

Chhattisgarh Municipal Corporation (Amendment) Act, 2011

17 of 2011

[11 May 2011]

CONTENTS

1. Short Title, Extent And Commencement
2. Amendment Of Section 5
3. Amendment Of Section 19
4. Amendment Of Section 23
5. Amendment Of Section 24
6. Insertion Of New Sections 125-A And 125-B
7. Amendment Of Section 128
8. Insertion Of New Sections 128-A, 128-B, 128-C, 128-D
9. Insertion Of New Sections 129-A And 129-B
10. Amendment Of Section 130(3)
11. Insertion Of New Sections 130-A And 130-B
12. Insertion Of New Section 131-B And 131-C
13. Amendment Of Sections 292-A, 292-B, 292-C, 292-D, 292-E, 292-F
14. Insertion Of New Sections 292-G, 292-H, 292-I
15. Amendment Of Section 403
16. Amendment Of Section 417-A

Chhattisgarh Municipal Corporation (Amendment) Act, 2011

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An Act further to amend the Chhattisgarh Municipal Corporation Act, 1956. Be it enacted by the Chhattisgarh Legislature in the Sixty-second Year of the Republic of India, as follows: -- *
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1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Chhattisgarh Municipal Corporation (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 5 :-

(i) After sub-section (4) of Section 5 of the Chhattisgarh Municipal Corporation Act, 1956 (No. 23 of 1956) (hereinafter referred to as the Principal Act), the following sub-section shall be inserted, namely: --

"(4-a) "Balance Sheet" means the balance sheet prepared under sub-section (4) of Section 128."

(ii) After sub-section (10-a) the following sub-sections shall be inserted, namely: --

"(10-b) "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.

(10-c) "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, Co-operative 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 for 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 non-residential or joint residence for inhabitation and who is registered as colonizer by the competent authority under the Act.

(10-d) "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 (22) the following sub-section shall be inserted, namely: --

"(22-a) "Economically Weaker Section" means the group of persons

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

(iv) After sub-section (33) the following sub-section shall be inserted, namely: --

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

(v) After sub-section (63) of section 5 of the Principal Act, the following sub-section shall be inserted, namely: --

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

3. Amendment Of Section 19 :-

In section 19 of the Principal Act, in sub-section (1) and (2), for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

4. Amendment Of Section 23 :-

In Section 23 of the Principal Act, in sub-section (1), (2) and (3) for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

5. Amendment Of Section 24 :-

In Section 24 of the Principal Act, in sub-section (1) and (2) for the words "Director Urban Planning and Development" the words "Divisional Commissioner" shall be substituted.

6. Insertion Of New Sections 125-A And 125-B :-

After Section 125 of the Principal Act, the following new sections shall be inserted, namely: --

"125-A. Maintenance of Accounts.--

The Municipal Commissioner 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 125-B.

125-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 Corporation."

7. Amendment Of Section 128 :-

After sub-section (2) of Section 128 of the Principal Act, the following sub-sections shall be inserted, namely:--

"(3) Financial Statement.--

The Municipal Commissioner 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 Municipal Corporation. 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.

(4) Balance Sheet.--

The Municipal Commissioner 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 Municipal Corporation. The form of the balance sheet and the manner in which the balance sheet shall be prepared, shall be such as may be prescribed."

8. Insertion Of New Sections 128-A, 128-B, 128-C, 128-D :-

After Section 128 of the Principal Act, following Sections shall be inserted, namely: --

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

A separate fund to be called the "Services to Poor Fund" shall be constituted 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 or 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 slum area;
- (iii) receipts under Section 292-B,
- (iv) monies received from any individual or association of individuals by way of grants or gifts or deposits for service 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 Commissioner from the Municipal Corporation fund under the specific major head of account to ensure adequate funds for meeting the purpose of this fund.

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

128-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 Corporation 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.

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

9. Insertion Of New Sections 129-A And 129-B :-

After Section 129 of the Principal Act, the following new sections shall be inserted, namely:--

"129-A. Submission of Financial Statement and Balance Sheet to Auditor.--

The Commissioner shall place the financial statement prepared under section 128 (3) and the balance sheet prepared under section 128 (4) before the house of the Corporation, 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.

129-B. Power of Auditor.--

The Auditor appointed under section 129 may: --

(a) require, by a notice, in writing, the production before him, or before any officer subordinate 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 subordinate 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."

10. Amendment Of Section 130(3) :-

In sub-section (3) of Section 130 of the Principal Act, after the words "municipal accounts" and before the words "for", (comma) "," and the words "financial statements and balance sheet" shall be inserted.

11. Insertion Of New Sections 130-A And 130-B :-

After Section 130 of the Principal Act, the following new sections shall be inserted, namely: --

"130-A. Special Audit.--

In addition to the audit of annual accounts, the State Government or the Municipal Corporation 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.

130-B. Internal Audit.--

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

12. Insertion Of New Section 131-B And 131-C :-

After Section 131-A of the Principal Act, the following new sections shall be inserted, namely: --

"131-B. Submission of audited accounts of State Government.--

The Commissioner 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 Municipal Corporation and shall also send copies thereof to the auditor.

131-C. Public Disclosure of Information.--

(1) Every Municipal Corporation shall maintain and publish all its records duly catalogued and indexed, in a manner and form which enables the Municipal Corporation 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."

13. Amendment Of Sections 292-A, 292-B, 292-C, 292-D, 292-E, 292-F :-

In Section 292-A, 292-B, 292-C, 292-D, 292-E, 292-F of the Principal Act, the following shall be substituted, namely:--

"292-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 Corporation 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, 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 Commissioner 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 Commissioner 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 Commissioner 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 403 within 30 days from the date of rejection of application for registration by the Commissioner.

(3) The State Government shall have power to make rules prescribing the form of the 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 Corporation 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.

292-B. Development of Colonies.--

(1) The Registration Certificate granted under Section 292-A shall entitle the colonizer to undertake the development of colonies in the Municipal area subject to the provisions of this Act, and on the following conditions: --

(a) In every residential colony in the municipal area, out of the total area fifteen percent of the land shall have to be transferred by the colonizer to the Commissioner 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 Commissioner as required under clause (a).

(c) Where the colony is proposed on a small piece of land area of which is less than one acre, the colonizer shall have the option of depositing into the "Service to Poor Fund" of the Municipal Corporation constituted in terms of Section 128-C, fee at such rate as may be prescribed.

(2) In addition to transferring land for economically weaker sections under sub-section (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 Commissioner and appeal against any order of the Commissioner shall lie before the Government.

292-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 lands 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 any offence of illegal diversion or illegal colonization 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 Corporation 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 sub-section (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.

292-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 do 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) Illegally influences the officers aforesaid in granting such sanction or in omitting to make a report of such illegal diversion of land;

shall be punished 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 Commissioner 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.

292-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 292-C.

292-F. Commissioner 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 Commissioner 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 Commissioner, and if no objection is received then the Commissioner 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 Commissioner as manager of the plot shall come to an end."

14. Insertion Of New Sections 292-G, 292-H, 292-I :-

After Section 292-F of the Principal Act, the following new sections shall be inserted, namely:--

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

The right, 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 sub-section (2) of Section 292-E stand forfeited and vested in the Municipal Corporation free from all encumbrances.

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

Any officer or servant subordinate to the Commissioner 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 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.

292-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 Commissioner 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 of 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 Commissioner passed under this Section may appeal to the District Court in the manner prescribed therefor."

15. Amendment Of Section 403 :-

In Section 403 of the Principal Act, in clause (a) of sub-section (2), after the figure and comma "249", the figure and comma "292-A." shall be inserted.

16. Amendment Of Section 417-A :-

In Section 417-A of the Principal Act, in subsection (1) for the words "Director Urban Planning and Development" the words "Divisional Commissioner," shall be inserted.