

The Goa Municipalities (Amendment) Bill, 2021

(BILL No. 9 of 2021)

A

BILL

further to amend the Goa Municipalities Act, 1968 (Act 7 of 1969).

BE it enacted by the Legislative Assembly of Goa in the Seventy-second Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Goa Municipalities (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 2.— In section 2 of the Goa Municipalities Act, 1968 (Act 7 of 1969) (hereinafter referred to as the "principal Act"), clause (55a) shall be re-numbered as clause (55b) and before clause (55b) as re-numbered, the following clause shall be inserted, namely;-

“(55a) “Voters” means all the voters whose names are entered in the list of voters prepared and maintained under section 11.”

3. Amendment of section 9.— In section 9 of the principal Act, in sub-section (2), in clause (a),-

(i) in item (i),-

(a) for the figures "15" and "3000", the figures "20" and "2,500" shall be respectively substituted;

(b) for the word "population", the words "voters in the municipal area" shall be substituted;

(ii) in item (ii),-

(a) for the figures "10" and "3,000", the figures "12" and "2,500" shall be respectively substituted;

(b) for the word "population", the words "voters in the municipal area" shall be substituted.

3. Amendment of section 10.- In section 10 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:-

"Provided that such order shall be issued at least seven days before the date of notification of the general election".

4. Amendment of section 11.- In section 11 of the principal Act.-

(i) in sub-section (1), for the expression, "Goa Daman and Diu Legislative Assembly", the expression "*Legislative Assembly of the State of Goa*" shall be

substituted;

(ii) in sub-section (3), for the words "one month", the words "*ten days*" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend section 2 of the Goa Municipalities Act, 1968 (Act 7 of 1969) (hereinafter referred to as the "said Act") so as to define the term "voters" for the purpose of said Act.

The Bill further seeks to amend section 9 of the said Act so as to ensure fair elections with proper representation for the people from all the wards in accordance with updated list of voters in the municipal areas.

The Bill also seeks to amend section 10 of the said Act so as to prescribe the time period between the date of notification of delimitation of wards and reservation of seats and the date of notification of the general election.

The Bill seeks to amend section 11 of the said Act to replace the expression "Goa Daman and Diu Legislative Assembly" with the expression "Legislative Assembly of the State of Goa" in view of formation of the State of Goa by virtue of enactment of The Goa, Daman and Diu Reorganisation Act, 1987 (Act No. 18 of 1987) and to provide the minimum time period for keeping open the copies of the list of voters of each ward for public inspection at the municipal office and at such other places in the municipal area as the State Election Commission may fix.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

On account of increase in the number of Councillors in five “B” Class Municipal area, there will be financial implications to the extent of payment of honorarium to the additional Councillors.

MEMORANDUM REGARDING DELEGATED LEGISLATION

No delegated legislation is involved in this Bill.

Porvorim - Goa

(Milind Naik)

----- January, 2021

Minister for Urban Development

Assembly Hall,

(Namrata Ulman)

Porvorim - Goa

Secretary to the Legislative

-----January, 2021

Assembly of Goa

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, Bhagat Singh Koshyari, Governor of Goa, hereby recommend the introduction and consideration of The Goa Municipalities (Amendment) Bill, 2021 by the Legislative Assembly of Goa

ANNEXURE

Extracts of Section 2, 9, 10 and 11 of the Goa Municipalities Act, 1968 (Act 7 of 1969)

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

(1) “Administrative Tribunal” means the Administrative Tribunal constituted under the Goa, Administrative Tribunal Act, 1965;

(1A) “Appellate Tribunal” means as Appellate Tribunal constituted under section 184 B.

(2) “appointed day”, in relation to an area, means the date on which the relevant provisions of this Act come into force in that area;

(3) “building” includes a house, out-house, stable, shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes *verandahs*, fixed platforms, plinths, door steps, walls, (including coumpound walls) and fencing and the like;

(4) “bye-law” means a bye-law made or deemed to be made by the Council under this Act;

(5) “Cess-pool” includes a tank for the reception or disposal of foul matter from buildings;

(5a) “Chairperson” and “Vice-Chairperson” means Chairperson and

Vice-Chairperson of the Council as the case may be;

(6) “Chief Officer” means the person appointed or deemed to be appointed under this Act to be the Chief Officer of a municipal area;

(7) “Collector” means the Collector of North Goa District and that of South Goa District and also includes the Additional Collector of North Goa District and South Goa District, respectively;

(8) “Council” means a Municipal Council constituted or deemed to be constituted under this Act for a municipal area;

(9) “Councillor” means a person who is duly elected as a member of the Council;

(10) “dairy” includes any farm, cattle-shed, cow- house, milk-store, milk-shop or other place from which milk is supplied for sale, or in which milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curds, dried, sterilized or condensed or toned milk, but does not include—

(A) a shop or other place in which milk is sold for consumption on the premises only, or

(B) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;

(10a) “Development Committee” means the Development Committee constituted under section 322 B;

(11) “Director” means the person appointed by the Government to be the Director of

Urban Development;

(11a) 'District' means a district in the State of Goa;

(12) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush-tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(13) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

(14) "election" means an election to a Council, and includes a bye-election;

(15) "factory" means a factory as defined in the Factories Act, 1948; LXIII of 1948.

(16) "filth" includes sewage, night-soil and all offensive matter;

(17) "food" includes every article. used as food or drink for human consumption other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionary, flavouring and coloring matters and spices and condiments;

(18) "goods" includes animals;

(19) “Government” means the Government of Goa 15;

(20) “house-drain” means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(21) “house-gully” or “service passage,” means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to servants of the Council or to persons employed in the cleansing thereof or in the removal of such matter there from;

(22) “land” includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(23) “local authority” means a municipality or village panchayat, as the case may be, constituted under any law for the time being in force in the State of Goa;

(24) “lodging house” means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration, and includes a lodging house for pilgrims whether lodging is provided for or without any monetary consideration;

(25) “market” includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish, fruit,

vegetables, drinks, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

(26) “milk” includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk;

(27) “municipal area” means any local area declared or deemed to be declared as municipal area by or under this Act;

(28) “municipal market” or “municipal slaughter-house” means a market or a slaughter-house, as the case may be, which belongs to or is maintained by the Council;

(29) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(30) “occupier” includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

(b) an owner living in or otherwise using his land or building,

(c) a rent-free tenant,

(d) a licensee in occupation of any land, or building, and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(31) “octroi” means a tax on the entry of goods into a municipal area for consumption, use or sale therein;

(32) “offensive matter” includes animal carcasses, dung, dirt and putrid or putrifying substances other than sewage;

(33) “officer or servant of the Council” means an officer or servant appointed by the Government or the Council or any other competent authority subordinate to it, and includes any Government Officer or servant, who is for the time being serving under the, Council and the classification of posts of officers or servants of Council as Group A, Group B, Group C and Group D posts will have the meaning as assigned by the Government for equivalent posts in Government Departments;

(34) “official year” or “financial year” means the year commencing on the first day of April;

(35) “owner” means,—

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes —

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with or concerned

for, any premises devoted to religious or charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and

(iv) a mortgagee-in-possession; and

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

(36) “population” means the population as ascertained at the last preceding Census of which the relevant figures have been published, but where figures of Census are not available, the population shall be ascertained from other relevant authenticated records maintained by the Government.

(37) “premises” includes messuages, buildings and lands of any tenure, whether open or enclosed, whether built on or not and whether public or private;

(38) “prescribed” means prescribed by rules;

(39) []

(40) “private market” means a market which is not a municipal market, but does not include a market established for the purposes of any law for the time being in force regulating the marketing of agricultural and other produce in such markets;

(41) “private slaughter-house” means a slaughter-house which is not a municipal slaughter-house;

(42) “private street” means a street which is not a public street;

(43) “privy” means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type, and aqua privy, a latrine and a urinal;

(44) “public place” includes any public park or garden or any ground to which the public have or are permitted to have access;

(45) “public securities” means—

(a) securities of the Central Government and of any State Government;

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by any enactment for the time being in force in any part of the territory of India; or

(d) securities expressly authorized by an order which the Government makes in this behalf;

(46) “public street” means any street—

(a) over which the public have a right of way;

(b) heretofore levelled, paved, metalled, channeled, sewerred, or repaired out of municipal or other public funds; or

(c) which under the provisions of this Act becomes, or is declared, a public street;

(47) “rubbis” includes dust, ashes, broken bricks, mortar, broken glass, garden or

stable refuse and refuse of any kind which is not offensive matter or sewage;

(48) “Rules” means rules made by the Government under this Act;

(49) “Scheduled Castes” means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Goa under article 341 of the Constitution of India;

(50) “Scheduled Tribes” means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities, as are deemed to be Scheduled Tribes in relation to the State of Goa under article 342 of the Constitution of India;

(51) sewage” means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bath-rooms, stables, cattlesheds and other like places, and includes trade effluent and discharges from manufactories of all kinds;

(51a) “State” means the State of Goa

(51b) ‘State Election Commission’ means the State Election Commission constituted under the section 237 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994).

(52) “street” means any road, foot-way, square, court-alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to

or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

(53) “total number of Councillors”, in relation to a Council, means the total number of elected councillors

(54) []

(55) “vehicle” includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street;

(55a) “Ward” mean the territorial constituency of the municipal area;

(56) “water closet” means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(57) “water-connection” includes—

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with a water-main or pipe belonging to the Council; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

“water work” includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine, water truck, hydrant,

stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply.

9. Composition of Councils.— (1) Save as otherwise provided by this Act, every Council shall consist of Councillors elected at ward elections;

Provided that—

(1) in every Council, no less than (1/3) seats shall be reserved for women;

(2) in every Council, seat shall also be reserved for Scheduled Caste, Scheduled Tribes and Other Backward Class and for woman belonging to Scheduled Caste, as the case may be, the the Scheduled Tribes and Other Backward Class as provided in subsection (2).

The Director shall from time to time by an order published in the Official Gazette fix for each municipal area—

(a) the number of elected Councillors in accordance with the following table:

| Class of Municipal area | Number of elected Councillors |
|-------------------------|--|
| (i) 'A' Class | The minimum number of elected Councillors shall be 15, and for every 3,000 of the population or part thereof above 50,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 25; |

(ii) 'B' Class The minimum number of elected Councillor shall be 10, and for every 3,000 of the population or part thereof above 10,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 20;

(iii) the figure in (i) and (ii) shall be odd, if possible

(iv) 'C' Class The number of elected Councillors shall be 10.

(b) the number of seats, if any, to be reserved for the Scheduled Castes or Scheduled Tribes so that such number shall bear, as nearly as may be, the same proportion to the number of elected Councillors as the population of the Scheduled Castes, or the Scheduled Tribes in the municipal area bears to the total population of that area and not less than one-third of such seats shall be reserved for women and such seats shall be allotted by rotation to different wards in the Council.

(bb) the number of seats, if any, to be reserved for persons belonging to the category of Other Backward Classes so that such number shall be twenty seven percent of the number of seats to be filled in through election in the Council and such seats shall be allotted by rotation to different wards in the Council.

(c) the number of seats for the office of Chairperson in the Council for Scheduled Castes, the Scheduled Tribes and women so that such number will bear as nearly as may be, the same proportion to the number of elected Councillors as the population of the scheduled Castes, Scheduled Tribes in the municipal area bears to the total

population of that area and such seats shall be allotted by rotation to different constituencies in a Council.

The reservation of seats for Scheduled Castes and Scheduled Tribes made by an order under sub-section (2) shall cease to have effect when the reservation of seats for those Castes and Tribes in the House of the People ceases to have effect under the Constitution of India:

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of office for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.

(4) Every order under sub-section (2) shall take effect for the purposes of the next general election of the Council immediately following after the date of the order.

(5) []

10. Division of municipal area into wards and reservation of wards for women, [Scheduled Castes, Scheduled Tribes and Other Backward Class.— (1) The Director shall from time to time by order published in the Official Gazette, fix for each municipal area the number and the extent of the wards into which such area shall be divided. The Director shall specify in the order the ward in which a seat is reserved for women but in so doing he shall ensure that such a seat its reserved from time to time by rotation in different wards of the municipal area. He shall by a like order specify the wards in which seats are reserved for Scheduled Castes, Scheduled Tribes or the Other

Backward Class, including the seats for offices of Chairperson having regard to the concentration of population of those Castes, or Tribes, or as the case may be, of those class, in any particular wards.

(2) Each of the wards shall elect only one Councillor.

(3) Every order issued under sub-section (1) shall take effect for the purpose of the next general election immediately following the date of such order.

Nothing in this section shall be deemed to prevent women or persons belonging to the Scheduled Castes, Scheduled Tribes or Other Backward Class for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not reserved.

11. List of voters.— (1) The electoral roll of the Goa, Daman and Diu Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, and for the time being in force on such date as the State Election Commission may by general or special order notify in this behalf (being a date not earlier than one month from such notification) for such constituency of the Assembly or any part thereof as is included in the municipal area, shall be divided into different sections corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer shall be the list of voters for each ward. The ward lists shall collectively be deemed to be the municipal

voters' list.

(2) Such officer shall maintain the lists of voters prepared under sub-section (1) and the lists so maintained shall be deemed to be the authentic lists for all elections under this Act.

(3) At least one month before the last date fixed for nomination of candidates for every general election, such officer shall keep open for public inspection at the municipal office and at such other places in the municipal area as the State Election Commission may fix, copies of the list of voters of each ward maintained under sub-section (2).