

महाराष्ट्र शासन राजपत्र भाग पाच-अ, गुरुवार ते बुधवार
मार्च ६-१२, २०१४/फाल्गुन १५-२१, शके १९३५

४७

२७

सोमवार, जुलै २३, २०१२/श्रावण १, शके १९३४

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill which was introduced in the Maharashtra Legislative Council on the 23rd July 2012 is published under rule 113 of the Maharashtra Legislative Council Rules :—

L. C. BILL No. XII 2012.

A BILL

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.

Bom. III of 1888. WHEREAS it is expedient further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, Bom. LIX of 1949. 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, C. P. and Berar II of 1950. Mah. XL of 1965. 1965, for the purposes hereinafter appearing ; it is hereby enacted in the Sixty-third Year of the Republic of India as follows:—

महाराष्ट्र शासन राजपत्र भाग पाच-अ, गुरुवार ते बुधवार
मार्च ६-१२, २०१४/फाल्गुन १५-२१, शके १९३५

CHAPTER I

PRELIMINARY.

Short title. 1. This Act may be called the Maharashtra Municipal Corporations and Municipal Councils (Second Amendment) Act, 2012.

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL
CORPORATION ACT.

Amendment of section 521 of Bom. III of 1888. 2. Section 521 of the Mumbai Municipal Corporation Act, (hereinafter, in this Chapter, referred to as "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-section shall be added, namely :—

"(2) Every Councillor shall be deemed to be a public servant within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988." 49 of 1988.

Insertion of section 521A in Bom. III of 1888. 3. After section 521 of the Mumbai Corporation Act, the following section shall be inserted, namely :—

Power of State Government to accord previous sanction. "521A. Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of Corruption Act, 1988, in case of Councillor, the State Government shall be competent to accord previous sanction as required under the said sections 197 and 19." 2 of 1974. 49 of 1988.

CHAPTER III

AMENDMENTS TO THE BOMBAY PROVINCIAL
MUNICIPAL CORPORATIONS ACT, 1949.

Amendment of section 482 of Bom. LIX of 1949. 4. In section 482 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"), after sub-section (2), the following sub-section shall be added, namely :—

"(3) Every Councillor shall be deemed to be a public servant within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988." 49 of 1988.

5. After section 482 of the Provincial Corporations Act, the following section shall be inserted, namely :—

Insertion of section 482A in Bom. LIX of 1949.

2 of 1974.
49 of 1988.
“482A. Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of Corruption Act, 1988, in case of Councillor, the State Government shall be competent to accord previous sanction as required under the said sections 197 and 19.”.

Power of State Government to accord previous sanction.

CHAPTER III

AMENDMENTS TO THE CITY OF NAGPUR CORPORATION ACT, 1948.

C.P. and Berar II of 1950.
6. Section 394 of the City of Nagpur Corporation Act, 1948 (hereinafter, in this Chapter, referred to as “the Nagpur Corporation Act”), shall be re-numbered as sub-section (1) thereof ; and after sub-section (1), as so re-numbered, the following sub-section shall be added, namely :—

Amendment of section 394 of C. P. and Berar II of 1950.

49 of 1988.
“(2) Every Councillor shall be deemed to be a public servant within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988. ”.

7. After section 394 of the Nagpur Corporation Act, the following section shall be inserted, namely :—

Insertion of section 394A in C. P. and Berar II of 1950.

2 of 1974.
49 of 1988.
“394A. Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of Corruption Act, 1988, in case of Councillor, the State Government shall be competent to accord previous sanction as required under the said sections 197 and 19.”.

Power of State Government to accord previous sanction.

CHAPTER IV

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

Mah. XL of 1965.
8. Section 302 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter, in this Chapter, referred to as “the Municipal Councils Act”), shall be

Amendment of section 302 of Mah. XL of 1965.

महाराष्ट्र शासन राजपत्र भाग पाच-अ, गुरुवार ते बुधवार

मार्च ६-१२, २०१४/फाल्गुन १५-२१, शके १९३५

re-numbered as sub-section (1) thereof; and after sub-section (1), as so re-numbered, the following sub-section shall be added, namely :—

“(2) Every Councillor shall be deemed to be a public servant within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988.” 49 of 1988.

Insertion of section 302A in Mah. XL of 1965.

9. After section 302 of the Municipal Councils Act, the following section shall be inserted, namely :—

Power of State Government to accord previous sanction.

“**302A.** Notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of Corruption Act, 1988, in case of Councillor, the State Government shall be competent to accord previous sanction as required under the said sections 197 and 19.” 2 of 1974. 49 of 1988.

महाराष्ट्र शासन राजपत्र भाग पाच-अ, गुरुवार ते बुधवार

५१

मार्च ६-१२, २०१४/फाल्गुन १५-२१, शके १९३५

STATEMENT OF OBJECTS AND REASONS.

As per the provisions obtaining in the existing Municipal laws, the Councillors of Municipal Corporations and Municipal Councils are public servants within the meaning of section 21 of the Indian Penal Code. However, there is no provision providing that such Councillors are public servants within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988 (49 of 1988). Similarly, there is no clear provision as to the authority competent to accord sanction for prosecution of the Councillors. In view of this, such prosecutions are hindered in legal tangle.

2. The State Government, therefore, considers it expedient to amend the Mumbai Municipal Corporation Act (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1948 (Bom. LIX of 1949) the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950) and the Maharashtra Municipal Councils, *Nagpur Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), so as to declare that the Councillors under those Acts shall also be deemed to be public servants within the meaning of clause (c) of section 2 of the Prevention of Corruption Act, 1988 as also to explicitly provide that, the State Government shall be the authority competent to accord previous sanction as required under section 197 of the Code of Criminal Procedure, 1973 and section 19 of the Prevention of Corruption Act, 1988. Such a provision would protect the genuine Councillors from unnecessary harassment.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 19th July 2012.

PRITHVIRAJ CHAVAN,
Chief Minister.

Vidhan Bhawan :
Mumbai,
Dated the 23rd July 2012.

DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Council.