 2011, File No:Samvyashae 03 Shasana 2011)(Entry 41 of List II of the Seventh Schedule to the Constitution of India.)(First Published in the Karnataka Gazette Extra-ordinary on the Third day of February, 2011)(Received the assent of the Governor on the First day of February, 2011)An Act to provide for regulation of transfer of medical officers and other staff of the department of Health and Family Welfare so as to ensure the availability of medical officers and other staff in Government hospitals in rural areas.Whereas, it is expedient to provide for regulation of transfer of medical officers and other staff so as to ensure the availability of medical officers and other staff in Government hospitals in rural areas and for the matters connected therewith or incidental thereto;Be it enacted by the Karnataka State Legislature in the sixty first year of the Republic of India, as follows:-

1. Short title and commencement.

(1)This Act may be called the Karnataka State Civil Services (Regulation of Transfer of Medical Officers and other Staff) Act, 2011.(2)It shall come into force from such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"appointment" means appointment by direct recruitment or absorption or promotion or by change of cadre of Medical Officer or other staff;(b)"appointing authority" means the authority competent to make appointment to the respective cadres;(c)"competent authority" means the authority competent to make orders of transfer of a Medical Officer or other staff;(d)"Government" means the Government of Karnataka;(e)"Government hospital" means and includes district hospital, other major hospital, urban family welfare center, women & child hospital, general hospital at taluk level, community health center, urban primary health center, primary health center, sub center, mobile health unit, mobile tribal unit, maternity centre and AYUSH hospital, institution, centre or any other center by whatever name called and established by the Government belonging to any system of medicine;(f)"Government Institution" includes a Training center, an administrative office or any other institution by whatever name called and established by the Government belonging to any system of medicine;(g)"medical officer" means a medical officer appointed by the Appointing Authority to any of the category of posts specified in Schedule - I;(h)"other staff" means a person appointed by the Appointing Authority to any of the category of posts specified in Schedule - II;(i)"process of counseling" means the process of giving opportunity to a person, considered for appointment or transfer, to opt a place or post on priority which is being given based on the length of service put in by him in the place or Zone where he is working and such other criteria as may be prescribed;(j)"project post" means a post under a project assisted either by a foreign Agency or Government of India, created for a specific objective and for a specific tenure;(k)"rural area" means the area other than the urban areas;(l)"schedule" means schedule appended to this Act;(m)"senior specialist" means a medical officer who has Post Graduate Degree or Post Graduate Diploma qualification and is working as senior specialist;(n)"specialist" means a medical officer who has Post Graduate Degree or Post Graduate Diploma qualification and is working as specialist;(o)"transfer" means posting of a Medical Officer or other staff from one place of working to a post in another place of working;(p)"urban area" means any area situated within the limits of a city corporation, city municipal council, town municipal council, town panchayat or other notified areas specified under the Karnataka Municipal Corporations Act, 1976 or the Karnataka Municipalities Act, 1964 and upto such distance away from the limits of the above area notified as such by the Government from time to time;(q)"Zone-A" means urban area within the limits of a city corporation or city municipal council at a district headquarters;(r)"Zone-B" means urban area within the limits of a city municipal council which is in a place other than a district headquarter or a town municipal council or town panchayat and areas notified as urban areas;

3. Initial appointment, transfer or promotion to be through counseling.

- The initial appointment, transfer or promotion of a Medical Officer or other staff under this Act, shall be done through a process of counseling conducted in such manner as may be prescribed: Provided that the provisions relating to transfers through process of counseling shall not apply to the posts identified as project posts, the posts of District Health and Family Welfare Officer, District Surgeon, Principal of Training Institute, Joint Director, Deputy Director, Superintendent of a major hospital of Health and Family Welfare Services and District Ayush Officer and Deputy

Director of Ayush Department.

4. Compulsory appointment of a medical Officer or other staff in rural areas.

(1)The Appointing Authority or the Competent Authority while making initial appointment or promotion of a Medical Officer or other staff to a Government Hospital or Government Institution shall ensure that vacancies in rural areas are filled in the first instance:(2)A Medical Officer or other staff who is in service on the date of commencement of this Act and has not served for a prescribed number of years in the rural area before the date of commencement of the Act shall be transferred to a post in rural area:Provided that the provisions relating to compulsory transfer of Medical Officer or other staff to the rural area shall not apply to a person who has attained the age of fifty years.(3)If no vacancy is available for initial appointment or promotion, in respect of the post for which compulsory rural service is prescribed, a vacancy may be created by transfer of a Medical Officer or other staff who has completed the prescribed number of years of rural service to another place in Zone B and if no vacancy is available in Zone B a person who has served longer period in Zone B may be transferred to Zone A of urban area.

5. Compulsory appointment or transfer or promotion of a specialist or senior specialist to appropriate post.

(1)No Specialist or Senior Specialist with Post Graduate Degree or Diploma shall be posted or transferred to work in a post which is not identified as specialist post related or commensurate to the subject or specialisation in which he possesses Post Graduate Degree or Post Graduate diploma.(2)Where a specialist or senior specialist who is working in a post which is not identified for the Post Graduate Degree or Post Graduate Diploma specialisation which he possesses on the date of commencement of this Act, he shall be transferred to the post identified for the specialised qualification, possessed by him:Provided that the provision of this section shall not apply to the posts of District Health and Family Welfare Officer, District Surgeon, Principal of Training Institutes, Joint Director, Deputy Director, Programme Officer at the district level and Superintendent of a major hospital of health and family welfare services.

6. Transfer of Medical Officer or Other Staff in public interest.

(1)A Medical Officer or other staff who is in service on the date of commencement of this Act and has completed the prescribed number of years of continuous service in any Government hospital or Government Institution in an area or zone may be transferred through process of counseling by giving priority to persons put in longer period of service in that area or post and considering such other criteria as may be prescribed, to another Government hospital or Government Institution in the same area or zone or to any other area or Zone in the following order, namely:-(1)rural area;(2)Zone - B in urban area and thereto;(3)Zone - A in urban area.Provided that the total number of such transfers during the year shall not exceed five percent of the number of the working strength in that cadre.(2)A Medical Officer or other staff, on reinstatement from suspension shall not be posted to an area or zone higher than the area or zone, where he was working before suspension.

7. Penalties.

- If, any competent authority makes or any Government servant makes an order of posting or appointment or transfer in contravention of the provisions of this Act or the rules made thereunder, such competent authority or the Government servant as the case may be, shall be liable for disciplinary action under the disciplinary rules applicable to civil servants.

8. Act to override other laws.

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

9. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the official Gazette make provisions not inconsistent with the provisions of this Act as it appears to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

10. Power to amend the Schedule.

- The Government may, by notification, add, alter or remove any of the entries specified in the Schedule.

11. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any officer of the Government for anything done in good faith or intended to be done under this Act.

12. Power to make rules.

(1)The Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.(2)Any rule made under this Act may be made with retrospective effect and when such a rule is made, the reasons for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature and subject to any modification made under sub-section (3), every rule made under this Act shall have effect as if it is enacted under this Act.(3)Every rule made or notification issued 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 notification or decide that any rule or notification should not be made, the rule or notification 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 or notification.

13. Transitory provisions.

- Any rule, notification, order or appointment, made or issued under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) or otherwise providing for or relating to any of the matters for the furtherance of which this Act is enacted, before the commencement of this Act and in force on the date of commencement of this Act, to the extent they are not inconsistent with the provisions of this Act, shall continue to be in force and effective as if they are made or issued or appointed under the corresponding provisions of this Act unless and until superseded by anything done or any action taken or any rule, notification, order or appointment, made under this Act.

I

(See section 2 (g), (l) and section 10) Posts which come under the meaning of 'Medical Officer'

Sl. No.	Category of Posts
1.	Senior Specialist/Specialist/Deputy Chief Medical Officer/Senior Medical Officer. General Duty Medical Officer/Physician - Grade
2.	I(Ayurveda/Unani/Homoeopathy/Naturopathy/Siddha and Yoga)/Physician - Grade II(Ayurveda/Unani/Homoeopathy/Naturopathy/Siddha and Yoga).
3.	Chief Dental Health Officer/Senior Dental Health Officer/Dental Health Officer.

II

(See section 2 (h) (l) and section 10) Posts which come under the meaning of 'other Staff'

Sl. No.	Category of Posts
1	Group "B" staff of Health and Family Welfare Department and AYUSH Department excluding those covered in Schedule - 1.
2	Group "C" staff of Health and Family Welfare Department and AYUSH Department.
3	Group "D" staff of Health and Family Welfare Department and AYUSH Department.

The above translation of PÀ£ÁðlPÀgÁdâ 1«¯i , ÉÃªÉUÀ¼À(ªÉÊzÁâçsPÁjUÀ¼ÀÄªÄvÄÄÛ
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