

Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975

' of

[16th September, 1975]

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Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975

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An Act to make better provision for trees in the urban areas in the State by regulating felling of trees and providing for planting of adequate number of new trees in those areas. WHEREAS, with the growing pace of urbanisation and industrialisation, there has been indiscriminate felling of large number of trees in the urban area of the State of Maharashtra; AND WHEREAS, it is expedient to make better provision for trees in the urban areas in the State by regulating felling of trees and providing for planting of adequate number of new trees in those areas and to provide for matters connected with the purposes aforesaid; It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows

CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called as the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 .

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(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force in any urban area or any part thereof on such date as the State Government may, by notification in the Official Gazette, specify; and different dates may be specified for different urban areas or any parts thereof.

1. These words were substituted for the word "Preservation" by Mah.Act.No.7 of 1996, s. 3.

2. Definitions :-

In this Act unless the context otherwise requires,-

1[(1-a) "prescribed" means prescribed by rules made under Section 22 of this Act."

(a) "preservation of trees" includes planting of new trees and **2**[other operations for survival and propagation of the trees;]

(b) "relevant Act" means the Act under which the urban local authority concerned is constituted;

(c) "to fell a tree" includes burning or cutting or **3**[or in any way damaging a tree]; **4** [(d) "tree" means any perennial woody plant, whether in the seeding or sapling stage or fully grown stage and includes shrubs whose branches spring from the ground level;]

(e) "Tree Officer" means an officer appointed as such by the Tree Authority for the purposes of this Act;

(f) "urban area" means a Municipal Corporation area for which a Municipal Corporation is constituted under the Bombay Municipal Corporation Act, (Bom III of 1888)the Bombay ProvincialMunicipal Corporation Act, 1949 (Bom.LIX of 1949) or the City of Nagpur Corporation Act, 1948 , (C.P. and Berar II of 1950) or a municipal area for which a Municipal Council is constituted under the Maharashtra Municipalities Act, 1965, (Mah.XL of 1965)and includes a notified area for which a Special Planning Authority is constituted or appointed under Section 40 of the Maharashtra Regional and Town Planning Act, 1966 (Mah.XXXVII) of 1966 or an area designated as the site for a new town for which a Development Authority is constituted under Section 113 of the Maharashtra Regional and Town Planning Act, 1966 ;

(g) "urban local authority" in respect of any urban area means the Municipal Corporation, Municipal Council, Special Planning Authority or Development Authority, as the case may be, having jurisdiction over that area;

(h) words and expressions used in this Act but not defined therein shall have the meanings assigned to them in the relevant Act.

1. Clause 1-a was inserted by Maha. Act 7 of 1996, s. 4

2. These words were substituted for the words "transplanting trees to other sites" by Mah. 3 of 1977, s.2(a).
3. These words were substituted for the words "lopping a tree to cause substantial damage or destruction thereto" by Mah. 3 of 1977, s.2(b).
4. Clause (d) was substituted for the original by Mah. 3 of 1977, s.2(c).

CHAPTER 2

Establishment and Procedure of Tree Authority

3. Establishment or Tree Authority :-

(1) As soon as may be after this Act is brought into force in any urban area, the urban local authority concerned shall constitute a Tree Authority, consisting of ¹[the Chairman and other]not less than five and not more than fifteen persons, from amongst its members, appointed in such manner and for such period as that authority may determine:

Provided that, where an administrator by whatever name called is appointed for any Municipal Corporation or Municipal Council, he shall, during the period of his appointment, act as the Tree Authority and exercise all the powers and perform all the duties of the Tree Authority.

(2) In the case of an urban local authority specified in column (1) of the table below, the Chairman of its Tree Authority shall be the person specified against it in column (2) thereof.

	Name of the urban local authority	Chairman of its Tree Authority
	(1)	(2)
1	A Municipal Corporation	[The Commissioner] of the corporation.
2	A Municipal Council	The President of the Council.
3	A Special Planning Authority constituted under section 40(1)(a) of the Maharashtra Regional and Town Planning Act, 1966. (Mah.XXXVII of 1966)	[The Chief Executive Officer]of the Special Planning Authority.
4	A New Town Development Authority constituted under section 113(2) of the Maharashtra Regional and Town Planning Act, 1966.	[The Chief Executive Officer] of the New Town Development Authority.
	A New Town Development Authority constituted under section	

5	113(3 A) of the Maharashtra Regional and Town Planning Act, 1966 or a Special Planning Authority appointed under section 40(1)(b) of that Act.	The Managing Director of the corporation or Company declared to be the New Town Development Authority.
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(3) Every Tree Authority may ²[nominate] representatives of non-official organizations, who have special knowledge or practical experience in the field of planting and preserving trees, as members of the Tree Authority, but the number of ³[such nominated members shall not exceed the number of members appointed under sub-section (1)]. These members shall be ⁴[nominated in such manner and for such period as may be prescribed].

(4) Any vacancy in the Tree Authority shall be filled as soon as may be by the authority competent to appoint the member in whose place fresh appointment is to be made.

1. These words were inserted by Mah. Act 7 of 1996, s. 5(a)
2. These words were substituted for the word "co-opt" by Mah. Act 7 of 1996, s. 5(c)(i)
3. These words were substituted by Mah. Act 7 of 1996, s. 5(c)(ii)
4. These words were substituted by Mah. Act. 7 of 1996, s. 5(c)(iii)

4. Meetings of Tree Authority :-

¹[(1) The Tree Authority shall meet at least once every month at such place and time as the Chairman may decide but, forty-five days shall not intervene between its two consecutive meetings].

(2) The quorum to constitute a meeting of the Tree Authority shall be one-third of its members including ²[the nominated] members, if any.

(3) The ³ [nominated] members shall have the right to vote at a meeting of the Tree Authority.

(4) Save as otherwise provided by or under this Act, the rules of procedure for the meetings of the urban authority shall mutatis mutandis apply to the meetings of the Tree Authority.

1. Sub-Section (1) was substituted by Mah. Act. 7 of 1996, s. 6(a)
2. These words were substituted for the word "co-opted" by Mah. 7 of 1996, s. 6(b)
3. These words were substituted for the word "co-opted" by Mah. 7

of 1996, s. 6(c)

CHAPTER 3

Officers and Servants

5. Appointment of Tree Officer :-

(1) As soon as may be after this Act is brought into force in any urban area, the urban local authority concerned shall, subject to sub-section (2), appoint one or more of its officers as Tree Officers for the purposes of this Act.

(2) In Greater Bombay any officer to be appointed as to shall not be below the rank of Ward Officer, and in other Municipal Corporation areas such officers shall not be below the rank of Assistant Municipal Commissioner. In every municipal area, the Chief Officer of the Municipal Council concerned shall be Tree Officer, and the Council may appoint one or more of its other officers as Tree Officers.

(3) Every Tree Officer shall exercise jurisdiction over the whole or such part of the urban area as ¹ [the Tree Authority] may, from time to time, determine.

1. These words were substituted for the word Mah.7 of 1996, s. 7.

6. Appointment of other officers and servants :-

(1) The urban local authority may, from time to time, appoint, such other officers and servants subordinate to the Tree Officer, as it considers necessary:

Provided that, where the urban local authority is a Municipal Council, notwithstanding any restrictions on the appointment of staff contained in the Maharashtra Municipalities Act, 1965, the Municipal Council shall be competent to appoint the staff considered necessary by it for the purposes of this Act.

(2) The conditions of appointment and service and the powers and duties of such officers and servants shall be such as may be determined by the urban local authority.

CHAPTER 4

Duties of Tree Authority

7. Duties of Tree Authority :-

Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or

general directions given by the State Government, the Tree Authority shall be responsible for-

(a) ¹[protection and preservation] of all trees in all lands within its jurisdiction;

²[(b) carrying out a census of the existing trees in all lands within its jurisdiction, ³[once before December 1996 and thereafter once in every five years]

(c) prescribing standards specifying the number and types of trees which each plot of land shall have and which shall be planted therein;

(d) development and maintenance of nurseries for the supply of seeds, saplings and trees to persons who desire to plant new trees or to replace trees which have been felled with the previous permission of the Tree Officer; ⁴[or involuntarily uprooted]

(e) transplanting of trees necessitated by construction of new roads or widening of existing roads or for safeguarding danger to life or property;

⁵[(f) organisation of flower, fruit, vegetable, tree or plant shows ⁶[at least once a year] and assisting private and public institutions in organizing such shows, and creation of consciousness of importance of trees and vegetation to the human welfare;]

(g) grant of advice and technical assistance to any person seeking such advice or assistance in any matter connected with ⁷[planting, protection and preservation] of trees;

(h) planting and maintaining such number of trees as it considers necessary, according to the prescribed standards, ⁸[along the roads], in public parks and gardens and on banks of rivers or lakes or ⁹ [sea shores, on hills, open spaces or public places;]

(i) undertaking any other schemes or measures for achieving the objects of this Act.

1. These words were substituted for the word Mah. 7 of 1996, s. 8(a)

2. Clause (b) was substituted for the original by Mah. 3 of 1977, s.3(a).

3. These words were substituted by Mah.7 of 1996, s. 8(b)

4. These words were added by Mah. 7 of 1996, s. 8(c)

5. Clause (0 was substituted for the original by Mah. 3 of 1977, s.3(b).
6. These words were inserted by Mah. 7 of 1996, s. 8(d)
7. These words were substituted by Mah. 7 of 1996, s. 8(e)
8. These words were substituted by Mah. 7 of 1996, s. 8(f)
9. These words were substituted for the words "sea shores" by Mah. 3 of 1977, s.3(c).

CHAPTER 5

Restrictions of felling of Trees and Liability for planting and preservation of trees

8. Restriction on felling of trees :-

(1) On and after the date on which this Act is brought into force in any urban area, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within that urban area except with the previous permission of the Tree Officer.

(2) If ¹[any person, including an officer of the urban local authority or an officer of the State Government or the Central Government, proposes] to fell a tree, he shall apply in writing to the ²[Tree Authority] for permission in this behalf. The application shall be accompanied by ³[the description of the tree and] a site plan, indicating the position of the tree required to be felled and the reasons therefor.

⁴[(3)

(a) On receipt of such application, the Tree Authority shall cause the Tree Officer to personally inspect the tree and hold enquiry and submit a report to the Tree Authority within a period of thirty days from the date of receipt of such application. Adequate public notice shall be given by the Tree Officer by advertising in local newspapers as well as by affixing a notice on a conspicuous part of the tree that is required to be fell. Thereafter, the Tree Authority may give permission with or

Provided that, no such permission shall be refused if, in the opinion of the Tree Officer, the tree is dead, or diseased or wind-fallen, or it constitutes a danger to life or property or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the tree Authority for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.

(b) A report of permissions granted by the Tree Authority for felling trees shall be submitted at least once in six months to the concerned urban local authority in whose jurisdiction the Tree Authority is functioning.

5[(4) If the Tree Officer fails to inform the applicant of its decision within sixty days, from the date of receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date of acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

(5) Where permission to fell tree is a granted, the **6**[Tree Authority] may grant it subject to the condition that the application shall plant another tree of the same or other **7**[suitable local species] on the same site or other suitable place within thirty days from the date the tree is felled, or such extended time as the **6** [Tree Authority] may allow in this behalf.

1. These words were substituted by Mah. 7 of 1996, s. 9(a)(i)
2. These words were substituted by Mah. 7 of 1996, s. 9(a)(ii)
3. These words were inserted by Mah. 7 of 1996, s. 9(a)(iii)
4. Sub-Section (3) was substituted by Mah. Act 7 of 1996, s. 9(b)
5. Sub-section (4) was substituted by Mah.7 of 1996, s. 9(c)
6. These words were substituted for the word "Tree Officer" by Mah. 7 of 1996, s. 9(d)(i)
7. These words were substituted for the words"suitable species" by Mah. 7 of 1996, s. 9(d)(ii)

9. Power to require planting of adequate number of trees :-

(1) If in the opinion of the Tree Officer, the number of trees in any land is not adequate according to the standards prescribed under paragraph (c) of section 7 , the Tree Officer may, after giving a reasonable opportunity to the owner or occupier of the land of being heard, by order, require him to plant such trees or additional trees and at such places in the land as may be specified in the order.

(2) When an order is made under sub-section (1), the owner or occupier of the land shall comply with the order within ninety days from the receipt thereof.

10. Power to require planting of trees in place of fallen or destroyed tree :-

(1) Where any tree is fallen or destroyed by wind, fire, lightening or torrential rain, the Tree Officer may suo motu, or on information given to him, after holding such inquiry as he deems fit and giving a reasonable opportunity to the owner or occupier of the land where the tree existed, by order, require such owner or occupier of the land ¹[to plant one or more trees of the local species] in place of the tree fallen or destroyed of the same or ² [other local species] at the same or other suitable place as may be specified in the order.

(2) Where an order is made under sub-section (1), the owner or occupier of the land shall comply with the order within ninety days from the receipt thereof.

1. These words were substituted by Mah. 7 of 1996, s. 10(a)

2. These words were substituted by Mah. 7 of 1996, s. 10(b)

11. Responsibility for preservation of trees and power to take deposit for proper compliance :-

¹[(1)] Where an order is made ²[* * *] section 8 , SECTION 9 or SECTION 10 , subject to the provisions of ³[and is well preserved and shall give a report to the Tree Officer once in six months about the conditions of such tree or trees for a period of three years]. It shall also be the duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of this Act in the urban area in which the land is situated.

⁴[(2) Where an order is made under section 8 , SECTION 9 or SECTION 10 , the Tree Officer may require the owner or, as the case may be, occupier of the land to deposit with him such sum as he may specify in this behalf, as security for ensuring proper compliance with the order made ⁵ [under sections 8, 9 or 10]. The sum to be deposited shall not exceed such amount as may be prescribed.]

1. Section 11 was renumbered as sub-section (1) by Mah. 3 of 1977, s.5(1).

2. The words "by the Tree Officer" were deleted by Mah. 7 of 1996, s. 11(a)(i)

3. These words were substituted by Mah. 7 of 1996, s. 11(a)(ii)

4. This sub-section was added by Mah. 3 of 1977, s.5(2).

5. These words and figures were substituted by Mah. 7 of 1996, s. 11(b)

12. Adoption of trees :-

(1) Notwithstanding anything contained in any Act or in any law for the time being in force, the Tree Officer may, subject to such terms and conditions as it may specify in that behalf, allow by a written permission, any individual, body Corporate or institution to adopt any tree for such period as may be specified in the permission, and during such period the said individual, body Corporate or institution shall be responsible for the maintenance and preservation of the said tree.

(2) Where an order is made ¹[by the Tree Officer] under section 8 , SECTION 9 or SECTION 10 , in lieu of planting a new tree, ²[by the Tree Authority] may by written permission allow the person concerned to adopt a tree specified by it and then the person shall be responsible for the maintenance and preservation of that tree for such period as may be specified by the Tree Officer:

⁶ [Provided that, the trees to be adopted shall be less than one year old and their number shall not be less than the number of trees which the person concerned could have been required to plant under sub-section (5) of section 8 , sub-section (1) of section 9 or sub-section (1) of section 10 , as the case may be.]

1. These words were deleted by Mah. 7 of 1996, s. 12,(a)

2. These words were substituted by Mah. 7 of 1996, s. 12(b)

* These words were inserted by Mah. 3 of 1977, s.5(3).

13. Forefeiture of deposit and Recovery] of expenditure on failure to comply with orders for planting trees :-

¹:-Where the owner or occupier of any land fails to comply with any order ²[by the Tree Officer under section 8 , SECTION 9 or SECTION 10 , the Tree Authority or the Tree Officer, as the case may be, may], after giving a reasonable opportunity to such owner or occupier of the land of being heard, ³[forfeit the deposit, in full or in part to the Tree Authority] and without prejudice to any other action which may be taken against the defaulter under this Act, take the necessary action ⁴[himself] and recover the expenditure incurred therefor from the owner or the occupier, as the case may be. ⁵[For the purpose of recovery of the amount of such expenditure, the Tree Authority ⁶ [or the Tree Officer] shall have the same powers as are available to the urban local authority for the purpose of recovery of arrears of property tax or where such tax is not levied, for the purpose of recovery of arrears of betterment charges or other dues levied by the urban local

authority under the relevant Act.]

1. These words were substituted for the word "Recovery" in the marginal note by Mah. 7 of 1996,s. 13(e)
2. These words were substituted by Mah. 7 of 1996, s. 13(a)
3. These words were substituted by Mah. 7 of 1996,s. 13(b)
4. The words "himself were deleted by Mah. 7 of 1996, s. 13(c)
5. This portion was added by Mah. 3 of 1977, s.7.
6. These words were substituted by Mah. 7 of 1996, s. 13(d)

14. Appeals :-

(1) Where any decision is given or order made under section ¹ [8], SECTION 9 or SECTION 10 , by the Tree Officer, an appeal shall lie to the Tree Authority.

(2) The appeal shall be made within fifteen days from the date the decision is communicated to, or the order is received by, the owner or occupier of the land and shall be accompanied by a fee of Rs. 50.

(3) The Tree Authority shall, as far as possible, decide the appeal within sixty days from the date of receipt, after giving a reasonable opportunity to the appellant of being heard. The decision of the Tree Authority shall be final, and shall not be questioned in any Court of Law:

Provided that, where an appeal is made in time, the period for compliance, specified in the order of the Tree Officer appealed against, shall be reckoned from the date on which the appeal is decided against the appellant and where the appeal is allowed, the fee of Rs. 50 paid with the appeal shall be refunded to the appellant.

1. The figure "8" was deleted by Mah. 7 of 1996, s. 14.

CHAPTER 6

Finance, Budget and Accounts

15. Fund of Tree Authority :-

Notwithstanding anything contained in the relevant law and any other law for the time being in force, the urban local authority shall create a separate fund to be called the Tree Authority Fund to which shall be credited all money received by the Tree Authority including-

- ¹[(a) a contribution by the urban local authority from its income from such taxes as may be prescribed or when such taxes are not levied by the authority, from its income from the betterment

charges, if any, levied by it, under the relevant Act or from the income derived by it from the sale of plots made by it under the relevant Act. The rates of the contribution shall be such as may be specified by the State Government, from time to time, by a general or special order;]

(b) all money raised by levy of a cess under Chapter VII;

(c) any grants made by the State Government to the Tree Authority;

(d) any money received by the Tree Authority as donations from any individuals or corporate bodies or institutions.

2 [(e) any other money received under the Act:

Provided that if the total receipts of the Tree Authority from all the sources specified above are less than one half per cent of the total receipts of the urban local authority, then, the urban local authority shall credit the deficit to the Tree Authority Fund at the end of each financial year.

1. This word was substituted by MAH. 7 OF 1996, s. 16(a)

2. Sub-section 2 was deleted by Mah. 7 of 1996, s. 16(b)

16. Budget :-

Every Tree Authority shall on or before the 31st day of October every year, prepare in such form as the urban local authority may prescribe, an annual budget estimate in respect of the ensuing financial year of the estimated income and expenditure of the Tree Authority and shall, notwithstanding anything contained in the relevant law, submit it to the urban local authority for approval and inclusion in the budget estimate of that authority.

17. Accounts and audit :-

The procedure applicable under the relevant law for maintenance and audit of accounts of the urban local authority shall mutatis mutandis apply to the maintenance and audit of accounts of every Tree Authority.

CHAPTER 7

Tree Cess

18. Levy and collection of Tree cess :-

(1) Where under the relevant law, an urban local authority is levying a property tax on buildings and lands, it shall be lawful for

such Tree Authority, notwithstanding anything contained in the relevant law, upon a request by the Tree Authority, to levy, for the purposes of this Act, an additional tax to be called "the Tree Cess" on the buildings and lands, at such rate not exceeding one per cent of the rateable value of the property tax as the said authority may determine.

(2) The procedure for levy and collection of the property tax prescribed under the relevant Act shall mutatis mutandis apply to the levy and collection of the cess imposed under sub-section (1).

CHAPTER 8

Miscellaneous

19. Permission for development of land to be given with approval of Tree Officer :-

Notwithstanding anything contained in the relevant law or any other law for the time being in force,-

(a) any authority or officer of the urban local authority, who is empowered to give any permission for development of land, shall, not give such permission, except with the approval of and subject to the conditions, if any, imposed by the Tree Officer in regard to the preservation of trees on such land;

(b) no completion or occupation certificate in respect of any building shall be issued under the relevant law unless the authority competent to issue such certificate is satisfied that the conditions subject to which permission for development of land as aforesaid was given have been complied with.

20. Power of Tree Authority to give directions :-

The Tree Authority, may from time to time, give the Tree Officer and other officers and servants subordinate to him such general or special directions as it thinks fit as to the policy to be followed by them in the discharge of their functions and for carrying out effectively the purposes of this Act, and such officers and servants shall comply with such directions.

20A. Prevention of felling or destruction of trees :-

¹ The Tree Officer or other officer of the urban local authority authorised by such authority in this behalf or any police officer may take such steps and use such force as may be reasonably necessary to prevent the felling or destruction of any tree or for the protection of any tree.

1. These words were substituted in the marginal note by Mah. 7 of 1996, s. 17(c)

20B. Power of entry for the purposes of this Act :-

(1) ¹[It]shall be lawful for the Tree Officer, or any other officer authorised by him or by the Tree Authority in this behalf to enter, with such assistants as he may deem necessary, upon any public premises for the purposes of proper enforcement of this Act and for that purpose carry out such inspection and take such steps and use such force as may be expedient.

2 [(2) (* * *)

1. Section 21 was renumbered as sub-section (1) by Mah. 3 of 1977, s. 10(1).

2. These words were substituted by Mah. 7 of 1996, s. 17(a)(i)

21. Offence and Penalty :-

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[(1)] Whoever fells any tree or causes any tree to be felled in contravention of the provisions ³[of the Act], or without reasonable excuse fails to comply with any order issued and conditions imposed by ⁴[the Tree Officer or voluntarily obstructs any member of the Tree Authority or the Tree Officer or any officers and servants subordinate to him in the discharge of their functions under this Act, on conviction, be punished with the fine of not less than one thousand rupees which may extend upto five thousand rupees for every offence and also with imprisonment for a term of not less than one week, which may extend upto one year:

Provided that, nothing in this section shall apply to the felling of trees on or along the public roads undertaken by the Public Works Department of the State or Central Gvernment.":

5 [(2). The felling or causing of felling of each tree without the permission of the Tree Authority shall constitute a separate offence]

1. These words were substituted in the marginal note by Mah. 7 of 1996, s. 17(c)

2. Section 21 was renumbered as sub-section (1) by Mah. 3 of 1977, s. 10(1).

3. These words were substituted by Mah. 7 of 1996, s. 17(a)(i)

4. These words were substituted by Mah. 7 of 1996, s. 17(a)(ii)

5. Sub-section (2) was substituted by Mah. 7 of 1996, s. 17(b)

22. Power to make rules :-

(1) The State Government may, subject to the condition of previous publication and by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.