

Tamil Nadu Public Buildings (Licensing) Act, 1965

13 of 1965

[04 August 1965]

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Tamil Nadu Public Buildings (Licensing) Act, 1965

13 of 1965

[04 August 1965]

An Act to provide for the inspection and licensing of public buildings in the 1[State of Tamil Nadu]. BE it enacted by the Legislature of the 1[State of Tamil Nadu] in the Sixteenth Year of the Republic of India as follows:- 1 Substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the 1[Tamil Nadu] Public Buildings (Licensing) Act, 1965.

(2) It extends to the whole of the 2[State of Tamil Nadu].

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

1 Substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2 Substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2. Definitions :-

In this Act, unless the context otherwise requires,--

1[(1) building means any structure whether of masonry, bricks, mud, wood, metal or any other material whatsoever, the floor area of which is not less than one hundred square metres;]

(2) "competent authority" means any person or authority authorised by the Government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of public buildings as may be specified in the notification;

(3) "engineer" means any person possessing such engineering qualifications as may be prescribed;

(4) "existing public building" means any building used as a public building on the date of the commencement of this Act;

(5) "Government" means the State Government;

(6) "licence" means a licence granted or deemed to have been granted or a licence renewed or deemed to have been renewed under this Act;

(7) "owner" includes--

- (i) a lessee;
- (ii) a licensee;
- (iii) a mortgagee in possession, and
- (iv) any person or authority to whom or to which the possession of, and control over the affairs of, the building has been entrusted, whether such person or authority is called a managing trustee, an agent, a correspondent, manager, superintendent, secretary or by any other name whatsoever;

2[(8) "public building" means any building --

(a) used as a--

- (i) school (including a tutorial school) or college (including a tutorial college) or University or other educational institution;
- (ii) hostel;
- (iii) library;
- (iv) hospital, nursing home, dispensary, clinic or maternity center;
- (v) club;
- (vi) lodging house, boarding house or hotel;
- (vii) choultry;
- (b) ordinarily used for public meetings or for celebrating marriage functions or for holding parties.]

1. This clause was substituted for the following clause by section 2(1) of the Tamil Nadu Public Buildings (Licensing) Amendment Act, 1972 (Tamil Nadu Act 28 of 1972) :--

"(1) "building" includes --

- (i) a house, out-house, stable, latrine, shed, hut, roofed enclosure and any other structure whether of masonry, bricks, mud, wood, metal or any other material whatsoever and any compound wall or gate appurtenant to such building, house, out-house, stable, latrine, shed, hut, roofed enclosure and other structure;
- (ii) a portion of such building, house, out-house, stable, latrine, shed, hut, roofed enclosure and other structure; and
- (iii) any fittings affixed to such building, house, out-house, stable, latrine, shed, hut, roofed enclosure and other structure;"

2. This clause was substituted for the following clause by section 2(2) of the Tamil Nadu Public Buildings (Licensing) Amendment Act, 1972 (Tamil Nadu Act 28 of 1972):--

"(8) "public building" means any building to which the public or any class or section of public are granted access or any building which is open to the public or any class or section of the public and includes --

- (a) any building used as a school (including a tutorial school) or a college (including a tutorial college) or a University or other

educational institution;

(b) any building used as a hostel;

(c) any building used as a library;

(d) any building used as a hospital, a nursing home, dispensary, clinic, maternity center or other like institution;

(e) any building ordinarily used for public meetings or for celebrating marriage functions or holding parties;

(f) any building used as a club or by any association;

(g) any building used as a lodging house;

(h) any building used as a choultry;

(i) any building used as an eating-house, a coffee house, boarding house or hotel; and

(j) any building ordinarily used by the public or any class or section of the public for religious worship or for religious congregation."

3. Public Building To Be Licensed :-

(1) Save as otherwise provided in this Act, on and after the date of the commencement of this Act, no building, not being an existing public building, shall be used as a public building without a licence and except in accordance with the terms and conditions specified therein.

(2) Save as otherwise provided in this Act, on and after the date of the expiry of a period of one year from the date of the commencement of this Act, no existing public building shall be used as a public building without a licence and except in accordance with the terms and conditions specified therein.

4. Application For Licence :-

(1) Any owner, who intends to use any building (not being an existing public building) as a public building, shall make an application in writing to the competent authority for a licence therefor.

(2) Any owner, who intends to continue to use an existing public building as a public building, shall before the date of the expiry of a period of six months from the date of the commencement of this Act, make an application in writing to the competent authority for a licence therefor.

(3) Every application under sub-section (1) or sub-section (2) shall be in the prescribed form and shall contain the following particulars, namely:--

(i) the name and address of the owner of the building or the

existing public building, as the case may be;

(ii) the situation and description of the building or the existing public building, as the case may be;

(iii) the purpose for which the building or the existing public building, as the case may be, is proposed to be used or is being used; and

(iv) such other particulars as may be prescribed.

(4) An application under sub-section (1) or sub-section (2) may be accompanied by a certificate of structural soundness in the prescribed form obtained from an engineer.

5. Inspection :-

(1) Where an application under sub-section (1) or sub-section (2) of section 4 is not accompanied by a certificate of structural soundness mentioned in sub-section (4) of section 4, the competent authority may obtain the opinion of such engineer, as the Government may specify in this behalf, in regard to the structural soundness of the building mentioned in the application, and such engineer shall give his opinion in the prescribed form as expeditiously as possible.

(2) Before passing orders on an application under sub-section (1) or sub-section (2) of section 4, the competent authority may inspect the building mentioned in the application for the purpose of satisfying itself that the building is structurally sound and that necessary precautions have been taken for the safety of the public having access to such building.

6. When Competent Authority To Grant Licence :-

(1) On the basis of the certificate of structural soundness accompanying the application under sub-section (1) or sub-section (2) of section 4, or on the basis of the opinion obtained from the engineer under sub-section (1) of section 5 or on the basis of the inspection made under sub-section (2) of section 5, if the competent authority is satisfied --

(a) that the building or the existing public building, as the case may be, may safely be used for the purpose specified in the application;

(b) that the building or the existing public building, as the case may be, is structurally sound, it shall, by written order, grant the licence and if the competent authority is not so satisfied, it shall, by written order, refuse to grant the licence.

(2) (a) In the case of a building, not being an existing public building, (he competent authority shall pass the order under sub-section (1) and shall communicate in the manner prescribed such order to the applicant within a period of three months from the date of the receipt of the application under sub-section (1) of section 4.

(b) In the case of an existing public building, the competent authority shall pass the order under sub-section (1) and shall communicate in the manner prescribed such order to the applicant within a period of six months from the date of receipt of the application under sub-section (2) of section 4.

(3) The licence shall be in the prescribed form, shall be subject to such condition as may be specified therein and shall also specify the building or the existing public building, as the case may be, the purpose for which it is to be used and the number of persons which the building or the existing public building can accommodate without danger to their safety.

(4) A licence granted under sub-section (1) shall be valid for a period of three years or for such shorter period as the competent authority may specify in the licence and the period aforesaid shall commence --

(i) in case the licence relates to a building, not being an existing public building, on the date of the communication of the order granting the licence; and

(ii) in case the licence relates to an existing public building, on the date of the expiry of a period of one year from the date of the commencement of this Act.

(5) Where the competent authority refuses to grant a licence under sub-section (1), it shall give reasons for such refusal.

7. Licence Deemed To Be Granted Or Refused In Certain Cases :-

(1) If in the case of a building, not being an existing public building, no order either granting or refusing a licence is communicated to the applicant within a period of three months from the date of the receipt of the application under sub-section (1) of section 4, a licence shall --

(i) in case such application is accompanied by a certificate of structural soundness mentioned in sub-section (4) of section 4, be deemed to have been granted subject to the conditions ordinarily imposed under this Act or the rules made thereunder --

(A) for a period of three years commencing on the date of the expiry of the period of three months aforesaid, in any case where the period mentioned in the application and the period mentioned in such certificate of structural soundness is three years, and

(B) in any other case --

(a) for the period mentioned in the application, or

(b) for the period mentioned in such certificate of structural soundness, whichever period is less, and such, less period shall in no case exceed three years and shall commence on the date of the expiry of the period of three months aforesaid, and

(ii) in case such application is not accompanied by such a certificate of structural soundness, be deemed to have been refused.

(2) If in the case of an existing public building, no order either granting or refusing a licence is communicated to the applicant within a period of six months from the date of the receipt of the application under sub-section (2) of section 4, a licence shall --

(i) in case such application is accompanied by a certificate of structural soundness mentioned in sub-section (4) of section 4, be deemed to have been granted subject to the conditions ordinarily imposed under this Act or the rules made thereunder -

(A) for a period of three years commencing on the date of the expiry of a period of one year from the date of the commencement of this Act, in any case where the period mentioned in the application and the period mentioned in such certificate of structural soundness is three years, and

(B) in any other case --

(a) for the period mentioned in the application, or

(b) for the period mentioned in such certificate of structural soundness, whichever period is less, and such less period shall in no case exceed three years and shall commence on the date of the expiry of a period of one year from the date of the commencement of this Act, and

(ii) in case such application is not accompanied by such a certificate of structural soundness, be deemed to have been refused.

8. Renewal :-

(1) A licence shall be renewed, from time to time, and an application for the renewal of a licence shall be made not less than three months before the date of the expiry of the period of such licence.

(2) The provisions of this Act shall, as far as may be, apply for the

renewal of a licence as they apply for the grant of a licence on an application under sub-section (1) of section 4.

9. Fresh Licence To Be Obtained In The Case Of Addition Or Alteration :-

(1) If any addition or alteration is made to any public building before the date of the expiry of the period of the licence in respect of that public building, or if such addition or alteration is made in respect of any portion of a building connected with that public building, such public building shall not continue to be used as a public building until a fresh application has been made and a fresh licence has been granted under this Act:

Provided that works of necessary repair which do not affect the position or dimensions of the building aforesaid or any room therein shall not be deemed an alteration or addition for the purposes of this sub-section:

Provided further that the competent authority may, in its discretion, allow the continuance of the use of the public building as a public building for such period not exceeding three months as it deems fit pending the decision on the application.

(2) The provisions of this Act, shall, as far as may be, apply to the fresh application under sub-section (1), as they apply to an application under sub-section (1) of section 4.

10. Power To Cancel Or Suspend Licence :-

(1) The competent authority may cancel or suspend any licence if it appears to it after giving the holder thereof an opportunity of being heard --

(i) that such licence has been obtained by misrepresentation or fraud; or

(ii) that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms or conditions of the licence; or

(iii) that the licensee has contravened or failed to comply with an order passed under this Act or the rules made thereunder; or

(iv) that the public building can no longer be safely used for the purpose for which the licence was granted.

(2) The competent authority may, of its own motion, review any order passed under sub-section (1) --

(i) on the basis of a mistake or error apparent on the face of the record; or

(ii) on the basis of new and important facts brought to its notice after the order was made; or

(iii) for any other sufficient reason :

Provided that the competent authority shall not pass any order under this sub-section prejudicial to any party unless he has had a reasonable opportunity of making his representations.

11. Appeal Against Refusal Of Licence :-

(1) Any person aggrieved by an order of the competent authority refusing to grant or to renew a licence or cancelling or suspending a licence, or in the case referred to in clause (ii) of sub-section (1) or of sub-section (2) of section 7, the applicant concerned, may, within such time as may be prescribed, appeal to such authority as the Government may specify in this behalf:

Provided that such authority may, in its discretion, allow further time not exceeding one month for the filing of any such appeal, if it is satisfied that the appellant had sufficient cause for not filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) The appellate authority may stay the operation of the order of the competent authority cancelling or suspending a licence, pending the exercise of its powers under this section.

12. Temporary Licence :-

Notwithstanding anything contained in this Act, the competent authority may, without following the procedure specified in sections 5 and 6, grant a temporary licence to be effective for a limited period, in any case not exceeding three months, authorizing the use of a public building, and for the purposes of this Act such temporary licence shall be deemed to be a valid licence for the period specified in it.

13. Revision By Board Of Revenue :-

(1) The Board of Revenue* may, either on its own motion or on application made by the owner of any building which is to be used, or which is already used, as a public building call for and examine the records of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness, legality or

propriety of any decision or order passed therein and if, in any case, it appears to the Board of Revenue* that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly :

Provided that the Board of Revenue* shall not pass any order under this sub-section prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Board of Revenue* may stay the operation of any such decision or order pending the exercise of its powers under subsection (1) in respect thereof.

(3) Every application to the Board of Revenue* for the exercise of its powers under this section shall be preferred within two months from the date on which the order or proceeding to which the application relates was communicated to the applicant:

Provided that the Board of Revenue* may, in its discretion, allow further time not exceeding one month for the filing of any such application if it is satisfied that the applicant had sufficient cause for not preferring the application within the time specified in this sub-section.

* By virtue of section 10(1) of the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980), any reference to the Board of Revenue shall be deemed to be a reference to the State Government.

14. Power Of Competent Authority, Engineer, Etc., To Enter Public Building :-

For the purpose of ascertaining the structural soundness of any building in respect of which a licence is required under this Act, or for carrying out any other purpose under this Act, the competent authority, any engineer mentioned in sub-section (1) of section 5, the appellate authority mentioned in section 11 and the revisional authority mentioned in section 13, may, at all reasonable times, enter such building with such assistance, if any, as it or he thinks fit.

15. Power To Prohibit The Use Of The Public Building In Certain Cases :-

(1) If the appellate authority mentioned in section 11, in any case pending before it or if the competent authority, in any other case, is satisfied upon inspection of a public building or otherwise --

(i) that the said building is in a ruinous state; or

(ii) that there is reason to apprehend imminent danger to life or property; or

(iii) that there is no licence, such authority shall, without prejudice to any other action taken under this Act, by written order, prohibit forthwith the use of the public building as a public building.

(2) If the owner contravenes the order under sub-section (1), it shall be lawful for the authority mentioned in that sub-section to take such steps and use such force as may be necessary to prohibit the further use of such building as a public building.

(3) Any person aggrieved by an order of the competent authority under this section may, within such time as may be prescribed, appeal to the appellate authority mentioned in section 11 and the provisions of that section shall apply to such appeal as they apply to an appeal against an order cancelling a licence.

(4) Any order passed by the appellate authority under this section shall be subject to revision by the Board of Revenue* under section 13.

* By virtue of section 10(1) of the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980), any reference to the Board of Revenue shall be deemed to be a reference to the State Government.

16. Penalties :-

(1) If any person contravenes or attempts to contravene or abets the contravention of the provisions of section 3, or of section 9, or an order passed under section 15, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person wilfully obstructs any officer or authority from entering any building or public building in the exercise of any power conferred on him or it by or under this Act, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees or with both.

17. Offences By Companies :-

(1) If the person committing an offence under this Act is a

company, every person who, at the time of the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purposes of this section --

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

18. Cognizance Of Offences :-

No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an officer duly authorised by the Government in this behalf.

19. Jurisdiction Of Criminal Courts :-

No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

20. Power To Exempt Certain Cases :-

If the Government are of opinion that it would not be in the public interest to apply all or any of the provisions of this Act, to any class of public buildings, they may, by notification, exempt such class of public buildings from all or any of the provisions of this Act or any rules made thereunder subject to such conditions and restrictions as the Government may impose.

21. Competent Authority, Etc., To Be Public Servants :-

Every authority and every officer duly authorised to discharge any duties imposed on it or him by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

22. Civil Courts Not To Decide Questions Under This Act :-

No Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer mentioned in this Act.

23. Finality Of Orders Passed Under This Act :-

(1) Any order passed or decision taken by any authority or officer in respect of matters to be determined for the purposes of this Act, shall, subject only to review, appeal or revision, if any, provided under this Act, be final.

(2) No such order or decision shall be liable to be questioned in any Court of law.

24. Indemnity :-

(1) No suit, or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) (a) No suit, prosecution, or other proceeding shall lie against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties, or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution, or other proceeding shall be instituted against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the date of the expiry of a period of six months from the date of the act complained of.

25. Power To Make Rules :-

(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for --

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by any authority or officer having jurisdiction under this Act, when exercising the powers under this Act; and

(c) the fees to be paid in respect of applications and appeals under this Act.

(3) (a) All rules made under this Act shall be published in the Fort St. George Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(b) All notifications issued under this Act, shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of 1[the Legislative Assembly] and if, before the expiry of the session in which it is so placed or the next session, 2[the Legislative Assembly agrees] in making any modification in any such rule or notification or 2[the Legislative Assembly agrees] that the rule or notification should not be made, or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

* Now, the Tamil Nadu Government Gazette.

26. Power To Remove Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require by order, do anything which appears to them to be necessary for the purpose of removing the difficulty.

(2) Every order issued under sub-section (1) shall, as soon as possible after it is issued, be placed on the table of 1[the Legislative Assembly] and if, before the expiry of the session in which it is so placed or the next session, 2[the Legislative Assembly agrees] in making any modification in any such order or 2[the

Legislative Assembly agrees] that the order should not be issued, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice or the validity of anything previously done under that order.

1 These words were substituted for the words "both Houses of Legislature" by the Tamil Nadu Adaptation of Law and Order, 1987.

2 These words were substituted for the words "both Houses agree" by *ibid*.

27. Act To Override Other Laws :-

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other Act, law, custom, usage or contract.

(2) Save as otherwise provided in sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of, any other Act.

28. Report To Be Made In Certain Cases By Authorities Or Officers Appointed Under Other Act :-

(1) Where any authority or officer appointed or having jurisdiction under any other Act or law, is empowered to inspect any building in the discharge of its or his functions under that Act or law, and where at any time such authority or officer is satisfied, after inspecting any public building as defined in this Act, that it is not structurally sound, it or he shall make a report in the prescribed form to the competent authority having jurisdiction over the area in which the public building is situated.

(2) Upon receipt of a report under sub-section (1), the competent authority shall take such action under this Act as it deems fit.