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AMENDMENT ON CARRY FORWARD OF EARNED LEAVE IN KARNATAKA

A. Introduction

The Department of Parliamentary Affairs and Legislation Secretariat, Government of Karnataka has notified an amendment¹ to Section 15 sub-section (7) of Karnataka Shops and Commercial Establishments Act, 1961 (“**Karnataka Shops Act**”) on 19th February 2021,² (“**Amendment**”) as under:

“Provided that, the total number of the days of leave that may be carried forward to a succeeding year shall not exceed forty-five days.”

B. Legal Position

1. The Karnataka Shops Act prescribes that every employee in the establishment shall be entitled for leave with wages at the rate of 1 leave for every 20 days of work.³ This leave is commonly termed as ‘Earned Leave’. However, if the employee does avail the Earned Leave eligible to him in one calendar year, he may carry forward Earned Leave not exceeding 30 days to the succeeding year.⁴
2. The Karnataka Shops and Commercial Establishments (Second Amendment) Bill, 2020 (LA Bill No. 68 of 2020) was introduced in the Karnataka Legislative Assembly on the 9th December, 2020 with the stated object and reason was to ‘*to enable an employee to carry forward forty five days of leave instead of thirty days to succeeding year.*⁵
3. Thus, the recent Amendment has increased the cap to carry forward the Earned Leave from 30 to 45 days in one calendar year.
4. However, if the employment of an employee is terminated before he avails of the entire entitled leave, he is entitled for wages/salaries in respect of leave not taken.⁶

C. Implication

1. The cap of carry forward of Earned Leave is increased from earlier 30 days to 45 days.
2. Before the Amendment, adults were entitled to carry forward 30 days and young persons to 40 days of Earned Leave. However, the Amendment has eliminated the distinction between the adults and young persons. It merely states that the total carry forward of leave shall not exceed 45 days. Therefore, both adults and young persons are eligible for 45 days of carry forward of Earned Leave.
3. An employee who has applied for leave with wages but has not been permitted such leave will be entitled to carry forward unavailed leave without any limit.⁷ An employee who had applied for leave

¹ Karnataka Shops and Commercial Establishments (Second Amendment) Act, 2020.

² No: DPAL 80 Shasana 2020, Bengaluru (<https://www.simpliance.in/gazette-notifications/karnataka/karnataka-shops-and-commercial-establishments-second-amendment-act-2020>).

³ Section 15(1) of Karnataka Shops Act.

⁴ Section 15(7) of the Karnataka Shops Act.

⁵ <https://erajyapatra.karnataka.gov.in/WriteReadData/2020/1380.pdf>.

⁶ Section 15(13) of the Karnataka Shops Act.

⁷ Section 15(7) of Karnataka Shops Act.

but was not granted leave with wages will be entitled to carry forward leave exceeding 45 days and will be eligible for encashing the same at the time of dismissal or removal or resignation.⁸

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⁸ Section 15(7) of Karnataka Shops Act.
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