

**PART - I****HARYANA GOVERNMENT****LAW AND LEGISLATIVE DEPARTMENT****Notification**

The 4th October, 2018

**No. Leg.33/2018.**— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 27th September, 2018 and is hereby published for general information:-

**HARYANA ACT NO. 28 OF 2018****THE HARYANA MUNICIPAL CORPORATION (SECOND AMENDMENT)****ACT, 2018**

AN

ACT

*further to amend the Haryana Municipal Corporation Act, 1994.*

Be it enacted by the Legislature of the State of Haryana in the Sixty-ninth Year of the Republic of India as follows:-

1. This Act may be called the Haryana Municipal Corporation (Second Amendment) Act, 2018. Short title.
2. In section 4 of the Haryana Municipal Corporation Act, 1994 (hereinafter called the principal Act),- Amendment of section 4 of Haryana Act 16 of 1994.
  - (i) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Save as provided in sub-section (3), all seats in the Corporation including a Mayor shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose the Municipal area shall by a notification issued in this behalf be divided into territorial constituencies to be known as wards.”;
  - (ii) in the second proviso to sub-section (3), the word and sign “Mayor,” occurring twice shall be omitted; and
  - (iii) in the proviso to sub-section (4), for the words “three years and three months”, the words “four years” shall be substituted and shall be deemed to have been substituted with effect from the 10th October, 2008.
3. For section 7 of the principal Act, the following section shall be substituted, namely:- Substitution of section 7 of Haryana Act 16 of 1994.

“7. Qualifications for Mayor and members. - A person shall not be qualified to be chosen as a Mayor or member unless,-

  - (a) he has attained twenty-one years of age; and
  - (b) his name is registered as an elector in the electoral roll of a ward in the Municipal area.”.
4. In section 8 of the principal Act,- Amendment of section 8 of Haryana Act 16 of 1994.
  - (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:-

“Disqualifications of Mayor and members.”;
  - (ii) in sub-section (1), for the words “for being a member”, the words “for being a Mayor or member” shall be substituted;
  - (iii) in sub-section (2),-

- (a) for the words “for being a member”, the words “for being a Mayor or member” shall be substituted;
- (b) for the second proviso to clause (r), the following proviso shall be substituted, namely:-  
 “Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding Mayor shall be 5th pass.”;
- (iv) for sub-section (4), the following sub-section shall be substituted, namely:-  
 “(4) If a person sits or votes as a Mayor or member of the Corporation where he is not qualified or that he is disqualified for the post of Mayor or membership, he shall be liable in respect of each day on which he so sits or votes to penalty of five hundred rupees to be recovered as an arrear of tax under this Act.”;
- (v) in sub-section (5), for the words “as to whether a member”, the words “as to whether a Mayor or member” shall be substituted.
- 5.** For section 8A of the principal Act, the following section shall be substituted, namely:-  
 “8A. Restriction on simultaneous or double membership.- (1) No person shall be a Mayor or member of the Corporation, member of Legislative Assembly of the State or member of Parliament simultaneously.  
 (2) In case a Mayor or member of the Corporation is elected to the Legislative Assembly or Parliament, he shall cease to continue as a Mayor or member of the Corporation from the date he is declared as elected to the Legislative Assembly or Parliament, as the case may be.”.
- 6.** In sub-section (1) of section 14 of the principal Act, for the words “the names of elected members”, the words “the name of Mayor and members” shall be substituted.
- 7.** In sub-section (1) of section 15 of the principal Act, for the words “no election of a member”, the words “no election of a Mayor or member” shall be substituted.
- 8.** In clause (a) of sub-section (1) of section 17 of the principal Act, for the words “to be chosen as a member”, the words “to be chosen as a Mayor or member” shall be substituted.
- 9.** In sub-section (2) of section 21 of the principal Act, for the words “election of member”, the words “election of a Mayor or member” shall be substituted.
- 10.** In section 32 of the principal Act,-  
 (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:-  
 “Power to make rules regulating the election of Mayor and members.”; and  
 (ii) in sub-section (1), for the words “holding election of members”, the words “holding election of Mayor and members” shall be substituted.
- 11.** For section 33 of the principal Act, the following section shall be substituted, namely:-  
 “33.Oath of affirmation by Mayor or member.- (1) Every elected Mayor or member shall, before taking his seat, make and subscribe at a meeting of the Corporation, an oath or affirmation according to the following form, namely :-  
 ‘I \_\_\_\_\_ having been elected as a Mayor or member of the Municipal Corporation of \_\_\_\_\_ do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.’.  
 (2) If a person sits or votes as a Mayor or member before he complied with the requirements of sub-section (1), he shall be liable in respect of each day on which he so sits or voted to a penalty of five hundred rupees to be recovered as an arrear of tax under this Act, and his vote shall be considered invalid.”.
- Substitution of section 8A of Haryana Act 16 of 1994.
- Amendment of section 14 of Haryana Act 16 of 1994.
- Amendment of section 15 of Haryana Act 16 of 1994.
- Amendment of section 17 of Haryana Act 16 of 1994.
- Amendment of section 21 of Haryana Act 16 of 1994.
- Amendment of section 32 of Haryana Act 16 of 1994.
- Substitution of section 33 of Haryana Act 16 of 1994.

- 12.** For section 34 of the principal Act, the following section shall be substituted, namely:-
- Substitution of section 34 of Haryana Act 16 of 1994.
- “34. Removal of and resignation by Mayor or member.- (1) The Government may, by notification remove Mayor or member, if in its opinion -
- (a) he becomes subject to any of the disqualifications mentioned in section 8; or
  - (b) he has flagrantly abused his position as a Mayor or member or has through negligence or misconduct been responsible for the loss or misapplication of any money or property of the Corporation ; or
  - (c) he has become physically or mentally incapacitated for performing his duties as a Mayor or member ; or
  - (d) he absents himself during three successive months from the meetings of the Corporation ; or
  - (e) he acts in contravention of the provisions of section 60; or
  - (f) he has, since his election or nomination, become subject to any disqualification which, if it had existed at the time of his election or nomination, would have rendered him ineligible under any law for the time being in force regulating the qualifications of candidate for election or nomination:
- Provided that before making an order under this section, reasonable opportunity of being heard and to show cause against such an order shall be given to the Mayor or member, as the case may be.
- (2) If a Mayor or member resigns his seat by writing under his hand addressed to the Commissioner, he shall cease to be a Mayor or member on the date of acceptance of his resignation and his office shall thereupon fall vacant.
- 13.** In section 34-A of the principal Act,-
- Amendment of section 34-A of Haryana Act 16 of 1994.
- (i) for the existing marginal heading, the following marginal heading shall be substituted, namely:-  
“Suspension of Mayor or member.”;
  - (ii) in sub-section (1), for the words “suspend any member”, the words “suspend a Mayor or member” shall be substituted;
  - (iii) in sub-section (2),-
    - (a) for the words “Any member”, the words “A Mayor or any member” shall be substituted; and
    - (b) for the existing proviso, the following provisos shall be substituted, namely:-  
“Provided that the suspension period of a Mayor or member shall not exceed six months from the date of issuance of suspension order except in criminal cases involving moral turpitude:  
Provided further that if the Mayor is suspended or removed or resigned from the post under the Act, the officiating charge of the seat of Mayor shall be given to the elected member of the same category having maximum number of members in his favour until the predecessor of Mayor is elected or the existing Mayor is reinstated:  
Provided further that if there is only one member from the category for which seat of Mayor is reserved, no question of maximum number of members in his favour shall arise:  
Provided further that when the Mayor is absent from duty on account of illness or other cause, the senior Deputy Mayor and in his absence the Deputy Mayor shall act as Mayor.”.
- 14.** For section 34-B of the principal Act, the following section shall be substituted, namely:-
- Substitution of section 34-B of Haryana Act 16 of 1994.
- “34-B. Removal of Mayor or member having any disqualification at 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 order, remove a Mayor or member, if he was having any disqualification mentioned in section 8 at the time of his election. The office of the Mayor or member so disqualified shall become vacant immediately.”.

Substitution of section 34-C of Haryana Act 16 of 1994.

**15.** For section 34-C of the principal Act, the following section shall be substituted, namely:-

“34-C Removal of an elected Mayor or member who fails to lodge election expenditure statement. – If an elected Mayor or member fails to follow the provisions of sections 8E or 8G, he shall be removed by the State Election Commission after giving him an opportunity of being heard. The office of the Mayor or member so disqualified shall become vacant immediately.”.

Amendment of section 34-D of Haryana Act 16 of 1994.

**16.** In section 34-D of the principal Act, for the words “A member”, the words “A Mayor or member” shall be substituted.

Amendment of section 36 of Haryana Act 16 of 1994.

**17.** In section 36 of the principal Act,-

(i) for the existing marginal heading, the following marginal heading shall be substituted, namely:-

“Election of Senior Deputy Mayor, Deputy Mayor and their term of office.”; and

(ii) sub-sections (1), (3) and (4) shall be omitted.

Insertion of section 36-A in Haryana Act 16 of 1994.

**18.** After section 36 of the principal Act, the following section shall be inserted, namely:-

“36-A. Facilities and powers of Mayor.- (1) The Mayor shall be entitled to payment of such honorarium and may be given such facilities in respect of residential accommodation, telephone, conveyance and the like, as may be prescribed.

(2) The Mayor shall have access to the record of the Corporation and may issue directions to the Commissioner or call for reports from him with a view to ensure proper implementation of the decision of the Corporation.”.

Amendment of section 37 of Haryana Act 16 of 1994.

**19.** In section 37 of the principal Act, the words “Mayor” and “Mayor or”, wherever occurring shall be omitted.

Amendment of section 37A of Haryana Act 16 of 1994.

**20.** In section 37A of the principal Act,-

(i) in the marginal heading, the word “Mayor” shall be omitted;

(ii) in sub-section (1), the word “Mayor” shall be omitted;

(iii) in sub-section (2),-

(a) the word “Mayor” shall be omitted;

(b) clause (i) shall be omitted;

(c) in clause (iii), the word “Mayor” shall be omitted;

(iv) in the proviso, the words “Mayor” shall be omitted.

Omission of section 38 of Haryana Act 16 of 1994.

**21.** Section 38 of the principal Act shall be omitted.

Amendment of section 39 of Haryana Act 16 of 1994.

**22.** In section 39 of the principal Act,-

(i) in the marginal heading, the word “Mayor” shall be omitted; and

(ii) sub-section (1) shall be omitted.

Amendment of section 346 of Haryana Act 16 of 1994.

**23.** For sub-section (1) of section 346 of the principal Act, the following sub-section shall be substituted, namely:-

“(1) Notwithstanding anything to the contrary contained in the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) and the Punjab New Capital (Periphery) Control Act, 1952 (Punjab Act 1 of 1953), the Director may, with the prior approval of the Government, by notification in the Official Gazette, declare any area within the Municipal area to be controlled area. In case any area within the Municipal area has already been declared as controlled area under the above said Acts, then it shall deemed to be controlled area for the purpose of this Act, and if any plan has already been notified for such controlled area under the aforesaid Acts then it shall deemed to be the plan for the purposes of this Act:

Provided that the limits of local area exempted under section 15 of the Punjab New Capital (Periphery) Control Act, 1952 (Punjab Act 1 of 1953) from the purview of the said Act, which were earlier notified as controlled area and development plan was prepared, shall deemed to be controlled area and plan for the purposes of this Act.”.

24. For section 350D of the principal Act, the following section shall be substituted, namely:-
- “350 D. Effect of other laws.- The acts already done under the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) and the Punjab New Capital (Periphery) Control Act, 1952 (Punjab Act 1 of 1953), within the Municipal area shall be deemed to have been validly done under this Act.”.
- Substitution of section 350D of Haryana Act 16 of 1994.

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