



The Maharashtra Municipalities (Postponement of Elections due to Ensuing
General Elections to Municipal Councils) Act, 1978

Act 26 of 1978

Keyword(s):

Administrator, Council, The Municipalities Act, Elections, Postponement

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**THE MAHARASHTRA MUNICIPALITIES (POSTPONEMENT OF
ELECTIONS DUE TO ENSUING GENERAL ELECTIONS TO
MUNICIPAL COUNCILS) ACT, 1978.**

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MAHARASHTRA ACT No. XXVI OF 1978¹

[THE MAHARASHTRA MUNICIPALITIES (POSTPONEMENT OF ELECTIONS DUE TO ENSUING GENERAL ELECTIONS TO MUNICIPAL COUNCILS) ACT, 1978]

(Received the assent of the Governor on the 19th day of December 1978 ; assent first published in the *Maharashtra Government Gazette*, Part IV, on the 24th day of December 1978).

Amended by Mah. 10 of 1980* (29th December 1979)†

An Act to provide for the postponement of elections to certain Municipal Councils and of certain Presidents and Councillors for a short period on account of ensuing general elections to the majority of the Municipal Councils in the State.

Mah. XLVII of 1973. WHEREAS the system of direct election of Presidents of Municipal Councils by voters was introduced by the Maharashtra Municipalities (Amendment of Election Law and other Provisions and Further Postponement of Elections) Act, 1973 ;

AND WHEREAS the general elections to the Municipal Councils and of the Presidents on the basis of direct election system were held in November 1974 ;

AND WHEREAS since then some of the Municipal Councils have been dissolved, some offices of Presidents have become vacant and some casual vacancies of Councillors have occurred and general elections to these Councils or elections to fill in the vacancies of Presidents or Councillors are required to be held in November-December 1978 ;

AND WHEREAS the Councillors of the new Councils (including the new Presidents) are entitled to hold office for so long only as the Councillors of the dissolved Councils would have held office i.e. up to December 1979 ;

AND WHEREAS representations were received by Government not to hold the elections for such a short period, as it would be inconvenient to the candidates as well as the voters in general to have these elections again within a short time lag of about a year ;

AND WHEREAS it was considered that double expenses on elections to be incurred by the Municipal Councils within a short spell of one year would be a waste of public money, which could be utilised for providing a few more amenities to the residents of the municipal areas ;

AND WHEREAS the Government of Maharashtra had appointed a Committee to review the system of direct election of Presidents by the voters, and after considering the recommendations made by the Committee had introduced L. A. Bill No. I of 1977 in the Legislative Assembly to abolish the said system, and the said Bill has lapsed and the decision whether the said Bill should be re-introduced or not has not as yet been taken by Government ;

AND WHEREAS for these and other reasons hereinafter appearing it was expedient to postpone general elections and by elections to the Municipal Councils (including elections of Presidents) ;

AND WHEREAS in consequence of such postponement, it was necessary to extend the term of office of the administrators concerned ;

AND WHEREAS both Houses of the Legislature of the State were not in session ;

¹For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1978, part V-Extra, pages 289 and 290.

*Maharashtra Ordinance No. IX of 1979 was repealed by Mah. 10 of 1980, s. 11(J).

†This indicates the date of commencement of Act.

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AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law providing for the matters aforesaid and for matters connected therewith, and, therefore, promulgated the Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Ordinance, 1978, on the 13th November 1978 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :—

Short title, commencement and duration. 1. (1) This Act may be called the Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Act, 1978.
(2) It shall be deemed to have come into force on the 13th day of November 1978.

(3) It shall remain in force up to and inclusive of [the 31st day of May 1980] or such earlier date as may be notified by the State Government in the *Official Gazette*, and shall then expire. Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act, as if it had been repealed by a Maharashtra Act.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) "administrator" means any person, by whatever name called, appointed by or under section 55, 313 or 315 or any other provisions of the Municipalities Act, to exercise the powers and perform the duties of any Council or of the President of any Council ;

(b) "Council" or "Municipal Council" and "election" shall have the meanings assigned to them in the Municipalities Act ;

(c) "the Municipalities Act" means the Maharashtra Municipalities Act, 1965 ;

(d) words and expressions used in this Act and not defined herein shall, in relation to any Municipal Council, have the meanings assigned to them under the Municipalities Act.

Postponement of certain municipal elections and of extension term of administrators. 3. (1) Notwithstanding anything contained in the Municipalities Act, or any rules, orders and by-laws made thereunder or in any judgement, decree or order of any Court,—

(a) during the period from the date of commencement of this Act and upto and inclusive of [the 31st day of May 1980] or such earlier date as may be notified by the State Government under sub-section (3) of section 1 (hereinafter in this Act referred to as "the said period") no general election of the Councillors or President of any Municipal Councils, of which general elections were held in November-December 1974, and no election to fill, any casual vacancy of any Councillor or President in such Municipal Councils, shall be held ;

(b) the term of office of any administrator or administrators of any Municipal Councils or for exercising the powers and performing the duties of any President, who were in office on the date of commencement of this Act (whether their term or extended term had expired before or will expire after the said date at any time during the said period) shall be deemed to have been extended, or to be extended as the case may be, and every administrator or any other person appointed as

¹These words, figures and letters were substituted for the words, figures and letters "the 31st day of December 1979", by Mah. 10 of 1980, s. 9.

²These words, figures and letters were substituted for the words, figures and letters "the 31st day of December 1979", *ibid.*, s. 10.

administrators in their places, from time to time, shall continue to hold office during the said period.

(2) Notwithstanding anything contained in sub-section (1), after the term of office of the administrators as extended by this Act expires, they shall continue to hold office till the date immediately preceding the day on which the first meeting of the constituted or reconstituted Municipal Council, as the case may be, is held, where there is a quorum.

4. Notwithstanding anything contained in this Act, after a date (being a date before the expiry of the said period) notified by the State Government in the *Official Gazette*, arrangements shall be made by the Director and Collectors and other Government and municipal officers concerned to constitute to reconstitute new Municipal Councils in accordance with the provisions of the Municipalities Act and the rules and bye-laws made thereunder, before, or as soon as possible after, the expiration of the term of office of the existing administrator or administrators, which stands extended during the said period.

Arrangements to be made to constitute new Municipal Councils at the expiry of extended term of existing administrators.

5. Except as otherwise provided by or under this Act, the Municipalities Act shall in all other respects apply to the Municipal Councils concerned.

Application of Municipalities Act.

6. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, do anything which appears to it to be necessary for the purpose of removing the difficulty.

Removal of difficulties.

Mah. 7. (1) The Maharashtra Municipalities (Postponement of Elections due to ensuing General Elections to Municipal Councils) Ordinance, 1978 is hereby repealed.

Repeal of Mah. Ord. IX of 1978.

(2) Notwithstanding such repeal anything done or any action taken (including any order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.