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महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

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असाधारण क्रमांक १५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि 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 (Urban Areas) Protection and Preservation of Trees (Amendment) Bill, 2021 (L. A. Bill No. VIII of 2021), introduced in the Maharashtra Legislative Assembly on the 5th July 2021, is hereby published under the authority of the Governor.

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

SATISH WAGHOLE,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. VIII OF 2021.

A BILL

further to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

Mah.
XLIV of
1975.

Whereas it is expedient to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, for the purposes hereinafter appearing ; it is hereby enacted in the Seventy-second Year of the Republic of the India as follows :—

(१)

- Short title. 1. This Act may be called the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021.
- Amendment of section 2 of Mah. XLIV of 1975. 2. In section 2 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as “the principal Act”),—
- Mah. XLIV of 1975.
- (1) clause (1a) shall be re-numbered as clause (1aa);
- (2) before clause (1aa) as so re-numbered, the following clause shall be inserted, namely:—
- “(1a) “heritage tree” means a tree categorised as such by the Tree Authority, in accordance with the norms as may be notified by the Government;”.
- Amendment of section 3 of Mah. XLIV of 1975. 3. In section 3 of the principal Act,—
- (1) before sub-section (1), the following sub-section shall be inserted, namely :—
- “(A-1) As soon as may be, after the commencement of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021, the State Government shall constitute the Maharashtra State Tree Authority, by notification in the *Official Gazette*, consisting of officials not below the rank of Secretary to Government.”;
- Mah. of 2021.
- (2) in sub-section (2), in the table, in entry 2, in column (2), for the words “The President of the Council” the words “The Chief Officer of the Council” shall be substituted ;
- (3) in sub-section (3), for the words “representatives of non-official organisations, who have special knowledge or practical experience in the field of planting and preservation of trees,” the words “experts from non-official organisations including retired Government Officials, with an experience in planting, preservation and conservation of trees, for minimum period as may be notified by the Government, from time to time,” shall be substituted.
- Insertion of new section 6A in Mah. XLIV of 1975. 4. In Chapter IV of the principal Act, before section 7, the following section shall be inserted, namely :—
- “6A. Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Maharashtra State Tree Authority shall be responsible for,—
- (i) monitoring the functioning of the Tree Authority ;
- (ii) protection and conservation of heritage trees across the State ;
- (iii) decide applications referred to it by the Tree Authority, regarding felling of more than two hundred trees of age five years or more ;
- Duties of Maharashtra State Tree Authority.

(iv) decide applications referred to it by the Tree Authority, regarding felling of heritage trees ;

(v) any other functions related to protection and conservation of trees.”.

5. In section 7 of the principal Act,—

Amendment
of section 7 of
Mah. XLIV of
1975.

(1) in clause (b), after the words “every five years” the words “by using new technological means such as GIS based tree census or any other modern technology” shall be added ;

(2) for clause (i), the following clauses shall be substituted, namely :—

“ (i) planting number of trees of the same variety or any other local or native variety, in such number equal to the age of the tree being transplanted and carry out such transplantation under the expert guidance only ;

(j) ensuring that compensatory plantation is carried out and survival of trees, including the compensatory plantation, in all lands within the jurisdiction of the urban local authority ;

(k) ensuring utilisation of tree cess for conservation and preservation of trees ;

(l) carrying out any other activity as assigned by the Maharashtra State Tree Authority, from time to time ;

(m) deciding which tree is to be categorised as heritage tree, and enumerate heritage trees;

(n) ensuring that the land owned by the urban local authority or land owned by the Government is earmarked for the purpose of plantations and ensure such plantations shall be scientific in nature and should be carried out with an objective to preserve local species and improve green cover of the area, to the extent of not less than 33 per cent. ;

(o) ensuring pruning and maintenance of trees is carried out in a scientific manner under expert guidance, every year ;

(p) ensuring that the compensatory plantation for each of the naturally fallen tree is carried out by the urban local authority ;

(q) undertaking any other schemes or measures for achieving the objects of this Act.”.

Amendment
of section 8 of
Mah. XLIV of
1975.

6. In section 8 of the principal Act,—

(1) in sub-section (2), the following proviso shall be added, namely :—

“ Provided that, where the significant number of trees are proposed to be felled, the alternate design alongwith the number of trees required to be felled for respective design shall be submitted alongwith the application.”;

(2) in sub-section (3),—

(a) in clause (a),—

(i) in sub-clause (iii), the word “and” shall be deleted ;

(ii) after sub-clause (iv), the following sub-clauses shall be added, namely :—

“ (v) specifically mention in the advertisement, if the tree to be felled is a heritage tree ; and

(vi) determine the age of the tree being felled as per the criteria and method as may be notified by the Government.”;

(b) after clause (a-1), the following provisos shall be added, namely :—

“ Provided that, where more than two hundred trees of age five years or more are proposed to be felled, in such cases, the Tree Authority shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided further that, where the tree proposed to be felled is a heritage tree, in such cases, the Tree Authority or Tree Officer, as the case may be, shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided also that, the Tree Authority or Tree Officer, as the case may be, shall ensure that the development of land or any other project is not sub-divided in smaller parts so as to keep the number of trees to be felled below two hundred.”;

(3) in sub-section (4), the following proviso shall be added, namely :—

“Provided that, the provisions of this sub-section shall not be applicable in case of felling of a heritage tree.”;

(4) in sub-section (5),—

(a) sub-section (5) shall be re-numbered as clause (a);

(b) in clause (a), as so re-numbered, for the words “the applicant shall plant twice the number of trees to be felled” the words “applicant shall plant such number of trees equal to the estimated age of the tree being felled and such trees to be planted shall be of atleast six feet height,” shall be substituted;

(c) after clause (a), as so re-numbered, the following clause shall be added, namely :—

“(b) Tree Officer shall determine the age of the tree being felled as per the criteria and method as may be notified by the Government.”;

(5) after sub-section (5), the following sub-sections shall be inserted, namely :—

“(5A) The applicant and the Tree Authority or Tree Officer shall ensure that, compensatory plantation shall be carried out and the trees planted shall survive for a minimum period of seven years. It shall also be ensured that, the tree mortality during this period shall be compensated by planting equal number of new trees:

Provided that, in case it is not possible for applicant to do the compensatory plantation, the applicant shall deposit an amount not less than valuation of trees being felled. Such valuation shall be based on methodology as may be notified by the Government:

Provided further that, such amount deposited shall be utilized only for the purpose of compensatory plantation, its preservation and compensatory plantation in lieu of the tree mortality during this period.

(5B) (a) The Tree Authority shall refer the application received for felling of more than two hundred trees of age five years or more to the Maharashtra State Tree Authority.

(b) The Tree Authority or Tree Officer, as the case may be, shall refer the application to fell a heritage tree to the Maharashtra State Tree Authority.

(c) The Maharashtra State Tree Authority shall either allow the application referred to it under clauses (a) and (b), by the Tree Authority or Tree Officer, as the case may be, with or without conditions or may refuse it within a period of forty-five days from the date of receipt of the reference from the Tree Authority or Tree Officer, as the case may be.

(d) Where the Maharashtra State Tree Authority allows felling of trees, the Tree Authority if considers it necessary to review the decision of the Maharashtra State Tree Authority, it may within a period of fifteen days from the date of communication of the decision, request the Maharashtra State Tree Authority to reconsider the decision with reasons therefor. Such request shall be decided by the Maharashtra State Tree Authority within ten days thereafter.

(5C) New trees planted, *in lieu of* the permission to fell a tree granted under sub-section (5), shall be geo-tagged and monitored using latest technologies available.”.

7. In section 18 of the principal Act, after sub-section (2), the following sub-section shall be added, namely :—

Amendment of section 18 of Mah.XLIV of 1975.

“(3) Tree cess collected under the provisions of this section shall be utilised by the urban local authority in such manner as may be directed by the Government, from time to time.

(4) The State Government may, issue directions and determine different criteria for utilisation of cess, for different urban local authorities, considering the area of existing green cover and assessment of the need of the area for preservation and conservation of trees.”

Amendment
of section 21
of Mah.XLIV
of 1975.

8. In section 21 of the principal Act, in sub-section (1), for the words “not less than one thousand rupees which may extend upto five thousand rupees” the words “an amount of valuation of tree, using methodology as may be notified by the Government but not more than one lakh rupees” shall be substituted.

STATEMENT OF OBJECT AND REASONS

The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Mah.XLIV of 1975) has been enacted for the purpose of protection and preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas.

2. Still there is indiscriminate felling of larger number of trees in the various urban areas of the State due to continuous increase in urbanisation, industrialisation and execution of various infrastructure projects at a rapid pace in such areas. Therefore, there is urgent need to control, minimize and regulate the felling of large number of trees in the urban areas of the State.

3. Felling of trees causes considerable damage to the environment, therefore, to prevent the damage caused, to protect the environment, to ensure greater protection to heritage trees, plantation and preservation of trees and to increase green cover of the urban areas, it is proposed to amend sections 2, 3, 7, 8, 18 and 21 of the said Act, suitably and to insert new section 6A therein.

4. Salient features of the proposed Bill are as under :—

(a) to provide for conservation of “heritage tree” ;

(b) to provide the constitution of the Maharashtra State Tree Authority and duties thereof ;

(c) to provide use of new and modern technological means for carrying out census of the existing trees ;

(d) to confer additional duties on the Tree Authorities regarding planting of number of trees, ensuring survival of trees, proper utilization of Tree cess for preservation and conservation of the trees, scientific and compensatory plantation and maintenance thereof ;

(e) to provide more detailed procedure for preventing felling of trees and adequate compensatory plantations ;

(f) to provide for proper utilization of collected Tree cess ;

(g) to provide for increase in penalty for the tree felled in contravention of the provisions of the Act.

5. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 28th June 2021.

AADITYA THACKERAY,
Minister for Environment and
Climate Change.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of a legislative power, namely:—

Clause 2.— Under this clause, which seeks to insert the definition of the term “heritage tree” in section 2 of the said Act, the power is taken to the State Government to notify the norms to categorise a tree as heritage tree by the Tree Authority.

Clause 3.— (a) Under sub-clause (1), which seeks to insert sub-section (A-1) in section 3 of the said Act, the power is taken to the State Government to constitute the Maharashtra State Tree Authority, consisting of officials not below the rank of Secretary to Government ;

(b) under sub-clause (3), which seeks to amend sub-section (3) of section 3 of the said Act, the power is taken to the State Government to notify a minimum period for which every Tree Authority may nominate experts from non-official organisations including retired Government Officials, with an experience in planting, preservation and conservation of trees.

Clause 6.— (a) Under sub-clause (2)(a)(ii), which seeks to insert sub-clause (vi) in clause (a) of sub-section (3) of section 8 of the said Act, the power is taken to the State Government to notify the criteria and method to determine the age of tree being felled;

(b) under sub-clause (4)(c), which seeks to insert clause (b) in sub-section (5) of section 8 of the said Act, the power is taken to the State Government to notify the criteria and method to determine the age of tree being felled;

(c) under sub-clause (5), which seeks to insert sub-section (5A) in section 8 of the said Act, in the first proviso, the power is taken to the State Government to notify the methodology for valuation of trees being felled.

Clause 8.— Under this clause, which seeks to amend sub-section (1) of section 21 of the said Act, the power is taken to the State Government to notify the methodology of determining the valuation of trees being felled.

2. The above mentioned proposals for delegation of legislative power are of a normal character.