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Fourteenth Kerala legislative Assembly

Bill No. 135

**THE KERALA MUNICIPALITY (AMENDMENT)
BILL, 2018**

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[Translation in English of “2018-ലെ കേരള മുനിസിപ്പാലിറ്റി (ഭേദഗതി) ബിൽ” published under the authority of the Governor].

THE KERALA MUNICIPALITY (AMENDMENT) BILL, 2018

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BILL

further to amend the Kerala Municipality Act, 1994.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Municipality Act, 1994 for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipality (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 16th day of December, 2017.

2. *Amendment of section 407.*—In the Kerala Municipality Act, 1994 (20 of 1994) (hereinafter referred to as the principal Act), in section 407,—

(1) in sub-section (1),—

(a) for the words and figures “31st March, 2013”, the words and figures “31st July, 2017” shall be substituted;

(b) after the words “building construction” the words “or additions or reconstruction” shall be substituted;

(c) for the words “the Government”, the words “a committee consisting of the District Town Planner, Regional Joint Director and the Secretary of the Local Self Government Institution concerned” shall be substituted;

(d) in the second proviso, for the words, "building construction", the words "building construction or additions or reconstruction" shall be substituted.

(2) In the Explanation, after sub-section (2), after the word "any construction", the words " or building construction or additions or reconstruction" shall be inserted.

3. *Repeal and saving.*—(1) The Kerala Municipality (Amendment) Ordinance, 2018 (31 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 407 of the Kerala Municipality Act, 1994 (20 of 1994) provides that, notwithstanding anything contained in the Act, if any person or institution unlawfully, developed any land or constructed any building on or before 31st March, 2013, the Government may, after consultation with the Municipality concerned on realisation of a compounding fee as prescribed, regularize such land development or building construction. The second proviso to the above sub-section provides that no building construction shall be regularised, which is done in contravention of the provisions in respect of the security arrangements provided in this Act, or the Building Rules made thereunder.

2. The Government have decided to regularise the unlawful constructions, reconstructions and additions of the building carried out without contravening the provisions in respect of security arrangements provided in the Act, on or before 31st July, 2017 by realising the prescribed compounding fee, on certain condition. It has also been decided to entrust the power of the same to a committee consisting of the District Town Planner, Regional Joint Director and the Secretary of the Local Self Government Institution concerned.

3. Therefore, the Government have decided to amend the said section in order to provide that, the committee consisting of the District Town Planner, Regional Joint Director and the Secretary of the Local Self Government Institution concerned may subject to certain conditions and on realization of a compounding fee as prescribed regularise the building construction or additions or reconstructions carried out on or before 31st July, 2017, without contravening the provisions in respect of the security arrangements provided in the Act.

4. As the Legislative Assembly of the State of Kerala was not in session, and the said proposal had to be given effect to immediately, the Kerala Municipality (Second Amendment) Ordinance, 2017 (33 of 2017) was promulgated by the Governor of Kerala on the 16th day of December, 2017 and the same was published in the Kerala Gazette Extraordinary No. 2761 dated 16th day of December, 2017.

5. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No.98 of the fourteenth Kerala Legislative Assembly, the same could not be introduced in and passed by, the Legislative Assembly of the state of Kerala during its session which commenced on the 22nd day of January, 2018 and ended on the 7th day of February, 2018.

6. As the provisions of the said Ordinance were to be kept alive and the Legislative Assembly of the State of Kerala was not in session the Kerala Municipality (Amendment) Ordinance, 2018 (7 of 2018) was promulgated by the Governor of Kerala on the 12th day of February 2018 and the same was published in the Kerala Gazette Extraordinary Number 344 dated 12th day of February, 2018.

7. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 112 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 26th day of February, 2018 and ended on the 4th day of April, 2018.

8. As the provisions of the said Ordinance were to be kept alive and the Legislative Assembly of the State of Kerala was not in session and the Kerala Municipality (Amendment) Ordinance, 2018 (31 of 2018) was promulgated by the Governor of Kerala on the 7th day of April, 2018 and the same was published in the Kerala Gazette Extraordinary Number 920 dated 7th April, 2018.

9. The Bill seeks to replace Ordinance Number 31 of 2018 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

DR. K.T. JALEEL

EXTRACT FROM THE KERALA MUNICIPALITY ACT,
1994 (20 OF 1994)

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407. *Power to regularize the unlawful building construction.*—(1) Notwithstanding anything contained in this Act, if any person or institution unlawfully, developed any land or constructed any building on or before 31st March, 2013, the Government may after consultation with the concerned Municipality on realization of a compounding fee as prescribed, regularize such land development or building construction:

Provided that such regularisation shall not adversely affect any Town Planning scheme or master plan approved under the existing provisions of the Town Planning Act:

Provided further that no building construction shall be regularized, which is done in contravention of the provisions in respect of the security arrangements provided in this Act, or the Building Rules made thereunder.

(2) Application for regularization under sub-section (1) shall be submitted within such time and in such manner as prescribed.

Explanation.—For the purpose of this Act, unlawful construction means any construction for which the Secretary shall have no power to regularize under Section 406 of this Act or any construction or re-construction done in contravention of the provision of this Act or the Building Rules made there under or in contravention of any approved plan or any construction done in deviation of any exemption order sanctioned by the Government or any condition specified therein.

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