



The Tamil Nadu District Municipalities (Extension to the Transferred Territory) Act, 1959

Act 4 of 1959

Keyword(s):
Transferred Territory, Existing Law

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¹[TAMIL NADU] ACT NO. 4 OF 1959².

THE ¹[TAMIL NADU] DISTRICT MUNICIPALITIES
(EXTENSION TO THE TRANSFERRED TERRITORY)
ACT, 1959.

[Received the assent of the Governor on the 31st March 1959, first published in the Fort St. George Gazette Extraordinary on the 31st March 1959 (Chaitra 10. 1881.)]

An Act to extend the ¹[Tamil Nadu] District Municipalities Act, 1920 (¹[Tamil Nadu] Act V of 1920), to the transferred territory in the ³[State of Tamil Nadu].

WHEREAS it is expedient to extend the ¹[Tamil Nadu] District Municipalities Act, 1920 (¹[Tamil Nadu] Act V of 1920), to the transferred territory in the ³[State of Tamil Nadu;]

BE it enacted in the Tenth Year of the Republic of India as follows :—

1. (1) This Act may be called the ¹[Tamil Nadu] District Municipalities (Extension to the Transferred Territory) Act, 1959. Short title and commencement.

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

2. In this Act, unless the context otherwise requires— Definitions

(a) “ transferred territory ” means the Kanyakumari district and the Shencottah taluk of the Tirunelveli district;

(b) “ existing law ” means any law, ordinance, proclamation, regulation, order, by-law or rule passed or made before the commencement of this Act, by any legislative authority or person having power to make such a law, ordinance, proclamation, regulation, order, by-law or rule.

¹ These words were 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 For Statement of Objects and Reasons, see Fort St. George Gazette Extraordinary, dated the 16th February 1959, Part IV-A, page 83.

³ This expression was 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.

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Extension of
¹[Tamil
Nadu Act] V
of 1920 to
the
transferred
territory.

3. (1) With effect on and from the date of the commencement of this Act, the ²[Tamil Nadu] District Municipalities Act, 1920 (³[Tamil Nadu] Act V of 1920) (hereinafter referred to as the principal Act), shall stand extended to the transferred territory and the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), as in force in the transferred territory immediately before the said date shall stand repealed in the transferred territory.

(2) Any reference in the principal Act to a law which is not in force in the transferred territory on the said date shall, in relation to the transferred territory, be construed as a reference to the corresponding law if any, in force in the transferred territory on the said date.

(3) Any reference to the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), in any existing law which continues to be in force in the transferred territory after the said date shall, in relation to that territory, be construed as a reference to the principal Act.

(4) Any reference by whatever form of words in any existing law to any authority competent at the date of the passing of that law to exercise any powers or discharge any functions in the transferred territory shall, where a corresponding new authority has been constituted by or under the principal Act have effect as if it were a reference to that new authority.

(5) The repeal by sub-section (1) of the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), shall not affect—

(a) the previous operation of that Act or anything done or duly suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under that Act ; or

¹This expression was substituted for the expression "Madras Act" by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1970.

² These words were 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.

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against that Act ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the principal Act had not been passed.

(6) Subject to the provisions of sub-section (5), anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form, by-law or scheme framed, certificate, permit or licence granted or registration effected, under the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), shall be deemed to have been done or taken under the corresponding provisions of the principal Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under the principal Act.

(7) For the purpose of facilitating the application of the principal Act in the transferred territory, any court or other authority may construe the principal Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.

4. (1) Notwithstanding the repeal of the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), by section 3, the advertisement tax which immediately before the commencement of this Act was being lawfully levied, assessed and collected by any municipality in the transferred territory for the purposes of the municipality may continue to be levied, assessed and collected by the municipality concerned in the transferred territory, in accordance with the same principles which governed the levy, assessment and collection of the said tax immediately prior to the commencement of this Act in the said territory, being the principles embodied in sections 116 to 121 of the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), and the by-laws for the prohibition and regulation of advertisements in public streets and parks made by the municipal council concerned under clause (31) of section 326 of the said Act before the commencement of this Act.

Levy of advertisement tax in the transferred territory.

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(2) For the removal of doubts, it is hereby declared that the provisions of rules 29 to 36-A of Schedule IV to the principal Act, shall, so far as may be, apply to the collection of the advertisement tax referred to in sub-section (1).

Act to be read subject to the schedule in regard to the first constitution of municipal councils, etc.

5. (1) In regard to the first re-constitution of municipal councils in the transferred territory in accordance with the provisions of the principal Act and otherwise in first giving effect to the said provisions, they shall be read subject to the rules in the schedule.

(2) The State Government shall have power, by notification, to amend, add to or repeal the rules in the said schedule.

Repeal of Madras Act XXXI of 1958.

6. The Madras (Transferred Territory) Extension of Term of Office of Municipal Councillors Act, 1958 (Madras Act XXXI of 1958), is hereby repealed.

Power to remove difficulties.

7. (1) If any difficulty arises in first giving effect to the provisions of this Act or as to the first re-constitution of any municipality after the commencement of this Act, the State Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as possible after they are made, be placed on the table of both Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislature may make either in the same session or in the next session.

Application of the General Clauses Act.

8. Unless the context otherwise requires, the ¹[Tamil Nadu] General Clauses Act, 1891 (¹[Tamil Nadu] Act 1 of 1891), shall apply for the interpretation of the principal Act as extended to, and in force in, the transferred territory.

¹ These words were 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.

THE SCHEDULE.

(See section 5.)

1. In these rules—

(i) “the said date” means the date specified in the notification issued under section 1, sub-section (2), as the date on which this Act shall come into force ;

(ii) “the old Act” means the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116).

2. Every local area which immediately before the said date, was constituted as a municipality under the old Act shall be deemed to have been constituted as a municipality under the principal Act.

3. With effect on and from the said date, the following municipalities shall be deemed to have been included in Schedule IX to the principal Act, namely :—

- | | |
|----------------------|-----------------|
| (1) Padmanabhapuram. | (4) Nagercoil. |
| (2) Colachel. | (5) Shencottah. |
| (3) Kuzhithurai. | |

4. The total number of councillors of a municipal council fixed under the old Act and in force on the said date shall be deemed to be the total number of its elected members under the principal Act.

5. The members of a municipal council holding office on the said date in the transferred territory shall be deemed to be the elected members of the municipal council under the principal Act and such members shall continue to hold office up to such date as the State Government may, by notification fix in this behalf or in case no such date is fixed, up to the date on which their term of office would have expired under this Act if they had been elected members of the municipal council aforesaid.

6. The reservation of seats for the members of the Scheduled Castes and Scheduled Tribes made under the old Act and in force on the said date shall be deemed to have been made under the principal Act.

7. (1) Any division of a municipality into wards made under the old Act and in force on the said date shall with effect on and from the said date be deemed to be a division of the municipality into wards made under the principal Act.

(2) The State Government or such officer as may be authorised by them in this behalf shall, as soon as may be after the said date, determine the ward which each of the members who is deemed to be an elected member under rule 5 shall be deemed to represent.

8. The chairman and vice-chairman of a municipal council in the transferred territory holding office on the said date shall, subject to the provisions of the principal Act, continue to hold office as such chairman or vice-chairman up to the date referred to in rule 5.

9. (1) Any vacancy in the office of the chairman or vice-chairman of a municipality which is in existence on the said date or which occurs before the date referred to in rule 5 shall be filled by election under the provisions of the principal Act.

(2) Any such vacancy in the office of an elected member of a municipal council shall be filled by election under the provisions of this Act.

(3) Any person elected as chairman, vice-chairman or member of a municipal council under sub-rule (1) or (2) shall hold office only up to the date referred to in rule 5.

Explanation.—For the purposes of this rule, the office of chairman, vice-chairman or member of a municipal council to which no person had, at any time, prior to the said date, been elected shall be deemed to be vacant on the said date.

10. Any municipal council dissolved or superseded under the old Act and awaiting reconstitution on the said date shall be reconstituted in accordance with the provisions of the principal Act.

11. All property and all rights of whatever kind vested, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held in trust by or for a municipal council constituted under the old Act as well as all liabilities legally subsisting against such municipal council shall, subject to such directions as the State Government may by general or special order give in this behalf, pass to the municipal council deemed under this Act to be constituted under the principal Act.

Explanation.—All arrears of taxes, fees or other sums due to a municipal council may be recovered by the municipal council.

12. (1) Every person in the employment of a municipal council immediately before the said date shall continue to hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the said date if this Act had not been passed, and shall continue to do so until he ceases to be in the employment of the municipal council.

(2) The State Government may issue such general or special directions as they think necessary for the purpose of regulating appointments under these rules and otherwise giving due effect to the provisions thereof and no appointment to any post under the municipal council made in contravention of any such direction shall be deemed to have been validly made.

(3) If any question arises as to whether any person was in the employment of a municipal council immediately before the said date, the decision of the State Government on the question shall be final.

13. Any tax levied by a municipality in the transferred territory before the said date shall, with effect on and from the said date, be deemed to have been levied by the municipality concerned under the principal Act.

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14. Where, before the said date, a municipal council in the transferred territory has made any contract in exercise of its powers under the old Act that contract shall be deemed to have been made in the exercise of its powers under the principal Act by the municipal council.

For the purpose of this rule, there shall be deemed to be included in the liabilities which have accrued, or may accrue under any contract—

(a) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract, and

(b) any liability in respect of the expenses incurred or in connection with such proceedings.

15. All proceedings taken by or against any municipal council or other authority under the old Act may, in so far as they are not inconsistent with the principal Act, be continued by or against such municipal council or authority under the principal Act.

16. Any remedy by way of application, suit or appeal available to or against a municipal council immediately before the said date shall, after the said date be available to or against the municipal council concerned.

17. Any action taken by a municipal council immediately before the said date shall, subject to such directions as the State Government may, by general or special order, give in this behalf, be deemed to have been taken by the municipal council concerned unless and until superseded by action taken by that municipal council.

18. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in the foregoing provisions of this schedule, it shall be dealt with in accordance with that provision. The benefit or burden of any assets or liabilities of a municipal council not dealt with in the foregoing provisions of this schedule shall be subject to such financial adjustments as the State Government may, by order, direct.