



**KARNATAKA LEGISLATIVE ASSEMBLY
FIFTEENTH LEGISLATIVE ASSEMBLY
SEVENTH SESSION**

**THE KARNATAKA INDUSTRIES (FACILITATION) (AMENDMENT) BILL, 2020
(LA Bill No. 33 of 2020)**

A Bill further to amend the Karnataka Industries (Facilitation) Act, 2002.

Whereas it is expedient to amend the Karnataka Industries (Facilitation) Act, 2002 (Karnataka Act 45 of 2003) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the seventy first year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Industries (Facilitation) (Amendment) Act, 2020.

(2) It shall be deemed to have come into force with effect from 2nd day of July, 2020.

2. Amendment of section 2.- In the Karnataka Industries (Facilitation) Act, 2002 (Karnataka Act 45 of 2003) (hereinafter referred to as the principal Act) in section 2,-

(i) In clause (ia), the following shall be inserted at the end, namely:-

“the Legal Metrology Act, 2009 (Central Act 1 of 2010) or rules made there under, the Karnataka Municipalities Act, 1964 (Karnataka Act 22 of 1964), the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977), the Karnataka Grama Swaraj and Panchayat Raj Act, 1993 (Karnataka Act 14 of 1993), the Karnataka Industrial Area Development Act, 1966 (Karnataka Act 18 of 1966), the Karnataka Fire Force Act, 1964 (Karnataka Act 42 of 1964), the Karnataka preservation of Trees Act, 1976 (Karnataka Act 76 of 1976), the Karnataka Forest Rules, 1969, the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964), the Karnataka Land Reforms Act, 1961 (Karnataka Act 10 of 1962), the Bangalore Development Authority Act, 1976 (Karnataka Act 12 of 1976), the Karnataka Urban Development Authorities Act, 1987 (Karnataka Act 34 of 1987), the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963), and the policies of the Karnataka State Small scale Industries Development Corporation.”

(ii) after clause (vii), the following shall be inserted, namely:-

“(vii-a) “Manufacturing Enterprise” means the enterprise engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951 or employing plant and machinery in the process of value addition to the final product having a distinct name or character or use.

(vii-b) “Manufacturing industry” means the industry which involves in the manufacturing and processing of items and indulges in either creation of new commodities or in value addition.”

3. Amendment of section 13.- In section 13 of the principal Act,

(i) in sub-section (1), after clause (g), the following shall be inserted, namely:-

“(h) on receipt of combined application form from the manufacturing industries or enterprises, the respective nodal agency shall issue an acknowledgment certificate, after obtaining the approval by the investment committees, namely State High Level Clearance Committee, State Level Single Window Clearance Committee or District Level Single Window Clearance Committee, in the prescribed form, to the applicant:

Provided that, land shall be considered for the purpose for which it is being acquired or permission for which it is applied for.”

(ii) after sub-section (2), the following shall be inserted, namely:-

“(3) In respect of manufacturing industry or manufacturing enterprise, the acknowledgement certificate issued under clause (h) of sub-section (1) shall be deemed to be the clearances for setting up or establishment of Industry as defined in sub-section (iii) of section 2, granted or issued by the respective departments for an initial period of three years or till the date of commencement of commercial operations, whichever is earlier, from the date of its acknowledgement:

Provided that, such deemed clearance for setting up of Industry shall be only to the Land for the purpose for which it is being acquired or permission is applied for. Further, there shall not be any deviation in construction with reference to the building bye-law and to the land use specified in any applicable Act or the master plan, wherever such plan is in force.

Provided further that, the approvals shall not entitle the manufacturing industry or manufacturing enterprise to use a land without clear title or lands falling under dispute, restricted categories etc.,. The ceiling limit of area that can be acquired or utilized under the provisions of this Act shall be limited as per the provisions under section 109 of the Karnataka Land Reforms Act, 1961(Karnataka Act 10 of 1962).

Explanation: Where the manufacturing industry or manufacturing enterprise establishes as per sub-section (3), the applicant has to take necessary clearances as per sub-sections (2) and (3) of section 14, before commencement of commercial operation.

(4) To assist various administrative or line departments whose powers are devolved upon the nodal agency under various legislations, Acts, rules or regulations for obtaining the approvals and monitoring the implementation of the project.

(5) To monitor and maintain the record of the applications or proposals and acknowledgement certificate issued.

(6) The state level nodal agency to maintain the database of all the project applications, approvals or acknowledgements as a central repository through the online systems.

Explanation: List of services, approvals or clearances that are required to be brought under the purview of acknowledgement certificate shall be considered as clearances by the departments for an initial period of three years or till the date of commencement of commercial operation, whichever is earlier for manufacturing industry or manufacturing enterprise. The list of the services, approvals or clearances shall include clearances as defined in clause (iii) of section 2.

4. Amendment of section 14.- In section 14 of the Principal Act, shall be re-numbered as “(1)” thereof and after so re-numbered, the following shall be inserted, namely:-

“(2) the applicant may opt to furnish the combined application form along with relevant fee and self certification under sub-section (1) of section 14 and sub-section (3) of section 15, respectively. In the event of the applicant not opting for furnishing the self-certification as under sub-section (3) of section 15, the applicant shall take all the necessary approvals prior to setting up or establishment of the industry.

(3) The manufacturing industry or manufacturing enterprise shall make relevant applications for operationalising the Unit under applicable Acts, rules, etc. within the prescribed timelines, that is six months before the expiry of the acknowledgement certificate. The acknowledgement certificate as issued to the said industry or enterprise as per sub-section (3) of section 13 shall be the prerequisite document for getting approvals under this sub-section.

Explanation: The acknowledgement certificate shall be the approval document for all the approvals or clearances as required under applicable Acts and rules specified in clause (iii) of section 2 and the approvals that require approval or clearance before the commencement of construction or establishment shall be deemed to be received.

(4) In instances where the approvals are not sought as per sub-section (3), the validity of the acknowledgement certificate shall cease.

(5) In instances of violation of sub-sections (3) and (4), the relevant line departments or agencies shall initiate the penal actions under relevant Acts.”

5. Amendment of section 15.-In section 15 of the principal Act after sub-section (2), the following shall be inserted, namely:-

“(3) The self-certification to be provided by the manufacturing industries or manufacturing enterprises shall be in form of an Affidavit which shall be the mandatory document for submission of the Common Application Form (as specified in section 14). The manufacturing industry or manufacturing enterprise shall furnish an undertaking that on clearance they shall abide by all the applicable Acts, rules etc. as defined in clause (iii) of section 2 and any deviation found at a later stage shall be liable for penal action under this Act or any applicable Acts. The application thus made by the manufacturing Industry or manufacturing Enterprises shall be along with the requisite fee prescribed for the services that are implied of the unit.”

6. Substitution of section 16.- For section 16 of the Principal Act, the following shall be substituted, namely:-

“**16. Inspection.-** During the period of validity of the acknowledgement certificate, in instances where inspections are warranted, the inspection shall be carried out by such officers of the respective departments in consultation with the nodal agency and approval of the Head of the department concerned, in such manner, subject to such guidelines as may be prescribed.”

7. Amendment of section 19.- In section 19 of the Principal Act, section 19 shall be re-numbered as sub-section (1) thereof and after sub-section (1) so re-numbered, the following shall be inserted, namely:-

“(2) Any manufacturing industry or enterprise which fails to comply with the conditions specified in the undertaking or the self certification given to the nodal agency while applying for acknowledgement certificate or for violating any clause in the applicable Act or rule, while implementing the industrial projects, shall on conviction be punishable with fine which may extend to one lakh rupees for the first offence and for the second and subsequent offence, with fine which may extend to two lakh rupees. In addition, the departments concerned shall initiate penal action under respective Acts.

(3) In case where the concerned department officer has not provided the service or approval, during the period of deemed clearance, within the stipulated timelines, penal actions shall be taken against such Officer as per the provisions of the Sakaala Services Act, 2011 (Karnataka Act 1 of 2012).”

8. Repeal and savings.-(1) The Karnataka Industries (Facilitation) (Amendment) Ordinance, 2020 (Karnataka Ordinance 12 of 2020) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Industries (Facilitation) Act, 2002 (Karnataka Act 45 of 2003) to provide for temporary clearance to manufacturing Industry or manufacturing Enterprise, to establish industry on filing combined application form and to get prepared for commercial operation.

Further, many states across the country have introduced similar Acts which helped them in providing conducive environment in the respective states. In addition to the business reforms action plan introduced by the department for promotion of industry and industrial trade, Ministry of Commerce and Industry, Government of India, is further enabling the State to reduce the regulatory hindrance.

In 2019, Gujarat and Rajasthan State Governments have also introduced similar Ordinance to provide for exemption from certain approvals and inspections for establishment and operations of the micro, small and medium enterprises.

Further, to obtain final approval before commencement of commercial operation and for matters connected therewith or incidental thereto.

As the matter was urgent and both houses of the Karnataka state legislature were not in a session, the Karnataka Industries (Facilitation) (Amendment) Ordinance, 2020 (Karnataka Ordinance 12 of 2020) was promulgated on 02.07.2020 to achieve the above object.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3:	Clause (h) to sub-section (1) of section 13 sought to be inserted by clause 3, empowers the State Government to make rules regarding form of acknowledgement certificate, after obtaining approval by the investment committees.
Clause 4:	Sub-section (3) of section 14 sought to be inserted by clause 4, empowers the State Government to make rules regarding timelines to make applications for operationalising the Units.
Clause 5:	Sub-section (3) of section 15 sought to be inserted by clause 5, empowers the State Government to make rules regarding the payment of fee for the services that are implied of the Unit.
Clause 6:	Section 16 sought to be substituted by clause 6, empowers the State Government to make rules regarding the manner and guidelines for inspection.

The proposed delegation of legislative power is normal in character.

JAGADISH SHETAR
Minister for Large and
Medium Scale Industries

M.K. Vishalakshi
Secretary (I/c)
Karnataka Legislative Assembly

Explanatory Statement as required by sub-rule (1) of rule 80 of the Rules of procedure and conduct of Business in the Karnataka Legislative Assembly.

It is considered necessary to amend the Karnataka Industries (Facilitation) Act, 2002 (Karnataka Act 45 of 2003) to provide for temporary clearance to manufacturing Industry or manufacturing Enterprise, to establish industry on filing combined application form and to get prepared for commercial operation.

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ANNEXURE

THE KARNATAKA INDUSTRIES (FACILITATION) ACT, 2002 (KARNATAKA ACT NO. 45 OF 2003)

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2. Definitions.-

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(ia) "Applicable Acts" means the Factories Act, 1948, the Boilers Act, 1923, the Contract Labour (Regulation and Abolition) Act, 1970, the Employees State Insurance Act, 1948, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, the Payment of Wages Act, 1936, the Maternity Benefit Act, 1961, Gratuity Act, 1972, the Equal Remuneration Act, 1976 and the Karnataka Shops and Commercial Establishments Act, 1961;

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(vii) 'Industrial undertaking' means an undertaking engaged in manufacturing or processing or both or providing service or doing any other business or commercial activity as may be specified by the State Government;

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13. Functions of the Nodal Agency.-

(1) The functions of Nodal Agency at the district level shall among others includes the following:

(a) to carryout investment promotional activities,

(b) to render necessary assistance in policy formulation for industrial progress,

(c) to guide and assist entrepreneurs to set up industries in the State,

(d) to issue combined application form to the entrepreneurs and also to receive the forms from them and to arrange required clearances from departments and authorities within the stipulated time.

(e) to provide secretarial support to the High level Clearance Committee, State level Single Window Clearance Committee and the District level Single Window Clearance Committee.

(f) to promote environment friendly and clearer technology and production practices,

(g) to perform any other function as may be entrusted to it by the State Governments.

(2) The State level Nodal agency shall also perform functions referred to in sub-section (1) and in addition prepare and regularly update an entrepreneurs guide providing complete particulars relating to,-

(i) State and Central Industrial policies,

(ii) Procedure to obtain the required clearances from the department and authorities

(iii) information on industrial status and advantages existing in the State.

(iv) salient features of Acts and the rules made thereunder applicable to an industrial undertaking, and

(v) any other information useful to the entrepreneurs.

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14. Combined Application Forms (CAF).-

The State Government may, prescribe Combined Application Form for the use of entrepreneurs for obtaining clearance from the State High Level Clearance Committee or State High level Single Window Clearance Committee or District level Single Window Committee. This Combined Application Form shall also be used in lieu of existing forms prescribed under applicable Central or State Acts except the application for Licensing of a Factory as provided in section 41A of the Factories Act, 1948 and the rules made thereunder for obtaining the required clearances. All Departments or Authorities concerned shall accept such Combined Application Form for processing and issue of required clearances.

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15. Certification.-

(1) Every entrepreneur shall furnish a 'Self Certification' at the time of submitting the duly completed Combined Application Form and thereafter once in a year to the Nodal Agency undertaking that he shall comply with the applicable provisions of the relevant Acts and the rules made thereunder. The undertaking shall be furnished in such form as may be prescribed.

(2) The self certification furnished by the entrepreneur shall be accepted by the departments and authorities for the purpose of issuing and granting clearance and giving other benefits to the entrepreneur.

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19. Penalty.-

Any entrepreneur who fails to comply with the conditions or undertaking in the self certification given to the Nodal Agency or other department or authorities shall on conviction be punishable with fine which may extend to five thousand rupees for the first offence and for the second or subsequent offence with fine which may extend to ten thousand rupees.

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