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LEGISLATIVE SUPPLEMENT

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PART - I
HARYANA GOVERNMENT
LAW AND LEGISLATIVE DEPARTMENT

Notification

The 4th September, 2019

No. Leg. 34/2019.— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 30th August, 2019 and is hereby published for general information :—

HARYANA ACT NO. 33 OF 2019

THE HARYANA MUNICIPAL (SECOND AMENDMENT) ACT, 2019

AN

ACT

further to amend the Haryana Municipal Act, 1973.

Be it enacted by the Legislature of the State of Haryana in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Haryana Municipal (Second Amendment) Act, 2019. Short title.
2. In section 9 of the Haryana Municipal Act, 1973 (hereinafter called the principal Act),— Amendment of section 9 of Haryana Act 24 of 1973.
 - (i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The municipalities constituted under section 2A shall consist of the president, vice-president and such number of elected members, not less than eleven, as may be prescribed.

(2) Save as provided in sub-section (3), all the seats in the municipality including the president shall be filled in by persons chosen by direct election from the territorial constituencies in the municipal area and for this purpose each municipal area shall, by a notification issued in this behalf, be divided into territorial constituencies to be known as wards.”;
 - (ii) for the first proviso to clause (iii) of sub-section (3), the following proviso shall be substituted, namely:—

“Provided that the persons referred to in clause (i) above shall not have any right to vote in the meetings of the municipalities and the persons referred to in clauses (ii) and (iii) above shall not have any right to vote for the No Confidence Motion and to contest or vote for the election of vice-president.”.
3. In section 11 of the principal Act,— Amendment of section 11 of Haryana Act 24 of 1973.
 - (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:—

“Term of office of president and members.” ;
 - (ii) in sub-section (1), for the words “elected members”, the words “elected president and members” shall be substituted;
 - (iii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) When as a result of an enquiry held under Chapter XIV, an order declaring the election of the president or any member void has been made, such president or member shall forthwith cease to be the president or member of the committee.”.
4. For section 13 of the principal Act, the following section shall be substituted, namely:— Amendment of section 13 of Haryana Act 24 of 1973.

“13. Resignation of president or member of Committee.— If the president or a member of a committee wishes to resign his office, he shall submit an application in writing to the Deputy Commissioner. If such resignation is accepted, it shall be notified in the Official Gazette by the State Election Commission, Haryana, on a date not less than fifteen days and not more than sixty days after the receipt of the said application by the Deputy Commissioner whereupon the president or member shall be deemed to have vacated his seat:

Provided that if the president or a member who has submitted an application to resign wishes to withdraw his resignation, he may apply to the Deputy Commissioner within fifteen days of the receipt by the Deputy Commissioner of his application to resign, and the application to resign shall then be deemed to have been withdrawn.”

Amendment of section 13A of Haryana Act 24 of 1973.

- 5.** In section 13A of the principal Act,—
- (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:—
“Disqualifications for president and members.”;
- (ii) in sub-section (1), for the words “being a member”, the words “being the president or a member” shall be substituted;
- (iii) in the second proviso to clause (h) of sub-section (1), for the words “qualification shall be 5th pass”, the words “qualification for members excluding the president shall be 5th pass” shall be substituted;
- (iv) in sub-section (2), for the words “whether a member”, the words “whether the president or a member” shall be substituted.

Amendment of section 13B of Haryana Act 24 of 1973.

- 6.** In section 13B of the principal Act,—
- (i) in sub-section (1), for the words “elected members”, the words “elected president or member” shall be substituted;
- (ii) in sub-section (2), for the words “elected member” occurring twice, the words “elected president or member” shall be substituted.

Amendment of section 13I of Haryana Act 24 of 1973.

- 7.** For section 13I of the principal Act, the following section shall be substituted, namely:—
“13I. Removal of an elected president and member having any disqualification at the time of election.— The State Election Commission may, after such enquiry, as it may deem fit and after giving an opportunity of being heard, by an order, remove the president or a member, if he was having any disqualification mentioned in section 13A or rules framed under this Act at the time of his election. The office of the president or member so disqualified shall become vacant immediately.”.

Amendment of section 13J of Haryana Act 24 of 1973.

- 8.** For section 13J of the principal Act, the following section shall be substituted, namely:—
“13J. Removal of an elected president and member who fails to lodge election expenditure statement.— If an elected president or member fails to follow the provisions of sections 13F or 13H, he shall be removed by the State Election Commission after giving him an opportunity of being heard. The office of the president or member so disqualified shall become vacant immediately.”.

Amendment of section 13K of Haryana Act 24 of 1973.

- 9.** In section 13K of the principal Act, for the words “A member”, the words “the president or a member” shall be substituted.

Amendment of section 14 of Haryana Act 24 of 1973.

- 10.** In section 14 of the principal Act,—
- (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:—
“Powers of State Government as to removal of president and members.”;
- (ii) in sub-section (1),—
- (a) for the words “remove any member”, the words “remove the president or any member” shall be substituted;
- (b) in clause (b), for the words “be a member”, the words “be the president or a member” shall be substituted;
- (c) in clause (e), for the words “as a member”, the words “as the president or a member” shall be substituted;

- (d) for the existing proviso, the following proviso shall be substituted, namely:—
 “Provided that no removal of the president or a member shall be notified unless the matter has been enquired into by an officer, not below the rank of an Extra Assistant Commissioner, appointed by the State Government and the president or member concerned has been given a reasonable opportunity of being heard or there is a finding by the competent court in this regard.”.
- 11.** In section 14A of the principal Act,—
- (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:—
 “Suspension of president and members.”;
- (ii) in sub-section (1), for the words “suspend any member”, the words “suspend the president or any member” shall be substituted;
- (iii) in sub-section (2), for the words “Any member”, the words “The president or any member” shall be substituted;
- (iv) in proviso to clause (ii) of sub-section (2), for the words “a member”, the words “the president or a member” shall be substituted.
- 12.** In sub-section (1) of section 15 of the principal Act, for the words “any member”, the words “the president or any member” shall be substituted.
- 13.** For section 18 of the principal Act, the following section shall be substituted, namely:—
 “18. Election of vice-president.- (1) Every Municipal Committee or Municipal Council shall, from time to time, elect one of its elected members to be the vice-president:
 Provided that if the office of the vice-president is vacated during his tenure on account of death, resignation or no confidence motion, a fresh election for the remainder of the period shall be held.
 (2) The term of office of the vice-president shall be for a period of five years or for the residue period of his office as a member, whichever is less.”.
- 14.** For section 18A of the principal Act, the following section shall be substituted, namely:—
 “18A. Time line for oath of allegiance and election of vice-president.— (1) Unless the State Government otherwise directs, the Deputy Commissioner or any gazetted officer appointed by him in this behalf shall, within thirty days of the publication of the notification of the names of the president and the members elected to a committee, convene the first meeting of the newly constituted committee at forty-eight hours notice to be delivered at their ordinary place of residence to administer an oath of allegiance under section 24. The notice shall clearly state that the oath of allegiance shall be administered to the president and members present.
 (2) The Deputy Commissioner or any gazetted officer appointed by him in this behalf shall, within a period of thirty days of the meetings referred to in sub-section (1), convene a meeting of the president and members at forty-eight hours notice to be delivered at their ordinary place of residence. The notice shall clearly state that the oath of allegiance shall be administered to the left over members and that the election of the vice-president shall be held in the meeting. The convener shall firstly administer the oath of allegiance to the left over members and thereafter shall preside over the meeting of the election of the vice-president.
 (3) If the president and members fail to elect the vice-president in the meeting convened under sub-section (2), the Deputy Commissioner or any gazetted officer appointed by him in this behalf shall, within a period of thirty days of the meeting referred to in sub-section (2), convene meeting of the president and members for the election of the vice-president as per the procedure mentioned above until the vice-president are elected.
 (4) If the president and members fail to elect the vice-president in the meetings convened under sub-sections (2) or (3) till the expiry of five months from the date of notification of the elected president and members by the State Election Commission, the Deputy Commissioner or any gazetted officer appointed by him in this behalf shall,

Amendment of section 14A of Haryana Act 24 of 1973.

Amendment of section 15 of Haryana Act 24 of 1973.

Amendment of section 18 of Haryana Act 24 of 1973.

Amendment of section 18A of Haryana Act 24 of 1973.

convene a meeting of the president and members for the election of the vice-president at forty-eight hours notice to be delivered at their ordinary place of residence. The notice shall clearly state that if the members fail to elect the vice-president in the meeting, the committee shall be deemed to have been dissolved without any further notice or order.

(5) Notwithstanding anything contrary to this Act, if the president and members fail to elect the vice-president in the meetings convened after following the procedure provided under aforesaid provisions till the expiry of six months from the date of notification of the elected president and members, the committee shall be deemed to be dissolved with immediate effect without following any procedure provided under the Act or rules made thereunder:

Provided that such meeting shall be deemed to be validly convened meetings of the committee.

(6) Notwithstanding anything contained in any bye-laws made under section 31, the administration of the oath of allegiance and the election of the vice-president shall be recorded as part of the proceedings in the minutes of the meetings.”

Amendment of section 20 of Haryana Act 24 of 1973.

- 15.** In section 20 of the principal Act, –
- (i) in the marginal heading, the words “president or” shall be omitted;
 - (ii) in sub-section (1), the words “president or” shall be omitted.

Amendment of section 21 of Haryana Act 24 of 1973.

- 16.** In section 21 of the principal Act, –
- (i) in the marginal heading, the words “president or” shall be omitted;
 - (ii) in sub-section (1), the words “president or” shall be omitted;
 - (iii) for sub-section (3), the following sub-section shall be substituted, namely:–
“(3) If the motion is carried with the support of not less than two-thirds of the elected members of the committee, the vice-president shall be deemed to have vacated his office.”;
 - (iv) for sub-section (4), the following sub-section shall be substituted, namely:–
“(4) If a no confidence motion is passed against the vice-president, the Sub-Divisional Officer (Civil) of the area in which the municipality is situated or any other officer not below the rank of Extra Assistant Commissioner authorized by the Deputy Commissioner shall henceforth exercise the powers and discharge the functions of the vice-president till the vice-president is elected.”.

Amendment of section 22 of Haryana Act 24 of 1973.

- 17.** For section 22 of the principal Act, the following section shall be substituted, namely:–
- “22. Removal of vice-president.– The State Government may, at anytime, by notification, remove vice-president from his office on the ground of abuse of his power or of habitual failure to perform his duties:
- Provided that no removal of the vice-president shall be notified unless the matter has been enquired into by an officer, not below the rank of an Extra Assistant Commissioner appointed by the State Government and the vice-president has been given a reasonable opportunity of being heard or there is a finding by the competent court in this regard.”.

Amendment of section 22A of Haryana Act 24 of 1973.

- 18.** For section 22A of the principal Act, the following section shall be substituted, namely:–
- “22A. Suspension of vice-president.– (1) The Director may suspend the vice-president of a committee/council where,–
- (a) a case against him in respect of any criminal offence is under investigation, enquiry or trial, if in the opinion of the Director the charge made or proceedings taken against him, are likely to embarrass him in the discharge of his duties or involves moral turpitude or defect of a character;
 - (b) a case against him in respect of the grounds of removal mentioned under section 22 is under enquiry, after giving him a reasonable opportunity of being heard.

(2) The vice-president suspended under sub-section (1) shall not take part in any act or proceeding of the committee during the period of his suspension and shall hand over the records, money or any other property of the committee/council in his possession or under his control to the president or in case the president is also suspended, to such person as the Director may appoint in this behalf:

Provided that the suspension period of the vice-president shall not exceed six months from the date of issuance of suspension order except in criminal cases involving moral turpitude.

(3) Any person aggrieved by an order passed under sub-section (1) may, within a period of thirty days from the communication of the order, prefer an appeal to the State Government.

19. For section 24 of the principal Act, the following section shall be substituted, namely:—

Amendment of section 24 of Haryana Act 24 of 1973.

“24. Notification of elections and nominations.— (1) Every election or nomination of a member and election of the president of a Municipal Committee or Municipal Council shall be notified in the Official Gazette and neither the president nor member shall enter upon his duties until his election or nomination has been so notified and until, notwithstanding anything contained in the Oaths Act, 1969, elected president or members has been or made at a meeting of the Municipal Committee or Municipal Council an oath or affirmation of his allegiance to India and the Constitution of India in the following form, namely:—

“I _____ having been elected as the president or a member of a Municipal Committee or Municipal Council of _____ do solemnly swear in the name of God that I shall bear true faith and allegiance to the Constitution of India as by law established and that I shall faithfully discharge the duties upon which I am about to enter.”.

(2) Every election of the president or a member shall be notified in the Official Gazette by the State Election Commission not earlier than one week before the expiry of the duration of the existing municipality:

Provided that notification regarding bye-election result shall be published in the Official Gazette by the State Election Commission forthwith.

(3) If any such person omits or refuses to take or make the oath or affirmation as required by sub-section (1) within three months of the date of notification of his election, his election shall be deemed to be invalid for any reason which it may consider sufficient unless the State Government extends the period within which such oath or affirmation may be taken or made.

(4) If an election is deemed to be invalid under the provisions of sub-section (3), a fresh election shall be held.”.

20. In sub-section (1) of section 25 of the principal Act,—

Amendment of section 25 of Haryana Act 24 of 1973.

(i) for the sign “.” existing at the end, the sign “:” shall be substituted; and

(ii) the following proviso shall be inserted, namely:—

“Provided that in addition to the aforesaid meeting, every committee shall hold atleast one meeting in every six months of a duration of not less than three days.”.

21. After sub-section (6) of section 257 of the principal Act, the following sub-section shall be added, namely:—

Amendment of section 257 of Haryana Act 24 of 1973.

“(7) The State Government shall make rules pertaining to the matters of elections, in consultation with State Election Commission, under this Act.”.

MEENAKSHI I. MEHTA,
Secretary to Government, Haryana,
Law and Legislative Department.