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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. 688-L.—5th July, 2019.—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 and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 16 of 2019

**THE WEST BENGAL MUNICIPAL
(AMENDMENT) BILL, 2019.**

**A
BILL**

to amend the West Bengal Municipal Act, 1993.

WHEREAS it is expedient to amend the West Bengal Municipal Act, 1993, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXII of 1993.

It is hereby enacted in the Seventieth 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 West Bengal Municipal (Amendment) Act, 2019.
(2) This section shall come into force at once; and the remaining section or sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Municipal
(Amendment) Bill, 2019.*

(Clause 2.)

Amendment of
section 2 of West
Ben. Act XXII of
1993.

2. In section 2 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the principal Act),—

- (1) in clause (22A), after the words, brackets and number 'the West Bengal Town and Country (Planning and Development) Act, 1979', the words 'and shall include—'
 - (a) "Cultural Heritage" designates a monument, group of building or site of historical, aesthetic, archaeological, scientific, ethnological or anthropological value;
 - (b) "Heritage Area" is a buffer around a protected or unprotected structure, precinct or site and may include protected view;
 - (c) "Heritage Precinct" means and includes spaces that require conservation or preservation for historical or architectural or aesthetic or cultural or environmental or ecological purpose and walls or other boundaries of a particular area or place of building which may enclose such space by an imaginary line drawn around it. The precinct may also include Heritage Streets, a Mohalla or 'pol' or any other area of one set character;
 - (d) "Heritage Zone" is the zone delineated in the Master Plan or Zonal Plan that requires special attention in terms of heritage conservation;
 - (e) "Historic Urban Landscape" means ensembles of any group of buildings, structures and open spaces, in their natural and ecological context, including archaeological and paleontological sites, constituting human settlements in an urban environment over a relevant period of time, the cohesion and value of which are recognized from the archaeological, architectural, prehistoric, historic, scientific, aesthetic, socio-cultural or ecological point of view;
 - (f) "Natural Heritage" designates outstanding physical, biological and geological features; habitat of threatened plants or animal species and areas of value on scientific or aesthetic grounds or from a conservation perspective;
 - (g) "Urban Heritage" refers to the built legacy of the town or city history and includes protected and unprotected monuments, individual and group of buildings of archaeological, architectural, historic and cultural significance, public spaces including landscape, parks and gardens, street layout defining identifiable neighbourhoods or precincts, which together identify the visual, spatial and cultural character of the city. This is tangible and is closely linked with the intangible heritage, which confers it with meaning and significance' shall be inserted;
- (2) for clause (22B), the following clause shall be substituted:—

'(22B) "Heritage Cell" means the Heritage Cell constituted under section 25C;'
- (3) after clause (22B), the following clause shall be inserted:—

'(22C) "Heritage Conservation Committee" means the Heritage Conservation Committee constituted under section 23C.'

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(Amendment) Bill, 2019.*

(Clauses 3, 4.)

Amendment of
section 17.

3. To sub-section (1) of section 17 of the principal Act, the following provisos shall be added:—

“Provided that the Board of Councillors may also elect an individual, who is not a Councillor, to be the Chairman provided that he gets himself elected to be a Councillor within six months from the date of the election as Chairman, failing which, he shall cease to be the Chairman of the Municipality:

Provided further that no Councillor or individual shall be eligible for election to the post of the Chairman unless he declares in writing under his hand that on being elected, he shall be the whole-time functionary of his office and that during the period for which he holds, or is due to hold, such office, he shall not hold any office of profit unless he has obtained leave of absence from his place of employment, or he shall not carry on or be associated with any business, profession or calling, in such manner as shall interfere or likely to interfere with due exercise of his powers or due performance of his functions or due discharge of his duties.”.

Substitution of
new section for
section 23C.

4. For section 23C of the principal Act, the following section shall be substituted:—

“Heritage
Conservation
Committee.

23C. (1) The Board of Councillors shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman of the Municipality as its Chairman and the Executive Officer of the

Municipality as its Convener.

(2) The Committee shall have the following members:—

- (a) one shall be a nominee of the District Magistrate of the concerned district,
- (b) one shall be a nominee of the Director of the Department of Information and Culture, Government of West Bengal, being a heritage expert with 15 years experience in the field of heritage conservation;
- (c) one shall be an eminent architect having in-depth knowledge and experience in conservation and urban design;
- (d) one shall be an artist;
- (e) one shall be an environmentalist having in-depth knowledge and experience on the subject matter;
- (f) one shall be a historian having knowledge of the region having experience of 10 years in the field;
- (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate;
- (h) one shall be Town Planner of the Municipality;

Provided that additional members upto five who have special knowledge of the subject matter may be co-opted for special purposes or on sub-committees of the Heritage Conservation Committee:

Provided further that the Committee may co-opt one person to be nominated by the concerned Department of the State Government while dealing with any land or building under the management of the said Department.

(3) The tenure of the Chairman and the Members of the Committee other than the officers nominated by the Government Departments and Local Bodies shall be three years.

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(Amendment) Bill, 2019.*

(Clauses 5-10.)

(4) The Heritage Conservation Committee, constituted under sub-section (1), shall send all its proposals relating to preservation and conservation of heritage building or site, precincts, areas, zones, urban heritage, cultural and natural heritage and historic and historic urban landscape to the West Bengal Heritage Commission constituted under the West Bengal Heritage Commission Act, 2001.”.

West Ben. Act IX
of 2001.

Insertion of new
section 25C after
section 25B.

5. After section 25B of the principal Act, the following section shall be inserted:—

“Heritage Cell. 25C. (1) The Board of Councillors shall ensure constitution of a Heritage Cell for the Municipality.

(2) The composition, manner of constitution and functions of the Heritage Cell under sub-section (1), shall be such as the State Government may, by order, determine.

(3) The composition of the cell will consist of—

- (a) Chief Town Planner of the Municipality;
- (b) Architect with expertise in architectural conservation;
- (c) Concerned Executive Engineer of the Municipal Engineering Directorate.”.

Substitution of
new section for
section 52.

6. For section 52 of the principal Act, the following section shall be substituted:—

“Remuneration and facilities of Chairman, Vice-Chairman, members of Chairman-in-Council, Leader of the Opposition and the Councillor. 52. The Chairman, the Vice-Chairman, the members of Chairman-in-Council, the Leader of the Opposition and the Councillor of the municipal area shall be given such remuneration and facilities as may be prescribed:

Provided that if the Chairman holds the post of either a Member of Legislative Assembly or a Member of any House of the Parliament simultaneously, he shall draw remuneration for any one of the said post only;

Provided further that different rates may be prescribed for different groups of municipalities and different classes of functionaries in each municipality.”.

Amendment of
section 93.

7. Clause (b) of sub-section (1) of section 93 of the principal Act shall be omitted.

Amendment of
Chapter XI.

8. In Chapter XI of the principal Act, in the Heading for the words “B. Tax on advertisements other than advertisements in newspapers”, the words “B. Provisions regulating advertisement other than advertisements in newspapers” shall be substituted.

Amendment of
section 123.

9. In section 123 of the principal Act, for the word “tax”, wherever it occurs, the words “licence fee” shall be substituted.

Amendment of
section 125.

10. In section 125 of the principal Act,—

(1) the following provisos shall be inserted:—

“Provided that the Executive Officer may cancel or revoke the certificate of enlistment for profession, trade and calling issued under provision of section 118 if the licensee acts in contravention of any of the provisions contained in this chapter or license:

Provided further that no order shall be made under the proviso of this section without affording a reasonable opportunity of being heard.”;

(2) in Explanation II, the words “a tax on” shall be omitted.

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(Amendment) Bill, 2019.*

(Clauses 11-14.)

Amendment of section 126.

11. In section 126 of the principal Act, for the word “tax”, wherever it occurs, the words “licence fee” shall be substituted.

Insertion of new section 340A after section 340.

12. After section 340 of the principal Act, the following section shall be inserted:—

“Prohibition against spitting in public places, streets, hospitals etc. 340A. (1) No person shall spit at public places, hospitals, educational institutions, religious places, markets, assembly or congregation buildings, public utility buildings or structure etc. except in bins, receptacles or pits provided and maintained by the authority for this purpose.

(2) Spitting 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 a spot fine by the Authorised Officer of the Municipality which shall not be more than one thousand rupees for each such offence.”.

Amendment of section 431.

13. In section 431 of the principal Act, after the second proviso to sub-section (4), the following proviso shall be inserted:—

“Provided also that if, for any reason, it is not possible to hold the election before the expiry of the period of six months under this sub-section, the State Government may, by notification, extend the term of such Administrator or Board of Administrators, as the case may be, appointed under sub-section (3), for a further period not exceeding twelve months.”.

Amendment of section 5 of West Ben. Act XXVI of 2018.

14. In section 5 of the West Bengal Municipal (Second Amendment) Act, 2018,—

- (i) for the number and word ‘102B’, the number and word ‘102C’ shall be substituted;
- (ii) for the number and word ‘102C’, the number and word ‘102D’ shall be substituted.

West Ben. Act XXVI of 2018.

STATEMENT OF OBJECTS AND REASONS.

It is considered necessary and expedient to amend the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993) to make it more effective by making provisions, *inter alia*, for,—

- (i) election as Chairman of the Municipality of an individual who is not a member of the Municipality and who shall get himself elected as a Councillor within six months of the election as Chairman;
- (ii) insertion of definition of heritage precincts, heritage area, heritage zones, cultural heritage, natural heritage, historic urban landscape and urban heritage;

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- (iii) constitution of Heritage Conservation Committee;
- (iv) constitution of Heritage Cell in municipal office;
- (v) remuneration and facilities of Chairman, Vice-Chairman, members of Chairman-in-Council, Leader of the Opposition and the Councillor;
- (vi) abolition of levying tax on advertisements;
- (vii) prohibition against spitting in public places, streets, hospitals etc.;
- (viii) empowering State Government to extend the term of the Administrator or Board of Administrators appointed;
- (ix) re-numbering the sections inserted by section 5 of the West Bengal Municipal (Second Amendment) Act, 2018 (West Ben. Act XXVI of 2018).

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

Kolkata,
The 5th July, 2019.

FIRHAD HAKIM,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is financial implication involved in giving effect to the provisions of the Bill. Necessary budgetary provision to this effect shall be made in consultation with the Finance Department.

Kolkata,
The 5th July, 2019.

FIRHAD HAKIM,
Member-in-charge.

By order of the Governor,

AKHILESH KUMAR PANDEY,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*