

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXX of 1994

THE WEST BENGAL MUNICIPAL (AMENDMENT)
ACT, 1994.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 11th July, 1994.]

[11th July, 1994.]

An Act to amend the West Bengal Municipal Act, 1993.

West Ben.
Act XXII of
1993.

WHEREAS it is expedient to amend the West Bengal Municipal Act, 1993, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Municipal (Amendment) Act, 1994.

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.

2. In section 2 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the principal Act),—

(a) after clause (27), the following clause shall be inserted:—

(27A) “industrial township” means such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township;’;

(b) after clause (32), the following clause shall be inserted:—

(32A) “member”, in relation to a Municipality, means a Councillor or a person nominated under clause (b) of sub-section (1) of section 13;’;

(c) after clause (38), the following clause shall be inserted:—

(38A) “Municipality” means a Municipal Council for a smaller urban area as defined in article 243Q of the Constitution of India;’;

Amendment
of section 2
of West Ben.
Act XXII
of 1993.

(Sections 3-7.)

(d) for clause (60), the following clause shall be substituted:—

‘(60) “State Election Commission” means the West Bengal State Election Commission referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994,’;

(e) after clause (62), the following clause shall be inserted:—

‘(62A) “ward” means an administrative division of a Municipality,’.

West Ben.
Act VIII
of 1994.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) for the words “State Government”, wherever they occur, the word “Governor” shall be substituted;

(b) for the word “its”, the word “his” shall be substituted.

Amendment
of section 6.

4. In section 6 of the principal Act, for the words “State Government”, the word “Governor” shall be substituted.

Amendment
of section 8.

5. In section 8 of the principal Act,—

(a) for the marginal note, the following marginal note shall be substituted:—

“Power to determine the number of wards in municipal areas.”;

(b) for the words “divide any municipal area into a number of wards,”, the words “determine the number of wards in any municipal area,” shall be substituted.

Amendment
of section 9.

6. In section 9 of the principal Act, clause (h) shall be omitted.

Amendment
of section 13.

7. For sub-section (1) of section 13 of the principal Act, the following sub-section shall be substituted:—

“(1) The Municipality established for a town shall mean the Board of Councillors charged with the authority of municipal government of the town, and shall consist of—

(a) such number of elected members as there are wards within the municipal area, and

(b) persons having special knowledge or experience in municipal administration as may be nominated by the State Government from time to time, provided that such persons shall not have the right to vote in the meetings of the Municipality.”.

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(Sections 8-10.)

8. In section 14 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted:—

“(2) The Board of Councillors, unless dissolved earlier, shall hold office for a period of five years from the date appointed for its first meeting after the general election and no longer:

Provided that the Board of Councillors, unless dissolved earlier, shall continue in office till the next Board of Councillors assumes office.”;

(b) for sub-section (3), the following sub-section shall be substituted:—

“(3) In a municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6 or sub-section (3), or sub-section (4), of section 378, as the case may be, as may be necessary for holding elections.”.

9. For section 23 of the principal Act, the following section shall be substituted:—

“Ward Committee. 23. (1) Each ward of a Municipality may have a Ward Committee.

(2) The composition and the functions of the Ward Committee shall be such as the State Government may, by notification, determine.

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.”.

10. In section 26 of the principal Act,—

(a) in sub-section (1), for the words “at such time as the State Government may prescribe.”, the words, figures and brackets “within a period of six months from the date of the notification under section 6 or sub-section (3), or sub-section (4) of section 378, as the case may be.” shall be substituted;

(b) in sub-section (2), after the words “on such date”, the words, figures and brackets “, not earlier than six months prior to the date on which the duration of its term of office would expire under sub-section (2) of section 14,” shall be inserted;

Amendment
of section
14.

Substitution
of new
section for
section 23.

Amendment
of section
26.

(Sections 11-17.)

- (c) in sub-section (3), the words "in accordance with the provisions of this Act and the rules made thereunder" shall be omitted;
- (d) in sub-section (4), after the words "on account of election not being held", the words "on account of natural calamity or orders of a court having jurisdiction" shall be inserted.

Omission of section 27.

Substitution of new section for section 28.

Omission of sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49.

Amendment of section 60.

Amendment of section 77.

Omission of section 78.

Amendment of section 79.

11. Section 27 of the principal Act shall be omitted.

12. For section 28 of the principal Act, the following section shall be substituted:—

"Elections to the 28. The superintendence, direction and control of the Municipalities. preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall vest in the State Election Commission.".

13. Sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 of the principal Act shall be omitted.

14. In sub-section (1) of section 60 of the principal Act, for the first proviso, the following proviso shall be substituted:—

"Provided that the admissible enlargement of sanctioned strength in any year, if not filled up in that year, may be carried forward to the next year, subject to a minimum of one for that year and a maximum of ten.".

15. In section 77 of the principal Act,—

- (a) in sub-section (1), the words, figures and brackets " or to proceed under the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other law for the time being in force" shall be omitted;
- (b) in sub-section (2), the words, figures and brackets " or the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other law for the time being in force, as the case may be" shall be omitted.

16. Section 78 of the principal Act shall be omitted.

17. In section 79 of the principal Act,—

- (a) after the words "makes a request", the words "to the State Government" shall be inserted, and
- (b) after the words "to apply", the words "to the State Government" shall be inserted.

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(Sections 18-21.)

18. In section 143 of the principal Act, for the marginal note, the following marginal note shall be substituted:—

“Prohibition as to the refusal to pay, or the avoidance of payment of, toll.”.

Amendment
of section
143.

19. In section 171 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

(A) for the word “acquire”, the word “require” shall be substituted, and

(B) for the word “required”, the words “to be acquired” shall be substituted;

(ii) in clause (b),—

(A) for the word “acquire”, the word “require” shall be substituted, and

(B) after the words “such land or building”, the words “to be acquired” shall be inserted;

(b) in sub-section (2),—

(i) after the words “land or building is”, the words “required to be” shall be inserted, and

(ii) for the words “acquire, in addition,”, the words “proceed for the acquisition, in addition, of” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted:—

“(3) Where any land or building is required to be acquired under sub-section (1) or sub-section (2), the procedure laid down in section 77 shall apply.”.

Amendment
of section
171.

20. For section 178 of the principal Act, the following section shall be substituted:—

“Payment of compensation. 178. The Board of Councillors shall, for any acquisition made under this Chapter, pay compensation as awarded under the Land Acquisition Act, 1894.”.

Substitution
of new
section for
section 178.

21. In section 184 of the principal Act,—

(a) in clause (b) of sub-section (1), the words “, and the offender shall be liable to pay the expenses of such removal which shall be recoverable as an arrear of tax under this Act” shall be omitted;

(b) after sub-section (1), the following sub-section shall be inserted:—

“(1A) Any expenditure incurred for the removal of any projection, obstruction or encroachment referred to in sub-section (1) shall be recovered as an arrear of tax under this Act from the person who erects or sets up such projection, obstruction or encroachment.”.

Amendment
of section
184.

(Sections 22-26.)

Amendment
of section
378.

22. In section 378 of the principal Act,—

- (a) in sub-section (1),—
 - (i) for the words “State Government” in the two places where they occur, the word “Governor” shall be substituted, and
 - (ii) for the word “its”, the word “his” shall be substituted;
- (aa) in sub-section (3),—
 - (i) for the words “State Government”, the word “Governor” shall be substituted, and
 - (ii) for the word “it”, the word “him” shall be substituted;
- (b) in sub-section (4),—
 - (i) for the words “State Government”, the word “Governor” shall be substituted, and
 - (ii) for the word “its”, the word “his” shall be substituted.

Substitution
of new
section for
section 379.

23. For section 379 of the principal Act, the following section shall be substituted:—

“Application of provisions relating to Municipality to notified area. 379. Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, all the provisions of this Act, except the provisions of section 3, section 4, section 5 and section 6, which apply to a Municipality, shall also apply to a notified area.”

Omission of
sections 380
and 383.

Amendment
of section
385.

Insertion
of new
Chapter
XXVA.

24. Sections 380 and 383 of the principal Act shall be omitted.

25. In sub-section (2) of section 385 of the principal Act, clauses (a), (b) and (c) shall be omitted.

26. In Part IX of the principal Act, under the heading “OTHER AUTHORITIES”, after Chapter XXV, the following Chapter shall be inserted:—

“CHAPTER XXVA

Industrial Township

Constitution of Industrial township. 385A. (1) Whenever, in the opinion of the Governor, it is necessary to make provisions for all or any of the purposes of this Act in respect of any area in which industries have been or are being established, the Governor may, by notification, specify such area to be an industrial township and declare his intention so to do.

(2) Any inhabitant of the area in respect of which a notification has been published under sub-section (1) may, if he objects to the making of

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(Section 26.)

any provision as aforesaid, submit his objection in writing to the Governor within three months from the date of publication of the notification.

(3) The Governor may, after considering the objection, if any, received by him during the period referred to in sub-section (2), make an order—

- (a) withdrawing the notification under sub-section (1), or
- (b) constituting the area specified in the notification or in part thereof as an industrial township for the purposes of this Chapter.

(4) The Governor may, by order made after declaration by notification of his intention so to do followed by the consideration of any objection thereto received within three months from the date of publication of the notification, add new areas to an industrial township constituted under the section.

(5) Where the area in question has already been declared as a notified area under the Bengal Municipal Act, 1932, or under this Act, it shall not be necessary to issue any notification declaring the intention of the Governor to specify such area as an industrial township before constituting under section 385B the Industrial Township (Authority) or to invite objections from the inhabitants of the area. In such case, the Governor may, by notification, constitute such area as an industrial township and, upon the publication of such notification, such area shall be deemed to have been duly constituted as an industrial township for the purposes of this Chapter.

Ben. Act XV
of 1932.

Application of the 385B. (1) The Governor may, by order to be Act and the rules made thereunder published in the *Official Gazette*,—

- (a) extend to an industrial township with such incidental and consequential modification as the State Government may consider necessary for giving effect to the provisions of this Chapter—
 - (i) any provision of this Act which applies to a Municipality, or
 - (ii) any rule or regulation in force in any municipal area; and
- (b) appoint, for an industrial township, a Committee consisting of not more than 13 and not less than 9 members, to be known as the Industrial Township Authority, to carry out all or any of the purposes of this Chapter.

(2) The State Government shall appoint a Chairman and may also appoint a Vice-Chairman from among the members of an Industrial Township Authority referred to in clause (b) of sub-section (1). Such Authority shall include representatives of such industry as may be supplying municipal services in such area, and such representatives shall not be more than three.

(Section 26.)

Consequences of application of the Act to an industrial township.

385C. (1) When any tax is imposed in an industrial township under any of the provisions of this Act as extended to such township, the proceeds of such tax shall be expended in the same manner in which, and for the same purposes for which, the Municipal Fund may be expended by a Municipality.

(2) When any provision of this Act or the rules or the regulations made thereunder is extended with or without modification to an industrial township, such provision or rule or regulation shall, unless a different intention appears, operate as if the industrial township were a municipal area and the powers and duties of the Chairman-in-Council were vested in the Chairman appointed under sub-section (2) of section 385B and those of the Board of Councillors, in the Industrial Township Authority.

Abolition or alteration of an industrial township.

385D. The State Government may, at any time and in accordance with the provisions of this Act, by notification,—

- (a) constitute an industrial township or any part thereof to be a municipal area, or
- (b) include an industrial township or any part thereof within a municipal area.

Consequences of abolition or alteration of an industrial township.

385E. (1) When the whole of an industrial township is constituted to be a municipal area, the industrial township shall cease to exist and the properties, funds and other assets vested in the Industrial Township Authority and all the rights and liabilities of the Industrial Township Authority shall vest in, and shall devolve on, the Municipality.

(2) When a part of an industrial township is constituted to be, or is included in, a municipal area, such part shall be deemed to have been excluded from such industrial township, and so much of the properties, funds and other assets vested in, and such of the rights and liabilities of, the Industrial Township Authority, as may be allocated by the State Government by order in this behalf, shall vest in, and shall devolve on, the Municipality.

Officers and other employees.

385F. An Industrial Township Authority may, subject to the approval of the State Government, appoint such officers and other employees as may be necessary for the purpose of giving effect to the provisions of this Chapter.

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(Sections 27-29.)

Power to make rules. 385G. (1) The State Government may, by notification, make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the qualifications for appointment of members of an Industrial Township Authority and the manner of filling casual vacancies in the office of such members;
- (b) the term of office of the Chairman, the Vice-Chairman, and the other members, of an Industrial Township Authority;
- (c) any other matter relating to the constitution and functions of an Industrial Township Authority.”.

27. Sub-section (2) of section 407 of the principal Act shall be omitted.

28. In section 417 of the principal Act, after sub-section (3), the following sub-section shall be inserted:—

“(4) Notwithstanding anything contained in sub-section (1), and sub-section (2), of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act, the rules made under the Bengal Municipal Act, 1932, and in force immediately before the Government of this Act, shall, so far as they are not inconsistent with the provisions of this Act, be deemed to be the rules made under this Act, and the provisions of sub-section (3) shall not apply to any rules deemed under this sub-section to be the rules made under this Act.”.

Amendment of section 407.

Amendment of section 417.

Ben. Act XV
of 1932.

29. In section 419 of the principal Act, after sub-section (2), the following sub-section shall be inserted:—

“(3) Notwithstanding anything contained in sub-section (1) or this section or elsewhere in this Act, till such time as the Board of Councillors makes regulations under this Act, the regulations made under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall, so far as they are not inconsistent with the provisions of this Act or the rules made thereunder, be deemed to be the regulations made under this Act, and the provisions of sub-section (2) of this section or section 420 shall not apply to any regulations deemed under this sub-section to be the regulations made under this Act:

Provided that the provisions of section 421 shall apply to any regulations deemed under this sub-section to be the regulations made under this Act.

Amendment of section 419.

Explanation.—“Regulation” shall include by law.’.

(Sections 30, 31.)

Amendment
of section
431.

30. In section 431 of the principal Act,—

(a) for the proviso to sub-section (4), the following provisos shall be substituted:—

“Provided that the new Board of Councillors shall continue only for the remainder of the period for which the dissolved Municipality would have continued had it not been so dissolved:

Provided further that when the period for which the Board of Councillors would have continued is less than six months, it shall not be necessary to hold any elections for constituting a new Board of Councillors for such period.”;

(b) sub-section (5) and sub-section (6) shall be omitted.

Substitution
of new
section for
section 441.

31. For section 441 of the principal Act, the following section shall be substituted:—

“Repeal and saving. 441. (1) With effect from the date of commencement of this Act, the Bengal Municipal Act, 1932, shall stand repealed.

Ben. Act XV
of 1932.

(2) Notwithstanding such repeal, every Municipality, and every notified area authority, constituted under the Bengal Municipal Act, 1932, and in existence immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been constituted under this Act, and, in respect of such Municipality or notified area authority,—

(a) every Commissioner continuing in office as such immediately before the commencement of this Act shall be deemed to be a Councillor under this Act and shall hold office as such unless he vacates, or is removed from, his office, or a new Councillor is elected and assumes office under this Act, whichever is earlier;

(b) the Board of Commissioners shall be deemed to be the Board of Councillors under this Act;

(c) every Chairman continuing in office as such immediately before the commencement of this Act shall be deemed to be the Chairman under this Act;

(d) every Vice-Chairman continuing in office as such immediately before the commencement of this Act shall be deemed to be the Vice-Chairman under this Act;

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(Section 31.)

- (e) every resolution adopted, order passed, budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall be deemed to have been adopted, passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so adopted, passed, taken, made, sanctioned, granted or issued;
- (f) all properties, movable or immovable, all rights of whatever kind, used, enjoyed or possessed by, and all interest of whatever kind, owned by, or vested in, a Municipality as constituted under the Bengal Municipal Act, 1932, shall be deemed to be owned by, or vested in, the Municipality as constituted under this Act;
- (g) all contracts made or liabilities incurred by a Municipality as constituted under the Bengal Municipal Act, 1932, and legally subsisting against such Municipality immediately before the commencement of this Act, shall pass on to the Municipality as constituted under this Act; and
- (h) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act shall be deemed to have been appointed under this Act.”.

Ben. Act XV
of 1932.