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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1988-L.—21st November, 2018.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 29 of 2018

**THE HOWRAH MUNICIPAL CORPORATION
(SECOND AMENDMENT) BILL, 2018.**

**A
BILL**

to amend the Howrah Municipal Corporation Act, 1980.

WHEREAS it is expedient to amend the Howrah Municipal Corporation Act, 1980, for the purposes and in the manner hereinafter appearing;

West Ben. Act
LVIII of 1980.

It is hereby enacted in the Sixty-ninth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the Howrah Municipal Corporation (Second Amendment) Act, 2018.

(2) This section shall come into force at once; and the remaining sections shall come into force on such date or dates as the State Government may, by notification in the *Official Gazette*, appoint.

*The Howrah Municipal Corporation
(Second Amendment) Bill, 2018.*

(Clauses 2-7.)

Amendment of section 5 of the West Ben. Act LVIII of 1980.

2. After sub-section (2) of section 5 of the Howrah Municipal Corporation Act, 1980 (hereinafter referred to as the principal Act), the following sub-sections shall be inserted:—

“(3) The Board of Councillors, unless dissolved earlier, shall hold office for a period of five years from the date appointed for its first meeting after the general election and no longer.

(4) If for any reason, it is not possible to hold the general election of the Corporation before the expiry of the period of five years, specified in sub-section (3), the Board of Councillors shall stand dissolved on the expiration of the said period and all the powers or functions vested with the Corporation authorities under this Act or under any other law for the time being in force, shall be exercised or performed, as the case may be, by such person or persons to be designated as the Administrator or the Board of Administrators as the State Government, by notification, appoint.”.

Amendment of Chapter III.

3. In Chapter III of the principal Act, for the words in the Heading “*B. Municipal Service Commission*”, the words “*B. Selection by the West Bengal Municipal Service Commission*” shall be substituted.

Substitution of new section for section 19.

4. For section 19 of the principal Act, the following section shall be substituted:—

“Selection of personnel. 19. The West Bengal Municipal Service Commission constituted under sub-section (1) of section 3 of the West Bengal Municipal Service Commission Act, 2018, shall select such personnel for the Corporation as may be prescribed by the State Government, and it shall be binding on the Corporation to appoint the personnel selected by the said Commission.”.

West Ben. Act XII of 2018.

Omission of section 20.

5. Section 20 of the principal Act shall be omitted.

Amendment of section 55.

6. In section 55 of the principal Act, in sub-section (3),—

- (i) for the words “the State Bank of India or any other nationalized bank or the State Co-operative Bank”, the words “any Scheduled Bank” shall be substituted;
- (ii) the ‘*Explanation.—*’ shall be omitted.

Insertion of new sections 88I, 88J and 88K after section 88H.

7. After section 88H of the principal Act, the following sections shall be inserted:—

“Exemption of holdings having water bodies. 88I. The Corporation may exempt from payment of a portion of the property tax not exceeding ninety *per cent* of the actual gross amount of property tax on any land which is not built upon and water body in nature, either whole or a part thereof, subject to that the water body shall exist and be kept and preserved by the owner in a good manner so as to maintain ecological balance of the locality:

Provided that water body in the nature of swimming pool of any type shall be put out of purview of this exemption.

Exemption of certain amount of property tax to the senior citizen and others.

88J. The Corporation may exempt from property tax to the tune of ten percentage of the property tax on land and building owned singly or jointly by citizen who attained the age of sixty years or more, or owned by widow or deserted women irrespective of age, or a certified physically challenged person, as may be determined by the Corporation, irrespective of age, or jointly owned by any of these categories of persons in case such land and building is self-occupied and used for residential purpose.

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(Second Amendment) Bill, 2018.*

(Clauses 8, 9.)

Exemption of holding used for Government owned Hospitals, clinics etc. 88K. The Corporation may exempt from property tax on land and building belonging to the Health Care Organizations, either primary, or secondary or clinics, owned or sponsored by the Government:

Provided that the Corporation may impose a service charge, not exceeding five *per cent* of annual valuation of lands and buildings of such Health Care Organizations or clinic, for providing civic services to such Health Care Organizations or clinic.”

Substitution of new section for section 188.

8. For section 188 of the principal Act, the following section be substituted:—

“Collection, removal and disposal of solid wastes. 188.—For the purpose of securing the efficient scavenging and cleansing of all streets, public places and premises in Howrah, the Corporation shall undertake the functions of collection, removal and disposal of solid wastes.”

Insertion of new sections 188A, 188B, 188C, 188D, 188E, 188F, 188G, 188H, 188I, 188J, 188K, 188L, 188M, 188N and 188O after section 188.

9. After section 188 of the principal Act, the following sections shall be inserted:—

“Provision for receptacles, depots and places for temporary deposit. 188A. (1) The Corporation shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of—

- (a) rubbish;
- (b) offensive matter;
- (c) trade refuse;
- (d) carcasses of dead animals;
- (e) excrementitious and polluted matter.

(2) Different receptacles, depots or places may be provided or appointed for the temporary deposit of any of the matters specified in sub-section (1).

Duties of owners and occupiers to collect and deposit rubbish, etc. 188B. (1) It shall be the duty of the owners or the occupiers, as the case may be, of all premises—

- (a) to have the premises swept and cleaned;
- (b) to cause all rubbish and offensive matters to be collected from their respective premises and to be deposited, at such time as the Commissioner by public notice specifies, in public receptacles, depots or places provided or appointed by the Corporation or in receptacles provided under clause (c) for the temporary deposit or final disposal thereof;
- (c) to provide receptacles of the type and in the manner specified by the Municipal Commissioner for the collection therein of all rubbish and offensive matters from such premises and to keep such receptacles in good condition and repair.

(2) The Commissioner may levy, on the owner or the occupier of any premises, administrative charges or special cleansing service charges for sweeping, cleansing of the premises, and for collecting and final disposal of the rubbish and offensive matters, at such rates, as the Mayor-in-Council may determine from time to time. Any unpaid sum under this section shall be recoverable from the person concerned as an arrear tax under this Act.

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(Second Amendment) Bill, 2018.*

(Clause 9.)

Commissioner to provide for cleansing of streets and removal solid wastes. 188C. (1) The Commissioner shall take measures for securing—

- (a) the daily surface-cleaning of all streets in Howrah and removal and sweeping therefrom;
- (b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by the Corporation under the provisions of this Act for the temporary deposit of rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matter;
- (c) the removal of special wastes and hazardous wastes and other solid wastes from premises.

(2) The Commissioner may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

(3) The Commissioner shall make adequate provision for preventing receptacles, depots, places, vehicles and vessels referred to in this Chapter from becoming sources of nuisance.

Solid wastes to be the property of the Corporation. 188D. All matters deposited in public receptacles, depots and places provided or appointed by the Corporation and all solid wastes collected shall be the property of the Corporation.

Provision of vehicles or other suitable means for removal of solid wastes. 188E. (1) The Corporation shall provide vehicles or other suitable means and where necessary covered vehicles or vessels for the removal of solid wastes.

(2) The Corporation may construct, acquire, operate, maintain, develop or manage any garage or work for proper maintenance of the vehicles or vessels or means for removal of solid wastes under sub-section (1).

Removal of solid wastes accumulated on non-residential premises. 188F. The Commissioner may if he thinks fit,—

- (a) by written notice, require the owner or the occupier of any premises used—
 - (i) as factory, workshop or for carrying on any manufacture, or
 - (ii) as a trade premises or shop or as a market or slaughter house, or
 - (iii) as a hotel, eating house, or restaurant, or
 - (iv) as a hospital or nursing home, or
 - (v) as a warehouse or godown, or
 - (vi) as a place to which large number of persons resort, or
 - (vii) in any other way, where rubbish, offensive matter, filth, trade refuse, special wastes, hazardous wastes or excrementitious, and polluted matters are accumulated in large quantities, to collect such matters accumulating thereon and to remove the same at such time

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(Clause 9.)

and in such trailers or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed by the Corporation, or

- (b) after giving such owner or occupier notice of his intention, cause all rubbish including building rubbish, offensive matter, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matter accumulated in such premises to be removed, and charge the said owner or occupier, as the case may be, for such removal such fee as may be determined by the Corporation and specified in the notice issued under clause (a).

Appointment of places for disposal and final disposal of solid wastes.

188G. The Corporation may dispose of the solid wastes in such manner as may be approved by the State Government and at such place or places within or outside Howrah as it considers suitable:

Provided that no place, which has not been before the commencement of this Act used for the purpose of disposal of solid waste, shall be used except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.

West Ben. Act
XIII of 1979.

Provision processing and disposal of solid wastes.

188H. (1) The Corporation may, for the purpose of receiving, storing, treating, processing and disposing solid wastes or converting such solid wastes into compost or other matters, construct, acquire, operate, maintain, develop, and manage any work within or outside Howrah and run it on a commercial basis.

(2) The Corporation may, subject to the regulations made in this behalf, cause to be utilized solid wastes for filling up any well, tank or low land and perform this function on a commercial basis within or outside Howrah.

Prohibition against deposit of solid wastes.

188I. (1) No person shall deposit or cause or permit to be deposited or throw upon or along any public street, public place, land belonging to the Corporation or any unoccupied land or on the bank of a water-course any solid waste except in accordance with the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provision, no person shall deposit or cause or permit to be deposited any building rubbish in or along any street, public place or land except in conformity with the conditions of prior permission from the Commissioner:

Provided that no permission shall be given until an advance payment of a fee for the removal by the employees or contractors of the Corporation of such rubbish has been made in accordance with such rates as may be determined by the Corporation from time to time:

Provided further that if the Commissioner thinks fit, he may, for reasons to be recorded, refuse to give such permission.

Presumption as to offender.

188J. If any rubbish, offensive matter, trade refuse, special waste, hazardous waste or excrementitious and polluted matter accumulating on any premises is deposited in any place in contravention of the provisions of this Act, it shall be presumed, unless the contrary is proved, that such contravention has been committed by the occupier of such premises.

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(Clause 9.)

- Depositing or throwing any solid waste in contravention of the provisions of this Act. 188K. Whoever deposits or throws or causes or permits to be deposited or thrown any solid waste on any place in contravention of the provisions of this Act shall, subject to such regulations as may be made in this behalf, be punishable with fine which shall not be less than rupees five thousand and which may extend to rupees one lakh for each such offence.
- Power of the Corporation to get places scavenged and cleansed. 188L. If any street of public place under the control of Government or any statutory body, or any premises to which large number of persons resort to, is not properly or regularly scavenged or is, in the opinion of the Corporation, in a filthy and unwholesome condition, the Commissioner may, by written notice, require the owner or the occupier to do the scavenging or cleansing or may cause scavenging or cleansing to be done and the cost of such scavenging or cleansing shall be recovered from the owner or the occupier thereof.
- Commissioner not to sanction building plan in certain cases except in conformity with regulations for solid wastes. 188M. The Corporation may by regulations determine any class or classes of buildings in the cases of which the Commissioner shall not sanction any building plan except in conformity with the regulations framed by the Corporation for construction on the premises of receptacles for temporary deposit of solid wastes.
- Notice to be given by mcthar, etc. before withdrawing from work. 188N. Notwithstanding anything to the contrary contained in any other law in force for the time being, no mcthar or other employee of the Corporation who is employed to remove or otherwise deal with any rubbish, offensive matter, filth, trade refuse, or other solid waste, shall, without giving the Commissioner any notice of his intention so to do or without the permission of the Commissioner, withdraw from his duties.
- Special sanitary arrangements at certain places. 188O. (1) The Commissioner may make such special arrangements, whether permanent or temporary, as he considers adequate for maintaining sanitation in the vicinity of any place of religious worship or institutions or places to which large numbers of persons resort on particular occasions or in any place used for holding fairs, festivals, sports or cultural or social events.
- (2) The Commissioner may require any person having control over any such place to pay to the Corporation fees at such rates as the Corporation may from time to time determine.”.

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STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to amend the Howrah Municipal Corporation Act, 1980 (West Ben. Act LVIII of 1980) by making provision, *inter alia*, for—

- (i) empowering State Government to appoint person or persons as administrator in the event of possibility of not holding general election of the Corporation within statutory time limit;
- (ii) opening Bank account on account of Municipal fund into any Scheduled Bank within or outside the Corporation area;
- (iii) extending the benefit of exemption of property tax to the senior citizen;
- (iv) selection of personnel by the West Bengal Municipal Service Commission constituted under the West Bengal Municipal Service Commission Act, 2018 (West Ben. Act XII of 2018);
- (v) exemption of holding used for running Government owned Hospitals, clinics etc. from payment of property tax;
- (vi) collection, removal and disposal of solid wastes for the purpose of securing efficient scavenging and cleansing of all streets, public places and premises in the Corporation area.

2. The Bill has been framed with the above object in view.

3. There is no financial implication involved in giving effect to the provision of the Bill.

KOLKATA,
The 20th November, 2018.

FIRHAD HAKIM,
Member-in-Charge.

By order of the Governor,

SANDIP KUMAR RAY CHAUDHURI,
*Secy. to the Govt. of West Bengal,
Law Department.*