



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ३२ |

गुरुवार, ऑगस्ट २६, २०१०/भाद्र ४, शके १९३२

| पृष्ठे ९, किंमत : रुपये १९.००

असाधारण क्रमांक ६४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010 (Mah. Ord. X of 2010), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra.

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010 (Mah. Ord. X of 2010), published under the authority of the Governor.

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 26th August 2010.

MAHARASHTRA ORDINANCE No. X OF 2010.

AN ORDINANCE

further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

WHEREAS, both Houses of the State Legislature are not in session :

AND WHEREAS, the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take

(१)

महाराष्ट्र शासन राजपत्र असाधारण भाग आठ, ऑगस्ट २६, २०१०/भाद्र ४, शके १९३२

immediate action further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Bom.
III of
1888.
Bom.
LIX
of
1949.
C.P.
and
Berar
II of
1950.
Mah.
XL of
1965.

CHAPTER I

PRELIMINARY

- Short title and commencement.
1. (1) This Ordinance may be called the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010.
 - (2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT

- Amendment of section 128 of Bom. III of 1888.
2. In section 128 of the Mumbai Municipal Corporation Act (hereinafter, in this Chapter, referred to as "the Mumbai Corporation Act"),—

Bom.
III of
1888.

(1) in sub-section (1), in clause (a).—

(a) for the words "official year; and" the words "official year:" shall be substituted;

(b) the following proviso shall be added, namely :—

"Provided that, the Corporation may determine different rates of property taxes for different categories of users of a building or land or part thereof; and";

(2) after sub-section (2), the following sub-section shall be added, namely :—

"(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation may at any time, after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, but before the expiry of the official year 2010-2011 (hereinafter, in this Act, referred to as "the year 2010-2011"), determine different rates of property taxes for different categories of users of a building or land or part thereof, which may be levied in the year 2010-2011. The rates of property taxes so determined shall be effective and shall be deemed to have been effective from the 1st April 2010 and the tax during the year 2010-2011 shall be leviable and payable at those rates."

Mah.
Ord.
X of
2010.

- Amendment of section 140A of Bom. III of 1888.
3. Section 140A of the Mumbai Corporation Act shall be re-numbered as sub-section (1) thereof; and after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely :—

(2) Notwithstanding anything contained in sub-section (4) of section 139A or any other provisions of this Act or Resolution, if

Mah.
Ord.
X of
2010.

any, passed by the Corporation adopting the levy of property tax on building and lands on the basis of capital value, but subject to the provisions of section 154A, buildings and lands in respect of which the process of fixing capital value is in progress on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, and pending fixing the capital value thereof, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year, that is to say, for the year ending on the thirty-first day of March 2010; and on fixation of capital value of such buildings and lands during the year 2010-2011, a final bill based on the final assessment shall be issued for the total tax leviable and payable during the year 2010-2011. After such final assessment, if it is found that the assessee has paid excess amount, such excess amount shall, notwithstanding anything contained in section 179, be refunded within three months from the date of issuing the final bill, along with interest from such date as provided in the first proviso to sub-section (5) of section 217, or after obtaining the consent of the assessee shall be adjusted towards payment of property tax due, if any, or for the subsequent year; and if the amount of tax on final assessment is more than the amount of tax already paid by the assessee the difference shall be recovered from the assessee.

(3) Notwithstanding anything contained in section 163 or 217 or any other provisions of this Act and having regard to the fact that the property tax bill has been issued in accordance with the provisions of sub-section (2), not being a final bill, such bill shall not be questioned before any forum; and no complaint or appeal shall lie against such bill merely on the ground that capital value in respect of the property which is the subject matter of the bill is not yet fixed, or that the amount of tax leviable and payable at the rate of the property tax determined by the Corporation is not yet finally ascertained, or on any other ground whatever."

4. To section 144A of the Mumbai Corporation Act, the following *Explanation* shall be added, namely :—

Amendment
of section
144A of
Bom. III of
1888.

"*Explanation.*—For the purposes of this section "ecologically beneficial scheme" includes rain water harvesting system, vermi composting, use of solar energy and other non-conventional sources of energy, recycling and re-use of waste water, or any scheme for promoting environment friendly and ecologically beneficial building construction or the like as the Corporation or the State Government may identify."

5. In section 154 of the Mumbai Corporation Act.—

Amendment
of section
154 of
Bom. III of
1888.

(1) in sub-section (1A),—

Bom.
IX of
1958.

(a) after the words and figures " the Bombay Stamp Act, 1958 " the words " as a base value, " shall be inserted ;

(b) for the words " taking into consideration the market value of such building or land, as a base value ; and also have regard to the following factors, namely :— " the words " taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely :— " shall be substituted ;

(2) in sub-section (1B), for the words " assigned to various such categories " the words " assigned to various such factors and categories " shall be substituted.

Insertion of section 154A in Bom. III of 1888.

6. After section 154 of the Mumbai Corporation Act, the following section shall be inserted, namely :—

Provisional fixation of capital value in certain cases.

" **154A.** Notwithstanding anything contained in section 154, where in respect of any building or land or part thereof, the process of fixing capital value for the year 2010-2011 is in progress on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, the rateable value of such building or land or any part thereof during the year preceding the year 2010-2011 shall be the provisional capital value and shall be deemed to be the capital value validly and legally fixed under the provisions of this Act, pending fixing the final capital value thereof : and it shall be lawful for the Commissioner to treat it as such for the purposes of assessment book kept under the provisions of this Act, and the bill of property tax issued under sub-section (2) of section 140A shall be deemed to have been validly and legally issued under the provisions of this Act. "

Mah. Ord. X of 2010.

Amendment of section 156 of Bom. III of 1888.

7. In section 156 of the Mumbai Corporation Act, for the words "prescribe by rules" the word "determine" shall be substituted.

Amendment of section 168 of Bom. III of 1888.

8. In section 168 of the Mumbai Corporation Act, in sub-section (3), for the words "four years" the words "five years" shall be substituted.

Insertion of section 219A in Bom. III of 1888.

9. After section 219 of the Mumbai Corporation Act, the following section shall be inserted, namely :—

Certain provisions to have overriding effect.

" **219A.** The provisions of sections 128, 140A, 154A, 156 and 168, as amended by the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, shall have effect notwithstanding anything inconsistent therewith contained in Chapter VIII or in any other provisions of this Act, or in any judgment, decree or order of any court. "

Mah. Ord. X of 2010.

CHAPTER III

AMENDMENTS TO THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949

Bom. LX of 1949. **10.** In section 129 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"),—

Amendment of section 129 of Bom. LX of 1949.

(1) after the first proviso, the following proviso shall be inserted, namely :—

"Provided further that, the Corporation may determine different rates of property tax for different categories of user of a building or land or a part thereof :";

(2) in the second proviso, for the words "Provided that" the words "Provided also that" shall be substituted.

11. In Schedule 'D' of the Provincial Corporations Act, in Chapter VIII,—

Amendment of Schedule 'D' to Bom. LX of 1949.

(A) in rule 7A,—

(1) in sub-rule (1),—

Bom. LX of 1958.

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted;

(b) for the words "taking into consideration the market value of such building or land, as a base value; and also have regard to the following factors, namely:—" the words "taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely:—" shall be substituted;

(2) in sub-rule (2), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted;

(B) in rule 21, in sub-rule (2), for the words "four years" the words "five years" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE CITY OF NAGPUR CORPORATION ACT, 1948

C.P. and Berar II of 1950. **12.** In section 115A of the City of Nagpur Corporation Act, 1948 (hereinafter, in this Chapter, referred to as "the Nagpur Corporation Act"), to sub-section (1), the following proviso shall be added, namely:—

Amendment of section 115A of C.P. and Berar II of 1950.

"Provided that, the Corporation may determine different rates of property tax for different categories of users of a building or land or a part thereof."

Amendment
of section
119 of C.P.
and Berar
II of 1950.

13. In section 119 of the Nagpur Corporation Act, in clause (B),-

(1) in clause (a),-

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted ;

Bom.
LX of
1958.

(b) for the words "taking into consideration the market value of such building or land, as a base value ; and also have regard to the following factors, namely :—" the words "taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely :—" shall be substituted ;

(2) in clause (b), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT, 1965

Amendment
of section
105 of
Mah. XI
of 1965.

14. In section 105 of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (hereinafter, in this Chapter, referred to as "the Municipal Councils Act"), to sub-section (1), after the second proviso, the following proviso shall be added, namely :-

Mah.
XI, of
1965.

"Provided also that, the Council may determine different rates of tax for different categories of users of a building or land or a part thereof."

Amendment
of section
114 of
Mah. XL
of 1965.

15. In section 114 of the Municipal Councils Act, in sub-section (3),-

(1) in clause (a),-

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted ;

Bom.
LX of
1958.

(b) for the words "taking into consideration the market value of such building or land, as a base value ; and also have regard to the following factors, namely :—" the words "taking into consideration the market value of such building or land, as a base value. The Chief Officer, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely :—" shall be substituted ;

(2) in sub-clause (b), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted.

16. In section 124 of the Municipal Councils Act, in sub-section (2), for the words "four years" the words "five years" shall be substituted.

Amendment
of section
124 of
Mah. XL
of 1965.

CHAPTER VI MISCELLANEOUS

17. (1) If any difficulty arises in giving effect to the provisions of the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, in respect of the matters contained in this Ordinance, the State Government may, as the occasion arises, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by this Ordinance, which appears to it to be necessary for the purpose of removing the difficulty.

Power to
remove
difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT

With a view to bring greater transparency and to rationalize the revenue of the Urban Local Bodies from property taxes, the Municipal Corporations and Municipal Councils have been empowered to levy property tax on the basis of capital value of property in lieu of the system of levy of property tax on the basis of rateable value of property, by amending the Municipal Laws in the State. Accordingly, the Mumbai Municipal Corporation has decided to levy the property tax on the basis of capital value, with effect from the 1st April 2010. Under the prevailing circumstances certain transitory provisions are proposed to be incorporated in the Mumbai Municipal Corporation Act (Bom. III of 1888) from implementation point of view and certain provisions have been proposed to maintain uniformity in all Municipal Laws as under :—

(1) to enable the Mumbai Municipal Corporation to fix different rates of tax for different user of a building or land or a part thereof, and accordingly to fix such rates during the year 2010-2011, effective from the 1st April 2010, an amendment to section 128 is proposed. Similar amendment has also been proposed in the other Municipal Corporations Acts as well as the Municipal Councils Act ;

(2) to enable the Mumbai Municipal Corporation for provisional levy of property tax equal to the amount of tax leviable and payable in the preceding year, an amendment to section 140A is proposed ;

(3) to clarify the provision relating to other factors to be taken into account while deciding the capital value of the property, on the basis of stamp duty ready reckoner or market value of the buildings and lands, suitable amendment to section 154 of the Mumbai Corporation Act is proposed. Similar amendment has also been proposed in other Municipal Corporation Acts as well as Municipal Councils Act ;

(4) to explain the term "ecologically beneficial scheme" used in section 144A of the Mumbai Municipal Corporation Act, an explanation is proposed to be added to the said section 144A on the lines of the provisions obtaining in other Municipal Corporation Acts and the Municipal Councils Act ;

(5) to enable the Mumbai Municipal Corporation to treat the rateable value of the building or land or any part thereof, pending fixing the capital value thereof, for the year preceding the year 2010-2011 as a provisional capital value so as to levy tax thereon under section 140A, a new section 154A is proposed to be inserted.

2. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
Dated the 26th August 2010.

K. SANKARANARAYANAN,
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

MANU KUMAR SHRIVASTAV,
Secretary to Government.