

Copy of Reso. No. 15(R-02)
of
Councils Ordinary Meeting
25/07/16

ITEM NO. 15 (R-02)

1. Name of the subject:

Proposal for amendment to the NDMC Act, 1994.

2. Name of the department:

Law Department.

3. Brief history of the subject and proposal for amendment:

It has been felt for a long time to raise penalties/fines prescribed under the NDMC Act, 1994 which are so low that those have become meaningless in the present day. Earlier, a similar proposal was placed before the Council and a decision was taken by the Council vide Reso. No.3 (XIX), dated 03.02.2000 to amend the NDMC Act for raising limit of penalties/fines provided under Schedule 10th appended to the Act. However, the proposal for amendment of the Act was deferred in the year 2003 by the Council. Now, it has again been felt that a proposal may be moved before the Council for a limited amendment of the NDMC Act, 1994 for approval. The Chairperson has approved the amendment to be made in Section 391, sub-section 1, and Section 399 of the Principal Act and insert new section of 399-A empowering the Central Government to amend Second Schedule to tenth schedule as specified in the notification.

The Central Government in exercise of the power conferred by Section 5 read with Sub-section-I of Section-7 of EPF and MP Act, 1952 has notified amendments in Para 38(1) and 48 of EPF Scheme, 1952 making it mandatory for the employer to pay the statutory contribution through internet banking. Provident Fund Commissioner, Community Centre, Wazirpur Industrial Area, Delhi vide his letter No.E/DL43910/Comp-I dated 14.09.2015 conveyed that with the approval of Central Provident Fund Commissioner has allowed to make payment of P.F. contribution through physical mode subject to the condition, the NDMC shall make necessary changes in the NDMC Act, 1994 for online payment of P.F. dues. Similarly, it is also requirement of the transfer of statutory payments such as DVAT, Income Tax, Labour Cess, Service Tax electronically through internet banking by NDMC to respective Organizations' Banking Accounts. It is proposed to amend Section 46 of the New Delhi Municipal Act, 1994. Accordingly on the advice of the Finance Department, Chairman, NDMC granted approval in principle to the proposal of the Accounts Department initiating action for amendment to Section 46 of NDMC Act, 1994 thereby providing therein for transfer electronically the statutory deductions or any other payment as per prevalent law is required to

be made through internet banking of State Bank of India, collected/parked in the separate account with the said bank or in such scheduled bank or banks as the Council may select by the Finance Advisor or an officer subordinate to him authorized by the Chairperson in this behalf. Presently, Section 46 of the NDMC Act provides for making such payments on behalf of NDMC by cheque only.

4. Financial implications of the proposed subject:

Matter relates to amendment in the Act and Schedules. No financial implication is involved.

5. Comments of the Law Department:

A proposal may be moved before the Council for a limited amendment of NDMC Act, 1994 to section 391(1) inclusion of new section 399-A by the Parliament to provide for empowering the Central Government to amend Schedule 2 to 10 relating to the rates of taxes; trades and articles requiring license and; stipulating the quantum of penalty for various types of offences by notification in the official gazette.

The Central Government may, by notification in the Official Gazette, amend the Second Schedule to the tenth Schedule providing for the rates of taxes, requirement of license in respect of certain trades and operations connected therewith and certain articles that cannot be stored in any premises without a license and; prescribing the amounts of penalty; by adding, deleting or varying anything contained in the said Schedules as may be specified in the notification.

Further as proposed by the Finance Department and approved by the Chairperson for amendment in Section 46 of NDMC Act for internet banking services with other departments for early payment be also put up for Council decisions, later on it will be sent to the ministry for amendment in NDMC Act by the parliament.

6. Recommendations of the Law Department:

Proposed amendment in section 391(1) relating to enhancement of fines and penalties for breaches of bye-laws and insertion of new section 399-A, for empowering the Central Government to amend the Schedules (2nd Schedule to 10th Schedule) by notification in the Govt. Official Gazette. (Flag-A).

Section	Existing	Proposed
390(1)	Penalty for breaches of bye-laws- (1) Any bye-law made under this Act may provide that a contravention thereof shall be punishable- a) With fine which may extend to five	Penalty for breaches of bye-laws (1) Any bye-law made under this Act may provide that a contravention thereof shall be punishable with fine

	<p>hundred rupees; and</p> <p>(b) With fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention;</p> <p>(c) With fine which may extend to twenty rupees for every day during which the contravention continues, after the receipt of a notice from the Chairperson or any municipal officer duly authorized in that behalf, by the person contravening the bye-law requiring such person to discontinue such contravention.</p> <p>Provided that a contravention of any bye-law relating to the road transport services may be punishable with imprisonment which may extend to three months, or with fine which may extend to fifteen hundred rupees, or with both.</p>	<p>which may be extended to five lakh rupees, or with imprisonment which may extend to two years, or with both.</p>
399A	NOTE : New Section 399 A is proposed to be inserted	The Central Government may, by notification in the Official Gazette, amend the Second Schedule to the Tenth Schedule, as may be specified in the notification'.

Proposed amendment to Section 46 for implementation of internet banking for operation of Accounts with other departments for early payment. (Flag-B)

Section 46	Existing	Proposed
	<p>(1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except on a cheque signed by both-</p> <p>(a) The Financial Advisor or an officer subordinate to him authorized by the Chairperson in this behalf; and</p> <p>(b) The Chairperson or the Secretary or an officer subordinate to the Chairperson authorized by him in this behalf.</p>	<p>(1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except-</p> <p>(i) on a cheque signed by both-</p> <p>(a) the Financial Advisor or an officer subordinate to him authorized by the Chairperson in this behalf; and</p> <p>(b) the Chairperson or the Secretary or an officer subordinate to the Chairperson authorized by him in this behalf.</p> <p>(ii) by transfer electronically the</p>

		<p>statutory deductions or any other payment as per the prevalent law required to be made by such mode through internet banking of the State Bank of India, collected/parked in a separate Account with the said Bank or in such scheduled bank or banks as the Council may select by</p> <p>(a) The Financial Advisor or an officer subordinate to him authorized by the Chairperson in this behalf.</p> <p>(2) Payment of any sum due by the Council in excess of such sum as authorized by Chairperson shall be made by means of a cheque signed in accordance with sub-section(1) (i) or transferred electronically through internet banking in accordance with sub-section(1)(ii) and not in any other way.</p> <p>(3) Payments not covered by sub-section (2) may be made in cash.</p>
	<p>(2) Payment of any sum due by the Council in excess of five hundred rupees shall be made by means of a cheque signed in accordance with sub-section (1) and not in any other way.</p> <p>(3) Payments not covered by sub-section(2) may be made in cash.</p>	

COUNCIL'S DECISION

Resolved by the Council to accord approval to the proposal of the department.

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For Secretary
New Delhi Municipal Council
New Delhi.

CHART IN TABULAR FORM

<u>Section</u>	<u>Existing</u>	<u>Proposed</u>
390 (1)	<p>Penalty for breaches of bye-laws —</p> <p>(1) Any bye-law made under this Act may provide that a contravention thereof shall be punishable —</p> <p>(a) With fine which may extend to five hundred rupees; and</p> <p>(b) With fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention;</p> <p>(c) With fine which may extend to twenty rupees for every day during which the contravention continues, after the receipt of a notice from the Chairperson or any municipal officer duly authorized in that behalf, by the person contravening the bye-law requiring such person to discontinue such contravention.</p> <p>Provided that a contravention of any bye-law relating to the road transport services may be punishable with imprisonment which may extend to <u>three months, or with fine which may extend to fifteen hundred rupees, or with both.</u></p>	<p>Penalty for breaches of bye-laws — (1) Any bye-law made under this Act may provide that a contravention thereof shall be punishable with fine which may be extended to five lakh rupees, or with imprisonment which may extend to two years, or with both.</p>
399A	<p>NOTE: New Section 399A is proposed to be inserted.</p>	<p>The Central Government may, by notification in the Official Gazette, amend the Second Schedule to the Tenth Schedule, as may be specified in the notification.</p>

THE NEW DELHI MUNICIPAL COUNCIL ACT, 1994

CHAPTER VII

REVENUE AND EXPENDITURE

<p>The New Delhi Municipal Fund</p> <p>Operation of the accounts.</p>	<p>The New Delhi Municipal Fund</p> <p>Operation of the accounts.</p>
<p>46.</p> <p>(1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except-</p> <p>(i) on a cheque signed by both-</p> <p>(a) the Financial Adviser or an officer subordinate to him authorised by the Chairperson in this behalf; and</p> <p>(b) the Chairperson or the Secretary or an officer subordinate to the Chairperson authorized by him in this behalf.</p> <p>(ii) by transfer electronically the statutory deductions or any other payment as per the prevalent law required to be made by such mode through internet banking of the State Bank of India, collected/parked in a separate Account with the said Bank or in such scheduled bank or banks as the Council may select by</p> <p>(a) The Financial Advisor or an officer subordinate to him authorized by the Chairperson in this behalf.</p> <p>(2) Payment of any sum due by the Council in excess of such sum as authorized by Chairperson shall be made by means of a cheque signed in accordance with sub-section (1) (i) or transferred electronically through internet banking in accordance with sub-section (1) (ii) and not in any other way.</p> <p>(3) Payments not covered by sub-section (2) may be made in cash.</p>	<p>46.</p> <p>(1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except on a cheque signed by both—</p> <p>(a) the Financial Adviser or an officer subordinate to him authorised by the Chairperson in this behalf; and</p> <p>(b) the Chairperson or the Secretary or an officer subordinate to the Chairperson authorised by him in this behalf.</p> <p>(2) Payment of any sum due by the Council in excess of five hundred rupees shall be made by means of a cheque signed in accordance with sub- section (1) and not in any other way.</p> <p>(3) Payments not covered by sub- section (2) may be made in cash.</p>

THE NEW DELHI MUNICIPAL COUNCIL ACT, 1994

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REVENUE AND EXPENDITURE

The New Delhi Municipal Fund

Operation of the accounts.

46.

- (1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except on a cheque signed by both-
 - (a) the Financial Adviser or an officer subordinate to him authorised by the Chairperson in this behalf; and
 - (b) the Chairperson or the Secretary or an officer subordinate to the Chairperson authorized by him in this behalf.
- (2) Payment of any sum due by the Council in excess of five hundred rupees shall be made by means of a cheque signed in accordance with sub-section (1) and not in any other way.
- (3) Payments not covered by sub-section (2) may be made in cash.