

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XIII of 1995

THE WEST BENGAL MUNICIPAL (AMENDMENT) ACT, 1995.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*,
Extraordinary, of the 4th September, 1995.]

[4th September, 1995.]

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-sixth 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, 1995.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different provisions of this Act.

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

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

(a) clause (1) shall be re-numbered as clause (1A) and before clause (1A) as so re-numbered, the following clause shall be inserted:—

‘(1) “annual valuation” means annual value, and includes determination of annual value where the context so requires;’;

(b) after clause (11), the following clause shall be inserted:—

‘(11A) “Councillor” in relation to a Municipality means a person chosen by direct election from a ward of the Municipality;’;

(c) for clause (35), the following clause shall be substituted:—

‘(35) “municipal area” means an area constituted as a municipal area under section 6;’;

(Sections 3-7.)

- (d) after clause (41), the following clause shall be inserted and shall be deemed always to have been inserted:—

‘(41A) “Notified Area Authority” for a notified area means a Nagar Panchayat for a transitional area, that is to say, an area in transition from a rural area to an urban area as defined in article 243Q of the Constitution of India;’;

Amendment
of section 3.

3. To section 3 of the principal Act, the following proviso shall be added:—

“Provided that notwithstanding anything contained in clauses (i) to (iii) of this section, the State Government may, by notification, determine separate conditions to constitute any area of the hill areas a municipal area.”.

Amendment
of section 7.

4. To section 7 of the principal Act, the following proviso shall be added:—

“Provided that for the purpose of classification of municipal areas of the hill areas, the State Government may, by notification, determine separate size of population for each such Group.”.

Amendment
of section 14.

5. For sub-section (1) of section 14 of the principal Act, the following sub-section shall be substituted:—

“(1) The Councillors elected in a general election or a by-election of a Municipality and the members nominated by the State Government under clause (b) of sub-section (1) of section 13 shall constitute the Board of Councillors.”.

Amendment
of section 18.

6. In sub-section (3) of section 18 of the principal Act, for the word “members”, wherever it occurs, the words “elected members” shall be substituted.

Insertion of
new
section 20A.

7. After section 20 of the principal Act, the following section shall be inserted:—

“Delegation of powers and functions. 20A. (1) The Board of Councillors may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Chairman-in-Council or the Chairman.

(2) The Chairman-in-Council may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Chairman or a member of the Chairman-in-Council.

(Sections 8, 9.)

(3) Subject to such resolution as may be made by the Chairman-in-Council in this behalf, the Chairman may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Vice-Chairman or to a member of the Chairman-in-Council or to the holder of any of the posts of officers referred to in sub-section (1) of section 53.

(4) Notwithstanding anything contained in this section, the Chairman-in-Council, the Chairman, the Vice-Chairman, a member of the Chairman-in-Council or a holder of any of the posts of officers referred to in sub-section (1) of section 53 shall not delegate—

- (a) any of its or his powers or functions delegated to it or him under this section, or
- (b) such of its or his powers as may be prescribed.”.

8. After section 21 of the principal Act, the following section shall be inserted:—

Insertion of
new
section 21A.

“Terms of office of Councillor. 21A. A Councillor shall hold office for a period of five years from the date of the first meeting of the Board of Councillors under section 50B or for the period for which the new Board of Councillors referred to in the first proviso to sub-section (4) of section 431 shall continue thereunder or for the period for which a member chosen to fill a casual vacancy shall be chosen to serve under sub-section (2) of section 83 of the West Bengal Municipal Elections Act, 1994, unless—

- (a) the Board of Councillors is dissolved earlier, or
- (b) he resigns his office by writing under his hand addressed to the Chairman and the resignation is accepted by the Board of Councillors at a meeting in which case the resignation shall take effect from the date of its acceptance, or
- (c) if his election is void under sub-section (1) of section 31 of the West Bengal Municipal Elections Act, 1994, or
- (d) if the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under clause (a) of section 9, or is included in an existing *Gram Panchayat*, or is constituted one or more *Gram Panchayats*, under sub-section (1) of section 6A of the West Bengal *Panchayat Act, 1973*.”.

West Ben.
Act XXXIV
of 1994.

West Ben.
Act XLI of
1973.

9. In sub-section (1) of section 50 of the principal Act,—

- (a) for the words “the Chairman, the Vice-Chairman, the District Magistrate, the Magistrate-in-charge”, the words “the Chairman or the Vice-Chairman or the District Magistrate or the Magistrate-in-Charge” shall be substituted;
- (b) for the words “elected”, the word “elected” shall be substituted.

Amendment
of section 50.

(Sections 10-15.)

Amendment
of
section 51A.

10. In sub-section (1) of section 51A of the principal Act, for the word "member", the word "Councillor" shall be substituted.

Amendment
of section 58.

11. In sub-section (1) of section 58 of the principal Act, for the words "the date on which", the words "the last day of the month in which" shall be substituted.

Amendment
of section 63.

12. In section 63 of the principal Act,—

(a) in clause (1), after sub-clause (i), the following sub-clause shall be inserted:—

"(j) providing by itself or by an agency, means of supply of water for fire-fighting purposes;";

(b) in clause (4), for sub-clause (m), the following sub-clause shall be substituted:—

"(m) measure as may be required for fire prevention and fire safety under the West Bengal Fire Services Act, 1950, and the rules made thereunder;".

West Ben.
Act XVIII of
1950.

Amendment
of section 66.

13. To section 66 of the principal Act, the following proviso shall be added:—

"Provided that such transfer of function or functions of the Municipality to such organisation shall not absolve the Municipality from the responsibility of carrying out the provisions of this Act in relation to the function or functions so transferred."

Amendment
of section 68.

14. To section 68 of the principal Act, the following *Explanation* shall be added at the end:—

'Explanation.—"State Co-operative Bank" shall mean the West Bengal State Co-operative Bank Limited, and shall include any Co-operative Bank affiliated to the West Bengal State Co-operative Bank Limited.'

Amendment
of section 80.

15. In section 80 of the principal Act,—

(a) in clause (a),—

(i) for the words "may, in its discretion, dispose of, by sale, lease or otherwise, any movable property", the words "may sell, or grant lease of, or otherwise dispose of, by public auction, any movable property" shall be substituted, and

(ii) the proviso shall be omitted;

XIII of 1995.]

(Sections 16, 17.)

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

“(b) the Board of Councillors, with the prior approval of the State Government, may, for valuable consideration, let out on hire, grant lease of, or sell or otherwise transfer, any immovable property belonging to the Municipality but not required for carrying out the purposes of this Act;”.

16. In section 92 of the principal Act,—

Amendment
of new
section 92.

(a) to sub-section (2), the following proviso shall be added:—

“Provided that the Chairman, the Vice-Chairman or any other member of the Chairman-in-Council shall not be a member of the Municipal Accounts Committee.”;

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

“(2A) The Board of Councillors may, from time to time, associate with the Municipal Accounts Committee such persons having special knowledge in public accounts and administration, not being Councillors and not exceeding one-half of the number of Councillors in such Committee, and for such term, as it thinks fit. Such persons shall not have the right to vote at the meeting of the Municipal Accounts Committee.”.

17. After section 94 of the principal Act, the following section shall be inserted:—

Insertion
of a new
section 94A.

“Levy on
tourist.

94A. (1) The Board of Councillors may levy a fee per head or per vehicle for providing municipal services for persons or vehicles visiting a municipal area for the purpose of sight-seeing:

Provided that such fee shall not be levied for person or vehicles passing through the municipal area.

(2) The fee for the purpose of sub-section (1) shall be such as may be determined by the Board of Councillors from time to time and shall not exceed rupees three per person and rupees fifty per vehicle besides the levy on passengers therein.

(3) The Board of Councillors may make regulations specifying the rate of such fee, the mode of collection thereof and other matters incidental thereto.”.

(Sections 18-22.)

Amendment
of section 96.

- 18.** In sub-section (2) of section 96 of the principal Act,—
- (a) in clause (a), for the words “per cent;”, the words “per cent of the annual value;” shall be substituted;
 - (b) in clause (b), for the words “per cent;”, the words “per cent of the annual value;” shall be substituted.

Amendment
of
section 100.

- 19.** In the second proviso to section 100 of the principal Act, for the words “such annual value and”, the words “the annual value” shall be substituted.

Amendment
of
section 106.

- 20.** In section 106 of the principal Act,—
- (a) in sub-section (1), the words “of such annual value” shall be omitted;
 - (b) for sub-section (2), the following sub-section shall be substituted:—

“(2) The annual value of a holding comprising land which is not built upon, shall be deemed to be an amount which may be equal to, but may not exceed, five per cent of the estimated market value of such land at the time of assessment:

Provided that such holding, if utilised for any gainful purpose, shall be deemed to be in commercial use for the purpose of levy of surcharge under section 97.”;
 - (c) in sub-section (3), for the words “value with the buildings as part of the same premises”, the words “comprised in the holding” shall be substituted.

Amendment
of
section 110.

- 21.** In section 110 of the principal Act,—
- (a) in sub-section (1), for the word “annual”, the word “general” shall be substituted;
 - (b) after sub-section (1), the following sub-section shall be inserted:—

“(1A) The valuation list prepared under sub-section (1) shall be the assessment list of the Municipality.”;
 - (c) in sub-section (2), for the words “annual valuation,”, the words “general valuation,” shall be substituted.

Amendment
of
section 111.

- 22.** In sub-section (4) of section 111 of the principal Act, the word “determined” shall be omitted.

(Sections 23-27.)

23. In section 112 of the principal Act,—
- (a) in sub-section (3),—
- (i) in the second proviso,—
- (A) for the word “superseded,” the word “dissolved,” shall be substituted, and
- (B) for the words “Municipal Assessment Tribunal”, the words “Review Committee” shall be substituted;
- (ii) in the third proviso for the word “tribunal” in the two places where it occurs, the words “Review Committee” shall be substituted;
- (b) in sub-section (4),—
- (i) the words “or the Municipal Assessment Tribunal, as the case may be,” shall be omitted, and
- (ii) the words “or the Municipal Assessment Tribunal” shall be omitted.
24. In sub-section (1) of section 114 of the principal Act, for the word “, transfer”, the words “or by transfer or upon the inclusion of any local area within the municipal area” shall be substituted.
25. In section 151 of the principal Act,—
- (a) in sub-section (1), for the words “specified by the Board of Councillors by regulations”, the word “prescribed” shall be substituted;
- (b) in sub-section (2), for the words “determine by regulations”, the word “determine,” shall be substituted;
- (c) in sub-section (4), for the words “the Board of Councillors by regulations”, the words “the Board of Councillors,” shall be substituted;
- (d) in sub-section (5), for the words “the State Government”, the words “the Board of Councillors” shall be substituted.
26. In section 181 of the principal Act, for the words “Board of Councillors” in the two places where they occur, the word “Chairman” shall be substituted.
27. In sub-section (1) of section 207 of the principal Act, for the word “Chairman” in the two places where it occurs, the words “Board of Councillors” shall be substituted.

(Sections 28-31.)

Insertion
of new
sec-
tion 208A.

28. After section 208 of the principal Act, the following section shall be inserted and shall be deemed always to have been inserted:—

“Validity
and duration
of permi-
ssion for
erection or
construction
of structure
or building
under West
Ben. Act
XLI of
1973.

208A. Notwithstanding anything contained in this Chapter or elsewhere in this Act or in the West Bengal *Panchayat* Act, 1973, permission granted under that Act for erection or construction of any new structure or building or addition to any structure or building in any area shall, upon the constitution of such area a municipal area,—

- (a) be deemed to have been granted under this Act, and
- (b) remain valid for one year from the date of constitution of such area a municipal area unless the Board of Councillors, on an application made in this behalf, allows an extension of such period.”.

Amendment
of
section 218.

29. In section 218 of the principal Act,—

- (a) in sub-section (3), for the words “Municipal Appellate Tribunal constituted under this Act.”, the words “Court having jurisdiction.” shall be substituted;
- (b) sub-section (4) shall be omitted.

Amendment
of
section 239.

30. In sub-section (1) of section 239 of the principal Act,—

- (a) after clause (a), the following clause shall be inserted:—
 “(aa) if, in respect of the premises, any taxes or rates or fees or charges are in arrear for payment for more than one year;
 or”;
- (b) in the proviso, after the word, letter and brackets “clause (a)”, the words, letters and brackets “or clause (aa)” shall be inserted.

Amendment
of
section 251.

31. In section 251 of the principal Act, after the proviso, the following proviso shall be inserted:—

“Provided further that a reasonable compensation shall be paid to the owner or the occupier of such private land or building for any damage sustained by him in consequence of any act or thing done by the Board of Councillors or any action taken by the Chairman-in-Council under this section.”.

XIII of 1995.]

(Sections 32-35.)

32. In Part VI of the principal Act, after chapter XVIII, the following chapter shall be inserted:—

Inserting
of new
Chapter
XVIII.

‘CHAPTER XVIIIA

Fire prevention and fire safety.

West Ben.
Act XVIII of
1950.

Arrangement
for fire
prevention and
fire safety.

285A. On the coming into force of the West Bengal Fire Services Act, 1950, in any municipal area, the Municipality shall, in consultation with the Director of Fire Services or any officer authorised by him in this behalf by general or special order, require the owner or the occupier of all or any of the premises in the municipal area to make, or to carry, such arrangements as may be necessary for fire prevention and fire safety in the municipal area, and issue a fire safety certificate on such conditions as the State Government may prescribe from time to time.

Explanation.—“Director of Fire Services” shall mean the Director of Fire Services referred to in clause (e) of section 2 of the West Bengal Fire Services Act, 1950.’

33. In section 379 of the principal Act,—

Amendment
of
section 379.

- (1) in the marginal note, for the words “notified area.”, the words “Notified Area Authority.” shall be substituted and shall be deemed always to have been substituted.
- (2) for the words “notified area.”, the words “Notified Area Authority.” shall be substituted and shall be deemed always to have been substituted.

34. For section 381 of the principal Act, the following section shall be substituted and shall be deemed always to have been substituted:—

Substitution
of new
section for
section 381.

“Declaration of
notified area as
municipal area.

381. Notwithstanding anything contained in chapter II or elsewhere in this Act, if, at any time, the Governor is satisfied, having regard to the provisions of section 3, that a notified area may be constituted a municipal area, the Governor may, by notification, declare such notified area to be a municipal area.”.

35. In section 382 of the principal Act,—

Amendment
of
section 382.

- (1) for the marginal note, the following marginal note shall be substituted and shall be deemed always to have been substituted:—

“Consequences of constitution of notified area to be municipal area.”;

(Section 36.)

- (2) sub-section (1) of section 382 shall be re-numbered as sub-section (1A) of that section and shall be deemed always to have been renumbered and before sub-section (1A) as so renumbered, the following sub-section shall be inserted and shall be deemed always to have been inserted:—

“(1) When the whole of a notified area is declared to be a municipal area under section 381, the Notified Area Authority for the notified area declared to be a municipal area shall be deemed to be the Municipality for such municipal area, and the Board of Councillors constituted after the general election of the said Notified Area Authority shall be deemed to be the Board of Councillors in relation to such Municipality and shall, unless dissolved earlier, hold office for the period of five years from the date appointed for the first meeting after the general election of the said Notified Area Authority and no longer.”.

Amendment
of
section 419.

36. In section 419 of the principal Act,—

- (1) in sub-section (1), after the words “after previous publication”, the words, figure and brackets “in accordance with, and subject to, the provisions of sub-section (2)” shall be inserted.

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

“(2) (a) A notice relating to the draft regulations shall be published in one or more of the local newspapers circulated within the jurisdiction of the Municipality to which such regulations relate or, if there be no such newspaper, in such manner as the Board of Councillors may direct.

(b) Such draft shall not be further proceeded with until the expiration of a period of one month from the date of such publication or such longer period as the Board of councillors may decide.

(c) For not less than one month during such period, a copy of such draft shall be kept in the office of the Municipality for public inspection, and any person shall be permitted at any reasonable time to peruse the same, free of charge.

(d) Copies of such draft shall be made available to any person requiring the same on payment of such fee as the Board of Councillors may fix.”.

(Sections 37, 38.)

37. In section 430 of the principal Act,—

Amendment
of
section 430.

- (a) in sub-section (1), after the words “any duty”, the words “, including the duty in relation to the Municipal Fund,” shall be inserted;
- (b) for sub-section (2), the following sub-section shall be substituted:—

“(2) If such duty is not performed within the period so fixed, the State Government may, in the public interest, by order do, or cause to be done by any Officer of the State Government or any authority appointed by it, anything for due performance of such duty notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force.”.

38. In section 433 of the principal Act,—

Amendment
of
section 433.

- (a) in sub-section (1),—
 - (i) in sub-section (1), for the words “a borough committee”, the words “one or more wards, as the Board of Councillors may decide,” shall be substituted, and
 - (ii) after the words “financial statement”, the words “of the preceding year” shall be inserted;
 - (b) in sub-section (2), for the word “prescribed.”, the words “determined by the Board of Councillors.” shall be substituted.
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