



GOVERNMENT OF MAHARASHTRA

LAW AND JUDICIARY DEPARTMENT

MAHARASHTRA ACT No. XXI OF 2006

**THE MAHARASHTRA GOVERNMENT SERVANTS
REGULATION OF TRANSFERS AND
PREVENTION OF DELAY IN DISCHARGE OF
OFFICIAL DUTIES ACT, 2005.**

(As modified upto the 17th July 2018)



PRINTED IN INDIA BY THE MANAGER, GOVERNMENT CENTRAL PRESS, MUMBAI AND PUBLISHED BY THE
DIRECTOR, GOVERNMENT PRINTING, STATIONERY AND PUBLICATIONS MAHARASHTRA STATE,
MUMBAI 400 004

2018

[Price : Rs. 27.00]

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OF DELAY IN DISCHARGE OF OFFICIAL DUTIES ACT, 2005.

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MAHARASHTRA ACT NO. XXI OF 2006¹

THE MAHARASHTRA GOVERNMENT SERVANTS REGULATION OF TRANSFERS
AND PREVENTION OF DELAY IN DISCHARGE OF OFFICIAL DUTIES ACT, 2005.]

(This Act received the assent of the Governor on the 9th May 2006 ;
assent was first published in the *Maharashtra Government Gazette*,
Extraordinary Part IV, on the 12th May 2006.)

Amended by, Mah. 13 of 2007 (20-04-2007)*

Amended by Mah. 16 of 2014 (25-06-2014)*

An Act to provide for regulation of transfers of Government Servants and
prevention of delay in discharge of official duties.

WHEREAS, both Houses of the State Legislature were not in session ;

AND WHEREAS, the Governor of Maharashtra was satisfied that
circumstances existed which rendered it necessary for him to take
immediate action for the purposes hereinafter appearing ; and, therefore,
Mah. Ord. IX of 2003. promulgated the Maharashtra Government Servants Regulation of Transfers
and Prevention of Delay in Discharge of Official Duties Ordinance, 2003,
on the 25th August 2003 ;

AND WHEREAS it is expedient to replace the said Ordinance by an
Act of the State Legislature with certain amendments ; it is hereby enacted
in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the Maharashtra Government Servants
Regulation of Transfers and Prevention of Delay in Discharge of Official
Duties Act, 2005.

Short title
commence-
ment and
application.

(2) It shall come into force of such date² as the State Government
may, by notification in the *Official Gazette*, appoint.

(3) It shall apply to all Government servants in the State services
including the All India Service Officers of the Maharashtra Cadre :

XIII of 1951.

Provided that, Chapter II shall not apply to the employees appointed
on non-transferable posts in isolated cadres ³[employees on the Police
Force constituted under section 3 of the Maharashtra Police Act including
the Indian Police Service Officers of the Maharashtra cadre] and to the
employees under the administrative control of the Judiciary.^{4***}

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

Definition.

(a) “ Citizens Charter ” means a list of facilities or services rendered
by the Office or Department, together with the time limit for providing such
facility or services to the general public ;

¹. For Statement of Objects and Reasons (English), see *Maharashtra Government Gazette*, Extraordinary, No. 49, Part V-A, dated the 9th December 2003, p. 349.

* This indicates the date of commencement of the Act.

² This Act was brought into force by G. N., G.A.D., No. SRV 2004/CR 15/2004/12, dated 25th May 2006, w.e.f. 1st July 2006.

³. These words and figures were inserted by Mah. 16 of 2014, s.2.

⁴. The words “and Chapter III shall not apply to All India Service Officers of the Maharashtra Cadre” were deleted by Mah. 13 of 2007, s. 2.

(b) “competent authority” means the appointing authority of the Government servant and shall include the transferring authority specified in section 6 ;

(c) “Department” or “Administrative Department” means the Department of the Government of Maharashtra as specified in the First Schedule to the Maharashtra Government Rules of Business ;

(d) “Government” or “State Government” means the Government of Maharashtra ;

(e) “Group A, B, C and D Posts” means the posts under the Government classified as Group A, B, C and D posts by Government order, from time to time ;

(f) “Government servant” means a Government servant or employee as defined in rule 2 (b) of the Maharashtra Civil Services (Conduct) Rules, 1979, and shall include the All India Service Officers and employees (other than the judicial officers) under the administrative control of the Judiciary¹[but does not include the employees in the Police Force constituted under section 3 of the Maharashtra Police Act and the Indian Police Service Officers of the Maharashtra Cadre so far as the application of the provisions of Chapter II are concerned]

XXII of 1951.

(g) “post” means the job or seat of duty to which a Government servant is assigned or posted ;

(h) “secretariat services” means the State services belonging to the Mantralaya Departments ;

(i) “Transfer” means posting of a Government servant from one post, office or Department to another post, office or Department ;

(j) “Transferring authority “ means the authorities mentioned in section 6.

CHAPTER II

TENURES OF POSTING AND TRANSFER AND TRANSFERRING AUTHORITY

Tenure of
posting.

3. (1) For All India Service Officers and all Groups A, B and C State Government Servants or employees, the normal tenure in a post shall be three years :

Provided that, when such employee is from the non-secretariat services, in Group C, such employee shall be transferred from the post held, on his completion of two full tenures at that office or department, to another office or Department :

Provided further that, when such employee belongs to secretariat services, such employee shall not be continued in the same post for more than three years and shall not be continued in the same Department for more than two consecutive tenures.

(2) Employees in Group D shall normally not be subjected to fixed tenure. They shall not be transferred out from the station where they are serving except on request when a clear vacancy exists at the station where posting is sought, or on mutual transfer, or when a substantiated complaint of serious nature is received against them.

¹. These words and figures were added by Mah. 16 of 2014, s. 3.

4. (1) No Government servant shall ordinarily be transferred unless he has completed his tenure of posting as provided in section 3. Tenure of transfer.

(2) The competent authority shall prepare every year in the month of January, a list of Government servants due for transfer, in the month of April and May in the year.

(3) Transfer list prepared by the respective competent authority under sub-section (2) for Group A Officers specified in entries (a) and (b) of the table under section 6 shall be finalised by the Chief Minister or the concerned Minister, as the case may be, in consultation with the Chief Secretary or concerned Secretary of the Department, as the case may be :

Provided that, any dispute in the matter of such transfers shall be decided by the Chief Minister in consultation with the Chief Secretary.

(4) The transfers of Government servants shall ordinarily be made only once in a year in the month of April or May :

Provided that, transfer may be made any time in the year in the circumstances as specified below, namely :—

(i) to the newly created post or to the posts which become vacant due to retirement, promotion, resignation, reversion, reinstatement, consequential vacancy on account of transfer or on return from leave ;

(ii) where the competent authority is satisfied that the transfer is essential due to exceptional circumstances or special reasons, after recording the same in writing and with the prior approval of the next higher authority.

(5) Notwithstanding anything contained in section 3 of this section, the competent authority may, in special cases, after recording reasons in writing and with the prior ¹[approval of the immediately superior]. Transferring Authority mentioned in the table of section 6, transfer a Government servant before completion of his tenure of post.

5. (1) The tenure of posting of a Government servant or employee laid down in section 3 may be extended in exceptional cases as specified below, namely :— Extension of tenure.

(a) the employee due for transfer after completion of tenure at a station of posting or post has less than one year for retirement ;

(b) the employee possesses special technical qualifications or experience for the particular job and a suitable replacement is not immediately available ; and

(c) the employee is working on a project that is in the last stage of completion, and his withdrawal will seriously jeopardise its timely completion.

¹. These words were substituted for words “ permission of the immediately preceding Competent ” by Mah. 13 of 2007, s. 3.

(2) Notwithstanding anything contained in section 3 or any other provisions of this Act, to ensure that the Government work is not adversely affected on account of large scale transfers of Government servants from one single Department or office, not more than thirty per cent. of the employees shall be transferred from any office or Department at a time, in a year.

Transferring
Authority.

6. The Government servants specified on column (1) of the table hereunder may be transferred by the Transferring Authority specified against such Government servants in column (2) of the table.

TABLE

Groups of Government servants (1)	Competent Transferring Authority (2)
(a) Officers of all India Services, all Officers of State Services in Group "A" having pay-scale of Rs. 10,650-15,850 and above.	Chief Minister
(b) All Officers of State Services in Group "A" having pay-scales less than Rs. 10,650-15,850 ¹ [and all Gazetted Officers] in Group "B".	Minister-in-charge in consultation with Secretaries of the concerned Departments.
(c) All ² [Non-Gazetted employees in Group "B" and "C"].	Heads of Departments.
(d) All employees in Group "D".	Regional Heads of Departments :

Provided that, in respect of officers in entry (b) in the table working at the Divisional or District level, the Divisional Head shall be competent to transfer such officers within the Division, and the District Head shall be competent to transfer such officers within the District :

Provided further that, the Competent Transferring Authority specified in the table may, by general or special order, delegate its powers under this section to any of its subordinate authority.

Publication of
list of
competent
authority.

7. Every Administrative Department of Mantralaya shall for the purposes of this Act prepare and publish a list of the Heads of Departments and Regional Heads of Departments within their jurisdiction and notify the authorities competent to make transfers within their jurisdiction for the purposes of this Act.

¹ These words were substituted for the words "and all Officers" by Mah. 13 of 2007, s. 6(a).

² These words were substituted for the words "employees in Group "C", *ibid.*, s. 6(b).

CHAPTER III

PREVENTION OF DELAY IN DISCHARGE OF OFFICIAL DUTIES

8. (1) Every office or Department shall prepare and publish Citizens Charter within a period of six months from the date of commencement of this Act. Citizens Charter.

(2) If no final decision is taken within the period specified in the Citizens Charter by the concerned authorities, the responsibility for inaction shall be fixed on them and an action mentioned in the relevant Act, rules or regulations shall be taken against them.

9. (1) The Head of every Office or Department shall publish the list of powers delegated to the subordinate officers, working under them, for taking final decision. Delegation of Powers.

(2) The Head of every Office or Department shall determine as far as possible three levels of submission for taking final decision on all matters pertaining to that Office or Department.

(3) Lists of powers delegated to the subordinate officers and the levels of submission shall be prepared and published within one year from the date of commencement of this Act and shall be updated on the 1st April of every succeeding year.

10. (1) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most deligently and as expeditiously as feasible : Disciplinary action.

Provided that, normally no file shall remain pending with any Government servant in the Department or Office for more than seven working days :

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days :

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable for appropriate ¹[disciplinary action under the All India Services (Discipline and Appeal) Rules, 1969, the] Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

¹. These words were substituted for the words “ disciplinary action under the ” by Mah. 13 of 2007, s. 5.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.

Non-application of provisions of section 10 in certain circumstances.

11. Nothing in section 10 shall apply to,—

(i) sub-judice matters ;

(ii) cases referred to Lokayukta or Upa-Lokayuktas and other Constitutional institutions, Commissions, etc. ;

(iii) quasi-judicial matters;

(iv) cases related to Central or other State Governments;

(v) cases related to Legislation ;

(vi) cases involving major policy decisions.

Administrative Audit.

12. Within 12 months from the date of coming into effect of the Act, the Government will set up a mechanism for carrying out an administrative audit to see that the provisions under the Act are observed.

CHAPTER IV

MISCELLANEOUS

Protection of action taken in good faith.

13. No suit, prosecution or other legal proceedings shall lie against any Government servant or officer for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

Power to make rules.

14. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to remove difficulties.

15. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Act :

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid , as soon as may be, after it is made, before each House of the State Legislature.

Mah.
Ord. IX
of 2003.

16. (1) The Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Ordinance, 2003 is hereby repealed.

Repeal of
Mah. Ord. IX of
2003 and
saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under this Act.

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