

The Orissa Municipal (Amendment) Act, 1991

Act 2 of 1992

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Amendments appended: 23 of 1992, 11 of 1994, 19 of 1995, 8 of 1996, 15 of 1996, 10 of 1997, 6 of 2002, 3 of 2003

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ORISSA ACT 2 OF 1992
THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1991

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ORISSA ACT 2 OF 1992

*THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1991

[Received the assent of the Governor on the 21st January 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 21st January 1992]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950

BE it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 22nd day of November, 1991.

Amendment
of
section 4.

2. In section 4 of the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act), in clause (a) of sub-section (1), for the words "ten thousand", the words "twenty-five thousand" shall be substituted.

Orissa Act,
23 of 1950.

Amendment
of
section 8.

3. In section 8 of the principal Act, in sub-section (1), for the words "not being more than thirty", the words "not being more than forty" shall be substituted.

Amendment
of
section 10.

4. To section 10 of the principal Act, the following proviso shall be added, namely :—

"Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

Explanation—For the purposes of this section,—

- (a) "candidates" means candidates duly sponsored by respective political parties;
- (b) "party symbol" means the symbol allotted to a particular political party under the Elections Symbols (Reservation and Allotment) Order, 1968; and
- (c) "political party" means a 'National Party' or, as the case may be, a 'State Party' within the meaning of paragraph 7 of the Order referred to in clause (b)."

Amendment
of
section 11.

5. For section 11 of the principal Act, the following section shall be substituted, namely :—

"11. (1) There shall be reserved, by the State Government, seats in every Municipal Council for the Scheduled Tribes and the Scheduled Castes and the number of seats to be so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled up by election in that Council as the population of the Scheduled Tribes and the Scheduled Castes in the Municipal Area bears to the total population of that area :

Provided that where the population of the Scheduled Tribes or, as the case may be, the Scheduled Castes in a Municipal Area is not sufficient for reservation of any seat, one seat shall be reserved either for the Scheduled Tribes or for the Scheduled Castes, whose population is higher in the area.

(2) The seat or seats reserved under sub-section (1) shall be assigned to the ward or wards, as the case may be, in order of the numerical strength of the population in different wards of the members of Scheduled Tribes or the Scheduled Castes, as the case may be, for whom such reservation has been made.

(3) (i) Where the number of seats reserved under sub-section (1) is more than one, as nearly as may be, one-third of the total number of such seats shall be reserved for the women belonging to the Scheduled Tribes or the Scheduled Castes or both, as the case may be, in order of their numerical strength in different wards :

Provided that where only two seats are reserved for the Scheduled Tribes or the Scheduled Castes or for both, one of the two seats shall be reserved for women belonging to the Scheduled Tribes or, as the case may be, the Scheduled Castes in respect of the ward in which the number of women belonging to such Tribes or Castes as the case may be, is higher.

(ii) Where a particular ward qualifies for reservation for women belonging to the Scheduled Tribes or the Scheduled Castes under clause (i) and no such candidate comes forward to contest the election, the State Government shall nominate a woman belonging to the Scheduled Tribes or as the case may be, the Scheduled Castes of that ward, for whom such reservation has been made, as the Councillor for that ward."

Insertion of
New section
11-A.

6. In Chapter II of the principal Act, after section 11, the following section shall be inserted, namely:—

"Reservation
of seats for
women.

11-A. (1) As nearly as may be, one-third (including the number of seats reserved under section 11 for women belonging to the Scheduled Tribes and Scheduled Castes) of the total number of seats to be filled up by election in every Municipal Council shall be reserved for women.

(2) The seats reserved under sub-section (1) shall be assigned to the wards, other than those reserved under section 11, in order of the numerical strength of the population of women in different wards.

(3) Where no woman candidate comes forward to contest the election in relation to any particular ward reserved for women, the State Government shall nominate a woman belonging to that ward as the Councillor for the ward."

Amendment
of
section 12.

7. In section 12 of the principal Act, in clause (b) of sub-section (2), for the word and figure "section 11", the words, figures and letter "sections 11 and 11-A" shall be substituted.

Amendr
of
section 16.

8. In section 16 of the principal Act, in sub-section (1), after clause (1), the following clause shall be inserted, namely :—

"(ii) is less than twenty-five years of age; or"

Amendment
of section 54

9. In section 54 of the principal Act, for the proviso to sub-section (1), the following proviso shall be substituted, namely :—

“Provided that no such resolution recording want of confidence in the Chairman—

(i) shall be moved more than once during the tenure of a particular Chairman; and

(ii) shall be passed within two years from the date of his election or nomination as the case may be.”

Insertion of
new section
77-A.

10. After section 77 of the principal Act, the following section shall be inserted, namely :—

“Procedure
relating to
disciplinary
actions.

77-A. The procedure laid down in the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, in so far as they are not inconsistent with this Act, shall *mutatis mutandis* apply to the officers and servants of every Municipal Council on whom the Chairman of the Municipal Council is empowered under section 76 to impose punishments.”

Amendment
of
section 101.

11. Section 101 of the principal Act shall be renumbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so renumbered, the words “The Executive Officer” shall be omitted; and

(ii) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely :—

“(2) It shall be the duty of the Executive Officer to attend all the meetings of the Municipal Council and to take part in the discussions at such meetings, but he shall not vote upon, or propose, a resolution at any such meeting.

(3) In the case of a meeting of any Committee of the Municipal Council, the Executive Officer may, with the permission of the Chairman or by virtue of a resolution passed in that behalf at a meeting of such Committee, make a statement in regard to a subject under discussion but shall not vote upon, or propose, a resolution at such meeting.”

Amendment
of
section 117.

12. In section 117 of the principal Act, in sub-section (1), in the proviso to clause (xi), for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Repeal and
savings.

13. (1) The Orissa Municipal (Amendment) Ordinance, 1991 is hereby repealed.

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

Orissa
Ordinance
No. 10 of
1991.

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1992

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ORISSA ACT 23 OF 1992

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1992**

[Received the assent of the Governor on the 12th August 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 14th August 1992]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

BE it enacted by the Legislature of the State of Orissa in the Forty-third Year of the Republic of India as follows :—

Short title
and
Commence-
ment.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1992.

(2) It shall be deemed to have come into force on the 27th day of April, 1992.

Amendment
of section
39.

2. In the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act), in section 39, for the words "and Vice-Chairman", the comma and the words "Vice-Chairman and Additional Vice-Chairman" shall be substituted.

Orissa Act
23 of 1950.

Amendment
of section
40.

3. In the principal Act, in the provisos to section 40, for the words "and the Vice-Chairman", the comma and the words "the Vice-Chairman and the Additional Vice-Chairman" shall be substituted.

Amendment
of
section 43.

4. In the principal Act, for section 43 including its marginal heading, the following section shall be substituted, namely :—

"Resignation
of Vice-
Chairman,
Additional
Vice-Chair-
man and
Councillor.

43—A. Councillor or the Vice-Chairman or Additional Vice-Chairman may resign his office by writing under his hand addressed to the Chairman who shall place the letter of resignation before the Council at its next meeting of which notice shall be given to the Councillor, Vice-Chairman or Additional Vice-Chairman, as the case may be, and, on the resignation

being accepted by the Council, the Councillor, the Vice-Chairman or the Additional Vice-Chairman, as the case may be, shall cease to hold office with effect from the date succeeding the date of such acceptance:

Provided that the Councillor, Vice-Chairman or Additional Vice-Chairman, as the case may be, at any time before the acceptance of the resignation, withdraw the same by writing under his hand."

Amendment
of section
47-A.

5. In the principal Act, for section 47-A including its marginal heading but excluding sub-section (2) thereof, the following shall be substituted, namely :—

"Election of
Vice-Chair-
man and
Additional
Vice-Chair-
man.

47-A. (1) Every Municipal Council shall have a Vice-Chairman and an Additional Vice-Chairman who shall be elected by the Councillors from among themselves at the first meeting of the Municipal Council convened at the instance of the District Magistrate; and the Rules for the Election of Vice-Chairman of Municipalities shall *mutatis mutandis* apply to the election of Additional Vice-Chairman:

Provided that where the Vice-Chairman elected under this section or nominated under section 49-A in relation to a Municipal Council is not a woman, the office of the Additional Vice-Chairman of the Municipal Council shall be deemed to have been reserved for women:

Provided further that in all cases where the first meeting of a Municipal Council has already been convened for the purpose of election of the Vice-Chairman of the Municipal Council, the election to the office of the Additional Vice-Chairman thereof shall be held in its subsequent meeting convened at the instance of the District Magistrate, as soon as may be, after the commencement of the Orissa Municipal (Amendment) Act, 1992."

Amendment
of section
48.

6. In the principal Act, in section 48, after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) The Additional Vice-Chairman of a Municipal Council shall be deemed to have vacated his/her office—

- (a) on the expiry of the term of office as, or on otherwise ceasing to be, a Councillor of that Municipal Council; or
- (b) on his/her election as Chairman, Vice-Chairman or Additional Vice-Chairman of any other Municipal Council."

Amendment
of section 49.

7. In the principal Act, in section 49,—

- (i) for the words "or Vice-Chairman", the comma and words "Vice-Chairman or Additional Vice-Chairman" shall be substituted; and
- (ii) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that where a vacancy occurs in the office of the Vice-Chairman which was held by a woman, such

vacancy shall be filled up by a woman, unless the Additional Vice-Chairman of the Council continuing in the office as such is a woman.”

Amendment
of section
57.

8. In the principal Act, in clause (a) of section 57, after the words “Vice-Chairman”, the words and comma “Additional Vice-Chairman,” shall be inserted

Insertion of
new section
57-A.

9. In Chapter-V of the principal Act, after section 57, the following section shall be inserted, namely :—

“Application
of Chapter V
to Addi-
tional Vice-
Chairman.

57—A. Save as otherwise provided in this Act, the provisions of this Chapter as applicable to the Vice-Chairman of a Municipal Council shall *mutatis mutandis* apply to the Additional Vice-Chairman of a Municipal Council.”

Amendment
of section
59.

10. In the principal Act, in the second proviso to sub-section (1) of section 59, after the words “the Vice-Chairman” the words “or the Additional Vice-Chairman” shall be inserted.

Amendment
of section
63.

11. In the principal Act, in section 63, the words and comma “or in their absence, by the Additional Vice-Chairman” shall be added at the end.

Amendment
of section
64.

12. In the principal Act, in section 64,—

(a) in sub-section (1), after the word “Vice-Chairman”, the words “or in their absence, the Additional Vice-Chairman” shall be inserted; and

(b) in sub-section (2), after the word “Vice-Chairman”, the words “or the Additional Vice-Chairman” shall be inserted.

Amendment
of section
65.

13. In the principal Act, in section 65, for the words “the Vice-Chairman or in the absence of both Chairman and Vice-Chairman”, the commas and words “,the Vice-Chairman or in his absence the Additional Vice-Chairman or in the absence of the Chairman, Vice-Chairman and the Additional Vice-Chairman” shall be substituted.

Amendment
of section
68.

14. In the principal Act, in section 68, after the word “Vice-Chairman”, wherever they occur, the comma and words “, Additional Vice-Chairman” shall be inserted.

Amendment
of section
70.

15. In the principal Act, in section 70, after the word “Vice-Chairman”, the words “or Additional Vice-Chairman” shall be inserted.

Amendment
of section
71.

16. In the principal Act, in section 71, in the proviso to sub-section (3), after the word “Vice-Chairman”, the comma and words “,Additional Vice-Chairman” shall be inserted.

Amendment
of section
72.

17. In the principal Act, in clause (e) of section 72, after the word “Vice-Chairman”, the words “or Additional Vice-Chairman” shall be inserted.

Amendment
of section
88.

18. In the principal Act, in section 88, after the word "Vice-Chairman", the words "or in their absence, of the Additional Vice-Chairman" shall be inserted.

Amendment
of section
89.

19. In the principal Act, in section 89,—

- (i) in the opening portion, for the words "A Vice-Chairman", the words "The Vice-Chairman or, in his absence, the Additional Vice-Chairman" shall be substituted;
- (ii) in the first proviso, after the word "Vice-Chairman", the words "or, as the case may be, the Additional Vice-Chairman" shall be added; and
- (iii) in the second proviso, after the word "Vice-Chairman", the words "or, as the case may be, the Additional Vice-Chairman" shall be inserted.

Amendment
of section
90.

20. In the principal Act, in section 90,—

- (i) in the opening portion, after the word "Vice-Chairman", the words "or the Additional Vice-Chairman or both" shall be inserted; and
- (ii) in the second proviso, after the word "Vice-Chairman", the words "or the Additional Vice-Chairman" shall be inserted.

Amendment
of section
91.

21. In the principal Act, section 91 shall be renumbered as sub-section (1) thereof, and

- (i) in sub-section (1) as so renumbered, for the words "to any Member", the words "to the Additional Vice-Chairman" shall be substituted,
- (ii) after sub-section (1) as so renumbered, and before the provisos, the following sub-section shall be inserted, namely :—

"(2) During the vacancy in the office of the Additional Vice-Chairman or in capacity or temporary absence of the Additional Vice-Chairman, the Chairman may, by order in writing, delegate any of his functions to the Vice-Chairman, and in the absence of Vice-Chairman, to any Member of the Municipal Council till the Additional Vice-Chairman resumes office or a new Additional Vice-Chairman is elected, as the case may be."

Amendment
of section
93.

22. In the principal Act, in the proviso to section 93, after the words "the Vice-Chairman", the words "or the Additional Vice-Chairman" shall be inserted.

Amendment
of
section 117.

23. In the principal Act, in clause (xxxix) of sub-section (1) of section 117, after the word "Vice-Chairman", the words and comma "Additional Vice-Chairman," shall be inserted.

Amendment
of section
363.

24. In the principal Act, in sub-section (3) of section 363, for the words "by a member of the Finance Committee", the words "by

the Additional Vice-Chairman or, as the case may be, by a member of the Finance Committee" shall be substituted.

Amendment
of Chapter
XXVI.

25. In the principal Act, in Chapter XXVI,—

- (i) in the heading, after the word "VICE-CHAIRMAN", the words and comma "ADDITIONAL VICE-CHAIRMAN," shall be inserted; and
- (ii) after the word and comma "Vice-Chairman," wherever they occur, the words and comma "Additional Vice-Chairman," shall be inserted.

Amendment
of section
384.

26. In the principal Act, in section 384, after the word "Vice-Chairman" wherever they occur, the words "or Additional Vice-Chairman" shall be inserted.

Amendment
of section
387.

27. In the principal Act, in sub-section (2) of section 387,—

- (a) in clause (ii), after the word "Vice-Chairman", the comma and words ", Additional Vice-Chairman" shall be inserted;
- (b) for clause (xxv), the following clause shall be substituted, namely :—

"prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed by the municipal council for the residence of an officer or a servant of the municipal council and its Chairman, Vice-Chairman and Additional Vice-Chairman and terms on which such officer, Chairman, Vice-Chairman or Additional Vice-Chairman may be required to occupy the same;"

Amendment
of section
401.

28. In the principal Act, in section 401, in sub-section (3), for the words "and Vice-Chairman", the comma and words "Vice-Chairman and Additional Vice-Chairman" shall be substituted.

Amendment
of section
402.

29. In the principal Act, in sub-section (3) of section 402, for the words "and Vice-Chairman", the comma and words "Vice-Chairman and Additional Vice-Chairman" shall be substituted.

Amendment
of section
423.

30. In the principal Act, in section 423, in sub-section (4),—

- (a) after the word "Vice-Chairman" occurring for the first time, the words "and the Additional Vice Chairman" shall be inserted; and
- (b) after the word "Vice-Chairman" occurring for the second time, the words "or the Additional Vice-Chairman" shall be inserted.



Repeal and
savings.

31. (1) The Orissa Municipal (Amendment) Ordinance, 1992 is hereby repealed. Orissa Ordinance No. 2 of 1992.

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



ORISSA ACT 11 OF 1994

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1994

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ORISSA ACT 11 OF 1994

*THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1994

[Received the assent of the Governor on the 23rd May 1994, first published in an extraordinary issue of the *Orissa Gazette*, dated the 25th May 1994]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

Enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1994.

(2) It shall come into force on such date, not being later than the 31st May 1994, as the State Government may, by notification, appoint.

Amendment
of section 1.

2. In section 1 of the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act),—

Orissa Act 23
of 1950.

(a) in the marginal heading, for the words "and commencement", the comma and words, "commencement and application" shall be substituted; and

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

"(6) Nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of article 244 of the Constitution".

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in clause (6), for the words and figure "Indian Companies Act, 1913" and the marginal reference "VII of 1913", the words and figure "the Companies Act, 1956" and the marginal reference "1 of 1956" shall respectively be substituted;

(b) after clause (8), the following clause shall be inserted, namely:—

"(8-a) "Election Commission" means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under article 243-K of the Constitution";

(c) after clause (9), the following clause shall be inserted, namely:—

"(9-a) "Finance Commission" means the Finance Commission constituted by the Governor under Article 243-I of the Constitution";

(d) after clause (17), the following clauses shall be inserted, namely:—

"(17-a) "Municipal Area" means the territorial area of the Municipality;";

"(17-b) "Municipality" means a Notified Area Council or a Municipal Council or a Municipal Corporation ;

(e) after clause (21), the following clauses shall be inserted, namely:—

"(21-a) "Panchayat" mean a Grama Panchayat as defined in the Orissa Grama Panchayats Act, 1964, or a Panchayat Samiti as defined in the Orissa Panchayat Samiti Act, 1959 or a Zilla Parishad as defined in the Orissa Zilla Parishad Act, 1991;"; and

Orissa Act 1
of 1965.
Orissa Act 7
of 1960.
Orissa Act
17 of 1991.

(f) after clause (23), the following clause shall be inserted, namely:—

“(23-a) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published”;

Amendment
of sections 4
5 and 6.

4. in the principal Act, for section 4 (including its marginal heading), 5 and 6 the following sections shall respectively be substituted, namely:—

“Constitu-
tion of
Municipalities.

4. (1) There shall be constituted by the State Government—

(a) a Notified Area Council for every transitional area;

(b) a Municipal Council for every smaller urban area; and

(c) a Municipal Corporation for every larger urban area, in accordance with the provisions of this Act :

Provided that no such Council or Corporation shall be constituted in any urban area or part thereof which the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification specify to be an industrial township.

(2) In this section, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by notification under clause (2) of article 243 (Q) of the Constitution.

Explanation—For the purposes of this section,—

(a) Save as may otherwise be deemed fit by the Governor, a population of not less than ten thousand, twenty-five thousand and three lakhs, respectively may be taken as sufficient population for the purpose of specifying respectively “a transitional area”, “a smaller urban area” and “a larger urban area”;

(b) the factors relating to density of population, percentage of employment in non-agricultural activities, generation of revenue for local administration, economic importance and such other factors for the purpose of specifying “a transitional area”, “a smaller urban area” and “a larger urban area” shall be such as the Governor may, from time to time, determine.

(3) Notwithstanding anything contained in this section,—

(a) the territorial area of every Notified Area Council and that of every Municipal Council constituted prior to, and existing at, the commencement of the Orissa Municipal (Amendment) Act, 1994 shall respectively be deemed to be a transitional area and a smaller urban area within the meaning of sub-section (2) of section 4; and

(b) every Notified Area Council (including its Chairman and Vice-Chairman) and every Municipal Council (including its Chairman, Vice-Chairman and Additional Vice-Chairman), continuing in office at the commencement of the Orissa Municipal (Amendment) Act, 1994 shall continue till the expiration of the term as provided in sub-section (1) of section 41 as it stood prior to such commencement, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly.

(4) When any transitional area or smaller urban area within the meaning of sub-section (2), is subsequently specified to be,—

(a) smaller urban area in the case of a transitional area; or

(b) a larger urban area in the case of a smaller urban area, then, notwithstanding anything contained in this Act:—

- (i) the Notified Area Council for the existing transitional area shall be deemed to be the Municipal Council for the smaller urban area so subsequently specified;
- (ii) the Municipal Council for the existing smaller urban area shall be deemed to be the Municipal Corporation for the larger urban area so subsequently specified;
- (iii) the Chairperson, Vice-Chairperson and other members of the existing Notified Area Council or Municipal Council shall be deemed to be Chairperson, Vice-Chairperson and other members of the deemed Municipal Council or, as the case may be, of the deemed Municipal Corporation;
- (iv) all the assets and liabilities of the existing Notified Area Council shall devolve upon the deemed Municipal Council or, as the case may be, that of the existing Municipal Council shall devolve upon the deemed Municipal Corporation;
- (v) the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which were in force throughout such transitional area or, as the case may be, the Municipal area shall apply to the territorial of such deemed Municipal Council or, as the case may be, deemed Municipal Corporation.
- (vi) the proceedings commenced, if any, for reconstitution of the existing Notified Area Council or, as the case may be, existing Municipal Council shall continue as if such proceedings were commenced in relation to the deemed Municipal Council or, as the case may be, deemed Municipal Corporation.

5. When any local area is included in a Municipal area by a notification referred to in sub-section (2) of section 4, all the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which, immediately before such inclusion, were in force throughout such Municipal area shall be deemed to apply to such local area, unless it is otherwise directed in and by the said notifications.

6. When any Municipal area is divided into two or more such areas by a notification referred to in sub-section (2) of section 4 then, notwithstanding anything contained in this Act, all the provisions of this Act and of the rules, bye-laws, notification or orders made thereunder which, immediately before such division, were in force in any part of the original Municipal area shall be deemed to be in force in the same part of the Municipal areas formed by such division, unless it is otherwise directed in and by the said notification".

Amendment of section 7. 5. In the principal Act, in sub-section (1) of section 7, for the words "State Government" and "State Government's" wherever they occur, the words "Governor" and "Governor's" shall respectively be substituted.

Amendment of section 8. 6. In the principal Act, for section 8 including its marginal heading, the following section shall be substituted, namely:—

Composition of Municipalities. "8. Every Municipality shall be composed of the following Councillors, namely:—

- (a) one Councillor elected directly from every ward within the Municipal area;
- (b) a person having special knowledge or experience in municipal administration as may be nominated by the State Government:

Provided that the Councillor so nominated shall not have the right to vote at any meeting of the Municipality but shall have the right to attend every meeting thereof except the meetings convened under sections 47, 49 and 54."

Amendment of section 9. 7. In the principal Act, in section 9, for the words "The Municipal Council", the words "Every Municipality" shall be substituted.

Amendment of section 10. 8. In the principal Act, for section 10 including its marginal heading, the following section shall be substituted, namely:—

Manner of election of Councillors. "10. (1) The election of Councillors specified in clause (a) of section 8 shall be held in the prescribed manner:

Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

*Explanation:—*For the purposes of this section,—

- (a) "candidates" means candidates duly sponsored by respective political parties;
- (b) "party symbol" means the symbol allotted to a particular political party under the Elections Symbols (Reservation and Allotment) Order, 1968; and
- (c) "political party" means a 'National Party' or, as the case may be, a 'State Party' within the meaning of paragraph 7 of the order referred to in clause (b).

(2) the names of the elected Councillors shall be published by the Election Commission in the Gazette".

Amendment of section 11. 9. In the principal Act, for section 11 including its marginal heading, the following section shall be substituted, namely:—

Reservation of seats for Scheduled Castes, Scheduled Tribes, Women and backward class of citizens. "11. (1) There shall be reserved, by the State Government, seats in every Municipality for the Scheduled Castes and the Scheduled Tribes and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the concerned Municipal area or of the Scheduled Tribes in that area bears to be total population of that area and such seats shall be allotted by rotation to different wards in a Municipal area:

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Municipal area is not sufficient for reservation of any seat, one seat for the Scheduled Castes or, as the case may be, one seat for the Scheduled Tribes shall be reserved in that Municipal area.

(2) As nearly as may be, but not less than, one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes;

Provided that where only two seats are reserved for the Scheduled Caste or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Seat shall also be reserved in every Municipality for the backward class of citizens as referred to in clause (6) of article 243-T of the Constitution, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election as the population of such citizens in the concerned Municipal area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a Municipal area.

(4) As nearly as may be, but not less than, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats shall be allotted by rotation to different wards in a Municipal area.

(5) Where a particular ward is reserved for the Scheduled Castes or the Scheduled Tribes or the backward class of citizen, or for women whether or not belonging to the Scheduled Castes or the Scheduled Tribes, and no

eligible candidate is available or comes forward to contest the election in relation to that ward, the State Government shall nominate a person who is otherwise eligible to contest such election, as the Councillor for the ward.

(6) The procedure regarding reservation of seats for the purposes of sub-sections (1), (2), (3) and (4) shall be such as may be prescribed.

(7) The reservation of seats under sub-sections (1) and (2) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.”

Omission of section 11-A.

10. In the principal Act, section 11-A shall be omitted.

Amendment of section 12.

11. In Chapter III of the principal Act, for section 12 including its marginal heading, the following sections shall be substituted, namely:—

Superintendence, direction and control of elections to vest in the Election Commission

“11-A. The superintendence direction and control of the preparation of electoral rolls for, and the conduct of all Elections to Municipalities shall be vested in the Election Commission.

General Election of Councillors and formation of wards.

12. (1) A General election of the Councillors specified in clause (a) of section 11 shall be completed—

(a) for the purpose of constituting a new Municipality, as soon as may be, but not later than six months, after the publication of the notification referred to in sub-section (2) of section 4;

(b) for the purpose of reconstituting a Municipality, before the expiry of a period of five years from the date appointed for its first meeting referred to in clause (a) of sub-section (2) of section 4:

Provided that for the purpose of reconstituting a municipality continuing in office at the commencement of the Orissa Municipal (Amendment) Act, 1994, before the expiry of the term provided in sub-section (1) of section 41 as it stood before such commencement;

(c) on the dissolution of a Municipality, before the expiration of a period of six months of the date of its dissolution:

Provided that where the remainder of the period for which the dissolved municipality would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Municipality for such period.

(2) For the purpose of election under sub-section (1), the State Government shall, by one or more notifications published on such date or dates as may be recommended by the Election Commission, call upon all wards in the Municipal area to elect Councillors in accordance with the provisions of this Act and of the rules and orders made thereunder.

(3) For the purpose of election of Councillors to a Municipality, the State Government may, in the case of a new Municipality, of their own motion and shall, in the case of Municipalities already in existence at the time the notification is made, after consulting the Municipality at a meeting by notification—

(a) divide the Municipal area into wards;

(b) determine, subject to other provisions of this Act, the words in which the seats reserved under section 11 shall be assigned:

Provided that—

- (i) in dividing a Municipality into wards, equitable distribution of population among the various wards and the compactness of area forming each ward shall be taken into consideration; and
 - (ii) the number of wards in any Municipal area shall not be less than eleven and more than forty.
- (4) All the electors of a ward shall, irrespective of their community, be entitled to vote at an election in respect of that ward.
- (5) When a new ward is formed or when an existing ward is abolished, the State Government shall, after consulting the Municipality concerned, determine.

- (a) The ward in which each Councillor in the Municipality shall be deemed to represent; and
- (b) the ward or wards in which election shall be held to fill up the vacancies, if any, in the Municipalities.”

12. In the principal Act, in section 14, sub-section (1) shall be omitted

13. In the principal Act, in section 16.—

(i) in sub-section (1),—

- (a) in the opening portion, the words “the Chairman or” shall be omitted;
- (b) clause (ii), for the words “twenty-five years.” the words “twenty-one years” shall be substituted;
- (c) in clause (xiii) for the words and full stop “in that behalf.” occurring at the end, the words and semicolon “in that behalf; or” shall be substituted; and
- (d) after clause (xiii), the following clauses shall be inserted, namely:—

“(xiv) is disqualified by or under any law for the time being in force for the purpose of elections to the Legislature of the State; or

(xv) is disqualified by or under any law made by the Legislature of the State; or

(xvi) has more than one spouse living; or

(xvii) has more than two children:

Provided that the disqualifications under clause (xvii) shall not apply to a person who has more than two children on the date of commencement of the Orissa Municipal (Amendment) Act, 1994, or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year.”; and

(ii) in sub-section (2),—

- (a) the words “a Chairman or” wherever they occur shall be omitted; and
- (b) for the words and commas “Chairmanship or Councillorship, as the case may be”, the word “Councillorship” shall be substituted.

14. In the principal Act, in section 17,—

- (i) in the marginal heading, the words “Chairman and” shall be omitted;
- (ii) in the opening portion, the words “a Chairman or” shall be omitted; and

Amendment
of section
14.
Amendment
of section
16,

Amendment
of section
17.



(iii) after clause (j), the following clause shall be inserted, namely:—

“(k) incurs any of the disqualifications specified in clauses (xiv) to (xvii) of sub-section(1) of section 16.”.

Amendment of section 18. 15. In the principal Act, in section 18, the words “as a Chairman or”, wherever they occur, shall be omitted.

Amendment of section 27. 16. In the principal Act, in section 27, the words “a Chairman or” shall be omitted.

Amendment of section 29. 17. In the principal Act, in section 29, the words “the Chairman or” shall be omitted.

Amendment of sections 37, 38 and 38-A. 18. In the principal Act, in sections 37, 38 and 38-A, the word “Chairman or”, wherever they occur, shall be omitted.

Amendment of section 39. 19. In the principal Act, in section 39, for the words “and of the Chairman, Vice-Chairman and Additional Vice Chairman”, the words “of every Municipality including its Chairperson and Vice-Chairperson” shall be substituted.

Amendment of section 40. 20. In the principal Act, in the provisos to section 40, for the comma and words, “the Vice-chairman and Additional Vice-Chairman” wherever they occur, the words “and Vice-Chairperson” shall be substituted.

Amendment of section 41. 21. In the principal Act, in section 41,—

(a) In the marginal heading, the words “Chairman and” shall be omitted;

(b) for sub-sections (1) to (6), the following sub-sections shall be substituted namely:—

“(1) Save as otherwise provided in this Act,—

(i) a Councillor whether elected at a general election, or nominated, to a Municipality shall hold office for five years from the date appointed for the first meeting of the Municipality as referred to in clause (a) of sub-section (2) of section 47;

(ii) a Councillor elected at a bye-election or elected or nominated against a casual vacancy in a Municipality shall hold office for the unexpired period of the term of office of the Councillor in whose place he has been so elected or, as the case may be, nominated.

(2) An outgoing Councillor, if otherwise qualified, shall be eligible for re-election.

(3) Whenever the number of Councillors of an existing Municipality is increased as a result of increase in the number of wards thereof, the Additional Councillor or Councillors elected for the purpose shall, save as otherwise provided, continue till the expiry of the term of office of the other Councillors of the Municipality as provided in sub-section (1).”

Amendment of section 42. 22. In the principal Act in section 42,—

(a) in sub-section (1), for the words “held under”, the words “referred to in” shall be substituted;

(b) in sub-section (2) for the word “appoint”, the word “nominate” shall be substituted; and

(c) in sub-section (3), for the word “appointed” occurring for the first time, the word “nominated” shall be substituted and the words “or appointed” occurring for the second time shall be omitted.

Amendment of section 43. 23. In the principal Act, for section 43, the following section shall be substituted, namely:—

“43. (1) A Councillor not being the Chairperson or Vice-Chairperson, may resign his office by writing under his hand addressed,—

- (a) if he is an elected Councillor, to the Chairperson who shall place the letter of resignation before the municipality at its next meeting of which notice shall be given to the Councillor; and
- (b) if he is a nominated Councillor, to the State Government.

(2) On the resignation being accepted—

- (a) by the Municipality, in the case of an elected Councillor; and
- (b) by the State Government, in the case of a nominated Councillor the Councillor shall cease to hold office with effect from the succeeding date of such acceptance:

Provided that the Councillor may, at any time before the acceptance of the resignation, withdraw the same by writing under his hand.”

Insertion of new section 44. 24. In the principal Act, after section 43, the following section shall be inserted, namely:—

Vacation of office by Councillor. “44. A Councillor of a Municipality shall be deemed to have vacated his office on the expiry of his term of office as, or on his otherwise ceasing to be, a Councillor of that Municipality or on being elected or nominated as a Councillor of any other Municipality.”

Amendment of section 45. 25. In the principal Act, in section 45,—

- (a) after the word “Councillor” occurring for the first time, the commas and words “elected or nominated.” shall be inserted; and
- (b) for the words “the election,” the words and commas “election or nomination, as the case may be,” shall be substituted.

Amendment of section 46. 26. In the principal Act, sub-section (2) of section 46 shall be omitted.

Amendment of section 47 and 47-A. 27. In the principal Act, for section 47 and 47-A the following section shall be substituted, namely:—

Election of Chairperson and Vice-Chairperson. “47. (1) Every Municipality shall have a Chairperson and a Vice-Chairperson.

(2) The Councillors of the Municipality specified in clause (a) of section 8 shall, —

- (a) at the first meeting of the Municipality, which shall be convened soon after the publication of their names under sub-section (2) of section 10, elect in the prescribed manner a Chairperson from among them;
- (b) at a subsequent meeting, which shall be specially convened for the purpose at the instance of the Chairperson so elected as soon as may be, but not later than thirty days, after the date of election of the Chairperson, elect a Vice-Chairperson of the Municipality from among them;

Provided that where the office of the Chairperson of a Municipality is not reserved under sub-section (3) for women or where the Chairperson elected under this Act is not a woman, the office of the Vice-Chairperson of the Municipality shall be reserved for women.

(3) Notwithstanding anything to the contrary in sub-section (1),—

(a) offices of Chairperson in the Municipalities shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State ;

(b) as nearly as may be one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes; and

(c) as nearly as may be one-third (including the number of offices reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of offices of Chairperson in the Municipalities shall be reserved for women; and

(d) offices of Chairperson of Municipalities shall also be reserved for the backward class of citizens as referred to in clause (6) of article 243T of the Constitution, and the number of offices so reserved shall bear as nearly as may be the same proportion to the total number of such offices as the population of such citizens in the State bears to the total population of the State.

(4) Reservation of offices of Chairperson under sub-section (3) shall be made by the State Government by rotation among different Municipalities in the prescribed manner and shall be published in the *Gazette*.

(5) The reservation of offices of Chairpersons (other than the reservation for women and backward class of citizens) under sub-section (3) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution.

(6) If at an election under sub-section (1),—

(a) no Chairperson is elected, a fresh election shall be held within thirty days from the date of the first election; or

(b) no Vice-Chairperson is elected, a fresh election shall be held within thirty days from the date of the first election.

(7) If at the subsequent election held under sub-section (6), no Chairperson, or as the case may be, Vice-Chairperson is elected, the State Government may fill up the office of the Chairperson or the Vice-Chairperson, as the case may be, by nomination of a suitable person until such time as a Chairperson or Vice-Chairperson, as the case may be, is elected by the elected Councillors from among them".

Amendment
of section
48.

28. In the principal Act, for section 48, the following section shall be substituted, namely :—

"48. The Chairperson or the Vice-Chairperson of a Municipality shall be deemed to have vacated his office—

(a) on the expiry of his term of office as, or on his otherwise ceasing to be, a Councillor of that Municipality; or

(b) on his election or nomination as a Councillor of any other Municipality."

Amendment
of section
49.

29. In the principal Act, in section 49,—

(a) for the comma and words "Vice-Chairman or Additional Vice-Chairman" occurring in the opening portion, the words "or Vice-Chairperson of a Municipality" shall be substituted ;

(b) the first proviso shall be omitted; and

(c) in the second proviso, the word "further" shall be omitted and for the words "Additional Vice-Chairman of the Council", the word "Chairperson" shall be substituted.

Amendment of section 49-A. 30. In the principal Act, in section 49-A, for the words "of polling at the general election", the words, brackets and figures "appointed for its first meeting referred to in clause (a) of sub-section (2) of section 47" shall be substituted.

Amendment of section 52. 31. In the principal Act, for section 52, the following section shall be substituted namely :—

"52. (1) A nominated Chairperson or Vice-Chairperson of a Municipality may resign his office by writing under his hand addressed to the State Government and, on such resignation being accepted, shall be deemed to have vacated his office.

(2) An elected Chairperson may resign his office by writing under his hand addressed to the Municipality.

(3) An elected Vice-Chairperson may resign his office by writing under his hand addressed to the Chairperson of the Municipality who shall forthwith lay the letter of resignation before the Municipality.

(4) On a resignation under sub-section (2) or (3) being accepted by the Municipality, the Chairperson or, as the case may be, the Vice-Chairperson shall be deemed to have vacated his office.

(5) A resignation tendered under this section may, at any time before its acceptance, be withdrawn by the person tendering the same by writing."

Amendment of section 54. 32. In the principal Act, in section 54, in the proviso to sub-section (1),—

(a) after the word "Chairman" occurring for the first time, the words "or the Vice-Chairperson" shall be inserted; and

(b) after the word "Chairman" occurring for the second time, the words "or, as the case may be, Vice-Chairperson" shall be inserted.

Amendments of section 57. 33. In the principal Act, in clause (a) of section 57, the words and comma "Additional Vice-Chairman," shall be omitted.

Omission of section 57-A. 34. In the principal Act, section 57-A shall be omitted.

Amendment of section 59. 35. In the principal Act, in the second proviso to sub-section (1) of section 59, the words "or the Additional Vice-Chairman" shall be omitted.

Insertion of new Chapter V-A. 36. In the principal Act, after Chapter V, the following Chapter shall be inserted, namely :—

"CHAPTER V-A

WARDS COMMITTEE

Constitution of Wards Committee. 57-A. (1) In every Municipal area having a population of three lakhs or more there shall be constituted by the Municipality a Wards Committee for each ward.

(2) The Wards Committee shall be composed of the following members, namely :—

(a) the Councillor representing the ward who shall be the President thereof;

(b) an elector of the Ward to be nominated by the Chairperson of the Municipality; and

(c) the Executive Officer or any other official of the Municipality as may be authorised by the Executive Officer.

Powers and responsibility of Wards Committee. 57-B. (1) It shall be the responsibility of the Wards Committee to take all possible measures, subject to the provisions of this Act and overall control of the Municipality or public health, sanitation, street lighting and conservancy in the Ward, for protection of the environment and promotion of ecological aspects of the ward and or such other matters as may be entrusted by the Municipality.

(2) The Wards Committee shall have powers to recommend to the Municipality the measures needed for the purposes mentioned in sub-section (1)."

Insertion of new Chapter namely:—
V. A.

"CHAPTER VI-A

DISTRICT PLANNING COMMITTEE

Committee for district Planning. 62-A. (1) There shall be constituted at the level of every district a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) A District Planning Committee shall consist of twenty members as follows:—

(a) sixteen members to be elected in the prescribed manner by, and from amongst, the elected members of the Zilla Parishad and the elected Councillors of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district; and

(b) four members to be nominated by the State Government as follows:—

(i) a Minister in the Council of Ministers of the State, who shall be the Chairperson;

(ii) the Collector of the district, who shall be the Vice-Chairperson;

(iii) the Chairperson of the Zilla Parishad in the district; and

(iv) the Chairperson of a Municipality in the district:

Provided that—

(a) if the Chairperson of the Zilla Parishad in the district is elected as a member of the Committee under clause (a); or

(b) where there is only one Municipality in a district and the Chairperson of such Municipality is elected as a member of the Committee under the said clause,

some other person may be nominated by the State Government.

Explanation—For the purposes of this section,—

(a) "Zilla Parishad" means a Zilla Parishad constituted under the Zilla Parishad Act, 1991;

Orissa Act
37 of 1991.

(b) "rural areas" means the territorial areas of Panchayats; and

(c) "urban areas" means the territorial areas of Municipalities.

(3) Notwithstanding anything contained in this section the State Government may nominate any official or non-official as special invitee to attend the meetings of the district Planning Committee without any right to vote at any such meeting.

(4) The Chief Executive Officer of the Zilla Parishad shall be the Secretary of the District Planning Committee.

(5) The term of office of the members of the district Planning Committee, the conduct of business at the meetings thereof and such other matters including filling up of casual vacancies in the said Committee shall be such as may be prescribed.

(6) No act of a District Planning Committee shall be deemed to be invalid only by reason of the existence of a casual vacancy therein.

Functions of the district Planning Committee. 62-B (1) Every District Planning Committee shall, in preparing the draft development Plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(2) The Chairperson of every District Planning Committee shall forward the development Plan, as recommended by such Committee, to the State Government.

(3) Without prejudice to the generality of the foregoing provisions, a District Planning Committee shall have such other functions as the State Government may, by notification from time to time, assign."

Amendment of section 63. 38. In the principal Act, in section 63, the words "or in their absence, by the Additional Vice-Chairman" shall be omitted.

Amendment of section 64. 39. In the principal Act, in section 64,—

(a) in sub-section (1), the words "or in their absence, the Additional Vice-Chairman" shall be omitted; and

(b) in sub-section (2), the words "or the Additional Vice-Chairman" shall be omitted.

Amendment of section 65. 40. In the principal Act, in section 65, the commas and words, "the Vice-Chairman or in his absence the Additional Vice-Chairman or in the absence of the Chairman, Vice-Chairman and the Additional Vice-Chairman", the words "the Vice-Chairperson or in the absence of both Chairperson and Vice-Chairperson" shall be substituted.

Amendment of section 68. 41. In the principal Act, in section 68, the comma and words, "Additional Vice-Chairman" wherever they occur shall be omitted.

Amendment of sections 70 and 71. 42. In the Principal Act, in section 70, the words "or Additional Vice-Chairman" and in the proviso to sub-section (3) of section 71, the comma and words, "Additional Vice-Chairman" shall be omitted.

Amendment of section 72. 43. In the Principal Act, in clause (e) of section 72, the words " or Additional Vice-Chairman" shall be omitted.

Amendment of section 88. 44. In the principal Act, in section 88, the words "or in their absence, of the Additional Vice-Chairman" shall be omitted.

Amendment of section 89. 45. In the principal Act, in section 89,—

(i) in the opening portion, for the words "The Vice-Chairman or, in his absence, the Additional Vice-Chairman" the words "A Vice-Chairperson" shall be substituted; and

(ii) in the provisos, the words "or, as the case may be, the Additional Vice-Chairman" shall be omitted.

Amendment
of section 90

46. In the principal Act, in section 90,—

- (i) in the opening portion, the words “or the Additional Vice-Chairman or both” shall be omitted; and
- (ii) in the second proviso, the words “or the Additional Vice-Chairman” shall be omitted.

Amendment
of section 91.

47. In the principal Act, for section 91, the following section shall be substituted namely:—

Delegation
of Chair-
person's func-
tions in
favour of
individual
Councillors.

“91. During the vacancy of the office of Vice-Chairperson or incapacity or temporary absence of Vice-Chairperson, the Chairperson may, by an order in writing, delegate any of his functions to any Councillor of the Municipality till the Vice-Chairperson resumes office or a new Vice-Chairperson is elected, as the case may be:

Provided that—

- (a) every order made under this section shall be communicated to the Municipality at the next meeting;
- (b) no delegation under this section shall be made for any period exceeding in the aggregate, ninety days in any year without the special sanction of the Municipality.”

Amendment
of section 93

48. In the principal Act, in the proviso to section 93, the words “or the Additional Vice-Chairman” shall be omitted.

Insertion of
new section
103-A.

49. In Chapter IX of the principal Act, after section, 103, the following section shall be inserted, namely:—

Powers of
Municipality
to give
direction.

“103-A. Notwithstanding anything contained in this Act, on and after the commencement of the Orissa Municipal (Amendment) Act, 1994,—

- (a) the exercise of any power or performance or any function by the Chairperson, Vice-chairperson, the Executive Officer or any other officer under this Act shall be subject to the direction, if any, as may be given by the Municipality in that behalf; and
- (b) all orders and decisions of the Chairperson or the Vice-Chairperson of a Municipality under the provisions of this Act shall be carried into effect by the Executive Officer of the Municipality and none else.”

Amendment
of
section 117.

50. In the principal Act, in sub-section (1) of section 117, in clause (XXXIX), the words and comma “Additional Vice-Chairman,” shall be omitted.

Insertion of
new section
120-A.

51. In Chapter XI of the principal Act, after section 120, the following section shall be inserted, namely:—

Review of
finance.

“120-A. (1) It shall be the duty of the Finance Commission to review the financial position of Municipalities and to make recommendations to the Governor as to—

- (a) the principles which would govern—
 - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities; and
 - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities; and

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Finance Commission under sub-section (1) together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly."

Amendment of section 131. 52. In the principal Act, in section 131, in the proviso to sub-section (1), for the words, brackets and letters "clauses (kk) and (l)", the word, brackets and letters "clause (kk)" shall be substituted.

Amendment of section 131-A. 53. In the principal Act, in section 131-A,—

(a) in the marginal heading, for the words "or reduce", the comma and words "reduce or increase" shall be substituted; and

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Where the State Government are satisfied that the rate at which the imposition of any tax or fee referred to in section 131 is abnormally low they may increase such rate after consulting the concerned Municipality in the matter:

Provided that in no case the rate of any such tax or fee, after such increase, shall exceed the maximum limit provided therefor in this Act."

Amendment of section 144. 54. In the principal Act, for the proviso to section 144, the following proviso shall be substituted, namely:—

"Provided that—

(a) where the Municipality fails to determine such percentage on the valuation of holdings at which the tax shall be levied, the maximum percentage on the annual value of holdings as provided under this Act for the imposition of the tax shall be deemed to the percentage determined by the Municipality; and

(b) when this Act is first extended to any place, the first tax may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Municipality."

Insertion of new section 274-A. 55. In Chapter XVII of the principal Act, after section 274, the following section shall be inserted, namely:—

Levy of development charges. "274-A (1) Subject to the provisions of this Act and the rules made thereunder, a Municipality may, with the previous sanction of the State Government, by notification, levy a development charge on lands and buildings within the area under its jurisdiction at such rate, not exceeding the maximum rates specified in sub-section (3), as it may determine:

Provided that different rates of development charges may be specified for different parts of the relevant area or areas and for different uses.

(2) The development charges on lands and buildings leviable under sub-section (1) shall be assessed with reference to their use for different purposes such as —

(i) Industrial;

(ii) Commercial;

(iii) Residential; and

(iv) Miscellaneous :



Provided that in classifying the lands or buildings under any of the said purposes, the predominant purpose for which such lands and buildings are used shall be the main basis.

(3) The rates of development charges shall be determined—

(a) in the case of development of land, at a rate to be specified per hectare and

(b) in the case of development of a building, at a rate to be specified per square metre of the floor area of the building :

Provided that no such rate shall exceed fifty thousand rupees in the case of development of land, and fifteen rupees per square metre in the case of development of a building :

Provided further that where land appurtenant to a building is used for any purpose independent of the building, development charge may be levied separately for such use also.

(4) The procedure relating to assessment and recovery of development charges under this section shall be such as may be prescribed."

Amendment of section 363. 56. In the principal Act, in sub-section (3) of section 363, for the words "by the Additional Vice-Chairman or, as the case may be, by a member of the Finance Committee" the words "by a member of the Finance Committee" shall be substituted.

Insertion of new Chapter XXV-A. 57. After Chapter XXV of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER XXV-A

OTHER POWERS OF MUNICIPALITY

Other powers of Municipality. 374-A. Without prejudice to the generality of the powers and functions of Municipality provided in this Act, every Municipality shall, subject to such conditions and limitations as the State Government may, in the public interest, deem-fit to impose, have powers with respect to—

- (a) preparation of plans for economic development and social justice; and
- (b) the performance of functions and implementation of schemes in relation to—
 - (i) urban planning including town planning,
 - (ii) planning for economic and social development,
 - (iii) urban forestry, protection of the environment and promotion of ecological aspects,
 - (iv) safeguarding the interest of weaker sections of society including handicapped and mentally retarded,
 - (v) slum improvement and upgradation,
 - (vi) urban poverty alleviation,
 - (vii) promotion of cultural, educational and aesthetic aspects,
 - (viii) vital statistics including registration of birth and death."

Amendment
of Chapter
XXVI

58. In the principal Act, in Chapter XXVI,—

- (a) in the heading, the words and comma “ADDITIONAL VICE-CHAIRMAN,” shall be omitted, and
- (b) the words and comma “Additional Vice-Chairman,” wherever they occur, shall be omitted.

Amendment
of section
384.

59. In the principal Act, in section 384, the words “or Additional Vice-Chairman” wherever they occur, shall be omitted.

Amendment
of section
387.

60. In the principal Act, in sub-section (2) of section 387,—

- (a) in clause (ii), the comma and word “Additional Vice-Chairman” shall be omitted;
- (b) the provisos to clause (ii) shall be omitted; and
- (c) in clause (xxv), for the commas and words, “Vice-Chairman and Additional Vice-Chairman” and “Vice-Chairman or Additional Vice-Chairman” the words “and Vice-Chairperson” and “or Vice-Chairperson” shall respectively be substituted.

Amendment
of section
398.

61. In the principal Act, in sub-section (2) of section 398, the following proviso shall be added, namely:—

“Provided that nothing in this sub-section shall apply to the suspension of any such resolution, order, licence or permission.”

Amendment
of section
400.

62. In the principal Act, in section 400,—

- (a) in the marginal heading, for the words “in default of a municipal council, or its Chairman”, the words “in certain cases” shall be substituted; and
- (b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Without prejudice to the foregoing powers of the State Government it shall be competent for the State Government to direct any Municipality for the execution of any work or the doing of any act within a specified time if, in their opinion, such work or action is necessary in the public interest, and if the Municipality fails to comply with such direction within the specified time, the State Government may direct the execution or the doing of such work by any other authority or person, in which case, the expenses therefor shall be realised from the Municipal Fund.”

Amendment
of section
401.

63. In the principal Act, for section 401 including its marginal heading, the following section shall be substituted, namely:—

Dissolution
and reconsti-
tution of
Municipality.

401. (1) If in the opinion of the State Government a Municipality is incompetent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers, they may, by notification published in the prescribed manner, direct that the Municipality be dissolved.

(2) Before publishing a notification under sub-section (1), the State Government shall communicate to the Municipality the grounds on which they propose to do so, fix a reasonable period for the Municipality to show cause against the proposal and consider the explanations and objections, if any, of the Municipality.

(3) Upon the publication of such notification, all the Councillors including the Chairperson and Vice-Chairperson of the Municipality shall forthwith be deemed to have vacated their office as such and fresh elections shall be held in accordance with the provisions of this Act.

(4) The Councillors including the Chairperson and Vice-Chairperson of the Municipality constituted on such dissolution shall continue only for the remainder of the period for which the Councillors including the Chairperson and Vice-Chairperson of the dissolved Municipality would have continued had there been no such dissolution.

(5) During the interval between the dissolution of a Municipality and the reconstitution thereof, all or any of the powers and duties of the Municipality and its Chairperson may be exercised and discharged, as far as may be, and subject to such extent, as the State Government may determine, by a person to be appointed by the State Government as the Administrator, and the Administrator so appointed may, if the State Government so direct, receive such payment for his services from the Municipal Fund as may be determined by them."

Omission of section 402.

64. In the principal Act, section 402 shall be omitted.

Amendment of section 403.

65. In the principal Act, in section 403 and its marginal heading, the words and figure "or superseded under section 402", "or supersession" and "or superseded" shall be omitted.

Omission of Chapter XXX-A.

66. In the principal Act, Chapter XXX-A shall be omitted.

Amendment of section 423.

67. In the principal Act, for section 423, the following section shall be substituted, namely:—

"423. (1) Notwithstanding anything contained in this Act, when any area is specified as a transitional area, smaller urban area or larger urban area as referred to in sub-section (2) of section 4, for the first time, until a Municipality is constituted for that area in accordance with the provisions of this Act a person appointed by the State Government as Administrator shall exercise the powers, discharge the duties and perform the functions of Municipality for that area including that of its Chairperson.

(2) The Administrator appointed under sub-section (1) may, if the State Government so direct, receive such payment for his services from the Municipal Fund, that may be constituted for such Municipality, as may be determined by the Government."

General Amendments.

68. In the principal Act, for the expressions—

- (a) "municipality" and "municipalities" wherever they occur conveying the meaning of an area or areas, as the case may be, the expressions "Municipal area" and "Municipal areas" shall respectively be substituted;
- (b) "council" and "councils" wherever they occur, the expressions, "Municipality" and "Municipalities" shall respectively be substituted; and
- (c) "municipal council" and "municipal councils" wherever they occur, the expressions "Municipality" and "Municipalities" shall respectively be substituted.
- (d) "Chairman" and "Vice-Chairman" wherever they occur, the expressions "Chairperson" and "Vice-Chairperson" shall respectively be substituted.

ORISSA ACT 19 OF 1995

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1995

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2. Amendment of section 11
3. Amendment of section 12
4. Amendment of section 13
5. Amendment of section 47
6. Savings
7. Repeal and Savings



ORISSA ACT 19 OF 1995

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1995**

[Received the assent of the Governor on the 19th December 1995 first published in an extraordinary issue of the *Orissa Gazette*, dated the 20th December 1995.]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

BE it enacted by the Legislature of the State of Orissa in the Forty-sixth year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1995.
- (2) It shall be deemed to have come into force on the 19th day of October, 1995.

Amendment
of section 11.

2. In the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act), in Section 11,—

Orissa Act
23 of 1950.

(a) in sub-section (1), for the words "State Government", the words "District Magistrate" shall be substituted;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) As nearly as may be, but not less than, twenty-seven percentum of the total number of seats to be filled up by direct election in every Municipality shall also be reserved in favour of backward class of citizens as referred to in clause (6) of Article 243-T of the Constitution.

(3-A) As nearly as may be, one-third of the total number of seats reserved under sub-section (3) shall be reserved for women belonging to the backward class of citizens:

Provided that where only two seats are reserved for the backward class of citizens one of the two seats shall be reserved for women belonging to the backward class of citizens"; and

(c) in sub-section (4), for the words "and the Scheduled Tribes", the comma and words "the Scheduled Tribes and the backward class of citizens" shall be substituted.

Amendment
of section 12.

3. In section 12 of the principal Act,—

(i) in sub-section (3),—

(a) in the opening portion,—

(i) for the words "State Government" and "of their", the words "District Magistrate" and "of his" shall respectively be substituted; and

(ii) the words "at a meeting" shall be omitted;

(b) in clause (i) of the proviso, for the word "Municipality", the words "Municipal area" shall be substituted; and

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3-A) (a) The District Magistrate shall, before making the notification under sub-section (3), publish in the prescribed manner a draft thereof containing a statement showing the number of wards into which the Municipal area shall be divided, the extent of each such ward and the wards in which the seats reserved under section 11 shall be set assigned, with a notice inviting objections and suggestions from all persons interested within the prescribed period.

(b) The District Magistrate shall consider the objections and suggestions so received and, for that purpose, he may make such further enquiry as he may consider necessary."

Amendment
of section 13.

4. In section 13 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Nothing in this section shall debar the Election Commission to adopt, or provide for, any other mode for preparation of electoral rolls for the purpose of elections to Municipalities."

Amendment
of section
47.

5. In section 47 of the principal Act,—

(f) in sub-section (3),—

(a) in clause (c), for the words "and the Scheduled Tribes" the comma and words, "the Scheduled Tribes and the backward class of citizens" shall be substituted; and

(b) for clause (d) the following clauses shall be substituted, namely:—

"(d) as nearly as may be, but not less than, twenty-seven per centum of the offices of Chairpersons of Municipalities shall also be reserved in favour of backward class of citizens as referred to in clause (6) of Article 243-F of the Constitution; and

(e) as nearly as may be, one-third of the total number of seats reserved under clause (d) shall be reserved for women belonging to the backward class of citizens."

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

"Provided that the procedure provided in sub-section (3-A) of section 12 relating to reservation of seats in the Municipalities for the Scheduled Castes, Scheduled Tribes, backward class of citizens and women shall, as far as may be, be applicable for the purpose of reservation of offices of Chairpersons to be made by the State Government under this sub-section." ; and

(iii) in the opening portion of sub-section (6), for the brackets and figure "(1)", the brackets and figure "(2)" shall be substituted.

Savings.

6. The amendments made by this Act, shall not—

(i) affect the continuance of the Municipalities existing at the commencement of this Act; and

(ii) apply to the law in force in the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution.

Repeal and
Saving.

7. (1) The Orissa Municipal (Amendment) Ordinance, 1995 is hereby repealed.

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

Orissa
Ordinance
No. 6 of
1995.

ORISSA ACT 8 OF 1996

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1996

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2. Amendment of section 12
3. Amendment of section 401.



ORISSA ACT 8 OF 1996

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1996**

[Received the assent of the Governor on the 21st April 1996, First published in an extraordinary issue of the Orissa Gazette, dated the 2nd May 1996]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

BE it enacted by the Legislature of the State of Orissa in the Forty-seventh Year of the Republic of India as follows:—

- Short title 1. This Act may be called the Orissa Municipal (Amendment) Act, 1996.
- Amendment of Section 12. 2. In section 12 of the Orissa Municipal Act, 1950 (hereinafter referred to as the *Orissa Act 23 of 1950* principal Act), in sub-section (1),—
- (i) the proviso appearing after clause (b) shall be omitted ; and
- (ii) clause (c) including the proviso appearing thereafter shall be omitted.
- Amendment of Section 401. 3. In section 401 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—
- “(3) On and with effect from the date of publication of such notification, all the Councillors including the Chairperson and Vice-Chairperson of the Municipality shall be deemed to have vacated their office as such and the election to constitute the Municipality in accordance with the provisions of this Act shall be completed before the expiration of a period of six months from the said date;

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Municipality for such period.”.

* For the Bill see *Orissa Gazette* Extraordinary, dated the 14th March, 1996 (No. 272)



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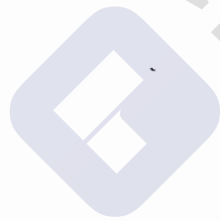
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ORISSA ACT 15 OF 1996

***THE ORISSA MUNICIPAL (SECOND AMENDMENT) ACT, 1996**

[Received the assent of the Governor on the 29th December, 1996 first published in an extraordinary issue of the Orissa Gazette, dated the 31st December 1996]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950

BE it enacted by the Legislature of the State of Orissa in the Forty seventh Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Municipal (Second Amendment) Act, 1996.

(2) It shall be deemed to have come into force on the 18th day of October, 1996.

Amendment
of section 47

2. In section 47 of the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act), in clause (a) of sub-section (3), for the words "in the State bears to the total population of the State" appearing at the end, the words "in the Municipal areas of the State bears to the total population of such Municipal areas" shall be substituted.

Repeal and
savings.

3. (1) The Orissa Municipal (Amendment) Ordinance, 1996 is hereby repealed.

Orissa
Ordinance
No. 3 of
1996.

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

*For the Bill, see *Orissa Gazette* Extraordinary, dated the 27th November, 1996 (No.1245)



ORISSA ACT 10 OF 1997

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1997

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3. Amendment of section 16;
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5. Amendment of section 63;
6. Amendment of section 73;
7. Insertion of new sections 73-A, 73-B and 73-C
8. Amendment of section 75;
9. Amendment of section 124;
10. Amendment of section 382;
11. Amendment of schedule IV
12. Amendment of schedule V,
13. Repeal and Savings.

ORISSA ACT 10 OF 1997

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1997**

[Received the assent of the Governor on the 19th October 1997, first published in an extraordinary issue of the Orissa Gazette, dated the 21st October 1997]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950

BE it enacted by the Legislature of the State of Orissa in the Forty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 19th day of May 1997.

Short title and commencement.

Amendment of section 4.

2. In section 4 of the Orissa Municipal Act, 1950 (hereinafter referred to as the Orissa Act principal Act), before the Explanation in sub-section (2), the following proviso shall be inserted, namely :—

“Provided that before publication of the notification under this sub-section, the State Government shall publish in the prescribed manner a draft of such notification inviting objections and suggestions from all persons likely to be affected thereby within such period as may be prescribed, and shall consider the objections and suggestions, if any, as may be received on the said draft.”

Amendment of section 16.

3. In section 16 of the principal Act, after clause (xvii) of sub-section (1), the following clauses shall be inserted, namely:—

“(xviii) has given appointment to any person in contravention of the provisions of this Act and the rules made thereunder during his tenure in the Municipality immediately preceding the election ;

(xix) has been removed under section 53 during the term of his office as the Chairperson or the Vice-Chairperson of the Municipality immediately preceding the election.”

Insertion of new section 17-A.

4. In the principal Act, after section 17, the following section shall be inserted, namely :—

Limitation on election expenditure and accounts thereof.

“17-A. (1) No candidate for an election as a Councillor to a Municipality shall, either by himself or through any person authorised by him, incur expenditure in connection with such election an amount exceeding twenty-five thousand rupees ;

Provided that the Election Commission may, by notification from time to time and in consultation with the State Government, enhance the limit of such expenditure up to fifty thousand rupees.

(2) For the purposes of this section, every candidate referred to in sub-section (1) shall maintain, or cause to be maintained, a true and separate account of all expenditure incurred or authorised by him in connection with the election between the date on which he has been nominated as a candidate and the date of declaration of the result of the election.

(3) Any person who contravenes any of the provisions of this section shall be deemed to have committed corrupt practice within the meaning of section 28.

(4) The account shall contain such particulars as may be notified by the Election Commission.

(5) Within one month from the date of declaration of the result of the election, every candidate, either personally or through his agent, shall lodge or cause to be lodged, with the Election Commission the account of the election expenditure maintained under sub-section (2).”

Amendment of section 63. 5. In section 63 of the principal Act, after the words "convenient place", the words "within the Municipal area" shall be inserted.

Amendment of section 73. 6. In section 73 of the principal Act, in sub-section (2), for the words "six months", the words "forty-four days" shall be substituted.

Insertion of new sections 73-A, 73-B and 73-C. 7. In the principal Act, after section 73, the following new sections shall be inserted, namely:—

Penalties. "73-A. (1) Where any holder of an elective office or any officer or authority makes any appointment, or causes any appointment to be made, in contravention of the provisions of this Act,—

(a) it shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the State Government shall initiate proceedings for his removal; and

(b) in the case of an officer or authority, it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the relevant disciplinary rules,

and such holder of elective office or the officer or authority, as the case may be, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend up to two years and also with fine which shall not be less than five thousand rupees and which may extend up to ten thousand rupees.

(2) In addition to taking action under sub-section (1), the pay and allowances paid to the person whose appointment is in contravention of the provisions of this Act shall be deemed to be an illegal payment and a loss to the Municipality and the same shall be recoverable by surcharging it under the Orissa Local Fund Audit Act, 1948 against such holder of elective office, officer or authority who makes such appointment. Orissa Act 5 of 1948.

(3) No court shall take cognizance of an offence punishable under sub-section (1) except with the previous sanction of the State Government.

Bar for regularisation of services. 73-B. No person who is appointed on a temporary basis under sub-section (2) of section 73 and is continuing as such at the commencement of the Orissa Municipal (Amendment) Act, 1997 shall have or shall be deemed ever to have a right to claim for regularisation of his services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and without assigning any reason thereof:

Provided that in case of workmen falling within the scope of section 25-F of the Industrial Disputes Act, 1947, one month's wages and such compensation as would be payable under the said section shall be paid in case of termination of services. 14 of 1947.

Abatement of claims. 73-C. Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, the claims for regular appointment of all persons appointed on a temporary basis under sub-section (2) of section 73 shall stand abated and, accordingly,—

(a) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority by the temporary appointees against the Municipality or any person or authority whatsoever for the regularisation of the services;

(b) no court shall enforce any decree or order directing the regularisation of the services of such persons; and

(c) all proceedings pending in any court or tribunal claiming the regularisation of services of such persons shall abate."

Amendment of section 75. 8. In section 75 of the principal Act, in the first proviso, the words "of primary schools" shall be omitted.

Amendment of section 124. 9. In section 124 of the principal Act, the word and comma "school," occurring in sub-section (1) and sub-section (2) shall be omitted.



Amendment of section 382. 10. Section 382 of the principal Act, shall be renumbered as sub-section (1) thereof and, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Nothing in sub-section (1) shall apply to a person who is liable under section 73-A.”.

Amendment of Schedule IV.

11. In Schedule IV to the principal Act,—

(a) for the word “Ditto” occurring in column 4 against section 258, the words “Five hundred rupees” shall be substituted; and

(b) for the word “Ditto” occurring in column 4 against section 259, the words “Fifty rupees” shall be substituted.

Amendment of Schedule V.

12. In Schedule V to the principal Act,—

(a) for the words “Ten rupees” occurring in column 4 against section 258, the words “One hundred rupees” shall be substituted; and

(b) for the word “Ditto” occurring in column 4 against section 259, the words “Ten rupees” shall be substituted.

Repeal and Savings.

13. (1) The Orissa Municipal (Amendment) Ordinance, 1997 is hereby repealed. Orissa Ordinance No. 2 of 1997.

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



ORISSA ACT 6 OF 2002

THE ORISSA MUNICIPAL (AMENDMENT) ACT, 2002

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8. Amendment of section 30
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10. Amendment of section 47
11. Omission of section 49-A
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13. Amendment of section 54
14. Insertion of new section 73-D
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ORISSA ACT 6 of 2002

***THE ORISSA MUNICIPAL (AMENDMENT) ACT, 2002**

[Received the assent of the Governor on the 23rd April 2002, first published in an extraordinary issue of the Orissa Gazette, dated the 26th April, 2002 (No. 556)]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

Be it enacted by the Legislature of the State of Orissa in the Fifty-third Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Orissa Municipal (Amendment) Act, 2002

Amendment of section 3.

2. In section 3 of the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Act), after clause (15), the following clause shall be inserted, namely :—

Orissa Act, 23 of 1950.

“(15-a) “Local Fund Service” means the Local Fund Service constituted under section 81”;

Amendment of section 8.

3. In section 8 of the principal Act, in the proviso to clause (b), for the full stop occurring at the end, a semicolon shall be substituted and, after the said clause, the following clause shall be inserted, namely :—

“(c) every Member of the House of the People and of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area and every member of the Council of States registered as elector within the Municipal area :

Provided that no such member shall have the right to attend any meeting of the Municipality convened under sections 47, 49 or 54 :

provided further that where any such member is unable to attend any meeting of the Municipality (except as aforesaid) for any reason, he may authorise a person to attend such meeting as his representative but, in no case, the representative so authorised shall have the right to vote at such meeting.”

Insertion of new section 11-B.

4. After section 11-A of the principal Act, the following section shall be inserted, namely :—

Election Officer, Polling Officer, etc. deemed to be on deputation to Election Commission.

“11-B. Any officers and employees of the State Government, made available to the Election Commission pursuant to clause (3) of article 243-K of the Constitution for the discharge of the functions conferred on the Election Commission by clause (1) of that article, when appointed by the Election Commission as the Election Officer, Polling Officer or any other Officer, or otherwise designated for the time being, for the conduct of any election under this Act, shall be deemed to be on deputation to the Election Commission for the period commencing on the date of notification calling for such election and ending with the date of declaration of the result of such election and, accordingly, such officers and employees shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.”

Amendment of section 12.

5. In section 12 of the principal Act,—

(a) for the opening portion of sub-section (3), the following shall be substituted, namely :—

“For the purpose of election of Councillors to a Municipality, the District Magistrate shall, in the case of a new Municipality, of his own motion and, in the case of a Municipality already in existence at the time the notification is made, after consulting the concerned Municipality, by notification,—”; and

*For the Bill, see *Orissa Gazette, Extraordinary*, dated the 6th April 2002 (No. 499)

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

“Provided further that notwithstanding anything contained in this section, if any person is aggrieved by the decision as to the division of the Municipal area into wards or the assignment of wards, as referred in clauses (a) and (b), he may prefer an appeal to the State Government within fifteen days from the date of publication of the notification which shall be disposed of by the appellate authority within thirty days from the date of its filing, after giving the person concerned an opportunity of being heard, and the decision of the appellate authority shall be final.”

Amendment
of
section 16.

6. In Section 15 of the principal Act, in clause (iv) of sub-section (1), the words and comma “a deaf-mute,” shall be omitted.

Amendment
of
section 17.

7. In Section 17 of the principal Act, in clause (b), the words and comma “a deaf-mute,” shall be omitted.

Amendment
of
section 30.

8. In section 30 of the principal Act, in sub-section (2), after the words “Polling Officer”, the words and figure “or any other officer, whether designated as Election Officer or otherwise, engaged in or associated with the work of preparation of electoral rolls pursuant to section 13 of this Act” shall be inserted.

Insertion of
new section
37-A.

9. In Chapter-III of the principal Act, after section 37, the following section shall be inserted, namely :—

Protection
of action
taken in
good faith.

“37-A. No suit, prosecution or other legal proceeding shall lie against the Election Commission or any person acting under the direction of the Election Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Election Commission to the Governor or in respect of the publication, by or under the authority of the Election Commission, of any such opinion, or any paper or proceedings”.

Amendment
of Section 47.

10. In section 47 of the principal Act, for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) If at the subsequent election held under sub-section (6) no Chairperson or Vice-Chairperson, as the case may be, is elected, the State Government shall nominate a person who is otherwise eligible to hold the office, to fill up the office, and the person so nominated shall, subject to other provisions of this Act, hold office till the expiry of five years from the date appointed for the first meeting referred to in clause (a) of sub-section (2) of Section 47.”.

Omission
of section
49 A.

11. Section 49-A of the principal Act shall be omitted.

Amendment
of section 53

12. In section 53 of the principal Act, in sub-section (1), for the words “or by an officer not below the rank of a District Magistrate”, the words “or the District Magistrate or by an officer not below the rank of a Deputy Secretary of the State Government, as the Government may, by notification, direct” shall be substituted.

Amendment
of section 54.

13. In section 54 of the principal Act, for the proviso to sub-section (1), the following proviso shall be substituted, namely:—

“Provided that no such resolution recording want of confidence in the Chairperson or the Vice-Chairperson—

(i) shall be passed within two years from the date of his election or nomination, as the case may be; and

(ii) shall be moved more than once during a calendar year.”.



In section of
new Section
73-D.

14. After section 73-C of the principal Act, the following Section shall be inserted, namely:—

Irregular
appointments
to be
voidable.

“73-D. Any appointment made by a Municipality without the previous sanction of the State Government as required by sub-section (1) of section 73 shall be treated as voidable.”

Amendment
of section
81-B.

15. For section 81-B of the principal Act, the following section shall be substituted, namely:—

“81-B. Whenever any officer or servant belonging to the Local Fund Service is transferred or posted to a Municipality, the Executive Officer of the Municipality from which he transferred shall be bound to relieve him as per orders of the State Government and the Executive Officer of the Municipality to which he is so transferred or posted shall be bound to accept his joining report forthwith, employ him in the service of Municipality and pay all amounts due to him on account of his pay, allowances and other dues from out of the Municipal Fund.”

ORISSA ACT 3 OF 2003

* THE ORISSA MUNICIPAL (SECOND AMENDMENT) ACT, 2002

[Received the assent of the Governor on the 16th January 2003, first published in an extraordinary issue of the *Orissa Gazette*, dated the 24th January, 2003 (No. 103)]

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950.

BE it enacted by the Legislature of the State of Orissa in the Fifty-third Year of the Republic of India as follows :—

Short title. 1. This Act may be called the Orissa Municipal (Second Amendment) Act, 2002.

Amendment
of section
13.

2. In section 13 of the Orissa Municipal Act, 1950, in sub-section (1), for the words "Except as otherwise provided in this Act or the rules made thereunder", the words "Unless the Election Commission, by order published in the Gazette, directs otherwise" shall be substituted.

Orissa Act
23 of 1950.

* For the Bill, see *Orissa Gazette* Extraordinary dated the 20th December, 2002 (No. 2327)