

THE KARNATAKA PRISON DEVELOPMENT BOARD ACT, 2021

KARNATAKA

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Act 34 of 2021

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KARNATAKA ACT NO. 34 OF 2021(First Published in the Karnataka Gazette Extra-ordinary on the 7th day of October, 2021)THE KARNATAKA PRISON DEVELOPMENT BOARD ACT, 2021(Received the assent of the Governor on the 5th day of October, 2021)An Act to provide for the constitution of the 'Karnataka Prison Development Board' for strengthening of Prisons and Correctional administration particularly Correctional interventions, welfare of Prisoners and Prisons Staff and expanding Prison industries, and for matters connected therewith or incidental thereto.Whereas, it is expedient to provide for the establishment the Karnataka Prison Development Board to examine the living conditions of prisoners and to contemplate the appropriate correctional programs which can enable the prisoners to re-assimilate in the society, to develop the Prison industries and formulate plan for modernization of Prisons and job oriented programmes including technical programs in different areas and trades to earn the incentives and for matters connected therewith or incidental thereto.Be it enacted by the Karnataka State Legislature in the seventy second year of the Republic of India, as follows:-

Chapter I

PRELIMINARYBODY

1. Short title and commencement.-(1) This Act may be called the Karnataka Prison Development Board Act, 2021.

(2)It shall come into force on such date as the Government may, by notification, appoint.

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

(a)“Board” means the Karnataka Prison Development Board constituted under section

3;(b)“Building” includes a house, dormitory, barrack, cell, latrine, godown, factory shed, hut, wall or any other structure whether of masonry, bricks, mud, wood, metal, cement, concrete or any other

material whatsoever;(c)“Chairperson” means the chairperson of the Board;(d)“Commissioner” means commissioner of the Board;(e)“competent Authority” means any officer appointed as such by the Government having jurisdiction and with due legal authority to deal with a particular matter;(f)“Fund” means Prison Development fund of the Board;(g)“Government” means the Government of Karnataka;(h)“Land” includes rights in or over land and benefits to arise out of land, and buildings, structures and other things attached to the earth or permanently fastened to anything attached to earth;(i)‘Member’ means member of the Board;(j)'Member Secretary' means member secretary of the Board;(k)“Notification” means a notification published in the official Gazette of Government of Karnataka and the word “notified” shall be construed accordingly;(l)“prescribed” means prescribed by rules by the Government;(m)“Prison” means any prison or jail or place by whatever name called, including all lands and buildings, appurtenant thereto, used permanently or temporarily under the general or special order of the State Government for the detention of prisoners and includes all Central Prison or District Prison or Taluka Prison or Revenue Prison or Open Prison or Women Prison or any other Prison so notified by the Government from time to time;(n)"Schedule" means schedule appended to this Act.(o)"Vice-Chairperson" means Vice-Chairperson of the Board.

Chapter II

ESTABLISHMENT OF THE BOARD

3. Constitution and composition of the Board.- (1) As soon as may be, after the commencement of this Act, the Government may, by notification in the Official Gazette establish a Board to be called the Karnataka Prison Development Board.

(2)The Board constituted under sub section(1) shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.(3)The Board shall have its Head Quarters at Bengaluru.(4)The Board shall consist of the following members, namely:-(a)Minister in-charge of Prison Chairperson(b)The Additional Chief Secretary, Home Department Vice Chairperson(c)The Additional Chief Secretary, Finance Department or his representative not below the rank of Deputy Secretary Ex-officio Member(d)Director General and Inspector General of Police Ex-officio Member(e)The Principal Secretary or Secretary to Government, Home Department (P C A S) Ex-officio Member(f)The Commissioner, Industries and Commerce Department Ex-officio Member(g)The Health Commissioner, Health and Family Welfare Services Department. Ex-officio Member(h)The Director, Skill Mission, Skill Development Ex-officio Member(i)The Director, Department of Agriculture Ex-officio Member(j)The Director, Department of Horticulture Ex-officio Member(k)The Director, Department Animal Husbandry and Veterinary service Ex-officio Member(l)The Director General, Prisons and Correctional Services Member- Secretary

4. Inviting experts to the meetings of the Board:The Board may, from time to time, invite experts in the fields of Prison Administration, Medicine, Architecture, Engineering, Social Work, Sociology, Psychology, psychiatry, Industrial Management and any other relevant field to be special invitees to the meetings of the Board as it may consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed.

5. Meetings of the Board:-

(1)The meetings of the Board shall be convened by the MemberSecretary with the approval of the Chairperson.(2)The Board shall ordinarily meet at such time and place as the Chairperson may decide, provided that at-least once in every three months;(3)The Chairperson may authorize the Vice-Chairperson to preside over the meeting of Board in absence;(4)The procedure in regard to transaction of business at the meetings including the Quorum shall be such as may be prescribed;

6. Vacancy etc. not to invalidate the acts and proceedings of the Board.-No act or proceedings of the Board shall be invalid on the ground merely of the existence of the any vacancy in, or defect in the constitution of Board or any defect in the appointment of a person acting as the Chairperson or the Vice-Chairperson or Member;

7. Appointment of staff.-The Board may appoint such officers and employees as may be required to enable the Board to carry-out its functions under this Act, in such a manner subject to such conditions as may be prescribed. provided no post shall be created without prior approval of the Board.

8. The Commissioner.-(1) The Government shall appoint Director General of Prison as the commissioner of the Board. The commissioner shall be the Chief Controlling Authority of the Board in all matters connected with the administration of this Act.

(2)The commissioner shall receive such salary and allowances as Government may from time to time determine.

9. Functions of the Board.-(1)Subject to the provisions of this Act, the functions of the Board shall be,-

(a)to examine the living conditions of the prisoners in the prisons and ways to improve the same;(b)to suggest ways and means for improving co-ordination between the Criminal Justice

Agencies like police, courts and prison;(c)to frame a policy for marketing of prison products; to give preference to prison products, while purchasing articles for the office use, by the various Government Departments or Organizations;(d)to plan, implement, evaluate and co-ordinate various skill development programs, vocational training programs, welfare programs and other programs of the Central, State Government and other Organizations;(e)to prepare policy to be laid down and to organize Prison industries on business cum commercial basis; to identify and ensure new means of revenue generations;(f)to improve the skills and competency of the Prison Officers and employees and that of the Board as well as to ensure the welfare of the Officers and employees of the Department of Prison and Correctional Services and Board;(g)to provide an enabling environment to the prisoners and help them in such a way so that they may be able to lead a sustainable and productive life as law-abiding citizens after their release;(h)to upgrade the resources for efficient management of Prisons, and wherever required, by way of acquisition of assets, whether movable or immovable, including computers, communication facilities, gadgets, vehicles, security or surveillance equipment, video- conferencing based trial facilities etc;(i)to reform and re-assimilate prisoners in the social milieu by giving them appropriate correctional treatment; and(j)to undertake programmes and scheme for betterment of prisoners, including but not limited to, education, vocational or skill training manufacturing activities, agriculture, poultry, dairy or fish farming, horticulture and such other occupational, commercial, industrial, sports and welfare activities which help in development of prisons;(2)For the efficient discharge of the duties entrusted to it, the Board shall exercise such powers and perform such functions as are conferred, or imposed under this Act or the ruled made there under.

Chapter III

FINANCE OF THE BOARD'S, ACCOUNTS AND AUDIT

10. Prison development fund.-(1) The Board shall have and maintain its own fund in the name and Style of 'Prisons Development Fund' to which shall be credited;-

(a)all moneys received by the Board from the Central and State Governments, by way of grants, loans, advances or otherwise;(b)all moneys borrowed by the Board by way of loans or debentures;(c)all moneys generated by the agricultural, horticultural, industrial or manufacturing activities undertaken by the prisoners in Prisons;(d)all fees, charges, bank interests, deposits and profits received by the Board from any leasing or commercial activities carried out;(e)all moneys received by the Board after disposal of lands, buildings, and other properties. (movable or immovable);(f)all moneys received by the Board by way of donations from approved Non Government Organizations, Registered Charitable Institutions or bodies, Corporate Social Responsibility (CSR) funds from the companies;(g)all money received by the Board by way of profits by running of Canteens or Provision Stores or any other commercial business activities in the Prison and Prison premises or any other means.(h)all money received by the Board from Karnataka discharged Prisoners Aid Society: and,(i)all moneys received by the board by way of rent or any other source;(2)The Fund shall be applied towards meeting the expenses incurred by the Board in

the administration of this Act, and for such other purpose, as may be prescribed.(3)The Board may keep such sum of money out of its funds in deposit in any of the nationalized banks, and any money in excess of said sum shall be invested in such manner as may be prescribed.

11. Power of the Board to borrow.-The Board may, from time to time, subject to such conditions as may be prescribed borrow any sum required for the purposes of this Act.

12. Grants, advances and loans from Government.-The Government may, make such grants, advances and loans to the Board as the Government may deem necessary for the performance of the functions of the Board under this Act, and all grants, loans or advances made shall be on such terms and conditions as the Government may determine.

13. Delegation of Powers.-The Board may by resolution delegate any of the powers conferred on it by or under this Act to the Commissioner.

14. Budget and Annual Report.-(1)The Board shall prepare Budget every year in such manner and in such form as may be prescribed, its annual report giving a true and fare account of its activities during the previous year and submit the said report to the Government.

(2)The Board shall furnish to the Government such returns or other information with respect to its activities as the Government may, from time to time, require.

15. Accounts and Audit.-(1) The Board shall maintain proper accounts and other relevant records, and prepare an Annual Statement of accounts in such form as may be prescribed.

(2)The financial year of the Board shall be same as the financial year followed by the State Government.(3)The accounts of the Board shall be subject to the annual audit by the Accountant General Office, after the close of each financial year and any expenditure incurred in connection with such audit shall be payable by the Board.(4)Audit report along with compliance thereupon shall be forwarded annually to the Government,Which shall be laid before each house of the State Legislative.

Chapter IV

ACQUISITION, MAINTENANCE AND DISPOSAL OF LANDS AND BUILDINGS

16. Vesting of Prison lands and building in the Board.-On and from the date of commencement of this Act, all land and building appurtenant thereto in the charge or possession or use of the Prisons and Correctional Service Department of the Government of Karnataka other than specified in the schedule shall vest in the Board and be subject to its control.

17. Acquisition of Land.-(1) If, in the opinion of the Board, any land is required to be acquired for any activities of the Board, the Board may request the Government or competent authority to acquire such land under the provisions of the Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act No.30 of 2013).

(2)Where in the opinion of the Board, there is suitable land belonging to a Government of Karnataka or a Private individual, it may acquire said land by way of payment of market value, as fixed by the concerned Deputy Commissioner or competent authority.(3)The Board may, in case of disagreement with the recommendations of the Deputy Commissioner or Competent authority under sub-sections (2), refer the same, along with its views, to the Government, whose decision shall be final.

18. Disposal of land, buildings etc., by the Board.-(1) The Board may, subject to such rules as may be made in this behalf retain, lease, sell, exchange or otherwise dispose of;

(a)any land or building or property whether movable or immovable in its possession; and(b)any other land or building or property whether movable or immovable consequent upon decommissioning of any Prison. Provided that Board shall not dispose off immovable property under clause (a) and (b) without prior approval of the Government.(2)The consideration or proceeds obtained by disposal or otherwise of a land or building or property under sub-section (1) shall be credited to the "Prison Development Fund"

Chapter V

MISCELLANEOUS

19. Power to make rules.-(1) The Government may, by notification and after previous publication make rules for carrying out all, or any of the purposes of this Act.

(2)Government shall make rules within six months of notification of this Act.(3)In particular, and

without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(i)regarding the terms and conditions of inviting experts, under section(ii)regarding the quorum and procedure of the meeting, under sub- section (iv) of section 5;(iii)regarding method of recruitment and condition of service of officers and employees of the Board, under section 7;(iv)regarding the purposes for which the Prison Development Fund shall be used, under sub-section (2) of section 10;(v)the manner of investing the excess money, under sub-section (3) of section 10;(vi)regarding conditions of borrowing any sum required by the Board for the purposes of this Act, under section 11;(vii)the manner and form of Budget, under sub-section (1) of section 14;(viii)the form and manner of Annual Statement of accounts of the Board, under sub-section (1) of section 15; and(ix)to make rules, to carry out the purposes of the Act.(4)Every rule made by the Government 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 it, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.

20. Certain persons to be public Servants.-All members, officers and employees of the Board while acting or purporting to act in pursuance of the provisions of this Act or any rule or regulation made there under, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860. (Central Act No.45 of 1860)and the Prevention of Corruption Act, 1988. (Central Act 49 of 1988)

21. Protection of action taken under this Act.-No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

22. General administrative control by the Government.-(1) The Government shall have general administrative control and supervision over all the activities and affairs of the Board.

23. Overriding effects.-The Board so constituted under this Act shall have overriding effect on any other rules or orders or instructions issued earlier relating to functioning of Prison industries, welfare programmers for prisoners and prison staff, and other related activities as mentioned in this Act.

24. Winding of the Karnataka Discharged Prisoners Aid Society or any other society.-The society running in the name of 'Karnataka discharged Prisoners Aid Society' or any other such societies running in any Prison in the State Shall be wound up by the due process of law, and the activities undertaken by the said society and all assests and liabilities of the society shall be subsumed in the Board.

25. Power to amend the Schedule.-(1) The Government may by notification insert, amend or omit any of the entries of the schedule.

(2)Every notification issued under sub-section (1) shall be laid before both house of the legislature.

26. Power of the Government to give directions.-The Government may give such directions to the Board as in its opinion are necessary or expedient for carrying out the purpose of this Act and it shall be the duty of the Board, to comply with such directions after bringing to the notice of the Chairman.

27. Power to remove difficulty.-(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by notification, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty. Provided that, no such notification shall be issued after the expiry of two years from the date of commencement of this Act.

(2)All orders made under this section, shall as soon as may be after it is made, be laid before both houses of the State legislature.

Schedule

(see sec 2(n) and Section 25)The properties which do not vest in the Board are,-(i)any place for the confinement of prisoners who are exclusively in the custody of the police;(ii)any place specially appointed by the Government under the Code of Criminal Procedure;The above translation of
, 2021 (2021 : 34) be
published in theofficial Gazette under clause (3) of Article 348 of the constitution of India.