

# THE KARNATAKA POLICE (AMENDMENT) ACT, 2021

KARNATAKA

India

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### Act 28 of 2021

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KARNATAKA ACT NO.28 OF 2021(First Published in the Karnataka Gazette Extra-ordinary on the 5th Day of October 2021)THE KARNATAKA POLICE (AMENDMENT) ACT, 2021(Received the assent of the Governor on the 4th day of October, 2021)An Act further to amend the Karnataka Police Act, 1963.Whereas it is expedient further to amend the Karnataka Police Act, 1963(Karnataka Act 4 of 1964), for the purpose hereinafter appearing:Be it enacted by the Karnataka State Legislature in the Seventy second year of the Republic of India as follows:-

#### **1. Short title and commencement.-(1) This Act may be called the Karnataka Police (Amendment) Act, 2021.**

(2)It shall come into force at once.

#### **2. Amendment of Section 2.-In section 2 of the Karnataka Police Act, 1963 (Karnataka Act 04 of 1964) (here in after referred to as the Principal Act) in clause (3)**

(a)after the words "Profit or gain" occurring in two places the words "or otherwise" shall be inserted.(b)in clause (7),(i)for the words "gaming" does not include a lottery but includes all forms of wagering or betting in connection with any game of chance except wagering or betting on a horse-race run on any race course within or outside the State, when such wagering or betting takes place" the words "gaming means and includes online games, involving all forms of wagering or betting, including in the form of tokens valued in terms of money paid before or after issue of it, or electronic means and virtual currency, electronic transfer of funds in connection with any game of chance, but does not include a lottery or wagering or betting on horse-race run on any race course within or outside the State, when such wagering or betting takes place" shall be substituted.(ii)in the explanation in item (i) the following shall be inserted at the end, namely:- "any act or risking money, or otherwise on the unknown result of an event including on a game of skill and any action specified above carried out directly or indirectly by the players playing any game or by any third parties".(c)for clause (11) the following shall be substituted, namely:- "(11) 'Instruments of gaming' includes any article used or intended to be used as a subject or means of gaming, including

computers, computer system, mobile app or internet or cyber space, virtual platform, computer network, computer resource, any communication device, electronic applications, software and accessory or means of online gaming, any document, register or record or evidence of any gaming in electronic or digital form, the proceeds of any online gaming as or any winning or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming; Explanation: The words 'computer', 'communication device', 'computer network', 'computer resource', 'computer system', 'cyber café' and 'electronic record' used in this Act shall have the respective meaning assigned to them in the Information Technology Act, 2000 (Central Act 21 of 2000)". (d) after clause (12) the following shall be inserted, namely:- "(12A) 'Online gaming' means and includes games as defined in clause (7) played online by means of instruments of gaming, computer, computer resource, computer network, computer system or by mobile app or internet or any communication device, electronic application, software or on any virtual platform;" (e) In clause (13), the following shall be inserted at the end, namely:- "including a recreation club or on virtual platform, mobile app or internet or any communication device, electronic application, software, online gaming and computer resource as defined in Information Technology Act, 2000 (Central Act 21 of 2000) or under this Act;"

### **3. Amendment of Section 78.-In section 78 of the Principal Act, In sub-section (1) in clause (a),-**

(a) after the words "enclosure, vehicle, vessel or place" the words and figures "or at cyber café or online gaming involving wagering or betting including computer resource or mobile application or internet or any communication device as defined in the Information Technology Act, 2000 (Central Act 21 of 2000)" shall be inserted. (i) in clause (vi) after the words "depend on chance or" the words "skill of other" shall be inserted. (ii) after the clause (vi) the following shall be inserted, namely:- "(vii) on any act on risking money or otherwise on the unknown result of an event including on a game of skill"; or (iii) in the hanging para for the words "one year" the words "three years" and for the words "one thousand" the words "one lakh" shall be substituted. (iv) in the proviso for the words "one month" the words "six months" and for the words "five hundred" the words "ten thousand" shall respectively be substituted; (b) In sub-section (2),-(i) after the words "sub section or present" the words "or aids or abets" shall be inserted; (ii) for the words "one month" the words "six months" and for the words "five hundred" the words "ten thousand" shall be respectively substituted; (c) In sub-section (3), for the words "three months" the words "one year" and for the words "three hundred" the words "twenty thousand" shall be respectively substituted.

### **4. Amendment of Section 79.- In section 79 of the Principal Act,- (i) in the hanging para, for the words "one year" the words "three years" shall be substituted and after the word "fine" the words "up to rupees one lakh" shall be inserted;**

(ii) in the proviso,-(a) in clause (a) for the words "three months" the words "six months" and for the words "five hundred" the words "ten thousand" shall be respectively substituted; (b) in clause (b) for the words "six months" the words "one year" and for the words "five hundred" the words "fifteen

thousand" shall be respectively substituted; and(c)in clause (c) for the words "nine months" the words "eighteen months" and for the words "one thousand" the words "twenty thousand" shall be respectively substituted.

## **5. Amendment of Section 80.-In section 80 of the Principal Act,-**

(i)for the words "one year" the words "three years" shall be substituted and after the word "fine" the words "upto rupees one lakh" shall be inserted;(ii)in the proviso,-(a)in clause (a) for the words "one month" the words "six months" and for the words "two hundred" the words "ten thousand" shall be respectively substituted;(b)in clause (b) for the words "three months" the words "one year" and for the words "two hundred" the words "fifteen thousand" shall be respectively substituted; and(c)in clause (c) for the words "six months" the words "eighteen months" and for the words "five hundred" the words "twenty thousand" shall be respectively substituted.

## **6. Amendment of Section 87.-In section 87 of the Principal Act,-**

(a)after the words "suspected to be gaming" the words "or aiding or abetting such gaming" shall be inserted;(b)for the words "three months" the words "six months" and for the words "three hundred" the words "Ten thousand" shall be respectively substituted.

## **7. Amendment of Section 114.- In section 114 of the Principal Act, after the words “fine” the words “which shall not be less than twenty five thousand but which may extend to rupees one lakh” shall be inserted.**

## **8. Insertion of section 128A.-After section 128 the Principal Act the following shall be inserted, namely:-**

“128A.Certain offences to be Cognizable, Non-bailable,-(1)All offences under chapter VII except section 87; and all offences under section 90, 108, 113, 114 and 123 under chapter VIII shall be cognizable and non-bailable;(2)Offences under section 87 shall be cognizable and bailable .”

## **9. Amendment of section 176.-In section 176 of the Principal Act, the words “and to wagering by persons taking part in such game of skill” shall be omitted.**

[The High Court of Karnataka in All India Gaming Federation v. State of Karnataka (February 14, 2022) declared certain provisions of the Karnataka Police (Amendment) Act, 2021 as unconstitutional, which prohibited and criminalized the activities of offering and playing online games, by risking money or otherwise. The provisions of Sections 2, 3, 6, 8 & 9 of the Karnataka Police (Amendment) Act 2021 are declared to be ultra vires of the Constitution of India in their entirety and accordingly are struck down. The Bench also restrained the Government from interfering with the online gaming business and allied activities while making it clear that nothing in

this judgment shall be construed to prevent an appropriate legislation being brought about ‘Betting & gambling’ in accordance with provisions of the Constitution. These games are rummy, carrom, chess, pool, bridge, crosswords, scrabble and fantasy sports such as cricket. “In the considered view of this court, the impugned legislative action that has clamped an absolute embargo on all games of skill defies the principle of proportionality and is far excessive in nature and therefore violates Article 14 of the Constitution on the ground of manifest arbitrariness,” the Bench said. The High Court held that games of skill are a kind of expression of the individual and therefore fall within the protective contours of Article 19(1)(a) and Article 21 of the Constitution, subject to reasonable restrictions.

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