



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष १, अंक ५८ ]

सोमवार, फेब्रुवारी २२, २०१०/फाल्गुन ३, शके १९३१

] पृष्ठे ५, किंमत : रुपये १९.००

असाधारण क्रमांक ४

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 Bombay Court-fees (Amendment and Continuance) Ordinance, 2010 (Mah. Ord. III 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 Bombay Court-fees (Amendment and Continuance) Ordinance, 2010 (Mah. Ord. III of 2010), published under the authority of the Governor].

### LAW AND JUDICIARY DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 22nd February 2010.

### MAHARASHTRA ORDINANCE No. III OF 2010.

#### AN ORDINANCE

*further to amend the Bombay Court-fees Act, 1959.*

WHEREAS the Governor of Maharashtra had promulgated the Bombay Court-fees (Amendment) Ordinance, 2009, on the 11th August 2009, which had come into force on the 1st September 2009;

Mah.  
Ord. XII  
of 2009.

AND WHEREAS upon the re-assembly of the State Legislature on the 8th December 2009, the Bombay Court-fees (Amendment) Bill, 2009

(L. A. Bill No. XIX of 2009), for replacing the said Ordinance by an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly on the 8th December 2009, however, the said Bill could not be passed by the Maharashtra Legislative Assembly as the session of the State Legislature was prorogued on the 23rd December 2009;

AND WHEREAS the said Ordinance was promulgated by the Governor of Maharashtra on the 11th August 2009 and thereafter, in the meanwhile, the Maharashtra Legislative Assembly was summoned to reassemble on the 9th November 2009 and the Maharashtra Legislative Council was summoned to reassemble on the 11th November 2009, as provided by the *Explanation* to clause (2) of the article 213 of the Constitution of India, the said Ordinance has ceased to operate at the expiration of six weeks from the 11th November 2009, that is, after the 22nd December 2009 ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance ;

AND WHEREAS 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 to continue the operation of the provisions of the said Ordinance, 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:—

Short title  
and  
commence-  
ment.

1. (1) This Ordinance may be called the Bombay Court-fees (Amendment and Continuance) Ordinance, 2010.

(2) It shall be deemed to have come into force on the 1st September 2009.

Amendment  
of Schedule I  
to Bom.  
XXXVI of  
1959.

2. In Schedule I to the Bombay Court-fees Act, 1959 (hereinafter referred to as "the principal Act"),

Bom.  
XXXVI  
of 1959.

(a) in article 3, the words and figures "otherwise than under the Arbitration Act, 1940" shall be deleted ;

X of  
1940.

(b) after article 3, the following article shall be inserted, namejy :-

“3A. Application or petition (including Memorandum of Appeal) to set aside or modify arbitral award under the Arbitration and Conciliation Act, 1996.	.....	A fee of one-half of the <i>ad valorem</i> fee on the amount or value of the award sought to be set aside or modified, according to the scale prescribed under Article 1.”
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26 of  
1996.

Mah.  
Ord. XII  
of 2009.

**3. (1)** The Bombay Court-fees (Amendment) Ordinance, 2009, is hereby repealed.

Repeal of  
Mah. Ord.  
XII of 2009  
and saving

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

## STATEMENT

Under the Bombay Court-fees Act, 1959 (Bom. XXXVI of 1959), the Court-fees are charged, to meet to some extent, the expenditure being incurred by the State Government on the Administration of Justice. In the last fifty years, the expenditure on the Administration of Justice has increased enormously. To meet part of this huge expenditure, the rates of Court-fees were increased in the year 2002. However, it was found that having regard to the overall inflationary trends in the economy and remarkable fall in the value of money, it is imperative to increase the Court-fees to partially meet the huge expenditure on the Administration of Justice.

2. It is observed that after the commencement of the Arbitration and Conciliation Act, 1996, the number of applications or petitions (including appeals) to set aside or modify arbitral awards are tremendously increased. As there was no specific article in the Bombay Court-fees Act, 1959 to levy Court-fees on such applications or petitions and appeals, it had become imperative for the Government to incorporate specific article providing for levy of Court-fee at the rate of one-half of the *ad valorem* fee on the amount or value of the award sought to be set aside or modified according to the scale prescribed under Article 1, and thereby to some extent meet the expenditure on the Administration of Justice.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Court-fees Act, 1959, for the purposes aforesaid, the Bombay Court-fees (Amendment) Ordinance, 2009 (Mah. Ord. XII of 2009), was promulgated by the Governor of Maharashtra, on the 11th August 2009.

4. Thereafter, the regular session of the State Legislature was convened by the Hon'ble Governor on the 8th December 2009, and a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. XIX of 2009 on the 8th December 2009. However, the said Bill could not be passed by the Maharashtra Legislative Assembly, as the session of the State Legislature was prorogued on the 23rd December 2009. In the meanwhile, as the Maharashtra Legislative Assembly was summoned to reassemble on the 9th November 2009 and the Maharashtra Legislative Council was summoned to reassemble on the 11th November 2009, as provided by the *Explanation* to clause (2) of article 213 of the Constitution of India, the said Ordinance has ceased to operate at the expiration of six weeks from the 11th November 2009, that is after the 22nd December 2009, and it is considered expedient that the provisions of the said Ordinance should be continued by re-promulgation of the Ordinance.

5. 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 to continue the provisions of the Bombay Court-fees (Amendment) Ordinance, 2009 (Mah. Ord. XII of 2009), this Ordinance is promulgated.

Mumbai,  
Dated the 18th February 2010.

K. SANKARANARAYANAN,  
Governor of Maharashtra.

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

M. N. GILANI,  
Principal Secretary and  
Remembrancer of Legal Affairs  
to Government.