

**KARNATAKA ACT NO. 23 OF 2004**  
**THE KARNATAKA TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 1998**  
**Arrangement of Sections**

**Sections:**

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 14
4. Insertion of new section 14B
5. Amendment of section 18
6. Insertion of new section 18A
7. Substitution of section 24
8. Amendment of section 81
9. Validation of levy and collection of cess and surcharge for certain purpose

**STATEMENT OF OBJECTS AND REASONS**

It is considered necessary to amend the Karnataka Town and Country Planning Act, 1961, to provide for the following, namely:-

(1) To omit the words "Notified Area Committee, Sanitary Board" as these no more exist in view of the amendment to the Karnataka Municipalities Act, 1964.

(2) To substitute the words "Grama Panchayat" for the words "Mandal Panchayat" to confirm to the changes made in the Karnataka Panchayat Raj Act, 1993.

(3) To empower the State Government to exempt any Board, Authority or Body constituted by or under any law and owned or controlled by the State Government from payment of fee for obtaining permission for change of land use or development of land.

(4) To empower the Planning Authority to permit,-

(i) additional Floor Area Ratio of 100 per cent for the land handed over free of cost whenever such lands are required for road widening purposes or for formation of new roads.

(ii) additional Floor Area Ratio up to 100 per cent in case of starred hotels subject to payment of a minimum of fifty per cent and a maximum of 100 per cent of the market value of land equivalent to the Floor Area Ratio permitted.

(5) To recast the provision relating to levy of fee in order to remove ambiguity.

(6) To provide for regularization of buildings constructed deviating from the sanctioned plan subject to payment of such penalty of not more than the market value of such deviated area as may be prescribed.

(7) To provide for levy and collection of surcharge or cess with effect from 19.10.1992 for granting permission for development of Land or building from the owner of such land or building, for supply of water, formation of ring road, slum improvement and mass rapid transport system at such rate not exceeding one tenth of the market value of land or building.

(8) To provide for forfeiture of building or part thereof to the State Government which have been constructed in deviation of sanctioned plan but not regularized under section 76FF or constructed without obtaining permission or in contravention of any order passed or direction issued by any authority, if the planning authority is of opinion that it is not practicable or advisable to demolish the building and the owner does not agree to pay an amount equivalent to two times the current value of such building or part thereof as a penalty.

(9) To provide for validation of levy and collection of the aforesaid cess and surcharge already collected by the various Development Authorities, Planning authorities and local authorities since 19.10.1992.

Hence the Bill.

(Legislative Council Bill No.10 of 1998)

(Entries 5 and 18 of List II and Entry 20 of List III of Seventh Schedule to the Constitution of India)

**KARNATAKA ACT NO.23 OF 2004**

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**THE KARNATAKA TOWN AND COUNTRY PLANNING  
(AMENDMENT) ACT, 1998****(Received the assent of the Governor on the Seventeenth day of March, 2004)**

An act further to amend the Karnataka Town and Country Planning Act, 1961.

Whereas, it is expedient further to amend the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963) for the purpose hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Forty-ninth year of the Republic of India as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Karnataka Town and Country Planning (Amendment) Act, 1998.

(2) It shall come into force at once.

**2. Amendment of section 2.-** In section 2 of the Karnataka Town and Country Planning Act, 1961 (Karnataka Act 11 of 1963) (hereinafter referred to as the principal Act,) in clause (3a),-

(i) the words, "Notified Area Committee, Sanitary Board" shall be omitted;

(ii) for the words "or Mandal Panchayat", the words "Town Panchayat or Grama Panchayat" shall be substituted.

**3. Amendment of section 14.-** In section 14 of the Principal Act, in sub-section (2), in the explanation, in clause (b), items (ii) and (iii) shall be omitted.**4. Insertion of new section 14B.-** After section 14A of the principal Act, the following shall be inserted, namely:-**"14B. Benefit of development rights.-** Where any area within a local planning area is required by a Planning Authority or local authority for a public purpose and the owner of any site or land which comprises such area surrenders it free of cost and hands over possession of the same to the Planning Authority or the local authority free of encumbrances, the planning authority or the local authority, as the case may be, may notwithstanding anything contained in this Act or the regulations but subject to such restrictions or conditions as may be specified by notification by the State Government, permit development rights in the form of additional floor area which shall be equal to one and half times of the area of land surrendered. The development right so permitted may be utilised either at the remaining portion of the area after the surrender or anywhere in the local planning area, either by himself or by transfer to any other person, as may be prescribed. The area remaining after surrender shall have the same floor area which was available before surrender for the original site or land as per regulations.**Explanation.-** For the purpose of this section,-

(a) Public purpose means.-

(i) widening of an existing road or formation of a new road;

(ii) providing for parks, playgrounds and open spaces or any other civic amenities;

(iii) maintaining or improving heritage building or precincts notified by the State Government.

(b) "development right" means the right to carryout development or to develop land or building or both.

**Illustration No.1:** In a plot area of 500 square meters at road "A", where floor area ratio is 1.5.-

i.	Plot area	: 500 square meters
ii.	Permissible floor area ratio	: 1.5
iii.	Buildable floor area	: $500 \times 1.5 = 750$ square meters
iv.	Area surrendered	: 100 square meters
v.	Additional floor area in the form of Development Rights	: 150 square meters
vi.	Plot area after surrender	: $500 - 100 = 400$ square meters
vii.	Buildable floor area in plot area of 400 square meters (after surrender):- (a) If additional floor area is not utilised in the same plot (b) If additional floor area is utilised in the same plot	: 750 square meters : $750 + 150 = 900$ square meters

**Illustration No.2:** In a plot area of 500 square meters at road "B", where floor area ratio is 0.75:-

i.	Plot area	: 500 square meters
ii.	Permissible floor area ratio	: 0.75
iii.	Buildable floor area	: $500 \times 0.75 = 375$ square meters
iv.	Area surrendered	: 100 square meters
v.	Additional floor area in the form of development rights	: 150 square meters
vi.	Plot area after surrender	: $500 - 100 = 400$ square meters
vii.	Buildable floor area in plot area of 400 square meters (after surrender):- (a) If additional floor area is not utilised in the same plot (b) If additional floor area is utilised in the same plot	: 375 square meters : $375 + 150 = 525$ square meters

**Illustration No.3:** In a plot area of 500 square meters at road "C", where floor area ratio is 0.75 and Development Right of 150 square meters originated at road "A" is transferred.-

i.	Plot area	: 500 square meters
ii.	Permissible floor area ratio	: 0.75
iii.	Buildable floor area	: $500 \times 0.75 = 375$ square meters
iv.	Additional floor area transferred from road "A"	: 150 square meters
v.	Total Buildable floor area	: $375 + 150 = 525$ square meters

**5. Amendment of section 18.-** In section 18 of the Principal Act,-

(i) for sub-section (1), the following shall be substituted, namely:-

"(1) Where permission for change of land use or development of land or building is granted under section 14A or section 14B or section 15 or section 17 and such change of land use or development is capable of yielding a better income to the owner, the Planning Authority may levy a prescribed fee not exceeding one-third of the estimated increase in the value of the land or building in the prescribed manner for permitting such change of land use or development of land or building."

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

“(3) The State Government may exempt any Board, Authority or body constituted by or under any law and owned or controlled by the State Government or Central Government or an infrastructure Project promoted or implemented by any Company or person and approved by the State Government or Central Government from the payment of fee specified under sub-section (1).

**Explanation:-** For the purpose of this section and section 18A “Infrastructure Project “ means,-

- (a) road, bridge, air port, port, inland water ways and inland ports, rail system or any other public facility of a similar nature as may be notified by the State Government from time to time;
- (b) a highway project including housing or other activities being an integral part of that project;
- (c) water supply project, irrigation project, sanitation and sewerage system.”
- (d) a tourism project with an investment of not less than Rupees one hundred crores as may be notified by the State Government from time to time.

**6. Insertion of new section 18A.-** After section 18 of the Principal Act, the following section shall be deemed to have been inserted with effect from 19<sup>th</sup> day of October, 1992, namely:-

**“18A. Levy and collection of cess and surcharge.-** (1) Notwithstanding anything contained in this Act, the Planning Authority may while granting permission for development of land or building levy and collect from the owner of such land or building:-

- (i) a cess for the purpose of carrying out any water supply scheme;
- (ii) a surcharge for the purpose of formation of ring road;
- (iii) a cess for the purpose of improving slums; and
- (iv) a surcharge for the purpose of establishing Mass Rapid Transport System.

at such rates but all the above levies together not exceeding one-tenth of the market value of the land or building as may be prescribed.

(2) The cess and surcharge levied under sub-section (1) shall be assessed and collected in such manner as may be prescribed.

(3) Any person aggrieved by the levy, assessment and collection of cess or surcharge under this section may within thirty days from the date of the order appeal to the prescribed authority whose decision shall be final.

(4) The prescribed authority may after giving a reasonable opportunity of being heard to the appellant and the planning Authority pass such order as it deems fit.

(5) The State Government may exempt any Board Authority or Body constituted by or under any law and owned or controlled by the State Government or the Central Government or an infrastructure Projects promoted or implemented by any company or person and approved by the State Government or Central Government from the payment of cess or surcharge leviable under sub-section (1).

**7. Substitution of section 24.-** For section 24 of the Principal Act the following shall be substituted, namely :-

**"24. Enforcement of the Comprehensive Development Plan.-** The provisions of sections 14, 14A, 15, 16, 17, 18 and 18A shall apply mutatis-mutandis to the enforcement of the Comprehensive Development Plan."

**8. Amendment of section 81.-** In section 81 of the Principal Act,-

- (a) after the word and figures "section 14". a comma, the word, figures and letter "section 14B" shall be inserted.
- (b) in clause (c) for the words "Mandal Panchayat, in two places where they occur the words, "Grama Panchayat" shall be substituted.

**9. Validation of levy and collection of cess and surcharge for certain purpose.-** Notwithstanding anything contained in any judgement, decree or order of any Court, tribunal or

other authority to the contrary, levy, assessment and collection of any cess and surcharge in respect of any water supply scheme, formation of ring road, slum improvement, establishment of Mass Rapid Transport System made or purporting to have been made and any action or thing taken or done (including any notice or order issued or assessment made and all proceedings held and any levy and collection of cess and surcharge or amount purported to have been collected by way of cess or surcharges) since 19<sup>th</sup> October 1992 in relation to such levy, assessment and collection before coming into force of this Act shall be deemed to be valid and effective as if such levy assessment and collection or action or thing has been made, taken or done under the principal Act as amended by this Act and accordingly:-

- (a) all acts, proceedings or things done or taken by the Planning Authority or any of its officer in connection with the levy assessment or collection of such cess or surcharge for all purposes be deemed to be and to have always been done or taken in accordance with law.
- (b) no suit or other proceedings shall be maintained or continued in any court or tribunal or before any authority for the refund of any such cess or surcharge;
- (c) no court shall enforce any decree or order to direct the refund of any such cess and surcharge.

By Order and in the name of the Governor of Karnataka

**M.R. HEGDE**

Secretary to Government,  
Department of Parliamentary Affairs and Legislation.