Goa Municipalities Act, 1968

Goa Municipalities Act, 1968

1.The Goa, Daman and Diu Municipality Act, 1968 (Act No.16 of 1968) [2-4-1969] published in the Official Gazette, Series I No. 7 (Supplement) dated 16-5-1969 and came into force at once.

2.The Goa, Daman and Diu Municipality (Amendment) Act, 1974 (Act No. 14 of 1974) [27-12-1974] published in the Official Gazette, Series I No. 41 dated 9-1-1975 and came into force at once.

3.The Goa, Daman and Diu Municipality (Amendment) Act, 1976 (Act No.13 of 1976) [9-6-1976] published in the Official Gazette, Series I No. 12 dated 17-6-1976 and came into force at once.

4.The Goa, Daman and Diu Municipality (Amendment) Act, 1978 (Act No. 12 of 1978) [3-6-1978] published in the Official Gazette, Series I No. 11 dated 15-6-1978 and came into force at once.

5.The Goa, Daman and Diu Municipality (Amendment) Act, 1978 (Act No.17 of 1978) [19-10-1978] published in the Official Gazette, Series I No. 30 dated 26-10-1978 and came into force at once.

6.The Goa, Daman and Diu Municipality (Amendment) Act, 1980 (Act No. 9 of 1980) [24-5-1980] published in the Official Gazette, Series I No. 10 dated 5-6-1980 and came into force at once.

7.The Goa, Daman and Diu Municipality (Amendment) Act, 1980 (Act No.14 of 1980) published in the Official Gazette, Series I No. 39 dated 1980 and came into force at once.

8.The Goa, Daman and Diu Municipality (Amendment) Act, 1987 (Act No. 6 of 1987) [4-11-1987] published in the Official Gazette, Series I No. 36 dated 4-12-1987 and came into force at once.

9.The Goa Municipalities (Amendment) Act, 1993 (Act No. 13 of 1994) [30-5-1994] published in the Official Gazette, Series I No. 8 dated 31-5-1994 and came into force at once.

10.The Goa Municipalities (Amendment) Act, 1996 (Act No. 15 of 1996) [22-11-1996] published in the Official Gazette, Series I No. 39 dated 26-12-1996 and came into force at once.

11.The Goa Municipalities (Amendment) Act, 1997 (Act No. 18 of 1997) [5-5-1997] published in the Official Gazette, Series I No. 8 dated 22-5-1997 and came into force at once.

12.The Goa Municipalities (Amendment) Act, 1997 (Act No. 7 of 1998) [22-7-1998] published in the Official Gazette, Series I No. 45 dated 5-2-1998 and came into force on such date as the Government may, by notification in the Official Gazette, appoint.

13.The Goa Municipalities (Amendment) Act, 1998 (Act No. 17 of 1998) [23-4-1998] published in the Official Gazette, Series I No. 6 dated 7-5-1998 and came into force at once.

14.The Goa Municipalities (Amendment) Act, 1999 (Act No. 7 of 1999) [20-9-1999] published in the Official Gazette, Series I No. 26 dated 27-9-1999 and came into force at once.

15.The Goa Municipalities (Amendment) Act, 2001 (Act No. 1 of 2001) [23-1-2001] published in the Official Gazette, Series I No. 42 dated 24-1-2001 and section 2 and 4 shall come into force from 6-12-2000 and section 3 came into force at once.

16.The Goa Municipalities (Amendment) Act, 2001 (Act No. 28 of 2001) [24-4-2001] published in the Official Gazette, Series I No. 4 dated 27-4-2001 and came into force at once.

17.The Goa Municipalities (Amendment) Act, 2002 (Act No. 27 of 2002) [8-10-2002] published in the Official Gazette, Series I No. 28 dated 14-10-2002 and came into force at once.

18.The Goa Municipalities (Amendment) Act, 2006 (Act No. 14 of 2006) [4-8-2006] published in the Official Gazette, Series I No. 18 dated 7-8-2006 and section 2 shall be deemed to come into force on 28-4-2006 and Section 3 came into force at once.

19.The Goa Municipalities (Amendment) Act, 2007 (Act No. 7 of 2007) [20-4-2007] published in the Official Gazette, Series I No. 3 dated 25-4-2007 and came into force at once.

20.The Goa Municipalities (Amendment) Act, 2008 (Act No. 14 of 2008) [12-6-2008] published in the Official Gazette, Series I No.12 dated 25-6-2008 and came into force on 14-12-2007.

21.The Goa Municipalities (Amendment) Act, 2010 (Act No. 8 of 2010) [26-4-2010] published in the Official Gazette, Series I No. 5 dated 29-4-2010 and came into force at once.

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334	**Power to remove difficulty.**

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judicial Department

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Notification

LD/2/37-68/69-N-6

The Goa, Daman and Diu Municipalities Act, 1968 (Act No. 16 of 1968) which has been assented to by the President of India on 2nd April, 1969, is hereby published for general information of the public.

V. R. Vaze, Under Secretary (Law).

Panaji, 25th April, 1969, 5th Vaisakha, 1891.

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Goa [1][ ] Municipalities Act, 1968

(Act No. 16 of 1968)

An Act to consolidate and amend the law relating to municipalities in the [2] [State of Goa].

Whereas it is expedient to provide a municipal pattern in consonance with the one in force in the rest of the country for the constitution, administration and powers of municipalities in the [3][State of Goa] [4][ ] and to make better provision therefore;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa [5][ ] Municipalities Act, 1968.

(2) It extends to the whole of the [6][State of Goa.]

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force in such area and on such date as the Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisio as.

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1 The words ", Daman and Diu" omitted by the Amendment Act 13 of 1994.
2 Substituted by the Amendment Act 13 of 1994.
3 Substituted by the Amendment Act 13 of 1994.
4 The words ", Daman and Diu" omitted by the Amendment Act 13 of 1994.
5 The words ", Daman and Diu" omitted by the Amendment Act 13 of 1994.
6 Substituted by Amendment Act 13 of 1994.

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

(1) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, 7[ ] Administrative Tribunal Act, 1965;

8[(1A) "Appellate Tribunal" means as Appellate Tribunal constituted under section 184 B.]

(2) "appointed day", in relation to an area, means the date on which the relevant provisions of this Act come into force in that area;

(3) "building" includes a house, out-house, stable, shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes *verandahs,* fixed platforms, plinths, door steps, walls, (including coumpound walls) and fencing and the like;

(4) "bye-law" means a bye-law made or deemed to be made by the Council under this Act;

(5) "Cess-pool" includes a tank for the reception or disposal of foul matter from buildings;

9[(5a) "Chairperson" and "Vice-Chairperson" means Chairperson and Vice-Chairperson of the Council as the case may be;]

(6) "Chief Officer" means the person appointed or deemed to be appointed under this Act to be the Chief Officer of a municipal area;

(7) 10["Collector" means the Collector of North Goa District and that of South Goa District and also includes the Additional Collector of North Goa District and South Goa District, respectively;]

(8) "Council" means a Municipal Council constituted or deemed to be constituted under this Act for a municipal area;

(9) "Councillor" means a person who is duly elected 11[ ] as a member of the Council;

(10) "dairy" includes any farm, cattle-shed, cow- house, milk-store, milk-shop or other place from which milk is supplied far sale, or in which milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curds, dried, sterilized or condensed or toned milk, but does not include—

(A) a shop or other place in which milk is sold for consumption on the premises only, or

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7 Omited by the Amendment Act 13 of 1994.
8 Inserted by the Amendment Act 6 of 1987.
9 Inserted by the Amendment Act 13 of 1994.
10 Substituted by the Amendment Act 13 of 1994 and thereafter by the Amendment Act 15 of 1996. 11 Omitted by the Amendment Act 7 of 1998.

(B) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;

[12][(10a) "Development Committee" means the Development Committee constituted under section 322 B;]

(11) [13]["Director" means the person appointed by the Government to be the Director of Urban Development];

[14][(11a) 'District' means a district in the State of Goa;]

(12) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush-tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(13) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

(14) "election" means an election to a Council, and includes a bye-election;

(15) "factory" means a factory as defined in the Factories Act, 1948; LXIII of 1948.

(16) "filth" includes sewage, night-soil and all offensive matter;

(17) "food" includes every article. used as food or drink for human consumption other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionary, flavouring and coloring matters and spices and condiments;

(18) "goods" includes animals;

(19) "Government" means the Government of Goa [15][ ];

(20) "house-drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(21) "house-gully" or "service passage," means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to servants of the Council or to persons employed in the cleansing thereof or in the removal of such matter there from;

[12] Inserted by the Amendment Act 13 of 1994.
[13] Substituted by the Amendment Act 15 of 1996.
[14] Inserted by the Amendment Act 13 of 1994.
[15] Omitted by the Amendment Act 13 of 1994.

(22) “land” includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(23) “local authority” means a municipality or village panchayat, as the case may be, constituted under any law for the time being in force in the [16][State of Goa];

(24) “lodging house” means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration, and includes a lodging house for pilgrims whether lodging is provided for or without any monetary consideration;

(25) “market” includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish, fruit, vegetables, drinks, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

(26) “milk” includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk;

(27) “municipal area” means any local area declared or deemed to be declared as municipal area by or under this Act;

(28) “municipal market” or “municipal slaughter-house” means a market or a slaughter-house, as the case may be, which belongs to or is maintained by the Council;

(29) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(30) “occupier” includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

(b) an owner living in or otherwise using his land or building,

(c) a rent-free tenant,

(d) a licensee in occupation of any land, or building, and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(31) “octroi” means a tax on the entry of goods into a municipal area for consumption, use or sale therein;

(32) “offensive matter” includes animal carcasses, dung, dirt and putrid or putrifying substances other than sewage;

[16] Substituted by the Amendment Act 13 of 1994.

(33) "officer or servant of the Council" means an officer or servant [17][appointed by the Government or the Council] or any other competent authority subordinate to it, and includes any Government Officer or servant, who is for the time being serving under the, Council [18][and the classification of posts of officers or servants of Council as Group A, Group B, Group C and Group D posts will have the meaning as assigned by the Government for equivalent posts in Government Departments];

(34) "official year" or "financial year" means the year commencing on the first day of April;

(35) "owner" means,—

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes —

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with or concerned for, any premises devoted to religious for charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and

(iv) a mortgagee-in-possession; and

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

[19][(36) "population" means the population as ascertained at the last preceding Census of which the relevant figures have been published, but where figures of Census are not available, the population shall be ascertained from other relevant authenticated records maintained by the Government.]

(37) "premises" includes messages, buildings and lands of any tenure, whether open or enclosed, whether built on or not and whether public or private;

(38) "prescribed" means prescribed by rules;

[20] (39) [ ]

(40) "private market" means a market which is not a municipal market, but does not include a market established for the purposes of any law for the time being in force regulating the marketing of agricultural and other produce in such markets;

(41) "private slaughter-house" means a slaughter-house which is not a municipal slaughter-house;

17 Substituted by the Amendment Act 17 of 1978.
18 Added by the Amendment Act 18 of 1997.
19 Substituted by the Amendment Act 14 of 2008.
20 Omitted by the Amendment Act 13 of 1994.

(42) "private street" means a street which is not a public street;

(43) "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type, and aqua privy, a latrine and a urinal;

(44) "public place" includes any public park or garden or any ground to which the public have or are permitted to have access;

(45) "public securities" means—

(a) securities of the Central Government and of any State Government;

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by any enactment for the time being in force in any part of the territory of India; or

(d) securities expressly authorized by an order which the Government makes in this behalf;

(46) "public street" means any street—

(a) over which the public have a right of way;

(b) heretofore levelled, paved, metalled, channeled, sewered, or repaired out of municipal or other public funds; or

(c) which under the provisions of this Act becomes, or is declared, a public street;

(47) "rubbis" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(48) "Rules" means rules made by the Government under this Act;

(49) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the [21][State of Goa] under article 341 of the Constitution of India;

(50) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities, as are deemed to be Scheduled Tribes in relation to the [22][State of Goa] under article 342 of the Constitution of India;

(51) sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bath-rooms, stables, cattle-sheds and other like places, and includes trade effluent and discharges from manufactories of all kinds;

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[21] Substituted by the Amendment Act 13 of 1994.

[22] Substituted by the Amendment Act 13 of 1994.

[23][(51a) "State" means the State of Goa]

[24][(51b) 'State Election Commission' means the State Election Commission constituted under the section 237 of the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994).]

(52) "street" means any road, foot-way, square, court-alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

(53) [25]["total number of Councillors", in relation to a Council, means the total number of elected councillors]

(54) [26][ ]

(55) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street;

[27][(55a) "Ward" mean the territorial constituency of the municipal area;]

(56) "water closet" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(57) "water-connection" includes—

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with a water-main or pipe belonging to the Council; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

(58) "water work" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine, water truck, hydrant, stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply.

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[23] Inserted by the Amendment Act 13 of 1994.

[24] Inserted by the Amendment Act 7 of 1998 and further substituted by the Amendment Act 27 of 2002. [25] Substituted by the Amendment Act 27 of 2002.

[26] Omitted by the Amendment Act 13 of 1994.

[27] Inserted by the Amendment Act 13 of 1994.

CHAPTER II

Municipal Councils

(1) Municipal areas and their classification.

3. Areas to be declared as municipal areas. — (1) After making such enquiries as it deems fit, the Government may, by notification in the Official Gazette, declare any local area to be a municipal area.

(2) Every notification issued under sub-section (1) shall define the limits of the municipal area to which it relates and such area, shall be called "the ..... municipal area".

(3) Before the publication of a notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of the Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor to the [28][Director] within two months from the date of the publication of the proclamation in the Official Gazette.

(4) The [29][Director] shall, with all reasonable despatch, forward any objection so submitted to the Government.

(5) No such notification as aforesaid shall be issued by the Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

4. Classification of municipal areas.— (1) Every municipal area shall be classified by the Government as 'A' Class, 'B' Class or 'C' Class, on the basis of the population thereof, as specified below:—

A municipal area—

(a) with a population of more than 50,000 shall be a 'A' Class municipal area;

(b) with a population of more than 10,000 but not more than 50,000 shall be a 'B' Class municipal area; and

(c) with a population of 10,000 or less shall be a 'C' Class municipal area.

(2) Notwithstanding anything contained in sub-section (1), there shall come into existence on and from the appointed day Municipal Councils as shown in column 3 of Schedule I having jurisdiction over such municipal areas as may be declared by notification in the Official Gazette by the Government in this behalf in the manner provided in section 3 and shall bear the classification shown against them in column 4 of Schedule I.

(3) Notwithstanding anything contained in any law for the time being in force, after the appointed day, it shall be lawful for the various authorities concerned to take all

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[28] Substituted by the Amendment Act 13 of 1994.

[29] Substituted by the Amendment Act 13 of 1994.

necessary steps to prepare the lists of voters and to hold general elections in the municipal areas, but the Councillors elected thereat shall be eligible to enter office only after the day on which section 327 is brought into force.

(4) Every area declared to be a municipal area after the appointed day shall likewise be classified by the Government and for that purpose the Government shall, from time to time, by notification in the Official Gazette, amend Schedule I.

(5) The Government shall review the classification made under this section after each census or when the limits of any municipal area are altered by addition or exclusion of any local area or when any area ceases to be a municipal area, and shall, where necessary, by notification in the Official Gazette, amend Schedule I accordingly.

5. Effect of reclassification of a municipal area. — Whenever the classification of a municipal area is changed under section 4, all the relevant provisions of this Act applicable to the class of the municipal area into which the said area is re-classified shall, with effect from the date of such re-classification, apply to the said re-classified municipal area:

Provided that such re-classification shall not affect the constitution of the Council as constituted immediately before such re-classification and every order issued under sub-section (1) of section 10 by reason of such re-classification shall take effect for the purposes of the next general election immediately following after the date of such order.

(a) alter the limits of a municipal area so as to include therein or to exclude therefrom such local area as may be specified in the notification;

(b) amalgamate two or more municipal areas so as to form one municipal area;

(c) split up any municipal area into two or more municipal areas;

(d) declare that the whole of any local area comprising a municipal area shall cease to be a municipal area:

Provided that no such notification shall be issued by the Government under any of the clauses of this sub-section without consulting the Municipal Council or Councils and other local authorities concerned.

(2) Prior to the publication of' a notification under sub-section (1), the procedure prescribed in sub-sections (3), (4) and (5) of section 3 shall **mutatis mutandis** be followed.

30[(3) Notwithstanding anything contained in any of the provisions of this Act or any other law, or Judgement, decree or order of the court, a Municipal area which is deemed to be a Panchayat in terms of section 2 of the Goa Municipalities (Amendment) Act,

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30Sub section (3) and (4) inserted by the Amendment Act 1 of 2001, thereafter by the Amendment Act 14 of 2006 both sections substituted by the new sub-section (3).

2001 (Goa Act 1 of 2001) shall be a Municipal area from the 28th day of April, 2006, and all actions taken by or against such deemed Panchayat shall be deemed to have been taken by or against the Municipal Council of such Municipal area.]

(2) Municipal Authorities and Establishment of Councils.

7. Municipal authorities charged with execution of the Act.— The municipal authorities charged with carrying out the provisions of this Act for each municipal area are—

(a) the Council;

(b) the 31[Chairperson];

(c) the Standing Committee;

(d) the Subjects Committees, if any; and

(e) the Chief Officer.

32[(f) the Municipal Engineer;]

8. Establishment and incorporation of Councils.— For every municipal area there shall be a Municipal Council. Every such Council shall be a body corporate by the name of "The ... Municipal Council" and shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property, and to enter into contracts and may by the said name sue, or be sued, through its Chief Officer.

9. Composition of Councils.—33[(1) Save as otherwise provided by this Act, every Council shall consist of Councillors elected at ward elections;

Provided that—

(1)in every Council, no less than (1/3) seats shall be reserved for women;

[34][(2) in every Council, seat shall also be reserved for Scheduled Caste, Scheduled Tribes and Other Backward Class and for woman belonging to Scheculed Caste, as the case may be, the the Scheduled Tribes and Other Backward Class as provided in sub-section (2)]

(a) the number of elected Councillors in accordance with the following table:

Class of Municipal area	Number of elected Councillors
(i) 'A' Class	The minimum number of elected Councillors shall be 15, and [35]{for every 3,000 of the population or part thereof} above 50,000 there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 20;

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[31] Substituted by the Amendment Act 13 of 1994.
[32] Inserted by the Amendment Act 13 of 1994.
[33] Substituted by the Amendment Act 13 of 1994 thereafter substituted 7 of 1998.
[34] Substituted by the Amendment Act 7 of 2007.
[35] Substituted by the Amendment Act 1 of 2001.

(ii) 'B' Class	The minimum number of elected Councillor shall be 10, and [36]{for every 3,000 of the population or part thereof} [37][above 10,000] there shall be one additional elected Councillor, so, however, that the total number of elected Councillors shall not exceed 15;
(iii) 'C' Class	The number of elected Councillors shall be 10.

[38][(b) the number of seats, if any, to be reserved for the [39]{Scheduled Castes, Scheduled Tribes or the Other Backward Class} so that such number shall bear, as nearly as may be, the same proportion to the number of elected Councillors as the population of the [40]{Scheduled Castes, Scheduled Tribes or of the Other Backward Class} in the municipal area bears to the total population of that area and not less than one-third of such seats shall be reserved for women and such seats shall be allotted by rotation to different constituencies in a municipal area.

(c) the number of seats for the office of Chairperson in the Council [41][for Scheduled Castes, the Scheduled Tribes or the Other Backward Class] and women so that such number will bear as nearly as may be, the same proportion to the number of elected Councillors as the population of the [42][scheduled Castes, Scheduled Tribes or of the Other Backward Class] in the municipal area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Council.]

(3) The reservation of seats for Scheduled Castes and Scheduled Tribes made by an order under sub-section (2) shall cease to have effect when the reservation of seats for those Castes and Tribes in the House of the People ceases to have effect under the Constitution of India:

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of office for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.

(4) Every order under sub-section (2) shall take effect for the purposes of the next general election of the Council immediately following after the date of the order.

(5) [43][ ]

[44][**9A**. [45][**Right of Member of the Legislative Assembely to associate at the meeting.—**](1) Notwithstanding anything contained in the Act, the Member of the Legislative Assembly of Goa representing the Constituency which comprises wholly or

[36] Substituted by the Amendment Act 1 of 2001.

[37] Substituted by the Amendment Act 13 of 1994, thereafter by the Amendment Act 14 of 2006 figures subsitituted. [38] Substituted by the Amendment Act 13 of 1994.

[39] Substituted by the Amendment Act 7 of 2007.

[40] Substituted by the Amendment Act 7 of 2007.

[41] Substituted by the Amendment Act 7 of 2007.

[42] Substituted by the Amendment Act 7 of 2007.

[43] Subsection 5 omitted by the Amendment Act 7 of 1998.

[44] Inserted by the Amendment Act 7 of 1998.

[45] Inserted by the Amendment Act 27 of 2002.

partly by municipal area, [46][ ] shall have right to associate at the meeting of the concerned Municipal Council and take part in the proceedings of the Council but shall have no right to vote.

(2) For every meeting of a Council, a notice of meeting specifying the date, hour and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the concerned Member of Legislative Assembly of the State of Goa [47][ ].

10. Division of municipal area into wards and reservation of wards for women, [48]**[Scheduled Castes, Scheduled Tribes and Other Backward Class].—** (1) The Director shall from time to time by order published in the Official Gazette, fix for each municipal area the number and the extent of the wards into which such area shall be divided. The Director shall specify in the order the ward in which a seat is reserved for women but in so doing he shall ensure that such a seat its reserved from time to time by rotation in different wards of the municipal area. He shall by a like order specify the wards in which seats are reserved for [49][Scheduled Castes, Scheduled Tribes or the Other Backward Class], [50][including the seats for offices of Chairperson] having regard to the concentration of population of [51] [those Castes, or Tribes, or as the case may be, of those class], in any particular wards.

(2) Each of the wards shall elect only one Councillor.

(3) Every order issued under sub-section (1) shall take effect for the purpose of the next general election immediately following the date of such order

(4) Nothing in this section shall be deemed to prevent women or persons belonging to the [52][Scheduled Castes, Scheduled Tribes or Other Backward Class] for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not reserved.

[53]**[10A. Election of Councils.—** The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Council shall be vested in the State Election Commission constituted under [54]{section 237 of the Goa Panchayat Raj Act, 1994(Act 14 of 1994)}.]

11. List of voters.— (1) The electoral roll of the Goa, Daman and Diu Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, and for the time being in force on such date as the [55][State Election Commission]may by general or special order notify in this behalf (being a date not earlier than one month from such

XLIII of 1950.

[46] Words “and any one Ex-Councillor as to be nominated by the Council with prior approval of the Government”omitted by the Amendment Act 27 of 2002.
[47] Omitted by the Amendment Act 27 of 2002.
[48] Substituted by the Amendment Act 7 of 2007.
[49] Substituted by the Amendment Act 7 of 2007.
[50] Inserted by the Amendment Act 13 of 1994.
[51] Substituted by the Amendment Act 7 of 2007.
[52] Substituted by the Amendment Act 7 of 2007.
[53] Inserted by the Amendment Act 13 of 1994.
[54] Substituted by the Amendment Act 27 of 2002.
[55] Substituted by the Amendment Act 13 of 1994.

notification) for such constituency of the Assembly or any part thereof as is included in the municipal area, shall be divided [56][ ] into different sections corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer shall be the list of voters for each ward. The ward lists shall collectively be deemed to be the municipal voters’ list.

(2) Such officer shall maintain the lists of voters prepared under sub-section (1) and the lists so maintained shall be deemed to be the authentic lists for all elections under this Act.

(3) At least one month before the last date fixed for nomination of candidates for every general election, such officer shall keep open for public inspection at the municipal office and at such other places in the municipal area as the [57][State Election Commission] may fix, copies of the list of voters of each ward maintained under sub-section (2).

12. Right to vote.— (1) Every person whose name is in the list of voters maintained under the last preceding section shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a Councillor for the ward to which such list pertains.

(2) The list of voters maintained under the last preceding section shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote, as the case may be, at any election.

13. Manner of voting.— (1) The voting at an election shall be by ballot, and no votes shall be received by proxy.

(2) A voter shall be entitled t to any one candidate.

[57-A][13-A. Use of electronic voting machine.—] Notwithstanding anything contained in this Act or the rules, the State Election Commission may put in use the electronic voting machine in lieu of ballot paper at an election in such manner as may be specified by it].

14. Other restrictions on voting.— (1) No person shall be entitled to vote at a general election in more than one ward, notwithstanding that his name may appear in the list of voters for more than one ward, and if a person votes in more than one ward his votes in all wards shall be void.

(2) No person shall be entitled to vote at any election in the same ward more than once, notwithstanding that his name may appear in the list of voters for that ward more than once, and if he does so vote all his votes in that ward shall be void.

15. Qualifications for candidates.— (1) Every person whose name is included in the list of voters maintained under section 11 and who is not less than [58][twenty-one] years of age and who is not disqualified for being elected a Councillor under this Act or any other law for the time being in force shall be qualified, and every person whose name is not included in the list or who is less than twenty-five year of age or who is so disqualified for being a Councillor shall not be qualified, to be elected as a Councillor at any election.

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[56] The words "by such officer of the Council or the Government as may be designated by the Directorin this. Behalf" omitted by the Amendment Act 13 of 1994.

[57] Substituted by the Amendment Act 13 of 1994.

[57-A] Inserted by the Amendment Act 8 of 2010.

[58] Substituted by the Amendment Act 13 of 1994.

(2) Subject to the provisions of sub-section (1), the list of voters maintained under section 11 shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to be elected, as the case may be, at any election.

16. Disqualifications for becoming a Councillor. — (1) No person shall be qualified to become a Councillor [59][by election], who—

(a) [60][Omitted]

(b) has been removed from office under section 44 and five years have not elapsed from the date of such removal;

(c) has been disqualified under section 45 [61][46] or under sub-sections (4), and (6) of section [62][47] and five years have not elapsed from the date of such disqualification; or

(d) has been disqualified under sub-section (11) or (12) of section 22 and the period for which he has been disqualified has not elapsed from the date of such disqualification; or

(e) is an undischarged insolvent; or

(f) is of unsound mind and stands so declared by a competent Court; or

(g) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or

(h) is a Judge; or

(i) is a subordinate officer or servant of the Government or any local authority or holds an office of profit under the Government or any local authority; or

(j) is in arrears (otherwise than as a trustee) of any sum due by him to the Council after the presentation of a bill therefor to him under section [63][147]; or

(k) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Council or in any contract with or under or by or on behalf of the Council; or

(l) [64][omitted]

(2) A person shall not be deemed to have incurred disqualification under clause (k) of sub-section (1) by reason only of his—

(a) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same; or

(b) having a share or interest in any company or co-operative society which contracts with or be employed by or on behalf of the Council; or

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[59] Subsitituted by the Amendment Act 7 of 1998.
[60] Omitted by the Amendment Act 13 of 1994.
[61] Subsitituted by the Amendment Act 7 of 1998.
[62] Substituted by the Amendment Act 13 of 1994.
[63] Substituted by the Amendment Act 13 of 1994.
[64] Omitted by the Amendment Act 13 of 1994.

(c) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Council may be inserted; or

(d) holding debentures or being otherwise interested in any loan raised by or on behalf of the Council; or

(e) having a share or interest in the occasional sale to the Council of any article in which he regularly trades, or in the purchase from the Council of any article, of a value in either case not exceeding in any official year two thousand rupees, or such higher amount not exceeding ten thousand rupees as the Council with the sanction of the Government may fix in this behalf; or

(f) having share or interest in the occasional letting out on hire to the Council or in the hiring from the Council of any article for an amount not exceeding in any official year two hundred rupees, or such higher amount not exceeding one thousand rupees as the Council with the sanction of the [65][Director] may fix in this behalf; or

(g) being a party to any agreement made with the Council for paying fixed charges or lump sum in lieu of any taxes or for construction of any drainage or water connections for his premises.

(3) A person shall not be deemed to have incurred disqualification under clause (e) of sub-section (1) by reason only of his being an officer or member of a co-operative society which advances or has advanced a loan of money to, or borrows or has borrowed money from, any officer or servant of the Council.

17. Director to decide the question of disqualification.— If any question arises as to whether a person has become subject to any disqualification referred to in section 16, it shall be referred [66][in such manner as may be prescribed] to the Director [67][who shall decide the question within six months from the date of its receipt by him] and his decision thereon shall be final:

Provided that a person aggrieved by the decision of the Director may file a revision petition against such decision to the Administrative Tribunal within [68][30 days] from the date of such decision and the decision of the Administrative Tribunal in this behalf shall be final.

18. Power to make rules regulating elections.— (1) The Government may make rules generally to provide for, or to regulate, matters in respect of elections to be held under this Act.

(2) Without prejudice to the generality of the foregoing powers, the Government may make rules with regard to all or any of the following matters, namely:—

(a) the maintenance of list of voters;

(b) the fixation of dates, time and places for various stages of elections;

(c) the appointment and duties of returning officers, presiding officers, and other staff appointed for elections;

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[65] Substituted by the Amendment Act 7 of 1998.
[66] Inserted by the Amendment Act 13 of 1994.
[67] Substituted by the Amendment Act 13 of 1994.
[68] Substituted by the Amendment Act 13 of 1994.

(d) the nomination of candidates, form of nomination paper, objections to nomi-nations, scrutiny of nominations and appeals against acceptance or rejection of nomination papers;

(e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the Council;

(f) the assignment of symbols to candidates;

(g) the withdrawal of candidature;

(h) the appointment of agents of candidates;

(i) the form of ballot paper;

(j) the procedure in contested and uncontested elections;

(k) the steps to be taken to prevent personation of voters;

(1) the manner of recording votes;

(m) the procedure to be followed in respect of challenged votes and tendered votes; (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes;

(o) the custody and disposal of papers relating to elections;

(p) the circumstances in which poll may be suspended or held afresh;

(q) any other matter relating to elections which is to be or may be prescribed under this Act.

19. Failure to elect.—[69][(1) If, at a general election or bye-election, no councillor is elected from the ward, a fresh election shall be held to elect a Councillor from that ward;]

(2) [70][Omitted]

20. Declaration of results of election.— (1) As soon as possible after the counting of votes in a ward, if it is a by-election, and in all the wards, if it is a general election, in a municipal area is over, the [71][State Election Commission] shall publish the results in the Official Gazette.

(2) If at a general election the poll could not be taken in any ward or wards for any reason on the date originally fixed for the purpose but it was taken on that date in more than two-third of the wards, the [72][State Election Commission] shall, as soon as possible, after the counting of the votes in the said ward is over, publish the available results in the Official Gazette, and as regards the remaining ward or wards the [73][State Election Commission] shall subsequently publish the results in the Official Gazette as and when the poll is taken and the counting of the votes therein is over:

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[69] Substituted by the Amendment Act 13 of 1994.

[70] Omitted by the Amendment Act 13 of 1994.

[71] Substituted by the Amendment Act 13 of 1994.

[72] Substituted by the Amendment Act 13 of 1994.

[73]Substituted by the Amendment Act 13 of 1994.

Provided that in determining the two-third of the number of wards a fraction shall be ignored.

(3) After every general election, upon the publication of the results or, as the case may be, upon the first publication of the results in the Official Gazette under this section, the Council shall be deemed to be duly elected.

(4) If a person is elected in more than one ward, he shall by notice in writing signed by him and delivered to the [74][State Election Commission] within a period of seven days from the date of publication of the results under sub-section (1) or, as the case may be, the date of subsequent publication of the results thereunder in which his name is included, choose any one of the wards which he shall serve and the choice shall be final.

(5) When such choice is made, fresh elections shall be ordered in the remaining ward or wards [75][within a period of six months from the date of making of such choice.]

(6) In case such person fails to notify his choice within the period specified in sub-section (4), his election to all such seats shall be void, and thereupon a fresh election shall be ordered in the words from which such person had been elected.

21. [76][omitted]

(4) Disputes in respect of election, co-option or nomination of Councillors.

22. Disputes in respect of election, [77][ ] of Councillors.— (1) No election, [78][ ] of a Councillor may be called in question, except by a petition presented to the District Court by a candidate at the election or by any person entitled to vote at the election, within ten days after the publication of the names of the Councillors in the Official Gazette under section 20 [79][ ], as the case may be.

(2) Any such petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies,

(b) shall, with sufficient particulars, set forth the ground or grounds on which the election, [80][ ] is called in question, and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings. V of 1908.

(3) A petitioner may claim all or any one of the following declarations, namely:—

(a) that the election of all or any of the returned candidates is void; or

[74] Substituted by the Amendment Act 13 of 1994.

[75] Inserted by the Amendment Act 13 of 1994.

[76] Section 21 is omitted by the Amendment Act 7 of 1998.

[77] The words "co-option or nomination" omitted by the Amendment Act 7 of 1998.

[78] Omitted by Amendment Act 7 of 1998.

[79] The words and figure "or section 21" omitted by the Amendment Act 27 of 2002.

[80] Omitted by Amendment Act 7 of 1998.

(b) that the election of all or any of the returned candidates is void and that he himself or any other candidate has been duly elected; or

(c) [81][deleted].

(4) A petitioner shall join as respondents to his petition—

(a) where the petitioner claims a declaration under clause (a) of sub-section (3), the returned candidate or candidates in respect of whom such declaration is claimed;

(b) where the petitioner claims a declaration under clause (b) of sub-section (3), all the contesting candidates other than the petitioner;

(c) any other candidate against whom allegations of any corrupt or illegal practice are made in the petition;

(d) [82][deleted]

Explanation:— The expression "returned candidate" means a candidate whose name has been published in the Official Gazette under section 20.

(5) Such petition shall be inquired into and disposed of by the District Judge or by any Judge not lower in rank than a Civil Judge Senior Division to whom the case or such cases generally may be referred to by the District Judge.

(6) All petitions under sub-section (1), in which the validity of the election of the same Councillor elected to represent the same ward is in question shall be heard together.

(7) For the trial of such petition, the Judge shall have all the powers of a civil court including powers in respect of the following matters, namely:—

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence on affidavit; and

(g) issuing commissions for the examination of witnesses;

and the Judge may summon and examine *suo motu* any person whose evidence appears to him to be material. The Judge shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of V of 1898. Criminal Procedure, 1898.

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81 Clause (C) deleted by the Amendment Act 7 of 1998.

82 Clause (d) of sub-section 4 deleted by the Amendment Act 7 of 1998.

(8) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit— V of 1908.

(a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading,

unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.

(9) The Judge, after such inquiry as he deems necessary, may pass suitable order and his order shall be conclusive.

(10) If the petitioner has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Judge is satisfied that—

(a) the petitioner or such other candidate received sufficient number of valid votes to have been elected; or

(b) but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a sufficient number of valid votes to have been elected,

The Judge may, after declaring the election of the returned candidate void, declare the petitioner or such other candidate to have been duly elected:

Provided that —

(i) for the purpose of such computation, no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown in giving or obtaining it;

(ii) after such computation, if any equality of vote is found to exist between any candidates and the addition of one vote would entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of

valid votes found to have been recorded in favour of the candidate, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(11) Where any charge is made in the petition of any corrupt practice, the Judge shall make an order recording the names of all persons including any candidates, if any, who have been proved at the trial to have been guilty of any currupt practice and the nature of that practice and may disqualify any such person for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order:

Provided that no person shall be named in such order unless—

(a) he has been given notice to appear before the Judge and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Judge and has given evidence against him, of calling evidence in his defence and of being heard.

(12) If the Judge sets aside the election of a candidate on the ground that a corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the candidate or his election agent and if such candidate's name has not been included in any order made under sub-section (11), the Judge shall declare such candidate disqualified for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order.

(13) The Judge may also make an order fixing the total amount of costs payable and specifying the person by and to whom costs shall be paid.

Such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908. V of 1908.

(5) Corrupt practices and other electoral offences.

23. Corrupt practices.— The following shall be deemed to be corrupt practices for the purposes of this, Act:

(1) Bribery, that is to say,

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any gratification, to any person whomsoever, with the object, directly or indirectly, of inducing —

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) a voter to vote or refrain from voting at an election; or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn, his candidature; or

(ii) a voter for having voted or refrained from voting;

(B) the receipt of, or agreement to receive any gratification, whether as a motive or a reward,—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation:— For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bonafide* incurred at, or for the purpose of any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein, who—

(i) threatens any candidate or any voter, or any person in whom a candidate or a voter is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person, on the grounds of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station:

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a

corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any voter at his own cost for the purpose of going to or coming

from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation:— In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election from any person in the service of the Government or Council.

[83][(7) Faliure to maintain accounts of daily expenditure and failure to file ruturns of such expenditure within the time stipulated by the State Election Commission as per the Code of Conduct notified by the State Election Commission for candidates contesting the election.]

24. Prohibition of public meetings on the election day.— (1) No person shall convene, hold or attend any public meeting within a ward of a municipal area on the date or dates on which poll is taken for an election from the ward.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

25. Disturbances at election meeting.— (1) This section applies to any public meeting in connection with an election held in a municipal area after the programme for the election from any ward of the municipal area is announced.

(2) Any person who at a public meeting to which this section applies acts, or invites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (2), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

26. Prohibition of canvassing in or near polling stations.— (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:—

(a) canvassing for votes; or

(b) soliciting the vote of any voter; or

(c) persuading any voter n ndidate; or

83 Inserted by the Amendment Act 27 of 2002.

(d) persuading any voter not to vote at the election; or

(e) exhibiting any notice or sign (other than official notice) relating to the election.

(2) Any person who contravenes any provision of sub-section (1), shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

27. Penalty for disorderly conduct in or near polling stations. — (1) No person shall, on the date or dates on which a poll is taken at any polling station,—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

28. Penalty for misconduct at polling station.— (1) Any person who during the hours fixed for poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer, may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(4) An offence under sub-section (3) shall be cognizable.

29. Penalty for illegal hiring or procuring of conveyances at election.— If any person is guilty of any such corrupt practice as is specified in clause (5) of section 23 at

or in connection with an election, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

30. Maintenance of secrecy of voting.— (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

31. Officers, etc. at election not to act for candidates or to influence voting.— (1) No person who is a returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

(a) to persuade any person to give his vote at an election; or

(b) to dissuade any person from giving his vote at an election; or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes any provision of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

32. Breaches of official duty in connection with election.— (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the preparation of a municipal voters' list, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at any election, and the expression "official duty" shall, for the purposes of this section, be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

33. Removal of ballot papers from polling station to be an offence.— (1) Any person who, at any election, fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rup

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (l) shall be cognizable.

34. Other electoral offences and penalties therefor.— (1) A person shall be guilty of an electoral offence if at any election, he—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything, other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently, or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall, —

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression, "official duty" shall not include any duty imposed other .

(4) An offence punishable under clause (b) of sub-section (2) shall, be cognizable.

35. Prosecution regarding certain offences.— No Court shall take cognizance of any offence punishable under section 31 or under section 32 or under clause (a) of sub-section (2) of section 34 unless there is a complaint made by an order of, or under authority from, the [84][State Election Commission].

(6) Powers of requisitioning for election purposes.

36. Requisitioning of premises, vehicles, etc., for election.— (1) If it appears to the [85][State Election Commission] or an officer authorised by the [86][State Election Commission]. (hereinafter referred to as "the requisitioning authority") that in connection with an election—

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to, or from, any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election.

the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served on the person to whom it is addressed in the manner prescribed for the service of a notice under section 310.

(3) Any person to whom such order is addressed shall be bound to deliver possession of such premises or such vehicle, vessel or animal to the requisitioning authority or to such other officer as may be specified in the order.

(4) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Explanation:— For the purpose of this section, "premises" means any land, building, or part of a building and includes a hut, shed or other structure or any part thereof.

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[84] Substituted by the Amendment Act 13 of 1994.
[85] Substituted by the Amendment Act 13 of 1994.
[86] Substituted by the Amendment Act 13 of 1994.

(5) Any person who contravenes any order made under this section shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

37. Payment of compensation.— (1) Whenever in pursuance of the last preceding section, the requisitioning authority requisitions any premises or any vehicle, vessel or animal, the Council shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning, authority taking into consideration the following, namely: —

(a) in the case of premises,—

(i) the rent payable in respect of the premises or if no rent is payable the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

(b) in the case of any vehicle, vessel or animal, the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to —

(i) the amount of compensation determined, or

(ii) the title for any person entitled to receive compensation, or

(iii) the apportionments of the amount of compensation among two or more persons,

may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him, within one month from the date of the order, appeal to the Administrative Tribunal and the decision of the Administrative Tribunal on such appeal shall be final.

Explanation:— For the purpose of this section, the expression "person interested" means, —

(a) in the case of premises, —

(i) the person who was in actual possession of the premises immediately before the requisition; or

(ii) when no person was in actual possession, the owner of such premises;

(b) in the case of any vehicle, vessel or animal, the owner thereof; and

(c) any other person who is entitled to receive compensation:

Provided that, where immediately before the requisitioning, any vehicle or vessel was, by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned

between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

38. Power to obtain information.— (1) The requisitioning authority may, with a view to requisitioning any property under section 36 or determining the compensation payable under section 37 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

(2) If any person to whom such order is addressed refuses to furnish such information or wilfully furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

39. Eviction from requisitioned premises.— (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove, or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

40. No civil court to have jurisdiction.— No civil court shall have jurisdiction to question the legality of any action taken or any decision given by the prescribed authority in connection with the conduct of elections under this Act.

41. Release of premises from requisition.— (1) When any premises requisitioned under section 36 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 36 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such, premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Council shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

(7) Term of office of Councillors.

42. Term of office of Councillors. —[87][(1) The Councillors elected at a general election, shall hold office for a term of five years.]

(2) The term of office of such Councillors, shall be deemed to commence on the date of the meeting after the general election [88][ ].

(3) Notwithstanding anything contained in sub-sections (1) and (2), the term of office of the outgoing Councillors shall be deemed to extend to and expire with the day immediately preceding the date of such meeting.

(4) A Councillor elected at a bye-election shall hold office so long only as the Councillor in whose place he is elected would have held it if the vacancy had not occurred.

(5) [89][ ]

(6) [90][ ]

(7) The term of office of a Councillor elected at a general election whose result is published in the Official Gazette under sub-section (1) of section 20, after the first publication of the results thereunder, shall commence with effect from the date on which his name is published in the Official Gazette, but shall be co-terminous with the term of the elected Councillors whose results are first published as aforesaid.

[91][**43. Resignation of Councillors.—**A Councillor may resign his office in writing under his hand (addressed to the Chairperson) [92]{with a copy to the Director} and his seat shall become vacant on the expiry of seven days from the date of receipt of such resignation, unless within the said period of seven days he withdraws his resignation by writing under his hand (addressed to the Chairperson) [93]{with a copy to the Director}.]

[94][Provided that no such resignation or withdrawal of resignation, as the case may be, shall be taken cognizance of by the Chairperson unless the same is presented either by the resigning member himself or his signature has been duly attested by a Notary Public or a Gazetted Officer of the Government and he is satisfied that the signature is genuine and the resignation or withdrawal of resignation, as the case may be, is voluntary.]

44. Liability of Councillors to removal from office.— (1) The Government may on its own motion or on the recommendation of the Council remove any Councillor from office if such Councillor has been guilty of any misconduct in the discharge of his duties, or of any disgraceful conduct.

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87 Substituted by the Amendment Act 13 of 1994.

88 The words "held to elect the President and the Vice-President under section 52" deleted by the Amendment Act 13 of 1994.

89 Sub-section 5 deleted by the Amendment Act 7 of 1998.

90 Omitted by the Amendment Act 13 of 1994.

91 Section substituted by the Amendment Act 13 of 1994.

92 Inserted by the Amendment Act 27 of 2002.

93 Inserted by the Amendment Act 27 of 2002.

94 Inserted by the Amendment Act 27 of 2002.

(2) The Government may likewise remove any Councillor from office if such Councillor has in the opinion of the Government become incapable of performing his duties as a Councillor:

Provided that no Councillor shall be removable under this sub-section for becoming incapable of performing his duties as the [95][ ] or the Vice [96][Chairperson], as the case may be.

(3) No resolution recommending the removal of any Councillor for the purposes of sub-section (1) or (2) shall be passed by a Council and no order of removal shall be made by the Government, unless the Councillor to whom it relates

has been given a reasonable opportunity of showing cause why such recommendation or order, as the case may be, should not be made.

(4) In every case the Government makes an order under sub-section (1) or (2), the Councillor shall be disqualified from becoming a Councillor, or a Councillor or member of any other local authority for a period of five years from the date of such order.

45. Resignation not to affect subsequent disqualification of a Councillor.—Notwithstanding that a Councillor has resigned his office under section 43 if he is subsequently found guilty under sub-section (1) of section 44, the Government may disqualify him from becoming a Councillor, or a Councillor or member of any other local authority for a period of five years from the date of its order:

Provided that no such action shall be taken against any person after the expiry of one year from the date of his resignation and without giving him a reasonable opportunity of being heard.

46. Disqualification of Councillor during his term of office.— (1) A Councillor shall be disqualified to hold office as such, if at any time during his term of office, he—

(a) is or becomes subject to any of the disqualifications specified in section 16 except the disqualification specified in clause (j) of sub-section (1) of that section; or

(b) as a Councillor or as a member of any committee of the Council votes in favour of any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in clauses (a), (b), (c), (e), and (g) of sub-section (2) of section 16, whatever may be the value of such share or interest or in which he is professionally interested on behalf of a client, principal or other person; or

(c) is professionably interested or engaged in any case for or against the Council; or

(d) absents, himself during four successive [97][ ] meetings of the Council, except with the leave of absence granted by the Council by a resolution on his written application for such leave,

and he shall be disabled subject to the provisions of sub-section (3) from continuing to be a Councillor and his office shall become vacant:

[95] Substituted by the Amendment Act 13 of 1994.
[96] Substituted by the Amendment Act 13 of 1994.
[97] Omitted by the Amendment Act 7 of 98.

Provided that —

(i) a Councillor shall not be disqualified under clause (c) if he is engaged for the Council without receiving any remuneration therefor or appears and conducts his own case in a court of law or before any authority under this Act against the Council irrespective of whether such a Councillor is a legal practitioner by profession or not;

(ii) for the purpose of clause (d), when the Councillor applies for leave, such leave shall be deemed to have been granted unless it is refused within, a period of sixty days from the date of his application.

(2) When a Councillor, whether elected, [98][ ] incurs any of the disqualifibations in sub-section (1), it shall be the duty of the Chief Officer to submit a report to the [99][Director] within one month of his becoming aware of the disqualification through any source whatsoever.

(3) In every case the authority to decide whether a vacancy has arisen shall be the Director. The Director may give his decision on receipt of the report of the Chief Officer under sub-section (2) or on his own motion or on an application made to him by a voter and such decision shall be communicated to the Councillor concerned, the Chief Officer and the applicant, if any Until the Director decides that a vacancy has arisen and such decision is communicated as provided above, the Councillor shall not be deemed to have ceased to hold office.

(4) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of receipt of the decision of the Director by him, appeal to the Administrative Tribunal and the orders passed by the Administrative Tribunal shall be final:

Provided that no order shall be passed under sub-section (3) by the Director or under sub-section (4) by the Administrative Tribunal in appeal, against any Councillor without giving him a reasonable opportunity of being heard.

Explanation:— If any elected [100] [ ] Councillor were subject to any disquallfication specified in [101][section 16 or Section 46], at the time of his election [102] [ ] as the case may be, and continues to be so disqualified, the disqualification shall, for the purposes of this section, be deemed to have been incurred during the term for which he is elected [103] [ ].

47. Special provisions regarding disqualification for failure to pay taxes due to the Council.— (1) The Chief Officer shall prepare and forward to the Director by the fifteenth day of April, July, October, and January every year a list of all the Councillors (including the [104][Chairperson] and the [105][Vice-Chairperson] who, on the 1st day of April, July, October and January, respectively, immediately preceding, have failed to pay any tax or taxes due by them to the Council within two months from the date on which

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[98] Omitted by the Amendment Act 7 of 98.
[99] Substituted by the Amendment Act 13 of 1994.
[100] Omitted by the Amendment Act 7 of 98.
[101] Substituted by the Amendment Act 15 of 1996.
[102] Omitted by the Amendment Act 7 of 98.
[103] Omitted by the Amendment Act 7 of 98.
[104] Substituted by the Amendment Act 13 of 1994.
[105] Substituted by the Amendment Act 13 of 1994.

such tax became payable, and the amount due from each by way of each such tax. A copy of the list shall be placed before the Council at its next meeting.

(2) The Chief Officer shall also issue to every Councillor included in such list, simultaneously a special notice in the prescribed form requiring him to pay the amount of tax due from him within one month from the date of the issue of such notice.

(3) The Chief Officer shall forward to the Director by the last day of May, August, November, and February, immediately following, a statement showing—

(i) the name of each Councillor included in the list prepared under sub-section (1);

(ii) the amount of tax due from each such Councillor by way of each such tax and the date on which it became payable;

(iii) the date of the special notice issued to such Councillor under sub-section (2); and

(iv) the amount of tax paid by the Councillor and the reasons for the non-payment of the balance, if any.

(4) On receipt of the statement under sub-section (3), the Director shall issue a special notice to each Councillor who has failed to pay any tax by the date specified in the notice under sub-section (2), calling upon him to state within one month from the date of the special notice why he should not be disqualified and his office declared vacant. If the Councillor fails to give an explanation to the satisfaction of the Director for the non- -payment of the taxes, the Director shall issue an order disqualifying such Councillor and his office shall thereupon be vacant:

Provided that neither the pecuniary circumstances of the Councillor nor the fact that he has paid the arrears after the notice under sub-section (4) was received by him shall be a satisfactory explanation for the purposes of this sub-section.

(5) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of the receipt of the Director's order by him, appeal to the Administrative Tribunal and the orders passed by the Admimistrative Tribunal in such appeal shall be final:

Provided that no such appeal shall be entertained by the Administrative Tribunal unless the amount of tax due is deposited in the office of the Council.

(6) Notwithstanding the fact that the Councillor so disqualified has since the date of his disqualification paid such dues of his own accord or such dues are recovered from him in accordance with the procedure laid down by or under this Act, such Councillor shall be disqualified from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the date of such disqualification.

48. Section 47 not to affect Council's other powers for recovery of taxes.— Nothing in the last preceding section shall be deemed to affect the powers of the Council to recover the amount of tax due from any Councillor in any other manner provided by or under this Act.

49. Councillor to vacate all offices if he ceases to be Councillor.— A person who ceases to be a Councillor for any reason whatsoever shall *ipso facto* vacate all the offices held by him by virtue of his being a Councillor.

50. Casual vacancies how to be filled up.— (1) Where a vacancy occurs through the non-acceptance of office by any elected [106] [ ] Councillor or such person being disqualified for becoming or continuing to be a Councilor, or any election being set aside under the provisions of section 22 or the death, resignation, removal or disability of a Councillor previous to the expiry of his term of office, the vacancy shall be filled by a bye-election [107] [ ] according as the Councillor was elected [108][ ]:

Provided that no bye-election shall be held [109] [ ] [110][ ] to fill up a vacancy occurring within four months prior to the date on which the term of office of the Councillors of the Council expires.

(2) The Chief Officer shall report to the Director every vacancy in the office of a Councillor within fifteen days of the occurrence of the vacancy or within fifteen days of his becoming aware of the vacancy, whichever is later

CHAPTER III

Duties and Functions of the Council and the Municipal Executive

(1) Obligatory duties and discretional functions of the Council.

51. Duties and functions of the Council.— (1) Except as otherwise provided in this Act, [111][the administration of municipal area] shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Act or any other law for the time being in force, unless the Government otherwise directs it shall be the duty, of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely:—

(a) lighting public streets, places and bililidings;

(b) watering public streets, and places;

(c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not; removing noxious vegetation; and abating all public nuisances;

(d) extinguishing fires, and protecting life and property when fires occur;

(e) regulating or abating offensive or dangerous trades or practices;

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[106] Omitted by the Amendment Act 7 of 98.

[107] Omitted by the Amendment Act 7 of 98.

[108] Omitted by the Amendment Act 7 of 98.

[109] Omitted by the Amendment Act 7 of 98.

[110] The word “made” omitted by the Amendment Act 27 of 2002.

[111] Substituted by the Amendment Act 7 of 1998.

(f) removing obstructions and projections in public streets or places and, in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in Government;

(g) securing or removing dangerous buildings or places and reclaiming unhealthy localities;

(h) acquiring and maintaining, changing; and regulating places for the disposal of' the dead;

(i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(j) obtaining a supply or an additional supply of water, proper and sufficient .for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;

(k) naming streets and numbering of premises;

(1) public vaccination;

(m) suitable accommodation for any calves, cows or buffaloes required within the municipal area for the supply of animal lymph;

(n) printing such annual reports on the municipal administration of the municipal area as the Government by general or special orders requires the Council to submit;

(o) erecting substantial boundary marks of such description and in such position as shall be approved by the [112] Director] , defining the limits, or any alteration in the limits of the municipal area;

(p) disposing of night-soil and rubbish and if so required by the Government, preparation of compost manure, from such night-soil and rubbish;

(q) providing special medical aid and accommodation for the sick in time of dangerous or communicable disease and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of such disease;

(r) giving relief and establishing and maintaining relief works in time of scarcity or for destitute persons within the limits of the municipal area;

(s) imposing compulsory taxes which are specified in section, 101;

(t) establishing and maintaining public dispensaries, and providing public medical relief and organising Family Planning Centres;

(u) establishing and maintaining primary schools.

(3) A Council may, at its discretion, provide, either wholly or partly, out of the municipal property and funds for—

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[112] Substituted by the Amendment Act 7 of 1998.

(a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof to abut on such streets;

(b) establishing or maintaining public hospitals, institutions for pre-primary and secondary education, libraries, museums, lunatic asylums, gymnasiums, *akhadas*, and homes for disabled and destitute persons, and constructing and maintaining buildings therefor, along with such other public buildings like town halls, municipal offices, shops, *dharmashalas*, open air theat

(c) laying out or maintaining public parks and gardens, and also planting and maintaining road-side and other trees;

(d) providing music for the people;

(e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(f) making a survey;

(g) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate; or any portion of any such charges;

(h) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 278 of this Act or under any law for the time being in force the Union territory;

(i) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in section 265;

(j) supplying, constructing and maintaining, in accordance with a general system approved by the Director of Public Health, receptacles, fittings, pipes and other appliances whatsoevor on or for the use of private, premises, for receiving and conducting the sewage thereof into sewers under the control of the Council;

(k) the acquisition and maintenance of grazing grounds; and the establishment and maintenance of dairy farms and breeding stud;

(1) establishing and maintaining a farm or factory for the disposal of sewage;

(m) promoting the well-being of municipal employees or any class of municipal employees and of their dependants;

(n) providing accommodation for servants employed by the Council;

(o) the construction of sanitary dwellings for the poorer classes;

(p) the purchase, organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public;

(q) the construction, maintenance, repairs, purchase of any works for the supply of electrical energy or gas;

(r) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, any hospital, dispensary or similar institution providing for public medical relief, or any other institution of a charitable nature;

(s) giving grants or donations to privately run primary or secondary schools or hostels for students;

(t) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal area;

(u) [113][any public reception, ceremony. fair, entertainment or exhibition held in the municipal area, within the amount as may be determinied by Director from time to time.]

(i) in each case, where the expenses are above the permissible limits herein before specified;

(ii) in each case, whatever the expense involved, after the annual limits herein-before specified are reached;

(v) any other measure not specified in sub-section (2) likely to promote public safety, health and convenience.

(4) No suit for damages or for specific performance shall be maintainable against any Council or any Councillor or officer or servant thereof on the ground that any of the duties specified in sub-section (2) above have not been performed.

(5) Every Council shall also, out of the municipal property and fund, make payments at such rates as the Government may from time to time by general or special order specify for the maintenance and treatment either in the municipal area or at any asylum, hospital or house, whether within or without such municipal area, which the Government declares by notification to be suitable for such purpose,—

(a) of lunatics, not being persons for whose confinement an order under Chapter [114][XXV] of the Code of Criminal Procedure, [115] [1973 (Central Act 2 of 1974)], is in force, and

(b) of leprosy patients,

resident within, or under any enactment for the time being in force removed from, the municipal area:

Provided that the Council shall not be liable under this sub-section for the maintenance and treatment of any lunatic or leprosy patient in any such asylum, hospital or house as aforesaid, unless such lunatic or leprosy patient, immediately previous to his admission thereto, has been resident in the municipal area for at least one year:

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[113] Substituted by the Amendment Act 7 of 1998.
[114] Substituted by the Amendment Act 13 of 1994.
[115] Substituted by the Amendment Act 13 of 1994.

Provided further that, where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no, order for the payment of the cost of maintenance of the lunatic by a Council shall be made without an opportunity being given to such Council to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a Council is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the Council on application. IV of 1912.

(6) Where a Council has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Council or its successors, with the sanction of the Government, to cancel such arrangement or promise, or to discontinue, or diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

(2) [116][Chairperson] and [117][Vice-Chairperson].

52. [118][ ][119]**[Chairperson] and** [120]**[Vice-Chairperson].—** (1) Every Council shall have a [Chairperson] and a [121][Vice-Chairperson], who shall be elected from amongst the Councillors who are elected [122][ ].

(2) Within [123][ten] days from the date on which the names of Councillors elected to a Councill are published, or as the case may be, first published, under sub-section (1) of section 20, in the Official Gazette, the [124][Director] shall convene a special meeting of the Councillors for election of a [125][Chairperson] and [126][Vice-chairperson]:

Provided that such meetings shall not be held before the expiry of the term of office of outgoing Councillors as determined under section 42.

(3) The meeting called under sub-section (2) shall be presided over by the Collector or such officer as the [127][Director] may by order in writing appoint in this behalf. The [128][Director] or such officer shall, when presiding over such meeting, have the same powers as the [129][Chairperson] of a Council when presiding over a meeting of the Council has, but shall not have the right to vote:

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[116] Substituted by the Amendment Act 13 of 1994.
[117] Substituted by the Amendment Act 13 of 1994.
[118] Words omitted by the Amendment Act 13 of 1994.
[119] Substituted by the Amendment Act 13 of 1994.
[120] Substituted by the Amendment Act 13 of 1994.
[121] Substituted by the Amendment Act 13 of 1994.
[122] Omitted by the Amendment Act 13 of 1994.
[123] Substituted by the Amendment Act 13 of 1994.
[124] Substituted by the Amendment Act 13 of 1994.
[125] Substituted by the Amendment Act 13 of 1994.
[126] Substituted by the Amendment Act 13 of 1994.
[127] Substituted by the Amendment Act 13 of 1994.
[128] Substituted by the Amendment Act 13 of 1994.
[129] Substituted by the Amendment Act 13 of 1994.

Provided that notwithstanding anything contained in this Act for regulating procedure at meetings (including the quorum required thereat), the [130][Director] or the officer presiding over such meeting may, for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

(4) If, in the election of the [131][Chairperson] or the [132] [Vice-Chairperson], there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the [133][Director] or the officer presiding in such manner as he may determine.

(5) Any dispute regarding election of the [134][Chairperson] or [135] [Vice-Chairperson] shall be referred to the Administrative Tribunal, whose decision in that behalf shall be final.

(6) [136][omitted].

(7) [137][omitted].

(8) If, during the term of a Council, there is a vacancy in the office of a [138][Chairperson] or [139][Vice-Chairperson] due to any reason whatsoever, the same procedure as prescribed in sub-sections (2) to (5) shall apply except—

(a) that the special meeting shall be called by the [140] [Director] within [141] [ten] days from the date on which the vacancy occurs; [142][and]

(b) [143][omitted].

144[(9) Notwithstanding anything contained in this Act, a person who has been redered disqualified under section 61A of the Act to be Chairperson or Vice- -Chairperson, he shall not be qualified to be elected as Chairperson or Vice--Chairperson of the concerned municipal Council for a period of five years from the date of such disqualification]

53. Term of office of 145[Chairperson] and 146[Vice-Chairperson].—The term of office of the 147[Chairperson] and 148[Vice-Chairperson] shall be co-terminous with the term of the elected Councillors.

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130 Substituted by the Amendment Act 13 of 1994.
131 Substituted by the Amendment Act 13 of 1994.
132 Substituted by the Amendment Act 13 of 1994.
133 Substituted by the Amendment Act 13 of 1994.
134 Substituted by the Amendment Act 13 of 1994.
135 Substituted by the Amendment Act 13 of 1994.

136 Omitted by the Amendment Act 7of 1998.
137 Omitted by the Amendment Act 7of 1998.
138 Substituted by the Amendment Act 13 of 1994.
139 Substituted by the Amendment Act 13 of 1994.
140 Substituted by the Amendment Act 13 of 1994.
141 Substituted by the Amendment Act 13 of 1994.
142 Substituted by Amendment Act 7 of 1998.
143 Omitted by the Amendment Act 7 of 1998.
144 Inserted by the Amendment Act 7 of 1998.
145 Substituted by the Amendment Act 13 of 1994.

149[**54. Resignation of Chairperson.—** A Chairperson may resign his office by tendering his resignation in writing under his hand addressed to the Director and such resignation shall take effect on the expiry of seven days from the date of receipt of such resignation, unless within the said period of seven days he withdraws his resignation by writing under his hand addressed to the Director.].

55. Resignation of 150[Vice-Chairperson].— The provisions of the last preceding section shall mutatis mutandis apply in regard to resignation of his office by the 151[Vice-Chairperson].

56. Removal of 152[Chairperson]and 153[Vice-Chairperson].— (1) A 154[Chairperson] or a 155[Vice-Chairperson] shall cease to be 156[Chairperson] or 157[Vice-Chairperson], as the case may be, if the Council by a resolution passed by a majority of the total number of Councillors 158[ ] at a special meeting so decides.

(2) The requisition for such special meeting shall be signed by not less than 159[one-third] of the total number of Councillors 160[ ] and shall, if such meeting is to be convened for considering the resolution for removal from office —

(a) of the 161[Chairperson], or of the 162[Chairperson] as well as the 163[Vice-Chairperson], be sent to the 164[Director];

(b) of the 165[Vice-Chairperson] be sent to the, 166[Chairperson].

(3) The Director or, as the case may be the 167[Chairperson] shall within ten days of the receipt of a requisition under sub-section (2) convene a special meeting of the Council:

Provided that, when the Director convenes a special meeting of the Council, he shall give intimation thereof to the 168[Chairperson]

(4) A meeting to consider a resolution under sub-section (1) shall be presided over—

146 Substituted by the Amendment Act 13 of 1994.
147 Substituted by the Amendment Act 13 of 1994.
148 Substituted by the Amendment Act 13 of 1994.
149 Substituted by the Amendment Act 13 of 1994.
150 Substituted by the Amendment Act 13 of 1994.
151 Substituted by the Amendment Act 13 of 1994.
152 Substituted by the Amendment Act 13 of 1994.
153 Substituted by the Amendment Act 13 of 1994.
154 Substituted by the Amendment Act 13 of 1994.
155 Substituted by the Amendment Act 13 of 1994.
156 Substituted by the Amendment Act 13 of 1994.
157 Substituted by the Amendment Act 13 of 1994.
158 The words "(excluding the co-opted Councillors)" omitted by the Amendment Act 7 of 1998. 159 Submitted by the Amendment Act 7 of 1998.
160 The words "(excluding the co-opted Councillors)" omitted by the Amendment Act 7 of 1998. 161 Substituted by the Amendment Act 13 of 1994.
162 Substituted by the Amendment Act 13 of 1994.
163 Substituted by the Amendment Act 13 of 1994.
164 Substituted by the Amendment Act 13 of 1994.
165 Substituted by the Amendment Act 13 of 1994.
166 Substituted by the Amendment Act 13 of 1994.
167 Substituted by the Amendment Act 13 of 1994.
168 Substituted by the amendment Act 13 of 1994.

(a) by the Director or any other officer authorised by him in this behalf, when a resolution for the removal of the 169[Chairperson] or of the 170[Chairperson] and 171[Vice-Chairperson] is under consideration, but he shall have no right to vote;

(b) by the 172[Chairperson], when a resolution for the removal of the 173[Vice-Chairperson] is under consideration:

174[ ]

175[ ]

57. Consequences of absence of 176[Chairperson] **or** 177**[Vice-Chairperson] without leave. —** (1) Every 178[Chairperson] or 179[Vice-Chairperson] who absents himself from the municipal area—

(a) for a period exceeding three months at a time unless leave so to absent himself has been granted by the Council, or

(b) for an aggregate period exceeding six months during a year whether or not leave for such absence has been granted by the Council,

shall cease to be 180[Chairperson] or 181[Vice-Chairperson], as the case may be.

(2) Leave under clause (a) of sub-section (1) shall not be granted for a period exceeding six months during one year. Whenever leave is granted to a 182[Vice- -Chairperson], a Councillor shall be elected by the Councillors from among their mumber to perform all the duties and exercise all the powers of the 183[Vice-Chairperson], during the period for which such leave is granted.

(3) In every case the authority competent to decide whether a 184[Chairperson] or a 185[Vice-Chairperson] has ceased to be 186[Chairperson] or 187[Vice-Chairperson] under this section, shall be the Director. The Director may give his decision either on an application made to him by any voter or on his own motion. Such decision shall be communicated to the 188[Chairperson] or 189[Vice-Chairperson] concerned, the Chief

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169 Substituted by the Amendment Act 13 of 1994.
170 Substituted by the Amendment Act 13 of 1994.
171 Substituted by the Amendment Act 13 of 1994.
172 Substituted by the Amendment Act 13 of 1994.
173 Substituted by the Amendment Act 13 of 1994.
174 Provisio omitted by the Amendment Act 13 of 1994.
175 Paragraph deleated by the Amendment Act 7 of 1998.
176 Substituted by the Amendment Act 13 of 1994.
177 Substituted by the Amendment Act 13 of 1994.
178 Substituted by the Amendment Act 13 of 1994.
179 Substituted by the Amendment Act 13 of 1994.
180 Substituted by the Amendment Act 13 of 1994.
181 Substituted by the Amendment Act 13 of 1994.
182 Substituted by the Amendment Act 13 of 1994.
183 Substituted by the Amendment Act 13 of 1994.
184 Substituted by the Amendment Act 13 of 1994.
185 Substituted by the Amendment Act 13 of 1994.
186 Substituted by the Amendment Act 13 of 1994.
187 Substituted by the Amendment Act 13 of 1994.
188 Substituted by the Amendment Act 13 of 1994.
189 Substituted by the Amendment Act 13 of 1994.

Officer and the applicant, if any. Until the 190[Director] decides that a vacancy has arisen and such decision is communicated as provided above, the 191[Chairperson] or 192[Vice- -Chairperson] shall not be deemed to have ceased to be 193[Chairperson] or 194[Vice- -Chairperson] as the case may be:

Provided that no order shall be passed by the Director against any 195[Chairperson] or 196[Vice-Chairperson] under this section without giving him a reasonable opportunity of being heard.

(4) Any person aggrieved by the decision of the Director may, within a period of fifteen days from the date of communication of such decision; appeal to the Administrative Tribunal the decision of the Administrative Tribunal on such appeal shall be final.

58. 197[Chairperson] **or** 198**[Vice-Chairperson] to hand over charge. —** (1) On the election of a new 199[Chairperson] or 200[Vice-Chairperson], the retiring 201[Chairperson] or 202[Vice-Chairperson] in whose place the new 203[Chairperson] or 204[Vice-Chairperson] has been elected shall hand over charge of his, office to such new 205[Chairperson] or 206[Vice-Chairperson], as the case may be.

(2) Every 207[Chairperson] or 208[Vice-Chairperson] who resigns his office or is removed from office or ceases to be 209[Chairperson] or 210[Vice-Chairperson] for any reason other than the election of a new 211[Chairperson] or 212[Vice-Chairperson] shall hand over charge of his office—

(i) to the [213][Vice-Chairperson], if he is the [214][Chairperson],

(ii) to the [215][Chairperson], if he is the [216][Vice-Chairperson].

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190 Substituted by the Amendment Act 13 of 1994.
191 Substituted by the Amendment Act 13 of 1994.
192 Substituted by the Amendment Act 13 of 1994.
193 Substituted by the Amendment Act 13 of 1994.
194 Substituted by the Amendment Act 13 of 1994.
195 Substituted by the Amendment Act 13 of 1994.
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212 Substituted by the Amendment Act 13 of 1994.
213 Substituted by the Amendment Act 13 of 1994.
214 Substituted by the Amendment Act 13 of 1994.
215 Substituted by the Amendment Act 13 of 1994.
216 Substituted by the Amendment Act 13 of 1994.

(3) If any [217][Chairperson] or [218][Vice-Chairperson] refuses to hand over charge of his office as required under sub-section (1) or sub-section (2), the Director may, by order in writing, direct the [219][Chairperson] or the [220][Vice-Chairperson], as the case may be, to forthwith hand over charge of his office and all papers and property of the Council, if any, in his possession as such [221][Chairperson] or [222][Vice-Chairperson], to the persons specified in sub-section (1) or sub-section (2) and such [223][Chairperson] or [224][Vice- -Chairperson] to whom a direction has been issued under this sub-section shall hand over charge as required by the Director.

(4) If any [225][Chairperson] or [226][Vice-Chairperson] to whom a direction has been issued under sub-section (3) does not comply with such direction, he shall, on conviction, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two thousand rupees, or with both.

59. Functions of [227][Chairperson].— (1) Subject to the provisions of this Act and of any rules and bye-laws framed thereunder, the [228][Chairperson] of a Council shall—

(a) preside, unless prevented by reasonable cause, at all meetings of the Council and regulate the conduct of business at such meetings;

(b) watch over the financial and executive administration of the Council;

(c) perform such executive functions or exercise such powers as are conferred upon him by or under this Act or any other law for the time being in force;

(d) exercise supervision and control over the acts and proceedings of all officers and servants of the Council in matters of executive administration and in matters concerning the accounts and records of the Council; and

(e) furnish to the Government or the Director [229][ ]or any other Government officer authorised by the Government from time to time, such reports, returns or records as may be prescribed by rules or as may be called for at any time by the Government, the Director, [230][ ]or such officer.

(2) The [231][Chairperson] may, in cases of emergency, direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Council and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the municipal fund:

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[217] Substituted by the Amendment Act 13 of 1994.

[218] Substituted by the Amendment Act 13 of 1994.
[219] Substituted by the Amendment Act 13 of 1994.
[220] Substituted by the Amendment Act 13 of 1994.
[221] Substituted by the Amendment Act 13 of 1994.
[222] Substituted by the Amendment Act 13 of 1994.
[223] Substituted by the Amendment Act 13 of 1994.
[224] Substituted by the Amendment Act 13 of 1994.
[225] Substituted by the Amendment Act 13 of 1994.
[226] Substituted by the Amendment Act 13 of 1994.
[227] Substituted by the Amendment Act 13 of 1994.
[228] Substituted by the Amendment Act 13 of 1994.
[229] The words “or the Collector” omitted by the Amendment Act 13 of 1994.
[230] The words” the Collector” omitted by the Amendment Act 13 of 1994.
[231] Substituted by the Amendment Act 13 of 1994.

Provided that—

(a) he shall not act under this section in contravention of any order of the Council prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report forthwith the action taken under this section and the reasons therefor to the Standing Committee and the Council at their respective next meeting.

60. Functions of [232] [Vice-Chairperson].— (1) It shall be the duty of the [233][Vice-Chairperson] of a Council—

(a) in the absence of the [234][Chairperson] and unless prevented by reasonable cause, to preside at the meetings of the Council;

(b) whenever there is a casual vacancy in the office of the [235][Chairperson], to exercise all the powers and to perform all the duties of the [236][Chairperson], pending the election or, as the case may be, nomination of a new [237][Chairperson];

(c) to exercise such of the powers and perform such of the duties of the [238][Chairperson] as the [239][Chairperson] may from time to time depute to him;

(d) during the absence of the [240][Chairperson], to exercise the powers and to perform the duties of the [241][Chairperson].

(2) The [242][Vice-Chairperson] shall be the ex officio Chairman of such one of the Subjects Committees, if any, as the Council may determine.

61. Simultaneous vacancy in the office of [243][Chairperson]and [244][Vice- -Chairperson]— In the event of the offices of the [245][Chairperson] and the [246][Vice- -Chairperson] of a Council becoming vacant simultaneously, pending the election of a new [247][Chairperson], the powers and duties of the [248][Chairperson] shall be exercised and performed by the Director or such other officer as the Director may in this behalf appoint.

[249]**[61A. Disqualification of Chairperson and Vice-Chairperson.—** (1) The Chairperson or the Vice-Chairperson, while holding the office, shall stand disqualified, if—

(a) he persistently fails to discharge his duties conferred under the Act; or 314

[232] Substituted by the Amendment Act 13 of 1994.
[233] Substituted by the Amendment Act 13 of 1994.
[234] Substituted by the Amendment Act 13 of 1994.
[235] Substituted by the Amendment Act 13 of 1994.
[236] Substituted by the Amendment Act 13 of 1994.
[237] Substituted by the Amendment Act 13 of 1994.
[238] Substituted by the Amendment Act 13 of 1994.
[239] Substituted by the Amendment Act 13 of 1994.
[240] Substituted by the Amendment Act 13 of 1994.
[241] Substituted by the Amendment Act 13 of 1994.
[242] Substituted by the Amendment Act 13 of 1994.
[243] Substituted by the Amendment Act 13 of 1994.
[244] Substituted by the Amendment Act 13 of 1994.
[245] Substituted by the Amendment Act 13 of 1994.
[246] Substituted by the Amendment Act 13 of 1994.
[247] Substituted by the Amendment Act 13 of 1994.
[248] Substituted by the Amendment Act 13 of 1994.
[249] Inserted by the Amendment Act 7 of 1998.

(b) he commits illegality or acts in a manner highly prejudicial to the interest of the Council; or exercises any powers not vested in him either under the Act or by any order of the Government;

(c) he is employed in any corporation, whether statutory or otherwise, owned or controlled or financed in part or fully by the Central Government, the Government or any State Government; or

(d) he has so abused his position in the opinion of the Director as to render his continuation as Chairperson or Vice-Chairperon is detrimental to the interest of the Council or has been guilty of misconduct in neglect of his duties or otherwise unfit to hold his office.

(2) In every case of disqualification of the Chairperson or the Vice-Chairperson, the authority to decide the matter shall be the Director. The Director, on the application of any person made to him, or on his own motion, shall decide if any disqualification is incurred by the Chairperson or the Vice-Chairperson and such decision shall be communicated to the Chairperson or the Vice-Chairperson concerned.

(3) Any person aggrieved by the decision of the Director, may within a period of fifteen days from the date of receipt of the decision of the Director, appeal to the Administrative Tribunal and the order passed by the Administrative Tribunal shall be final:

Provided that no order shall be passed under sub-section (2) by the Director or under sub-section (3) by the Administrative Tribunal in appeal against the Chairperson or the Vice-Chairperson without giving him a reasonable opportunity of being heard.].

62. Honorarium or allowances to [250][Chairperson] and members of Council.—The Government may prescribe the rates of honorarium or allowances to be paid to the [251][Chairperson] and members of the Council by rules made in this behalf.

63. Standing and Subjects Committees for all classes of Councils.— (1) Every Municipal Council shall [252][constitute] a Standing Committee and may [253][constitute] such Subjects Committees, as it may deem necessary.

(2) The Standing Committee shall consist of such number of members as the Council may determine, so however that the number of members so determined shall not exceed one third of the total number of Councillors:

Provided that in so determining the number of the members of the Standing Committee, a fraction shall be ignored.

(3) If the Council decides to [254][constitute] any Subjects Committee, such Committee shall consist of not more than five members, as it may determine.

(4) The [255][Chairperson] shall, within seven days of his election as [256][Chairperson] under section 52 call special meeting of the Council for the purpose of—

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[250] Substituted by the Amendment Act 13 of 1994.
[251] Substituted by the Amendment Act 13 of 1994.
[252] Substituted in place of word "appoint" by the Amendment Act 7 of 1998.
[253] Substituted in place of word "appoint" by the Amendment Act 7 of 1998.
[254] Substituted in place of word "appoint" by the Amendment Act 7 of 1998.

(a) determining the number of members of the Standing Committee;

[257][(b) determining the Subject Committee or Committees, if any, to be constituted and the number of members of each such committee;]

(c) holding elections to the Standing Committee and the Subjects Committee, or Committees, if any, in the manner prescribed by the Government.

(5) If more than one Subjects Committee are to be appointed, the Chairman of the Subjects Committee, [258][ ] shall be elected by the members thereof, at the meeting convened under sub-section (4).

64. Constitution of Standing Committee of Councils.—The Standing Committee referred to in sub-section (1) of the last preceding section shall consist of—

(a) the [259][Chairperson] of the Council as the Chairman,

(b) [260][the Vice-Chairperson],

(c) such other members elected by the Councillors from amongst their number in the manner laid down in clause (c) of sub-section (4) of section 63, so however that the total number of members of the Standing Committee shall not exceed the number determined under clause (a) of sub-section (4) of the said section:

Provided that no Councillor shall be eligible to be a member of the Standing Committee, if he is already elected as a member of more than one Subjects Committee.

65. [261][ ]

[262][66. **Term of office of Chairman and members of Standing and Subjects Committees.—** (1) The term of office of Chairman and the members of the Standing Committee and a Subject Committee shall be co-terminus with the term of the Chairperson during whose period they are elected.

(2) In the event of any office of the Standing Committee or Subjects Committee becoming vacant, the powers exercisable by such Committees shall be exercised by the Chief Officer with the approval of the Director, till the concerned committees are duly elected.]

[263][**67. Vacancies in the Committees of the Council.—** (1) If there is any vacancy in the office of the member of the Committee due to any reason whatsoever, such vacancies

[255] Substituted by the Amendment Act 13 of 1994.

[256] Substituted by the Amendment Act 13 of 1994.

[257] Substituted by the Amendment Act 7 of 1998.

[258] The words omitted by the Amendment Act 7 of 1998.

[259] Substituted by the Amendment Act 13 of 1994.

[260] Substituted by the Amendment Act 7 of 1998.

[261] Section 65 omitted by the Amendment Act 7 of 1998.

[262] Section substituted by the Amendment Act 7 of 1998.

[263] Section substituted by the Amendment Act 7 of 1998.

shall be filled up in the manner as laid down under section 63 of the Act and the members so elected shall hold the term in whose place is to be filled up.

(2) A vacancy occurring in the office of the Chairman of any Subjects Committee shall be filled up after filling up all vacancies in the Committee by holding the meeting by the Chairperson of the Council.

(3) All members including Chairman of the Standing Committee and the Subjects Committee who are holding such office at the commencement of the Goa Municipalities (Second Amendment) Act, 1997, shall continue to hold office till their term is over or till such date as may be notified by the Government in the Official Gazette, whichever is earlier.

(4) In case the office of the members or Chairman of the Standing Committee remains vacant after being notified by the Government under sub-section (3), the Chairperson shall hold election to such Committee in terms of sub-section (4) of section 63 of the Act.].

68. Functions and power of Standing Committees and Subjects Committees.—Each Council shall make bye-laws to provide for the following matters:—

(a) allotment of subjects to the Standing Committee and the Subjects Committees (if any):

Provided that the subjects of transport undertaking, finance and welfare of conservancy staff shall be allotted to the Standing Committee, and the subjects of fairs and pilgrims to the Sanitation, Medical and Public Health Committee, and where such Committee is not appointed to the Standing Committee;

(b) extent of powers of the Council under this Act or any other law for the time being in force to be exercised by the Standing Committee and the Subjects Committees (if any), in respect of the subjects allotted to such Committees.

69. [264]**[Limits of powers of Committees in respect of financial sanction.—** The powers of financial sanctions of the Standing Committee and the Subjects Committes of Councils of different classes of municipal areas shall not exceed the limits indicated in columns 2 and 3 of the table given below:—

Class of municipal area	Limit of financial sanctions in respect of	
	Standing Committee	Subjects Committee
1	2	3
A B C	Rupees 10 Lakhs 6 Lakhs 4 Lakhs	Rupees 2 Lakhs 1,20,000 80,000]

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[264] Substituted by the Amendment Act 13 of 1994.

70. Subordination of Committees to Council.— (1) All Subjects Committees shall be subordinate to the Standing Committee in addition to the Council.

(2) The Standing Committee shall be subordinate to the Council.

(3) The Subjects Committees shall report all their decisions as soon as may be to the Standing Committee for information.

(4) The Standing Committee shall report as soon as may be all its decisions, including its decision on the decisions of the Subjects Committees, to the Council, for its information.

(5) If the directions of the Council to a Subjects Committee conflict with the directions of the Standing Committee to that Subjects Committee, the directions of the Council shall in all cases prevail.

CHAPTER IV

[265][Director of Urban Development]

71. [266][Appointment of Director of Urban Development and his powers].— (1) The Government shall, by notification in the Official Gazette, [267][appoint a Director of Urban Development]. His jurisdiction shall extend to the entire Union territory.

(2) [268][The Director or any Officer designated by him shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or any rules made thereunder. The Director or any Officer designated by him shall also exercise such powers and perform such duties as are conferred and imposed upon the Collector by this Act or any rules made thereunder except those relating to land revenue matters specified under section 85 of the Act. The Government may, by Notification in the Official Gazette, direct that any power (Except the power to make rules) or duty which by this Act or by any rule made thereunder is conferred or imposed upon it shall in such circumstances and under such conditions, if any, as may be specified, be exercised or performed also by the Director or the Collector.]

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Government may, by notification in the Official Gazette, appoint an [269][Additional Director of Urban Development] having jurisdiction over such part of the Union territory and with such powers as may be specified in this behalf in the said notification.

CHAPTER V

Provisions regarding Officers and Servants

72. Appointment of Chief Officer, Engineer, Water Works Engineer, Health Officer, Auditor and certain other officers [270][or servants of the Council].— (1) There shall be a Chief Officer for every Council.

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[265] Substituted by the Amendment Act 7 of 1998.

[266] Substituted by the Amendment Act 7 of 1998.

[267] Substituted by the Amendment Act 7 of 1998.

[268] Sub-section (2) substituted by the Amendment Act 15 of 1996.

[269] Substituted by the Amendment Act 7 of 1998.

[270] Inserted by the Amendment Act 18 of 1997.

(2) A Council may, with the sanction of the Director, and if so required by the Government, shall, create all or any of the following posts, namely: —

(i) a Municipal Engineer;

(ii) a Water Works Engineer;

(iii) a Municipal Health Officer;

(iv) a Municipal Auditor;

(v) a Municipal Education Officer;

(vi) [271][any other officer or servants of the Council except Group ‘D’ posts as may be designated by the Government in this behalf.]

(3) The qualifications, pay, allowances and other conditions of service and the method of recruitment of the officers specified in sub-sections (1) and (2) shall be regulated by rules made by the Government in this behalf.

(4) Subject to the provisions of sub-sections (5) and (6), the power of making appointment to the posts specified in sub-sections (1) and (2) shall vest in [272][the Government].

(5) Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, constitute, in respect of all Councils, —

(a) a common cadre of the Chief Officers,

(b) [273][common cadre of all or any of the officers or servants of the Council specified in sub-section (2)].

(6) On the issue of a notification under sub-section (5), the Government shall have power to make rules to regulate the qualifications, pay, allowances and other conditions of service and the method of recruitment of officers belonging to the cadres thereby constituted, including the manner of and the terms and conditions under which existing officers shall be absorbed into; and such rules may vest jurisdiction in respect of all or any of such matters in relation to such cadres in the Government or in such other authority or authorities as may be prescribed.

(7) If any common cadres are constituted under sub-section (5), each Council shall every year contribute out of its revenue such sum on account of its share of the expenditure on any officers belonging thereto posted to serve under it incurred or to be incurred in that year for its purposes, as the Government may by general or special order determine.

73. Appointment of other officers and servants.— (1) A Council may, with the sanction of the Director, create such posts of officers and servants other than those specified in sub-sections (1) and (2) of the last preceding section as it shall deem necessary for efficient execution of its duties under this Act.

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[271] Substituted by the Amendment Act 15 of 1996.
[272] Substituted by the Amendment Act No. 17 of 1978.
[273] Substituted by the Amendment Act 15 of 1996.

(2) [274][The qualifications, pay, allowances, and other conditions of service and method of recruitment of any such officers and servants shall be determined by general or special order made by the director in this behalf.]

(3) The Council shall, subject to the approval of the Director, decide the manner in which and the terms and conditions under which the existing officers shall be absorbed in the posts created under sub-section (1).

(4) [275][ ]

74. Powers and duties of Chief Officer. — (1) The Chief Officer shall—

(a) subject to the control, direction and supervision of the [276][Chairperson], supervise the financial and executive administration of the Council and exercise such powers and perform such duties and functions as may be conferred or imposed upon him or allotted to him by or under this Act;

(b) take steps to give effect to all the decisions or resolutions of the Council;

(c) cause to be maintained and supervise the accounts and registers of the Council;

(d) subject to the orders of the competent authority, take prompt steps to remove any irregularity pointed out by the Municipal Auditor;

(e) prepare budget estimates and submit them to the Standing Committee;

(f) report to the [277][Chairperson] and the Committee concerned all cases of fraud, embezzlement, theft or loss of municipal money and property;

(g) exercise supervision and control over the acts and proceedings of all the officers and servants of the Council;

(h) subject to the rules, bye-laws and general or special orders made under this Act, dispose of all questions such as the pay and allowances, leave and other privileges in respect of the officers and servants of the Council.

(2) The Chief Officer may, with the sanction of the Council, delegate any of the powers or duties or functions conferred or imposed upon or allotted to him by or under this Act, to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the Council and also to the control and revision by the Chief Officer.

75. Powers and duties of other officers and servants.— The powers and duties of all officers and servants of the Council, [278][shall be such, as the Chief Officer] may specify from time to time.

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[274] Substituted by the Amendment Act 15 of 1996.
[275] Sub-section (4) omitted by the Amendment Act 27 of 2002.
[276] Substituted by the Amendment Act 13 of 1994.
[277] Substituted by the Amendment Act 13 of 1994.
[278] Substituted by the Amendment Act 7 of 1998.

76. Punishment of officers and servants.— (1) Without prejudice to the provisions of any law for the time being in force, the following penalties may, for good reasons, be imposed upon any officer or servant of the Council:

(i) Censure;

(ii) Withholding of increments or promotion including stoppage at an efficiency bar;

(iii) Reduction to a lower post on a fixed pay or a time-scale or to a lower stage in a time-scale;

(iv) Recovery from his pay of the whole or part of any pecuniary loss caused to the Council by negligence or breach of orders;

(v) Removal from the service, which does not disqualify from future employment;

(vi) Dismissal from the service, which ordinarily disqualifies from future employment.

(2) Any of the penalties mentioned in sub-section (1) may be imposed on an officer or servant of the Council by the authority competent to make the appointment of the officer or servant:

Provided that the penalty mentioned in items (i) and (ii) of sub-section (1) may be imposed on an officer of the Council (other than an officer belonging to the common cadre specified in sub-clause (5) of Section 72 or a servant of the Council, by the Chief Officer of the Cou

Provided further that suspension of an officer or servant pending inquiry into the allegations against such officer or servant shall not be deemed to be a penalty and shall be ordered only by the authority competent to make appointment to the post held by such officer or servant.

(3) No officer or servant shall be reduced to a lower post or rank or removed or dismissed from service under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal or dismissal:

Provided that this sub-section shall not apply—

(a) where a person is reduced, removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the competent authority is satisfied that, for reasons to be recorded in writing by such authority, it is not reasonably practicable to give that person an opportunity of showing cause.

(4) In the case of any officer or servant holding any post permanently the minimum salary of which (exclusive of allowances) is [279][Rs.1400/-] or more, no order of dismissal, removal or reduction in post or rank shall be passed, without the prior approval of the Director.

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[279] Substituted by the Amendment Act 13 of 1994.

(5) In every case referred to the Director under the last preceding sub-section, the Director shall not refuse to give his approval unless he is satisfied that —

(i) the finding at the inquiry is perverse; or

(ii) the penalty of removal or dimissal or reduction, as the case may be, is too severe.

Where the Director informs the Council or the Standing Committee that the finding at the inquiry is perverse, no further proceedings shall be taken against the officer or servant concerned in respect of the same matter.

(6) An appeal against any order imposing any penalty mentioned in sub-section (1) may be made to the authority superior to the authority imposing the penalty as shown below:—

Authority imposing the penalty	Superior authority to which appeal may be made
(i) Chief Officer ……..	Standing Committee.
(ii) Standing Committee ……...	Council.
(iii) Council ……	Administrative Tribunal.

(7) No such appeal may be entertained if not preferred within one month from the date of receipt of the order appealed against by the officer or servant concerned.

(8) Any officer or servant aggrieved by an order of removal, dismissal or reduction in a post or rank passed against him with the approval of the Director under sub-section (4) may file a revision application to the Administrative Tribunal. Such application shall be filed within 60 days from the date of such order.

77. Bye-laws to be made regulating certain conditions of service.— Every Council shall, in respect of the officers and servants of the Council, other than those referred to in sub-sections (1) and (2) of section 72, make bye-laws on the following, matters, namely:—

(a) fixing the amount and nature of the security to be furnished by any employee who is required to handle property, cash or securities belonging to the Council or by any other employee from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to the employees and the payment of leave salary and allowances to them whilst absent on leave;

(c) determining the remuneration to be paid to the persons appointed to act for any of the said employees during their absence on leave;

(d) authorising the payment of travelling or conveyance allowance to the employees;

(e) regulating the period of service of all employees;

(f) determining the conditions under which the employees or any of them shall on retirement or discharge or in the event of injury or disability receive pension, gratuity or compassionate allowance and under which heirs or surviving relatives shall receive pension, gratuity or compassionate allowance and the rate of amount of such pension, gratuity or compassionate allowance;

(g) authorising payment of contributions, out of the Municipal Fund, to any pension or provident fund which may be established for the benefit of the employees;

(h) determining subsistence allowance, in lieu of pay, during the period of suspension of any employee, pending inquiry;

(i) generally prescribing any other conditions of service of the employees.

CHAPTER VI

Conduct of Business

(1) Meetings.

78. Provision in regard to meetings of Council.— The following provisions shall be observed with respect to the meetings of a Council:—

(1) There shall be held six ordinary meetings in each year for the disposal of general business, in every alternate month commencing from the month in which the first meeting of the Council under section 52 is held, and such other ordinary meetings as the [280][Chairperson] may find necessary. It shall be the duty of the [281][Chairperson] to fix the dates for all ordinary meetings and to call such meetings.

(2) The [282][Chairperson] may, whenever he thinks fit, and shall, upon the written request of [283][not less than one-third] of the total number of Councillors and on a date not later than fifteen days after the reecipt of such request by the [284][Chairperson], call a special meeting.

285[(3) If the Chairperson fails to call a meeting within the period specified in clause (1) or clause (2), the Councillors who had made a request for the special meeting being called, may request the Director to call a special meeting. On receipt of such request, the Director may, if he is satisfied that the subjects proposed for discussion in the special meeting are of such public importance that the same cannot be postponed for discussion in an ordinary meeting, call the special meeting within fifteen days from the date of receipt of such request by him. In case the Director decides not to call a special meeting, he shall direct the Chairperson to include those subjects in the next ordinary meeting of the Council. The meeting, when called by the Director, shall be presided over by the Director or the Officer designated by him but he shall have no right to vote.].

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280 Substituted by the Amendment Act 13 of 1994.
281 Substituted by the Amendment Act 13 of 1994.
282 Substituted by the Amendment Act 13 of 1994.
283 Substituted by the Amendment Act 7 of 1998.
284 Substituted by the Amendment Act 13 of 1994.
285 Substituted by the Amendment Act 27 of 2002.

(4) (a) Seven clear days' notice of an ordinary meeting, and three clear days' notice of a special meeting, specifying the date, hour and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the Councillors, and posted up at the municipal office. The notice shall include any motion or proposition of which a Councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat and in the case of a special meeting, any motion or proposition mentioned in any written request made for such meeting;

(b) notwithstanding anything contained in sub-clause (a) in an emergency, for reasons to be recorded in writing, the 286[Chairperson] may call a special meeting of the Council with only one day's notice served upon the Councillors and posted up at the municipal office.

(5) Every meeting of a Council shall, except for reasons to be specified in the notice convening the meeting, be held in any of the buildings used as a municipal office by such Council.

(6) Every meeting shall, in the absence of both the 287[Chairperson] and the 288 [Vice- -Chairperson], be presided over by such one of the Councillors present as may be chosen by the meeting to be the Chairman for the occasion and such Chairman shall exercise thereat the powers vested in the 289[Chairperson] by clause (a) of sub-section (1) of section 59.

(7) (a) The presiding authority shall preserve order at the meeting. All points of order shall be decided by the presiding authority with or without discussion as it may deem fit, and the decision of the presiding authority shall be final;

(b) (i) the presiding authority may direct any Councillor whose conduct is in its opinion disorderly to withdraw immediately from the meeting of the Council 290[and any Councillor or the Member of Legislative Assembly of Goa or Ex-Councillor associated with the Council so ordered] to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting:

Provided that the presiding authority may withdraw such order on receiving an apology from the councillor or without such apology;

(ii) if any [291][Councillor or the Member of Legislative Assembly of Goa or Ex- -Councillor associated with the Council] who has been ordered to withdraw continues to remain in the meeting, the presiding authority may take such steps as it may deem fit to cause him to be removed.

(8) Every meeting shall be open to the public unless the presiding authority considers that any inquiry or deliberation pending before the Council should be held in private:

[286] Substituted by the Amendment Act 13 of 1994.
[287] Substituted by the Amendment Act 13 of 1994.
[288] Substituted by the Amendment Act 13 of 1994.
[289] Substituted by the Amendment Act 13 of 1994.
[290] Substituted by the Amendment Act 7 of 1998.
[291] Substituted by the Amendment Act 7 of 1998.

Provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings—

(9) (a) The quorum necessary for the transaction of business—

(i) at an ordinary meeting shall be one-third of the total number of Councillors;

(ii) at a special meeting shall be one-half of the total number of Councillors:

Provided that in computing the quorum, a fraction shall be ignored;

(b) if at any time during a meeting the presiding authority notices or if it is brought to the notice of the presiding authority that the number of Councillors present including the presiding authority falls short of the quorum required, the presiding authority shall after waiting for not less than fifteen minutes and not more than thirty minutes adjourn the meeting to such hour on the following or some other future day as it may reasonably fix. A notice of such adjournment shall be posted up at the municipal office and the business which would have been brought before the original meeting, had there been a quorum thereat, but no other business, shall be brought before the adjourned meeting and may be disposed of at such meeting.

(10) Except with the permission of the presiding authority (which shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof), no business shall be transacted and no proposition shall be discussed at any meeting unless it had been mentioned in the notice convening such meeting or in the case of a special meeting, in the written request for such meeting.

(11) Subject to any rules made in this behalf, the order in which the business shall be transacted at any meeting shall be determined by the presiding authority:

Provided that, if it is proposed by any Councillor that priority should be given to any particular item of business, or to any particular proposition, the presiding authority shall put the proposal to the meeting and be guided by the majority of votes of the Councillors present and voting, given for or against the proposal.

(12) Minutes containing the names of the Councillors and of the Government officers, if any, present under the provisions of clause (17), and of the proceedings at each meeting shall be kept in English in a book to be maintained for

this purpose. Except when votes are recorded by ballot, the names of the Councillors voting for or against any proposal or motion shall be recorded in the minute book. The minutes shall be signed, as soon as practicable, by the presiding authority of such meeting and shall at all reasonable times be open to inspection by any inhabitant of the municipal area. Such minutes shall be placed before the next meeting of the Council and shall, after confirmation by the meeting, be signed by the presiding authority of such meeting.

(13) Except as otherwise provided by or under this Act, all questions shall be decided by a majority of votes of the Councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules.

(14) Any meeting may, with the consent of a majority of the Councillors present, be adjourned from time to time to a latter hour on the same day or to any other day; but no

business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place. A notice of such adjournment posted up at the municipal office shall be deemed to be sufficient notice of the adjourned meeting:

Notwithstanding anything contained in clause (9), no quorum shall be necessary for such adjourned meeting.

(15) No resolution of a Council shall be modified or cancelled within three months after the passing thereof except by a resolution supported by not less than one-half of the total number of Councillors and passed at the meeting of which notice shall have been given fulfilling the requirements of clause (4) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(16) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being or is to be executed for the Council by any Department of the Government shall be transacted at any meeting of a Council unless at least seven days previous to such meeting, a letter has been addressed to the concerned officer of the Government informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(17) If it appears to a Council that the presence of any Government officer or an officer of a village panchayat is desirable for the purpose of discussion or consideration of any question, on which, in virtue of the duties of his office, his opinion or information which he could supply will be useful to such Council, at any meeting of such Council, it shall be competent to such Council, by letter addressed to such officer not less than 15 days previous to the intended meeting, to invite him to be present thereat; and the said officer shall, as far as possible, attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate, as to his views, and may send him to the meeting as his representative, instead of attending himself.

(18) No officer attending a meeting of the Council under clause (16) or (17) shall be entitled to vote on any proposition at such meeting.

(19) The Government may make rules in respect of matters relating to the conduct of business at meetings of the Council not provided for in this section.

79. Meetings of Committees.— The following provisions shall apply to meeting of Committees:—

(1) Subject to any general or special orders of the Committee, the ordinary meetings of a Committee shall be held on such days and at such time as the Chairman may fix.

(2) Upon the written request of the [292][Chairperson] or of not less than one-fourth of the members of the Committee, the Chairman shall call a special meeting of the Committee on a date not later than seven days after the receipt of such request:

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[292] Substituted by the Amendment Act 13 of 1994.

Provided that in computing one-fourth of the members, a fraction shall be ignored.

(3) If the Chairman of a Committee has been absent from the municipal area for a period exceeding fifteen days or if the Chairman fails to call a meeting within the period specified in clause (2), the [293][Chairperson] or in his absence the [294][Vice-Chairperson] may call a meeting of the Committee.

(4) If the Chairman, the [295][Chairperson] and the [296][Vice-Chairperson] fail to call a meeting as required by clause (2) or (3), one-third of the members of the Committee or two members, whichever is more, may call such meeting:

Provided that, in computing one-third of the members, a fraction shall be ignored.

(5) (a) A notice of every meeting specifiying the date on which and the time and the place at which such meeting is to be held and the business to be transacted thereat shall be served upon each member of the Committee and shall also be posted up at the municipal office at least three clear days before the date of the meeting;

(b) notwithstanding anything contained in sub-clause (a), in an emergency, for reasons to be recorded in writing, the Chairman may call a meeting of the Committee with only one day's notice served upon the members and posted up at the municipal office.

(6) One-half of the members of a Committee shall form a quorum, but such number shall not be less than two:

Provided that, in computing one-half of the members, a fraction shall be ignored.

(7) Every meeting of a Committee shall be presided over by the Chairman and in the absence of the Chairman, by one of the members of the Committee as may be chosen by the meeting to preside.

(8) The Government may make rules in respect of matters relating to the conduct of business at meetings of Committees not provided for in this section.

(9) Save as otherwise provided by clauses (1) to (7) and the rules made under clause (8), the provisions of clauses (5), (7), (10), (11), (12), (13), (14), (15), (17) and (18) of the last preceding section and the rules made under clause (19) of that section shall *mutatis mutandis* apply to the meetings of all Committees.

80. Chief Officer to be present at every meeting of the Council and if required at a meeting of a Committee, but not to vote or make any proposition.— (1) The Chief Officer shall, unless prevented by reasonable cause, be present at every meeting of the Council. The Chief Officer may and if so required by a Committee shall be present at the meeting of the Committee.

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293 Substituted by the Amendment Act 13 of 1994.
294 Substituted by the Amendment Act 13 of 1994.
295 Substituted by the Amendment Act 13 of 1994.
296 Substituted by the Amendment Act 13 of 1994.

(2) The Chief Officer may, with the permission of the presiding authority or the Council, make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.

(3) The Council or a Committee may require any of the Officers of the Council to attend any meeting of the Council or the Committee at which any matter with which such officer is concerned is being discussed. When any officer is thus required to attend any such meeting, he may be called upon to make a statement or explanation of facts or supply any information, but shall not be entitled to vote or to make any proposition at such meeting.

81. Power of Council or Committee to require information, document, etc., from Chief Officer.— (1) The Council or any Committee, may require from the Chief Officer—

(a) any return, statement, estimate, statistics or plan or other information regarding any matter pertaining to the administration of the Council;

(b) report or clarification on any such matter; and

(c) a copy of any record, correspondence, plan or other document which is in his possession or under his control in his official capacity or, which is recorded or filed in his office or in the office of any officer or servant subordinate to him.

(2) The Chief Officer shall comply with any requisition under sub-section (1), unless he is of opinion that compliance therewith will be prejudicial to the interest of the Council or of the public, in which case, he shall refer such requisition to the 297[Chairperson] and abide by the decision of the 298[Chairperson].

82. Joint Committees of local bodies.— (1)A Council may, from time to time, concur with any other local authority,—

(a) in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested and in appointing a Chairman of such Committee; and

(b) in delegating to any such Committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying regulation for regulating the proceedings of any such Committee and the conduct of correspondence relating to the purpose for which the Committee is appointed.

(2) A Council may, from time to time, enter into an agreement with any other local authority for the levy of any tax falling under entry 52 or 59 in List II in the Seventh Schedule to the Constitution of India, whereby the tax leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

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297 Substituted by the Amendment Act 13 of 1994.

298 Substituted by the Amendment Act 13 of 1994.

(3) Where a Council has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the Government may pass such order as it may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid; and such other local authority shall comply with such order.

(4) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of the Government or of such officer as it may designate in this behalf shall be final:

Provided that, if one of the bodies concerned is a cantonment authority any such decision shall be subject to the concurrence of the Central Government.

(5) For the purposes of this section, the expression "local authority" includes a Cantonment Board.

(2) Validity of proceedings.

83. Acts and proceedings of Council and Committees not vitiated by disqualifications, etc., of members thereof.— (1) No disqualification of or defect in the election or appointment of any person acting as Councillor or as the 299[Chairperson] or presiding authority of any meeting or as Chairman or member of a Committee appointed under this Act shall be deemed to vitiate any act or proceedings of the Council or of any such Committee, as the case may be, in which such person has taken part, wherever the majority of persons, parties to such act or proceedings, were entitled to act.

(2) No resolution of a Council or of any such Committee shall be deemed invalid on account of any irregularity in the service of notice upon any Councillor or member, provided that the proceedings of the Council or Committee were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a Council or of a Committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act or the rules made thereunder, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a Committee, such Committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(4) During any vacancy in a Council or Committee the continuing Councillors or members may act as if no vacancy had occurred.

CHAPTER VII

Municipal Property, Funds, Contracts and Liabilities

84. Power to acquire and hold property.— (1) Subject to any special reservation made or to any special conditions imposed by Government, all property of the nature hereinafter in this section specified (not being of private ownership) and situate within the 329

299 Substituted by the Amendment Act 13 of 1994.

limits of the municipal area shall vest in and be under the control of the Council, and with all other property which has already vested or may hereafter vest in the Council, shall be held and applied by it for the purposes of this Act, that is to say, —

(a) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depots and all public buildings of every description which have been constructed or are maintained out of the municipal fund;

(b) all public sewers and drains, and all sewers, drains, culverts and watercourses, in alongside or under any street, and all works, materials and things appertaining thereto; constructed or maintained out of Municipal funds;

(c) all dust, dirt, dung, ashes, refuse, animal matter or filth, or rubbish of any kind and, or unclaimed dead bodies of animals, collected by the Council from the streets, houses, privies, sewers, cess-pools or elsewhere, or deposited in places fixed by the Council in that behalf;

(d) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto, constructed or maintained out of Municipal funds;

(e) all lands, buildings or other property transferred to the Council by the Central Government or the Government or acquired by gift, purchase or otherwise for local public purposes;

(f) all lands, buildings or other property specified in clauses (a), (b) and (d) belonging to or constructed by the Central Government or the Government and which may be transferred to the Council by the said Government; and

(g) all public streets, (excluding national highways and such roads as may be specified by the Government in this behalf by order published in the Official Gazette) not being open spaces or lands owned by Government and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

(2) The lands and buildings belonging to Government and transferred to a Council under clause (e) of sub-section (1) shall not, unless otherwise expressly provided in the instrument or order of transfer, belong by right of ownership to the Council, but shall vest in it subject to the terms and conditions of the transfer. On the breach of any of the said terms or conditions, the land or the building, as the case may be, with all things attached to such land or building including all fixtures and structures shall revest in Government and it shall be lawful for Government to resume possession thereof and make such orders as to its management or disposal, as it may deem fit, without payment of compensation.

85. Decision of claims to property by or against the Council.— (1) In any municipal area to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the Council, or by any person as against the Council, it shall be lawful for the [300][Director] after inquiry of which due notice has been given, to pass an order deciding the claim.

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[300] Substituted by the Amendment Act 13 of 1994.

(2) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the [301][Director]under sub-section (1) or, if one or more appeals have been made against such order within the period of limitation, then from the date o l appellate authority as determined according to law for the

time being in force in the [302][State of Goa] shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

(3) (a) The powers conferred by this section on a [303][Director]may also be exercised by [304][Additional Director];

(b) the inquiry referred to in this section shall be conducted in accordance with the provisions relating to conduct of formal inquiry or inquiry contained in any relevant law for the time being in force in the [305][State of Goa].

86. Municipal fund.— (1) All moneys received by or on behalf of a Council by virtue of this Act or any other law for the time being in force, all taxes, fines and penalties paid to or levied by it under this Act, other than fines imposed by any Court, all proceeds of land or other property sold by the Council, and all rents accruing from its land or property, and all interest, profits and other moneys accruing by gift or transfer from the Government or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 84 and section 93, respectively:

Provided that—

(a) nothing in this section or in section 84 shall in any way affect any obligation accepted by or imposed upon any Council by any declarations of trust executed by or on behalf of such Council or by any scheme settled under the Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (b); VI of 1890.

(b) a Council may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, after crediting the necessary sums to the funds created under section 87, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for such purposes as the Director in this behalf approves, and the Council shall apply sums so credited exclusively to the special purposes for which such sums were received or set apart;

(c) (i) every Council which levies a tax on pilgrims resorting periodically to a shrine within its area shall, subject to the condition that reasonable provision shall be made for the purposes specified in sub-clause (ii), credit the proceeds of the said tax to a separate heading in the municipal account to be called the "Pilgrim Fund Account";

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[301] Substituted by the Amendment Act 13 of 1994.
[302]Substituted by the Amendment Act 13 of 1994.
[303] Substituted by the Amendment Act 13 of 1994.
[304] Substituted by the Amendment Act 13 of 1994.
[305]Substituted by the Amendment Act 13 of 1994.

(ii) the purposes for which provision shall be made by a Council before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the Council of such percentage of the proceeds of the said tax as may be determined from time to time by the Council with the approval of the Director for—

(A) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force;

(B) such general duties of the Council as are connected with the health, convenience and safety of the said pilgrims; and

(C) the cost of collection of the said tax;

(iii) the sums credited under sub-clause (i) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Director.

(2) The Government may under appropriation duly made in this behalf make such grants to every Council every year and subject to such terms and conditions and in such manner as it deem fit for all or any of the following purposes, namely:—

(a) Water supply;

(b) Drainage;

(c) Primary and Secondary Education;

(d) Development plan and town planning schemes under any law for the time being in force in the [306][State of Goa];

(e) Dearness allowance to the officers and servants of the Council;

(f) [307][Pay and allowances to the officers and servants of the Council posted on deputation from Government Departments;]

(g) Public health;

(h) Fire brigade;

(i) Construction and maintenance of roads;

(j) and such other amenities as the Government may from time to time determine.

Such grants shall be credited to the municipal fund and applied for the purposes for which they are sanctioned.

87. Constitution of Salary Reserve Fund.— Every Council shall build up a "Salary Reserve Fund" within a period of three financial years by transferring annually on or before the 31st day of December a sum equal to the total of one month's salary and

[306]Substituted by the Amendment Act 13 of 1994.

[307] Substituted by the Amendment Act 18 of 1997.

allowances of all the officers and servants of the Council. Neither during the period of three years aforesaid nor thereafter, shall it be competent for the Council to incur any expenditure from this fund, except with the previous sanction of the Director. The Director may give his sanction if he is satisfied that the proposed expenditure is for the payment of salaries and allowances, and cannot be i unds of the Council. Such sanction shall further be subject to

the condition that no expenditure from the municipal fund shall be incurred thereafter except for the purposes specified below in order of priority, till the Salary Reserve Fund is fully recouped:—

(a) recoupment of the Salary Reserve Fund',

(b) payment of salaries and allowances.

The Director shall also prescribe the period and the monthly instalment by which the said fund shall be recouped, which period in no case shall exceed six months.

88. Provisions regarding transfer of municipal property.— (1) No Council shall transfer any of its immovable property without the sanction of the Government.

308[Provided that a Council may, for the purpose of construction of markets, shops or such other amenities intended for the overall development of the municipal area, associate private entrepreneurs in such projects on such terms and conditions including transfer of marketable title of the entire project or part thereof, with the approval of the Government.];

(2) A proposal of such transfer shall be accompanied by a resolution of the Council passed at a meeting by a majority of not less than two-thirds of the total number of Councillors and shall in no way be inconsistent with the rules made in this behalf by the Government.

309[(3) Notwithstanding anything contained in sub-section (1), a Council may lease its immovable property for a period not exceeding three years with appropriate annual rate of increase in rent and the lessee shall not be allowed to make any permanent constructions on such immovable property. Such lease may be renewed by the Council beyond the period of three years with the permission of the Director, who shall decide the reasonability of annual increase in rentals before issuing permission for extending the lease period:

Provided that in respect of immovable property of a Council where the period has already expired and the leases are not renewed, the Council may renew the leases of such immovable properties at such rate of rental which 310[shall not be less than Rs. 12/- per sq. metre per month] in case of commercial establishment and shall not be less than 311[Rs. 5/- per sq. metre per month] in case of residential establishment, the reasonability of which shall be decided by the Director before issuing permission for extending the lease period.];

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308 Inserted by the Amendment Act 27 of 2002.

309 Substituted by Amendment Act 15 of 1996.

310 Substituted by the Amendment Act 18 of 1997.

311 Substituted by the Amendment Act 18 of 1997.

312[(4) If any person refuses or fails to vacate the Municipal premises after expiry of lease period or for any other reason and after due notice from the Council, he shall be evicted from the said premises under the provisions of the Goa Public Premises (Eviction of Unauthorised Occupants) Act, 1988 (Act 22 of 1988) by the Director or any other Officer authorized by him in this behalf and designated as Estate Officer and notified under the provisions of the said Act.].

89. Provisions relating to contracts and tenders.— (1) In the case—

(a) of every contract which will involve expenditure not covered by a budget grant,

(b) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the Council by a resolution passed at an ordinary meeting shall be necessary.

(2) (a) Every contract under or for any purpose of this Act shall be made on behalf of the Council by the Chief Officer;

(b) No such contract which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority shall be made by him until or unless such approval or sanction has first of all been duly given;

(c) [313][No contract which involve such amount of expenditure as notified by the Government from time to time], shall be made by the Chief Officer of 'A' Class, 'B' Class and 'C' Class Council, respectively, unless otherwise authorised in this behalf by the Council, except with the approval or sanction of the Council;

(d) Every contract made by the Chief Officer involving an expenditure exceeding 75 per cent of the limits in clause (c) but not exceeding those limits shall be reported by him within fifteen days after the same has been made to the council;

(e) The foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(3) Every contract entered into by a Chief Officer on behalf of a Council shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that —

(a) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the Council;

(b) every contract for the execution of any work or for the supply or any materials or goods which will involve an expenditure [314][exceeding such amount as may be notified by the Government from time to time] shall be in writing and shall be sealed with the common seal of the Council and shall specify the work to be done or the materials or

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[312] Inserted by Amendment Act 15 of 1996 and thereafter again by the Amendment Act 27 of 2002. [313] Substituted by the Amendment Act 7 of 1998.

[314] Substituted by the Amendment Act 7 of 1998.

goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(4) The common seal of the Council shall not be affixed to any contract or other instrument except in the presence of two members of the Standing Committee who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(5) A contract not executed in t tion shall not be binding on the Council.

(6) Except as is otherwise provided in sub-section (2), a Chief Officer shall before entering into any contract for the execution of any work or the supply of any materials or goods which will involve [315][an expenditure exceeding the amount as notified by the Government from time to time] give notice by advertisement in a local newspaper, inviting tenders for such contract:

Provided that at least clear seven days shall be allowed to elapse between the date of the publication of the advertisement in the newspaper inviting tenders and the last date fixed for the receipt of tenders by the Chief Officer.

(7) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the Council, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(8) A Council, after obtaining the approval of the [316][Director], may authorise the Chief Officer, for reasons which shall be recorded in its proceedings to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

(9) A Chief Officer shall require security for the due performance of every contract into which he enters under sub-section (6) and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

90. Bar against officers, and servants being interested in contract.— (1) No Officer or servant of a Council shall, without the written permission of the Director, in any-wise be connected with or interested in any bargain or contract made with the Council for any of the purposes of this Act.

(2) If any such officer or servant is so concerned or interested or, under colour of his office or employment, accepts any fee or reward whatsoever other than his proper salary or allowances, the appropriate authority may declare that he shall be incapable afterwards of holding or continuing in any office or employment under the Council.

(3) Nothing in this section shall bar a prosecution under the next succeeding section.

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315 Substituted by the Amendment Act 7 of 1998.
316 Substituted by the Amendment Act 7 of 1998.

91. Penalty to Councillors, officers and servants for improper interest in contracts, etc.— (1) if any Councillor, or any officer or servant of a Council, without the written permission of the Director, is directly or indirectly interested in any contract made with such Council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

XLV of 1860.

(2) A Councillor or an officer or servant of a Council shall not, by reason only of being a shareholder in, or a member of any company, or co-operative society, be deemed to be interested in any contract entered into between the company or the society and the Council.

92. Liability of Councillors, officers and servants for loss, or damage.— (1) If any Councillor or an officer or servant of a Council makes or directs to be made any payment or application of any money or other property belonging to or under the control of such Co orised by or under this Act, or assents to, or concurs with or

participates in any affirmative vote or proceeding relating thereto, he shall be individually liable to such Council for the loss or damage caused thereby, unless he proves that he acted in good faith and with due care and attention.

(2) Every Councillor or officer or servant of a Council shall be liable to such Council for the loss of any money or the loss of, or damage to, other property belonging to it or under its control, if such loss or damage is a direct consequence of his negligence or misconduct.

(3) No suit shall be instituted by a Council against any Councillor thereof under sub- -section (1) or sub-section (2), except with the previous sanction of the Government.

(4) Notwithstanding anything contained in sub-section (3), a suit under sub-section (1) or sub-section (2) may be instituted by the Government.

(5) No suit shall be instituted under this section after the expiration of six years from the date when the cause of action arose.

93. Application of municipal property and funds within and without the municipal area.— The municipal fund and all property vested in a Council shall be applied for the purposes of this Act within its area:

Provided that it shall be lawful for the Council with the sanction of the Director or any officer duly authorised by him in this behalf —

(a) to incur expenditure in the acquisition of land or in the construction, maintenance, repair or purchase of works beyond the limits of its area for the purpose of obtaining a supply of water required for the inhabitants of the municipal area or of providing the supply of electrical energy or gas for the use of the inhabitants of the municipal area or of establishing slaughter-houses or places for the disposal of night- -soil or sewage or carcasses of animals or for drainage works or for the purpose of providing mechanically propelled transport facilities for the conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal

area or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the municipal area; or

(b) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, safety or convenience of the public and calculated to benefit directly the residents within the limits of the contributing Council:

Provided further that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a Council when with such sanction as aforesaid it has constructed works beyond the limits of the municipal area for the supply of water or electrical energy or gas or for drainage as aforesaid—

(i) to supply or extend to or for the benefit of any persons or buildings or lands in any place whether such place is or is not within the limits of the municipal area, any quantity of water or electrical energy or gas not required for the purposes of this Act within the municipal area, or the advantages afforded by the system of drainage works on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the Coun cupiers or owners of such buildings or lands, or

(ii) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repairs, or alteration of any connection pipes or any electric or gas supply lines or other works necessary for the purpose of such supply or for the extension of such advantages, or

(iii) to make contribution towards the Construction, establishment or maintenance of institutions referred to in clause (t) of sub-section (3) of section 51, subject to the condition that the total of such contributions in any financial year shall not exceed two per cent. of the general revenues (excluding Government grants) of the Council for the previous financial year:

Provided that such contributions may, with the prior approval of the Government, exceed two per cent. but not five per cent. of such revenues.

94. Special provision regarding loan of fire fighting equipment, etc.— It shall not be necessary for a Council to obtain sanction of the Director under the last preceding section, if the Council, in an emergency, decides to give on loan its fire fighting equipment, road-roller, bull-dozer or ambulance car to any other local authority in the District. The terms and conditions of the loan shall be such as the Council and the borrowing local authority may mutually agree.

95. Depositing or investing of Surplus Funds of a Council.— (1) It shall be lawful for a Council to deposit with the State Bank of India or such other Bank as may hereafter be appointed to conduct the business of Government treasury or in any other scheduled bank or with the sanction of the Government in any co-operative bank in the [317][State of Goa] any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the Council, and from time to time, to dispose of such securities as may be necessary.

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[317]Substituted by the Amendment Act 13 of 1994.

(2) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (1), shall be deposited in the local Government treasury or such other place of security as may be approved by the Director.

96. Power of Council to compromise suits.— Subject to rules made under this Act, a Council may compromise any suit instituted by or against it, or any claim or demand arising out of any contract entered into by it in accordance with this Act for such sum of money or other compensation as shall be deemed sufficient.

CHAPTER VIII

Budget and Accounts

97. Budget.— (1) The Chief Officer shall each year on or before the 31st day of December prepare and place before the Standing Committee —

(i) a statement showing the income and expenditure of the Council for the previous financial year;

(ii) a statement showing the income and expenditure of the Council from the 1st day of April to the 30th day of November of the financial year then current and an estimate of the income and expenditure for the remaining portion of the current year;

(iii) an estimate of the income and expenditure of the Council during the ensuing financial year and an estimate of the closing balance in the municipal fund at the end of the current year;

(iv) proposals for any change in the taxes, fees or other charges to be levied for the ensuing year.

(2) Such statements and estimates shall be prepared under such heads of account and in such form as may be prescribed by Government.

(3) The Standing Committee shall consider the estimates and the proposals of the Chief Officer and submit them to the Council with such recommendations as it may deem fit to make, before the 31st day of January:

Provided that, if the Standing Committee fails to make its recommendations before the 31st day of January, the [318][Chairperson]shall place the statements and estimates before the Council without the recommendations of the Standing Committee.

(4) The Council shall consider the estimates prepared by the Chief Officer and the recommendations of the Standing Committee, if any, and adopt the budget estimates with or without modifications not later than the last day of February:

Provided that when a Council is indebted to Government, the budget of the Council shall be adopted only with the previous sanction of the Director:

Provided further that nothing in the first proviso shall be deemed to prevent the Council during the first quarter of the financial year or till the budget is sanctioned,

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[318] Substituted by the Amendment Act 13 of 1994.

whichever is earlier, from paying from its municipal fund, cost of the sanctioned establishment and contingencies.

(5) No budget shall be approved by the Council unless provision is made therein—

(a) for the payment as they fall due of all sums and of all instalments of principal and interest for which the Council may be liable under this Act or any other law for the time being in force;

(b) for the payment of contributions to the special funds constituted under this Act such as the Salary Reserve Fund;

(c) for the payment of salaries and allowances of the officers and servants of the Council;

(d) for a minimum cash balance at the end of the year (exclusive of the balance, if any, in any statutory fund) of such amount as may be prescribed by rules made by the Government.

(6) The budget so sanctioned may be varied or altered by the Council, from time to time, as circumstances may render desirable:

Provided that the Standing Committee or any other Committee appointed under this Act may within the budget so sanctioned, sanction reappropriations not exceeding such limits as may in respect of each class of Council be prescribed by rules, from one sub- -head to another or from one minor head to another under the same major head and controlled by the same Committee. A statement of such reappropriations shall be submitted to the Council at its next meeting:

Provided further that no such reappropriation, shall be done from the amounts earmarked towards the repayment of any loan and interest thereon and towards contributions to any fund or funds constituted under the provisions of this Act.

(7) (a) Save in an emergency, no sum shall be expended by or on behalf of any Council unless such sum is included in the budget for the time being in force.

(b) If any sum which is not so included in the budget, is expended in an emergency, the circumstances in which such sum was expended shall forthwith be reported by the [319][Chairperson] to the Council and the Director, with an explanation of the way in which it is proposed to cover such extra expenditure.

98. Municipal accounts.— (1) Accounts of the receipts and disbursements of every Council shall be kept in accordance with the rules contained in the Municipal Account Code prescribed by the Government and shall be placed before the Council in the prescribed manner.

(2) After the end of each official year the Chief Officer shall arrange to get prepared, and if so required by section 100 get audited by the Municipal Auditor, the accounts of the Council for the year and shall place them before the Council not later than the 30th day of June of the following year.

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[319] Substituted by the Amendment Act 13 of 1994.

(3) An abstract of the annual accounts as passed by the Council showing the receipts and disbursements of the municipal fund under each head of receipt and disbursements, the charges for establishment, the balance, if any, of the fund remaining unspent, and such other information as may be required by the Government shall be forwarded by the Council to the Director, not later than the 31st day of July of the next financial year.

99. Publication of accounts.— The quarterly and annual accounts, receipts and disbursements, and the budget when sanctioned, shall be open to inspection by any adult inhabitant in the municipal area. A note to that effect that a statement of such accounts and the budget are so kept for inspection shall be published in the local newspapers.

100. Audit of Accounts.— The accounts of all municipal Councils shall be subject to audit in all respects, in such manner as the Government may, by rules prescribe.

CHAPTER IX

Municipal Taxation

(1) Imposition of compulsory and voluntary taxes.

101. Imposition of compulsory taxes.— (1) Subject to any general or special orders which the Government may make in this behalf, a Council shall impose, for the purposes of this Act, the taxes listed below:—

(a) a consolidated property tax on lands or buildings or both situated within municipal area, [320][other than those belonging to the Government, Central Government or duly registered Freedom Fighters] based on their rateable value as determined in accordance with section 110;

(b) a tax on professions, trades, calling and employments;

(c) a theatre tax;

(d) a tax on advertisements other than advertisements published in the newspapers:

Provided that the maximum and minimum rates at which the taxes aforesaid shall be levied in different classes of municipal areas and other matters relating to imposition, assessment, collection and exemptions thereof shall be such as may be prescribed by rules.

(2) The consolidated tax on property shall include—

(a) a general tax;

(b) a general water tax;

(c) a lighting tax;

(d) a general sanitary tax.

102. Loss of income from tax due to exemption to be reimbursed by Government.— If under any special or general order issued under sub-section (1) of the last preceding section, the Government grants exemption in respect of any class of

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320 Inserted by the Amendment Act 12 of 1978 and thereafter substituted by the Amendment Act 15 of 1996.

property or persons from levy of the taxes specified in sub-sections (1) and (2) of that section, the Government may under appropriation duly made by law in this behalf, annually reimburse to the Council concerned, an amount approximately equal to the loss that the Council thereby incurs. The decision of the Government regarding—

(i) the mode of assessing the loss; and

(ii) the amount of loss incurred by each Council concerned each year,

shall be final.

103. Provision for exempting 'C' Class Councils from levying certain taxes temporarily.— If a 'C' Class Council, by a resolution passed at a meeting by a majority of not less than two-thirds of the total number of the Councillors decides that, for reasons to be specified in such resolution it cannot levy any of the taxes specified in sub-sections (1) and (2) of section 101, the Government may exempt such Council partially or fully from levying such tax or taxes for a period to be specified by the Government in that behalf. The Council shall not in such a case be entitled to any reimbursement of losses as provided in the preceding section.

104. Other taxes which Council may impose.— Subject to any general or special orders which the Government may make in this behalf, a Council may impose, for the purposes of this Act, any of the following taxes, namely:—

(a) a tax on all vehicles (excluding motor vehicles as defined in the Motor Vehicles Act, 321[1988]), boats or animals used for riding, draught or burden and kept for use within the municipal area, whether they are actually kept within or outside such area; IV of 1939.

(b) a toll on vehicles and animals used as aforesaid, entering the municipal area but not liable to taxation under clause (a);

(c) a tax on dogs kept within the municipal area;

322[(cc) a garbage treatment tax for disposing solid waste by incineration or other scientific method;]

(d) a special sanitary tax upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(e) a drainage tax;

(f) a special water tax for water supplied by the Council in individual cases, charges for such supply being fixed in such mode or modes as shall be best suited to the varying circumstances of any class of cases or of any individual case;

(g) a tax on pilgrims resorting periodically to a shrine within the limits of the Council;

(h) a special educational tax;

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321Substituted by the Amendment Act 13 of 1994.

322 Inserted by the Amendment Act 17 of 1998.

(i) an octroi;

(j) any other tax which under the Constitution of India the Legislature of the 323[State of Goa] has power to impose in the 324[State of Goa]:

Provided that no special sanitary tax in respect of private latrines, premises or compounds shall be levied, unless and until the Council has—

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the municipal area or part thereof to be charged with such tax, one month's notice of the intention of the Council to perform such cleansing and to levy such tax.

105. Procedure preliminary to imposing tax under section 104.— A Council before imposing any of the taxes referred to in section 104 shall observe the following preliminary procedure:—

(a) it shall, by resolution passed at a special meeting, select for the purpose one or other of the taxes specified in that section and approve the bye-laws concerning the tax selected, and in such bye-laws specify—

(i) the classes of persons or of property or of both, which the Council proposes to make liable, and any exemptions which it proposes to make;

(ii) the amount or rate at which the Council proposes to assess each such class;

(iii) the mode of levying and recovering the tax and the dates on which it or instalments (if any) thereof shall be payable;

(iv) all other matters whic de in this behalf may require to be specified therein;

(b) when such a resolution is passed, the Council shall take further action to obtain the previous sanction of the Government to the bye-laws under section 307.

106. Discretionary tax when sanctioned not to be abolished without previous sanction of Government.— After the bye-laws in respect of any discretionary tax are sanctioned by the Government under the last preceding section, such tax shall be brought into force on or after a date to be specified by the Government in its sanction. Such a tax shall not then be abolished without the previous sanction of the Government.

107. Local publication of bye-laws relating to taxes, with notice.— The bye-laws referred to in sections 105 and 106, as sanctioned and published in the Official Gazette by the Government, shall be republished by the Council in a local newspaper with a notice in the prescribed form.

The notice shall specify the date on which the bye-laws shall come into force. Such date shall, however, not be less than thirty days from the date of publication of such notice:

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323Substituted by the Amendment Act 13 of 1994.

324Substituted by the Amendment Act 13 of 1994.

Provided that —

(a) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April than next ensuing.

(b) if the levy of a tax, or a portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards recovery of arrears which may have become due during that period.

108. Council may vary rates of tax within prescribed limits.— (1) Notwithstanding any rule, bye-law or resolution specifying the amount or rate at which a tax is leviable, a Council may, by a resolution passed at a special meeting, decide to increase or reduce the amount or rate at which such tax is leviable and to that extent the bye-laws already sanctioned by the Government shall be deemed to have been suitably amended with effect from the date specified in the notice referred to under sub-section (2) :

325[Provided that such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under the rules].

(2) When a Council has by a resolution decided to increase or reduce the amount or rate at which any tax is leviable, the Council shall publish in the municipal area the resolution together with notice specifying a date, which shall not be less than thirty days from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.

(2) Assessment and liability to tax on buildings and lands.

109. Appointment of authorised Valuation Officer.—[326][(1) The Government may appoint such Municipal Engineers to be authorised Valuation Officers for the purposes of this Act;]

(2) [327][Omitted]

(3) [328] [Omitted]

110. Rateable value how to be determined.— (1) In order to fix the rateable value of any building or land assessable to a property tax, there shall be deducted from the amount of rent for which such building or land might reasonably be expected to let, or for which it is actually let, from year to year, whichever is greater, a sum equal to ten per centum of the said annual rent, and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever.

(2) The value of any machinery contained or situated in or upon any building or land shall not be included in the rateable value of such building or land.

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[325]Substituted by the Amendment Act 18 of 1997.
[326] Substitute by the Amendment Act 15 of 1996.
[327] Omitted by the Amendment Act 15 of 1996.
[328] Omitted by the Amendment Act 15 of 1996.

111. Preparation of assessment list.— (1) When a tax on building or land or both is imposed, the Chief Officer shall cause an assessment list of all buildings or lands or lands and buildings in the municipal area to be prepared in the prescribed form.

(2) For the purpose of preparing such assessment list, the Chief Officer or any person acting under his authority may inspect any building or land in the municipal area and on the requisition of the Chief Officer, the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribe with his signature the name and place of abode of the owner or occupier or of both and the annual rent, if any, obtained and his estimate of the value of such building or land.

112. Person primarily liable for a property tax how to be designated if his name cannot be ascertained.— (1) When the name of the person primarily liable for the payment of a tax on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all taxes on buildings or lands or both leviable on the premises of which he is in occupation.

113. Authorised Valuation Officer to check assessment.— When the list of assessment has been completed by the Chief Officer, he shall submit the same to the authorised Valuation Officer appointed by the Government for the municipal area. The authorised Valuation Officer shall verify the assessment as done by the Chief Officer, if necessary by inspection of properties concerned, and return the list duly checked and corrected to the Chief Officer within a period of two months.

114. Publication of notice of assessment list.— When the list of assessment is returned by the authorised Valuation Officer under the last preceding section, the Chief Officer shall give public notice thereof and of the place where the list or copy thereof may be inspected; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

115. Public notice of time fixed for lodging objections.— (1) The Chief Officer shall, at the time of the publication of the assessment list under the last preceding section, give public notice of a date not less than thirty days, after such publication, before which objections to the valuation or assessment in such list shall be made; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

(2) Objections to the valuation and assessment on any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the Chief Officer before the time

fixed in the aforesaid public notice, by application in writing, stating the grounds on which the valuation or assessment is disputed; all applications so made shall be registered in a book to be kept by the Chief Officer for the purpose.

116. Objection how to be dealt with.— After the period given in the public notice referred to in Section 114 expires the Chief Officer shall forward to the authorised Valuation Officer for the municipal area, the assessment list along with objections received. The authorised Valuation Officer shall investigate and dispose of the objections after allowing the objector an opportunity of being heard in person or by agent and cause the result thereof to be noted in the book kept under the last preceding section and cause any amendment necessary in accordance with such result to be made in the assessment list:

Provided that before any such amendment is made, the reasons therefor shall be recorded in the book aforesaid.

117. Authentication of list of assessment.— (1) The list so finally made by the authorised Valuation Officer shall be authenticated by him under the seal of his office and his signature and he shall endorse a certificate thereon that no valid objection has been made to the valuation and assessment contained in the list, except in cases in which amendments have been made therein.

(2) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be, forthwith published.

118. Authentic list how far conclusive.— Subject to such alterations as may be made therein under the provisions of the next succeeding section and to the result of any appeal or revision made under section 164 or 166, the entries in the assessment list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of the next succeeding section shall be accepted as conclusive evidence —

(i) for the purposes of all municipal taxes, of the valuation, or annual rent, on the basis prescribed in section 110, of buildings or lands or both buildings and lands to which such entries respectively refer; and

(ii) for the purposes of the tax for which such assessment list has been prepared of the amount of the tax leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

119. Amendment of assessment list.— (1) The Chief Officer, in consultation with the authorised Valuation Officer, may at any time alter the assessment list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by section 115 shall be dealt with in all respect as if it were an application under the said section.

(3) An entry or alteration made under this section shall subject to the provisions of sections 164 and 166 have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed; and the tax or the enhanced tax, as the case may be, shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

120. Reassessment to be done after every four years.— The assessment of every property in the municipal area shall as far as possible be done not less than once in four years and once done shall remain in force for four years. Subject to rules made in this behalf, the Chief Officer may for the purpose of assessment divide the municipal area into such suitable divisions as he deems fit or may undertake the work for the whole municipal area simultaneously. The publication of the authenticated assessment list shall be done not later than the 31st day of July of the official year to which the list relates.

121. Primary responsibility for property taxes on whom to rest.— (1) Subject to the provisions of sub-section (2), property taxes assessed upon any premises shall be primarily leviable as follows, namely:—

(a) if the premises are held immediately from the Government or from the Council, from the actual occupier thereof:

Provided that property taxes due in respect of buildings vesting in the Government and occupied by servants of the Government or other persons on payment of rent shall be leviable primarily from the Government;

(b) if the premises are not so held—

(i) from the lessor if the premises are let;

(ii) from the superior lessor if the premises are sub-let;

(iii) from the person in whom the right to let the premises vests if they are unlet;

(iv) from the person in possession, if the premises are not let out to him.

(2) If any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or any person deriving title from the said tenant by the operation of law or by assignment or transfer but not by sub-lease or the legal representative of the said tenant or person whether the premises be in the occupation of the said tenant or person or legal representative or a sub--tenant.

122. When occupiers may be held liable for payment of property taxes.— (1) If the sum due on account of any property tax remains unpaid after a bill for the same has been

duly served upon the person primarily liable for the payment thereof and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the Chief Officer may serve a bill for the amount upon the occupier of the said premises, or, if there are two or more occupiers thereof, may serve a bill upon each of them for such portion of the sum due as bears to the whole amount due to the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within thirty days from the service of any such bill to pay the amount therein claimed, the said amount may be recovered from him.

(3) No arrear of a property tax shall be recovered from any occupier under this section which has remained due for more than one year, or which is due on account of any period for which the occupier was not in occupation of the premises or which the tax is assessed.

(4) If any sum is paid by, or recovered from an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

123. Partial remission in respect of property remaining unoccupied.— (1) Where any building or land the tax whereof is payable by the year, or in respect of which a special sanitary tax is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which such tax is leviable, or throughout the period in respect of which any instalment is payable, the Council shall remit or refund not more than one-half of the amount of the tax or instalment of the tax, as the case may be:

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(2) Where any such building or land as aforesaid—

(a) has been vacant and unproductive of rent for any period of not less than ninety consecutive days, or

(b) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(c) wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the Council may remit or refund such portion, if any, of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

124. When building or land deemed to be productive of rent.— For the purposes of clause (a) of sub-section (2) of the last preceding section, a building or land shall be

deemed to be productive of rent, if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

125. Parties to transfer of property to give notice of transfer.— (1) Whenever the title of any person primarily liable for the payment of a tax on buildings or lands or both to or over such land or building or both is transferred, the person whose title is so transferred and the person to whom the same is transferred shall, within three months after execution of the instrument of transfer or after its registration if it be registered, or after the transfer is effected if no instrument be executed, give notice of such transfer in writing to the Chief Officer.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(3) If the person liable to give the notice referred to in sub-section (1) or sub-section (2) fails to give such notice, he shall, on conviction, be punished with fine which may extend to fifty rupees.

126. Form of notice.— (1) The notice to be given under the last preceding section shall be in the form of Schedule II or Schedule III, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof obtained under section 57 of the Indian Registration Act, 1908. XVI of 1908.

127. In absence of notice, liability to taxes to continue on original holder.— (1) Every person primarily liable for the payment of a tax on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue to be liable for the payment of the said tax on the building or land or both until he gives such notice, or until the transfer shall have been recorded by the Council.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said tax or to affect the prior claim of the Council on the said building and land conferred by section 157, for the recovery of the tax on the land or building or both.

128. Power to fix special rate in lieu of special sanitary tax.— Where a Council has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary tax imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either —

(a) in accordance with the bye-laws for the time being in force; or

(b) by written agreement with the person who would have been otherwise liable for the tax, provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the Council of the service to be rendered.

129. Recovery of sums claimed under the last two preceding sections.— Every sum claimed by a Council as due under any of the provisions contained in section 128 shall be deemed to be an amount claimed on account of a tax and shall be recoverable in the same manner as an amount of a tax is recoverable under this Act.

130. Council may sell surplus water for use outside municipal area.— A Council may contract with any person or department to supply for use beyond the municipal area any quantity of water belonging to it but not required by it, at such rates and on such conditions as it may think fit:

Provided that such rate shall be in no case lower than the rate chargeable for water supplied for similar purposes within the municipal area.

(3) Octroi and tolls.

131. Octroi limits.— For the purposes of this Act, unless the Council otherwise determines by making the necessary bye-laws, the octroi limits of the Council shall be deemed to be co-terminous with the limits of the municipal area.

132. Power to examine articles liable to octroi.— (1) A person bringing into or receiving from beyond the octroi limits of a Council any animal or goods on which octroi is payable shall, when required by an officer authorised in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(a) permit that officer to inspect, examine, weigh and otherwise deal with such animal or goods;

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods; and

(c) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

(2) If any person bringing into or receiving from beyond the octroi limits of a Council in which octroi is leviable, any conveyance or package, refuses on demand of an officer authorised by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before such Executive Magistrate as the Government appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

133. Presentation of bills for octroi.— An officer demanding octroi by the authority of the Council shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed and the rate at which the tax is calculated.

134. Penalty for evasion of octroi.— Where any animal or goods passing into a municipal area are liable to the payment of octroi, any person who, with the intention of defrauding the Council, causes or abets the introduction of or himself introduces or

attempts to introduce within the octroi limits of the Council any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine which may extend to ten times the amount of such octroi or to two hundred rupees, whichever may be greater.

135. Tables of tolls to be shown on demand.— A Council imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table showing the amounts leviable in all cases provided for in the bye-laws including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments; and it shall be the duty of every person authorised to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

136. Power to seize vehicle or animal or goods for non-payment of octroi or toll and to dispose of seized property.— (1) In the case of non-payment on demand of any octroi or of any toll leviable by a Council, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable, or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VI.

(2) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

(3) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized.

(4) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, or toll, and the expenses incidental to the seizure, detention and sale.

(5) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the Council.

137. Power to keep account current.— A Council, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within its octroi limits, may at any time direct that an account-current shall be kept on behalf of the Council of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the Council or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or

body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of Chapter X be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said Chapter.

138. Joint collection of octroi by agreement how made.— Where any agreement such as is referred to in sub-section (2) of section 82 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may,

deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of the Act under which that body is constituted relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of that body and the collections made and the costs, thereby incurred shall, subject to the provisions of section 82, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement.

139. Farming of tools.— (1) It shall be lawful for a Council to lease by public auction the levy of any toll that may be imposed under this Act:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, exercise the powers and perform the duties conferred and imposed by sub-sections (1) and (2) of section 136 on a person appointed to collect a toll, and any property seized, shall be dealt with as if it has been seized under the provisions of that section:

Provided that no property seized may be sold except under the orders of the Chief Officer.

(4) Supplementary provisions regarding taxes.

140. Power to compound tax on vehicles or animals.— Where a Council has imposed a tax on vehicles (other than motor vehicles) or animals used for riding, draught or burden and kept for such use within the municipal area, it may compound with the keeper of any livery-stable or of horses or such vehicles kept for sale or hire, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

141. Assessment not invalid for defect of form.— No assessment and no charge or demand of any tax made under the authority of this Act shall be invalid by reason of any clerical error or other defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier thereof.

142. Power of Government to require Councils to impose taxes.— Where it appears to the Government that the balance of the municipal fund of a Council is insufficient for

meeting any expenditure incurred under section 294 or for the performance of duties for the performance of which the Director had fixed a period under section 297, the Government may by notification require the Council to impose, within the municipal area, any tax specified in the notification which may be imposed under section 104 and which is not at the time imposed, within the said area or to enhance any existing tax in such manner or to such extent as the Government considers fit; and the Council shall forthwith proceed to impose or enhance in accordance with the requisition, such tax under the provisions of this Chapter as if a resolution of the Council had been passed for the purpose under section 105.

329[**142A. Assignment of certain taxes, etc.—** The Government shall,—

(a) assign to the Council, such taxes, duties, tolls and fees levied and collected by the Government for such purposes and subject to such conditions and limits as may be prescribed;

(b) provide for making such grants-in-aid to the Council for the Consolidated Fund of the State as may be determined from time to time by an order published in the Official Gazette.]

(5) Fees

143. Fees may be charged for certain licences, permission, etc.— (1) When any licence is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Council, the authority granting or giving such licence or permission may charge a reasonable fee for the same as determined by the bye-laws:

Provided that, when permission is given for putting up a projection, the authority giving such permission may charge every year a recurring fee until the projection is removed.

(2) The Council may charge a higher fee by way of penalty for any erection or projection, or for the use or occupation of any public street or other land vested in the Council, by any person without its permission or licence. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provisions of this Act or any other law for the time being in force.

The rates of such higher fees shall also be determined by the bye-laws.

330[**143A. Finance Commission.—** The Finance Commission as constituted under section 200 of the Goa Panchayat Raj Act, 1993 shall have power to review the financial position of all Councils in the State from the date of commencement of the Goa Municipalities (Amendment) Act, 1993 and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Councils and to make recommendation to the Government as to,—

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329 Inserted by the Amendment Act 13 of 1994.

330 Inserted by the Amendment Act 13 of 1994.

(a) the principal which should govern—

(i) the distribution between the State and the Councils and the net proceeds of the tax, duties, tolls and fees leviable by the Government which may be divided between them and allocation between them of their respective share of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Councils;

(iii) the grants-in-aid to the Councils from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Council;

(c) any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the Council.

(2) The Finance Commission shall determine its procedure.

(3) The Commission shall have the following powers in the performance of its functions, namely:—

(a) to call for any record fr

(b) to summon any person to give evidence or produce records;

(c) such other power as may be prescribed.

(4) The Governor shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action taken thereof to be laid before the State Legislature.]

CHAPTER X

Recovery of Municipal Claims

144. Mode of recovery of any money claimable under this Act.— All amounts on account of taxes, fees or penalties imposed or as may hereafter be imposed by or under this Act or rules or bye-laws made thereunder and all amounts on account of contract, auction, lease, or any money claimable under this Act or under the rules or bye-laws made thereunder shall, save as otherwise provided, be recoverable in the manner provided in this Chapter.

145. Presentation of bill for sums due to Council and discount for prompt payment.— (1) When any amount becomes due to the Council under this Act or the rules or bye-laws made thereunder, the Chief Officer shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof, a bill for the sum claimed as due.

(2) Every such bill shall specify the period for which, and the property, occupation or thing in respect of which the sum is claimed and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If a person to whom such bill is presented pays, within fifteen days from the presentation thereof, the whole sum claimed as due, then a discount equal to one per cent of such sum shall be paid by the Council to him in such manner and within such period as may be prescribed.

146. When notice of demand issued.— If the person to whom a bill has been presented as provided under the last preceding section does not, within fifteen days from the presentation thereof, either—

(a) pay the sum claimed due as in the bill, or

(b) show cause to the satisfaction of the Chief Officer why he is not liable to pay the same, or

(c) prefer an appeal in accordance with the provisions of section 164 against the claim,

the Chief Officer may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule IV or to the like effect.

147. When warrant may issue.— If the person on whom a notice of demand has been served under the last preceding section, does not, within fifteen days from the service of such notice, pay the sum demanded in the notice, such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in the form of Schedule V or to the like effect, by distress and sale of the movable or immovable property of the defaulter:

Provided that, where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by the Government, any proceedings under this Chapter in respect of such property shall abate.

148. To whom warrant addressed.— (a) Where the property is in the municipal area, the warrant issued under the last preceding section shall be addressed to an officer of the Council;

(b) Where the property is in another municipal area, the warrant shall be addressed to the Chief Officer of that area;

(c) Where the property is in a Cantonment, the warrant shall be addressed to the Executive Officer of the Cantonment;

(d) Where the property is not within the limits of a municipal area or a Cantonment, the warrant shall be addressed to a Government Officer not lower in rank than a Mamlatdar:

Provided that such Chief Officer or Government Officer may endorse such warrant to a subordinate Officer.

149. Power of entry by force ander special order.— It shall be lawful for any officer to whom a warrant issued under section 147 is addressed or endorsed, if the warrant contains a special order authorising him in this behalf, to break open at any time between

sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of any apartment appropriated for women until he has given three hours' notice of his intention and has given such women an opportunity to remove.

150. Warrant how to be executed.— It shall also be lawful for any such officer if authorized by the warrant to distrain, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant issued under section 147 as defaulter, subject to the following conditions, exceptions and exemptions, namely:—

(a) the following property shall not be distrained:—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artisans,

(iii) when the defaulter is an agriculturist, his implements of husbandry and such cattle and seed-grain as may be necessary to enable the defaulter to earn his livelihood;

(b) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant; and if any property has been distrained which, in the opinion of the Chief Officer or the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter;

(c) the officer shall, on distraining or attaching the property, forthwith make an inventory thereof and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VI;

(d) (i) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge;

(ii) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon the notice board of

the municipal office and also, when the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situated;

(e) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the Council enforceable under the attachment.

151. Sale of property distrained or attached; application of proceeds of sale.— (1) When the property seized is not subject to speedy and natural decay, the property

distrained or attached, or in the case of immovable property a sufficient portion thereof, may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to the Government in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due to the Council together with the cost and a sum equal to five per cent., of the purchasemoney for payment to the purchaser is paid by the defaulter, before the confirmation of the sale, the attachment if any, of immovable property shall be deemed to have been removed and movable property seized shall be returned to the defaulter. Sales of movable and immovable property under this section shall be held in the manner laid down in the rules framed in that behalf.

(2) After sale of the property by auction as aforesaid the Chief Officer shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(3) It shall be lawful for the Council to offer a nominal bid in the case of any immovable property put up for auction, provided that the previous approval of the Director obtained to such bidding.

152. Surplus, if any, how dealt with.— The surplus, if any, remaining after the sale of property under the last preceding section, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person claims the surplus by written application to the Chief Officer within three years from the date of the notice given under this section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within three years from the date of such notice shall be the property of the Council.

153. Sale outside municipal area.— Where the warrant is addressed outside the municipal area under section 148, the Chief Officer may by endorsement direct the officer to whom the warrant is addressed to sell the property distrained or attached; in such case it shall be lawful for such officer to sell the property and to do all things incidental to the sale in accordance with the provisions of sections 150, 151 and 152 and to exercise the powers and perform the duties of the Chief Officer under sections 151 and 152, in respect of such sale except the power of suspending the warrant. Such officer shall, after deducting all costs of recovery incurred by him and after confirmation of the sale remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of sections 151 and 152.

154. Fees and costs chargeable.— Fees for every notice, issued under section 146, every warrant issued under section 147 or distress or attachment made under section 150 and the maintenance of any livestock seized under the said section shall be chargeable at the rates respectively specified in that behalf in the bye-laws of the Council and shall be included in the costs of recovery.

155. Summary proceedings may be taken against person about to leave municipal area.— (1) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about forthwith to remove from the municipal area, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

156. Sales in other cases by whom to be ordered and the manner of making and confirming them.— The Government may make rules for prescribing such supplemental or incidental provisions as it deems fir for ordering and holding and confirming sales by public auction of any property or class of property distrained or attached under this Act.

157. Liability of lands, buildings, etc. for taxes.— All sums due on account of any tax on lands or buildings or both shall, subject to the prior payment of land revenue, if any, due to the Government there-upon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the movable property, if any, found within or upon such building or land, and belonging to any person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner if such arrears have been due for more than one year for a period during which such occupier was not in occupation.

158. Receipts to be given for all payments.— For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

159. Certain amounts to be recovered as arrears of land revenue.— Where any amount referred to in section 144 has become due and cannot be recovered under the foregoing provisions of this Chapter by reason of the person liable for the payment thereof being outside the [331][State of Goa] or his not having any or sufficient property in the [332][State of Goa], and such person has property outside the [333][State of Goa], then such amount shall be recoverable as an arrear of land revenue and the provisions of the Revenue Recovery Act, 1890 or any other law in force in the [334][State of Goa] in this behalf shall apply to the recovery thereof.

160. Stay orders on warrants by whom to be issued.— When a warrant is issued under section 147, no authority other than the Chief Officer who issued the warrant shall have the power to hold back the execution of the warrant:

[331]Substituted by the Amendment Act 13 of 1994.

[332]Substituted by the Amendment Act 13 of 1994.

333Substituted by the Amendment Act 13 of 1994.
334Substituted by the Amendment Act 13 of 1994.

Provided that the appellate authority to whom an appeal has been preferred under section 164 or the authority to whom a revision application is made under section 166, may issue a stay order if the circumstances of the case so demand, only after the appeal or application for revision is duly admitted, and after recording the reasons for making such order.

161. Interest payable on dues for taxes.— If a person on whom a notice of demand has been served under section 146 does not, within fifteen days from the service of such notice, pay the sum demanded in the notice, he shall be liable to pay by way of interest, in addition to the sum and other charges due,—

(a) one-half per cent. of the sum due for each complete month for the first six months, from the date of the expiry of the period of fifteen days aforesaid; and

(b) one per cent. of the sum due for each complete month thereafter, during the time he continues to make default in the payment of the sum due.

The amount of interest shall be recovered in the same manner as the sum due is recoverable:

Provided that the Chief Officer may, in such circumstances as may be prescribed, and an appellate, authority or the authority to whom revision application is made may, remit the whole or any part of the interest payable in respect of any period.

162. Power to write off.— Subject to the approval of the Director and subject to such rules as the Government may make in this behalf, a Council may write off any tax, fee or other amount due to it which in its opinion is irrecoverable:

Provided that no amount shall be written off unless a resolution to that effect is passed by a majority of not less than three-fourths of the total number of Councillors:

Provided further that no approval of the Director need be obtained if the sum to be written off, not being a sum under a contract, is not more than 335[Five thousand rupees] in any case.

163. Appointment of Recovery Officer.— (1) Notwithstanding any other mode of recovery provided by this Act, any arrears of any tax, or any amount due to the Council under a contract, agreement, lease, auction, security or indemnity bond or any other money due to the Council under this Act or the rules or bye-laws made thereunder, together with any sum on account of process fees, interest and other costs, shall be recoverable by the Recovery Officer to be appointed for the purpose by the Director:

Provided that no such Recovery Officer shall be appointed unless the Council by a resolution passed at a special meeting for that purpose, makes a written request to the Director.

(2) In case the arrears of all kinds due to a Council as on the 31st Day of December; are in excess of fifty per cent. of the total of such arrears as at the close of the previous financial year, the Director may, without reference to the Council, order appointment of a Recovery Officer.

335 Substituted by the Amendment Act 27 of 2002.

(3) In either case, the expenses on the salary and allowances of the Recovery Officer and such other subordinate staff as the Director may appoint to assist the Recovery Officer shall be paid by the Council.

(4) The Recovery Officer so appointed shall have all the powers of a Revenue Officer under the corresponding law for the time being in force, but only for the purposes of recovery of municipal arrears recoverable under this Act as arrears of land revenue.

164. Appeals to Magistrates.— Appeals against any claim for taxes or other dues included in a bill presented to any person under section 145 or any other provisions of this Act may be made to any Judicial Magistrate by whom under the direction of the Sessions Judge such class of cases is to be tried.

165. Procedure in Appeal.— No appeal under the last preceding section shall be entertained unless—

(a) the appeal is brought within fifteen days next after the presentation of the bill complained of; and

(b) an application in writing stating the grounds on which the claim of the Council is disputed, has been made to the Council in the case of a tax on buildings or lands or both within the time fixed in the notice given under section 115 or 119 of the assessment or alteration thereof, according to which the bill is prepared; and

(c) the amount claimed from the appellant has been deposited by him in the municipal office.

166. Revision by Court.— The decision of the Magistrate in any appeal made under section 164 shall, at the instance of either party, be subject to revision by the Court to which appeals against the decision of such Magistrate ordinarily lie.

167. Bar of other proceedings. — No objection shall be taken to any valuation, assessment or levy nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.

CHAPTER XI

Streets and Open Spaces

168. Powers in respect of public streets.— (1) It shall be lawful for a Council—

(a) to lay out and make new public streets, including tunnels, bridges, sub-ways and other works subsidiary to public streets;

(b) to widen, open, extend or otherwise improve any public street or any work subsidiary to a public street;

(c) to divert, or close temporarily any public street;

(d) subject to the provisions of sub-section (2), to close any public street permanently.

(2) Before any resolution to close any public street permanently is passed by the Council, the Chief Officer shall, by a notice put up in the street which is proposed to be closed permanently and also on the notice board in the municipal office, declare the intention of the Council to close the street permanently. The Council shall consider all objections to the said proposal made in writing and delivered at the municipal office within one month from the date of the publication of the notice under this sub-section before passing a resolution so to close the street permanently.

(3) In laying out, making, turning, diverting, widening, opening, extending or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the Council may acquire the land

required for the construction of buildings to form the said street, and subject to the provisions of section 88 may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of buildings to be erected thereon as it may think fit.

169. Powers to declare any street a public street, subject to objections by owners.— (1) The Council may, at any time, by notice fixed up in any street or part of a street which is not a public street, give intimation of its intention to declare the same to be a public street, and unless within one month next after such notice has been so put up, the owner, or if there are more than one owner, the owners of the greater portion of such street or of such part of a street lodges or lodge objections thereto at the municipal office, the Council may, by notice in writing put up in such street, or such part, declare the same to be a public street.

(2) If such owner or owners object to the proposal under sub-section (1), the Council may, after cosidering such objections and with the previous sanction of the Collector, declare such street to be a public street, and the owner or owners so objecting shall be entitled to compensation determined in the manner provided in section 315.

(3) Every such street which becomes a public street under this section shall vest in the Council.

170. Power to require repair, etc. of private streets and to declare them as public streets.— (1) Where a Council considers that in any street not being a public street, or in any part thereof, within the municipal area, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Council may by written notice require the respective owners of the lands or buildings fronting, adjoining, or abutting upon such street or part, thereof, to carry out such work in a manner and within a time to be specified in such notice.

(2) After such work has been carried out by such owners, or as provided in section 313 by the Council at the expense of such owners, and if all land revenue payable to the Government in respect of the land comprised in such street or part thereof has been paid, by such owners, the Council may, and on the joint requisition of the owners of such street or of the greater portion of such street, shall, under the provisions of section 169 and in the manner prescribed in that section, declare such street to be a public street, and such street shall thereafter vest in the Council.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the Council as provided in section 313, the expenses thereby incurred shall be apportioned by the Council between such owners in such manner as it may think fit regard being had to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

171. Regular line of a public street.— (1) The Chief Officer shall, subject to the approval of the Council, prescribe a line on each side of every public street within the municipal area.

(2) The Chief Officer shall give a public notice of the proposal to prescribe such line for any street and shall also put up a special notice thereof in the street for which such line is proposed to be prescribed. The Council shall, before approving the line of the street, consider all objections or suggestions in respect of the said proposal made in writing and delivered at the municipal office within one month from the date of the publication of the notice under this sub-section.

(3) The line for the time being so prescribed shall be called “the regular line of the public street”.

(4) The Chief Officer may from time to time in the manner laid down in sub-sections (1) and (2) prescribe a revised line in substitution of any regular line of street already prescribed and any reference in this Act to the regular line of the public street shall be deemed to include a reference to such revised Line.

(5) No resolution approving a regular line of a public street under sub-section (1) or approving a revised line under sub-section (4) shall be passed by the Council if such line or revised line has the effect of reducing the width of the street or shifting any such line towards the centre of the street, without the previous sanction of the Collector.

(6) (a) Except under the provisions of section 175, no person shall construct or reconstruct any portion of any building within the regular line of a public street or within such distance behind the regular line of the public street as may be prescribed by bye-laws, without the permission of the Chief Officer;

(b) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall, with the approval of the Council, be added to the street and shall henceforth be deemed part of the public street and shall be vested in the Council;

(c) Compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 315 shall be paid by the Council to the owner of any land added to a street under clause (b) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under this sub-section:

Provided that no such compensation shall be payable in respect of any building or portion thereof in respect of which a notice has been issued under sub-section (1) of section 190.

(7) The provisions of sub-sections (8), (9), (10) and (11) of section 184 shall *mutatis mutandis* apply to any building or portion of a building constructed in contravention of the provisions of clause (a) of sub-section (6).

172. Setting back projecting buildings.— (1) If any part of the building projects beyond the regular line of a public street as prescribed under the last preceding section, the Council may—

(a) (i) if the projecting part thereof is any structure external to the main building, then at any time; or

(ii) if the projecting part is not an external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part or some portion of the part projecting beyond the said regular line shall be removed or that such building when rebuilt shall be set back to or towards the said regular line;

(b) if the provisions of clause (a) do not apply and if in the opinion of the Council it is necessary to set back the building to the regular line of the public street require by written notice to show cause within such period as may be specified in such notice, why such projecting part shall not be pulled down and the land within the said line acquired by the Council.

(2) If such owner fails to show sufficient cause to the satisfaction of the Council why such projecting part shall not be pulled down and the land within the said line acquired as aforesaid, the Council may require the owner by a written notice to pull down the projecting part.

(3) The Council shall at once take possession of the portion of the land within the regular line of the public street theretofore occupied by the projecting part so removed or set back under clause (a) or (b) of sub-section (1) or sub-section (2) and such land shall thenceforward be deemed a part of the public street and shall vest as such in the Council.

(4) If any land not vested in the Council, whether open or enclosed, lies within the regular line of a public street and is not occupied by a building other than a structure external to a main building, the Council, after giving the owner of the land not less than thirty clear days' written notice of its intention, or if the land is vested in the Government then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, or such external structure, if any, and if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Council.

(5) Compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 315 shall be paid by the Council to the owner of any land added to a street under sub-section (3) or acquired under sub-section (4), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Council under either of the said sub-section:

Provided that no such compensation shall be payable in respect of any building or portion thereof in respect of which a notice has been issued under sub-section (1) of section 190.

(6) When the amount of compensation has been so ascertained and determined or when a ruinous or dangerous building falling under sub-section (1) has been taken down under the provisions of section 190, the Council may, after tendering the amount of compensation, if any, as may be payable take possession of the land so added to the street, and if necessary, may clear the same.

(7) When no regular line of public street has been prescribed under section 171 in respect of any portion of a public street, if any part of a building projests beyond the front of the building on either side thereof, such projecting part shall be deemed to be within the regular line of the street and the provisions of this section shall *mutatis mutandis* apply to such part.

173. Setting forward to regular line of street.— (1) If any building adjoining a public street is in rear of the regular line of such street,—

(a) the Council may, upon such terms as it thinks fit, permit it to be set forward for the purpose of improving the line of the street; and

(b) whenever it is proposed to rebuild such building or to alter or repair such building in any manner that will involve the removal or re-erection of such building or of the greater portion thereof which adjoins the said street, the Council may, in granting any permission for such work, require such building to be set forward for improving the line of the street.

(2) If the land which will be included in the premises of any person permitted or required to set forward a building under sub-section (1) belongs to the Council, the permission or the requisition of the Council so to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the price to be paid to the Council by the said owner for such land and other terms and conditions of the conveyance shall be set forth in the said permission or the requisition, as the case may be.

(3) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building and it shall be deemed to be a sufficient compliance with a permission or requisition so to set forward a building to the regular line of a street if a wall of such material and dimensions as are approved by the Council is erected along the said line.

174. Surface projections, obstructions and encroachments in respect of public streets.— (1) No person shall, except with the written permission of the Chief Officer under sub-section (4),—

(a) build or set up, any fence, rail, post, stall, platform or any projecting structure or thing, or make any other encroachment or obstruction,

(b) place or deposit or cause to be placed or deposited any box, bale, package or merchandise or any other thing,

in any public street or upon any drain, gutter, sewer or aqueduct in such street.

(2) Whoever contravenes any provision of sub-section (1), shall, unless the provisions of clause (a) of sub-section (6) of section 171 apply, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of a continuing contravention with further fine which may extend to [336][one hundred rupees] for every day after the first during which such contravention continues.

(3) The Chief Officer shall have power to remove without notice any such projection, obstruction or encroachment,—

(i) made in contravention of sub-section (1) or contrary in any manner to any permission granted under sub-section (4); or

(ii) in respect of which the period specified in the permission under sub-section (4), has expired.

(4) Subject to the provisions of the bye-laws, if any, the Chief Officer may allow any temporary occupation of' or erections in any public street—

(i) on occasions of festivals and ceremonies in such manner as not to inconvenience the public or any individual;

(ii) for depositing timber, bricks, or other material that has been or is intended to be used for building purposes;

(iii) for any other purpose specified in the bye-laws.

(5) Permission granted under sub-section (1) or (4) shall be terminable at the discretion of the Chief Officer on his giving not less than twenty four hours' written notice to the person to whom such permission was granted. Such notice shall state the reasons for such action.

(6) Every person to whom any permission is granted under sub-section (1) or (4) shall, at his own expense, cause the place where he has set up any erection or deposited any- -thing, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accident, shall cause such place to be well lighted during the night.

(7) Every person to whom any permission is granted under sub-section (1) or (4) shall immediately after the removal of the erection made or thing placed or deposited restore and make good the street to the satisfaction of the Chief Officer.

(8) Whoever contravenes the conditions of any permission granted under sub-section (4), or fails to comply with the provisions of sub-section (6) o e punished with fine which may extend [337][Five thousand

rupees], and in the case of continuing contravention with further fine which may extend to [338][one hundred rupees] for every day after the first during which such contravention continues.

175. Prohibition of projections other than surface projections upon streets, etc. —(1) Except as provided in sub-section (2), no person shall erect, set up, add to or place against or in front of any premises any structure or fixture which will—

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[336] Substituted by the Amendment Act 27 of 2002.
[337] Substituted by the Amendment Act 27 of 2002.
[338] Substituted by the Amendment Act 27 of 2002.

(a) overhang, jut or project into or over, or obstruct in any way the safe or convenient passage of the public along any public street; or

(b) jut or project into or over any drain or open channel in any public street or interfere with the use of proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Council may, subject to any bye-laws made in this behalf, give written permission to the owner or occupier of any building in a public street to put up *verandahs,* balconies or rooms projecting from any upper storey of such building, or roofs, caves, weatherboards, and similar projections, to an extent not exceeding four feet beyond the line of the plinth or basement wall of the building.

(3) Permission granted under sub-section (2) may be permanent or for such period at a time as may be specified in writing when such permission is granted.

(4) Notwithstanding any proceedings which may be taken under sub-section (7), the Council may, by written notice, require the owner or the occupier of any such building to remove or alter any such projection, or obstruction—

(i) which has been constructed or made whether with or without or contrary in any manner to the permission granted under sub-section (2) ;

(ii) which has been constructed or made contrary to the provision of any law for the time being in force if such projection or obstruction was constructed or made before the appointed day;

(iii) when the period for which the permission under sub-section (2) was granted has expired.

(5) The Council may also after giving opportunity to the owner or occupier of a building of making representation require him by notice to remove or alter any projection or obstruction constructed or made to which sub-section (4) does not apply:

Provided that the Council shall make reasonable compensation to every person who suffers damage by such removal or alteration under this sub-section.

(6) If occupier of any building removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the building for all reasonable expenses incurred by him in complying with the said notice.

(7) Any such owner or occupier putting up any projection or obstruction without the permission of the Council under sub-section (2), or in contravent owner or occupier who fails to remove any projection,

encroachment or obstruction after the receipt of a notice from the Council under sub-section (4) or (5) shall, on conviction, be punished with fine which may extend to [339][Five thousand rupees] and in the case of a continuing offence with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

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[339] Substituted by the Amendment Act 27 of 2002.

176. Projections, encroachment, etc., in public places and open spaces whether vesting in Council or not.— (1) The provisions of section 175 shall *mutatis mutandis* apply to any public place or any open space, vesting in the Council or not.

(2) The provisions of sub-sections (2) and (3) of section 175 shall apply to any public place or any open space which is not a private property and which does not vest in the Council:

Provided that, if such public place or open space is vested in Government, the permission of the Collector shall first be obtained.

(3) Whoever not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not a private property, shall, on conviction, be punished with fine which may extend to [340][Five thousand rupees], and in the case of continuing offence with further fine which may extend to [341][one hundred rupees] for every day after the first during which such offence continues.

177. Power to require boundary walls, hedges, etc., to be constructed or removed.— The Council may, by notice, require the owner or occupier of any land abutting on any public street:—

(a) to remove partially or wholly from the land any boundary wall, hedge, or other fence which is, in its opinion, likely to obstruct or cause a hindrance to traffic or is otherwise objectionable;

(b) to construct on the land sufficient boundary walls, hedges or other fences of such material, description and dimensions as may be specified in the notice;

(c) to maintain the boundary walls, hedges or other fences on the land in good order;

(d) to cut or trim trees growing on the land and overhanging the street and obstructing the traffic or causing danger to such traffic.

178. New private streets.— (1) Every person intending to lay out or make a new street shall give notice thereof in writing to the Chief Officer and shall furnish along with such notice plans and sections showing:—

(a) the intended level, direction and width of the street;

(b) the situation and the boundaries of any buildings or plots abutting on such street or likely to be served by such street;

(c) the position of any public street or streets which the new street may have an access to;

(d) the arrangements to be made for the levelling, paving, metalling, flagging, channelling, draining, lighting, or cleansing of the street;

and shall also furnish such othe d by the bye-laws, if any, made in this behalf.

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340 Substituted by the Amendment Act 27 of 2002.

341 Substituted by the Amendment Act 27 of 2002.

(2) If such person fails to furnish all the information and documents required by sub-section (1), or if the Council deems it necessary to call for any further information or documents, the Chief Officer may, within thirty days of the receipt of the said notice, by a written notice require such person to furnish the required information or documents.

(3) Within sixty days after the receipt by the Chief Officer of the notice and the information and documents specified in sub-section (1), or if any further information or documents have been called for under sub-section (2), then within sixty days of the receipt of such further information and documents, the Council may—

(a) sanction the laying out or making of the new street subject to such modifications or conditions as it may think fit; or

(b) disallow it for reasons which shall be communicated to the applicant in writing.

(4) If the Council fails to issue any order under sub-section (3) within the period specified in that sub-section, the person giving notice shall be entitled to lay out and make the proposed street in such manner as may have been specified in the notice under sub-section (1) and as is not inconsistent with any provision of this Act or of any bye-law for the time being in force thereunder.

(5) If any person who is entitled to proceed with any work under sub-section (3) or (4) fails to carry out such work within one year from the date on which he becomes so entitled, his right to proceed with such work shall lapse.

(6) Whoever lays out or makes any such street either without giving the notice required by sub-section (1) or otherwise than in accordance with the instructions issued by the Council under clause (a) of sub-section (3), or in any manner contrary to the provisions of this Act, or of any bye-laws in force thereunder shall, on conviction, be punished with fine which may extend to 342[Five thousand rupees], and the Council may cause any street so laid out or made, to be altered and any building constructed in such street to be altered or removed and the expense thereby incurred shall be paid to the Council by the offender, and shall be recoverable in the same manner as an amount due on account of a property tax.

(7), Save as otherwise provided by or under this Act, the provisions of this Act and of any rules or bye-laws made thereunder as to the level and width of public streets and the height of buildings abutting thereon, shall apply also in the case of new private streets referred to in sub-section (1); and all particulars referred to in that sub-section shall be subject to the approval by the Council.

179. Troughs and pipes for rain water.— The Council may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the building or land and for discharging the same so as not to cause any damage to the street or inconvenience to persons passing along the street.

180. Naming and numbering streets and numbering of premises.— (1) The Council shall—

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342 Substituted by the Amendment Act 27 of 2002.

(a) give a name or a number to every public street;

(b) cause to be put up or painted on a conpicuous part of any building, wall or any other place at or near each end or corner of or entrance to a public street, the name or the number by which such street is to be known;

(c) determine the number or sub-number by which any premises or part thereof shall be known;

and may by written notice require the owner of any premises or part thereof either to put up a metal plate showing the number or sub-number of such premises or part determined under clause (c) in such position and manner as may be specified in such notice or to signify in writing his desire that such work shall be executed under the orders of the Council.

(2) Any person who destroys, pulls down or defaces any such name or number of a public street or number or sub-number of any premises or part thereof or puts up any name, number or sub-number different from that determined by the Council and any owner of any premises or part thereof who does not at his own expense put up such number or sub-number of such premises or part thereof, shall, on conviction, be punished with fine which may extend to [343][five hundred rupees].

(3) Where a number or sub-number is put up on any premises or part thereof under the orders of the Council in accordance with sub-section (1), the expenses of such work shall be payable by the owner of such premises or part thereof, as the case may be.

Explanation:— In this section, "premises" means any building, but does not include only walls, compound walls, fencing, *verandahs,* fixed platforms, plinths, door-steps or the like.

181. Displacing pavements, etc.— (1) No person shall, without the permission of the Chief Officer or any other lawful authority, displace, take up, or make any alteration in, or make any hole in, or otherwise damage, the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other accessories, of a lamp, water-post or hydrant or such other municipal property therein, or extinguish a municipal lamp.

(2) Every person to whom any permission is granted under sub-section (1) shall, at his own expense, cause the place where the soil or pavement has been opened or broken up, materials have been taken up or any erection or other thing set up, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [344][Five thousand rupees].

(4) Any person who has displaced, taken up or made alteration in or made a hole in or otherwise damaged any such pavement, gutter, flags, or other materials, of any

[343]Substituted by the Amendment Act 27 of 2002.

[344] Substituted by the Amendment Act 27 of 2002.

public street or such fences, walls, posts, municipal lamp, lamp-post, bracket, water-post, hydrant or other accessories of a lamp, water-post or hydrants or other municipal property or extinguished a municipal lamp, whether with or without the permission required under sub- to any penalty under sub-section (3), be liable to pay the

expenses which the Council may incur in replacing or restoring the same. Such expenses shall be recoverable in the same manner as an amount due on account of a property tax.

182. Prohibition of sale of articles in public streets, without licence.— (1) No person shall hawk or sell or expose for sale any article in any public street or public place, except under and in accordance with a licence granted under the bye-laws made by the Council in this behalf.

(2) Any person who contravenes any provision of sub-section (1) or of any licence issued to him shall, on conviction, be punished with fine which may extend to fifty rupees.

(3) The Chief Officer or any other municipal officer authorised by him in this behalf may seize any article hawked or sold or exposed for sale in contravention of sub-section (1).

183. Prohibition of plying hand-carts without licence.— (1) No person shall ply any hand-cart in any public street or place except under and in accordance with a licence granted under the bye-laws made by the Council in this behalf.

(2) Any person who contravenes any provision of sub-section (1) or of any licence issued to him shall, on conviction, be punished with fine which may extend to fifty rupees.

(8) The Chief Officer or any other municipal officer authorised by him in this behalf may seize any hand-carts used in contravention of sub-section (1).

CHAPTER XII

Control over Buildings

184. Notice of construction of building.— (1) The expression "to construct a building" throughout this Chapter includes—

(a) any material alteration, enlargement or reconstruction of any building, or of any wall including compound wall and fencing, *verandah*, fixed platform, plinth, door step or the like, whether constituting part of a building or not;

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion into more than one place for human habitation of any place originally constructed as one such place;

(d) the conversion of two or more places of human habitation into a greater number of such places;

(e) such alterations of the internal arrangements of a building, as affect its drainage, ventilation or other sanitary arrangements, or its security or stability; and

(f) the addition of any rooms, buildings, or other structures to any buildings,

and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression "a new building".

(2) Before beginning to construct any building, the person intending so to construct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a bye-law or by a special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the bye-laws or demanded by the Chief Officer

regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, privies, water-closets, house-gullies and cess-pools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, the means of access to such building and the purpose for which the building will be used:

Provided that, if the bye-laws of the Council so require, such notice shall be in such form as the Council may from time to time prescribe and such plans shall be signed by a person possessing the qualifications laid down in the bye-laws or licensed under the bye-laws so to sign such plans.

(3) If the person giving notice under sub-section (2) fails to—

(i) furnish all the information and documents required under sub-section (2); or

(ii) the Chief Officer deems it necessary to call for any further information or documents,

the Chief Officer shall, within sixty days of the receipt of the notice, require such person by an order in writing to furnish such information or documents.

(4) Within sixty days of the receipt by the Chief Officer of the notice under sub-section (2), or if any further information and documents have been called for under sub-section (3) then within sixty days of the receipt of all such further information and documents, the Chief Officer may—

(a) grant the necessary permission to construct according to the plans and information furnished under sub-section (2) and sub-section (3);

(b) impose any conditions in accordance with this Act or the rules and bye-laws made thereunder, as to the level, drainage, sanitation, materials or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected or to the means of access to such building on the purpose for which the building is to be used;

(c) direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building or street have been decided to his satisfaction;

(d) subject to the provisions of the next succeeding section, refuse such permission for reasons which shall be communicated to the applicant in writing.

(5) The Council may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (4), revoke such permission and may give fresh permission in lieu thereof or issue any other order as may be passed by the Chief Officer under sub-section (4).

(6) If the Chief Officer fails to issue an order under clause (c) or (d) of sub-section (4) within the period prescribed in that sub-section, the person giving notice under sub-section (2) shall, after the expiry of the said period, be entitled to proceed with the work in respect of which such notice has been given under sub-section (2), in the manner specified in such notice, provided that such manner is not inconsistent with any provision of this Act or any rule or bye-law for the time being in force thereunder.

(7) No person who becomes entitled under sub-section (4), (5) or (6) to proceed with any intended work of which notice is required by sub-sectio rk after the expiry of the period of one year from the date on

which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (2) to (6).

(8) If any person begins any construction of a building of which notice is required to be given under sub-section (2)—

(i) without the permission of the Chief Officer under sub-section (4) or of the Council under sub-section (5), save as otherwise provided under sub-section (6); or

(ii) having received permission under clause (a) of sub-section (4), contrary to the plans and information furnished under sub-sections (2) and (3); or

(iii) having received permission under clause (b) of sub-section (4), contrary to the conditions imposed under that clause or contrary to the plans and information submitted under sub-sections (2) and (3) in so far as such plans and information are not modified by such conditions; or

(iv) contrary to the provisions of sub-section (6), when construction is begun under that sub-section,

the Chief Officer may, by a written notice, require such person to stop such construction and to alter or demolish any construction already made as specified in the notice. If, within fifteen days from the service of such notice for demolishing any such construction, the work of demolishing it is not commenced, the Chief Officer may cause such work to be done and the expenses incurred therefor shall be recoverable from the person concerned in the same manner as an amount due on account of a property tax.

(9) Any person who fails to comply with the notice issued by the Chief Officer under sub-section (8), shall, on conviction, be punished with fine which may extend to [345][fifteen thousand rupees].

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[345] Substituted by Amendment Act 27 of 2002.

(10) The Court convicting such person may also direct such person to demolish or alter the building in accordance with the order of the Chief Officer or in such other manner as the Court may deem proper and within the period specified by the Court. If such person fails to demolish or alter the building within the period specified by the Court, or in the manner required by the Court, he shall, on conviction, be punished with further fine which may extend to [346] [one hundred rupees] for every day after the expiry of the period for compliance specified by the Court in its order during which such non-compliance continues.

(11) Nothing in sub-section (8) or (10) shall be deemed to affect the power of the Council or the Chief Officer to demolish or alter the building under section 190.

(12) The Chief Officer may, at any time, inspect without giving notice of his intention to do so, any work of which notice is required by sub-section (2); and at any time during the execution of any work may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any bye--laws made under this Act or of any order passed under this section; and require the person executing such work to cause anything done contrary to any such provision or bye-laws or order to be amended or to do anything which by any such provision or bye-law or order he is required to do but which has been omitted.

[347][(13) Any person aggrieved by an order of the Chief Officer made under sub-section (8) may prefer an appeal against the order to the Appellate Tribunal within the period specified in the order for the demolition of the construction or work to which it relates.

(14) Where an appeal is preferred under sub-section (13) against the order of demolition, the appellate Tribunal may, subject to the provisions of sub-section (3) of section 184 C, stay the enforcement of that order on such terms, and for such purpose, as it may think fit:

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the Appellate Tribunal unless security sufficient in the opinion of the said Appellate Tribunal has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(15) Subject to any order may by the Government on appeal under section 184 D, every order made by the Appellate Tribunal on appeal under this section, and subject to the orders of the Government and the Appellate Tribunal on appeal, the order of demolition made by the Chief Officer shall be final.

(16) Where no appeal has been preferred against an order of demolition made by the Chief Officer under sub-section (8) or where an order of demolition made by the Chief Officer under that sub-section has been confirmed on appeal, whether with or without variation, by the Appellate Tribunal in a case where no appeal has been preferred against 372

[346] Substituted by Amendment Act 27 of 2002.

[347] Subsections (13) to (20) inserted by the Amendment Act 6 of 1987.

the order of the Appellate Tribunal, and by the Government in a case where an appeal has been preferred against the order of the Appellate Tribunal, the persons against whom the order has been made shall comply with the order within the period specified therein, or as the case may be, within the period, if any, fixed by the Appellate Tribunal or Government on appeal and on the failure of the person to comply with the order within such period, the Chief Officer may himself cause the erection or the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an amount due on account of property tax.

(17) If an order made by the Chief Officer under sub-section (8) directing any person to stop the construction is not complied with, the Chief Officer may in addition to any other action that may be taken under this Act, may require any Police Officer to remove such person or his assistants and workmen from the premises or to seize any construction material, tool, machinery, scaffolding or other things used in the construction within such time as may be specified in the requisition and such Police Officer shall comply with the requisition accordingly.

(18) Any of the things caused to be seized by the Chief Officer shall be disposed off by him in the manner specified in section 156.

(19) After the requisition under sub-section (18) has been complied with, the Chief Officer may, if he thinks fit, depute by a written order, a Police Officer or a Municipal Officer or other Municipal employee to watch the premises in order to ensure that the construction is not continued.

(20) Where a Police Officer or a Municipal Officer or other Municipal employee has been deputed under sub-section (19) to watch the premises, the cost of such deputation shall be paid by the person at whose instance such construction is

being continued or to whom notice under sub-section (8) was given and shall be recoverable from such person as an amount due on account of a property tax].

348[(21) Notwithstanding anything contained in any other provisions of this Act, the Chief Officer may, subject to the recommendation of the Council, regularize any construction in respect of which no notice as required under sub-section (2) has been given, on payment of a fine equivalent to the fees and taxes payable in respect thereof from the date of commencement of such construction, provided that such construction is as per the building bye-laws and complies with the provisions of any other law for the time being in force.]

349[**184A. Power to seal unauthorized constructions.—** (1) It shall be lawful for the Chief Officer, at any time, before or after making the order of demolition or of the stoppage of the construction under section 184, to make an order directing the sealing of the premises in which such construction is being carried on or has been completed for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such constructions.

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348 Inserted by the Amendment Act 27 of 2002.

349 Section 184A to 184E inserted by the Amendment Act 6 of 1987.

(2) Where any premises in which any construction is being carried on has been sealed, the Chief Officer may, for the purpose of demolishing such construction in accordance with the provisions of this Act, order the seal to be removed.

(3) No person shall remove such seal except—

(a)Under an order made by the Chief Officer under sub-section (2); or

(b)under an order of an Appellate Tribunal or the Government, made in appeal under this Act.

184 B. Appellate Tribunal.— (1) The Government shall, by a notification in the Official Gazette, constitute one or more Appellate Tribunals for deciding appeals preferred under section 184.

(2) An Appellate Tribunal shall consist of one person to be appointed by the Government on such terms and conditions of service as may be prescribed by rules.

(3) A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal unless he is, or has been, a District Judge or an Additional District Judge or has, for at least 10 years, held a judicial office in India, or has practiced as an advocate for not less than 10 years in a High Court in India.

(4) The Government may, if it thinks fit, appoint one or more persons having special knowledge of, or experience in, the matters involved in such appeals, to act as assessors to advise the Appellate Tribunal in the proceedings before it, but no advice of the assessors shall be binding on the Appellate Tribunal.

184 C. Procedure of the Appellate Tribunal.— (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order or notice appealed against or may refer the case back to the authority or officer against whose order or notice the appeal is filed, for a fresh order or notice, after taking additional evidence, if necessary, or such other action as the Appellate tribunal may specify.

(2) The Appellate Tribunal shall send a copy of every order passed by it to the parties to appeal.

(3) No Appellate Tribunal shall, in any appeal pending before it in respect of any order or notice under this Act, make an interim order (whether by way of injunction or stay) against the Municipal Council or against any officer or servant of the Municipal Council acting or purporting to act in his official capacity, unless an opportunity is given to the Municipal Council or its officer or servant to be heard in the matter:

Provided that the Appellate Tribunal may without giving an opportunity as aforesaid, make an interim order as an exceptional measure, if it is satisfied for reasons to be

recorded by it in writing that it is necessary so to do for preventing any loss being caused to the person filling the appeal which cannot be adequately compensated in money:

Provided further that every such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless before the expiry of that period, the Appellate Tribunal confirms or modifies that order after giving to the Municipal Council or its officer or servant an opportunity of being heard.

(4) Subject to rules that may be made by the Government in this behalf, the awarding of damages in and the cost of, and incidental to, any appeal before an Appellate Tribunal, shall be in its discretion and it shall have full power to determine by and to whom, and to what extent and subject to what conditions, if any, such damages or costs are to be paid and to give, in its order disposing of an appeal, necessary directions for the purpose aforesaid.

(5) An order of the Appellate Tribunal made under this section may be executed or caused to be executed by it on the application of the person in whose favour the order has been made.

(6) In hearing and deciding an appeal or in the execution of an order, the Appellate Tribunal shall follow such procedure as may be prescribed by rules.

(7) Every Appellate Tribunal shall, in addition to the powers conferred on it under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) Summoning and enforcing the attendance of persons and examining them on oath;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public records or copies thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed by rules, and every proceeding of an Appellate tribunal in hearing or deciding an appeal or in connection with the execution of its order, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (Central Act 45 of 1860), and every Appellate Tribunal shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

184D. Appeal against order of Appellate Tribunal.— (1) An appeal shall lie to the Government against an order of the Appellate Tribunal, made in an appeal under section 184 confirming, modifying or annulling an order made or notice issued under this Act.

(2) The provisions of section 184 and the rules made there under, shall, so far as may be, apply to the filling and disposal of an appeal under that section.

(3) An order of the Government on an appeal under this section, and subject only to such order, an order of the Appellate tribunal under section 184, and subject to such orders of the Government or an Appellate Tribunal, an order or notice referred to in that section, shall be final.

184 E. Bar of jurisdiction of Civil Courts.— No Court shall entertain any suit, application or other proceedings in respect of any order or notice appellable under section 184 and no such order or notice shall be called in question otherwise than by preferring an appeal under that section.].

350[**184F. Preparation of development plan**.— Every Council shall prepare every year a development plan and submit it to the District Planning Committee constituted under section 239 of the Goa Panchayat Raj Act, 1994 (Act 14 of 1994).]

184G. 351[omitted]

185. Powers of Chief Officer and Council to refuse permission.— (1) When a person has given notice to the Chief Officer under sub-section (2) of the last preceding section in regard to his intention to construct a building, it shall be lawful to the Chief Officer to refuse the permission applied for—

(i) if the Council passes a resolution proposing to acquire the land on which the building is proposed to be constructed; or

(ii) if the proposed construction would contravene the provisions of this Act, or any other law for the time being in force or any scheme, rules, bye-laws or other orders under this Act or any other law for the time being in force; or

(iii) if the notice under sub-section (2) of the last preceding section is not in accordance with the provisions of that sub-section or is not accompanied by the information and documents required by that sub-section or if the person giving such notice fails to furnish all the information and documents required under sub-section (3) of that section; or

(iv) if no plan has been prepared for the laying out of streets for the area in which the building is to be constructed; or

(v) if there is no adequate provision for access to the building; or

(vi) if the proposed construction be an encroachment on Government or municipal land; or

(vii) for any other reasons to be recorded in writing, which may be deemed sufficient by the Chief Officer.

Where the permission applied for its refused the decision taken and reasons therefor shall be communicated to the applicant.

350 Inserted by the Amendment Act 13 of 1994 and thereafter substituted by the Amendment Act 7 of 1999. 351 Omitted by the Amendment Act 7 of 1999.

(2) Refusal under clause (i) of sub-section (1) shall be subject to the following conditions:—

(a) if the property is acquired and no agreement is arrived at as regards the amount of compensation payable to the person giving notice under sub-section (2) of the last preceding section, the same shall be determined in accordance with the provisions of section 315 regard being had to the likely benefit, which would have accrued to such person, if the permission had not been refused;

(b) if within a period of six months from the date of the resolution of the Council proposing to acquire the land, the land is not acquired by the Council by agreement upon payment, or if within such period, an application has not been made to the Collector for the institution of proceedings for compulsory acquisition under the provision of the Land Acquisition Act, 1894, or if the Council abandons the proposal to acquire the land, the notice given under sub-section (2) of the last preceding section shall be deemed to have been revived with effect from the date on which the said period of six months expires, or with effect from the date on which the decision of the Council to abandon the proposal is arrived at, as the case may be. Such decision shall be communicated to the person giving notice, within fifteen days from the date of the decision; and the notice shall be dealt with as if the Council had not passed a resolution to acquire the land. The Council shall be liable to pay compensation to the said person in respect of the loss which he may prove to have incurred by reason of the Council's refusal to grant the permission:

1 of 1894.

Provided that the Council shall not be liable to pay compensation if the notice under sub-section (2) of the last preceding section is given subsequent to the passing of the resolution by the Council to acquire the land.

186. Level of buildings.— After the appointed day, no building shall be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Council or into some stream or river or into the sea or some cess-pool or other suitable place which may be approved of by the Chief Officer.

187. Roofs and external walls of buildings not to be made of inflammable materials.— (1) The external roofs and walls of buildings constructed or renewed after the appointed day, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material, except with the written permission of the Chief Officer, which may be given either specially in individual cases, or generally in respect of any area specified therein.

(2) The Council may by bye-laws prescribe—

(i) the areas in which permission shall be granted by the Chief Officer for the construction of external roofs and walls of buildings from any inflammable material;

(ii) the conditions which may be imposed by the Chief Officer in granting permission for such construction in any other area.

(3) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the appointed day and whether it was made with or without the permission of the Chief Officer.

(4) An appeal shall lie to the Council against any order of the Chief Officer refusing the permission under sub-section (1) or against any notice given by the Chief Officer under sub-section (3), if made within fifteen days of the receipt of such refusal or notice, as the case may be.

(5) Whoever without such permission as is required by sub-section (1), makes or causes to be made, or in disobedience to the requirements of a notice given under sub-section (2) suffers to remain, any roof or wall of such material as aforesaid, shall, on conviction, be punished with fine which may extend to [352][five thousand rupees], and in the case of a continuing offence with further fine which may extend to [353][one hundred rupees] for every day after the first during which such offence continues.

188. Completion certificate, permission to occupy or use.— (1) Every person constructing a building shall, within one month after the completion of construction of such building, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion and shall give to the Chief Officer all necessary facilities for inspection of such building:

Provided that—

(a) such inspection shall be commenced with in seven days from the date of receipt or the notice of completion; and

(b) the Chief Officer may, not later than one month from the date of receipt of the notice of completion, by written intimation addressed to the person from whom the notice of completion was received,—

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such construction; or

(ii) refuse such permission in case such building has been constructed so as to contravene any provision of this Act or of any bye-law made under this Act at the time in force or of any order passed under section 184 intimating to the person who gave the notice under sub-section (2) of that section, the reasons for such refusal and requiring such person, or if the person responsible for giving notice under sub- -section (2) of the said section is not at the time of such notice owner of such building, then such owner to cause anything which is contrary to any provision of this Act or of any bye-law made under this Act at the time in force or of any order passed under section 184 to be amended or to do anything which by any such provision or bye-law or order he is required to do but which has been omitted.

(2) No person shall occupy or permit to be occupied or use or permit to be used any such building constructed or part thereof affected by such construction, until—

[352]Substituted by the Amendment Act 27 of 2002.

[353] Substituted by the Amendment Act 27 of 2002.

(a) the permission referred to in proviso (b) to sub-section (1) has been received, or

(b) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(3) Whoever—

(a) occupies or permits to be occupied any such building or part thereof affected by such construction without giving any notice as required under sub-section (1) or in contravention of the provisions of sub-section (2); or

(b) fails to comply with any order or requisition made under sub-section (1) shall, on conviction, be punished with fine which may extend to [354][ten thousand rupees], and in the case of continuing contravention or non-compliance with further fine which may extend to [355][one hundred rupees]for every day after the first during which such contravention or non-compliance continues.

189. Building for human habitation not to be used as godown, etc. and vice versa.— (1) No person shall without the written permission of the Chief Officer or otherwise than in conformity with the terms of such permission,—

(i) use or permit to be used any building or part thereof originally constructed or authorised to be used for human habitation as a godown, warehouse, workshop, workplace, factory, stable or a motor garage; or

(ii) use or permit to be used for human habitation any part of a building not originally constructed or authorised to be used for that purpose.

(2) if any person contravenes any provision of sub-section (1), he shall, on conviction, be punished with fine which may extend to [356][ten thousand rupees], and in the case of continuing contravention with further fine which may extend to [357][one hundred rupees] for every day after the first during which such contravention continues.

190. Removal of buildings, structures, etc., which are in ruins or likely to fall.— (1) If it shall at any time appear to the Chief Officer that any building or other structure or anything affixed to such building or structure is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or structure or any other structure or place in the neighbourhood thereof, the Chief Officer may, by written notice, require the owner or occupier of such building or structure to pull down, secure, remove or repair such building, structure or thing or do one or more such things and to prevent all causes of danger therefrom.

(2) The Chief Officer may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said building, structure or thing, to set up a proper and sufficient hoard or fence for the protection of passers by and other persons.

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[354]Substituted by the Amendment Act 27 of 2002.
[355] Substituted by the Amendment Act 27 of 2002.
[356]Substituted by the Amendment Act 27 of 2002.
[357]Substituted by the Amendment Act 27 of 2002.

(3) If it appears to the Chief Officer that the danger from a building, structure or thing which is ruinous or about to fall is of hourly imminence, he shall, before giving notice as aforesaid or before the period of notice expires, fence of, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Chief Officer under sub-section (3) shall be paid by the owner or occupier of the structure and shall be recoverable in the same manner as an amount due on account of a property tax.

191. Penalty for defacing building, etc.— Any person—

(a) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer, affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like; or

(b) who, without such consent or permission, as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

shall, on conviction, be punished with fine which may extend to fifty rupees.

192. Fixing of lamps, brackets, etc., to houses.— The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil, or gas, or subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise, or subject to the provision of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires or wires for the conduct of electricity for locomotive purposes. Such brackets shall be erected or fixed so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public.

IX of 1910.
XIII of 1885.

193. Regulation of huts.— It shall not be lawful for any person to erect any hut or range or block of huts of to add any hut to any range or block of huts already existing on the appointed day, without giving previous notice to the Chief Officer. The Chief Officer may require such huts to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or range or block be built without such notice being given to the Chief Officer, or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or building thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

194. Improvement of huts.— (1) Where the Council is of opinion that any hut, whether used as a dwelling or for any other purpose, and whether existing on the appointed day or subsequently erected, is by reason—

(a) of insufficient ventilation or of the manner in which such hut is crowded together with other huts; or

(b) of the want of a plinth or of a sufficient plinth or of sufficient drainage; or

(c) of the impracticability of scavenging, attended with risk of disease to the inhabitants of the neighbourhood, the Council shall cause a notice to be affixed to some conspicuous part of such hut, requiring the owner or occupier thereof, or the owner of the land on which such hut is built, within such reasonable time as may be fixed by the Council

in this behalf, to take down and remove such hut or to carry out such alteration or works as the Council may deem necessary for the avoidance of such risk.

(2) Where any such owner or occupier refuses or neglects to take down and remove such hut or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the Council.

(3) Where such hut is taken down by the Chief Officer, he shall cause the materials of the hut to be sold, if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut, or if the owner is unknown or the title disputed, shall be held in deposit by the Council until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided that, where any such hut, which had not been constructed in contravention of any law for the time being in force at the time of such construction, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 315.

CHAPTER XIII

Drainage

195. Municipal control over drainage.— (1) All drains, sewers, privies, water closets, house-gullies, gutter and cesspools within the municipal area shall be under the survey and control of the Council.

(2) All covered drains, sewers and cesspools, whether public or private, shall be provided by the Council or other persons to whom they severally belong with proper traps, coverings or other means of ventilation; and the Chief Officer may by written notice call upon the owner of any such covered drains, sewers and cesspools to make provision accordingly.

196. Power of making and repairing drains.— (1) It shall be lawful for a Council for any drainage purposes to carry any drain, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable

notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal area.

(2) The Council, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the Council has been already constructed, or repair or alter any drain vested in the Council.

(3) The Council may also erect upon any premises or land or affix to the outside of any building or structure or to any tree, any such shaft or pipe as it may deem necessary for the proper ventilation of the municipal drains, and such shaft or pipe shall be carried to a height of not less than six feet above the highest part of the adjacent house and erected so as not to cause any nuisance or inconvenience to the occupants of the building to which such shaft or pipe has been affixed or of any other building in the neighbourhood or to the public.

(4) In exercise of any power under sub-sections (1), (2) and (3), no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 315 shall be paid by the Council to any person who sustains damage by the exercise of such power.

(5) The Council may discontinue, close up or destroy any municipal drain which has, in the opinion of the Council, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

Provided that, if by reason of anything done under this section any person is deprived of the lawful use of any drains, the Council shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

197. Power to require sufficient drainage of houses.— (1) If any building or land be at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the Council, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into—

(a) some drain or sewer, if there be a suitable, drain or sewer within [358][fifty metres] of any part of such building or land; or

(b) a covered cesspool to be provided by such owner and approved by the Chief Officer.

(2) The Chief Officer may, subject to the control of the Council, by written notice require any courtyard, alley or passage between two or more buildings to be paved by the owners of such buildings with such materials and in such manner as he may direct.

[359][(2A) Notwithstanding anything contained in any of the provisions of this Act, it shall be obligatory on the part of the owner of any building to connect such building to

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[358] Substituted by the Amendment Act 12 of 1978.

the sewage in the area where underground sewage system exists, failing which, the Chief Officer may, by a written notice, direct the owner of such building to connect the building to the underground sewage within such period as specified in the notice.]

[360][(3) Whoever fails to comply with the notice issued by the Chief Officer under sub- -section (1) or sub-section (2) or sub-section (2A), as the case may be, shall be punishable with fine which may extend to five thousand rupees and in case of a continuing offence with a further fine which may extend to one hundred rupees for every day after the first during which such offence continues.]

198. New building not to be erected without drains.— (1) It shall not be lawful to construct or reconstruct any building, or to occupy or permit occupation of any building newly constructed or reconstructed, unless and until—

(a) a drain is constructed of such size, materials and description, at such level and with such fall, as may be required by the bye-laws or if no bye-laws have been framed by the Council, as shall appear to the Chief Officer to be necessary for the effectual drainage of s

(b) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may be required by the bye- -laws; or if no bye-laws have been framed by the Council as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the Council for the discharge of drainage, situated at a distance not exceeding fifteen metres from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cess-pool provided by the owner of such building and approved by the Chief Officer.

199. Powers of owners and occupiers of buildings or lands to drain into municipal drains.— (1) The owner or occupier of any building or land within the municipal area shall be entitled to cause his drains to empty into a municipal drain:

Provided that he first obtains the written permission of the Chief Officer and complies with such conditions as the Chief Officer may, subject to the provisions of bye-laws, if any, prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the Council and drains which are so vested.

(2) An appeal shall lie to the Council against any order of the Chief Officer under sub-section (1), if made within fifteen days of the receipt of such order.

200. Right to carry drain through land or into drain belonging to other persons.—(1) If the owner or occupier of any building or land desires to connect the same with any

[359] Inserted by the Amendment Act 27 of 2002.
[360] Substituted by the Amendment Act 27 of 2002.

municipal drain, by means of a drain to be constructed through any land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(2) Subject to the control of the Council, the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised, or if any objection which is raised is in his opinion insufficient, by an order in writing authorise the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(3) Every such order shall be a sufficient authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset and subject to the provisions of this Act, to do all such work as may be necessary—

(a) for the construction or connection of the drain, as may be authorised by the said order;

(b) for renewing, repairing, or altering the same as may be necessary from time to time; or

(c) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(4) In executing any work under this section as little damage as possible shall be done and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

201. Rights of owner of land through which drain is carried in regard to subsequent building thereon.— If the owner of any land into, through or under which a drain has been carried under the last preceding section, whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer, subject to the control of the Council, shall, if he sanctions the construction of such building, by written notice require the owner or occupier of the building or land, for the benefit of which such drain was constructed, to close, remove or divert the same, and

to fill in, reinstate and make good the land in such manner as he may deem fit to be necessary, in order to admit of' the construction or safe enjoyment of the proposed building.

202. Provision of privies, etc.— (1) Where the Chief Officer is of opinion that any privy or cess-pool, or additional privies or cesspools, should be provided in or on any building or land, or in any municipal area in which a water-closet system has been introduced, that water-closet or additional water-closets should be provided in or on any building or land, or that water-closets should be substituted for the existing privies in such number as may be considered necessary by him, the Chief Officer, subject to the control of the Council, may by written notice call upon the owner of such building or land, to provide such privies, cesspools or water-closets or to substitute water-closets for the existing privies at such sites as he may deem proper.

(2) The Chief Officer, subject to the control of the Council, may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such privies or water-closets at such sites as he may direct and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Chief Officer, subject to the control of the Council, may by written notice require the owner or occupier of any land upon which there is a privy or water-closet, to have such privy or water-closet shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or water-closet door or trap door which opens on to any street, and which he deems to be a nuisance.

203. Power to require owners to keep drains, etc., in proper order; or to demolish or close a privy or cess-pool.— (1) All drains, privies, water-closets, house-gullies, gutters and cesspools and drainage works of every description within a municipal area shall, unless constructed at the cost of the Council, be altered, repaired and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer, subject to the control of the Council, may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(2) It shall be the duty of every such owner of land or building to get such drains, privies, water-closets, house-gullies, gutters and cesspools cleansed either by the municipal agency or such other agency as the Chief Officer may approve and at such intervals as the Chief Officer may require.

(3) Subject to the control of the Council, the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the appointed day, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

204. Power to close private drains and cesspools.— When any building or land within municipal area has a drain communicating with any cesspool or a municipal drain

or any other place set apart for the discharge of drainage, the Chief Officer, if he consi-ders that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general drainage of the locality, may, subject to the control of the Council, close such drain and such cesspool, or municipal drain, whether they are or are not on land vested in the Council, on providing a drain or drains or cesspool equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

205. Encroachment on municipal drains.— (1) No person shall, without the written consent of the Chief Officer,—

(i) make or cause to be made any drain into or out from any of the drains vested in the Council; or

(ii) construct a building over any drain, culvert or gutter vested in the Council.

(2) The Chief Officer may, by written notice, require any person—

(i) to demolish, alter, remake, or otherwise deal with any drain constructed in contravention of sub-section (1), as he may think fit; or

(ii) to pull down or otherwise deal with any building or part thereof constructed in contravention of sub-section (1) as he may think fit.

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [361][Five thousand rupees].

206. Power in respect of drains, etc., unauthorisedly constructed, re-built or unstopped.— (1) If any drain, privy, water-closet, house-gully or cess-pool on any land within a municipal area, is constructed, rebuilt or unstopped either without the consent or contrary to the orders, directions or bye-laws, of the Council or contrary to the provisions of any

enactment in force at the time when it was so constructed, rebuilt or unstopped, the Chief Officer, subject to the control of the Council, may, by written notice, require such drain, privy, water-closet, house-gully or cess-pool to be demolished, amended, or altered as it may deem fit.

(2) Any person who fails to comply with any notice issued by the Chief Officer under sub-section (1), shall, on conviction, be punished with fine which may extend to [362][Five thousand rupees].

207. Inspection of drains, etc.— (1) The Chief Officer, after due notice to the occupier, may inspect any drain, privy, water-closet, house-gully, gutter or cess-pool; and for that purpose, at any time between sunrise and sunset may enter upon any lands or buildings with assistants and workmen, and cause the ground or any other structure to be opened or broken where he or they may think fit, doing as little damage as may be.

(2) The expense of such inspection and of causing the ground or the structure to be closed or repaired and made good as before shall be borne by the Council, unless the drain, privy, water-closet, house-gully, gutter or cesspool is found to be in bad order or 386

[361] Substituted by the Amendment Act 27 of 2002.

[362] Substituted by the Amendment Act 27 of 2002.

condition, or was constructed in contravention of the provisions of any enactment or of any bye-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the owner of such drain, privy, water-closet, house-gully, gutter or cesspool, and shall be recoverable in the same manner as an amount due on account of a property tax.

208. Council may execute certain works without option to person concerned of executing the same.— (1) The Council may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the Council under any of the foregoing provisions of this Chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Council shall, by a general or special order or resolution, sanction the execution of such work at the charge of the municipal fund.

209. Pipes, etc. constructed by Council to be municipal property.— Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land shall, if supplied, constructed or erected at the expense of the Council, be deemed to be municipal property, unless the Council shall have transferred its interest therein to the owner of such building or land.

CHAPTER XIV

Water Supply

210. Prohibition of certain acts affecting the municipal water works.— (1) A Council may, with the sanction of the Director, demarcate and notify the limits of the water-shed of any lake, tank, well or reservoir from which water is derived for the municipal water-work, or use by the residents of the municipal area.

(2) Except with the permission of the Council, no person shall—

(a) erect any building for any purpose whatever within such limits;

(b) remove, alter, injure, damage or in any way interfere with any boundary marks of such water-shed;

(c) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits; or

(d) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatever, whereby injury may arise to any such lake, tank, well or reservoir or to any portion thereof or whereby the water of such lake, tank, well or reservoir may be fouled or rendered less wholesome.

(3) Except with the permission of the Chief Officer, no person shall—

(a) cause or suffer to percolate or drain into or upon any municipal water-work or to be brought thereinto or thereupon anything, or to be done any act, whereby the water therein may be in any way fouled or polluted or its quality altered;

forming part of any such work by digging thereinto or depositing thereon any substance;

(c) cause or suffer to enter into the water in such work any animal;

(d) bathe in or near such work;

(e) throw or put anything into or upon the water in such work;

(f) wash or cause to be washed in or near such work any animal or thing.

(4) Whoever contravenes any provision of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to [363][Five thousand rupees], or with both.

(5) Whoever contravenes any provision of sub-section (3) shall be

deemed to have committed an offence punishable under section 277 of the Indian Penal Code. XLV of 1860.

(6) When any person is convicted under sub-section (4), the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(7) If any order made under sub-section (6) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisionment for a term which may extend to three months, or with fine which may extend to [364][ten thousand rupees], or with both.

211. Prohibition of wilful or neglectful acts relating to water works.— (1) No person shall wilfully or negligently—

(a) injure or suffer to be injured any meter belonging to the Council or any of the fittings of any such meter;

(b) break, injure or open any lock, seal, cock, valve, pipe, work engine, cistern or fitting appertaining to any municipal water-work;

(c) do any act or suffer any act to be done whereby the water in, or derived from, any municipal water-work, shall be wasted;

(d) obstruct, divert or in any way injure or alter any water-main or duct;

(e) except with the permission of the Chief Officer, open, break, injure or tamper with any lock furnished under the provisions of this Act.

(2) Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [365][Five thousand rupees].

212. Prohibition of constructing drains, etc. near sources of water supply.— (1) The Chief Officer may, by a written notice, require the owner or occupier on whose land any drain, privy, water-closet, cesspool, or other receptacle for filth or refuse for the time

[363] Substituted by the Amendment Act 27 of 2002.
[364] Substituted by the Amendment Act 27 of 2002.
[365] Substituted by the Amendment Act 27 of

being exists within such distance as may be prescribed by bye-laws, from any spring, well stream, channel, tank, reservoir or other source from which water is or may be derived for public use, and which would be in a position where such source of water is likely to be injured or the water therein polluted, to remove or close such drain, privy, water-closet, cesspool or other receptacle for filth or refuse, within one week from the date of service of the notice.

(2) Whoever fails to comply with the notice under sub-section (1) shall, on conviction, be punished with fine which may extend to [366][two thousand five hundred rupees] and in the case of continuing offence with further fine which may extend to [367][fifty rupees]for every day after the first during which such offence continues.

213. Power of carrying water mains.— For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the Council shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing, altering and inspecting water mains, pipes and ducts within or without the municipal area as it has and is subject to under the provisions hereinbefore contained for carrying, renewing, repairing, altering and inspecting drains within the municipal area.

214. Power to require water supply to be taken.— If at any time it appears to the Chief Officer that any building or land in the municipal area is without a proper supply of protected water, the Chief Officer, subject to the control of the Council, may by written notice require the owner, lessee or occupier of the building or land to obtain from any public works such quantity of water as may be adequate for the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of such size, materials and description and to take all necessary steps for the purpose as prescribed by bye-laws, if any, and if no bye-laws have been framed, then as the Chief Officer may consider necessary.

215. Powers and duties with regards to dangerous, stagnant or insanitary sources of water supply.— (1) The Chief Officer may, at any time by written notice, require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (d) within twenty-four hours of such notice,—

(a) keep and maintain any such source of water-supply, other than a stream in good repairs; or

(b) cleanse any such source of water-supply from silt, refuse and decaying vegetation; or

(c) in such manner as the Chief Officer may prescribe, protect any such source of water-supply from pollution or contamination; or

(d) repair, protect or enclose in such manner as the Chief Officer approves any such source of water-supply, if for want of sufficient repair, protection or enclosure, such source of water-supply is, in the opinion of the Chief Officer, dangerous to the health

366 Substituted by the Amendment Act 27 of 2002.
367 Substituted by the Amendment Act 27 of 2002.

or safety of the public or of any person having occasion to use or to pass or approach the same; or

(e) desist from using and from permitting others to use for drinking purposes any such source of water-supply, which is proved to the satisfaction of the Chief Officer to be unfit for drinking; or

(f) if, notwithstanding any such notice under clause (e), such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use of such source of water-supply as aforesaid; or

(g) drain off or otherwise remove from any source of water-supply or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers to be injurious to health or offensive to the neighbourhood.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any notice under sub-section (1) within the time specified therein, the Chief Officer may and if in his opinion immediate action is necessary to protect the health or safety of any person shall, at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount due on account of a property tax:

Provided that, in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may if the Council so directs, be paid from the municipal fund.

(3) The Chief Officer may, by written notice require the owner or occupier of any land to cut down, lop or trim all trees or shrubs which so overhang any public tank, well or other source of water-supply as to pollute or be likely to pollute the water thereof.

216. Power to regulate bathing and washing places.— (1) The Council may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of persons by whom, such places may be used, and may also set apart suitable places for washing animals, cloths or vessels or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipal area.

(2) The Council may by public notice prohibit bathing or washing animals, clothes or vessels or doing any other thing in any public place not so set apart, or at times or by persons other than those specified under sub-section (1) or may prohibit other act by which water in public places may be reundered foul or unfit for use or which may cause inconvenience or annoyance to persons using the bathing or washing places.

(3) Any person who contravenes any provision of sub-section (2), shall, on conviction, be punished with fine which may extend to fifty rupees.

217. Digging of wells, etc., without permission prohibited.— (1) No new well, tank, pond, cistern or fountain shall be dug or constructed, without the previous permission in writing of the Chief Officer.

(2) If any such work is begun or completed without such permission, the Chief Officer may either—

(a) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe; or

(b) grant written permission to retain such work but such permission shall not exempt such owner from any proceedings for contravening the provisions of sub- -section (1).

CHATTER XV

Public Safety and Conveniences

218. Fencing and lighting during repairs, etc.— (1) The Chief Officer shall, during the construction or repair of any of the streets, drains or other premises vested in the Council, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or post as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(2) Whoever takes down, alters or removes any of the said bars, chains, or posts or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall, on conviction, be punished with fine which may extend to [368][two thousand five hundred rupees].

219. Dangerous quarrying.— (1) If in the opinion of the Chief Officer, the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such other measures in respect of such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Provided that, if such quarry or place is vested in the Government or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of the Government or any person acting with the permission or under the authority of the Government or of any Government Officer acting as such, the Chief Officer shall not take such action, unless and until the Collector has consented to his so doing:

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[368] Substituted by the Amendment Act 27 of 2002.

Provided further that, the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers, near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(2) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount due on account of property tax.

220. Hoards to be set up during repairs, etc.— (1) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inc re beginning such work—

(a) first obtain permission in writing from the Chief Officer so to do; and

(b) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(2) Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [369] [two thousand five hundred rupees] and in the case of continuing contravention with further fine which may extend to [370] [one hundred rupees] for every day after the first during which such contravention continues.

221. Power to require precaution in place of public entertainments.— (1) It shall be the duty of the manager or proprietor of any place for public entertainment to make such provision as may be prescribed by the bye-laws or if no bye-laws have been framed, as the Chief Officer may by written notice require, for the prevention and extinction of fire and for the easy exit of the audience in case of fire.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [371] [ten thousand rupees] and in the case of continuing contravention with further fine which may extend to [372] [one hundred rupees] for every day after the first during which such contravention continues.

222. Powers for suppression of fires.— (1) It shall be the duty of all police officers and all municipal officers and servants to aid the fire brigade in the execution of its duties.

(2) On the occasion of a fire within the limits of a municipal area, any Magistrate, the [373][Chairperson], the Chief Officer or any member of a fire-brigade maintained by the Council or by the Government directing the operations of the brigade, and if directed so

[369] Substituted by the Amendment Act 27 of 2002.
[370] Substituted by the Amendment Act 27 of 2002.
[371] Substituted by the Amendment Act 27 of 2002.
[372] Substituted by the Amendment Act 27 of 2002.
[373] Substituted by the Amendment Act 13 of 1994.

to do by any of the persons aforesaid any police officer above the rank of a constable, may—

(a) remove or order removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property;

(b) close any street or passage in or near which any fire is burning;

(c) for the purpose of extinguishing the fire, break into or through or pull down or cause to be broken into or through or pulled down, or use for the passage of hoses or other appliances, any premises;

(d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;

(e) call on the persons in charge of any fire-engine to render such assistance as may be possible; and

(f) generally, take such measures as may appear necessary for the preservation of life or property.

(3) When any Government building is endangered by such fire, any Government officer for the time being in charge of the building may exercise the powers conferred by sub-section (2).

(4) No compensation shall be payable by any person for any act done by him in good faith under sub-section (1) or (2).

CHAPTER XVI

Nuisances

223. Depositing dust, etc., committing nuisance.— (1) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance or danger, in any street or in any arch under a street or in any drain beside a street or on any open space not being private property or on any quay, jetty or landing place or on any part of the seashore, or the bank of a tidal river, or whether above or below highwater mark, or on the bank of the river, water course or *nullah,* except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any members of his family or household to commit nuisance in any such place as aforesaid, shall, on conviction, be punished with fine which may extend to [374][Five thousand rupees].

(2) Whoever throws or puts or causes or suffers any members of his family or household to throw or put any of the matters described in sub-section (1) except night-soil or except with the permission of the Chief Officer, any night-soil into any drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall, on conviction, be punished with fine which may extend to [375][Five thousand rupees].

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[374] Substituted by the Amendment Act 27 of 2002.
[375] Substituted by the Amendment Act 27 of 2002.

224. Discharging sewage, etc.— Whoever causes, or allows the water of any sink, sewer or cesspool or any other liquid or other matter which is or which is likely to become a nuisance, from any building or land under his control, to run, drain or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall, on conviction, be punished with fine which may extend to [376][Five thousand rupees].

225. Non-removal of filth, etc.— Whoever, being the owner or occupier of any building or land, keeps, or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall, on conviction, be punished with fine which may extend to [377] [five thousand rupees], and in the case of continuing offence with further fine which may extend to [378][one hundred rupees] for every day after the first during which such contravention continues.

226. Removal of night-soil.— (1) The Chief Officer may from time to time fix the hours within which [379][, the manner in which] and the routes by which only it shall be lawful to remove any night-soil or such other offensive matter.

(2) The Chief Officer shall cause a notice of such hours [380] [, manner] and routes to be given in the manner prescribed in section 311.

(3) Whoever,—

(a) when the Chief Officer has fixed such hours[381] [,manner] and routes and given such public notice, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or by any route other than that fixed by the Chief Officer; or

(b) at any time, whether such hours[382] [,manner] or routes have been fixed by the Chief Officer or not,—

(i) uses for any such purpose any cart, carriage, receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom; or

(ii) wilfully or negligently slops or negligently slops or spills any such offensive matter in the removal thereof; or

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[376] Substituted by the Amendment Act 27 of 2002.
[377] Substituted by the Amendment Act 27 of 2002.
[378] Substituted by the Amendment Act 27 of 2002.
[379] Inserted by the Amenmdment Act 14 of 1974.
[380] Inserted by the Amenmdment Act 14 of 1974.
[381] Inserted by the Amenmdment Act 14 of 1974.
[382] Inserted by the Amenmdment Act 14 of 1974.

(iii) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled; or

(iv) places or sets down in any public place any vessel containing such offensive matter, shall, on conviction, be punished with fine which may extend to [383][Five thousand rupees].

227. Using offensive manure, etc.— Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other manure or substance emitting an offensive smell in such manner as to be a nuisance to the neighbourhood shall, on conviction, be punished with fine which may extend to [384][Five thousand rupees].

228. Abatement of nuisance from wells, etc.— If in the opinion of the Chief Officer—

(a) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water course, or any collection of water; or

(b) any cistern or other receptacle for water whether within or outside a building; or

(c) any land on which water is accumulated, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to—

(i) fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe; or

(ii) take such measure with respect to the same including treatment by such physical, chemical or biological methods for removing or abating the nuisance as may be prescribed in the notice.

229. Buildings or rooms in buildings unfit for human habitation.— (1) If, for any reason, it shall appear to the Council that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the Council shall give to the owner or occupier of such building notice in writing, stating such reasons, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall, in such notice, call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the Council invalid or insufficient, the Council may, by an order in writing, prohibit the further use of such building or room as a dwelling.

(2) When any such prohibition as aforesaid has been made by the Council, the Chief Officer shall cause notice of such prohibition to be affixed to, and the words "Unfit for human habitation" to be painted on the door or some conspicuous part of such building or room, as the case may be; and no owner or occupier of such building or room shall use or

383 Substituted by the Amendment Act 27 of 2002.
384 Substituted by the Amendment Act 27 of 2002.

suffer the same to be used for human habitation until the Council certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

230. Filthy buildings, etc.— (1) If any building or land, whether tenantable or otherwise, is—

(i) in an insanitary, filthy or unwholesome state; or

(ii) in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood; or

(iii) overgrown with prickly-pear or rank and noisome vegetation, the Chief Officer may, by written notice, require the owner or occupier of such building or land to clean, lime-wash internally or externally, clear, or otherwise put such building or land in a proper state.

(2) Any person who fails to comply with the notice issued under sub-section (1) shall, on conviction, be punished with fine which may extend to 385[Five thousand rupees], and in the case of continuing non-compliance with further fine which may extend to 386 [one hundred rupees] for every day after the first, during which such non-compliance continues.

(3) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(a) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence or who cannot give a satisfactory account of themselves; or

(b) coming into use for any insanitary or immoral purpose; or

(c) affording a shelter to snakes, rats or other dangerous or offensive animals, is open to objection that it is a source of nuisance or danger or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to pers the Council, if it considers such objection cannot under any

other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal area who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and which shall not be less than one month from the date of such notice, to—

(i) take such measure as may be specified in the notice to remove or to prevent such nuisance, danger, discomfort, inconvenience or annoyance; or

(ii) cause such building to be taken down and the materials thereof to be removed.

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385 Substituted by the Amendment Act 27 of 2002.

386 Substituted by the Amendment Act 27 of 2002.

CHAPTER XVII

Prevention and Control of Dangerous Diseases

231. Dangerous diseases.— For the purpose of this Chapter, the expression "dangerous disease" means any of the following diseases, namely:—

(i) Anthrax;
(ii) Cerebrospinal fever;
(iii) Chicken-pox;
(iv) Cholera;
(v) Diphtheria;
(vi) Enteric group of fevers;
(vii) Erysipelas;
(viii) Influenzal Pneumonia—acute influenza;
(ix) Leprosy;
(x) Measles;
(xi) Plague;
(xii) Polioniyelities;
(xiii) Rabies;
(xiv) Relapsing fever;
(xv) Scarlet fever;
(xvi) Small-pox;
(xvii) Tuberculosis of lungs and intestines;
(xviii) Typhus;
(xix) Yellow fever;
(xx) Continuous pyrexia of unknown origin of more than four days' duration; (xxi) Any

other disease which the Government may, from time to time, by notification in the Official Gazette, declare to be a dangerous disease.

232. Power to prohibit use of public conveyances for carriage of persons suffering from dangerous diseases.— In any municipal area in which the Council has provided suitable conveyance for the free carriage of persons suffering from any dangerous diseases, it shall be lawful for the Council by public notice to prohibit the conveyance of such persons in all or any public conveyances, and to direct that any conveyance that may, at any time, be used for conveying any such person, be immediately disinfected.

233. Restrictions on persons suffering from dangerous diseases.— (1) No person suffering from any dangerous disease shall wilfully expose himself, and no person in charge of any person suffering from a dangerous disease shall expose such person, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmashala, theatre, hotel, market, or other place of public resort.

(2) No person suffering from any dangerous disease shall—

(a) make or offer for sale any article of food or drink for human consumption or any medicine or drug; or

(b) wilfully touch any such article, medicine or drug when exposed for sale by others; or

(c) take any part in the business of washing or carrying clothes.

(3) No person on whom an order has been served in this behalf by the Chief Officer shall remove to another place, or transfer to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease.

234. Control and prevention of dangerous diseases.— (1) In the event of a municipal area being threatened or visited at any time by the outbreak of any dangerous disease, the Council shall take measures for the prevention, treatment and control of the disease, including isolation of persons suffering from such disease and for investigating the causes of the prevalence or the outbreak of the disease.

(2) The Collector may, by notification published in the Official Gazette and locally in such other manner as he deems fit, declare that a municipal area is visited or is threatened by the outbreak of a dangerous disease and thereupon the Collector may, by an order, require the Council to take such measures for the prevention, treatment, and control of such disease and within such period as may be specified in the order and it shall be the duty of the Council to comply with any order issued by the Collector.

(3) If the Council fails to comply with any order issued by the Collector under sub- -section (2), the Collector may appoint any person to take such other steps as may be necessary to give effect to the order and all the expenses, incurred by the person so ap- pointed or by the Collector shall, be borne by the Council.

235. Information to be given to Chief Officer or Health Officer about incidence of dangerous diseases.— It shall be the duty of —

(i) every medical practitioner who, in the course of his practice, becomes cognizant of a case or a suspected case of a dangerous disease in any house or place other than a public hospital;

(ii) the medical officer in charge of any hospital or dispensary at which any person suffering from or suspected to be suffering from any dangerous disease is treated or brought for treatment;

(iii) the manager of a factory or the headmaster of a school, or the keeper of a lodging house who knows or has reason to believe that any person in any premises under his management or control is suffering from or has died of any dangerous disease;

(iv) any head of the house-hold who knows or has reason to believe that any person residing with him is suffering from a dangerous disease;

to give information of the same with the least practicable delay to the Chief Officer or the Health Officer of the Council.

236. Power of entry into places where cases of dangerous disease suspected.— The Chief Officer, the Health Officer or any person duly authorised by the Chief Officer or the Health Officer may, at any time, by day or night, enter with or without assistants into or upon any place in which a case of a dangerous disease is reported or suspected to exist, after giving such notice as may appear to him reasonable and without any notice in the case of factories, work-shops, workplaces, offices, business places and the like, for the purposes of inspection, investigation and adoption of such measures as he may consider necessary to prevent the spread of the disease, including the removal of an infected person to any hospital or place at which persons suffering from the said disease are received for medical treatment, and to prohibit the person so removed from leaving such hospital or place without the permission of the officer or person under whose orders he was removed or of the officer in charge of such hospital or place:

Provided that, where the Collector has made a declaration under sub-section (2) of section 234, it shall be lawful for the Chief Officer, the Health Officer or any authorised person to enter any place in which a case of dangerous disease is reported or suspected to exist without notice.

237. Chief Officer or Health Officer may direct owner or occupier to take certain precautionary measures and in default, carry out the same.— The Chief Officer or the Health Officer or any other municipal officer duly authorised by the Chief Officer or the Health Officer in this behalf may by written notice—

(a) require the owner or the occupier of any building or part of a building in which a case of a dangerous disease occurs, to get such building cleaned, white-washed or disinfected or get any article in such building cleansed or disinfected to the satisfaction of the officer issuing such notice;

(b) prohibit the letting of or the providing of accommodation in any hotel, in, *dharmashala*, or *sarai* in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, cleansed, white-washed or disinfected or any article therein cleansed or disinfected to the satisfaction of the officer issuing such notice:

Provided that —

(i) if, in the opinion of the Chief Officer, or the Health Officer, or such authorised officer, the owner or occupier is too poor to pay for the cost of disinfecting, cleansing or whitewashing, he may direct such disinfecting, cleansing or white-washing to be done at the cost of the municipal fund;

(ii) when a declaration has been made by the Collector under sub-section (2) of section 234, the Chief Officer, the Health Officer or such authorised officer may at any time get such disinfecting, cleansing or white-washing done without notice by the municipal staff at the cost of the municipal fund.

238. Prohibition of use of water likely to spread dangerous diseases.— (1) If it appears to the Council that the water of any well, tank or other place is likely, if used for

the purpose of drinking, bathing, washing or for any other purpose, to endanger health or cause the spread of any dangerous disease, the Council may—

(i) require the owner or the person in charge of such well, tank or other place by a written notice to take such measures as may be necessary to prevent danger to public health or prevent the spread of any dangerous disease;

(ii) by public notice, prohibit the removal or use of the said water for any such purpose and may take such steps as may be necessary to prevent any person from removing or using water from such well, tank, or other place:

Provided that, when a declaration under sub-section (2) of section 234 has been made by the Collector, it shall be lawful for the Chief Officer or the Health Officer to take action under this sub-section and report the action taken to the Council for approval.

(2) No person shall remove or use the water from any well, tank or other place in respect of which any such public notice has been issued.

239. Additional powers of Council on threatened outbreak of dangerous disease.— If a declaration is made by the Collector under sub-section (2) of section 234, the Council shall have power—

(a) to order with the previous permission of an Executive Magistrate, the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building by the person or persons residing, whether habitually or temporarily, therein provided that accommodation for all persons affected by the order is available or is provided elsewhere;

(b) to order with the previous permission of an Executive Magistrate, the destruction of any insanitary shed or hut in which there is or has been a case of a dangerous disease or which is likely to spread any dangerous disease;

(c) to prohibit either generally or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Health Officer of the Council or of the Civil Surgeon, such assemblages in such place or in such circumstances, or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent;

(d) to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal area or residing in any building adjacent to any infected building, and to direct that any such person shall give his name and address and present himself daily for a medical examination at such times and places as may be prescribed, for a period not exceeding ten days.

240. Penalty for contravention of provisions relating ito dangerous diseases.— (1) Whoever knowingly contravenes any provision of section 232, 233, 235, 236, 237 or 238 or clause (d) of section 239, or disobeys any order or requisition made under any of the aforesaid sections, or obstructs any officer of the Council or other person acting under the authority of the Council in carrying out executively any such order shall, on conviction,

be punished with, fine which may extend to [387] [two thousand rupees], and in the case of continuing offence with further fine which may extend to [388] [one hundred rupees] for every day after the first during which such contravention continues.

(2) Whoever contravenes any provision of clauses (a), (b) or (c) of section 239, or disobeyes any order or requisition made under any of the aforesaid clauses, or obstructs any officer of the Council or other person acting under the authority of the Council in carrying out executively any such order shall, on conviction, be punished with fine which may extend to [389][five thousand rupees], and in the case of continuing offence with further fine which may extend to [390][one hundred rupees] for every day after the first during which such contravention continues.

241. Payment of compensation.— The Council may in its discretion, give compensation to any person who sustains substantial loss or damage by reason of any action taken or required to be taken under sections 236, 237, 238 and 239, but except as allowed by the Council, no claim for compensation shall lie for any loss or damage caused by the exercise of any of the powers specified in the aforesaid section.

242. Diseases among animals.— In the event of a municipal area being threatened or visited at any time by the outbreak of any infectious disease amongst cattle, sheep, goats or other animals, the Council shall take all such measures as it deems necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof, and the provisions of sections 232 to 241, shall *mutatis mutandis***,** apply.

243. Proceedings to abate over-crowding of interiors of buildings.— (1) Whenever the Council considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Council may cause proceedings to be taken before an Executive Magistrate for the purposes of obtaining an order to prevent such overcrowding.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said buildings to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(3) If the owner of the said building shall have let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(4) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (2), forthwith to give to so many of the lodgers, tenants or other actual

[387] Substituted by the Amendment Act 27 of 2002.
[388] Substituted by the Amendment Act 27 of 2002.
[389] Substituted by the Amendment Act 27 of 2002.
[390] Substituted by the Amendment Act 27 of

inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(5) Any owner who after the date specified in any requisition issued under sub-section (2) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with the notice given to him under sub-section (4), shall, on conviction, be punished with fine which may extend to [391] [one hundred rupees] for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

244. Withdrawal and modification of powers and orders under this chapter.— (1) The Government may by notification in the Official Gazette, at any time,—

(a) withdraw all or any of the powers conferred under sections 232 to 243 from any Council;

(b) impose any limitations, restrictions or conditions on any Council in respect of the exercise of any such powers; or

(c) cancel any order passed by a Council in the exercise of any such power.

(2) Every order issued by a Council or any authority or officer subordinate to the Council in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal area, except as respects things done or omitted to be done before such order ceases to be in force.

(3) The Government may by like notification at any time reconfer any such powers on a Council from which they are withdrawn under sub-section (1).

245. Special powers in respect of overcrowding area.— (1) If the Council is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any part of the municipal area by reason of any of the following defects, namely:—

(a) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together; or

(b) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected; or

(c) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks as aforesaid; or

(d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or group of buildings,

the Council may, if any of its powers are not withdrawn under the last preceding section, exercise the following powers, namely:—

[391] Substituted by the Amendment Act 27 of 2002.

(i) power when any building or block already existing or in course of erection, by reason of any defect specified in clause (a), (b), (c) or (d), has given or is in the opinion of the Council likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the Council deems fit, either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the Council deems necessary to prevent such risk;

(ii) power by municipal or other agency to pull down or remove such building or block, or to execute such works or to take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein.

(2) When, in pursuance of any notice under sub-section (1), any building has been pulled down, the Council shall, unless such building has been erected contrary to any provision of this Act or of any bye-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 315.

(3) Whoever commits a breach of any notice given or of any condition imposed by the Council in exercise of any power under this section shall, on conviction, be punished with fine which may extend to [392] [two thousand rupees].

CHAPTER XVIII

Disposal of Dead Bodies and Carcasses of Animals

246. Council to provide or permit burning and burial grounds.— (1) A Council may, with the previous sanction of the Collector, provide suitable places for burning or burying or otherwise disposing of dead bodies and may charge for the use of any such place or for the supply of any material such fees as the Council may from time to time determine.

(2) No person shall, after the appointed day, open or provide any new place within the municipal area for the disposal of dead bodies, except with the permission of the Council:

Provided that —

(i) no such permission shall be granted by the Council without the sanction of the Collector;

(ii) in granting such permission, it shall be lawful for the Council to impose, with the sanction of the Collector, such conditions as it may deem fit.

(3) The Council may at any time by a general or special notice require any person owning or maintaining any place for the disposal of the dead on the appointed day, to take such measures to maintain such place in good order and in a safe sanitary condition 403

[392] Substituted by the Amendment Act 27 of 2002.

as may be specified in the notice or may apply to the Collector under the next succeeding section to close the place.

(4) The conditions to be imposed under sub-section (2) or the measures required to be taken under sub-section (3) shall not be inconsistent with any bye-laws framed by the Council for the maintenance of places for the disposal of the dead, due regard being had to the reli or section of the community entitled to use of such place.

(5) Any person who contravenes any provision of sub-section (2) shall, on conviction, be punished with fine which may extend to [393] [two thousand rupees].

247. Closing of places for disposal of dead.— (1) Where the Council is of opinion that any place for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, or that any such place should be closed for any other reason, the Council may submit its opinion with the reasons therefor to the Collector and the Collector thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(2) A copy of the said notification together with a translation thereof shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall, on conviction, be punished with fine which may extend to [394] [two thousand rupees].

248. Acts prohibited in connection with disposal of dead.— (1) Except with the permission of the Chief Officer, no person shall—

(a) burn, bury or otherwise dispose of any corpse except at a place provided or maintained for the purpose;

(b) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(c) carry a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Council may, by public notice, from time to time, think fit to require;

(d) except when no other route is available, carry a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Council in this behalf;

(e) remove a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

[393] Substituted by the Amendment Act 27 of 2002.
[394] Substituted by the Amendment Act 27 of 2002.

(f) whilst conveying a corpse, place or leave the same on or near any street without urgent necessity;

(g) reopen for the interment of a corpse a grave or vault already occupied;

(h) after bringing or causing to be brought to a burning ground any corpse fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(i) when burning or causing to be burnt any corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes;

(j) exhume any body except under the provision of section 176 of the Code of Criminal Procedure, 1898 or of any other law for the time being in force, from any place for the disposal of the dead. V of 1898.

Explanation:— For the purposes of this section, the expression "corpse" includes any part thereof.

(2) Any person who contravenes any provision of sub-section (1), shall, on conviction, be punished with fine which may extend to 395[Five thousand rupees].

249. Certificate for disposal of the dead.— No person in charge of any place for the disposal of the dead shall permit the disposal of any dead body at such place except on the production of a certificate signed by a registered medical practitioner specifying the date, time and cause of death or a no objection certificate signed by the Chief Officer or a Councillor residing in the locality.

250. Disposal of dead animals.— (1) A Council may provide places for the disposal of carcasses of dead animals and may make bye-laws regulating the disposal of carcasses of dead animals.

(2) The Council may also charge fees at such rates as it may from time to time determine for the disposal of a carcass at any place provided by the Council or through the agency of the Council.

CHAPTER XIX

Markets, Slaughter-Houses, Trades and Occupations

(1) Markets and slaughter-houses.

251. Power to provide and maintain municipal markets and slaughter-houses.—(1) The Council may construct, purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a municipal market or a municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the

395 Substituted by the Amendment Act 27 of 2002.

persons carrying on trade or business in, or frequenting, such municipal markets or slaughter-houses, and provide and maintain in such municipal markets such machines, weights, scales and measures for weighing and measuring goods sold therein as the Council shall think fit.

(2) The Council may, at any time, close either temporarily or permanently any municipal market or municipal slaughter-house or any portion thereof.

252. Private markets, etc., not to be held without licence.— No person shall use or allow to be used any place in any municipal area —

(i) as a private market; or

(ii) as a private slaughter-house; or

(iii) for the storage or sale of flesh or fish or animals or birds intended for human food,

except under and in accordance with the conditions of a licence granted in accordance with the provisions of the bye-laws made in this behalf:

Provided that no licence under this section shall be required for selling or storing of flesh or fish contained in hermatically sealed receptacles.

(2) Whoever uses or allows to be used any place for any of the purposes specified in sub-section (1), without a licence, or in contravention of any conditions subject to which a licence may have been granted under sub-section (1) shall, on conviction, be punished with fine which may extend to [396] [five thousand rupees] if the contravention is of clause (i) or (ii) of sub-section (1) and with fine which may extend to [397][one thousand rupees]if the contravention is of clause (iii) of that sub-section, and in the case of continuing contravention of the said clause (i) or (ii) with further fine of [398] [one hundred rupees], and of the said clause (iii) with further fine of [399] [fifty rupees], for every day after the first during which such contravention continues.

253. Slaughter-houses, etc., beyond municipal area.— (1) It shall be lawful for a Council with the sanction of the Collector to establish municipal slaughter-houses or to license private slaughter-houses beyond the limits of the municipal area and all provisions of this Act and of bye-laws in force thereunder relating to such slaughter-houses within the municipal area shall have full force in respect of slaughter-houses established or licensed under this section, as if they were within the municipal area.

(2) It shall be lawful for the Council to prohibit the import into the municipal area of meat except of animals slaughtered at a municipal slaughter-house or a slaughter-house licensed by the Council under sub-section (1).

(3) Nothing in sub-section (2) shall be deemed to apply to cured or preserved meat.

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[396] Substituted by the Amendment Act 27 of 2002.
[397] Substituted by the Amendment Act 27 of 2002.
[398] Substituted by the Amendment Act 27 of 2002.
[399] Substituted by the Amendment Act 27 of 2002.

254. Restriction on slaughter of animals for sale.— (1) No person shall, without written permission of the Chief Officer, slaughter or cause to be slaughtered any animal for sale or supply of meat in the municipal area except in a municipal slaughter-house or a licensed private slaughter-house.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [400][Five thousand rupees].

(3) The Chief Officer may seize the carcass or meat of any animal slaughtered contrary to the provisions of sub-section (1) and may cause it to be sold, destroyed or disposed of in such other manner as he may think fit.

255. Provisions for requiring private market buildings and slaughter-houses to be properly paved and drained.— The Council may, by a written notice, require the owner, or the person in charge, of any private market or slaughter-house, to cause—

(a) the whole or any portion of the floor of the market place or slaughter-house to be raised or paved with dressed stone or other suitable material;

(b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such outfall, as to the Council may appear necessary;

(c) a supply of water to be provided for keeping such market-building, market-place or slaughter-house in a clean and wholesome state;

(d) any shop, stall, shed, standing or other structure, in any private market to be altered or improved, in such manner as the Council may consider necessary;

(e) any privy, water-closet or urinal or any other sanitary arrangement to be constructed or made at such site and in such manner as the Council may deem necessary and expedient; and

(f) any other measures to be taken which in its opinion are necessary in the interest of public health or sanitation.

256. Provisions regarding approaches and environs of private markets.— (1) The Council may—

(a) define or determine the limits of any private market or declare what portions of such market shall be made part of the existing approaches, streets, passages and ways to and in such market; and

(b) after hearing the owner or the person in charge of such market, by written notice, require such owner or person to—

(i) lay out, construct, alter, clear, widen, pave, drain and light, to the satisfaction of the Council, such approaches, streets, passages and ways to or in such market,

(ii) provide such conveniences for the use of persons resorting to such market, and

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400 Substituted by the Amendment Act 27 of 2002.

(iii) provide adequate ventilation and lighting of the market-building, or any portion thereof including shops and stalls,

as the Council may think fit.

(2) The Council may, by written notice, require such owner or occupier to maintain in proper order the approaches, streets, passages and ways to and in such market and such other conveniences as are provided for the use of persons resorting thereto.

257. Levy of stallages, rents and fees.— (1) The Council may —

(a) charge such stallages, rents or fees as may from time to time be fixed by it in this behalf—

(i) for the occupation or use of any stall, shop, stand, shed, pen or space in a municipal market or municipal slaughter-house;

(ii) for the right to expo pal market;

(iii) for the use of machines, weights, scales and measures provided for in any municipal market; and

(iv) for the right to slaughter animals in any municipal slaughter-house and for the feeding and watering of such animals before they are ready for slaughter; or

(b) put up to public auction or dispose of by private sale, the privilege of occupying or using any stall, shop, stand, shed, pen or space in a municipal market or municipal slaughter-house for such period and on such conditions as it may think fit.

(2) The Chief Officer shall issue to every person authorised to occupy or use any stall, shop, stand, shed, pen or space or to expose any articles for sale in a municipal market or to slaughter animals in a municipal slaughter-house, under sub-section (1), a licence granted in accordance with the provisions of the bye-laws made in this behalf.

(3) Any person who, without a licence from the Chief Officer under sub-section (2), shall occupy any stall, shop, stand, shed, pen or space in a municipal market or sell or expose for sale any article in a municipal market or use a municipal slaughter-house, shall, on conviction, be punished with fine which may extend to fifty rupees.

(4) It shall be lawful for the Chief Officer or any officer in charge of a municipal market or a slaughter-house to expel from the market or slaughter-house any person —

(i) occupying any stall, shop, stand, shed, pen or space in such market or slaughter- -house or exposing for sale therein any articles without a licence from the Council; or

(ii) using or attempting to use any municipal slaughter-house without a licence; or

(iii) contravening any bye-laws pertaining to such markets or slaughter-houses; or

(iv) suffering from any infectious or contagious disease; or

(v) creating disturbance in such market or slaughter-house.

258. Farming of market and slaughter-house rents.— (1) It shall be lawful for the Council to lease by public auction or by inviting tenders or by private contract the collecting of any stallages, rents or fees which may be imposed under sub-section (1) of

the last preceding section after obtaining adequate security from the lessee for the due fulfilment of the conditions of the lease.

(2) Any person to whom the right to collect stallages, rents or fees has been so leased shall have the power to expel from the market or slaughter-house any person occupying any stall, shop, stand, shed, pen or space or exposing any goods for sale in the market or using or attempting to use any such slaughter-house, without payment of the stallage, rent or fee.

(2) Other occupations and trades.

259. Control on preparation of food, eating houses, hotels, lodging houses, etc.—(1) No person shall use or permit to be used any premises in the municipal area —

(a) as an eating house, tea or coffee shop, restaurant, dining-saloon, refreshment room or for a like purpose; or

(b) for the preparation or sale for the purposes of trade of any article of human food or drink; or

(c) as a hotel or a lodging house,

except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any goods, vessels or implements or other articles used for such purposes and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2), shall, on conviction be punished with fine which may extend to [401][five thousand rupees] and in the case of continuing offence with further fine which may extend to [402][five hundred rupees] for every day after the first during which such offence continues.

260. Control on dairies and business in milk, milk products and sweet-meats.—(1) No person shall—

(a) carry on the trade or business of a dealer in, or importer or seller of, sweet- -meats, milk, butter or other milk-products; or

(b) use or permit to be used for the purposes of trade, any premises for storing or selling milk or for making, storing or selling butter or other milk-products or sweet- -meats,

except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

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[401] Substituted by the Amendment Act 27 of 2002.

[402] Substituted by the Amendment Act 27 of 2002.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any goods, vessels or implements or other articles used for such purpose and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2), shall, on conviction, be punished with fine which may extend to [403][five thousand rupees] and in the case of continuing offence with further fine which may extend to [404][five hundred rupees] for every day after the first during which such offence continues.

261. Control of stables.— (1) No person shall use any premises in the municipal area —

(a) as a stable for milch cattle; or

(b) for the stallage or keeping of horses, camels, donkeys and animals other than milch cattle and animals intended for human food,

except under and in accordance with a licence granted under the provisions of the bye-laws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any animals kept on such premises or any vessels or implements used on such premises and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the proper ventilation, sanitation or drainage of such premises, or for the proper supply of water to the animals kept on such premises or may require the use of such premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2), shall, on conviction, be punished with fine which may extend to [405][five thousand rupees], and in the case of continuing offence with further fine which may extend to [406][five hundred rupees] for every day after the first during which such offence continues.

262. No separate licence necessary if one is obtained under Prevention of Food Adulteration Law.— Notwithstanding anything contained in section 259 and 260 no licence shall be required under the said sections for the use of any premises for any purpose or for carrying on any trade specified therein, in respect of which a licence has been obtained under the law for the time being in force in the [407][State of Goa] regarding prevention of food adulteration.

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[403]Substituted by the Amendment Act 27 of 2002.
[404]Substituted by the Amendment Act 27 of 2002.
[405]Substituted by the Amendment Act 27 of 2002.
[406]Substituted by the Amendment Act 27 of 2002.
[407] Substituted by the Amendment Act 13 of 1994.

263. Factory, etc., not to be established without licence.— (1) No person shall, without a licence granted in accordance with the bye-laws made in this behalf, establish or materially alter, enlarge or extend or permit the establishment, material alteration, enlargment or extension of any factory, workshop or place of business in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Council may after giving the applicant a reasonable opportunity of being heard and recording the reasons refuse to grant a licence if it is of the opinion that the establishment, alteration, enlargement or extension of such factory, workshop or place of business would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance or danger to the inhabitants of the neighbourhood.

(3) Whoever establishes, alters, enlarges or extends or permits the establishment, material alteration, enlargement or extension of any such factory, workshop or place of business without a licence or in contravention of any condition subject to which the licence may have been granted shall, on conviction, be punished with fine which may extend to [408] [five thousand rupees.]

Explanation:— Nothing in this section of section 265 shall be deemed to affect any provision of the Indian Boilers Act, 1923, or authorise any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the Factories Act, 1948, are applicable.

V of 1923.
LXIII of 1948.

264. Prohibition of use of steam whistles, etc.— (1) No person shall use or employ in any factory or any other premises any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed, except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) Whoever uses or employs any such whistle or trumpet as aforesaid in contravention of any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to fifty rupees and in the case of continuing offence with further fine which may extend to five rupees for every day after the first during which such offence continues.

265. Certain other trades and occupations not to be carried on without licence.—(1) No person shall use any premises in the municipal area [409][for any trade or occupation] except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

[410][Provided that no such licence shall be required for the use of any premises in the municipal area under any self-employment Schemes or Information Technology Software and enabled services specially notified by the Government, subject to the payment of taxes and fees payable under the provisions of this Act, rules or bye-laws made thereunder.]

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any goods, vessels or implements or other

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[408] Substituted by the Amendment Act 27 of 2002.
[409] Substituted by the Amendment Act 9 of 1980.
[410] Inserted by the Amendment Act 28 of 2001.

articles used for such purpose and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the prevention of any nuisance or danger therefrom or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued under sub-section (2) shall, on conviction, be punished with fine which may extend to [411][five thousand rupees], and in the case of continuing offence with further fine which may extend to [412][five hundred rupees] for every day after the first during which such offence continues.

266. Certain articles not to be kept without licence.— (1) No person shall keep or allow to be kept in or upon any premises any article specified in Schedule VIII, except under and in accordance with the conditions of licence granted under the provisions of the bye-laws made in this behalf.

(2) No person shall, except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf, keep or allow to be kept—

(a) any of the articles specified in Part I of Schedule IX in or upon any premises in quantities exceeding at any one time the respective maximum quantities specified opposite such article; or

(b) any of the articles specified in Part II of the said Schedule in or upon any premises for sale or for purposes other than domestic use.

(3)Whoever keeps in or upon any premises any article in contravention of the provisions of sub-section (1) or (2), or in contravention of any conditions subject to which a licence may have been granted shall, on conviction, be punished with fine which may extend to[413] [two thousand rupees], and in the case of continuing offence with further fine which may extend to [414][one hundred rupees] for every day after the first during which such offence continues.

(4)The Chief Officer may at any time enter upon any premises and may seize any article kept in contravention of the provisions of sub-section (1) or (2) or in contravention of any conditions subject to which a licence may have been granted under sub-section (1) or sub-section (2).

CHAPTER XX

Cattle Pounds and Other Provisions Relating to Animals

(1) Cattle-pounds.

267. Cattle-trespass Act to cease to apply to municipal areas.— The provisions of the law for the time being in force in the [415][State of Goa] pertaining to cattle tresspass (hereinafter in this section referred to as "the said Act") shall cease to apply in relation to the municipal area to which this Act applies:

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411 Substituted by the Amendment Act 27 of 2002.
412 Substituted by the Amendment Act 27 of 2002.
413 Substituted by the Amendment Act 27 of 2002.
414 Substituted by the Amendment Act 27 of 2002.
415 Substituted by the Amendment Act 13 of 1994.

Provided that —

(a) nothing in this section shall affect the liability of any person to any penalty under the said Act so ceasing to be in force;

(b) any appointment, notification, order, rule made or issued or deemed to be made or issued under the said Act in respect of any cattle-pounds within the limits of any municipal area shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act, and continue in force until superseded by any appointment, notification, order or rule made under this Act;

(c) any cattle-pound in the local area established or deemed to be established under the said Act so ceasing to be in force shall be deemed to be vested in the Council within whose limits it is situated and shall be maintained and managed by the Council in accordance with the provisions in this Act.

Explanation:— For the purposes of Chapter XX "cattle" means and includes bulls, bullocks, heifers, cows and their young, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, rams, lambs, goats and kids;

268. Power to establish cattle-pounds and appoint pound-keepers.— (1) Notwithstanding anything contained in any law for the time being in force, every Council within the limits of its jurisdiction shall, from time to time, appoint such places as it thinks fit to be public pounds, and may appoint suitable persons to be keepers of such pounds.

(2) Every pound-keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the Council.

269. Duties of pound-keepers.— (1) Every pound-keeper shall maintain such registers and prepare such returns as the Government may from time to time by rules prescribe.

(2) When cattle are brought to a pound, the pound-keeper shall enter in his register—

(a) the number and description of the animals;

(b) the day and hour on and at which they were so brought;

(c) the name and residence of the seizer; and

(d) the name and residence of the owner, if known;

and shall give the seizer or his agent a copy of the entry.

(3) The pound-keeper shall take charge of, feed and water, the cattle until they are disposed of as hereinafter provided.

270. Impounding cattle.— (1) It shall be the duty of every police officer and it shall be lawful for any municipal officer or servant authorised by the Chief Officer in this behalf to seize and take to any public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the municipal area.

(2) It shall be lawful for any person who is the owner or who is in charge of any private or public property to seize and take to any such public pound for confinement therein, any cattle trespassing upon such property or causing damage thereto.

(3) Whoever forcibly opposes the seizure of cattle liable to be seized under this section, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to [416][two thousand rupees], or with both.

271. Delivery of cattle claimed.— If the owner of cattle which are impounded under the last preceding section or his agent appears and claims such cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under section 274.

272. Security in respect of impounded cattle.— (1) Every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the form prescribed by rules, a declaration regarding the ownership of such cattle and to deposit by way of security such sum as the Government may, by rules, prescribe. Different scales may be prescribed for different areas or different classes of cattle.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be prescribed by rules, shall stand forfeited to the Council. If cattle are not impounded as aforesaid, the amount of security deposit shall, on an application made by or on behalf of the depositor, be refunded to him on the expiry of that period.

273. Sale of cattle not claimed.— (1) if within ten days after any cattle has been impounded, no person appearing to be the owner of such cattle claims the cattle under section 270, such cattle shall be forthwith sold by auction.

(2) If within the period specified in sub-section (1), the owner or his agent claims the cattle but refuses or fails to pay the pound-fees and the expenses chargeable under the next succeeding section, the cattle or as many of them as may be necessary, shall be sold by auction:

Provided that, if the cattle is not sold at auction under sub-section (1) or (2), it shall be disposed of in such other manner as the Government may by rules prescribe.

(3) The Government may frame rules prescribing the manner in which auction under sub-section (1) or (2) may be held.

(4) The surplus remaining after deducting the pound-fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who within fifteen days after the sale, proves to the satisfaction of the Chief Officer, that he was the owner of such cattle and shall in any other case, form part of the municipal fund.

(5) No police officer, or Councillor or officer or servant of the Council, including the pound-keeper, shall, directly or indirectly, purchase any cattle at a sale under sub-section (1) or (2).

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[416] Substituted by the Amendment Act 27 of 2002.

274. Pound-fees and expenses chargeable to be fixed.— (1) The pound-fee chargeable shall be such as the Government may, from time to time, by rules prescribe for each kind of cattle.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as the Council may by bye-laws fix.

275. Complaints of illegal seizure or detention.— (1) Any person whose cattle have been seized under this Chapter, or having been so seized, have been detained, in contravention thereof, may, at any time, within ten days from the date of the seizure, make a complaint to a Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent has reason to believe that the complaint is well founded, he shall summon the persons complained against, and make an inquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding [417][Five thousand rupees]to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fees and expenses leviable under this chapter shall be paid by the person who made the seizure or detained the cattle.

(4) The compensation, fees and expenses mentioned in this section, may be recovered as if they were fines imposed by the Magistrate.

(2) Other provisions relating to animals.

276. Penalty for allowing cattle to stray in street or to trespass upon private or public property.— (1) Whoever, within a municipal area, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished —

(i) for the first offence, with fine which may extend to [418][one thousand rupees];

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to [419][two thousand rupees], or with both.

(2) The Magistrate trying the offence under sub-section (1) may order,—

(a) that the accused shall pay such compensation not exceeding [420] [one thousand rupees] as the Magistrate considers reasonable, to any person for any damage proved

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[417] Substituted by the Amendment Act 27 of 2002.
[418] Substituted by the Amendment Act 27 of 2002.
[419] Substituted by the Amendment Act 27 of 2002.
[420] Substituted by the Amendment Act 27 of 2002.

to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land; and also,

(b) that the cattle in respect of which an offence has been committed shall be forfeited to the Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.

277. Tethering cattle, etc.— Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall, on conviction, be punished—

(a) for a first offence, with fine which may extend to [421] [one thousand rupees];

(b) for a second or subsequent offence, with fine which may extend to [422][two thousand rupees].

278. Provision as to dogs.— (1) A Council may be public notice require that every dog while in the street and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(2) When a notice under sub-section (1) has been issued, the Chief Officer may take possession of any dog found wandering unmuzzled in any public street or place and may either detain such dog until its owner has within three clear days claimed it, provided a proper muzzle for it and paid all the expenses of its detention or may, subject to the provisions of sub-sections (3) and (4), cause it to be sold or destroyed.

(3) When a dog which has been detained under sub-section (2) is wearing a collar with the owner's name and address thereon, or a number ticket or any other mark by which the owner of the dog can be identified, such dog shall not be

destroyed until a letter stating the fact that it has been so detained has been sent to the said address and the dog has remained unclaimed for three clear days.

(4) Any dog which is not claimed within the period specified in sub-section (3), or any dog the owner of which has failed to comply with the provision of sub-section (2) within the specified period therein, may be sold or destroyed by the Chief Officer after having been detained for the period of three days specified in sub-section (3):

Provided that any dog which is found to be rabid may be destroyed at any time.

(5) The Chief Officer may at any time destroy, or cause to be destroyed, or confine or cause to be confined, for such period as he may consider necessary, [423][or cause to be

[421] Substituted by the Amendment Act 27 of 2002.

[422] Substituted by the Amendment Act 27 of 2002.

treated by any other efficacious and medically well established method of treatment,] any dog or other animal suffering from rabies or reasonably suspected to be suffering from rabies or bitten by any dog or other animal suffering or suspected as aforesaid.

(6) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the same manner as an amount due on account of a property tax.

(7) No damages shall be payable in respect of any dog destroyed or otherwise disposed of under this section.

279. Provisions as to keeping of pigs.— (1) If it shall appear to any Council at any time that nuisance or annoyance is caused to the public by keeping of pigs within the municipal area or any part thereof, the Council may direct by public notice that no person shall, without the written permission of the Chief Officer, or otherwise than in conformity with the terms of such permission, keep any pigs in the municipal area or any specified part thereof.

(2) Whoever after such direction keeps any pigs in any place within the municipal area or specified part thereof without the permission required as aforesaid, or otherwise than in accordance with the terms thereof, shall, on conviction, be punished with fine which may extend to [424][three hundred rupees].

(3) Any pigs found straying may be forthwith destroyed and carcass thereof disposed of as the Chief Officer shall direct. No claim shall lie for compensation for any pigs so destroyed.

280. Feeding animals on filth prohibited.— (1) No person shall feed or cause or permit to be fed any animal which is kept for dairy purposes or is intended for human food, on excrementitious matter, stable refuse, filth or other offensive matter.

(2) Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to [425][Five thousand rupees].

CHAPTER XXI

Prosecutions, Suits and Powers of Police

281. Provisions as respects institution, compounding, etc., of criminal actions. —(1) Subject to the general control of the Council, the Chief Office t any person who is charged with —

(a) any offence against this Act or any rules or bye-laws made thereunder;

(b) any offence which affects or is likely to affect any property or interest of the Council or the due administration of this Act; or

(c) committing any nuisance whatever:

423 Inserted by the Amendment Act 27 of 2002.
424 Substituted by the Amendment Act 27 of 2002.
425 Substituted by the Amendment Act 27 of 2002.

Provided that the Chief Officer shall not, except with the previous approval of the Council, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely:—

(i) sub-section (7) of section 171 read with sub-sections (8) and (9) of section 184;

(ii) sub-section (6) of section 178; (iii) sub-section (5) of section 243.

(2) No prosecution for any offence under this Act or the rules or bye-laws made thereunder shall be instituted, except within six months next after the date of the commission of the offence, or if such date is not known or the offence is a continuing one within six months after the commission or discovery of such offence.

(3) Any prosecution under this Act or the rules or bye-laws made thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Act or any rule or bye-law, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to any Magistrate, by the distress and sale of any movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(4) Notwithstanding anything contained in section 426[257] of the Code of Criminal Procedure, 427[1973 (Central Act 2 of 1974), no Magistrate shall permit withdrawal of a complaint under that section in respect of an offence punishable under this Act or the rules and bye-laws made thereunder, unless the Magistrate is satisfied that although the complaint was made in good faith it was based on incorrect facts or insufficient information. V of 1898.

428[(5) Any offence committed under this Act or the rules or bye-laws made thereunder, whether committed before or after the commencement of the Goa Municipalities (First Amendment) Act, 2002, may, either before or after the institution of the prosecution, be compounded by such officers or authorities, on such conditions and for such amounts, as the State Government may, by Notification in the Official Gazette, specify in this behalf.].

(6) 429[omitted]

430[(7) Where an offence has been compounded under sub-section (5), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of this offence.].

(8) The expenses of all prosecutions or proceedings shall be paid out of the municipal fund.

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426Substituted by the Amendment Act 13 of 1994.

427 Substituted by the Amendment Act 13 of 1994.
428 Substituted by the Amendment Act 27 0f 2002.
429 Omitted by the Amendment Act 27 of 2002.
430 Substituted by the Amendment Act 27 of 2002.

282. Distress lawful though defective in form.— No distress levied or attachment made by virtue of this Act shall be deemed unlawful nor shall, any party making the same be deemed a trespasser on account of any defect or want of

form in any summons, conviction or warrant of distrees or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any court of competent jurisdiction.

283. Damage to municipal property how made good.— If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a Council shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

284. General penalty.— Whoever—

(a) does or omits to do any act in contravention of any provisions of this Act, or the rules or bye-laws made thereunder; or

(b) disobeys or fails to comply with any lawful direction given by any written notice or order issued by or on behalf of a Council under any power conferred by or under this Act; or

(c) fails to comply with the conditions subject to which any permission or licence was given to him by or on behalf of a Council under any power conferred by or under this Act; or

(d) when lawfully called upon by the Chief Officer or any officer duly authorised to supply an information in his possession which may be required for the purpose of this Act or of any rules or bye-laws made thereunder, fails to supply such information or wilfully supplies false information,

shall, if no other penalty is provided for the offence, on conviction, be punished with fine which may extend to [431][Five thousand rupees], and in the case of continuing offence with further fine which may extend to [432][one hundred rupees] for every day after the first during which such contravention continues:

Provided that, when a notice or order fixes a time within which a certain act is to be done, and no time is specified by or under this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time.

285. Minimum penalty for offences under this Act.— In every case in which a person is convicted for an offence punishable by or under this Act and the Court considers that he should be sentenced with fine only, then in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, the fine to be imposed on him shall not be less than one-fourth of the maximum amount of fine

[431] Substituted by the Amendment Act 27 of 2002.

[432] Substituted by the Amendment Act 27 of 2002.

prescribed for that offence, and if the fine prescribed for that offence is unlimited, shall not be less than [433][one thousand rupees].

286. Power to institute, defend suits, etc.— (1) Subject to the general control of the Council, the Chief Officer may —

(a) institute and prosecute any suit or other proceeding for any claim or demand on behalf of the Council or for any injury to any property, rights or privileges of the Council;

(b) withdraw from or compromise or compound any suit or any claim or demand which has been instituted or made on behalf of the council;

(c) institute, withdraw from or compromise or compound any suit or proceeding for the recovery of expenses or compensation claimed to be due to the Council;

(d) defend, admit or compromise or compound any appeal against a rateable value or tax;

(e) defend any suit or other legal proceedings brought against the Council or any municipal officer or servant in respect of anything done or omitted to be done by them, respectively in their official capacity;

(f) admit or compromise any claim, suit or legal proceeding brought against the Council or any municipal officer or servant, in respect of anything done or omitted to be done as aforesaid:

Provided that —

(i) if any sanction in the making of any contract is required by this Act, the like sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract;

(ii) if any such suit is in respect of land leased or sold under sub-section (3) of section 168 or in respect of any immovable property sold or leased for a term exceeding three years or other-wise transferred, it shall not be lawful for the Council to compound or compromise in respect of the suit except with the previous sanction of the Director.

(2) A Council may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers or servants under this Act.

(3) The expenses of any civil proceedings prosecuted or defended on behalf of the Council shall be payable from the municipal fund.

287. Councillors, officers, servants, etc., to be public servants.—Every Councillor and every officer or servant of a Council, every contractor or agent appointed by it for the collection of any tax and every person employed by such contractor or agent for the collection of such tax

[433] Substituted by the Amendment Act 27 of 2002.

shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

288. Bar of suits against Council, its officers, servants, etc., for acts done in good faith.— No suit shall lie in respect of anything in good faith done or intended to be done under this Act, against any Council or against any committee constituted under this Act, or against any officer or servant of a Council or against any person acting under and in accordance with the directions of any such Council, committee, officer or servant or of a Magistrate.

289. Limitation of suits against Council, its committees, officers and servants for acts done in pursuance or execution of this Act.— (1) No suit shall lie against a Council or against any committee constituted under this Act, or

against any officer or servant of a Council in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act,—

(a) unless it is commenced within six months next after the accrual of the cause of action; and

(b) until the expiration of one month after notice in writing has been, in the case of a Council or its committee, delivered or left at the municipal office and, in the case of an officer or servant of a Council, delivered to him or left at his office or place of abode; and all such notices shall state with reasonable particularity the causes of action and the name and place of abode of the intending plaintiff and of his advocate, pleader or agent, if any, for the purpose of the suit.

(2) At the trial of any such suit,—

(a) the plaintiff shall not be permitted to adduce evidence relating to any cause of action save such as is set forth in the notice delivered or left by him as aforesaid;

(b) if the suit be for damages and if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

(3) If the defendant in any such suit is an officer or servant of a Council payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the Council, be made from the municipal fund.

(4) Nothing in clause (a) and (b) of sub-section (1) shall apply to any suit under section 38 of the Specific Relief Act, 1963 or under sub-section (1) or (2) of section 92 of this Act. XLVII of 1963.

290. Powers of police officers.— (1) Any police officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any rule or of any bye-law made thereunder, if the name and address of such person is unknown to him, and if such person declines to give his name and address or if the police officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station house until his name and address have been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for producing him before a Magistrate, or than twenty four hours of his arrest, whichever is longer.

(2) It shall also be the duty of all police officers to give immediate information to the Council of the commission of any offence against the provisions of this Act or of any rule or bye-law made thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

434[**290 A. Certain offences to be cognizable.—** The Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply to an offence under sub-section (7) of section 175 or sub-section (3) of section 176 or sub-section (6) of Section 178 or sub-section (9) and (10) of section 184, as if it were a cognizable offence—

(i) for the purpose of investigation of such offence;

(ii) for the purposes of all

(a) matters referred to in section 42 of that Code, and

(b) arrest of a person, except on the complaint of, or upon information received from, such officer of the Council, not being below the rank of a Chief Officer, as may be appointed by the Government:

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection of any building or the execution of any work shall be cognizable, if such contravention relates to any deviation from any plan if such erection or execution sanctioned by the Council, is compoundable on payment of an amount under the bye-laws relating to buildings made under this Act].

CHAPTER XXII

Control

291. Power of inspection and supervision.— The Director, the Collector, or any officer of the Government authorised by the Government, the Director or the Collector, shall severally have power—

(a) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by or movable property belonging to any Council or any institution under its control or management or any work in progress under it or under its direction;

(b) to call or inspect any extract from any Council's or its committee's proceedings and any book or document in the possession of or under the control of the Council or any of its Committees.

292. Power to call for returns and reports.— The Director shall have power—

(a) to call for any return, statement, account or report which he may think fit to require any Council to furnish;

(b) to require the Council to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by

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434 Inserted by the Amendment Act 7 of 1987.

or on behalf of such Council or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Council, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

293. Powers to suspend execution or orders and resolutions of Council on certain grounds.— (1) 435[If on the receipt of an application of any person or on his own motion, the Director is of opinion that], the execution of any order or resolution of a Council, or the doing of anything which is about to be done or is being done by or on behalf of a Council, is causing or is likely to cause injury or annoyance to the public or is against public interest or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

436[(2) Any person aggrieved by the above said order of the Director, may within a period of fifteen days from the date of receipt of the order of the Director by him, appeal to the Administratiive Tribunal and the order passed by the Administrative Tribunal shall b

Provided that no order shall be passed under sub-section (1) by the Director or under sub-section (2) by Administrative Tribunal in appeal against any person without giving him a reasonable opportunity of being heard.]

294. Extraordinary Powers of execution of certain works in case of emergency.— (1) In case of emergency, the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a Council and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall forthwith be paid by the Council.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the Council as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such person from all liability to the Council in respect of any sum or sums so paid by him out of the moneys of the Council held or received by him.

(3) The provisions of sub-sections (2), (3) and (4) of the last preceding section shall apply so far as may be to any order made under this section.

295. Power of Director to prevent extravagance in the employment of establishment.— If in the opinion of the Director the number of persons who are employed by a Council as officers or servants, or whom a Council proposes to employ or the remuneration assigned by the Council to those persons or to any particular person is

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435Substituted by the Amendment Act 7 of 1998.

436 Substituted by the Amendment Act 7 of 1998, in place of sub section (2), (3) and (4) .

excessive, the Council shall, on the requirement of the Director, reduce, the number of the said persons or the remuneration of the said person or persons:

Provided that the Council may appeal against any such requirement to the Government, whose decision shall be conclusive.

296. Inquiry into municipal matters by Government.— (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Council or any matters with respect to which sanction, approval or consent of the Government is required under this Act.

(2) The officer holding such inquiry shall for the purpose thereof have

the powers which are vested in a Court under Code of Civil Procedure, 1908, V of 1908.
in respect of the following matters: —

(a) discovery and inspection,

(b) enforcing the attendance of witnesses, and requiring the deposits of their expenses,

(c) compelling the production of documents,

(d) examination of witness

(e) granting adjournments,

(f) reception of evidence on affidavit, and

(g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Vof 1898. Procedure, 1898.

Explanation:— For the purpose of enforcing the attendance of witnesses the local limit of such officer's jurisdiction shall be the limits of the 437[State of Goa].

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid and such costs shall be recoverable as an arrear of land revenue.

297. Power of Director to enforce performance of duties.— (1) When the Director is informed, on a complaint made or otherwise, that default has been made in the performance of any duty imposed on a Council by or under this Act or by or under any enactment for the time being in force, the Director, if satisfied after due inquiry that the alleged default has been made, may by order fix a period for the performance of that duty and communicate such order to the Council.

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437 Substituted by the Amendment Act 13 of 1994.

(2) If the duty is not performed within the period so fixed the Director may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Council.

(3) If the expense and remuneration are not so paid, the Director may make an order directing the bank in which any moneys of the Council are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the Council are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the Council in such bank or may be in the hands of such persons or as may from time to time be received from or on behalf of the Council by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the Council in respect of any sum or sums so paid by it or him out of the moneys of the Council so deposited with such bank or person.

298. Power to appoint Municipal Administrator in certain circumstances.— (1) If, in the opinion of the Government,—

(a) a Council is not competent to perform duties imposed upon it by or under this Act or any other law for the time being in force, or

(b) persistently makes default in the performance of such duties, or in complying with the lawful directions and orders issued by the Collector, the Director, the Government or any other authority empowered under any law for the time being in force to issue such direction or orders to a Council, or

(c) exceeds or abuses its powers, or

(d) a situation has arisen in which the administration of the Council cannot be carried out in accordance with the provisions of this Act, or

(e) the financial position and the credit of the Council is seriously threatened, the Government may, by an order published in the Official Gazette, appoint a Government officer as the Municipal Administrator of the Council for a period not exceeding three years. The order shall state the reasons for making the order.

(2) If the term of office of a Municipal Administrator so appointed is less than three years, the Government may extend it from time to time, subject to the limitation of the total period of three years.

299. Powers of Municipal Administrator.— (1) When a Municipal Administrator is so appointed under the last preceding section, during his term of office, all the powers and functions vesting in or exercisable by the Council, the [438][Chairperson], the [439][Vice-Chairperson], the various committees, the Councillors and the Chief Officer under this Act or any other law for the time being in force, shall vest in and be exercisable by the Municipal Administrator, to the exclusion of their exercise and performance by the

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[438] Substituted by the Amendment Act 13 of 1994.

[439] Substituted by the Amendment Act 13 of 1994.

Council, the [440][Chairperson], the [441][Vice-Chairperson], the various committees, the Councillors and the Chief Officer.

(2) During the term of office of the Municipal Administrator, the [442][Chairperson] shall not be entitled to any honorarium or sumptuary allowance and the Councillors to any meeting allowance.

(3) The Chief Officer shall be subordinate to the Municipal Administrator and the Municipal Administrator shall determine which powers and duties of a Chief Officer may be exercised and performed by the Chief Officer of such Council.

300. Review of Municipal Administrator's work by Director and if necessary dissolution of Council.— (1) Every Municipal Administrator appointed under section 298 shall submit to the Director for each quarter a report about his administration in such form and by such date as the Director may prescribe.

(2) In cases where a Municipal Administrator has been appointed for reasons set forth in clause (d) or (e) of sub-section (1) of section 298, the Government, on the report of the Director, shall review the position at the end of every six months or earlier, if deemed necessary, and determine whether the reasons leading to the appointment of the Municipal Administrator have since ceased to exist and pass suitable orders. If the Government comes to the conclusion that it is in the interest of municipal administration to extend the term of office of the Municipal Administrator, the Government may do so from time to time, provided that in no case shall the term be so extended as to exceed three years.

(3) If, in the opinion of the Government, even after the period of three years of administration by the Municipal Administrator the grounds on which the Municipal Administrator was appointed still exist, the Government may by an order published in the Official Gazette dissolve the Council.

443[Provided that the Council shall be given a reasonable opportunity of being heard before its dissolution.]

(4) In cases where the Municipal Administrator was appointed for reasons set forth in clause (a), (b) or (c) of sub-section (1) of section 298 and if his term or extended term of office is to expire after the term of the existing Council is due to expire or expires, the Government shall curtail the term the Municipal Administrator in such manner as to, make his term coterminous with the existing Council. In other cases, the Municipal Administrator shall hand over the administration to the existing Council for the unexpired portion of its term after his term expires.

(5) Whenever an existing Council takes over administration from a Municipal Administrator in accordance with sub-section (4), the procedure for the election of the

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440 Substituted by the Amendment Act 13 of 1994.
441 Substituted by the Amendment Act 13 of 1994.
442 Substituted by the Amendment Act 13 of 1994.
443 Inserted by the Amendment Act 13 of 1994.

444[Chairperson], 445[Vice-Chairperson] and committees shall be followed as if it were a newly constituted Council after a general election.

301. Consequences of dissolution.— When the Council is dissolved under sub- -section (3) of the last preceding section, the following consequences shall ensue:—

(a) all Councillors of the Council shall, as from the date specified in the order of dissolution, vacate their offices as such Councillors;

(b) all powers and duties of the Council shall, during the period of dissolution, be exercised and performed by such person or persons as the Government from time to time appoints in this behalf;

(c) all property vested in the Council shall, during the period of dissolution, vest in the Government.

302. Re-establishment of Council after dissolution.— On the issue of an order of dissolution under sub-section, (3) of section 300, general election shall be held and the Council shall be re-established 446[within six months of its dissolution] on such date as the Government may specify in the order of dissolution.

447[Provided that where the remainder of the period for which the dissolved Council would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Council for such period.]

448[**302A. Duration of Council constituted upon dissolution.—** A Council constituted upon the dissolution of a Council before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Council would have continued during its full term of five years.]

303. Revisional powers of Government.— The Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Council or any officer subordinate to such Council or ercise of any power conferred on it or him by or under this

Act, call for and examine the record of any case pending before or disposed of by such Council or officer and may pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard:

Provided further that no such order shall be passed in any case in which an appeal is provided and has been preferred or has been decided:

Provided also that no such record shall be called by the Government after one year from the date of the passing of the order by the Council or the officer concerned.

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444 Substituted by the Amendment Act 13 of 1994.
445 Substituted by the Amendment Act 13 of 1994.
446 Inserted by the Amendment Act 13 of 1994.
447 Inserted by the Amendment Act 13 of 1994.
448 Inserted by the Amendment Act 13 of 1994.

304. Government's powers to enforce its orders.— In all matters connected with this Act, if a Council makes default in carrying out any order made by the Government or by any authority other than the Council in exercise of any of the powers conferred on it by this Act or any rule or bye-law made thereunder, the Government shall have all the powers necessary for the enforcement of such order at the cost of the Council.

305. Powers of review.— The Government may, either on its own motion or on the application of any party interested, review any order passed by itself or any sanction or approval given under this Act, and the Director or the Collector may, similarly, review an order passed by himself or any sanction or approval given by him under this Act, and pass such order in reference thereto as it or he thinks fit:

Provided that —

(i) no order shall be varied or reversed or no sanction or approval reviewed unless notice has been given to the parties interested to appear and be heard;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall so long as such appeal or proceedings are pending, be reviewed;

(iii) no order affecting any question of right between private persons shall be reviewed, except on the application of a party to the proceedings and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

CHAPTER XXIII

Rules and Bye-laws

306. Power of Government to make rules.— (1) The power to make all rules under this Act shall be exercisable by the Government by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the Government may make rules consistent with this Act generally to carry out the purposes of this Act.

(3) All rules made under this Act shall be subject to the condition of previous publication, for fifteen days.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislature of the Union territory while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislature agree in making any modification in the rule or the Legislature agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification 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.

307. Power of Councils to make bye-laws.— (1) The power to make all bye-laws under this Act shall be exercisable by each Council, subject to the previous sanction of the Director or the Government as hereinafter provided.

(2) Without prejudice to any power to make bye-laws contained elsewhere in this Act, a Council may make bye-laws consistent with this Act and the rules made thereunder for the administration of its affairs and for the guidance of its Committees, officers and servants.

(3) (a) The Council, whenever it desires to make bye-laws under this Act, shall by a resolution at a special meeting approve a draft of such bye-laws.

(b) The Council shall put up the draft on its notice board and publish it in a local newspaper, as soon as may be possible, after such resolution is passed, inviting the inhabitants to submit their objections and suggestions to the Council within a reasonable period to be specified in such notice.

(c) The Council at a special meeting shall then consider the objections and suggestions received, if any, and shall by a resolution approve the final draft of the bye-laws.

(d) Within seven days of the passing of such resolution, the Council shall send such final draft to the Director.

(e) The Director shall examine the final draft of the bye-laws sent to him under clause (d) and may—

(i) refuse to sanction them or return them to the Council if in his opinion,—

(A) the bye-laws are inconsistent with this Act or the rules made thereunder and the inconsistency cannot be removed except by materially altering the bye- -laws; or

(B) objection, if any, to the bye-laws has not been duly considered by the Council; or

(C) there is any new objection to the bye-laws; or

(D) the rates of taxes or fees proposed in the bye-laws are inadequate; or

(ii) sanction them, with or without such modifications as he considers necessary.

The Director shall publish the bye-laws as sanctioned by him in the Official Gazette and the bye-laws so published shall take effect from the date of their publication in the Official Gazette or such other subsequent date as may be mentioned therein;

(f) Notwithstanding anything contained in clause (e), if the bye-laws sent by any Council under clause (d) relate to imposition, abolition, remission, alteration or regulation of any tax, the Director shall forward them to the Government for sanction and thereupon the provisions of clause (e) shall apply as if for the word "Director" in the said clause the word "Government" had been substituted.

(4) If it appears to the Government that an amendment of any of the bye-laws of a Council is necessary or desirable in the interests of the general public or because they are inconsistent with any provisions of this Act or the rules made thereunder, the Government may, after consulting the Council, by notification in the Official Gazette, amend or cancel any of the bye-laws, and on the issue of such notification the bye-laws shall be deemed to have been duly amended or cancelled, as the case may be, accordingly, without prejudice to the validity of anything previously done or omitted to be done.

308. Power to make and enforce acceptance of model bye-laws.— (1) The Government may make model bye-laws on all or any of the matters in respect of which a Council is empowered to make bye-laws and publish them in the Official Gazette for the guidance of the Council.

(2) If a Council has not already made bye-laws on a matter for which model bye-laws are made by the Government, the Council may adopt the model bye-laws with such minimum changes as the peculiar local circumstances may warrant.

(3) If at any time it appears to the Director that the bye-laws made by a Council on any matters are inadequate to regulate such matters, and model bye-laws have been made by the Government for such matters, the Director may by an order in this behalf require the Council to adopt such model bye-laws modified to suit local conditions.

(4) The Council shall comply with orders of the Director under sub-section (3) above within two months of the date of such order.

(5) If the Council fails to comply with the orders of the Director, the Director may, by notification in the Official Gazette, apply such model bye-laws with such modification to suit local conditions as he thinks necessary to that Council in supersession of any bye- -laws which the Council may have made already on those matters. In that event, the model bye-laws so applied shall be deemed to have been duly made by the Council.

(6) If the model bye-laws made by the Government relate to the imposition, abolition, remission, alteration or regulation of any tax, the provision of sub-sections (3), (4) and (5) shall apply as if for the word "Director" therein the word "Government" had been substituted.

309. Copies of Act, rules and bye-laws to be made available at Council's office for public inspection and for sale.— Every Council shall keep at its head office copies of this Act and of the rules and bye-laws made thereunder and in force in the municipal area, in English, open to inspection to the inhabitants of that area, free of charge, during office hours. The Council may also arrange for the sale of copies of these books.

CHAPTER XXIV

Service of Notices, Execution of Works on Default and Compensation

310. Service of notices, etc., addressed to individuals.— (1) When any notice is required by or under this Act to be served upon, issued or presented to, any person, such service, issue or presentation shall, in all cases not otherwise provided for in this Act, be effected—

(a) by giving or tendering the notice to the person to whom it is addressed; or

(b) if such person is not found, by giving or tendering it to some adult member or servant of his family found at his usual place of residence or at his last known place of abode;

(c) If none of the means aforesaid be available, or if the person to whom such notice is given or tendered refuses to accept it, then by causing the notice to be affixed on some conspicuous part of the building or land, if any, to which the notice relates.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon, issued or presented to, an owner or occupier of any building or land,—

(i) it shall not be necessary to name the owner or occupier in such notice,

(ii) if there be more owners or occupiers than one, such notice may be served upon or issued or presented to any one of them.

(3) Whenever it is provided by or under this Act, that any notice may be served upon, issued or presented to, the owner or occupier of any land or building, and the owner and occupier are different persons, such notice, shall be served upon, issued or presented to, the one of them primarily liable, to comply with such notice, and in case of doubt, to both of them:

Provided that, in any such case, if there is no owner resident within the municipal area, the delivery of such notice to the occupier shall be sufficient.

(4) The provisions of sub-sections (1), (2) and (3) shall *mutatis mutandis* apply to any bill, requisition, order or summons or such other document to be served, issued or presented by or under this Act.

(5) Notwithstanding anything contained in sub-section (1), in the case of 'A' or 'B' Class Councils, a bill for any municipal tax may be served upon the person liable therefor by sending it by post with a pre-paid letter under a certificate of posting, addressed to such person at his last known place of abode or place of business in the municipal area, and every bill so sent shall be deemed to have been served on the day following the day on which such letter was posted, and, in proving such service, it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

311. Publication of public and general notices.— Every general or public notice which by or under this Act, a Council or any municipal authority or officer is required or empowered to publish shall, in addition to any other procedure for its publication laid down by or under this Act, be published by putting up such notice on the municipal notice board.

(2) Such a general or public notice may also be published in addition in any of the following manners:—

(a) by putting up such notice at such prominent places within the municipal area or if such notice pertains to any locality in the municipal area only, then at such prominent places within that locality as the Council may from time to time select;

(b) by publishing such notice in such newspapers circulating within the municipal area as the Council may from time to time approve;

(c) by beat of drum or any other customary mode of publicity within the municipal area.

(3) If, by or under this Act, the notice is required to be published in the manner specified in clause (b) of sub-section (2), and if in the opinion of the authority publishing such notice it is not practicable to publish the full text of the notice having regard to the cost of such publication, it shall be deemed to be sufficient compliance with clause (b) of sub-section (2) if such notice is placed on the municipal notice board and if a gist of such notice is published in the newspaper approved under clause (b) of sub-section (2), together with an announcement that the full text of the notice has been placed on the municipal notice board.

(4) The provisions of this section shall apply to any proclamation, order or other instrument which the Council or any municipal authority or officer is required or empowered to publish for general information of the residents of the municipal area.

312. Reasonable time to be fixed when no time fixed under the Act for any requisition.— Where any notice, order or requisition under this Act requires any act to be done for which no time is fixed by or under this Act, such requisition shall fix a reasonable time for doing the same.

313. Council in default of owner or occupier may execute works and recover expenses.— (1) Where by or under this Act, any person is required to exe-cute any work or do anything and default is made in the execution of such work or the doing of such thing, the Council, whether any penalty is or is not provided for such default, may cause, such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to the Council by the person by whom suchwork ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of a property tax, either in one sum or by instalments, as the Council may deem fit:

Provided that,—

(a) except as otherwise provided by or under this Act, a notice shall be issued to such person requiring him to execute such work or to do such thing;

(b) where any drainage scheme or water works scheme has been commenced by any Council, it shall be lawful for the Council, without prejudice to its powers under section 195 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the Council shall render; and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (2) and (3);

(c) where an order or requisition has been passed under sub-section (1) of section 170, section 178, sub-section (4) or (12) of section 184 or under section 195, 197, 202 or 203 or where permission has been given under section 199 or where an arrangement has been made under proviso (b) of this sub-section, the Council may, without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred by the Council in the execution of such order or in the carrying out of such

requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the Council may decide, including interest at the rate of seven and a half per cent, per annum, and shall be recoverable in the manner described in sub-sections (2) and (3).

(2) If the defaulter be the owner of any building or land in respect of which he is required to execute any work or do anything, the Council may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (3), the payment of all or any part of the expenses, payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any property tax; every such occupier shall be entitled to deduct from the rent payable by him to his land-lord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him, or which at any time after such demand and notice not to pay rent to the land-lord has accrued and become payable by such occupier, unless he neglects or refuses, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable, but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contractmade between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

314. Proceedings, if any occupier opposes the execution of the Act.— If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Executive Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute any such work, such occupier shall, on conviction, for every day during which he so continues to refuse, be punished with fine which may extend to [449][five hundred rupees] and every such owner, during the continuance of such refusal, shall be discharged

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[449] Substituted by the Amendment Act 27 of 2002.

from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

315. Determination of damages, compensation, etc.— (1) Save as otherwise expressly provided in this Act, if an agreement is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and, if necessary, the apportionment of the same, shall be ascertained and determined by the Council.

(2) Any person who is aggrieved by the amount of compensation or damages determined by the Council or the apportionment of such compensation or damages, may within one month from the date of receipt by him of an intimation about the compensation or damages or the apportionment thereof determined by the Council, appeal to the District Court against the determination made by the Council.

(3) Any person who is aggrieved by the failure of the Council to determine the amount of compensation or damages or the apportionment thereof, may give to the Council a notice stating the circumstances of the case and requesting the Council to determine the amount of compensation or damages or the apportionment thereof. If the Council fails so to determine the amount of compensation or damages or the apportionment thereof within a period of one month from the receipt by it of the notice aforesaid, such person may apply to District Court to determine the amount of compensation or damages or the apportionment thereof.

(4) In cases in which the compensation is claimed in respect of land, the District Court in deciding any appeal or application under sub-section (2) or

(3) shall follow, as far as may be, the procedure provided by the Land Acquisiton Act, 1894, for proceedings in matters referred for the determination of the Court: 1 of 1894.

Provided that—

(a) no application to the Collector for a reference shall be necessary; and

(b) the Court shall have full power to give and apportion, the costs of all proceedings in any manner it thinks fit.

(5) In any case where the compensation is claimed in respect of any land or building, the Council may, after the award has been made by the Council or the District Court, as the case may be, take possession of the land or building, after paying the amount of compensation determined by the Council or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the Council shall deposit the amount of the compensation in the District Court.

316. Costs or expenses how determined and recovered.— If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and, if necessary, the apportionment of the same, shall, save where it is otherwise

expressly provided in this Act, be ascertained and determined by the Council and shall be recoverable in the same manner as an amount claimed on account of a property tax.

CHATTER XXV

Miscellaneous

317. Informalities and errors in assessment etc., not to be deemed to invalidate such assessment, etc.— (1) Any informality, clerical error, omission or other defect of form in any assessment made or in any distress levied or in any notice, bill, summons or other document issued under this Act or under any rule or bye-law made under this Act, may at any time, as far as possible be rectified —

(a) when any special procedure has been laid down by or under this Act for the rectification of such informality, clerical error, omission or other defect, after following such procedure; and

(b) where no such procedure has been laid down, after giving an intimation in writing to the person affected by such rectification.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, summons or other document invalid or illegal, if the provisions of this Act, or of the rules or bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover full satisfaction for the special damage in any Court of competent jurisdiction.

318. Entry for purposes of the Act.— (1) Subject to the provisions of sub-section (2) to (4), it shall be lawful for the [450][Chairperson], the [451][Vice-Chairperson], the Chief Officer or any officer authorised by or under this Act, or by the Chief Officer in this behalf, to enter for the purposes of this Act with such assistants as he may deem necessary, into and upon any building or land and to open or cause to be opened any door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent or being present refuses to open such door, gate or barrier.

(2) Save as otherwise provided in this Act or any rule or bye-law made thereunder, no entry authorised by or under this Act, shall be made except between the hours of sunrise and sunset.

(3) Save as otherwise provided in this Act or any rule or bye-law made thereunder, no land or building shall be entered into or upon without the consent of the occupier or, if there be no occupier, of the owner thereof and no such entry shall be made without giving

[450] Substituted by the Amendment Act 13 of 1994.
[451] Substituted by the Amendment Act 13 of 1994.

the said occupier or owner, as the case may be, not less than twenty four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or trade premises or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction, or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any bye-law made thereunder.

(4) When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female

shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

319. Chief Officer may authorise any person to enter upon adjoining premises. —(1) Whenever any person is required to execute any work by or under the provisions of this Act and the Chief Officer is of opinion whether on receipt of an application from such person or otherwise that the only or the most convenient means by which such person can execute such work is by entering any of the adjoining premises belonging to some other person, the Chief Officer, after giving the owner or occupier of such adjoining premises a reasonable opportunity of stating any objection, may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the person required to execute the work, to enter such adjoining premises:

Provided that, in an emergency, the Chief Officer may authorise any person to enter such adjoining premises, without giving the owner of such adjoining premises, opportunity to state his objection, if any.

(2) Subject to the provisions of sub-section (3), every such order bearing the signature of the Chief Officer shall be sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, to enter upon the said premises with assistants and workmen, and to execute the necessary work.

(3) The provisions of sub-sections (2), (3) and (4) of the last preceding section, except the proviso to sub-section (3) of that section, shall *mutatis mutandis* apply to every entry made under this section.

(4) In making such entry or in executing such work, as little damage as can be shall be done to the property of the owner of the adjoining premises, and the owner or occupier of the premises for the benefit of which the work is done, shall—

(i) cause the work to be executed with the least practicable delay; and

(ii) pay compensation to any person who sustains damage by the execution of such work.

If there is any dispute as regards the amount of compensation to be paid, such amount shall be determined by the Chief Officer.

(5) If the owner or occupier of the premises for the benefit of which the work is done, refuses to pay the compensation payable under sub-section (4), the amount of such compensation may be recovered by the Chief Officer as an arrear of a property tax and paid to the person who sustains damage by the execution of such work.

320. Power of Chief Officer to call for information as to ownership of any property.— (1) The Chief Officer may, in order to facilitate the service, issue, presentation or giving of any notice, bill, summons or such other document upon or to any person, by written notice require the owner or occupier of any immovable property or of any portion thereof or the owner or person in charge of any movable property to state in writing, within such period as the Chief Officer may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein whether as freeholder, mortgagee, lessee or otherwise so far as such name and address are known to him.

(2) Any person required by the Chief Officer in pursuance of sub-section (1) or any other provision of this Act to give the Chief Officer any information shall be bound to comply with the same, and to give true information to the best of his knowledge and belief.

321. Power of Collector to recover record and money.— (1) Where on information received, the Director is of the opinion that any person, who in his capacity as a [452][Chairperson], [453][Vice-Chairperson], Councillor, or officer or servant of a Council had in his custody any records, stores or money or other property belonging to the Council, inspite of the expiry of his term of office or his removal or suspension from office, as the case may be, has not delivered such records, stores, money or other property to his successor in the office, the Director may by a written order require that the records, stores, money or other property so detained, be delivered to such successor within the time to be specified in such order.

(2) If such [454][Chairperson], [455][Vice-Chairperson], Councillor, or officer or servant of the Council fails to comply with the order of the Director under the foregoing sub- -section, it shall be lawful for the Director,—

(a) for recovering any such money, to direct that such money may be recovered as an arrear of land revenue and on such direction being given by the Director such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such records or stores or other property, to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973 [456]["(Central Act 2 of 1974)"].

(3) No action shall be taken under this section, unless the person concerned has been given a reasonable opportunity to show cause why such action should not be taken against him.

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[452] Substituted by the Amendment Act 13 of 1994.
[453] Substituted by the Amendment Act 13 of 1994.
[454] Substituted by the Amendment Act 13 of 1994.
[455] Substituted by the Amendment Act 13 of 1994.
[456] Substituted by the Amendment Act 13 of 1994.

(4) The fact that action is or has been taken against an outgoing [457][Chairperson]or [458][Vice-Chairperson]under the provisions of this section shall not be a bar to the prosecution of such [459][Chairperson] or [460][Vice-Chairperson] under sub-section (4) of section 58.

322. Power to grant *expost facto* sanction.— Where by or under this Act, the previous sanction of any authority is required in respect of any staff or expenditure and such previous sanction is not obtained, such authority may accord ex-*post facto* sanction, if it is satisfied that such action was *bonafide* and has not caused or is not likely to cause injury to any person or that the action taken was in public interest.

[461]**['322A. Powers for preparation of plans etc.—** The Council shall prepare plans for economic development and social justice and perform the functions and implement schemes as may be entrusted to it including those in relation to the matters listed in the X Schedule.

322B. Constitution of Development Committee.- (1) Every Council shall constitute a Development Committee consisting of such number of members not exceeding seven as may be prescribed.

(2) The Committee constituted shall carry out responsibilities as may be prescribed including those in relation to the matters listed in the X schedule.']

323. General provisions regarding grant, suspension or withdrawal of licences and written permission and levy of fees, etc.— (1) Whenever it is provided by or under this Act that a licence or a written permission may be given for any purpose, such licence or permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which an application for the renewal of the same shall be made, and shall be given under the signature of the Chief Officer or of any other municipal officer empowered by or under this Act or by the Chief Officer to grant the same.

(2) Except as otherwise provided by or under this Act, there shall be charged a fee —

(a) for every such licence at such rates as shall from time to time be specified in the respective provision of the bye-laws relating to the grant of such licence; and

(b) for every such written permission at such rates as shall from time to time be specified in the bye-laws made in this behalf:

Provided that —

(i) such fee may be a recurring fee;

(ii) the bye-laws may provide for the levy of a higher fee by way of penalty for any act done by any person without licence or written permission;

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457 Substituted by the Amendment Act 13 of 1994.
458 Substituted by the Amendment Act 13 of 1994.
459 Substituted by the Amendment Act 13 of 1994.
460 Substituted by the Amendment Act 13 of 1994.
461 Section 322A and 322 B inserted by the Amendment Act 13 of 1994.

(iii) the higher fee levied under clause (ii) of this proviso shall be leviable in addition to any other penalty or liability to which such person may be liable under the provisions of this Act or any rules or bye-laws made thereunder.

(3) Any licence or written permission granted under this Act may at any time be suspended or revoked by the competent authority, if such authority is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restrictions or conditions are infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any rule or bye-law pertaining to any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or revoked or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the order for suspending or revoking the licence or written permission is cancelled or until the licence or written permission is renewed, as the case may be:

Provided that, when an application has been made for the renewal of a licence or written permission by the date specified therein, the applicant shall be entitled to act as if it has been renewed, pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Chief Officer or any municipal officer duly authorised in this behalf, produce such licence or written permission.

(6) Every application for a licence or written permission shall be addressed to the Chief Officer.

(7) The acceptance by or on behalf of the Council of the fee for a licence or permission shall not in itself entitle the person paying the fee to the licence or permission.

324. Power to order closure of place.— Upon a conviction being obtained in respect of the use of any place for any purpose without a licence or permission or in contra- vention of the conditions subject to which any licence or permission may have been granted, the Magistrate may, on the application of the authority competent to grant such licence or permission but not otherwise, order such place to be closed, and thereupon appoint any person or persons or take other steps to prevent such place being so used.

325. Power of Govt. to make suitable provisions by order when a municipal area is created or altered.— (1) In this section, unless the context otherwise requires —

(a) "specified day" rnean the day from which any local area is declared to be a municipal area under sub-section (1) of section 3 or the day from which a change referred to in any of the clauses (a) to (d) of sub-section (1) of section 6 takes effect;

(b) "existing local authority", in relation to any local area, means the Municipal Council or the panchayat having jurisdiction over such area immediately before the specified day;

(c) "successor local authority", in relation to any local area, means the Municipal Council or the panchayat having jurisdiction over such area from the specified day;

(d) "Panchayat" means a village panchayat established or deemed to be established for any village or group of villages under the [462][Goa Panchayat Raj Act, 1993]

(2) When—

(a) any local area is declared to be a municipal area;

(b) any local area is added to a municipal [463][or];

(c) any local area is excluded from a municipal area;

(d) [464][ ]

(e) [465][ ] the Government may notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette, provide for all or any of the following matters, namely: —

[466][(i) in a case falling under clause (a) or (b), all relevant provisions of this Act shall apply and all rules, bye-laws, orders, notifications, directions issued and in force in the municipal area at the time of inclusion of such area shall apply to the area or areas so included];

(ii) [467][ ]

(iii) in a case falling under clause (c), the removal of the Councillors, who, in the opinion of the Government represent the area excluded from the municipal areas;

(iv) [468][ ]

(v) [469][ ]

(vi) the transfer, in whole or in part, of the assets, rights and liabilities of an existing local authority (including the rights and liabilities under any agreement or contract made by it) to any successor, local authorities or the Government and the terms and conditions for such transfer;

(vii) the substitution of any such transferee for an existing local authority or the addition of any such transferee as a party to any legal proceeding to which an existing local authority is a party; and the transfer of any proceedings pending before the existing local authority or any authority or officer subordinate to it to any such transferee or any authority or officer subordinate to it;

(viii) the transfer or re-employment of any employees of an existing local authority to, or by, any such transferee or the termination of service of any

[462]Substituted in place of words "Goa, Daman and Diu Village Panchayats Regulation, 1962." By the Amendment Act 13 of 1994.

[463] Substituted in place of word "area" by the Amendment Act 13 of 1994.

[464] Clause [d] omitted by the Amendment Act 13 of 1994.

[465] The words omitted by the Amendment Act 13 of 1994.

[466] Substituted by the Amendment Act 13 of 1994.

[467] Sub-clause (ii) omitted by the Amendment Act 13 of 1994.

[468] Sub-clause (iv) omitted by the Amendment Act 13 of 1994.

[469] Sub-clause (v) omitted by the Amendment Act 13 of 1994.

employees of an existing local authority and the terms and conditions applicable to such employees after such transfer or re-employment or termination;

(ix) the continuance within the area of an existing local authority of all or any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws, regulations or forms made, issued, imposed or granted by, or in respect of, such existing local authority and in force within its area immediately before the specified day, until superseded or modified under this Act;

(x) the extension and commencement of all or any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws, regulations or forms made, issued, imposed or granted under this Act by, or in respect of, any existing Council and in force within its area immediately before the specified day, to and in all or any of the other areas of the successor Council, in supersession of corresponding appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws, regulations or forms (if any) in force in such other areas immediately before the specified day, until the matters so extended and brought into force are further superseded or modified under this Act;

(xi) the continuance within the area of an existing local authority of all or any budget estimates, assessments, assessment lists, valuation made or authenticated by, or in respect of, such existing local

authority and in force within its area immediately before the specified day, until superseded or modified under the relevant law;

(xii) the removal of any difficulty which may arise on account of any change referred to in clause (a) to [470][(c)].

(3) Where an order is made under this section transferring the assets, rights and liabilities of an existing local authority, then, by virtue of that order, such assets, rights and liabilities of the existing local authority shall vest in and be the assets, rights and liabilities of, the transferee.

(4) (a) Where an order is made under this section, the Director shall, before the expiry of the term of the Councillors [471][ ] elected under paragraph (i), [472][ ] or of the Council in whose case the number of Councillors is reduced under paragraph, (iii) of sub-section (1), take steps in accordance with section 9 of this Act, for the purpose of determining the number of Councillors of, and for holding election for, the new Council or Councils, as the case may be;

(b) [473][the Councillors of the Council in whose case there is an interim increase in their number, shall, notwithstanding the expiry of the term for which they may have been elected, continue in office for the area concerned, until immediately before the first meeting of the new Council or Councils, as the case may be;]

(c) save as otherwise provided by or under this section, the provisions of this Act shall *mutatis mutandis* apply to any such Council, its Councillors [474][ ].

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[470] Substituted by the Amendment Act 13 of 1994.
[471] omitted by the Amendment Act 13 of 1994.
[472] Omitted by the Amendment Act 13 of 1994.
[473] Substituted by the Amendment Act 13 of 1994.
[474] Omitted by the Amendment Act 13 of 1994.

326. Abolition of municipalities.— When the whole of the local area comprising a municipal area ceases to be a municipal area, with effect from the day on which such local area ceases to be a municipal area,—

(i) the Council constituted for such municipal area shall cease to exist or function;

(ii) the Councillors of the Council shall vacate office;

(iii) the Director may, notwithstanding anything contained in this Act or any other law for the time being in force, by an order published in the Official Gazette provide in respect of such area for all or any of the matters specified in paragraphs (vi) to (xii) (both inclusive) of sub-section (2) of section 325 and the provision of sub-section (3) of that section shall apply to such order.

CHAPTER XXVI

Repeals and Transitory Provisions

327. Repeal.— Subject to the provisions of this Chapter, all the Municipal Legislation under the Reforma Administrativa Ultramarina (R. A. U.) or any other law in force immediately before the commencement of this Act in the Union territory corresponding to this Act shall, on the appointed day, stand repealed except as respect things done or omitted to be done thereunder.

328. Interpretation.— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the Union territory.

329. Special provisions regarding the term of Councillors of existing Council whose term is due to expire.— Notwithstanding anything contained in any repealed law or in any other law for the time being in force, the term or extended term of office of the Councillors or members of any existing Council shall expire at 12 midnight of such day as the Government may by notification in the Official Gazette appoint.

330. Consequences of replacement of existing Councils.— With effect on and from the appointed day, the following consequences shall ensue, that is to say —

(a) the Municipal Councils (Camaras Municipals) (hereinafter and in section 329 called the "existing Councils"), shown in column 5 of Schedule I, which were functioning immediately before the appointed day, shall be deemed to be succeeded by the Councils shown against them in column 3 thereof (hereinafter called the "successor Councils");

(b) all property, movable and immovable, situated within the local area of a successor Council (and all interests of whatever nature and kind in such property) which vested in the corresponding existing Council immediately before the appointed day and which was being used immediately before the said day for the performance of any of the functions or duties which are required to be performed by the successor Council under the provisions of this Act, shall be deemed to be transferred to and shall vest, without further assurances to such successor Council, subject to all limitations, conditions and rights of interest of any person, body or authority in force or subsisting immediately before the appointed day;

(c) all property, movable and immovable, situated outside the local areas of a successor Council but within the jurisdiction of a Village Panchayat constituted under

the Goa, Daman and Diu Village Panchayats Regulation, 1962 (and all interests of whatsoever nature and kind in such property) which vested in an existing Council immediately before the constitution of such Village Panchayat for the performance of any of the functions or duties which are required to be performed by the said Village Panchayat under the provisions of the Goa, Daman and Diu village. Panchayats Regulation, 1962, and are not required by the Council for the performance of its duties under this Act, shall be deemed to be transferred to and shall vest, without further assurances in such Village Panchayat, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day;

(d) all property, movable and immovable, wherever situated (and all interests of whatsoever nature and kind in such property) which vested in an existing Council immediately before the appointed day and which was being used by it for a function which on and from the appointed day is not required to be performed by an existing Council under the provisions of this Act or by a Village Panchayat under the Goa, Daman and Diu Village Panchayats Regulation, 1962, shall be deemed to be transferred to and shall vest, without further assurances, in the Government, subject to all limitations, conditions and right or interests of any person, body or authority in force or subsisting immediately before the appointed day;

(e) all rights, liabilities and obligations of an existing Council (including those arising under an agreement or contract) shall be deemed to be the rights, liabilities and obligations of the corresponding successor Council, the Village Panchayat or the Government, according as the function or duty out of which such rights, liabilities and obligation have arisen, is required to be performed on and from the appointed day by such successor Council, Village Panchayat or the Government, as the case may be;

(f) all sums due to an existing Council, whether on account of any tax or otherwise, shall be recoverable by the successor Council, Village Panchayat, or the Government, according as the duty or function out of which such sum has become due, is required to be performed on and from the appointed day by the successor Council, the Village Panchayat or the Government and the successor Council, the Village Panchayat or the Government, as the case may be, shall be competent to take any measure or institute any proceedings, which it would have been open to the existing Council or any authority thereof to that effect before the appointed day;

(g) the municipal fund and liabilities other than those specified in sub-para (f) of an existing Council shall be deemed to be the municipal fund and liabilities of the successor Council;

(h) all contracts made with and all instruments executed on behalf of an existing Council, shall be deemed to have been made or executed on behalf of the successor Council, the Village Panchayat or the Government, according as the duty and function, as a result of which such contract was made or the instrument executed is required on and from the appointed day to be performed by the successor Council, the Village Panchayat or the Government, as the case may be, and shall be performed accordingly;

(i) all proceedings and matters pending before any authority under any of the repealed laws immediately before the appointed day, shall be deemed to be transferred

to the corresponding authority under this Act competent to entertain and dispose of such proceedings or matters;

(j) in all suits and legal proceedings pending on the appointed day in or to which an existing Council was a party, the successor Council or local authority shall be deemed to have been substituted therefor;

(k) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law, regulation or form held, made, issued, imposed or granted by or in respect of an existing Council under any of the repealed laws or any other law for the time being in force in the area of such existing Council, and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted in respect of the corresponding area of the successor Council, until superseded by an authority competent so to do:

Provided that—

(i) no rule made under any of the repealed laws in respect of an existing Council and in force immediately before the appointed day shall be deemed to be inconsistent with the provisions of this Act by reason only of the fact that under this Act it is permissible to make only a bye-law or any other instrument other than a rule in respect of the matter provided for in such rule;

(ii) the provisions of clause (i) of this proviso shall *mutatis mutandis* apply to any bye-laws, regulations, or any other instruments made under any of the repealed laws in respect of an existing Council and in force immediately before the appointed day;

(l) all budget estimates, assessments, asessment lists, valuations, measurements and divisions made by or in respect of an existing Council under any of the repealed laws or any other law for the time being in force in the area of such existing Council and in force immediately before the appointed day, shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made by, or in respect of, the successor Council for that area;

(m) any reference in any law or in any instrument to the provisions of any repealed law, shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act;

(n) any reference in any law or in any instrument to an existing Council shall, unless a different intention appears, be construed as a reference to the successor Council and such law or instrument shall apply to the successor Council;

(o) any reference in the above clauses to an existing Council shall, in case such Council has been superseded or dissolved or is not otherwise functioning, be deemed, to be a reference to the person or persons appointed to exercise the powers and discharge the duties and functions of such Council.

331. Pensions relating to officers and servants.— All officers and servants in the employment of an existing Council immediately before the appointed day, shall be deemed to be transferred to the service of the successor Council and shall, until other provision is made by a competent authority, receive such salaries and allowances, pension, provident fund, gratuity and other retirement benefits and be subject to such

other conditions of service, to which they were entitled immediately before the date of commencement of this Act:

Provided that the conditions of service applicable immediately before that date to the case of any officer or servant so transferred to the service of the successor Council shall not be varied to his disadvantage except with the previous approval of the Government:

Provided further that nothing in this section shall affect the powers of the successor Council to discontinue the service of any such officer or servant in accordance with the provisions of this Act.

332. Obligation to carry out certain duties and functions of existing Councils.—Notwithstanding anything contained in section 51, it shall be the duty of every successor Council or local authority to continue to carry out any duty or to manage, maintain or look after any institution, establishment, undertaking, measure, work or service, which the existing Council had been responsible for carrying out, managing, maintaining or looking after immediately before the appointed day, until the Government by order relieves the successor Council or local authority of such duty or function.

333. [475][ ]

334. Power to remove difficulty.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, as the occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the appointed day.

"SCHEDULE I

(*See* sections 4 and 330)

Sr. No.	District	Name of the Municipal Council	Classification of Municipal	Name of the existing Municipal Council or Municipal Committee Area
(1)	(2)	(3)	(4)	(5)
1	Goa	Panaji Municipal Council	B	Camara Municipal de Goa
2	Goa	Margao Municipal Council	B	Camara Municipal de Salcete
3	Goa	Mapusa Municipal Council	B	Camara Municipal de Bardez
4	Goa	Marmagoa Municipal Council	B	Camara Municipal de Marmugoa
5	Daman	Daman Municipal Council	B	Camara Municipal de Daman
6	Goa	Ponda Municipal Council	C	Camara Municipal de Ponda
7	Goa	Bicholim Municipal Council	C	Camara Municipal de Bicholim
8	Goa	Pernern Municipal Council	C	Camara Municipal de Pernem
9	Goa	Kepem Municipal Council	C	Camara Municipal de Kepem
10	Goa	Sanguem Municipal Council	C	Camara Municipal de Sanguem
11	Goa	Canacona Municipal Council	C	Camara Municipal de Canacona
12	Goa	Sattari Municipal Council	C	Camara Municipal de Sattari
13	Diu	Diu Municipal Council	C	Camara Municipal de Diu"

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[475] Section 333 omitted by the Amendment Act 13 of 1994.

SCHEDULE II

(*See* section 126)

Form of Notice of Transfer to be given when the Transfer has been effected by Instrument To

The Chief Officer,

... Council,

I, A. B., hereby give notice as required by section 126 of the Goa [476][ ] Municipalities Act, 1968, of the following transfer of property:—

					DESCRIPTIONOFTHEPROPERTY							
Date of Notice	Date of Instrument	Name of vendor or assignor	Name of purchaser or assignee	Amount of consideration	of what it consists	Situation	Number in Assess-ment Book	Chief Officer' s No.	Dimensions of land	Boundaries	If any instrument has been registered, the date of registration	Remarks

Dated ....

(Signed)
…

SCHEDULE III
(*See* section 126)

Form of Notice of Transfer to be given when the Transfer has taken place otherwise than by Instrument

To

The Chief Officer,
... Council,

I, A. B., hereby give notice as required by section 126 of the Goa [477][ ] Municipalities Act, 1968, of the following transfer of property:—

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[476] Omitted by the Amendment Act 13 of 1994.

			DESCRIPTION OF THE PROPERTY						
Date of Notice	Name in which the property is at present entered in the Chief Officer's	To whom it is to be transferred	Of what it consists	Situation	Number in Assessment Book	Chief Officer's No.	Dimensions of land	Boundaries	Remarks

Dated ....

(Signed)

…

SCHEDULE IV

(*See* section 146)

Form of Notice of Demand

To

A. B., ... residing at ...

Take notice that the ... Council demand from ... the sum of ... due from ... on account of ... (Here describe the property or other thing in respect of which the tax is leviable) leviable under bye-law No. ... for the period of.... commencing on the ... day of … 19..., and ending on the ... day of ... 19..., and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at ... and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this ... day of ..... 19...

(Signed)

Chief Officer

[477] Omitted by the Amendment Act 13 of 1994.

SCHEDULE V

(*See* section 147)

Form of Warrant

(Here insert the name of the officer charged with the execution of the warrant).

Whereas A. B., of ... has not paid, and has not shown satisfactory cause for the non- -payment of, the sum of ... due for the tax *(.....) for the period ... commencing on the .....

day of ... 19…, and ending with the ... day of ... 19..., and leviable under… rule / bye-law No. ….

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you distrain / attach subject to the provisions of section 147 of the Goa [ ][478] Municipalities Act, 1968 the goods and chattels / any property of the said A. B. to the amount of …… being the amount due from him as follows:—

	Rs.	Ps.
On acount of the said tax … … … …		
For service of notice .... … … …		
For issue of warrant ... ... … …		

and forthwith to certify to me together with this warrant all particulars of the by you thereunder.

Dated this ... day of ... 19....

goods distrained / property attached

(Signed) Chief Officer *Describe the tax.

SCHEDULE VI

(*See* clause (c) of section 150 and sub-section (1) of section 136 **Form of Inventory and Notice**

To

A. B., ... residing at ...

Take notice that I have this day distrained / attached the goods and chattels / property specified in the inventory beneath this, for the value of … due for the tax *(……..) for the period commencing with the ... day of ... 19 ... and ending with the ... day of .... 19 ..., together with Rs. ...

448

[478] Omitted by the Amendment Act 13 of 1994.

amount together with the costs of recovery, the said goods and chattels / property will be sold.

Dated this ….day of … 19 ….

Signature of Officer executing the warrant
collecting octroi or toll

Inventory

goods and chattels
(Here state particulars of property seized).

*Describe the tax

_____

SCHEDULE VIII

[*See* sub-section (1) of section 266]

Articles which shall not be kept in or upon any premises without a licence

(1) dynamite;
(2) blasting powder;
(3) fulminate of mercury;
(4) gun-cotton or gun-powder;
(5) nitro-glycerine;
(6) phosphorus.

SCHEDULE IX

[*See* sub-section (2) of section 266]

Part I

Articles which shall not be kept without a licence in or upon any premises in quantities exceeding at any one time the respective maximum quantities hereunder specified opposite such articles

Articles	Maximum quantity which may be kept at any one time without a licence
1	2
(1) Bamboos	500 kg.
(2) Bidi leaves	50 kg.
(3) Camphor	2 kg.

449

[479] Deleted by the Amendment Act 9 of 1980.

1	2
(4) Celluloid	25 kg.
(5) Celluloid goods	25 kg.
(6) Cinematograph film	1 kg.
(7) Copra	50 kg.
(8) Cotton refuse and waste	50 kg.
(9) Cotton seed	200 kg.
(10) Dry leaves (patravali, etc.)	25 kg.
(11) Fish (dried)	500 kg.
(12) Gun-powder	500 gms.
(13) Matches for lighting	1 gross boxes 5 litres
(14) Methylated spirit and denatured spirit	50 kg.
(15) Paints	25 litres
(16) Petroleum as defined in the Petroleum Act, 1934	25 litres
(17) Oil (other sorts)	500 kg.
(18) Oil-seeds other than cotton seed	50 kg.
(19) Oil paper (waste) including news-papers, periodicals, magazines, etc.	500 kg.
(20) Rags	2 kg.
(21) Sulphur	5 kg.
(22) Tar, pitch, dammer or bitumen	5 litres
(23) Turpentine	10 litres
(24) Varnish	50 kg.
(25) Wool (raw)	

PART II

Articles which shall not be kept without a licence in or upon any premises For sale or for purposes other than domestic use

(1) Bones
(2) Coconut fibre
(3) Charcoal
(4) Coal
(5) Coke
(6) Fat
(7) Firewood
(8) Fireworks
(9) Grass (Dry)
(10) Gunny bags
(11) Hair
(12) Hay and fodder
(13) Hemp
(14) Hessian cloth (Gunny bag cloth)
(15) Hides (dried)
(16) Hides (raw)
(17) Hoofs
(18) Horns.
(19) Khokas or wooden boxes or barrels (Manufacturing and storing) (20) Skins
(21) Timber

SCHEDULE – X

(*See* Section 322 A)

1.Urban Planning including town planning.

2.Regulation of land-use and construction of buildings.

3.Roads and bridges.

4.Urban forestry, protection of the environment and promotion of ecological aspects. 5.Slum improvement and upgradation.

6.Provision of urban amenities and facilities such as parks, gardens, playgrounds.

7.Burials and burial grounds; cremations, cremation grounds and electric crematoriums. 8.Cattle pounds; prevention of cruelty to animals.

9.Vital statistics including registration of births and deaths.

10.Public amenities including street lighting, parking lots, bus stops and public conveniences. 11.Regulation of slaughter houses and tanneries.

Department of Labour

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Notification

25/8/85-ILD

Whereas in exercise of the powers conferred by clause (a) of sub-section (1) of section 5 of the Minimum Wages Act, 1948 (Central Act XI of 1948) (hereinafter referred to as "the said Act"), the Government of Goa by notification No. 25/8/85-ILD dated 6-12-85 of Industries and Labour Department, published in the Official Gazette No. 38, Series II dated 20-12-1985 appointed a Committee to hold enquiries and advise it in the matter of revising the minimum rates of wages in respect of the Scheduled Employment, namely 'Employment under any local authority—Municipal Councils' in the State of Goa.

And whereas, the said Committee has submitted its report to the Government;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with sub-section (2) of section 5 of the said Act, the Government of Goa after considering the advice of the said Committee hereby with effect from 16th August, 1988 fixes minimum rates of wages payable to the class/categories of employment namely "Employment in any local authority—Municipal Councils" in the State of Goa as specified in the Schedule below:

SCHEDULE

Sr. No.	Class of work/category of employment	All inclusive minimum rates of wages in the State of Goa
1.	Ministerial and Non--Ministerial Class III & Class IV employees in all Municipal Councils.	Same rates of wages inclusive of all allowances declared from time to time in respect of scales of pay in Column No. 4 of the Schedule of the Notification No. 10/47/85/DMA (Vol. I) dated 10-3-1986 published in the Official Gazette, Series I No. 4 dated 24-4-1986, if the same categories of employees are employed on daily rates of wages, they shall be paid 1/26th (one twenty sixth) of the respective monthly rates per day.

Explanations:

i) Where in any area/establishment/scheduled employment, wages fixed under the Scheduled Employment, namely "Employment under any local authority—Municipal Councils" in the State of Goa or by agreement/settlement or contract or contractors' regulations attached to the conditions of contract, higher rates of wages are payable to the employees then such higher rate would be payable as minimum wages under this notification.

ii) Unskilled work is one which involves simple operations requiring little or no skill or experience on the job.

a) Semi-skilled work is one which involves skill or competence acquired through experience on the job and which is capable of being performed under the supervision or guidance of skilled employee and includes unskilled supervisory work.

b) Skilled work is one which involves skill or competence required through experience on the job or through training as an apprentice or in a technical or vocational institute and the performance of which calls for initiative and judgement.

iii) The minimum rates of wages fixed is an all inclusive rate including the wages for the weekly day of rest but does not include daily batta/food allowance.

iv) The minimum rates of wages are applicable to employees engaged by the principal employers or contractors or sub-contractors.

v) Both men and women workers have to be paid same rates of wages fixed for the category and for equal work.

vi) In case of employees employed on piece-rate basis, the minimum rates of wages payable to him shall be at the rate not less than the minimum rates of wages fixed for the class/category to which he belongs under this notification.

vii) The minimum rates of wages payable to an adolescent certified to work as an adult shall be same as an adult. In case he or she is certified to work as an adolescent only, the rate of wages payable shall be 80% of the minimum rates of wages fixed for adults.

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Industries & Labour).

Panaji, 12th August, 1988.

Directorate of Municipal Administration

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Notification

10/47/85-DMA (Vol-I)

In exercise of the powers conferred by section 73(2)(b) of the Goa, Daman and Diu Municipalities Act, 1968 and all other powers enabling me in this behalf, I, Denghnuna, the Director of Municipal Administration, make the following revised Recruitment Rules to Group 'C' & 'D' posts in the Municipal Councils of this Union Territory of Goa, Daman and Diu.

1. Short title.— These rules may be called Goa, Daman and Diu Municipalities Group 'C' & 'D' (Ministerial and non-Ministerial non-Gazetted) posts Recruitment Rules, 1986.

2. Application.— These rules shall apply to the posts specified in Col. 1 of the Schedule to these Rules.

3. Classification and scale of pay.— The classification of the posts and the scales of pay attached thereto shall be specified in Col. 3 and 4 of the said schedule.

4. Method of recruitment, age limit and other qualification.— The method of recruitment of the said posts, age limit, qualifications and other matters connected therewith shall be as specified in Col. 5 to 13 of the aforesaid schedule, provided that:—

a) The maximum age limit specified in the schedule in respect of direct recruitment may be released in the case of candidates belonging to the Scheduled Castes/Scheduled Tribes and other special categories (to the extent it is being done for candidates belonging to these communities for recruitment to posts under the Government of Goa, Daman and Diu) and

b) No male candidate who has more than one wife living and no female candidate who has married a person having already a wife living shall be eligible for appointment unless the Government after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule.

5. The post of Translator-cum-Archivist is not included in the general category and the same is redesignated as Head Clerk alongwith its incumbent.

6. These rules shall come into effect from the date of the Notification and shall relate to appointments to the various posts made on or after this date. The appointments made prior to this date in exercise of the powers vested in the President, the Standing Committee and the Municipal Council, as the case may be, under section 73(4) (b) of the Goa, Daman and Diu Municipalities Act, 1968 or any other powers in this behalf, shall be regularized in accordance with these Recruitment Rules.

Denghnuna, Director of Municipal Administration.

Panaji, 10th March, 1986.

SCHEDULE

Name of the post	No. of posts	Classification	Scale of pay	Whether selection or non-selection post	Age limit for direct recruitment	Educational and other qualifications requested for direct recruits	Whether age and Educational Qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation if any	Method or recruitment whether by direct recruitment or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/ /deputation/transfer, grades from which promotion/ /deputation/transfer is to be made	If a D. P. C. exists, what is its composition	Circumstances in which Union Public Service Commission is to be consulted in making recruitments
1	2	3	4	5	6	7	8	9	10	11	12	13
1) Superintendent	—	Group 'C' Non-Gazetted, Ministerial	Rs. 550-20-650-25-750	Selection	N. A.	N. A.	N. A.	2 years	Promotion failing transfer/ /deputation from Government Department	Promotion from Head Clerk having 5 years experience in the grade failing transfer of Superintendent from any Government Department	1)President/ /Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
2) Head Clerk	—	— do —	Rs. 425-15-500-EB-15-560-20-700	— do —	— do —	— do —	Age: No Qls.: Minimum S. S. C.	— do —	Promotion failing transfer on deputation	Promotion from UDC/Jr. Steno/ /Storekeeper/ /Accounts Clerk/ /Cashier/Market Inspector having 3 years standing in the grade failing transfer of Head Clerk from the Collectorate of Goa or any other Government Department	1)President/ /Administrator 2)Addl. Director of Municipal Administration 3)Chief Officer of respective Municipal Council	—

1	2	3	4	5	6	7	8	9	10	11	12	13
3) U.D.C./ /Accts. Clerk/ /Treasurer/ /Cashier	—	Group 'C' Non-Gazetted, Ministerial	Rs. 330-10-380-EB-12-500-EB-15-560	Selection	N. A.	N. A.	Age: No Qls.: Minimum S. S. C.	2 years	Promotion failing transfer on deputation	Promotion from L.D.Cs. having 3 years standing in the grade failing transfer of UDC from the Collectorate of Goa or any other Government Department	1)President/ /Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
4) L.D.C.	—	— do —	Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400	Non-Selection	18-30 years	1) S.S.C. 2) Typing having 30 w.p.m.	Age: No. Qls.: Yes	— do —	50% Promotion 50% direct recruitment	Promotion from all Group 'C' & 'D' employees based on Common seniority with 3 years experience	— do —	—
5) Jr. Steno	—	— do —	Rs. 330-10-380-E	N. A.	18-30	1) S.S.C.	Age: No. Qls.: Yes	2 years	Promotion failing by direct	Promotion from L.D. Cs/Asstt.	1)President/ /Administrator	—

			-12-500- -EB-15- -560			with 100 w.p.m. 3) Typing having 35 w.p.m.			recruitment	Municipal Inspector/Site/ /Supervisor	2)Addl. Director of Municipal Administration 3)Chief Officer of respective Municipal Council	
6) Peon	—	Group 'D', Non- -Gazetted, Non- -Ministerial	Rs. 196-3- -220-EB- -3-232	Non- -Selection	— do —	1) VII Std. 2) Knowledge, of Konkani, English, Marathi and Hindi	— do —	— do —	— do —	Promotion from all Group 'D' employees with 3 years experience based on combined seniority	— do —	—
7) Recovery Officer	—	Group 'C', Non- -Gazetted, Ministerial	Rs. 425-15- -500-EB- -15-560- -20-700	N. A.	N. A.	N. A.	N. A.	N. A.	Transfer on deputation from Govt. Department	Transfer on deputation of Head Clerk/Aval Karkun/Special Recovery Officer or U.D.C. with 5 years experience from Government Department	N. A.	—

1	2	3	4	5	6	7	8	9	10	11	12	13
8) Store-keeper	—	Group 'C', Non- -Gazetted Ministerial	Rs. 330-10- -380-EB- -12-500- -EB-15- -560	Selection	N. A.	N. A.	Age: No Qls.: Minimum S.S.C.	2 years	Promotion	Promotion from LDCs/Asstt. Mun. Inspector/Site Supervisors with 3 years experience in the grade with minimum Educational qualify-cation of S.S.C.	1)President/ /Administrator 2)Addl. Director of Municipal Administration 3)Chief Officer of respective Municipal Council	—
9) Accoun-tant	—	Group 'C', Non- -Gazetted Ministerial	Rs. 425-15- -560-EB- -20-640	— do —	21-30 years	1) B.A. with Economics or B.Com with Advanced Account-ancy as a subject 2) Experience in Acco-unts and/or Audit for a period of 3 years	N. A.	2 years. The candidates both direct and promotees will be deemed to have completed satisfact-orily the period of probation only after having passed the final Exa-mination of Accountant of Accounts Cadre of Directo-	Promotion75% (Promotion failing which direct recruitment) Direct recruitment 25%. Failing either of the two transfer/ /deputation (The period of deputation ordinarily to be 3 years)	Promotion : UDCs/Accounts Clerks/Treasurer/ /Cashier with at least 3 years experience in Accounts work, failing which transfer/deputation of a suitable official holding analogous post in the Government Department	— do —	—

rate of Accounts

1	2	3	4	5	6	7	8	9	10	11	12	13
10) Draftsman Grade-I	—	Group 'C' Non-Gazetted Non-Ministerial	Rs. 425-15-500-EB-15-560-20-700	Selection	21-30 years	1) S.S.C. 2) Diploma in Civil Engineering preferably with one year's experience of Draughtsman.	N. A.	2 years	By promotion failing which direct recruitment	Promotion from Draughtsman Grade II with five years service in the grade	1)President/ /Administrator 2)Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
11) Draftsman Grade-III	—	— do —	Rs. 330-10-380-EB-12-500-EB-15-560	— do —	18-30 years	1) S.S.C. 2) Certificate/ /Diploma of recognised I.T.I. preferably with one year experience	— do —	— do —	— do —	Promotion from Draughtsman Grade III with 3 years service in the grade	— do —	—
12) Draftsman Grade-III	—	— do —	Rs. 260-8-300-EB-8-340-10-380-EB-10-430	N. A.	— do —	do —	— do —	— do —	By direct recruits	N. A.	— do —	—
13) Accounts and Taxation Officer	—	— do —	Rs. 550-25-750-EB-30-900	Selection	N.A.	N.A.	— do —	— do —	Promotion failing which by transfer on deputation	Promotion from Accounts with 5 years experience in the grade, failing which Transfer on deputation of Assistant Accounts Officer from the Directorate of Accounts	— do —	—
14) Librarian	—	— do —	Rs. 425-15-500-EB-15-560-20-700	— do —	21-30 years	1) Graduate of University 2) Diploma in Library Science from a recognised Institution	— do —	— do —	Promotion failing which by direct recruit	Promotion from Asstt. Librarian having 3 years experience in the grade	— do —	—

1	2	3	4	5	6	7	8	9	10	11	12	13
15) Assistant Librarian	—	Group 'C', Non-Gazetted, Non-Ministerial	Rs. 330-10-380-EB-12-500-EB-15-560	N.A.	21-30 years	1) Higher Secondary 2) Diploma in Library Science of recognised Institution	N.A.	2 years	Direct recruitment	N.A..	1)President/ /Administrator 2)Addl. Director of Municipal Administration 3)Chief Officer of respective Municipal Council	—
16) Market/ Mun.	—	— do —	Rs. 330-10-380-EB-12-50	Selection	— do —	Graduate of recognised	Age: No Qls.: Minimum	— do —	Promotion failing by direct recruitment	Promotion from Assistant Mun. Inspector/Site Supervisor L.D.C	— do —	—

Inspector			-EB-15--560				S.S.C.			based on common seniority with 3 years standing in the grade		
17) Site Supervisor/ /Asstt. Municipal Inspector	—	— do —	Rs. 260-6--290-EB--6-326--8-366--EB-8--390-10--400	Non-Selection	N.A.	N.A.	N.A.	2 years	Promotion	Promotion from Sr. Supervisors, Attendants with 3 years standing in the grade	— do —	—
18) Mason	—	Group 'C', Non--Gazetted, Non--Ministerial	Rs. 260-6--326-EB--8-350	— do —	— do —	— do —	— do —	— do —	— do —	Promotion from Asstt. Mason	— do —	—
19) Assistant Mason	—	Group 'D', Non--Gazetted, Non--Ministerial	Rs. 210-4--226-EB--4-250--EB-5--290	N.A.	— do —	1) Professional experience of 2 years 2) IVth Std. pass	— do —	— do —	Direct recruitment	N.A.	— do —	—
20) Mechanic	—	Group 'C', Non--Gazetted, Non--Ministerial	Rs. 330-10--380-EB--12-500--EB-15--560	Selection	— do —	1) I.T.I. Certificate in mechanics with practical experience of 2 years	N.A.	Two years	Promotion failing which by direct recruitment	Promotion from Assistant Mechanic with 5 years experience	1)President/ /Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—

1	2	3	4	5	6	7	8	9	10	11	12	13
21) Assistant Mechanic	—	Group 'C', Non--Gazetted, Non--Ministerial	Rs. 260-6--326-EB--8-350	N.A.	2 years	I.T.I. Certificate in Mechanics preferably with minimum experience of one year	N.A.	Two years	Direct recruitment	N.A.	1)President/ /Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
22) Electrician	—	— do —	Rs. 330-8--370-10--400-EB--10-480	Selection	— do —	I.T.I. Certificate of electrical wiring with 2 years experience as Electrician	— do —	— do —	Promotion failing which by direct recruitment	Promotion from street light supervisors	— do —	—
23) Street light Supervisor	—	— do —	Rs. 260-6--326-EB--350	N.A.	— do —	I.T.I. Wireman's Exam. Certificate preferably with one year experience	— do —	— do —	By direct recruitment	N.A.	— do —	—
24) Sanitary Inspec-	—	— do —	Rs. 330-10--380-EB--12-500	— do —	— do —	1)S. S. C. 2)Diploma in	Age: No Qls.: Yes	— do —	Promotion failing transfer on deputation,	Promotion from L. D. Cs./Asstt. Mun. Inspector/	— do —	—

tor			-EB-15--560						failing which by direct recruitment	Site Supervisors		
25) Plumber	—	— do —	Rs. 260-6--326-EB--8-350	Selection	18-30 years	1) I.T.I. Certificate of plumber--cum-fitter or equivalent from recognised Institution	N.A.	2 years	Promotion failing direct recruitment	Promotion from pipe fitter with 3 years standing in the grade	— do —	—

1	2	3	4	5	6	7	8	9	10	11	12	13
26) Pipe-filter/ Assistant Plumber	—	Group 'D', Non--Gazetted, Non--Ministerial	Rs. 210-4--226-EB--4-250--EB-5--290	N.A.	18-30 years	Certificate course of plumber-cum-fitter	Age: No Qls.: Yes	2 years	Promotion failing direct recruitment	Promotion from Group 'D' employees	1)President/ Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
27) Carpenter		Group 'C', Non--Gazetted, Non--Ministerial	Rs. 260-6--326-EB--8-350	— do —	— do —	ITI certificate in the trade of carpentary from recognised institution with 1 year professional experience	N.A.	— do —	Direct recruitment	N.A.	— do —	—
28) Painter	—	— do —	— do —	— do —	— do —	IV Std. pass with practical experience in the trade	— do —	— do —	— do —	— do —	— do —	—
29) Driver	—	— do —	Rs. 260-6--290-EB--6-326--8-366--EB-8--390-10--400-	Non--Selection	25-35 years	Essential driving licence of heavy vechicle issued by competent authority	*Age:* No *Qls.:* Yes	— do —	By promotion failing which by direct recruitment	Promotion from Group 'D' employees	— do —	—
30) Sr. Supervisor	—	— do —	Rs. 260-6--326-EB--8-350	— do —	N.A.	N.A.	N.A.	— do —	Promotion	Promotion from supervisor with 3 years experience	— do —	—
31) Supervisor	—	Group 'D', Non--Gazetted, Non--Ministerial	Rs. 210-4--226-EB--4-250--EB-5--290	Non--Selection	21-30 years	S. S. C.	Age: No Qls.: VIII Std. minimum	— do —	50% promotion & 50% by direct recruitment	Promotion from Mucadam/Gardener based on seniority of eligible person with 3 years experience	— do —	—

1	2	3	4	5	6	7	8	9	10	11	12	13

32) Mu-cadam	—	Group 'D', Non--Gazetted, Non-Ministerial	Rs. 200-3--206-4--234-EB--4-250	Non--Selection	N.A.	VIII Std. pass	N.A.	2 years	Promotion 50% & 50% by transfer	Transfer from road workers & Trimers based on seniority. Promotion from all Group 'D' based on combined seniority	1) President/ /Administrator 2) Addl. Director of Municipal Administration 3) Chief Officer of respective Municipal Council	—
33) Gar-dener	—	— do —	Rs. 210-4--250-EB--5-270	— do —	N.A.	N.A.	N.A.	2 years	Promotion	Promotion from Trimmer having 3 years experience and training in gardening	— do —	—
34) Trimmer	—	— do —	Rs. 200-3--206-4--234-EB--4-250	— do —	21-30 years	VIII Std. pass	Age.: No. Qls: VIII Std. minimum	— do —	— do —	Promotion from Group 'D' employees having experience in Gardening	— do —	—
35) Dog--Shooter	—	Group 'C', Non--Gazetted, Non--Ministerial	Rs. 260-6--290-EB--6-326-8--366-EB--8-390--10-400	N.A.	21-45 years	Holder of Gun Licence & experience in shooting	— do —	— do —	Direct recruitment	N.A.	— do —	—
36) Road worker	—	Group 'D', Non--Gazetted, Non--Ministerial	Rs. 200-3--206-4--234-EB--4-250	Non-Selection	N. A.	N.A.	— do —	— do —	Promotion	Promotion from all Group 'D' employees	— do —	—
37) Wor-ker/Lab-ourer/ Scaven-ger/ Sweeper /Watch-men	—	— do —	Rs. 196-3--200-EB--3-232	N.A.	21-45 years	— do —	— do —	— do —	Direct recruitment	N.A.	— do —	—
38) Tax Col-lector /Bill Collector	—	— do —	Rs. 210-4--226-EB--4-250--EB-5--290	Non-Selection	18-30 years	IX Std.	Age: No. Qls: Yes	— do —	25% by promotion 75% by direct recruitment	Promotion from Group 'D' employees with 3 years service in the grade	— do —	—