

THE REGISTRATION (GUJARAT AMENDMENT) BILL, 2020.

GUJARAT BILL NO. 7 OF 2020.

A BILL

further to amend the Registration Act, 1908 in its application to the State of Gujarat.

It is hereby enacted in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Registration (Gujarat Amendment) Act, 2020.

Short title and commencement.

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

Insertion of new section 17A in XVI of 1908. **2.** In the Registration Act, 1908, in its application to the State of Gujarat (hereinafter referred to as “the principal Act”), after section 17, the following section shall be inserted, namely:- **XVI of 1908.**

Power of State Government to prepare and circulate Model Draft in standard Format or Form. **17A.** Notwithstanding anything contained in any other provisions of this Act, the State Government may prepare and circulate standard format or form of various kinds of documents for the guidance of general public, which may be used with or without modifications.

Explanation: for the purpose of this section, the use of a standard format or form prepared and circulated under this section shall not preclude the description of the property required under sections 21 and 22.

Amendment of section 34 of XVI of 1908. **3.** In the principal Act, in section 34, -
 (i) in sub-section (1), after the existing proviso, the following proviso shall be added, namely:-

“Provided further that the registering officer may refuse to register the non-testamentary instruments relating to immovable property mentioned in sub-section (1) of section 17, if they are not accompanied by such documents relating to proof of ownership of right, as may be specified by the State Government, by notification in the *Official Gazette*.”;

(ii) to sub-section (3), the following provisos shall be added, namely:-

“Provided that the person executing documents, his identifier and claiming party shall, as far as possible, be required to submit his Aadhar number for the purpose of identity:

Provided further that the registering officer shall follow such procedure as the State Government may, by notification in the *Official Gazette*, specify in cases where the executing party is a power of attorney holder.”.

4. In the principal Act, after section 35, the following section shall be inserted, namely:-

**Insertion of
new section
35A in XVI
of 1908.**

**Documents
which shall
not be
registered.**

“35A. The following documents or class of documents shall not be registered under this Act, namely:-

- (a) the document relating to transaction which is prohibited by any existing Central Act or State Act for the time being in force;
- (b) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or lease or otherwise in respect of any immovable property owned by the Central Government or the State Government or any authority or undertaking of the Central Government or the State Government or any authority or undertaking constituted or established under any Central Act or the State Act, for the time being in force, executed by any person who is not empowered to do so;
- (c) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or permanent alienation or lease or otherwise pertaining to any immovable property which is attached permanently or provisionally by any competent authority under any Central Act or a State Act, for the time being in force or any court or tribunal;
- (d) any document or class of documents which are likely to affect adversely the accrued interest in immovable properties of the Central Government, State Governments, local bodies, educational, cultural, religious or charitable institutions including wakf boards, *bhoodanyagna* or such other properties as may be specified by the State Government, by notification in the *Official Gazette*:

Provided that nothing in this section shall apply in respect of any document or class of documents for which sanction in this regard has

been issued by the competent authority under the respective law for the time being in force.”.

Insertion of new sections 82A to 82C in XVI of 1908.

5. In the principal Act, after section 82, the following sections shall be inserted, namely:-

Punishment for acts done in contravention of section 35A.

“82A. Whoever contravenes the provisions of section 35A shall, on conviction, be punishable with imprisonment for a term which may extend to seven years or with fine which shall be equal to the market value of such property or with both.

Punishment for coercion or fraudulent practice in registration by electronic means.

82B. Whoever intentionally indulges in the coercive or fraudulent practices in registration by electronic means shall be punishable with imprisonment for a term which may extend to seven years or with fine which shall be equal to the market value of such property or with both.

Punishment for misuse of power of attorney.

82C. Whoever intentionally deceives or misuses the authorization given under power of Attorney for the purpose of registration of documents related to immovable property, shall be punishable with imprisonment for a term which may extend to seven years or with fine which shall be equal to the market value of such property or with both.”.

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to have the provision in the Registration Act, 1908 which empowers the State Government to prepare and circulate standard format or form of various kinds of documents for the guidance of general public, which may be used with or without modifications. Accordingly, new section 17A is proposed to be inserted. *Clause 2* of the Bill provides for the same.

At present, there is no provision in the said central Act for inquiry of title of the property. Therefore, sub-section (1) of section 34 of the said central Act is proposed to be amended so as to provide a stable and guaranteed title of the property and to prevent the unauthorized persons from creating false title over the property. Moreover, it is also considered to specify the procedure to be followed by the registering officer in cases where the executing party is a power of attorney holder and also to make a provision for ascertaining the identity of the executing party, claiming party and identifier. Accordingly, sub-section (1) of section 34 of the said central Act is proposed to be amended. *Clause 3* of the Bill provides for the same.

There is no provision in the said central Act which empowers the registering officer to refuse certain documents or class of documents for registration-

- (i) relating to the transaction which is prohibited by any existing Central Act or State Act;
- (ii) relating to any immovable property owned by the Central Government or the State Government or any authority or undertaking of the Central Government or the State Government or any authority or undertaking constituted or established under any Central Act or the State Act;
- (iii) relating to any immovable property which is attached permanently or provisionally by any competent authority under any Central Act or a State Act;
- (iv) which are likely to affect adversely the accrued interest in immovable properties of the Central Government, State Governments, local bodies, educational, cultural, religious or charitable institutions including wakf boards, *bhoodanyagna* or such other properties as may be specified by the State Government.

In view of the above, the State Government considers it necessary to have an ample provision in the said Central Act and accordingly, new section 35A is proposed to be inserted. *Clause 4* of the Bill provides for the same.

It is also considered necessary to have some penal provisions to control over the crimes relating to certain transfer of property by imposing penalty on the accused and for eradication of civil disputes. Accordingly, new sections 82A to 82C are proposed to be inserted. *Clause 5* of the Bill provides for the same.

This Bill seeks to amend the said Central Act of 1908 to achieve the aforesaid objects.

KAUSHIK PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:--

Clause 1.— Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the said Act shall come into force.

Clause 3.— (i) New proviso to the existing proviso of sub-section (1) of section 34 proposed to be inserted by this clause empowers the State Government to specify by notification in the *Official Gazette*, the documents if they are not accompanied then the registering officer may refuse to register the non-testamentary instruments relating to immovable property mentioned in sub-section (1) of section 17;

(ii) the second proviso to sub-section (3) of section 34 proposed to be inserted by this clause empowers the State Government to specify by notification in the *Official Gazette*, the procedure to be followed by the registering officer in cases where the executing party is a power of attorney holder.

Clause 4.— Clause (d) of new section 35A proposed to be inserted by this clause empowers the State Government to specify by notification in the *Official Gazette*, the properties other than the immovable properties of the Central Government, State Governments, local bodies, educational, cultural, religious or charitable institutions including wakf boards, *bhoodanyagna*, the accrued interest of which

shall be adversely affected by registering the document or class of documents specified therein.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 19th March, 2020.

KAUSHIK PATEL.

GUJARAT LEGISLATURE SECRETARIAT

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**[SHRI KAUSHIK PATEL,
MINISTER FOR REVENUE]**

**(As published in the Gujarat Government Gazette of
the 19th March, 2020)**

D.M.PATEL,
Secretary,
Gujarat Legislative Assembly.

