

Maharashtra Municipal Corporations And Municipal Councils (Fifth Amendment) Act, 2008

6 of 2009

[14 June 0209]

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Maharashtra Municipal Corporations And Municipal Councils (Fifth Amendment) Act, 2008

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An act further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949 (Bom LIX of

1949), the City of Nagpur Corporation Act, 1948 (Bom III of 1988) and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. WHEREAS it is expedient further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949 (C.P. and Berar II of 1950), the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes hereinafter appearing; it is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

CHAPTER 1

Preliminary

1. Short Title :-

This Act may be called the Maharashtra Municipal Corporations and Municipal Councils (Fifth Amendment) Act, 2008.

CHAPTER 2

Amendments to the Mumbai Municipal Corporation Act

2. Insertion Of Section 353B In Bom. Iii Of 1888 :-

After section 353A of the Mumbai Municipal Corporation Act (Bom. III of 1888) (hereinafter referred to as "the Mumbai Corporation Act"), the following section shall be inserted, namely:--

"353B. Structural Stability Certificate.--

(1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,--

(i) issue of its completion certificate by the Corporation; or

(ii) issue of permission to occupy a building under section 353A; or

(iii) its physical occupation of at least 50 per cent. of its builtup area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Corporation for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Commissioner.

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Commissioner may determine having regard to the condition of

the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate, as required under sub-section (1), within the period not exceeding thirty days as specified by the Commissioner, in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Commissioner.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine as provided in section 471.

(6) Notwithstanding anything contained in sub-section (5), the Commissioner may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice, the Commissioner may carry out the same and the expenses incurred by the Commissioner on such repairs shall, on demand if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an appeal may be preferred to the Chief Judge of the Small Causes Court, but no such appeal shall be entertained by the said Chief Judge, unless--

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand;

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the

appellant, towards the property tax payable by the owner in respect of such building thereafter."

3. Amendment Of Section 471 Of Bom. Iii Of 1888 :-

In the Table to section 471 of the Mumbai Corporation Act, after entry 85, the following entry shall be inserted, namely:--

85A Section 353B Provisions as to Structural Stability Certificate
Twenty-five thousand rupees or the amount equal to property tax of the building, for a period of one year, whichever is higher
Twenty-five thousand rupees or the amount equal to property tax of the building for a period of one year, whichever is higher ",

CHAPTER 3

Amendments to The Bombay Provincial Municipal Corporations Act, 1949

4. Insertion Of Section 265A In Bom, Lix Of 1949 :-

After section 265 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) (hereinafter referred to as "the Provincial Corporations Act"), the following section shall be inserted, namely:--

"265A. Structural Stability Certificate.--

(1) Notwithstanding anything contained in section 265, every owner or occupier of a building in respect of which a period of thirty years, from the date of,--

- (i) issue of its completion certificate by the Corporation; or
- (ii) issue of permission to occupy a building under section 263; or
- (iii) its physical occupation of at least 50 per cent, of its builtup area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Corporation for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Commissioner.

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Commissioner may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub section (2), the Commissioner may, at any time, after having recorded the reasons,

in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate, as required under sub-section (1), within the period not exceeding thirty days as specified by the Commissioner in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Commissioner.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine as provided in section 398A.

(6) Notwithstanding anything contained in sub-section (5), the Commissioner may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified in the notice, corrective repairs for securing structural stability of a building, If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice, the Commissioner may carry out the same and the expenses incurred by the Commissioner on such repairs shall, on demand, if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an appeal may be preferred to the Judge, before whom an appeal may be filed under section 406 of this Act, but no such appeal shall be entertained by the such Judge, unless--

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand;

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter. ".

5. Insertion Of Section 398A In Bom. Lix Of 1949 :-

After section 398 of the Provincial Corporations Act, the following section shall be inserted, namely:--

"398A. Penalty for contravention of section 265A.--

Whoever contravenes the provisions of section 265A, shall be punished with fine of twenty-five thousand rupees or an amount equal to the property tax of the building concerned for a period of one year, whichever is higher."

CHAPTER 4

Amendments to the City of Nagpur Corporation Act, 1948

6. Insertion Of Section 286A In C.P. And Berar II Of 1950 :-

After section 286 of the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950) (hereinafter referred to as "the Nagpur Corporation Act"), the following section shall be inserted, namely:--

"286A. Structural Stability Certificate.--

(1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,--

(i) issue of its completion certificate by the Corporation; or

(ii) issue of permission to occupy a building under section 280; or

(iii) its physical occupation of at least 50 per cent. of its builtup area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Corporation for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Commissioner.

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Commissioner may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Commissioner, the Structural Stability Certificate, as required under sub-section (1), within the period not exceeding thirty days

as specified by the Commissioner in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to the satisfaction of the Commissioner.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine as provided in sub-section (2) of section 421.

(6) Notwithstanding anything contained in sub-section (5); the Commissioner may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice the Commissioner may carry out the same and the expenses incurred by the Commissioner on such repairs shall, on demand if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under sub-section (6), an appeal may be preferred to the District Court, but no such appeal shall be entertained by the said Court, unless--

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand.

(ii) the amount for which demand is made is deposited with the Corporation and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Corporation is more than the amount payable by the appellant, the Commissioner shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter."

7. Amendment Of Section 421 Of C.P. And Berar Ii Of 1950

:-

In section 421 of the Nagpur Corporation Act, in sub-section (2), in the Table after entry relating to section 280, sub-section (4), the

following entry shall be inserted, namely:--

"286A Provisions as to Structural Stability Certificate Twenty thousand rupees or the amount equal to property tax of the building for a period of one year, whichever is higher."

CHAPTER 5

AMENDMENT TO THE MAHARASHTRA MUNICIPAL COUNCILS, NAGAR PANCHAYATS AND INDUSTRIAL TOWNSHIPS ACT, 1965

8. Insertion Of Section 193A In Mah, XI Of 1965 :-

After section 193 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), the following section shall be inserted, namely:--

"193A. Structural Stability Certificate.--

(1) Every owner or occupier of a building in respect of which a period of thirty years, from the date of,--

(i) issue of its completion certificate by the Council; or

(ii) issue of permission to occupy a building under section 193; or

(iii) its physical occupation of at least 50 per cent. of its built up area,

whichever is earlier, has expired, shall cause such building to be examined by a Structural Engineer registered with the Council for the purposes of certifying that the building is fit for human habitation (such certificate hereinafter referred to as "the Structural Stability Certificate"). The Structural Stability Certificate issued by such Structural Engineer shall be submitted to the Chief Officer.

(2) The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty years referred to in sub-section (1), and every ten years thereafter or such earlier period as the Chief Officer may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier.

(3) Notwithstanding anything contained in sub-section (1), the Chief Officer may, at any time, after having recorded the reasons, in writing, direct the owner or occupier of a building, to cause such building to be examined by such Structural Engineer and to submit to the Chief Officer, the Structural Stability Certificate, as required under sub-section (1), within the period not exceeding thirty days as specified by the Chief Officer in such direction.

(4) If the Structural Engineer recommends any corrective repairs for securing the structural stability of the building, such corrective repairs shall be carried out by the owner or occupier of a building to

the satisfaction of the Chief Officer.

(5) Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of six months from the date of report of the Structural Engineer, shall be punished with the fine of rupees ten thousand or an amount equal to the property tax of the building for a period of one year, whichever is higher.

(6) Notwithstanding anything contained in sub-section (5), the Chief Officer may, after giving the owner or occupier, a notice in writing, require him to carry out, within the period specified, in the notice, corrective repairs for securing structural stability of a building. If the owner or occupier fails to carry out such corrective repairs within the period specified in the notice, the Chief Officer may carry out the same and the expenses incurred by the Chief Officer on such repairs shall, on demand, if not paid within thirty days, be recovered from the owner or occupier as arrears of property tax.

(7) If there is any dispute about the amount of expenses for which demand is made under subsection (6), an appeal may be preferred by the owner to the Property Tax Appeal Committee constituted under sub-section (2) of section 169 of this Act, but no such appeal shall be entertained by the said Committee, unless--

(i) it is preferred within twenty-one days from the date of receipt of notice of such demand;

(ii) the amount for which demand is made is deposited with the Council and a true copy of the receipt showing that the amount has been so deposited accompanies the appeal.

(8) In case the appeal is decided in favour of the appellant and the amount of expenses deposited with the Council is more than the amount payable by the appellant, the Chief Officer shall adjust the excess amount with interest at 6.25 per cent. per annum from the date on which the amount is so deposited by the appellant, towards the property tax payable by the owner in respect of such building thereafter."

ERRATA

In the English translation of the Maharashtra Municipal Corporations and Municipal Councils (Fifth Amendment) Act, 2008 (Mah. VI of 2009), published in the Maharashtra Government Gazette, Extraordinary, Part VIII, dated the 14th January 2009, at pages 42-51,--

(i) on page 48, in line 29, for "(5);" read "(5),";

(ii) on page 49, in line 18, for "Twenty" read "Twenty-five";

(iii) on page 50, in line 35, for "ten thousand" read "twenty-five thousand".