

L. A. BILL No. VIII OF 2021.

A BILL

*further to amend the Maharashtra (Urban Areas) Protection and
Preservation of Trees Act, 1975.*

5 **(As Passed by the Legislative Assembly on the 5th July, 2021)**

Mah.
XLIV of
1975.

Whereas it is expedient to amend the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, for the purposes hereinafter appearing ; it is hereby enacted in the Seventy-second Year of the Republic of the India as follows :—

- Short title. **1.** This Act may be called the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021.
- Amendment of section 2 of Mah. XLIV of 1975. **2.** In section 2 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as “the principal Act”),—
- Mah. XLIV of 1975. 5
- (1) clause (1a) shall be re-numbered as clause (1aa);
- (2) before clause (1aa) as so re-numbered, the following clause shall be inserted, namely:—
- “(1a) “heritage tree” means a tree categorised as such by the Tree Authority, in accordance with the norms as may be notified by the Government;”.
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- Amendment of section 3 of Mah. XLIV of 1975. **3.** In section 3 of the principal Act,—
- (1) before sub-section (1), the following sub-section shall be inserted, namely :—
- “(A-1) As soon as may be, after the commencement of the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2021, the State Government shall constitute the Maharashtra State Tree Authority, by notification in the *Official Gazette*, consisting of officials not below the rank of Secretary to Government.”;
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- (2) in sub-section (2), in the table, in entry 2, in column (2), for the words “The President of the Council” the words “The Chief Officer of the Council” shall be substituted ;
- (3) in sub-section (3), for the words “representatives of non-official organisations, who have special knowledge or practical experience in the field of planting and preservation of trees,” the words “experts from non-official organisations including retired Government Officials, with an experience in planting, preservation and conservation of trees, for minimum period as may be notified by the Government, from time to time,” shall be substituted.
- Mah. of 2021. 20
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- Insertion of new section 6A in Mah. XLIV of 1975. **4.** In Chapter IV of the principal Act, before section 7, the following section shall be inserted, namely :—
- “6A.** Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Maharashtra State Tree Authority shall be responsible for,—
- (i) monitoring the functioning of the Tree Authority ;
- (ii) protection and conservation of heritage trees across the State ;
- (iii) decide applications referred to it by the Tree Authority, regarding felling of more than two hundred trees of age five years or more ;
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- 40
- Duties of Maharashtra State Tree Authority.

(iv) decide applications referred to it by the Tree Authority, regarding felling of heritage trees ;

(v) any other functions related to protection and conservation of trees.”.

5 **5.** In section 7 of the principal Act,—

Amendment
of section 7 of
Mah. XLIV of
1975.

(1) in clause (b), after the words “every five years” the words “by using new technological means such as GIS based tree census or any other modern technology” shall be added ;

10 (2) for clause (i), the following clauses shall be substituted, namely :—

“ (i) planting number of trees of the same variety or any other local or native variety, in such number equal to the age of the tree being transplanted and carry out such transplantation under the expert guidance only ;

15 (j) ensuring that compensatory plantation is carried out and survival of trees, including the compensatory plantation, in all lands within the jurisdiction of the urban local authority ;

(k) ensuring utilisation of tree cess for conservation and preservation of trees ;

20 (l) carrying out any other activity as assigned by the Maharashtra State Tree Authority, from time to time ;

(m) deciding which tree is to be categorised as heritage tree, and enumerate heritage trees;

25 (n) ensuring that the land owned by the urban local authority or land owned by the Government is earmarked for the purpose of plantations and ensure such plantations shall be scientific in nature and should be carried out with an objective to preserve local species and improve green cover of the area, to the extent of not less than 33 per cent. ;

30 (o) ensuring pruning and maintenance of trees is carried out in a scientific manner under expert guidance, every year ;

(p) ensuring that the compensatory plantation for each of the naturally fallen tree is carried out by the urban local authority ;

35 (q) undertaking any other schemes or measures for achieving the objects of this Act.”.

Amendment
of section 8 of
Mah. XLIV of
1975.

6. In section 8 of the principal Act,—

(1) in sub-section (2), the following proviso shall be added, namely :—

“ Provided that, where the significant number of trees are proposed to be felled, the alternate design alongwith the number 5 of trees required to be felled for respective design shall be submitted alongwith the application.”;

(2) in sub-section (3),—

(a) in clause (a),—

(i) in sub-clause (iii), the word “and” shall be deleted ; 10

(ii) after sub-clause (iv), the following sub-clauses shall be added, namely :—

“ (v) specifically mention in the advertisement, if the tree to be felled is a heritage tree ; and

(vi) determine the age of the tree being felled as per 15 the criteria and method as may be notified by the Government.”;

(b) after clause (a-1), the following provisos shall be added, namely :—

“ Provided that, where more than two hundred trees of 20 age five years or more are proposed to be felled, in such cases, the Tree Authority shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided further that, where the tree proposed to be felled is a heritage tree, in such cases, the Tree Authority or 25 Tree Officer, as the case may be, shall refer the matter to the Maharashtra State Tree Authority with its report and recommendations:

Provided also that, the Tree Authority or Tree Officer, as the case may be, shall ensure that the development of land or 30 any other project is not sub-divided in smaller parts so as to keep the number of trees to be felled below two hundred.”;

(3) in sub-section (4), the following proviso shall be added, namely :—

“Provided that, the provisions of this sub-section shall not be 35 applicable in case of felling of a heritage tree.”;

(4) in sub-section (5),—

(a) sub-section (5) shall be re-numbered as clause (a);

(b) in clause (a), as so re-numbered, for the words “the applicant shall plant twice the number of trees to be felled” the 40 words “applicant shall plant such number of trees equal to the estimated age of the tree being felled and such trees to be planted shall be of atleast six feet height,” shall be substituted;

(c) after clause (a), as so re-numbered, the following clause shall be added, namely :— 45

“(b) Tree Officer shall determine the age of the tree being felled as per the criteria and method as may be notified by the Government.”;

(5) after sub-section (5), the following sub-sections shall be inserted, namely :—

5 “(5A) The applicant and the Tree Authority or Tree Officer shall ensure that, compensatory plantation shall be carried out and the trees planted shall survive for a minimum period of seven years. It shall also be ensured that, the tree mortality during this period shall be compensated by planting equal number of new trees:

10 Provided that, in case it is not possible for applicant to do the compensatory plantation, the applicant shall deposit an amount not less than valuation of trees being felled. Such valuation shall be based on methodology as may be notified by the Government:

15 Provided further that, such amount deposited shall be utilized only for the purpose of compensatory plantation, its preservation and compensatory plantation in lieu of the tree mortality during this period.

(5B) (a) The Tree Authority shall refer the application received for felling of more than two hundred trees of age five years or more to the Maharashtra State Tree Authority.

20 (b) The Tree Authority or Tree Officer, as the case may be, shall refer the application to fell a heritage tree to the Maharashtra State Tree Authority.

25 (c) The Maharashtra State Tree Authority shall either allow the application referred to it under clauses (a) and (b), by the Tree Authority or Tree Officer, as the case may be, with or without conditions or may refuse it within a period of forty-five days from the date of receipt of the reference from the Tree Authority or Tree Officer, as the case may be.

30 (d) Where the Maharashtra State Tree Authority allows felling of trees, the Tree Authority if considers it necessary to review the decision of the Maharashtra State Tree Authority, it may within a period of fifteen days from the date of communication of the decision, request the Maharashtra State Tree Authority to reconsider the decision with reasons therefor. Such request shall be decided by the Maharashtra State Tree Authority within ten days thereafter.

35 (5C) New trees planted, *in lieu of* the permission to fell a tree granted under sub-section (5), shall be geo-tagged and monitored using latest technologies available.”.

40 **7.** In section 18 of the principal Act, after sub-section (2), the following sub-section shall be added, namely :—

“(3) Tree cess collected under the provisions of this section shall be utilised by the urban local authority in such manner as may be directed by the Government, from time to time.

Amendment
of section 18
of Mah.XLIV
of 1975.

(4) The State Government may, issue directions and determine different criteria for utilisation of cess, for different urban local authorities, considering the area of existing green cover and assessment of the need of the area for preservation and conservation of trees.”

Amendment
of section 21
of Mah.XLIV
of 1975.

8. In section 21 of the principal Act, in sub-section (1), for the words 5
“not less than one thousand rupees which may extend upto five thousand
rupees” the words “an amount of valuation of tree, using methodology as
may be notified by the Government but not more than one lakh rupees” shall
be substituted.

STATEMENT OF OBJECT AND REASONS

The Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (Mah.XLIV of 1975) has been enacted for the purpose of protection and preservation of trees in urban areas in the State, by regulating felling of trees and providing for planting of adequate number of new trees in those areas.

2. Still there is indiscriminate felling of larger number of trees in the various urban areas of the State due to continuous increase in urbanisation, industrialisation and execution of various infrastructure projects at a rapid pace in such areas. Therefore, there is urgent need to control, minimize and regulate the felling of large number of trees in the urban areas of the State.

3. Felling of trees causes considerable damage to the environment, therefore, to prevent the damage caused, to protect the environment, to ensure greater protection to heritage trees, plantation and preservation of trees and to increase green cover of the urban areas, it is proposed to amend sections 2, 3, 7, 8, 18 and 21 of the said Act, suitably and to insert new section 6A therein.

4. Salient features of the proposed Bill are as under :—

(a) to provide for conservation of “heritage tree” ;

(b) to provide the constitution of the Maharashtra State Tree Authority and duties thereof ;

(c) to provide use of new and modern technological means for carrying out census of the existing trees ;

(d) to confer additional duties on the Tree Authorities regarding planting of number of trees, ensuring survival of trees, proper utilization of Tree cess for preservation and conservation of the trees, scientific and compensatory plantation and maintenance thereof ;

(e) to provide more detailed procedure for preventing felling of trees and adequate compensatory plantations ;

(f) to provide for proper utilization of collected Tree cess ;

(g) to provide for increase in penalty for the tree felled in contravention of the provisions of the Act.

5. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 28th June, 2021.

AADITYA THACKERAY,
Minister for Environment and
Climate Change.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of a legislative power, namely:—

Clause 2.— Under this clause, which seeks to insert the definition of the term “heritage tree” in section 2 of the said Act, the power is taken to the State Government to notify the norms to categorise a tree as heritage tree by the Tree Authority.

Clause 3.— (a) Under sub-clause (1), which seeks to insert sub-section (A-1) in section 3 of the said Act, the power is taken to the State Government to constitute the Maharashtra State Tree Authority, consisting of officials not below the rank of Secretary to Government ;

(b) under sub-clause (3), which seeks to amend sub-section (3) of section 3 of the said Act, the power is taken to the State Government to notify a minimum period for which every Tree Authority may nominate experts from non-official organisations including retired Government Officials, with an experience in planting, preservation and conservation of trees.

Clause 6.— (a) Under sub-clause (2)(a)(ii), which seeks to insert sub-clause (vi) in clause (a) of sub-section (3) of section 8 of the said Act, the power is taken to the State Government to notify the criteria and method to determine the age of tree being felled;

(b) under sub-clause (4)(c), which seeks to insert clause (b) in sub-section (5) of section 8 of the said Act, the power is taken to the State Government to notify the criteria and method to determine the age of tree being felled;

(c) under sub-clause (5), which seeks to insert sub-section (5A) in section 8 of the said Act, in the first proviso, the power is taken to the State Government to notify the methodology for valuation of trees being felled.

Clause 8.— Under this clause, which seeks to amend sub-section (1) of section 21 of the said Act, the power is taken to the State Government to notify the methodology of determining the valuation of trees being felled.

2. The above mentioned proposals for delegation of legislative power are of a normal character.

**ANNEXURE TO THE L. A. BILL No. VIII OF 2021—THE
MAHARASHTRA (URBAN AREAS) PROTECTION AND
PRESERVATION OF TREES (AMENDMENT) BILL, 2021.**

*[Extracts from The Maharashtra (Urban Areas) Protection
And Preservation of Trees Act, 1975.]*

(Mah. XLIV of 1975)

1. to 2. * * * *

3. (1) * * * *

(2) In the case of an urban local authority specified in column (1) of the table below the Chairman of its Tree Authority shall be the person specified against it in column (2) thereof.

Establishment
of Tree
Authority.

Name of the urban local authority (1)	Chairman of its Tree Authority (2)
1. A Municipal Corporation	The Commissioner of the Corporation.
2. A Municipal Council	The President of the Council.
3. A Special Planning Authority constituted under section 40(1)(a) of the Maharashtra Regional and Town Planning Act, 1966.	The Chief Executive Officer of the Special Planning Authority.
4. A New Town Development Authority constituted under section 113(2) of the Maharashtra Regional and Town Planning Act, 1966.	The Chief Executive Officer of the New Town Development Authority.
5. A New Town Development Authority declared under section 113(3A) of the Maharashtra Regional and Town Planning Act, 1966 or a Special Planning Authority appointed under section 40(1)(b) of that Act.	The Managing Director of the Corporation or company declared to be the New Town Development Authority.

(3) Every Tree Authority may nominate representatives of non-official organisations, who have special knowledge or practical experience in the field of planting and preservation of trees, as members of the Tree Authority, but the number of such nominated members shall not exceed the number of members appointed under sub-section (1). These members shall be nominated in such manner and for such period as may be prescribed.

(4) and (5) * * * *

4. to 6. * * * *

7. Notwithstanding anything contained in the relevant Act or in any other law for the time being in force, and subject to any special or general directions given by the State Government, the Tree Authority shall be responsible for—

Duties of
Tree
Authority.

(a) * * * *

(b) carrying out a census of the existing trees in all lands within its jurisdiction, once before December 1996 and thereafter once in every five years.

(c) to (h) * * * *

(i) undertaking any other schemes or measures for achieving the objects of this Act.

Restrictions on felling of trees.

8. (1) * * * *

(2) If any person, including an officer of the urban local authority or an officer of the State Government or the Central Government proposes to fell a tree, he shall apply in writing to the Tree Officer for permission in that behalf. The application shall be accompanied by the description of the tree and a site plan, indicating the position of the tree required to be felled and the reasons therefor.

(3) (a) On receipt of such application, the Tree Officer shall,—

(i) give public notice by advertising it in atleast one local newspaper ;

(ii) affix such notice on the conspicuous part of the tree that is to be felled ;

(iii) personally inspect the tree; and

(iv) hold an inquiry.

The Tree Officer shall, after expiry of the period of submission of objections and suggestions which shall not be less than seven days, submit his report alongwith objections or suggestions, if any, received to the Tree Authority or an officer mentioned in sub-section (6), as the case may be :

Provided that, the Tree Officer shall submit his report within a period of twelve days from the date of receipt of the application :

Provided further that, no personal inspection of the trees by the Tree Officer shall be required, if the applicant submits images and details of the trees to be felled, by using Information Technology enabled system developed by the urban local authority which suffices the requirement of submission of report by the Tree Officer :

Provided also that, no such permission shall be refused if, in the opinion of the Tree Authority or the Officer, as the case may be, the tree is dead, or diseased or windfallen, or it constitutes a danger to life or property, or obstructs traffic; and if any objection is received against such permission, the matter shall be placed before the Tree Authority or the Officer, as the case may be, for reconsideration, and a decision shall be taken within two weeks after giving a hearing to the person who has raised the objection.

(a-1) The Officer referred to in sub-section (6) or the Tree Authority, as the case may be, shall allow the application, with or without conditions or, may refuse it, within a period of forty-five days from the date of receipt of the application.

(b) * * * *

(4) Subject to the provisions of sub-section (5), if the Tree Authority fails to inform the applicant of is decision within forty five days, from the date of the receipt of the application by it, or if the receipt of the application has been acknowledged by it within this period, from the date or acknowledgement of the receipt of the application, the permission applied for shall be deemed to have been granted.

(5) Where permission to fell a tree is granted or deemed to have been granted under sub-section (4), the applicant shall plant twice the number of trees to be felled of the same or other suitable local species on the same site and if required at other suitable places as decided by the Authority. The number of trees to be planted on the same site and that on other suitable place along with location of such suitable place shall be mentioned in the permission to be granted by the Authority. The trees shall be planted within fifteen days from the date the tree is felled, or such extended time as the Tree Officer may allow in this behalf :

Provided that such extended time granted shall not exceed fifteen days.

(6)	*	*	*	*
9. to 20.	*	*	*	*

21. (1) Whoever fells any tree or causes any tree to be felled in contravention of the provisions of the Act or without reasonable excuse fails to comply with any order issued or conditions imposed by the Tree Officer or the Tree Authority or voluntarily obstructs any member of the Tree Authority or the Tree Officer or any officers and servants subordinate to him in the discharge of their functions under this Act, shall, on conviction, be punished with the fine of not less than one thousand rupees which may extend up to five thousand rupees for every offence and also with imprisonment for a term of not less than one week, which may extend up to one year :

Offence and penalty.

Provided that, nothing in this section shall apply to the felling of trees on or along the public roads undertaken by the Public Works Department of the State or Central Government.

(2)	*	*	*	*
22.	*	*	*	*

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. VIII OF 2021.]

**[A Bill further to amend the
Maharashtra (Urban Areas) Protection
and Preservation of Trees Act, 1975.]**

**[SHRI AADITYA THACKERAY,
Environment and Climate Change Minister.]**

**[As Passed by the Legislative Assembly
on the 5th July 2021.]**

**RAJENDRA BHAGWAT,
Secretary,
Maharashtra Legislative Assembly.**