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NOTIFICATION

No H. 12018/120/2003-LJD, the 11th December, 2019. The following Act is hereby published for general information.

“The Mizoram Municipalities (Amendment) Act, 2019”
(Act No. 23 of 2019)

(Received the assent of the Governor of Mizoram on 27.11.2019)

Zahmingthanga Ralte,
Joint Secretary,
Law & Judicial Department.

THE MIZORAM MUNICIPALITIES (AMENDMENT) ACT, 2019 An Act to further amend the Mizoram Municipalities Act, 2007

It is enacted by the Mizoram Legislative Assembly in the Seventieth Year of the Republic of India as follows:-

1. Short title, extent and commencement
 - 1) This Act may be called “The Mizoram Municipalities (Amendment) Act, 2019”
 - 2) It shall have the like extent as the Principal Act.
 - 3) It shall come into force from the date of publication in the Official Gazette.
2. Amendment of section 2
 - In section 2 of the Mizoram Municipalities Act, 2007 (Act No. 6 of 2007) (hereinafter referred to as the Principal Act),
 - 1) In Sub-section 23-A, between the words “appropriate” and “Government”, the words “authority of the State” shall be inserted.
 - 2) Sub-section (25) shall be re-inserted as:
“(25) “Executive Council” means the Executive Council of a Municipality. In a Municipal Corporation, the Executive Council shall mean the Mayor-in-Council of a municipality under clause (b) of Section 11.”
 - 3) Sub-section 26 shall be substituted by the following, namely:-
“(26a) “Executive Councillor” means the Members of the Executive

Council of a Municipality, other than the Chairman and the Vice Chairman”
“(26b) “Executive Officer” means an Officer of a Municipality and includes-A Municipal Commissioner or Chief Executive Officer or any other Officers designated as such by a Municipality from time to time”.

3. **Amendment of section 11** Section 11 of the Principal Act shall be substituted by the following, namely:
Section – 11 : Municipal authorities:
“The Municipal authorities charged with the responsibility of carrying out the provisions of this Act for each municipal area shall be-
- (a) *The Board of Councillors*
 - (b) *The Executive Council*
 - (c) *The Chairman/Vice Chairman (Mayor/ Dy. Mayor as in Corporation)*
 - (d) *Chief Executive Officer (Municipal Commissioner as in Corporation)*
4. **Re-insertion of section 14** Section 14 shall be re-inserted as follows, namely:-
“Section – 14
Executive Council :
- (1) There shall be an Executive Council consisting of the Chairman, the Vice Chairman and other members not exceeding, in the case of a Municipal Board, two, in the case of a Municipal Council, three, and in the case of a Municipal Corporation, four.
 - (2) The other members referred to in sub-section (1) shall be nominated by the Chairman from amongst the Councillors of the Municipality as soon as possible after he enters into office, and shall assume office after taking oath of secrecy under section 50.
 - (3) All executive powers of the Municipality shall vest in the Executive Council.
 - (4) The manner of transaction of business of the Executive Council shall be such as may be prescribed.
 - (5) The Executive Council shall be collectively responsible to the Municipality.”
5. **Amendment of Section 15** (1) Section 15 -A shall be substituted by the following,namely :-
“Section –15-A
Powers of the Chairman in emergency -
If an emergency has arisen requiring immediate execution of any work for the doing of any act, which ordinarily requires the approval, sanction, consent or concurrence of the Board of Councillors or the Executive Council, is necessary for the maintenance of services or safety of the public or for the prevention of extensive damage to any property of the Municipality, The Mayor may direct the execution of such work or the doing of such act without such approval, sanction, consent or concurrence and, in such case, he may direct that the expenses for such execution or doing shall be paid from the Municipal Fund.
- Provided that the Chairman shall report immediately to the Board of Councillors and/or to the Executive Council, as the case may be, the action taken under this section and the reasons thereof for discussions in the first meeting of the Board of Councillors and/or the Executive Council after occurrence of such event .”
6. **Re-Insertion of section 19** Section 19 shall be re-inserted as follows, namely :-
“Section - 19

Members of the Executive Council:

The members of the Executive Council shall exercise such powers and perform such functions as the Chairman may assign to them from time to time.”

7. Re-insertion
of section 20

Section 20 shall be re-inserted as follows, namely :-

“Section - 20

Delegation of powers and functions :

- (1) The Board of Councillors may, by resolution delegate subject to such conditions as may be specified in the resolution, any of its powers or functions to the Executive Council or the Chairman.
- (2) The Executive Council may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Chairman or a member of the Executive Council.
- (3) Subject to such resolution as may be made by the Executive Council in this behalf, the Chairman may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Vice-Chairman or to the member of the Executive Council or to the holder of any of the posts of officers referred to in sub-section (1) of section 61
- (4) Notwithstanding anything contained in this section, the Executive Council, the Chairman, the Vice Chairman, the member of the Executive Council or a holder of the post of officers referred to in sub-section (1) of section 61 shall not delegate –
 - (a) any of its or his powers or functions delegated to it or him under this section, or.
 - (b) such of its or his powers as may be prescribed.”

8. Re-insertion
of section 21

Section 21 shall be re-inserted as follows, namely :-

“Section - 21

Term of Office of Members of Executive Council :

A member of the Executive Council shall hold office until—

- (a) he ceases to be Councillor, or
- (b) he resigns his office by writing under his hand addressed to the Chairman in which case the resignation shall take effect from the date of his acceptance, or
- (c) he is removed from office by a written order of the Chairman, or
- (d) the Chairman ceases to hold office, or
- (e) in the case of the death of the Chairman, a newly elected Chairman enters upon his office.”

9. Insertion of
section 26-A

After section 26 of the Principal Act the following section shall be inserted, namely :-

“Section - 26-A

Casual Vacancies in the Municipality

- (i) When the seat of a councillor elected to the Municipality becomes vacant or, is declared vacant or, his election to the municipality is declared void, the State Election Commission shall, by a notification in the Official Gazette call upon the municipal ward concerned to elect a person for the purpose of filling the vacancy, on such date as may be specified in the notification, and the provision of this Act and Rules and Orders, made there under shall apply in relation to the election of a councillor to fill such vacancy.

- (ii) A bye-election for filling any casual vacancy referred to in sub-section (i) shall be held within a period of six months from the date of occurrence of the vacancy.

Provided that, a bye-election shall not be held if the remainder of the term of a councillor is less than one year or if the State Election Commission, in consultation with the State Government, certifies that it is difficult to hold the bye-election within the said period.

Provided further that by not holding the election of casual vacancies, there is no change in the formation of a new Executive Council.”

10. Amendment of section 55

Section 55 of the Principal Act, shall be substituted by the following namely:-
Remuneration and allowances:

The Councillors of the municipal area including the members of the Executive Council may receive such remuneration or allowance as may be prescribed by the State Government.

Provided that different rates may be prescribed for different groups of municipalities and for different classes of functionaries in each municipality.

11. Amendment of section 58-C

In Section 58(C) of the Principal Act,

- (1) The heading “Discretionary functions of the Municipality” shall be inserted.
- (2) After the words “solid waste management” the words “street lighting” shall be inserted.

12. Amendment of section 68

Section 68 of the Principal Act shall be substituted as follows, namely: -
Section - 68

“Appointment of officers of State Government for Municipalities:
Notwithstanding anything contained elsewhere in this Act, the State Government may place/appoint officers on deputation/ posting with such designation as the State Government may consider necessary, in such manner, and on such terms and conditions of service, as may be determined by the State Government in this behalf.

Provided that the officer so appointed shall be under the administrative control of the Municipality and may be withdrawn by the State Government suo motu or if a resolution to that effect is passed by the Board of Councillors at a meeting called for this purpose by a majority of the total number of members holding office for the time being and, in the case of a group of Municipalities, if such resolution is so passed by the Councillors of the majority of such group of Municipalities.

13. Insertion of section 69

A new section shall be inserted in the Principle Act as follows, namely:-
“Section - 69

Powers and Functions of the Chief Executive Officer:

Save as otherwise provided in this Act, and subject to supervision and control of the Board of Councillors and the Executive Council, the executive power for the purpose of carrying out the provisions of this Act, shall vest in the Chief Executive Officer. The Chief Executive Officer may -

- 1) exercise all the powers and perform all the duties specifically conferred or imposed upon him by this Act or by any other law for the time being in force;
 - 2) prescribe the duties of and exercise supervision and control over the acts and proceedings of all officers and staff of a Municipality, and subject to any rules that may be made in this behalf, dispose of all questions relating to the service of the said officers and other employees and their pay, privileges, allowances and other conditions of service;
 - 3) the Chief Executive Officer shall bring to the notice of the municipality any act or resolution of the municipality which may be in violation of any Government instructions or the provisions of this Act, provided that if such act or omission of the directions of the Government or the provisions of the Act, as the case may be, is not rectified within 45 days of the communication, it shall be the duty of the Chief Executive Officer to bring such omission or violation to the notice of the State Government.”
14. Amendment of section 70 In Sub-section (1) of Section 70 of the Principal Act, after the words “The Chief Executive Officer” the words “in consultation with the Chairman” shall be inserted.
15. Amendment of section 73 In Section 73 of the Principal Act, after the words “into any bank” the words “account designated by Finance Department” shall be inserted.
16. Amendment of section 87 In section 87 of the Principal Act, in sub-section (1), for the words “Chief Executive Officer” the word “Municipality” shall be substituted.
17. Amendment of section 123 In section 123 of the Principal Act,-
In sub-section (4) and the proviso to section 123, for the words “Chief Executive Officer” the word “Municipality” shall be substituted.
18. Amendment of section 129 In section 129 of the Principal Act, for the words “Chief Executive Officer” the word “Municipality” shall be substituted.
19. Amendment of section 130 Section 130 of the Principal Act shall be substituted as follows:-
“Section - 130
Prohibition against commencement of work without permission :
The construction or reconstruction of a building shall not be started unless and until permission is granted for the execution of the work.”
20. Amendment of section 131 In section 131 of the Principal Act, for the words “Chief Executive Officer” the word “Municipality” shall be substituted.
21. Amendment of section 132 In section 132 of the Principal Act, in the heading and in sub-section (1), for the words “Chief Executive Officer” the word “Municipality” shall be substituted.
22. Amendment of section 133 In section 133 of the Principal Act,-
In sub-section (2), for the words “Chief Executive Officer” the word “Municipality” shall be substituted.

23. **Amendment of section 135** In section 135 of the Principal Act,-
In sub-section (2), for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
24. **Amendment of section 143** In section 143 of the Principal Act, in sub-section (1) and sub-section (2), for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
25. **Amendment of section 144** In section 144 of the Principal Act, for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
26. **Amendment of section 183** In section 183 of the Principal Act, for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
27. **Amendment of section 184** In section 184 of the Principal Act, for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
28. **Amendment of section 193** In Section 193 of the Principal Act,-
In sub-section (2) for the word "Chief Executive Officer" the word "Municipality" shall be substituted.
29. **Amendment of section 208** In section 208 of the Principal Act, for the word "Chief Executive Officer" the word "Municipality" shall be substituted.
30. **Amendment of section 234** In section 234 of the Principal Act, in sub-section (3) for the word "Chief Executive Officer" the word "Municipality" shall be substituted.
31. **Amendment of section 238** In section 238 of the Principal Act, for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
32. **Amendment of section 239** In section 239 of the Principal Act, for the words "Chief Executive Officer" the word "Municipality" shall be substituted.
33. **Amendment of section 363** In section 363 of the Principal Act, for all the words "Chief Executive Officer" the word "Municipality" shall be substituted.
34. **Amendment of section 372** In section 372 of the Principal Act, after the first sentence, the following shall be added, namely,-

"The Government shall respond within a period of 90 days, failing which it will be deemed approved."