

Chhattisgarh Municipalities (Amendment) Act, 2011

16 of 2011

[11 May 2011]

CONTENTS

1. Short Title, Extent And Commencement
2. Amendment Of Section 3
3. Insertion Of New Sections 117-A, 117-B, 117-C, 117-D
4. Insertion Of New Sections 119-A And 119-B
5. Insertion Of New Sections 120-A, 120-B And 120-C
6. Insertion Of New Sections 121 (1-A) And 121 (2-A)
7. Insertion Of New Sections 121-A And 121-B
8. Insertion Of New Section 122-A
9. Insertion Of Chapter V-A Public Disclosure Law, Sections 122-B
10. Amendment Of Section 307 Of The Act
11. Amendment Of Section 322 Of The Act
12. Amendment Of Section 323 Of The Act
13. Amendment Of Section 331 Of The Act
14. Amendment Of Section 332 Of The Act
15. Insertion Of Sections 339-A, 339-B, 339-C, 339-D, 339-E, 339-F
16. Insertion Of New Sections 339-G, 339-H, 339-I
17. Amendment Of Section 345 Of The Act

Chhattisgarh Municipalities (Amendment) Act, 2011

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An Act further to amend the Chhattisgarh Municipalities Act, 1961. Be it enacted by the Chhattisgarh Legislature in the Sixty-second year of the Republic of India, as follows: -- * Published in the Chhattisgarh Rajpatra (Asadharan) dated 11-5-2011 Pages 350(9-17).

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Chhattisgarh Municipalities (Amendment) Act, 2011.
- (2) It extends to the whole State of Chhattisgarh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Amendment Of Section 3 :-

(i) In Section 3 of the Chhattisgarh Municipalities Act, 1961 (No. 37 of 1961) (hereinafter referred to as the Principal Act), after sub-section (1), the following sub-section shall be inserted, namely: --

"3 (1-a) Balance Sheet means the balance sheet prepared under Section 120-B."

(ii) After sub-section (5-b), the following sub-sections shall be inserted, namely:--

"(5-c) Colonization means indulging, directly or indirectly, in activities aimed towards the establishment of a colony by developing lands including agricultural land by dividing the land into plots, for transfer of such plots to persons intending to construct thereon residential or non-residential or composite buildings.

(5-d) Colonizer means Development Authority, constituted under the Chhattisgarh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973), any Society or Co-operative Society registered by the Registrar, Firms and Societies or the Registrar, Cooperative Societies or any other registered institution which includes any such person or institution who intends to take up the work of establishment of the colony by developing that area of the purpose of dividing any land, including agricultural land, into plots or group housing and intends to transfer such plots to persons desirous of constructing residential or nonresidential or joint residence for inhabitation and who is registered as colonizer by the competent authority under the Act.

(5-e) Colony means an area so divided from an existing plot, with the provisions of basic services such as road, water, electricity, disposal of sewerage etc., for residents and includes construction under group housing and joint housing:

Provided, that such plots which are divided amongst the members of the family shall not be included in this definition. However, it shall include group housing and joint housing.

Explanation.-- Family means the family as defined in the Chhattisgarh Land Revenue Code, 1959.";

(iii) After sub-section (10-b) the following sub-section shall be inserted, namely: --

"(10-c) Economically Weaker Section means the group of persons

so specified by the State Government from time to time.";

(iv) After sub-section (16) the following sub-section shall be inserted, namely: --

"(16-a) Lower Income Group means the group of persons so specified by the State Government from time to time.";

(v) After sub-section (39) of section 3 of the Principal Act, the following sub-section shall be inserted, namely:--

"(40) Year means a financial year beginning on the first day of April of the year.".

3. Insertion Of New Sections 117-A, 117-B, 117-C, 117-D :-

After Section 117 of the Principal Act, the following Sections shall be inserted, namely: --

"117-A. Services to the Poor Fund.--

A separate fund to be called the "Services to the Poor Fund" shall be constituted in every Municipal Council and Nagar Panchayat to deliver services to the poor and the inhabitants of slum areas. This fund shall comprise the following --

(i) all monies raised by any rent, tax, fine, cess on any person or any property situated in slum area;

(ii) grant(s) received from the Central/State Government or any other agency for development of the slum area.

(iii) receipts under Section 339-B.

(iv) monies received from any individual or association of individuals by way of grants or gifts or deposits for services to the poor;

(v) all monies received by or on behalf of committee or any source specifically meant for this fund;

(vi) any fund that may be transferred by the Chief Municipal Officer from the Municipal Council or the Nagar Panchayat fund, as the case may be, under the specified major head of account to ensure adequate funds for meeting the purpose of this fund.

117-B. The Services to the Poor Fund shall be maintained as a separate savings account in a Bank.

117-C. Utilization of Services to Poor Fund.--

(1) The fund shall be utilized to promote services for the poor and the inhabitants of the slum areas and the Municipal Council or the Nagar Panchayat, as the case may be, this shall ensure that at least--

(i) 20% of the total revenue income;

(ii) 20% of the revenue expenditure; or

(iii) 25% of the total capital expenditure.

whichever is most is incurred on delivery of the services to the poor and the inhabitants of slum areas per annum.

Explanation.-- For the purposes of this section "services" shall include basic environmental services, roads, primary education and health, housing, water supply, sanitation, social security and such like services. However, it shall not include establishment expenses (including salary and wages) not directly and specifically incurred for delivery of service.

117-D. At the end of a financial year unspent balance, if any, in Services to the Poor Fund shall not lapse."

4. Insertion Of New Sections 119-A And 119-B :-

After Section 119 of the Principal Act, the following new sections shall be inserted, namely: --

"119-A. Maintenance of Accounts.--

The Chief Municipal Officer shall prepare and maintain the accounts of income, expenses, assets and liabilities of the council in such form and in such manner as may be prescribed in the manual prepared under Section 119-B.

119-B. Preparation of Municipal Accounting Manual.--

The State Government shall prescribe and maintain a manual to be called the Chhattisgarh Municipal Accounts Manual containing details of all financial matters and procedures relating thereto in respect of Municipal bodies."

5. Insertion Of New Sections 120-A, 120-B And 120-C :-

After Section 120 of the Principal Act, the following new sections shall be inserted, namely:--

"120-A. Financial Statement.--

The Chief Municipal Officer shall within four months from the date of close of the financial year, cause to prepare a financial statement containing an income and expenditure account and receipts and payments account for the financial year in respect of the Council. The form of the financial statement, and the manner in which the financial statement shall be prepared, shall be as such as may be prescribed.

120-B. Balance Sheet.--

The Chief Municipal Officer shall, within four months from the date of the close of the financial year, cause to prepare a balance sheet of the assets and liabilities of the Council. The form of the balance

sheet and the manner in which the balance sheet shall be prepared, shall be such as may be prescribed.

120-C. Submission of Financial Statement and Balance Sheet to Auditor.--

The Chief Municipal Officer shall place the financial statement prepared under section 120-A and the balance sheet prepared under section 120-B before the house of the Council, which after examination of the same, shall adopt and remit them to the auditor as may be appointed in this behalf by the State Government."

6. Insertion Of New Sections 121 (1-A) And 121 (2-A) :-

After sub-section (1) of Section 121 of the Principal Act, the following new sub-sections shall be inserted, namely: --

"121 (1-A). Power of Auditor.--

The Auditor appointed under sub-section (1) of Section 121 may: -

(a) require, by a notice, in writing, the production before him, or before any officer sub-ordinate to him, of any document which he considers necessary for the proper conduct of the audit;

(b) require, by a notice in writing, any person accountable for, or having the custody or control of, any document, cash or article, to appear in person before him or before any officer subordinate to him;

(c) require any person so appearing before him, or before any officer sub-ordinate to him, to make or sign a declaration with respect to such documents, cash or article or to answer any question or prepare and submit any statement; and

(d) cause physical verification of any stock of articles and fixed assets and infrastructure assets in course of examination of accounts.

121 (2-A). Placing of audited accounts before the House of the Council.--

The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments thereon before the House of the Council."

7. Insertion Of New Sections 121-A And 121-B :-

After Section 121 of the Principal Act, the following new sections shall be inserted, namely:--

"121-A. Special Audit.--

In addition to the audit or annual accounts, the State Government

or the Council may, if it thinks fit, appoint an auditor to conduct special audit pertaining to a specified item or series of items requiring thorough examination, and the procedure relating to audit shall apply mutatis mutandis to such special audit.

121-B. Internal Audit.--

The State Government or the Council may provide for internal audit of the day to day accounts of the Council."

8. Insertion Of New Section 122-A :-

After Section 122 of the Principal Act, the following new sections shall be inserted, namely:--

"122-A. Submission of audited accounts to State Government.--

The Chief Municipal Officer shall forward the copy of adopted financial statements, balance sheet and report of the auditor to the State Government together with a report of action taken thereon by the Municipalities and shall also send copies thereof to the auditor."

9. Insertion Of Chapter V-A Public Disclosure Law, Sections 122-B :-

After Chapter V, a new Chapter V-A shall be inserted as follows, namely:--

CHAPTER V-A

"122-B. Public Disclosure of Information.--

(1) Every Municipal Council and the Nagar Panchayat shall maintain and publish all its records duly catalogued and indexed, in a manner and form which enables the Municipal Council or the Nagar Panchayat, as the case may be, under this section to disclose the required information to general public.

(2) The manner of disclosure of information, its periodicity and formats shall be such as may be prescribed."

10. Amendment Of Section 307 Of The Act :-

In Section 307 of the Principal Act, in clause (b) of sub-section (1), after word "and" after figure 251, a comma "," shall be inserted and after figure 285, figure and word "and 339-A" shall be inserted.

11. Amendment Of Section 322 Of The Act :-

In Section 322 of the Principal Act, for the words "Director Urban

Planning and Development" the words "Divisional Commissioner" shall be substituted.

12. Amendment Of Section 323 Of The Act :-

In sub-section (1) of Section 323 of the Principal Act, for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

13. Amendment Of Section 331 Of The Act :-

In sub-section (1) and (2) of Section 331 of the Principal Act, for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

14. Amendment Of Section 332 Of The Act :-

In sub-section (1) of Section 332 of the Principal Act, for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

15. Insertion Of Sections 339-A, 339-B, 339-C, 339-D, 339-E, 339-F :-

In Section 339-A, 339-B, 339-C, 339-D, 339-E, 339-F of the Principal Act, the following shall be substituted, namely:--

"339-A. Registration of Colonizer or Builder.--

(1) Any person who--

(a) As a colonizer intends to undertake the establishment of a colony or colonies in the area of Municipal Council or Nagar Panchayat for the purpose of dividing the land into plots, with or without developing the area, transfers or agrees to transfer gradually or at a time, to person desirous of settling down on those plots by constructing residential or non-residential or composite accommodation; or

(b) As a builder constructs or causes to be constructed on any land in a municipal area or Nagar Panchayat area, whether held by him or any other person, independent buildings or a single building with apartments; or converts or causes to be converted an existing building or any part of such building into apartments, for the purpose of transfer by sale or otherwise all or some of them to persons other than members of his family and includes his assignees shall apply to the Chief Municipal Officer for the grant of a Registration Certificate.

Exemption.-- Chhattisgarh Housing Board, Urban Development Authorities constituted under Chhattisgarh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973) and other bodies created by the Government of Chhattisgarh shall be exempted from the requirement of obtaining Registration Certificate.

(2) On receipt of the application for registration under sub-section (1) the Chief Municipal Officer shall, subject to the rules made in this behalf, either issue or refuse to issue the Registration Certificate within thirty days:

Provided that if the Chief Municipal Officer refuses to issue the Registration Certificate, the reasons for refusal shall be intimated to the applicant:

Provided further that an appeal may be filed before the Appeal Committee constituted under Section 307 within 30 days from the date of rejection of application for registration by the Chief Municipal Officer.

(3) The State Government shall have power to make rules prescribing the form of application, amount of fees for registration and other terms and conditions for issue of the Registration Certificate.

(4) Every person who has been issued the Registration Certificate under subsection (2) shall become eligible to establish one or more colonies in the area of the Municipal Council or Nagar Panchayat area, as the case may be, and shall not be required to apply for Registration Certificate in respect of every colony separately but it shall be mandatory for such person to obtain approval of layout plans and all other approvals separately from the competent authority in respect of each colony.

(5) No authority involved in grant of permission or approval of any aspect or task or component of development of colony under any law in force shall entertain an application of any person for grant of such permission or approval unless such application is accompanied by a valid Registration Certificate as required in this section.

339-B. Development of Colonies.--

(1) The Registration Certificate granted under Sections 339-A shall entitle the colonizer to undertake the development of one or more colonies in the Municipal area or the Nagar Panchayat area, as the case may be, subject to the provisions of this Act, and on the following conditions:--

(a) In every residential colony in the Municipal Council or Nagar Panchayat area, out of the total area fifteen percent of the land shall have to be transferred by the colonizer to the Chief Municipal

Officer for economically weaker sections on such terms and in such manner as may be prescribed;

(b) In respect of land on which the Urban Land (Ceiling and Regulation) Act, 1976 was applicable, the colonizer shall have to transfer land to the Chief Municipal Officer as required under clause (a);

(c) Where the colony is proposed on a small piece of land the area of which is less than one acre, such colonizer who does not wish to provide land for economically weaker sections as required in clause (a) shall deposit into the "Service to Poor Fund" of the Municipal Council or the Nagar Panchayat area, as the case may be, opened in terms of Section 117-A, fee at such rate as may be prescribed.

(2) In addition to transferring land for economically weaker sections under subsection (1), the colonizer shall also reserve at least ten percent fully developed plots of the prescribed size or in alternate offer, constructed houses/flats of the prescribed size in his residential colony for sale to persons belonging to lower income group on terms as may be prescribed.

(3) For sale of houses to the economically weaker sections and the lower income group, the procedure for selection of eligible persons and the determination of the cost of such plots or houses shall be as may be prescribed by the Government.

(4) Permission to develop colony shall be given by the Chief Municipal Officer and appeal against any order of the Chief Municipal Officer shall lie before the Government.

339-C. Punishment for Illegal Colonization.--

(1) A colonizer or other person who, in contravention of the provisions of Section 172 of the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) and the Rules framed thereunder, diverts the land or part thereof, commits an offence of illegal diversion of land.

(2) A colonizer or other person who divides his land into plots or the land of any other person with the object of establishing a colony in violation of the provisions contained in this Act or the rules framed in this regard, commits an offence of illegal colonization.

(3) Whoever commits or abets the commission of an offence of illegal diversion or illegal colonizations shall be punished with imprisonment of not less than three years and not more than seven years and with a minimum fine of one lac rupees, and the court may in passing the judgment in respect of any such offence order the accused to pay to the Municipal Council or the Nagar

Panchayat, as the case may be, such amount of compensation as specified in the judgment, taking into consideration the amount required to be incurred towards the development of such illegal colony.

(4) Whoever constructs a building in an area of illegal diversion or illegal colonization commits an offence of illegal construction.

(5) Whoever commits an offence of illegal construction shall be punished with imprisonment of not less than three years and not more than seven years and with a minimum fine of one lac rupees.

(6) It shall be incumbent upon every colonizer to display correct information about the area (including the carpet area) of the housing units proposed for construction and facilities to be provided in a colony in all its advertisements published in the form of pamphlets, brochures, hoardings and in all communication to customers and shall explicitly mention the number and date of his Registration Certificate over it, and any violation of these provisions shall make such colonizer liable for punishment under subsection (3) and sub-section (5).

(7) For the purposes of this Section, the liability in respect of any offence shall rest jointly and severally upon the directors, promoter (s) and financiers.

339-D. Punishment for abetment of the offence of illegal diversion of land or illegal colonization.--

Whoever in the area of illegal colonization--

(a) Being an officer having power to sanction layout or sanction a map for the construction of a building grants sanction or approves such layout or the map; or

(b) Being an officer or the authority competent to sanction electrical or water supply connection grants such sanction with respect to the building in such area; or

(c) Being an officer under a primary duty to be so knowingly omits to report illegal diversion of land; or

(d) Being an officer or an employee responsible to take action against the illegal diversion of land, fails to take action; or

(e) Illegality influences the officers aforesaid in granting such sanction or in omitting to make a report of such illegal diversion of land, shall be punishable with imprisonment which may extend to three years or with a minimum fine of rupees ten thousand which may extend to rupees fifty thousand or with both:

Provided that nothing contained in clause (b) shall apply to cases where the Chief Municipal Officer certifies that in public interest there is no objection to provide electrical and water supply

connection to the building in the area of illegal diversion or illegal colonization.

339-E. All the directors, promoters and financiers associated in the act of illegal colonization or illegal diversion of land along with the person who commits or abets the commission of an offence of such illegal colonization or illegal diversion shall be held equally liable of committing such an offence and shall be punished under the provisions of Section 339-C.

339-F. Chief Municipal Officer to take over the management of the land of Illegal Colonization.--

(1) Notwithstanding anything contained in the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) the transfer or agreement to transfer of plots made by a colonizer, in an area of illegal diversion or illegal colonization shall be void.

(2) The Chief Municipal Officer shall cause to be published a public notice three times in the local newspapers for the purpose of taking over the management of land of illegal colonization. After the publication of such notice if any objection is received from the colonizer or the plot holder, it shall be considered by the Chief Municipal Officer, and if no objection is received then the Chief Municipal Officer shall take over the management of such land and cause the area to be planned and developed in such manner and subject to such conditions as may be prescribed.

(3) The allottee shall on fulfillment of the conditions be deemed to be a valid transferee of the plot, and the power of the Chief Municipal Officer as manager of the plot shall come to an end."

16. Insertion Of New Sections 339-G, 339-H, 339-I :-

After Section 339-F of the Principal Act, the following new sections shall be inserted, namely:--

"339-G. Forfeiture of the land involved in illegal colonization.--

The rights, title and interest of the colonizer in the land under illegal colonization, shall upon and from the date of taking over management of the land under subsection (2) of Section 339-E stand forfeited and vested in the Municipal Council or the Nagar Panchayat, as the case may be, free from all encumbrances.

339-H. Punishment for not taking action against illegal colonization.--

Any officer or servant subordinate to the Chief Municipal Officer who has been authorized by him either to inspect, report, stop or to remove any construction on illegal colonization knowingly omits

to take action against such illegal colonization or construction therein, forthwith does not provide support, shall be punished with simple imprisonment which may extend to three years or with fine which may extend to ten thousand rupees or with both.

339-I. Colonizers Responsibility Towards Consumers.--

(1) Every colonizer, before advertising, whether directly or through an agent by whatever name called, for sale of plots/houses in a residential colony whether constructed, under construction or proposed to be constructed, shall file with the Chief Municipal Officer a copy of the Brochure containing details of the plot/house/flat offered for sale, the terms of sale, the colonizers title to the land, status regarding statutory permissions/consents required for the colony and such other relevant details.

(2) Failure to comply with the requirement under sub-section (1) shall render the colonizer liable for fine which shall be computed at the rate of Rs. 1000/- for every day of default, subject to a minimum fine Rs. 25,000/-.

(3) Every colonizer, before receiving either directly or through an agent by whatever name called, payment from a buyer, shall execute, in the form as may be prescribed, an agreement with the buyer.

(4) Failure to comply with the requirement under sub-section (3) shall render the colonizer liable for fine which may extend up to Rs. 25,000/-.

(5) A person aggrieved by any order of the Chief Municipal Officer passed under this Section may appeal to the District Court in the manner prescribed therefor."

17. Amendment Of Section 345 Of The Act :-

In sub-section (2) of Section 345 of the Principal Act, for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.