

CHAPTER 252

MUNICIPAL COUNCILS (AMENDMENT)

AN ACT TO AMEND THE MUNICIPAL COUNCILS ORDINANCE.

Acts
Nos. 15 of 1957.
39 of 1958.
12 of 1959.
9 of 1961.
39 of 1961.

[Act No. 15 of 1957—28th March, 1957.]

[Act No. 39 of 1958—3rd November, 1958.]

[Act No. 12 of 1959—15th May, 1959.]

[Act No. 9 of 1961—6th March, 1961.]

[Act No. 39 of 1961—17th June, 1961.]

Short title.

1. This Act may be cited as the Municipal Councils (Amendment) Act.

Amendment
of section 10
of
Chapter 252.
[§ 2, 39 of 1961.]

2. Section 10 of the Municipal Councils Ordinance, hereinafter referred to as the "principal enactment", is hereby amended in subsection (1) of that section by the substitution, for the words "third year thereafter", of the words "third year thereafter (inclusive of the year in which such term of office commenced)".

Insertion of
new section
42A in the
principal
enactment.
[§ 2, 15 of 1957.]

3. The following new section is hereby inserted immediately after section 42, and shall have effect as section 42A, of the principal enactment:—

'Demolition
of unautho-
rized build-
ings.

42A. (1) The Mayor of a Municipal Council may cause a written notice to be served on the occupier of any unauthorized building directing such occupier to demolish that building.

(2) Where a notice served under subsection (1) on the occupier of an unauthorized building is not complied with within fourteen days reckoned from the date of such service, the Mayor may cause that building to be demolished; and any person or persons acting under the authority of the Mayor may enter the land on which such building is situated and do all such acts as may be necessary for the purpose of such demolition.

(3) The provisions of section 68 shall *mutatis mutandis* apply in the case of any building demolished under subsection (2) in like manner and to the same extent as they apply in the case of any building pulled down under section 67.

(4) No action or other proceeding shall lie against any person for any act done in the exercise of the powers conferred by subsection (2), and no person shall be entitled to any compensation for any damage or loss caused by such act.

(5) In this section, the expression "unauthorized building" means any building situated within the administrative limits of a Municipal Council and erected on any land belonging to or vested in the Crown or that Council without prior permission given by or on behalf of the Crown, or that Council, as the case may be. '.

Amendment
of section
184 of the
principal
enactment.

[§ 3, 15 of 1957.]
[§ 2, 39 of 1958.]

4. Section 184 of the principal enactment is hereby amended as follows :—

(a) in subsection (1) of that section—

(i) by the substitution, for all the words from "grant out of the Municipal Fund" to "of that service", of the following :—

"grant out of the Municipal Fund—

(a) to any person who retires or has retired from service as an officer or a servant of that Council, and

(b) to any person who, not being a citizen of Ceylon, ceases or has ceased to be an officer or a servant of that Council by reason of his inability to continue to remain in Ceylon

owing to the expiry of the period for which he has been authorized under the Immigrants and Emigrants Act to remain in Ceylon,

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a pension, gratuity, or retiring allowance in respect of any period of that service, and of service in any business or undertaking taken over by the Council prior to his becoming an officer or servant of the Council," , and

- (ii) by the insertion, at the end of that subsection, of the following :—

[§ 3, 15 of 1957.]

" Any such officer or servant to whom a pension is granted under the preceding provisions of this subsection may, at his option which shall be exercised within such pension, together with a gratuity Council, be paid, in lieu of such pension, a pension at the rate of three-fourths of such pension, together with a gratuity equal to ten times the annual value of the reduction so made in such pension." ;

- (b) by the insertion, immediately after subsection (1) of that section, of the following new subsection :—

[§ 3, 15 of 1957.]

" (1A) Where no pension, annuity or gratuity or no adequate pension, annuity or gratuity is payable to the widow, children, next of kin or dependants of any deceased officer or servant of the Council under any by-laws or rules of that Council or under any scheme or fund established under the Local Government Service Ordinance, the Council may, with the approval of the Minister given after consultation with the Minister of Finance, grant out of the Municipal Fund to such widow, children, next of kin or dependants a pension, annuity or gratuity." ;

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[§ 3, 15 of 1957.]

(c) in subsection (2) of that section—

(i) by the substitution, for the expression “subsection (1)”, of the expression “subsection (1) or subsection (1A)”, and

(ii) by the substitution, for the words “pension, gratuity, or retiring allowance under that subsection.”, of the words “pension, annuity, gratuity or retiring allowance under either of those subsections.”; and

[§ 3, 15 of 1957.]

(d) in the marginal note to that section, by the substitution, for the words “pension, gratuity,”, of the words “pension, annuity, gratuity,”.

Insertion of new section 184A in the principal enactment.

[§ 4, 15 of 1957.]

5. The following new section is hereby inserted in Part VIII of the principal enactment immediately after section 184, and shall have effect as section 184A, of that enactment :—

“Power to establish gratuity scheme.

184A. (1) A Municipal Council may, with the approval of the Minister given with the concurrence of the Minister of Finance, make rules providing for the establishment of, and may establish in accordance with such rules, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

(2) Rules under subsection (1) may be so made by a Municipal Council as to be applicable to temporary officers and servants of that Council who have been discontinued from the service of that Council before the coming into operation of the rules.”.

6. Section 188 of the principal enactment is hereby amended in subsection (1) of that section by the insertion, immediately after paragraph (e) of that subsection, of the following new paragraph :—

Amendment of section 188 of the principal enactment.
[§ 5, 15 of 1957.]

“ (ee) all sums voted by the Council to defray the cost of refreshments served to Councillors, officers and servants of the Council attending any meeting of the Council or any committee of the Council ;”.

7. Section 226 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution, for the words “sanctioned by the Minister.”, of the words “sanctioned by the Minister by virtue of power conferred on him in that behalf by any provision of this Ordinance.”.

Amendment of section 226 of the principal enactment.
[§ 6, 15 of 1957.]

8. The following new section is hereby inserted immediately after section 263, and shall have effect as section 263A, of the principal enactment :—

Insertion of new section 263A in the principal enactment.
[§ 7, 15 of 1957.]

“Sale of property vested in the Council to the person who would be entitled to such property but for the title thereto vesting in the Council.

263A. A Municipal Council shall sell and convey any immovable property vested in the Council under section 263 to the person who would be entitled to such property but for the title thereto vesting in the Council, if—

- (a) within twelve months reckoned from the date on which such property vested in the Council, such person makes a written application in that behalf to the Council, and
- (b) within such period reckoned from the date of the receipt of the application as may be determined by the Council and notified to such person, he pays to the Council a sum equivalent to the price paid by the Council for the purchase of such property and the amounts and costs which, if such property were

sold and conveyed by the Council under section 264, would be deducted under subsection (2) of that section from the surplus referred to in that subsection.”.

Amendment of section 264 of the principal enactment. [§ 8, 15 of 1957.]

9. Section 264 of the principal enactment is hereby amended as follows:—

- (a) in subsection (1) of that section, by the substitution, for the expression “under section 263.”, of the expression “under section 263 if such land or other property has not already been sold and conveyed by the Council under section 263A.”; and
- (b) in subsection (7) of that section, by the substitution, for the expression “under the last preceding section.”, of the expression “under section 263.”.*

Insertion of new section 264A in the principal enactment. [§ 9, 15 of 1957.]

10. The following new section is hereby inserted immediately after section 264, and shall have effect as section 264A, of the principal enactment:—

‘Procedure where the Council retains property vested in the Council.

264A. Where a Municipal Council decides to retain any immovable property vested in it under section 263, the value of such property at the time such property became vested in the Council shall be assessed by the Council, and thereupon the provisions of subsections (2) to (7), both inclusive, of section 264 shall apply in the case of such property subject to the following modifications:—

- (a) subsection (2) of that section shall have effect as if there were substituted in that subsection, for all the words from “Any surplus” to “shall,”, the following:—

“Where the value of any land or other immovable pro-

* Change already effected in the Revised Edition of the Legislative Enactments, 1956.

perty assessed by the Council under section 264A exceeds the price paid by the Council for the land or other immovable property under section 262, the excess (hereafter in this section referred to as the surplus) shall," ;

(b) subsection (3) of that section shall have effect as if there were substituted in that subsection, for the words "sale and conveyance:", the words "assessment of the value of the land or other immovable property by the Municipal Council:" ;

(c) subsection (5) of that section shall have effect as if—

(i) there were inserted, immediately after paragraph (b) of that subsection, the following new paragraph:—

" (bb) the amount paid by the Council under section 262 in respect of the land or property," ;
and

(ii) there were substituted, in paragraph (c) of that subsection, for all the words from "improvement, and" to the end of that paragraph, the words "improvement, assessment of the value, and conveyance of the land or property." ;
and

(d) subsection (7) of that section shall have effect as if there were substituted, for the words "sold and conveyed," the words "retained by the Council,".

Amendment
of section 272
of the
principal
enactment.
[§ 10, 15 of 1957.]

11. Section 272 of the principal enactment is hereby amended, in paragraph (8) of that section, as follows:—

(1) by the substitution, for the words "Markets, bakeries," of the words "Markets, fairs, bakeries,";

(2) in sub-paragraph (b) of that paragraph, by the substitution—

(a) for the words "markets, private", of the words "markets and fairs, private"; and

(b) for the words "such markets, and", of the words "such markets, and fairs, and"; and

(3) by the insertion, immediately after sub-paragraph (g) of that paragraph, of the following new sub-paragraph:—

"(gg) the fixing of the price (both wholesale and retail) above which any article of food shall not be sold in any market or fair, whether public or private;".

Amendment
of section 277
of the
principal
enactment.
[§ 2, 12 of 1959.]

12. Section 277 of the principal enactment is hereby amended as follows:—

(a) by the insertion, immediately after subsection (3) of that section, of the following subsection:—

"(3A) After the revocation of the appointment, or after the resignation or death, of the Special Commissioner or Special Commissioners appointed under subsection (2) upon the dissolution of a Municipal Council under subsection (1), the Minister shall make an Order under paragraph (b) of subsection (2) directing that a new Municipal Council

in accordance with the provisions of this Ordinance shall be constituted for the Municipality in place of the dissolved Council.”; and

- (b) in subsection (4) of that section, by the substitution, for all the words from “between” to “on the other hand,”, of the following:—

“between the dissolution of the Council and the appointment of a Special Commissioner or Special Commissioners or the constitution of a new Council, or between the cessation of the holding of office by the Special Commissioner or Special Commissioners who was or were appointed and the constitution of a new Council,”.

13. Where such rules relating to pensions, gratuities, annuities or retiring allowances as are referred to in section 58 (1) and 58 (2) of the Local Government Service Ordinance, subsection (4) of section 3* of the Local Government Service (Amendment) Ordinance, No. 37 of 1947, are deemed, by virtue of that subsection, to be applicable to any officer or servant of a Municipal Council, then, if he has, before the principal enactment came into operation, been in the service of that Council as the holder of a post or office that is pensionable under those rules, any period of service rendered by him to that Council as the holder of a non-pensionable office or post whether daily paid or monthly paid prior to his appointment to the pensionable post or office shall, whether or not it is continuous with his service in the pensionable post or office, be taken into account in the computation of the qualifying service for, and the amount of, the pension, gratuity, annuity or retiring allowance to be awarded under those rules.

Service in non-pensionable posts or offices to count for pension in cases of certain officers and servants of Municipal Councils.

[§ 11, 15 of 1957.]

14. The Second Schedule to the principal enactment is hereby amended as follows:—

- (a) by the renumbering of paragraph 3 of that Schedule as sub-paragraph (1) of paragraph 3;

Amendment of the Second Schedule of the principal enactment.

[§ 2, 9 of 1961.]

* Omitted from the Revised Edition of the Legislative Enactments, 1956, under section 6 (1) of the Revised Edition of the Legislative Enactment Act.

(b) in sub-paragraph (1) of paragraph 3, by the substitution, for item (b) of that sub-paragraph, of the following item:—

“ (b) being proctors on the declaration made under section 4 of the said Ordinance ; ” ;
and

(c) by the addition, immediately after sub-paragraph (1) of paragraph 3, of the following new sub-paragraph:—

“ (2) Such portion of the stamp duty paid on the annual certificate issued under section 3 of the Legal Practitioners Ordinance to an inhabitant of the Municipality, being a proctor, as is equivalent to the stamp duty which was payable on such certificate on September 15, 1960. ”.

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