

ORISSA ACT 5 OF 1990
THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1990

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ORISSA ACT 5 OF 1990

* THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1990

(Received the assent of the Governor on the 18th April 1990, first published in an extraordinary issue of the Orissa Gazette, dated the 20th April 1990)

AN ACT FURTHER TO AMEND THE ORISSA MUNICIPAL ACT, 1950 IN ORDER TO PROVIDE FOR THE DIRECT ELECTION OF THE CHAIRMAN OF MUNICIPAL COUNCILS OF THE STATE

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

Short title and commencement.

1. (1) This Act may be called the Orissa Municipal (Amendment) Act, 1990.

(2) It shall come into force on the date of its publication in the official Gazette.

Amendment of section 8.

2. In the Orissa Municipal Act, 1950 (hereinafter referred to as the principal Orissa Act 23 of 1950), in section 8, for the words "such number of elected", the words "a Chairman and such number of" shall be substituted.

Amendment of section 10.

3. In section 10 of the principal Act, for the words "All the Councillors" the words "The Chairman and all the Councillors" shall be substituted.

Amendment of section 12.

4. In section 12 of the principal Act,—

(a) in sub-section (1), for the word "Councillors" wherever it occurs, the words "the Chairman and the Councillors" shall be substituted;

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

"(4-a) All the electors of a Municipality, irrespective of their community, shall be entitled to vote at an election in respect of the Chairman of that Municipality."

* For the Bill, see Orissa Gazette, Extraordinary dated the 22nd March 1990 (No. 329)

Amendment of section 14. 5. Section 14 of the principal Act shall be re-numbered as sub-section (2) thereof and before sub-section (2) as so re-numbered, the following sub-section shall be inserted, namely :—

“(1) No person who is not for the time being in the electoral roll of a Municipality shall be entitled to vote at an election for the office of the Chairman of that Municipality.”

Amendment of section 16.

6. In section 16 of the principal Act,—

(a) in sub-section (1), for the words “as a Councillor of Municipal Council” the words “as the Chairman or a Councillor of a Municipal Council” shall be substituted;

(b) in sub-section (2),—

(i) before the words “a Councillor”, the words “a Chairman or” shall be inserted;

(ii) for the words “his councillorship”, the words and commas “his Chairmanship or councillorship, as the case may be,” shall be substituted.

Amendment of section 17.

7. In section 17 of the principal Act,—

(a) in the marginal heading, before the word “councillor”, the words “Chairman and” shall be inserted;

(b) in the opening portion, after the word and figure, “section 38”, the words “a Chairman or” shall be inserted;

(c) in the opening portion of clause (1), before the words “absents himself”, the words and comma “in the case of a councillor”, shall be inserted.

Amendment of section 18.

8. In section 18 of the principal Act, in the opening portion of sub-section (1) and of sub-section (2), before the words “as a councillor”, the words “as a Chairman or” shall be inserted.

Amendment of section 27.

9. In section 27 of the principal Act, before the words “a councillor”, the words “a Chairman or” shall be inserted.

Amendment of section 29.

10. In section 29 of the principal Act, before the word “councillor”, the words “the Chairman or a” shall be inserted.

Amendment of section 37.

11. In section 37 of the principal Act, before the word “councillor” wherever it occurs, the words “Chairman or” shall be inserted.

Amendment of section 38.

12. In section 38 of the principal Act, before the word “councillor” wherever it occurs, except for the fourth time, the words “Chairman or” shall be inserted.

Amendment of section-38-A.

13. In section 38-A of the principal Act, before the word “councillor” wherever it occurs, the words “Chairman or” shall be inserted.

Amendment of section 41.

14. In section 41 of the principal Act,—

(a) in the marginal heading, before the word “councillors”, the words “Chairman and” shall be inserted;

(b) in sub-sections (1), (2) and (3), before the word “councillor” wherever it occurs, the words “Chairman or” shall be inserted;

(c) in sub-section (4), before the word “councillors” wherever it occurs, the words “Chairman and” shall be inserted; and

(d) in sub-section (6), before the words “the councillors” the words “the Chairman and” shall be inserted.

Amendment of section 43.

15. In section 43 of the principal Act, the words “not being a Chairman” shall be omitted.

Substitution of section 47.

16. For section 47 of the Principal Act including its marginal heading, the following sections shall be substituted, namely :—

Election of Chairman.

“47. Every Municipal Council shall have a Chairman who shall be elected at the general election under section 12 by the electors of the Municipality.

Election of Vice-Chairman.

47-A. (1) Every Municipal Council shall have a 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.

(2) The meeting referred to in sub-section (1) shall be held within thirty days from the date of publication of the names of the Chairman and the Councillors under section 39 and shall be presided over by the Chairman or in his absence by an officer, not below the rank of an Additional District Magistrate authorised by the District Magistrate in that behalf."

Substitution
of
section 48.

17. For section 48 of the principal Act, the following section shall be substituted, namely:—

"48. (1) The Chairman of a Municipal Council shall be deemed to have vacated his office on his election as Chairman or Vice-Chairman of any other Municipal Council.

(2) The Vice-Chairman of a Municipal Council 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 Municipal Council; or

(b) on his election as Chairman or Vice-Chairman of any other Municipal Council."

Substitution
of section 49.

18. For section 49 of the principal Act, the following sections shall be substituted, namely:—

Filling up
casual vaca-
ncies.

"49. On a vacancy occurring in the office of the Chairman or Vice-Chairman by reason of death, resignation, removal or otherwise, it shall be filled up by election as soon as may be after the occurrence of the vacancy in the prescribed manner:

Provided that a vacancy occurring within six months prior to the date on which the term of office of the Councillors would expire, shall be filled up by the State Government by nominating a person who is otherwise eligible to hold such office.

Failure of
election of
Chairman
or Vice-
Chairman.

49-A. If at an election no Chairman or Vice-Chairman, as the case may be is elected, a fresh election shall be held for the purpose; and if at such fresh election no person is elected, the State Government shall nominate a person, who is otherwise eligible to hold the office, and the person so nominated shall, subject to the other provisions of this Act, hold office till the expiry of five years from the date of polling at the general election."

Omission of
Section 50.

19. Section 50 of the principal Act shall be omitted.

Amendment
of section 52.

20. In section 52 of the principal Act,—

(a) in sub-section (2), for the words "Municipal Council", the words "State Government" shall be substituted; and

(b) in sub-section (4), for the words "Municipal Council", the words "State Government or the Municipal Council, as the case may be," shall be substituted.

Amendment
of section 54.

21. In the proviso to section 54 of the principal Act, for the word "appointment", the word "nomination" shall be substituted.

Repeal and
transitory
provisions.

22. (1) The amendments made by this Act shall not apply to any Municipal Council holding office immediately prior to the date of its commencement.

(2) The rules relating to the election of Chairman framed under the principal Act shall cease to apply to an election of Chairman under the principal Act as amended by this Act, and until fresh rules are framed in that behalf, the rules framed under the principal Act in respect of election of Councillors shall, as far as may be and subject to such modifications as the State Government may, by order, make therein, apply to the election of Chairman held under the principal Act so amended :

Provided that no such modification shall remain in force after the expiry of one year from the date of commencement of this Act.