GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

GUJARAT ACT NO. 34 OF 1964

THE GUJARAT MUNICIPALITIES ACT, 1963

(As modified upto the 31st October, 2012)

1 of 158

THE GUJARAT MUNICIPALITIES ACT, 1963.

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GUJARAT ACT NO. 34 OF 1964[1]

[THEGUJARATMUNICIPALITIESACT,1963]

[28th December, 1964]

Amended by Guj. 6 of 1965.
Amended by Guj. 32 of 1965.
Amended by Guj. 4 of 1966.
Amended by Guj. 3 of 1968.
Amended by Guj. 11 of 1969.
Amended by Guj. 7 of 1970.
Amended by Guj. 10 of 1973.
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Amended by Guj. 17 of 2005
Amended by Guj. 13 of 2007.
Amended by Guj. 10 of 2008
Amended by Guj. 21 of 2011.

An Act to consolidate and amend the law relating to municipalities in the State of Gujarat so as to give them wider powers in the management of municipal affairs.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows :-

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1)This Act may be called the Gujarat Municipalities Act, 1963.

(2) It extends to the whole of the State of Gujarat.

Definitions.

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

1A[* * * * *

2[(1A) " Assembly " means the Gujarat Legislative Assembly;]

(2)"building" includes any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls including compound walls and fencing, verandahs, fixed platforms, plinths, doorsteps and the like;

2A[(2A) "carpet area" means the floor area of a building excluding the area over which a wall whether outer or inner is erected;]

(3) "cattle" means and includes bulls, bullocks, heifers, cows and their young, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules,

asses, swine, sheep, ewes, rams, lambs, goats and kids;

43 of 1950.

3[(3A) "Central law" means the Representation of the People Act, 1950;]

3A[(3B) "*chawl*" means a building consisting of two or more tenements whether having common sanitary and other facilities or not and declared as such by the Director of Municipalities by notification in the *Official Gazette;*]

(*4)"*Councillor" means a member of the municipality in a municipal borough;

(*5*)"dangerous disease" means cholera, plague, small-pox and any endemic, epidemic or infectious disease by which the life of man is endangered;

4[(6)"Director" means the officer appointed for the time being by the State Government to be Director of Municipalities, Gujarat State;]

(7*)*" the earlier municipal law" means—

(a) the Bombay District Municipal Act, 1901, Bom. III of 1901.

(b) the Bombay District Municipal Act, 1901 as adapted and applied to the Suaurashtra area of the State,

(c) the Bombay Municipal Boroughs Act, 1925, Bom. XVIII of 1925.

(d) the Bombay Municipal Boroughs Act, 1925 as adapted and applied to the Saurashtra area of the State, and

(e) the Bombay Municipal Boroughs Act, 1925 as extended to the Kutch area of the State;

5[(7A) "election" means and includes the entire election process commencing from the division of wards and all stages culminating into election of a councillor and it is always deemed to have meant and included the entire election process as aforesaid.

(7B) "Finance Commission" means the Finance Commission constituted under article 243-1 of the Constitution of India;]

(8) "Gujarati" means the Gujarati language,

(9) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;

*(10) "*Judge" means District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Civil Judge, or Joint Civil Judges;

(*11)*"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 perma-nently fastened to anything attached to the earth and rights created by legislative enactment over any street

Bom. V of 1879. *(12)* "Land Revenue Code" means-

(*a*) in the Bombay and Saurashtra areas of the State of Gujarat, the Bombay Land Revenue Code, 1879, and

(*b*) in the Kutch area of the State of Gujarat, the said Code as applied to that area;

[6][(12A)"list of voters" means a list of voters published under sub-section (2) of section 9 for a ward within the meaning of that expression in sub-section (*1*) of section 7;]

[6A][(12B) "mobile tower" means a temporary or permanent structure, equipment or instrument erected or installed on land or upon any part of the building or premises for providing telecommunication services;]

[7][(*13*)"Municipal Borough" means a transitional area, or as the case may be, a smaller urban area, as specified in clause (2) of article 243Q of the Constitution of India and includes other local areas already declared to be a municipal borough prior to the commencement of the Gujarat Municipalities (Amendment) Act, 1993;]

Guj. 17 of 1993.

[8][(14)"Municipality" means Nagar Panchayat constituted under section 5(1) or as the case may be, "Municipal Council" constituted under section 5(2)"];

(15) "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, smelling or hearing, or which is or may be dangerous to life or injurious to health or property;

[9][* * * * * * * * *]

(17) "official year" means the year commencing on the first day of April;

(18) "owner" includes the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant;

Guj. VI of 1962.

(19) "panchayat" means a panchayat of any class constituted under the Gujarat Panchayats Act, 1961;

[10][(*20*) "Population" in relation to the municipal borough means the population as ascertained in the last preceding census of which the relevent figures have been published;

(20A) "prescribed" means prescribed by rules made under section 277;]

(21) "public securities" means-

(a) securities of the Central Government and of the State Government,

(b) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council or the Central or the State Government,

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by a Central Act or an Act of the Legislature of a State, or

(d) a security expressly authorised by any order which the State Government makes in this behalf;

(22) "public street" means any street-

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

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

(c) which under the provisions of section 147 or 148 is declared by the municipality to be, or under any other provisions of this Act becomes, a public street;

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

(24)"salaried servant of the Government" does not include a retired servant of the Government in receipt of a pension or a person in receipt of a salary from the Government who is not a full time servant of the Government;

[11][(24A) "State Election Commission" means State Election Commission referred to in article 243K of the Constitution of India;]

(25) "street" means any road, footway, square, court alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not: and includes 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 does 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;

(26) "tax" means any tax, rate, cess, fee or other impost leviable under this Act, and includes a water rate;

(27) "vehicle" includes bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street;

(28) "water closet" means a closet which has 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,

3. *[Municipality and Municipal Borough how known in Gujarati.] Deleted by Guj. 17 of 1993, s.3.*

CHAPTER II.

CONSTITUTIONOFMUNICIPALITIES.

[12] * * * * *

[13] * * * * * *

4. *[Declaration of municipal Boroughs and alteration of their limits] Deleted by Guj. 17 of 1993, s.5.*

4A. *[Special provision for declaration of nagar as municipal Borough.] This section which was inserted by Guj. 20 of 1980, s.6 was subsequently deleted by Guj. 17 of 1993,*

(2) Constitution of Municipalities.

Incorporation of Nagar Panchayat and Municipal Council

[14][**5.** *(1)* In every transitional area there shall be a Nagar Panchayat and every such Nagar Panchayat shall be a body corporate by the name of "the Nagar Panchayat" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer.

(2) In every small urban area there shall be a Municipal Council and every such Municipal Council shall be a body corporate by the name of "the Municipal Council" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer.]

[15][6. (1)Every municipality shall consist of elected councillors.

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(2)The number of such councillors shall he-

(a) 21, in the case of a nagar panchayat,

(b) 27, if the population of the municipal borough exceeds 25,000 but does not exceed 50,000,

(c) 36, if the population of the municipal borough exceeds 50,000 but does not exceed 1,00,000,

(d) 42, if the population of the municipal borough exceeds 1,00,000 but does not exceed 2,00,000, and

(e) 51, if the population of the municipal borough exceeds 2.00.000.

(3) Out of the total number of scats of councillors in a municipality, there shall be reserved seats for Scheduled

Castes, Scheduled Tribes, Backward Classes and women as follows, namely.

(a) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every municipality and the number of seats so reserved shall bear, as nearly as may be the same proportion to the total number of seats to be filled by direct election in that municipality as the population of the Scheduled Castes in that municipal area or of the Scheduled Tribes in that municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a municipality in the prescribed manner.

(b) One-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

(c) One-tenth of the total number of seats to be filled by direct election in every municipality shall be reserved for persons belonging to backward classes and one-third of the seats so reserved for backward classes shall be reserved for women belonging to the backward classes. Such seats may be allotted by rotation to different constituencies in the prescribed manner.

(d) One-third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes) of the total number of seats to be filled by direct election in every municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality in the prescribed manner.

(e) The reservation of seats under clauses (a), (b) and (c) (other than the reservation for women) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

(4) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission.

(5) Subject to the provisions of this Act, an election shall be held in accordance with the rules made by the State Government in that behalf.

(6) The State Election Commissioner shall be appointed within two months of Guj. 17 of 1993.

the coming into force of the Gujarat Municipalities (Amendment) Act, 1993.

(7)The State Government shall, when so required by the State Election Com mission, make available to it the staff as may be necessary for the discharge of the functions conferred on it by clause (1) of article 243K of the Constitution of India

(8*)* Notwithstanding any vacancy due to failure to elect the full number of councillors which under this section might be elected the municipality shall be deemed to be constituted on the date of its first meeting.

Explanation :- For the purpose of this section,-

(*a*) "Scheduled Castes" means such castes, races of tribes or parts of or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Gujarat under aricle 341 of the Constitution of India;

(b) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within such tribe or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution of India, and

(c) "backward classes" means classes declared as Socially and Educationally Backward Classes by the State Government from time to time.]

(3) Election of Councillors.

7AA. *[Definitions.]This section which was inserted by Guj. 15 of 1978,* s. *3 was subsequently deleted by Guj. 17* of *1993, s. 8.*

Determination of number of councillors to be elected and determination of wards.

16[**7.** (*1*) Each municipality shall consist of councillors chosen by direct election.

(2) Where general election is to be held immediately after,-

(*i*) the specification of a local area as a 'transitional area" or as the case may be a smaller urban area' under article 243Q of the Constitution of India is made, or

(*ii*) the census is taken under the Census Act, 1948, and the relevent 37 of 1948.

figures of which have been published, or

(iii) the limits of a municipal borough are altered,

(a) the State Government shall, by notification in the *Official Gazette,* determine the number of wards into which the municipal borough shall be divided, the number of councillors to be elected to the municipality and the number of seats to be reserved in

favour of the Scheduled Castes, the Scheduled Tribes, the backward classes and women as provided in sub-section *(3)* of section 6.

(b) the State Election Commission thereafter shall carry out the determination of the boundaries of the wards and the allocation of seats reserved in favour of the Scheduled Castes, Scheduled Tribes, backward classes and women among the wards in the prescribed manner.]

Duration of the municipalities, and the councillors.

17[**8.** *(1)* Every municipality. unless sooner dissolved shall continue for five years from the date appointed for its first meeting and no longer.

(2) The term of office of the councillors shall be co-extensive with the duration of the municipality.

(3) An election to constitute a municipality shall be completed before the expiry of its duration specified under sub-section (1).

Appointment of an officer to exercise the powers of the municipality in unforeseen circumstances.

8A. Where it is not possible to hold the election to constitute a municipality as provided in section 8 of the Act on account of unforeseen circumstances such as natural calamity, riots, communal disturbances, all powers and duties of the municipality shall be exercised and performed by such officer as the State Government may, by order, appoint from time to time in this behalf.]

List of Voters for every ward.

18[19[**9.***(1)* For every ward, there shall be a list of voters.

20[(2) The list of voters shall be the same as the electoral roll of the Gujarat Legislative

Assembly prepared and revised in accordance with the provisions of the Central Law for the time being in force and as revised, modified, up-dated, and published in accordance with the provisions of sub-section (2A).

(2A) Subject to the superintendence, direction and control of the State Election Commission, the list of voters shall be revised, modified, up-dated and published by such officer as may be designated by the State Election Commission in this behalf in the prescribed manner.]

(3) No person shall be entitled to have his name included in the list of voters for more than one ward and for any ward more than once.

(4) The list of voters for any ward published under sub-section (2) shall remain in operation until a revised list of voters in respect of a municipal borough is so published.]

*[**9A.** Preparation of list of voters.*

***9B.** Persons qualified to be registered as voters.*

***9C.** Form of list of voters, etc.*

***9D.** Name of person not to be included in list of voters for more than one ward.*

***9E.** Name of person not to be included in list of voters more than once.*

***9F.** Period for which a list of voters shall remain in operation.*

***9G.** Staff of municipality to be made available.*

***9H.** Jurisdiction of Civil Courts barred.*

***9I.** Making false declaration.*

***9J.** Breach of official duty in connection with the preparation, etc. of list of voters. Sections 9A to 9J were deleted by Guj. 7 of 1990, s. 5.*

Persons qu to vote an elected.

10. (1) Every person whose name is in the list of voters referred to in section 9 shall, unless disqualified under this Act or any other law for the time being in force, 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 member for the ward to which such list pertains.

(2) Every person 21[who has attained the age of twenty-one years on the last date fixed for filing the nominations and] whose name is in the list of voters shall, unless disqualified under this Act or any other law for the tune being in force, be qualified to be elected, and every person whose name is not in such list shall not be qualified to be elected, at the election for any ward of the municipal borough.

(3) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether the person is qualified or is not qualified to 22[vote] at any election.

General disqualifi-cations for becoming a councillor.

11. (1)No person may be a councillor-

(a) Who—

Vacation of seat. Decision of State Government in case of disputes.

(i) has, whether before or after the commencement of this Act, been convicted by a court in India-

(a) of an offence under 23[the Untouchability (Offences) Act. 1955,] or under the Bombay Prohibition Act, 1949; XXII of 19 Bom XXV 1949.

or

(b) of any other offence and sentenced to imprisonment for not less than six months,

unless a period of four years or such lesser period as the State Government may allow in any particular case, has elapsed since his conviction and

where he was sentenced to imprisonment, since his release; or

(ii) has been removed from office under section 37 and four years have not elapsed from the date of such removal, unless he has, by an order which the State Government is hereby empowered to make, if it shall think fit, in this behalf, been relieved from the disqualification arising on account of such removal from office; or

(b) who is an uncertificated bankrupt or an undischarged insolvent; or

(c) who is of unsound mind and stands so declared by a competent court; or

(d) who is not a citizen of India or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or

(e) who is a Judge; or

(f) who is a salaried servant of Government or of a panchayat or municipality;

[24][(g)who is disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State:

Provided that where the disqualification was only on the ground that he was less than twenty-five years of age, he may be a Councillor if he has attained the age of twenty-one years before last date for filing nominations or];

[25]*[(h)* who has more than two children :

Guj. 17 of 2005.

Provided that a person having more than two children on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2005 (here-inafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause, so long as the number of children he had on the date of such commencement does not increase:

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation .- For the purpose of this clause,—

(i) Where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) 'child' does not include an adopted child or children.].

(2*)* No person-

(a) who is a part time Officer or servant of a municipality, or

(b) who fails to pay any arrears of any kind due by him to the Municipal-ity (otherwise than as a trustee) within three months after a special notice in accordance with the rules made by the State Government in this behalf has been served upon him, or

(c) who, save as hereinafter provided has directly or indirectly, by him self or his partner any share or interest in any work done by order of a municipality or in any contract or employment with or under or by or on behalf of a municipality, or

(d) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any transaction of loan of money advanced to, or borrowed from, any officer or servant of the municipality,

may be a councillor of such municipality.

(3)A person shall not be deemed to have incurred disqualification-

(A) under clause (c) of sub-section *(2)* by reason of his-

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

(ii) having a share or interest in any joint-stock company or in any society, registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 which shall contract with or be employed by or on behalf of the municipality, or

Guj. X of 1962.

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(v) having a share or interest in the occasional sale to the munici-pality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not exceeding in any official year one thousand rupees or such higher amount not exceeding five thousand rupees as the municipality with the sanction of the State Government may fix in this behalf:

Provided that where the share or interest has been in the sale or purchase of an article which is a controlled article and the sale or as the case may be, the purchase thereof is made with the previous sanction of the State Government the limitation as to value imposed by this clause shall not apply to such share or interest,

Explanation.- For the purpose of sub-paragraph (v*)* "controlled article" shall mean an article the purchase, sale, distribution, storage, and price of which or any of them is regulated under any law for the time being in force, or

(vi) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality of any article for an amount not exceeding in any official year two

es or such higher amount not

exceeding one thousand rupees as the municipality with the sanction of the State Government may fix in this behalf, or

(vii) being a party to any agreement made with the municipality under the provisions of section 119 or of proviso *(a)* to sub-section *(1)* of section 229, or

(viii) merely being a relative of a person in employment with or under or by or on behalf of the municipality;

(B) under clause *(d)* of sub-section *(2)* by reason of his being a director 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 municipality.

[26][(4) A person who at any time during the term of his office is disqualified under the Gujarat Provision for Disqualification of Members of Local Authorities for Defection Act, 1986 for being a Councillor shall cease to hold office as such Councillor.] Guj. 2 1986.

General dis-qualifications of voters.

12. No person shall vote at any municipal election under this Act, if he-

(a) is of unsound mind and stands so declared by a competent court, or

(b) is not a citizen of India or has voluntarily acquired the citizenship of a foreign State or is under acknowledgement of allegiance or adherence to a foreign State.

Right to vote.

13. (1) No person shall vote at any election in more than one ward and if a person votes in more than one ward, his vote in all such wards shall be void.

(2) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been entered 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.

(3) The ward in which a person votes for the first time after his name is entered in the list of voters shall be the ward in which he shall be entitled to vote at any subsequent election unless before such election his name has been deleted from the list of voters for that ward.

Determination of validity of elections.

14. (*1*) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers or by any candidate for such election such person may, at any time within fifteen days after the date of the declaration of the result of the election, apply to the District Court of the district within which the election has been or should have been held, for the determination of such question.

(2) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge appointed by the State Government either specially for the case or for such cases generally; and such Judge may, after such inquiry as he deems necessary and subject to the provisions of sub-section (5), pass an order confirming or amending the declared result of the election, or setting the election aside for the purposes of the said inquiry, the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he

V of 1908.

were a Civil Court, and he may also direct by whom the whole costs of any such inquiry shall be paid. Such costs shall be or any part of the recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908. The decision or order shall be conclusive.

(3) All applications received under sub-section (*1*)-

(a) in which the validity of the election of councillors elected to represent the same ward is in question shall be heard by the same judge; and

(b) in which the validity of the election of the same councillor elected to represent the same ward is in question shall be heard together.

V of 1908.

Procedure, 1908, compromised or withdrawn is satisfied that such for such alteration

(4) Notwithstanding anything contained in the Code of Civil the Judge shall not permit *(a)* any application to be or *(b)* any person to alter or amend any pleading, unless he application for compromise or withdrawal or the application or amendment is *bonafide* and not conclusive.

Declara of corru by cand

(5) (*a)* If the Judge is satisfied-

(i) that on the date of the election, the elected candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act, or

(*ii)* that any currupt practice has been committed by the elected candidate or his election agent or by any other person with the consent of the elected candidate or his election agent; or

(iii) that any nomination has been improperly rejected: or

(iv) that the result of the election, in so far as it concerns the elected candidate, has been materially affected by the improper acceptance of any nomination or by any corrupt practice committed in the interests of the elected candidate by an agent other than his election agent, or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or by any non-compliance with the provisions of this Act or of any rules or orders made under this Act,

the Judge shall set aside the election of the elected candidate and where the election is set aside, on a ground mentioned in item (*i)* or (*ii)*, shall declare the candidate disqualified for the purpose of such fresh election as may be held under sub-section (2*)* of section 42.

Scrutiny of votes and declaration in other cases.

(b) If in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that 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:

Provided further that after such computation, if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall he added to the total number of valid votes found to have been recorded in favour of the candidate or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.

What is corrupt practice.

(6) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (5)-

(i) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or property; or

(*ii)* who, with a view to inducing any person to stand or not to stand as or to withdraw or not to withdraw from being a candidate at an election, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any p

(iii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote; or

(iv) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter to, or from, any polling station:

Provided that-

(a) the hiring of a vehicle or vessel by a candidate for himself or his family or an election agent shall not be deemed to be a corrupt practice under this clause;

(*b*) the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to, or from, any such polling station 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;

(*c*) the use of any public transport vehicle or vessel or any tram-car or railway carriage by any voter at his own cost for the purpose of going to. or coming from, any such polling station shall not be deemed to be corrupt practice under this clause,

Candidates when deemed to have committed corrupt practice.

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation.-1.-For the purposes of this section the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation.-2.-The expression "a promise of individual profit" —

(*i*) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Mere irregularities and informalities not to invalidate election.

(7) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under sub-section (5) of section 6, [27][*or* under [28][sub-section (2) of section 9]] or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.-The expression "error" in this clause does not include any breach of or any omission to carry out or any non-compliance with the provi-sions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

Disqualification of persons committing corrupt practice.

(8) If the Judge sets aside an election under clause (a) of sub-section (5), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section to be disqualified from being a candidate in that or any other municipal borough for a term of years not exceed-ing seven, and the decision of the Judge shall be conclusive:

Provided however, that such person may, by an order which the State Government is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such qualification:

Provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made.

Voter disq for corrupt practice.

XLV of 1860.

15. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough.

(4) Election offences.

Prohibition of canvassing in or near polling stations.

16. (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 ninety meters of the polling station, namely:-

(a) canvassing for votes ; or

(b) soliciting the vote of any voter; or

(*c*) persuading any voter not to vote for any particular candidate ; or

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

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

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred rupees.

(3) An offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near polling stations.

17. (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*) shoat, 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,

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 the provisions of sub-section (*1*) shall, on conviction, be punished with im-prisonment which may extend to three months or with fine which may extend to five hundred 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.

misconduct at polling station.

18. (1) Any person who during the hours fixed for the 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, he punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

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

Maintenar secrecy of voting.

19. (1)Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election under this Act 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 provisions of sub-section *(1)* shall on con-viction, be punished with imprisonment for the term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Officers, elections r act for can or to influ voting.

20. (1) No person who is a Returning Officer or a presiding or polling officer at an election under this Act or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election under this Act, 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 en-deavour,-

(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 the provisions of sub-section (*l)* or sub-section (2*)* shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Breaches duty in co with electi

21. (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 one thousand 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 person appointed to perform any duty in connection with the maintenance of list of voters, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at an election under this Act and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed other wise

than by or under this Act.

Removal o papers fro station to b offence.

22. (1)Any person who at any election under this Act fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets in 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 one thousand rupees or with both.

(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 a 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 (1) shall be cognizable.

Other offences and panalties therefor.

23. (1) A person shall be guilty of an offence if at any election under this Act 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

(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 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 which may extend to one thousand rupees or with both;

(b) if he is any other person, on conviction, be punished with impris-onment for a term which may extend to six months or with fine which may extend to five hundred rupees 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 under this Act or part of such election including the counting of votes or to be responsible after such 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 otherwise than by or under this Act.

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

24. No court shall take cognizance of any offence punishable under section 20 or under section 21 or under clause (a) of sub-section (2) of section 23 unless there is complaint made by an order or under authority of the Collector. Prosecution regarding certain offences.

(5*) Requisition of premises for purposes of holding elections.*

25. (1)If on a request made by the President of a municipality in that behalf or on its or his own motion it appears to the State Government or an officer authorised by the State Government (hereinafter referred to as the requisitioning authority), that in connection with an election under this Act,- Requisitioning of premises, vehicles, etc., for municipal elections.

(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 is 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,

(c) 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 pos-session of the property, and such order shall be served in the manner prescribed by rules made by the State Government on the person to whom it is addressed.

(*3)* 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 re-quired 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.

26. (1)Whenever in pursuance of section 25, the requisitioning authority req-uisitions any premises, the municipality shall pay to the person interested compensation the amount of which shall be determined by taking into consideration the following, namely:- Payment of compensation.

(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 :

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that where there is any dispute as to the title to receive the compensation, or as to the apportionment of the amount of compensation it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.-In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 25 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 25, the requisitioning authority requisite any vehicle, vessel or animal, the municipality shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning au- thority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as 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 an arbitrator appointed by the requisitioning authority in this behalf may decide.

Power to obtain information.

27. The requisitioning authority may with a view to requisitioning any property under section 25 or determining the compensation payable under section 26, 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.

Eviction from requisitioned premises.

28. *(1)* Any person remaining in possession of any requisitioned premises in contravention of any order made under section 25 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 appealing 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.

Release of from requi

(1) When any premises requisitioned under section 25 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 25 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 nd 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 municipality shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Penalty for contravention of any order regarding requisitioning.

30. If any person contravenes any order made under section 25 or section 27, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

CHAPTER III.

[29][PRESIDENT,VICE-PRESIDENT,COUNCILLORSANDOFFICERSAND SERVANTSOFTHEMUNICIPALITY.]

(1) Provisions relating to Presidents, Vice-Presidents and Councillors of municipalities.

President and Vice-President.

31. A municipality shall be presided over by a president who shall be elected by the councillors from among themselves in the manner prescribed by rules made by the State Government. There shall be a vice-president similarly elected for each municipality.

Election of President and Vice-President.

32. [30][(*1*) After a general election to a municipality the Collector shall call the first general meeting of the municipality for the election of the President and the Vice-President within the prescribed period.]

(2) The meeting called under sub-section (1) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The procedure of the meeting shall be as prescribed by rules made by the State Government and the Collector or such officer shall have such powers as may be prescribed by the said rules but shall not have the right to vote.

(3) No business other than [31] * * * * * the election of the president and the vice-president shall be transacted at such meeting.

(4) If in the election of the president or the vice-president, there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the Collector or the officer presiding in such manner as the Collector or as the case may be, the officer may determine.

Term of office of president and vice-president.

33. [32][(1) (a) The term of office of the President and Vice-President of a municipality shall be two and half years,

(b) Subject to the other provisions of this section, the President or the Vice-President shall be eligible for re-election.

(c) Subject to the other provisions of this section, the Vice-President of a municipality who has completed the term of two and half years on or before the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2011, shall continue to hold the office of the Vice-President till the expiry of the term of that municipality.]

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(2) If during his term of office under sub-section (1), the president or the vice-president ceases to be a councillor, he shall vacate the office held by him.

[33][(3) The office of the President in every municipality shall be reserved by the State Government for Scheduled Castes, Scheduled Tribes, backward classes and women in the prescribed manner. Such reservation shall be made as nearly as may be, in the same proportion as

is made under sub-section (3) of section 6 in their favour in the total number of seats to be filled in by direct election.]

[34][*(4)* On the expiry of the term of the office of the councillors of the munici-pality, the current administrative duties of the office of the president and of the Vice-president of the Municipality shall be carried on by such officer of the State Government, as is may by order specify in that behalf, until, such time as a new president and vice-president shall have been elected and shall have taken over the charge of their duties.].

Duty of retiring President, etc. to hand over charge of office.

34. (*1*)[35][On the appointment of an officer under sub-section (4) of section 33 or, as the case may be, on the election of a new president or vice-president,] it shall be the duty of the retiring president or, as the case may be, vice-president to hand over to him charge of his office and deliver to him the record and property belonging to the municipality and in his custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* in the matter of handing over charge of office by a president, vice-president or councillor, who ceases to hold office for any reason not covered by sub-section (*1*).

Resignation of President, vice-President or councillor.

35. (1) A president may resign his office by tendering his resignation in writing to the Collector. Such resignation shall take effect on the date on which it is accepted by the Collector or on the expiry of thirty days from the date of tendering the resignation, whichever event occurs earlier.

(2) A vice-president may resign his office by tendering Ms resignation in writing to the municipality. Such resignation shall take effect on the date on which it is accepted by the municipality or on the expiry of thirty days from the date of tendering the resignation whichever event occurs earlier.

(3) Any other councillor may resign his office by tendering his resignation in writing to the president. Such resignation shall take effect on the date on which it is received by the president.

[36][(5) If any dispute regarding any resignation arises, it shall be referred for decision to such officer as the State Government may, by general or special or-der, appoint in that behalf and decision of such officer shall be final :

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation took effect:

Provided further that such resignation shall take effect in accordance with the decision of such officer.]

Motion confider

36. (1) Any councillor of a municipality who intends to move a motion of no confidence against its president or vice-president may give a notice thereof, in such form as may be prescribed by the State Government, to the municipality. If the notice is supported by not less than one-third of the total number of the then councillors of the municipality, the motion may be moved.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then councillors of the municipality, the president or, as the case may be, the vice-president shall cease to hold office after a period of three days from the date on which the motion is carried unless he has earlier resigned; and thereupon the office held by him shall be declared to be vacant.

(*3*) Notwithstanding anything contained in this Act or the rules made thereunder, the president, or as the case may be, the vice-president shall not preside over a meeting in which a motion of no confidence against him is discussed; but he shall have the right to

speak in or otherwise take part in the proceedings of such meeting (including the right to vote).

Removal from office.

37. (1) The State Government may remove from office-

(a) any councillor of a municipality, [37][on its own motion or on receipt of] a recommendation of the municipality in that behalf supported by a majority of the total number of the then councillors of the municipality, or

(*b*) any president or vice-president of a municipality,

If, after giving the councillor, president or, as the case may be, vice-president an opportunity of being heard and giving due notice in that behalf to the municipal-ity and after making such inquiry as it deems necessary, the State Government is of the opinion that the councillor, president or, as the case may be, vice-president has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties under this Act.

(2) A president or vice-president removed under sub-section *(1)* shall not be eligible for re-election as a president or vice-president during the remainder of the term of the municipality.

Resignation not to affect subsequent disqualification of a councillor.

[38][**37A.** Notwithstanding that a councillor has resigned his office under section 35, if it appears to the State Government that the councillor during the period he held office as a councillor has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, the State 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 action against the councillor so resigned shall be taken under this section after the expiry of one year from the date of his resignation and without giving him a reasonable opportunity of being heard.]

Disabilities from continuing as a councillor.

38. (1) If any councillor during the term for which he has been elected or nominated-

(*a*) becomes subject to any disqualification specified in section 11, or

(b) acts as a councillor in any matter-

(i) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause *(i), (ii), (iii), (v)* or *(vii)* of sub-section *(3)* of section 11, whatever may be the value of such share or interest, or

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

(c) is professionally interested or engaged in any case for or against the municipality, or

(d) departs beyond the limits of the State with the declared or known intention of absenting himself continuously for a period exceeding six months,

he shall subject to the provisions of sub-section *(2)* be disabled from continuing to be a councillor and his office shall become vacant.

(2) In every case, the authority competent to decide whether a vacancy has arisen shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion after giving the councillor a reasonable opportunity of being heard.

(*3*) Until the Collector decides under sub-section (2*)* that the vacancy has arisen, the councillor shall not be disabled under sub-section *(* councillor.

(4)Any person aggrieved by the decision of the Collector may, within a period of fifteen days from date of such decision, appeal to the State Government and the orders passed by the State Government in such appeal shall be final.

Leave of ab

39. (1) Any Councillor who during his term of office-

(a) absents himself for more than three consecutive months from the municipal borough unless leave not exceeding four months so to absent himself has been granted by the municipality, or

(*b*) absents himself for four consecutive months from the meetings of the municipality without the leave of the municipality,

shall cease to be a councillor and his office shall be vacant.

(2) In every case, the authority competent to decide whether a vacancy has or has not occurred under this section shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion after giving the councillor a reasonable opportunity of being heard.

(3) Whenever leave is granted under sub-section *(1)* to a councillor who is a vice-president, another member shall be elected to perform all the duties and exercise all the powers of the vice-president during the period for which such leave is granted

Suspensio President President.

40. (1) The State Government or any officer authorised by it, may suspend from office a president or vice-president against whom any criminal proceedings in respect of any offence alleged to have been committed by him under the Prevention of Corruption *Act,* 1947 or the Bombay Prohibition Act, 1949 or while acting or purporting to act in the discharge of his duties under this Act have been instituted or who has been detained in a prison during trial under the provisions of any law for the time being in force.

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(2) Should a president or vice-president be suspended under sub-section (*1*) a councillor shall be elected to perform all the duties and exercise all the powers of a president or, as the case may be, vice-president during the period for which such suspension continues.

(3) An appeal shall lie to the State Government against an order passed by the

authorised officer under sub-section *(1).* Such appeal shall be made within a period of thirty days from the date of the order.

Eligibility members f election.

41. Any person disabled under section 38 from continuing as a councillor shall be eligible for re-election on his disability ceasing.

Filling of vacancies.

39[**42.** (1)When any vacancy occurs due to failure to elect the full number of councillors at a general election or due to the non-acceptance of office by a

person elected to be a councillor, or due to an election set aside under provisions of sub-section *(2)* of section 14, or any vacancy of a councillor occurs due to any reason, the Chief Officer of the municipality and in the absence of the Chief Officer such officer as the Collector may, by a general or special order, designate for the purpose shall within fifteen days from the date on which the vacancy occurs give a notice thereof to the State Election Commission.

(2) On receipt of a notice under sub-section *(1),* the State Election Commission shall arrange for holding an election to fill the vacancy within six months from the date on which such vacancy has arisen.

(3) When any vacancy of a president or vice-president occurs due to any reason, the Chief Officer of the municipality and in the absence of the Chief Officer, such officer as the Collector may, by a esignate for the purpose

shall within fifteen days from the date on which the vacancy occurs give a notice thereof to the Collector.

(4) *On* receipt of a notice under sub-section (3), the Collector shall call, within twenty five days from the date of the receipt of the notice, a general meeting of the municipality for the election of the president or, as the case may be, vice-president and the provisions of sections 31 and 32 shall *mutatis mutandis* apply to such meetings and election.

(5) A person elected as a councillor under sub-section (2) of this section or elected as a president or vice-president under sub-section (4) of this section shall hold office so long only as the councillor, president or vice president in whose place he is elected, would have held office had the vacancy not occurred.

(6) Notwithstanding anything contained in sub-section (2), where any vacancy of a councillor occurs within six months preceding the date on which the duration of the municipality expires, it shall not be filled.

(7)When the office of both president and the vice-president become vacant simultaneously, any councillor as the Collector may authorize in this behalf, shall, pending the election of the president exercise all the powers and perform all the functions and duties of the president.]

Vacancy in Municipality etc., not to invalidate its proceedings.

43. No act or proceedings of the municipality or of any committee constituted under this Act shall be questioned on account of any vacancy in its body.

(2) Municipal Government.

Functions of President or Vice-President.

Municipal Government vests in the municipality.

44. (1)Except as in this Act otherwise expressly provided, the municipal Government of a municipal borough vests in the municipality.

Executive Power vests in the Chief Officer.

(2)The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 47, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the executive committee and subject also to all other restrictions, limitations and conditions imposed by this Act and the rules made thereunder.

Functions of President.

45. It shall be the duty of the president of a municipality-

(a) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (a) of section 271 to regulate the conduct of business at such meetings;

(b)to watch over the financial and executive administration of the municipality and to perform such executive functions as may be allotted to him by or under this Act ;

(c)to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality for the time being in force, and for reasons to be recorded in writing to revise, set aside or modify any order of the chief officer relating to the service of the said officers and servants and their pay, privileges and allowances;

(d)the president of a municipality may in cases of emergency direct in writing the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or stoppage or doing of which is, in his opinion necessary for the service or

safety of the public, and may direct in writing that the expense of executing such work or doing such act shall be paid from the municipal fund :

Provided that-

(a)he shall not act under this section in contravention of any order of the municipality 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 reason therefor to the executive committee and the municipality at the next meeting thereof.

Functions of Vice-President.

46. It shall be the duty of the vice-president of a municipality-

(a)in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause *(a)* of section 45 ;

(b)to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him; and

(c)pending the election of a president, or during the absence of the president, to exercise the powers and perform the duties of the president.

[40][***(3) Officers and servants of the municipalities***]

Appointment of Officers and Officers.

[41][**47.** (1) *(a)* For every municipality there shall be a Chief Officer appointed by the State Government.

(b) The Chief Officer of a municipality shall forthwith be transferred from that municipality by the State Government if a resolution to that effect is passed by the municipality with not less than two-thirds of the total number of councillors of the municipality voting in favour of such resolution.

(2)A municipality may, with the previous sanction of the Director, and shall, if so required by the State Government, 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, and

(vi) any other officer as may be designated by the State Government in this behalf.

(3)Subject to the provisions of section 47A, the recruitment and conditions of service of the officers referred to in sub-sections *(1)* and *(2)* shall be such as may be prescribed.

(4)Subject to the provisions of section 47A, the power to make appointment to the posts referred to in sub-section *(2)* shall vest in the municipality.

Constitution of Municipal Services.

47A. (1)If, the State Government is of the opinion that it is necessary and expedient so to do for bringing about a uniform and a more efficient service of officers in municipalities for the purpose of carrying out the functions and duties under this Act, it may, notwithstanding anything contained in this Act, by notifications in the *Official Gazette*-

(a) constitute in respect of all municipalities in municipal boroughs having such population of such number as may be specified in the notification a municipal service or services (to be called by such designation as may be specified in the notification) of-

(i) Chief Officers of such municipalities, and

(ii) all or any other officers referred to in sub-section (2*)* of section 47;

(b) direct from time to time that each such municipal service shall consist of such classes, cadres and posts (including grades of posts); and

(c) specify the initial strength of officers in each such class or cadre.

(2) The State Government may make rules for,-

(a) regulating the mode of recruitment by holding examinations or otherwise, including provision for the absorption in municipal service constituted under this section, or otherwise, of persons already working under any municipality;

(b) providing for terminal benefits such as compensation, pension or gratuity or the like, to persons who elect not to be absorbed in any such service or who elect to retire; and

(c) the conditions of service of persons appointed to, or absorbed to such municipal services:

Provided that the conditions of service of any person absorbed in any such service shall not be less advantageous than those applicable to

him immediately before such absorption.

(3) The provisions of section 48 shall cease to apply to persons appointed to or absorbed in such municipal services constituted under this section :

Provided that, such cessor shall not, in relation to persons absorbed, in any such service, affect the previous operation of section 48 in respect of anything done or omitted to be done before such absorption.

(4) Notwithstanding anything contained in sub-section (4) of section 47, the power to appoint officers of any municipal service constituted under this section including promotions, transfers, and powers in relation to all matters regarding their conditions of service shall vest in the State Government.

(5) The officers included in any municipal service constituted under this section shall be the servants of the State Government; but they shall draw their salaries and allowances directly from the municipal fund.

(6)There shall be paid every year out of the municipal fund to the State Government such cost as the State Government may determine on account of pension, leave and allowances other than those drawn from the municipal fund under sub-section (5) of the officers belonging to any of municipal services constituted under this section and all the expenses incurred by the State Government for administering the municipal service or services constituted under this section. If any municipality fails to pay such cost and expenses or the salaries and allowances of such officers within the period prescribed in this behalf, then the provision of sub-section (3) of section 262 shall apply to the payment of such cost and expenses or the salaries and allowances of such officers as they apply in relation to the payment of the expense and remuneration not paid under that section.

Imposition of penalties.

48. *(1)* Without prejudice to the provisions of any law for the time being in force, and subject to any rules made under section 47A, the following penalties may, for good and sufficient reasons be imposed upon any officer or servant of a municipality, namely :-

(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 municipality by negligence or breach of orders;

(v) fine;

(vi) suspension;

(vii) removal from service, which does not disqualify him from future employment;

(viii) dismissal from service, which ordinarily disqualifies him from future employment.

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

(3) No officer or servant shall be reduced to a lower post or removed or dismissed from service and no punishment involving any monetary loss shall be imposed on him under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal, dismissal or punishment:

Provided that this sub-section shall not apply-

(a) where a person is reduced, removed or dismissed or punished on the ground of conduct which has led to his conviction or 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 to such person an opportunity to show cause.

(4)An appeal shall lie to the authority mentioned in column (2) of the table below against any order imposing any penalty made by the authority mentioned in column (1) of the saidtable.

TABLE

Authority imposing the penalty Superior authority to which appeal may lie.	
(1)	(2)
Chief Officer	Executive Committee
Executive Committee or President	Municipality
Municipality	Director

(5) No such appeal shall be entertained unless it is preferred within one month from the date of receipt of the order appealed against by the officer or servant concerned.

Powers and duties of Chief Officer.

49. (1) The Chief Officer shall,-

(a) subject to the control, direction and supervision of the President, supervise the financial and executive administration of the municipality and perform such duties and exercise such powers as may be imposed or conferred upon him or delegated to him by or under the Act;

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

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

(d) subject to the orders of the municipality, take prompt steps to remove any irregularity pointed out by an auditor;

(e) prepare budget estimates and submit them to the executive committee;

(f) report all cases of fraud, embezzlement, theft or loss of municipal money and property to the President and the relevant Committee ;

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

(h)subject to the rules, by-laws and general or special orders made under the Act, determine all questions relating to pay, allowances, leave and other benefits in respect of the officers and servants of the municipality ;

(i)furnish to the Collector or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality.

(2*)* The Chief Officer may with the previous sanction of the Director delegate any of the powers or duties to any municipal officer or servant:

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

Appointmen officers and of municipa

50. (1)A municipality may with the previous sanction of the Director, create such posts of officers and servants other than those specified in sub-sections (*1*) and (2) of section 47 us it shall deem necessary for the purposes of carrying out the duties under the Act.

(2) The recruitment of such officers and servants and their condition of service shall be such as may be determined in accordance with rules made under section 271.

(3) The power to make appointment in any post referred to in sub-section (*1*) shall vest in the municipality or in the authority empowered by the municipality by rules made in this behalf under section 271.

Provident Fu deposited in Government Treasury.

42[**50A.** (1) Where the municipality has established a provident fund for the benefit of any of its officers and servants, such fund shall, notwithstanding anything contained in any law for the time being in force, be deposited in the State Government treasury in accordance with such directions as the State Government may, from time to time, by an order in writing give and thereupon,-

(i) the subscriber to the fund shall be entitled to interest on the balance in his provident fund account at the same rate, at which the State Government servant is for the time being entitled to on the balance in his provident fund account, and

(ii) the rules for the time being in force relating to the limits of withdrawals from the provident fund as applicable to such Government servant shall, so far as may be, apply to the subscriber.

(2)Nothing in this section shall apply to a provident fund municipality to which the Employees' Provident Funds Act, XIX of 1952. established by the 1952 applies.]

CHAPTER IV.

CONDUCT OF BUSINESS.

(1) Municipal Meetings.

Provisions in to meetings municipality

51. The following provisions shall be observed with respect to the meetings of a municipality:-

procedure.

(1) There shall be held four ordinary general meetings in each year for the disposal of general business, in the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary

(2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-third of the councillors in the case of a motion of no confidence against the president or vice-president and one-fourth of the councillors in any other case and on a day not later than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause, the vice-president shall call such meeting on a day not later than thirty days after the presentation of such request:

Provided that where the president and the vice-president fail to call such meeting, the Chief Officer shall make a report thereof to the Collector who shall call the meeting on a day not later than thirty days after the presentation of such report.

(3) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time 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 or the local *kacheri* or some other public building in the municipal borough. The said notice shall include any motion or proposition where of 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 general meeting any motion or proposition mentioned in any written request made for such meeting.

(4) Every meeting of a municipality shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the building used as a municipal office by such municipality.

(5) Every meeting shall, in the absence of both the president and vice-president be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause *(a)* of section 45.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private :

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

Provided further that the presiding authority may cause to be removed from the meeting any councillor who does not obey his ruling.

(7*)* If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall after waiting for not more than 30 minutes adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

(8)Except with the permission of the presiding authority which permission 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 general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any

business or proposition shall be brought forward at such meeting shall be determined by the presiding authority who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(9)In every municipality there shall be kept in Gujarati minutes of the names of the councillors and of the officers of Government or of a panchayat, if any, present under the provisions of clause (*14)*, and of the proceedings at each general meeting in a book to be provided for this purpose; such minutes shall be signed, as soon as practicable, by the presiding authority and shall at all reasonable times be open to inspection by any inhab ugh. If any councillor expresses a

desire at the meeting that the mode in which he voted or the nature of his vote should be recorded, the minutes shall specify the fact accordingly.

(10) Save 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 result recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (a) of section 271.

(11) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time to a later 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 in the Municipal office shall be deemed sufficient notice of the adjourned meeting.

(12) No resolution of a municipality 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 whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling the requirements of clause (3) 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.

(13)Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government executive engineer or to any educational mater shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting a letter has been addressed to the said executive engineer or to the deputy educational inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

(14) (a)The executive engineer, deputy educational inspector and the assistant director of public health, and the civil surgeon in a district or any other Government officer or any officer of a panchayat when charged with any of the duties of a, health officer therein, shall have the right of being present at any meeting of such municipality with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality :

Provided that the said officers shall not be entitled to vote upon any such question.

(b) If it shall appear to a municipality that the presence of the executive engineer, deputy educational inspector, assistant director of public health or civil surgeon in the district or any other Government officer or any officer of a pachayat is desirable for the purpose aforesaid at any meeting of such municipality, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer unless prevented by sickness; or other reasonable cause, shall be bound to 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 sent him to the meeting as his representative instead of appearing thereat in person.

The Chief officer to be present at every meeting of the Municipality but not to vote upon or make any proposition.

52. The chief officer shall be present at every meeting of the municipality, and may with the permission of the president or of the municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting. but shall not to vote upon or make any proposition at such meeting.

(2) Committees.

Executive committee.

53. (1)In every municipality there shall be a committee called the Executive Committee consisting of such number of councillors not being more than twelve

nor less than six, as the municipality may determine and elected by the municipality in accordance with rules framed under clause (a) of section 271. The members so elected shall hold office for a period of one year.

Powers of Executive committee.

(2)The Executive Committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (a) of section 271 and to the provisions of sections 49, 54 and 55 shall exercise all the powers of the municipality.

Pilgrim Committee.

54. (1)In every municipality notified by the State Government in this behalf, there shall be a committee called the Pilgrim Committee consisting of four councillors of whom one shall be the President of the municipality and the other three shall be elected in accordance with rules made under clause (a) of section 271 and of two persons appointed by the State Government, both of whom may be salaried servants of the Government.

(2)The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which the new Pilgrim Committee is constituted in accordance with the provisions of this section.

(3) In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the [43][Director] such Committee shall consist of six persons nominated by the [43][Director] and shall continue until the municipality is reestablished, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is reestablished.

(4) The Pilgrim Committee shall manage and administer the Pilgrim fund established under proviso *(c)* to section 82 and shall exercise the powers and perform the duties of the municipality in respect of the said fund and of works constructed or maintained out of the said fund and shall exercise such other powers and perform such other duties as may be allotted to it by the municipality subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause *(b)* of section 271.

(5) All the provisions of this Act relating to the duties, powers, liabilities, dis-qualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(6)In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(7) Section *63* shall not apply to the Pilgrim Committee provided that the municipality shall have power at any time, to call for any extract from any proceedings of the Pilgrim Committee and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(8) The provisions of sections 77, 78 and 79 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget follow the following procedure, namely:-

The Pilgrim Committee shall in sufficient lime submit its annual budget and all alterations there in to the municipality for consideration, and if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee for reconsideration, either in whole or in part, together with any alterations, which and if the Pilgrim

Committee agrees to those alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in dispute, shall be referred by the municipality to the 44[Director] whose decision on such points shall be final

(9) The provisions of sections 257, 258, 259, 262 and 263 shall apply to a Pilgrim Committee and in their application to a Pilgrim Committee, the said sections shall be construed *so* far as may be, as if for the word " municipality " occurring in the said sections, the words "Pilgrim Committee" were substituted.

Other Committees.

55. (1)Notwithstanding anything contained in sub-section *(2)* of section 53, other committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the municipality in respect of any purpose not being, where a Pilgrim Committee is appointed, powers or duties referred to in section 54. The executive committee shall not exercise any powers or perform any duties which such Committee has been appointed to exercise or perform.

(2)The members of such committees shall be elected by the municipality in accordance with the rules framed under clause *(a)* of section 271 and such members shall hold office for a period of one year.

Consultative Committees.

56. A municipality may from time to time appoint such other committees consisting of such councilors as it thinks fit, and may refer to such committees for enquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such Committee. The municipality may direct that the report of any such committee shall be made to the executive committee, or to a committee appointed under section 55 instead of to the municipality.

When person other than councillors may serve on Committee.

57. Notwithstanding anything contained in this Act, it shall be lawful for a municipality

from time to time by a resolution supported by not less than one half of the whole number of councillors, to elect as members of any committee appointed under section 56, any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee or who represents any authority or interests :

Provided that the number of persons so elected on any Committee shall not exceed one-third of the total number of the members of such Committee.

Duties etc., o such persons

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons.

Casual vacancies, reeligibility.

58. A vacancy occurring in an Executive Committee or in a committee appointed under section 55 shall, as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has, previously been a member of that committee.

Ex-officio and appointed Chairman.

59. (1)The president or vice-president, if elected a member of any committee, shall be *ex-officio* chairman thereof:

Provided that in the case of a Pilgrim Committee, the President shall be *Ex-offico* Chairman thereof.

(2) A municipality may appoint a Chairman for a Committee of which there is no *ex-officio* Chairman.

Non-attendance of Chairman.

(3) A committee of which there is an *ex-officio* Chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, ap hairman for such meeting.

(4) A committee, of which there is no *ex-officio* Chairman or a chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

Procedure at meetings.

60. (1)The provision of clauses *(4), (9)* and *(14)* of section 51 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings, of municipality contained in those provisions, and as if for the word "municipality" where it occurs in clause *(9)* of section 51 and the proviso to sub-clause *(c)* of clause *(14)* thereof, there was substituted the word "committee".

If the chairman of any committee has been absent from the municipal borough for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof.

Meeting and adjournment of committees.

(2) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

Quorum.

(*3*) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat.

Procedure by circular.

61. (1)Notwithstanding anything contained in section 60, the chairman of a committee may, instead of convening a meeting, circulate a written proposition

of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee.

Propositions when to be sent to Government of Panchayat officers for remarks.

(2)Previous to circulating any such proposition as aforesaid, the chairman may it he thinks fit, and if the business to which it relates is of the nature described in clause *(13)* of section 51, shall obtain thereupon the remarks, if any, which any officer of the Government or of a panchayat whose presence the municipality would be entitled to require under the provisions of sub-clause *(b)* of clause *(14)* of section 51, desires to record.

Decisions how be taken on propositions circulated.

(3) The decision on any proposition so circulated shall be in accordance with the majority of voles of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition on a request being made by not less than two members in respect of the proposition.

And how to be recorded

(4) Every decision arrived at by a committee under this section shall be recorded in the minute book.

Subordination c committees to municipality.

62. (1)A committed shall conform to any instructions that may from time to time be given to it by the municipality; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal; every such requisition, shall, without unreasonable delay, be complied with by the committee so called upon.

(2) Every order passed by an executive committee other than orders under sub-section *(3)* of section 108, shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 271.

Powers, duties a functions may b delegated to off whose expenses be paid.

63. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or *to* the vice-president or to the chairman of a committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the chief officer by this Act or on any committee by or under section 53, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

(3) Joint transactions with other bodies.

Joint Committees of local bodies.

64. *(1)* A municipality may from time to time-

(a) joint with any other municipality, cantonment authority, panchayat or committee appointed for a notified area or with any combination of such municipalities, authorities, panchayats or committees.

(i) 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

(ii) 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 any of such bodies; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of the State Government, into an agreement with a municipality, cantonment authority, panchayat or committee or combination as aforesaid [45][for the levy of tolls whereby tolls] leviable by the bodies so contracting may be levied together instead of separately within the limits to the area subject to the control of the said bodies.

(c) in order to obtain services of a technical nature join with any other neighbouring municipality or municipalities in appointing the same person in common posts respectively under each of the municipalities on such condition (including conditions as to the service of the persons) as may be agreed upon between the municipalities.

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

(3) 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 State Government or of such officer as it appoints 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.

(4) Contracts.

Powers of municipality to sell, lease, and contract.

65. *(1)* A municipality shall be competent; subject to the restriction contained in sub-section (2), to lease, sell or otherwise transfer any moveable or immovable property which may, for the purposes of this Act, have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(2) In the case of every lease or sale of land under sub-section *(1)* of section 146, and of a lease of immovable property for a term exceeding ten years and of every sale or other transfer of such immovable property, the market value of which exceeds one lakh of rupees, the previous permission of the State Government is required :

[46][Provided that in the case of a lease or sale of land under sub-section *(1)* of section 146 no such permission shall be granted if such land forms a street or part of a street which has been declared to be a public street under section 148.]

Sanction by resolution at general meeting requisite to validity of certain

contracts.

(3) In the case-

(a) of a lease for a period exceeding one year or of a sale or other transfer of immovable property the market value of which does not exceed one lakh of rupees or contract for the purchase of any immovable property ;

(b) of every contract which will involve expenditure not covered by a budget grant;

(c) 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 municipality by a resolution passed at a

general meeting is required.

Execution of contracts on behalf of municipality.

(4) In a municipality-

(a)every contract under or for any purpose of this Act shall be made on behalf of the municipality by the chief officer ;

(b) no such contract for any purpose 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) no contract which will involve an expenditure exceeding one thousand rupees shall be made by the chief officer unless otherwise authorised in this behalf by the municipality except with the approval or sanction of the committee concerned;

(d) every contract made by the chief officer involving an expenditure exceeding five hundred rupees and not exceeding one thousand rupees shall be reported by him, within fifteen days after the same has been made, to the committee concerned;

(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.

(5) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

Mode of executing contracts.

66. *(1)* Every contract entered into by a chief officer on behalf of a municipality 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 municipality ;

(b) every contract for the execution of any work for the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, shall be in writing and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or 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 contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two councillors, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signature of the said councillors, shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(3) A contract not executed in the manner provided in this section shall not be binding on the municipality.

Tenders to b for contracts expenditure Rs. 5000.

67. (1) Except as is otherwise provided in sub-section (3), 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 an expenditure exceeding five

thousand rupees, give notice by advertisement in a newspaper, inviting tenders for such contract:

Provided that where the work or supply involves an expenditure exceeding twenty thousand rupees, the advertisement shall be published in such one or more daily newspapers as may be approved by the municipality :

Provided further that atleast 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.

(2) 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 executive committee, 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 for reasons recorded reject all the tenders submitted to him.

(3) A municipality 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.

Security when to be taken for performance of contract.

68. Subject to the rules made by the municipality in this behalf, the chief officer shall require security for the due performance of every contract into which he enters under section 67 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(5) Compulsory acquisition of land.

Recourse to the Land Acquisition Act, 1894.

69. When there is any hindrance to the permanent or temporary acquisition by a municipality upon payment of any land or building required for the purposes of this Act, the State Government may, after obtaining possession of the same for itself under the Land Acquisition Act, 1894, vest such land or building in the municipality on its paying the compensation awarded and on its repaying to the State Government all costs incurred by the State Government on account of the acquisition.

I of 1894.

(6) Liabilities of councillors, officers and servants.

Liability of councillors for misapplication.

70. (1)Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through or been facilitated by gross neglect of his duty as a councillor:

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of the municipality; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any contract or agreement and all such expenses.

(2) If after giving *the* councillor concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the councillor was party to the misapplication of any fund of the municipality or that the misapplication is a direct consequence of misconduct or gross neglect on his part, the officer so authorised shall by an order in writing direct

such councillor to pay to the municipality before a fixed date, the amount required to be reimbursed to it for such misapplication.

(3) If the amount is not so paid, it shall be recovered as an arrear of land revenue and credited to the fund of the municipality.

(4) Any person aggrieved by the decision or action of the officer so authorised may within one month from the date of such decision or action apply to the District Court for redress of his grievance and that Court after taking such evidence as it thinks necessary may confirm, modify or set aside the order and also make such order as to costsas it thinks proper in the circumstances.

Officer or servant of municipality not to be interested in contract with such municipality.

71. (1) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipality.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by or on behalf of a municipality, as under clauses (i), (ii) and (iv) of sub-section (3) of section 11, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

Penalty for c officer or se municipality interested in etc., with tha municipality

72. *(a)* Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, *by* or on behalf of a municipality of which he is a member, not being a share or interest such, as under section 11, it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

(b) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses *(i)* and *(iv)* of sub-section *(3) of* section 11, it is permissible for a person to have without being thereby disqualified from becoming a councillor shall be liable, on conviction before a criminal court, to a fine which may extend to one thousand rupees.

Councillors be deemed p servants.

73. (1) Every municipal councillor, officer or servant and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for purposes of sub-section *(1)* of this section, be deemed to include a municipality.

(7) Validity of proceedings.

Acts and pro municipality committee n by disqualifi etc., of mem thereof.

74. *(1)* No disqualification of or defect in the election or appointment of any person acting as councillor or as the President or presiding authority of a general meeting or as a chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality 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 proceeding were entitled to act.

No resolution of a municipality or of any committee appointed under this Act 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

municipality or committee, were not prejudicially affected by such irregularity.

Proceedings presumed and valid.

(2)Until the contrary is proved, every meeting of a municipality 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, 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.

(8) Municipal accounts.

Accounts to be kept.

75. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Municipal Account Code subject to such modifications as the State Government may in each case direct.

Presentation of accounts, budget estimates.

76. (1)A municipality shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 15th of March as may be fixed in this behalf by the rules of the municipality a complete account of the actual and expected receipts and expenditure for the financial year ending or the 31st March next following together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(2)The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose :

Provided that the executive committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction re-appropriations not exceeding Rs. 5,000 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such a re-appropriations shall be submitted to the municipality at every quarterly general meeting.

(3) Save as provided in sub-section (2), no sum shall be expended by or on behalf of the municipality unless such sum is included in the budget estimate which has been sanctioned and in force at the time of incurring the expenditure.

(4) The municipality shall at the general meeting in April or after audit of the past year's accounts, if such audit has not before that general meeting taken place pass the accounts of the past year.

Audit of accounts.

Guj. XLIX

77. (1) Independently of the audit provided for under the provisions of the Gujarat Local Fund Audit Act 1963, the municipal accounts may be audited at intervals and by such agency as may be prescribed in the rules of the municipality.

(2) Notwithstanding anything contained in sub-section (1), the municipal accounts shall be audited at any time, if the State Government so directs.

(3) The auditor shall, for the purposes of his office, have access to all the ac the municipality.

46A[(4) Notwithstanding anything contained in the preceding subsections, the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the municipality.

(5) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (4), to be laid before the Stale Legislature.]

Transmission of accounts to State Government.

78. A municipality shall, as soon as the accounts of the past year have been prepared, transmit to the State Government or any officer duly authorized by it in this behalf, a copy thereof, or an account in such forms as the State Government may prescribe, and shall furnish such details and vouchers relating to the same as the State Government or such officer may from time to time direct.

Publication of accounts.

79. The quarterly and annual accounts, receipts and expenditure, and the budget, when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipality may prescribe in this behalf.

CHAPTER V.

MUNICIPALPROPERTYANDFUND.

Power to acquire and hold property for the purposes of the Act.

80. (1) A municipality may acquire and hold property both moveable and immovable, whether within or without the limits of the municipal borough.

(2)All property of the nature specified in the clauses to this section, not being specially reserved by the State Government, shall be vested in and belong to the municipality, and shall, together with all other property of whatever nature or kind, which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it as trustee, subject to the provisions and for the purposes of this Act :-

(a) All public town-walls, gates, markets, slaughter-houses manure and night soil depots.

(b) All public streams, tanks, reservoirs, cisterns, wells, springs, acqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works materials and things connected with or appertaining to such water works ; and also any adjacent land, not being private property, appertaining to any public tank or well.

(c) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(d) All public lamps, lam-posts and apparatus connected therewith, or appertaining thereto.

(e) All lands and public buildings transferred to it by the Government by gift or otherwise, for local public purposes.

(f) All public streets and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets:

Provided that lands and public building transferred to the municipality by the State Government under clause(e) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the municipality but shall vest in it subject to the

terms and conditions of the transfer, and on the breach of any of the said terms or conditions the lands thereto, including all

fixtures and structures thereon and the public buildings shall revest in the State Government and it shall be lawful for the State Government to resume possession thereof.

(3) Where any open site or waste, vacant or grazing land vesting in Government has been vested by Government in a municipality whether before or after the commencement of this Act, then it shall be lawful for the State Government to resume at any time such site or land, if it is required by it for any public purpose.

(4)In the event of the resumption of any land, building or site under sub-section *(2)* or *(3)* by the State Government otherwise than only for a breach of a condition on which the same was held by the municipality, the municipality shall be entitled to compensation equal to the value of any improvement of such land, building or site by municipality and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894. I of 1894.

81. (1)In any municipal borough 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 municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim. Decision property b the munic

(2) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector 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 of any order passed by the final appellate authority, as determined according to section 204 of the Land Revenue Code, 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 Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Land Revenue Code.

(b) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(c) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the State Government.

82. All moneys received by or on behalf of a municipality by virtue of this or any other Act; 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 municipality, and all rentsaccruing 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 80. Municipal fund.

Provided that-

Special trust

VI of 1890.
Bom. XXIX of 1950.

(a) nothing in this section or in section 75 shall in any way affect any obligation accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the Charitable Endowments Act, 1890 or the Bombay Public Trusts Act, 1950, for the administration of any trust or by a trust of the nature specified in clause *(b)* of

this proviso;

(b) 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, a municipality may, and where so required by the 47[Director], shall, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or water works or fire- brigades or other such purposes as the 47[Director] in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart;

(c) (1)every municipality in which a tax on pilgrims resorting periodically to a shrine within its limits is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the "Pilgrim Fund Account."

(2) the purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Accounts shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the 47[Director] for

(i) 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;

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

(iii) the cost of collection of the said tax.

(3) The sums credited under clause (1), shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the 47[Director].

Application of municipal property and lands within and without the municipal borough.

83. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of the municipal borough :

Provided always that it shall be lawful for the municipality with the sanction of the State Government or any officer duly authorised by it in this behalf,-

(a) to incur expenditure in the acquisition of land or in the construction, maintenance, repair or purchase of works beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough or of providing the supply of electrical energy for the use of the inhabitants of the said borough, 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 borough or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough; 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, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality: or

(c) to create scholarships tenable outside the limits of the municipal borough:

Provided further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water or electrical energy or for drainage as aforesaid-

(a) to supply or extend to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said borough, any quantity of water or electrical energy not required for the purposes of this Act within the said borough, 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 municipality and such person or the occupier or owner of such buildings or lands: or

(b) 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 supply lines or other works necessary for the purposes of such supply or for the extension of such advantages.

Power of municipality to extend service to persons or properties outside its limits when authorised by Government.

84. (1)Notwithstanding anything contained in section 83 or any other provision of this Act, the State Government may, by general or special order authorise any municipality to, and thereupon such municipality may, extend to persons or properties beyond the municipal borough any service provided by the municipality within the said borough and specified in the order.

(2)No such extension shall be effected unless the municipality is satisfied that it will not render the service within the borough inadequte, and the extension shall be on such terms and conditions as shall be prescribed by bye-laws made in this behalf.

(3)A municipality may with the previous sanction of the State Government incur expenditure on education or medical relief outside its jurisdiction if its finances permit.

Extension by municipality of its service etc., to area outside its limits.

85. (1)If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire, or epidemic disease or any other natural calamity, the Collector or the Mamlatdar is satisfied that it is necessary to requisition any service, equipment or staff provided or maintained by any municipality within the municipal borough, the Collector or, as the case may be, the Mamlatdar may by order in writing direct the municipality to supply to the area such service, equipment and staff for such purpose and for such period as may be specified in the order and the municipality shall be bound to comply with the direction.

(2) Where any direction is issued to a municipality under sub-section *(1),* the municipality shall subject to the provisions of sub-section *(3)* be entitled to the cost of supplying the service, equipment and staff in pursuance of the direction.

(3) (a)The sum payable to the municipality under sub-section *(2)* by way of cost shall be determined by the officer making requisition under sub- section *(1)*.

(b) If the area to which the service, equipment and staff are so supplied, is within the local limits of any municipality, gram panchayat or nagarpanchayat, such municipality, gram panchayat or, as the case may be, nagarpanchayat shall be liable to pay to the municipality the sum determined under clause *(a)* and shall pay the same to the municipality within such period as the Officer determining the sum directs. In any other case, the sum determined under clause *(a)* shall be paid to the

municipality by the State Government.

(4) If any area beyond the municipal borough is affected by an outbreak of fire or epidemic disease or any other natural calamity and the municipality is satisfied that for protecting life and property in that area it is necessary to take immediate steps to supply to the area any of its services, equipment and staff then whether a requisition under sub-section *(1)* has been made or not, it shall be lawful for the municipality to supply to the area free of cost such service, equipment and staff as it may deem fit.

Deposit of fu and investme surplus fund

86. *(1)* Subject to the provisions of sub-sections (2) and *(3),* all moneys constituting municipal fund received by or on behalf of a municipality shall be deposited in the Government treasury or such other place or security as may be prescribed by the rules of the municipality.

(2) A municipality may keep on hand cash upto such limit as may be prescribed by the rules of the municipality.

(3) It shall be lawful for a municipality to deposit with the State Bank of India or such other Bank as may hereafter be appointed to conduct the business of Government treasury at Ahmedabad or in any other Scheduled Bank or in any Co-operative Bank or with the sanction of the State Government in any bank in the State of Gujarat, 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 municipality and from time to time, to dispose of such securities as may be necessary.

Explanation.-For the purposes of this sub-section, a Scheduled Bank shall mean a bank included in the Second Schedule to the Reserve Bank of India 2 of 1934.

Act. 1934.

CHAPTER VI.

FUNCTIONS OF MUNICIPALITIES.

Duties of Municipalities.

87. It shall be the duty of every Municipality to make reasonable and adequate provision for the following matters within the limits of the municipal borough, namely :-

A. In the sphere of public works-

(a) naming streets and numbering of premises:

(b) giving immediate relief to persons rendered destitute by such natural calamity as floods, fire or earthquake, within the municipal borough.

B. In the sphere of education- establishing and maintaining primary schools.

C. In the sphere of public health and sanitation-

(a) regulating or abatting offensive or dangerous trades or practices;

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

(c) 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;

(d) public vaccination;

(e) watering public streets and places;

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

(g)introducing and maintaining the system of water-closet so as to despense with the removal of night-soil by carrying the same in a receptacle, cart or other means;

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

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

(j) establishing and maintaining public hospitals, dispensaries and family planning centres and providing public medical relief;

(k) acquiring and maintaining, changing and regulating places for the disposal of the dead, and disposal of unclaimed dead bodies and carcasses of dead animals;

(l) constructing, altering and maintaining public latrines and urinals.

D. In the sphere of development-

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

(b) suitable accommodation for calves, cows, or buffaloes required within the municipal borough for the supply of animal lymph;

(c) printing such annual reports of the municipal administration of the borough as may be required by general or special orders of the State Government;

(d) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property;

(e) improving agriculture by suitable measures including crop protection and crop experiments.

E. *In the sphere of town planning-*

devising town planning within the limits of the borough according to the law relating to town planning for the time being in force.

F. *In the sphere of administration-*

(a)lighting public streets, places and building;

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

(c) 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 vest in the municipality or in Government;

(d)erecting substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough;

(e)registering births, marriages and deaths.

88. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as the State Government from time to time by general or special order determines, for the maintenance and treatment in any institution which the State Government declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution :

Provision rabic treat indigent p

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergo an indigent person in any

such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for atleast one year.

Provision for lunatics and lepers.

89. Every municipality shall, also out of the municipal property and fund, make payments at such rates and subject to such as the State Government from time to time by general or special order prescribes, determines, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which the State Government declares by notification to be suitable for such purpose,-

(a) of lunatics not being persons for whose confinement an order under Chapter V of 1898.

XXXIV of the Code of Criminal Procedure, 1898, is in force, and

(b) of persons suffering from leprosy,

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

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for atleast one year :

Provided further that where an application is made to the High Court or a IV of 1912.

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 municipality shall be made without an opportunity being given to such municipality 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 municipality 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 municipality on application.

Analysis and inspection of water supplied through pipes.

90. If any municipality supplies water through pipes, it shall take such steps, at such intervals, and on payment of such fees, as may be determined by a general or special order made by the State Government to ascertain the condition of the water so supplied, by inspection and analysis at a laboratory approved by the State Government inthat behalf;

Provided that the State Government may, by notification in the *Official Gazette* exempt any municipality from the provisions of this section.

Discretionary function.

91.A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund for the following matters within the limits of municipal borough, namely :-

A. *In the sphere of public works.*

(a)giving relief to, and establishing and maintaining relief works in time of famine or scarcity for, destitute persons within the limits of the municipal borough;

(b)constructing, establishing or maintaining, public parks, gardens, libraries, museums, lunatic asylums, halls, offices, shops, markets *dharmashalas,* rest-houses, places of entertainment and homes for the disabled and destitute and other public buildings:

(c) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of intere r the construction of a telephone

line subject to the previous sanction of the Development Commissioner when the line extends beyond the limits of the municipal borough;

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

(e) 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;

(f) planting and maintaining road-side and other trees;

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

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

(i)providing accommodation for all classes of servants employed by the municipality.

B. In the sphere of education.

(a) establishing and maintaining pre-primary schools such as *balwadies, balmandirs,* etc;

(b) undertaking cultural activities;

(c)making contribution by way of aid to pre-primary schools, secondary schools, institutions providing higher or technical education and institutions of educational societies;

(d) establishing and maintaining secondary schools and institutions for higher or technical education;

(e) making contribution to the funds of the local Self-government Institute;

(f) undertaking measures for promotion of social and moral welfare of the population in the borough (including prohibition of consumption of intoxicants, and removal of untouchability);

(g)establishing and maintaining gymnasia, playgrounds, theatres, libraries, reading rooms and other recreation centres.

C. In the sphere of public health and sanitation.

Bom. XXII of 1951.

(a) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 190 of this Act or under section 44 of the Bombay Police Act, 1951;

(b) securing or assisting in the securing of suitable places for the carrying on of the offensive trades specified in sub-section (1) of section 221;

(c) supplying, constructing and maintaining receptacles, fitting, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality;

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

(e) 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 borough;

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

D. In the sphere of development.

(a) constructing, altering and maintaining residential buildings for housing houseless persons;

(b) encouraging formation of Co-operative housing societies and giving assistance to those societies in construction of residential buildings;

(c) undertaking manufacture of building materials and their distribution at fair prices.

(d)undertaking schemes of slum clearance or re-development of any area.

[48][(e)the preparation of plans for economic development and social justice:

(f) the performance of functions and the implementation of the schemes that may be entrusted by the State Government to it, including those in relation to the matters listed in the Twelfth Schedule to the Constitution of India.]

E. In the sphere of administration.

(a) any public reception, ceremony, entertainment or exhibition within the municipal borough according to the rules made in this behalf by the State Government;

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

(c) making a survey;

(d) 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.

F. In the sphere of Agriculture and Co-operation.

(a) promoting the idea of Co-operation in different walks of life and organising and encouraging Co-operative institutions;

(b) with the previous sanction of the State Government reclaiming wasteland and bringing it under cultivation;

(c) training the urban community in self-help and self-sufficiency on the principle of mutual Co-operation;

(d) starting of granaries;

(e) constructing, altering and maintaining godowns, and depots for preservation of foodgrains and vegetables;

(f) conservation of manurial resources preparing compost manure, organic manure and mixture and to arrange for making them easily available;

(g) establishing and maintaining nurseries for fruit bearing trees and vegetables and arranging for storage and distribution of the fruits and vegetables grown therein;

(h) undertaking measures for improvement of agriculture, and cattle breed:

(i) assisting in establishment of large scale, small scale, cottage and craft industries.

G. General.

taking any measure not specified in the foregoing provisions of this section or in section 87 which is likely to promote the public safety, health, convenience, welfare or education.

Arrangements purporting to be binding permanently or for a term of years.

92. When a municipality has entered into any arrangement or made any promise purporting to bond 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 municipality or its successors with the sanction of the State Government to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution, provided that it shall have given atleast twelve months' notice of its intention so to do to the manager or managers of such institution.

CHAPTER VII.

PROVISIONS AS TO TRANSFER OF CERTAIN FUNCTIONS.

(A) Transfer of functions relating to recovery of land revenue and cesses under the Land Revenue Code and the law relating to collection of cesses.

Recovery revenue by municipali

93. The State Government may notwithstanding anything contained in the Land Revenue Code, or any law relating to the collection of any cess for the time being in force in the State, by notification in the *Official Gazette,* entrust to every municipality all or any of the functions, and duties of a village accountant or patel or other similar functions of any other person, by whatever name called, in relation to the collection of Land Revenue (including cesses) and dues recoverable as arears of land revenue, which is levied and assessed by or under the Land Revenue Code, or any law relating to the collection of any cess for the time being in force in the State, and all other functions and duties of a village accountant under that Code.

Responsib the municipali

94. The municipality so entrusted under section 93 shall be responsible for the recovery and collection of the land revenue (including cesses) and other dues of the borough in accordance with the provisions of the Land Revenue Code and the rules, instructions and orders made or issued thereunder and the law relating to the collection of such cesses.

Conferme and duties of land rev municipali

95. Where a municipality has been entrusted with the functions and duties relating to the collection of land revenue (including cesses) and other dues under section 93, the State Government shall by notification in the *Official Gazette,* confer on such municipality subject to such conditions as may be specified in the notification all or any of the powers of the Collector, for the realisation of land revenue and other dues recoverable as arrears of land revenue under the Land Revenue Code, and for the collection of cesses under the law relating thereto, and it shall be competent for the municipality so empowered to exercise all or any of the powers so conferred in this behalf.

Right of State Government to collect land revenue unaffected.

96. Notwithstanding anything contained in the provisions herein before the right of the State Government to collect land revenue and any cess, shall remain unaffected and if in the opinion of the State Government a municipality exceeds or abuses its powers under this Chapter or fails to exercise the same, or is incompetent to perform, or makes persistent default in the performance of the duties imposed or persistently disobeys any of the orders of the Collector with regard to the exercise of any of the said powers, the State Government may after giving the municipality an opportunity to render an explanation, by order in the *Official Gazette,* withdraw all the powers conferred on the municipality under this Chapter and direct its revenue officers to recover the land revenue or, as the case may be, the cesses.

Collector to appoint officer on suspension of powers of municipality.

97. On the withdrawal under section 96 of the powers conferred on a municipality, the Collector shall appoint an officer to take charge of the recovery of land revenue, or collection of cesses, in the municipal borough.

(B) Transfer of functions of State Government.

Transfer of functions of State Government to municipalites.

98. (1) Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer, by an order published in the *Official Gazette,* to a municipality any such functions and duties relating to Government under any enactment which the State Legislature is competent to enact, or otherwise in the executive power of the State, and appear to relate to matters arising within a municipal borough and to be of an administrative character and shall on such transfer allot to the municipality such fund and personnel as may be necessary to enable the municipality to discharge the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of sub-section *(1),* the State Government may transfer to the

municipality such functions and duties as are performed by the following departments of the State, namely :-

(1) Agriculture;

(2) Animal Husbandry;

(3) Public Health and Medical relief;

(4) Public Works Department activities in the district;

(5) Social Welfare;

(6) Revenue Department;

(7) Prohibition Department so far as prohibition propaganda is concerned;

(8) Co-operative Department;

(9) Cottage Industries and Small Scale Industries;

(10)District Statistical Office.

(3) Where any functions and duties conferred by or under any enactment are so transferred, that enactment, shall have effect as if this section had been incorporated in that enactment.

[49][CHAPTER VIIA.

TAXATION BY THE STATE GOVERNMENT.

Leavy of cess on e of land r

98A. (1)The State Government shall levy, on the condition and in the manner hereinafter described, a cess at the rate of fifty paise on every rupee of-

(a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub- section (2) and except sums payable on account of any charge which may be notified by the State Government in this behalf;

(b) every sum which would have been payable as land revenue by a small holder as defined in the Explanation to section 45 of the Land Revenue Code in respect of the land held by him for the time being for the purpose of agriculture, had land revenue been payable in respect of such land under the said section by such small holder; and

(c) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue:

Provided that no cess shall be levied under this section on sums less than twenty-five paise.

(2) The following sums shall not be taken into account for the purposes of sub-section (*1*), namely :-

(*i*) penalties and fines, including any charge imposed under section 148 of the Land Revenue Code, as penalty or interest in case of default, but not including any fine levied under section 65 of the said Code on grant of permission to use land for a purpose unconnected with agriculture;

(ii) fees for grazing when charged per head of cattle.

Bom. VII of 1879.

98B. The State Government may levy a cess not exceeding twenty paise on every rupee of water rate leviable under the provisions of the Bombay Irrigation Act, 1879.

Levy of cess on water-rat

98C. The cess described in section 98A shall be levied, so far as may be, in the same manner, and under the same provisions of law, as the land revenue:

Manner of l cess describ section 98A.

Provided that in case of any land in the possession of a tenant, if such tenant is liable to pay the land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, or the Bombay Tenancy and Agricultural

Bom. LXVII of 1948.

Bom.XCIX of 1958.

Lands (Vidarbha Region and Kutch Area) Act, 1958, such tenants shall be primarily laible for the payment of cess in respect of such land.

Manner of l cess descri section 98B

Bom. VII of 1979.

98D. The cess described in section 98B shall be levied, so far as may be, in the same manner, and under the same provisions of law as water rates payable to the State Government under the Bombay Irrigation Act, 1879.

Collection a of local cess revenue and rates.

98E. The local cess leviable on land revenue under section 98A and on water rate under section 98B in relation to any land shall be paid by the State Government to the municipality within the jurisdiction of which such lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

Suspension remission o local cess.

98F. On the application of the municipality to which the cess is payable, the State Government may, by notification in the *Official Gazette,* suspend or remit the collection of cess or any portion thereof in any year in any area, subject to the jurisdiction of such municipality.]

CHAPTER VIII.

MUNICIPAL TAXATION.

(1) Imposition of Taxes.

Taxes which may be imposed.

99. (1)Subject to any general or special orders which the State Government may make in this behalf and to the provisions of sections 101 and 102, a municipality may impose for the purposes of this Act any of the following taxes, namely :-

(*i*) a tax on buildings or lands situate within the municipal borough to be based on the 49A[carpet area] of the buildings or lands or both;

(*ii*) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough :

Provided that where a motor vehicle is kept for use within the said borough as well as another municipal borough, it shall be liable to be taxed only by the municipality within or nearest to, whose limits such vehicle is actually kept:

(iii) a toll on vehicles and animals used as aforesaid, entering the said borough but not liable to taxation under clause (*ii*) of this sub-section;

50[* * * * * * * * *]

(*v*) a tax on dogs kept within the said borough;

(*vi*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(vii) a general sanitary cess for the construction and maintenance of public latrines and for the removal and disposal of refuse;

(viii) a drainage tax;

(ix) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a tax assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of cases or of any individual case;

(x) a lighting tax;

(xi) a fee on pilgrims resorting periodically to a shrine within the limits of the municipal borough;

(xii) a special educational cess;

(xiii) a tax on sale of cattle in any market in the municipal borough whether established by the municipality or not, or in any place set apart as a market for such sale:
(xiv) a betterment levy on lands or buildings in an area under a scheme of slum clearance or redevelopment;

50A[*(xiv-a)* subject to and in accordance with the provisions of the Gujarat State Tax on Professions, trades, Callings and Employments Act, 1976 (President's Act No. 11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;]

50B[*(xiv-a)* a tax on mobile towers to be levied from the person engaged in providing telecommunication services through such mobile towers;]

(xv) any other tax 51[(not being 51A * * * * *] 52[a tax on payments for admission to any entertainment] 53[or octroi)] which under the Constitution, the State Legislature has power to impose in the State :

Bom. LXV of 1958.

Provided that no tax or toll shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act, 1958:

Provided further that,-

(a) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the Government, be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to Government and used solely for public purposes and not used or intended to be used for purposes of profit; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of Government stores or of any other Government property, or for the passage of military or police officers on duty or the passage or conveyance of any persons or property in their custody;

54[* * * * * * * **]

(c) no tax described in clause *(i)* and imposed as aforesaid shall, without the express consent of the district panchayats or the taluka panchayat, be leviable in respect of any building or part of any building belonging to, or vesting in, such district panchayat or taluka panchayat and used solely for a public purpose and not used or intended to be used for purposes of profit;

(d) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the municipality has—

(i) made provision for the cleaning thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the person to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such

cess, one month's notice of the intention of the municipality to perform such cleaning and to levy such cess;

(e) the municipality in lieu of imposing separately any two or more of the taxes described in clauses *(i), (vii), (ix)* and *(x)* except a special water rate may impose a consolidated tax assessed as a tax on buildings or lands or both situated within the municipal borough.

(2) Nothing in this section shall authorize the imposition of any tax which the State Legislative has no power to impose in the State under the Constitution.

54A[**99A.** (1) For the purposes of clause (i) of sub-section (1) of section 99, the tax shall, subject to such exceptions, limitations and conditions hereinafter provided, be levied annually on the buildings or lands situate in the municipal borough area at of the carpet area of buildings and

of the area of lands (hereinafter to as "the rate of tax") as the municipality may determine having regard to the factors as the State Government may president by rules.

(2) For the purpose of levy of tax on buildings or lands situate within the municipal borough under sub-section (1),-

(a) the buildings may be classified into residential buildings and buildings other than the residential buildings; and

(b) the municipality may determine one rate of tax for residential buildings and the other than rate of tax for buildings other than the residential buildings :

Provided that it shall be lawful for the municipality to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined for residential buildings generally :

Provided further that the rates of tax per square metre of carpet area shall be decided by municipality with the approval of the Director of Municipalities.

(3) In lieu of the tax leviable under sub-section (1) read with sub-section (2), there shall be levied annually on,-

(a) residential hunts, and

(b) residential tenements in a *chawl,* each such tenement having carpet area not exceeding twenty-five square metres,

such amount of tax as the Municipality may determine :

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the *Official Gazette*, specify.

Explanation.- For the purpose of levy of tax under this section, where an addition is made to an existing building whereby the carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.]

Payment to be made to the municipality in lieu of a tax on buildings by the Government or district panchayat or taluka panchayat concerned.

100. *(1)* The Government or the district panchayat or the taluka panchayat concerned shall pay to the municipality annually in lieu of tax on buildings from which the buildings vesting in Government or in district panchayats or taluka panchayats are exempted by clause *(a)* 54B[***]of the proviso to sub-section *(1)* of section 99, a sum ascertained in the manner provided in 54C[sub-section *(3)*].

54D[* * * * * * * * *]

(3) The sum to be paid annually to the municipality by the Government or the panchayat concerned shall be eight tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said tax on buildings on 54E[on the basis of carpet area of the buildings].

Procedure preliminary to imposing tax

101. A municipality before imposing a tax shall observe the following preliminary procedure:-

(a) It shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 99 and approve rules; prepared for the purposes of clause (1) of section 271 prescribing the tax selected, and in such resolution and in such rules specify :-

(i) the classes of persons or of property or of both, which the municipality proposes to make liable and any exemptions which it proposes to make;

(ii) the amount or rate at which the municipality proposes to assess each such class;

(iii) in the case of a tax on buildings or lands or the both, the [54F][manner of assessment of such tax to be imposed];

(iv) all other matters which the State Government may require to be specified therein.

(b) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule I prefixed thereto.

(c) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality; the municipality shall take all such objections, into consideration, or shall authorize a committee to consider the same and report thereon; and unless it decides to abandon the proposed tax, shall submit such objections with his opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to the State Government.

Power to sanction, and impos conditions

102. The State Government may refuse to sanction the rules submitted under section 101, or may return them to the municipality for further consideration; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 101, may sanction the said rules without modification, or subject to such modifications not involving an increase in the amount to be imposed, as it deems fit.

Publicatio sanctione with notic

103. Rules sanctioned under section 103 with the modifications if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly :

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 then next ensuing ;

(b) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required and as may have been approved by the State Government under clause (a) of the proviso to section 271, prescribing the mode of levying, and recovering the tax herein specified and the dates on which it or the instalments, if any, thereof shall be payable :

(c) if the levy of a tax, or of a special 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 unpaid arrears which may have become due during that period.

Municipalities empowered by Government t or vary amoun tax.

104. (1)The State Government may, by notification in the *Official Gazette,* empower any municipality to levy any tax or to increase or reduce the amount or rate of any tax levied under section 99 within such maximum and minimum limits either as to he amount or the rate as may be specified in such notification.

(2) Notwithstanding any resolution or rule under section 101 specifying the amount or rate at which such tax is leviable, any municipal section (1) may, by a

resolution passed at a general meeting decide to levy such tax or increase or reduce the amount or rate at which such tax is leviable.

(3) When a municipality has by a resolution passed under sub-section (2) decided to levy any tax or to increase or reduce the amount or rate at which any tax is leviable, the municipality shall publish in the municipal borough the resolution together with notice specifying a date, which shall not be less than one month from the date of publication of such notice, from which the tax shall be levied or the amount or rate at which any tax is leviable shall be increased or reduced. The tax shall thereupon be levied or, as the case may be, the amount or rate thereof shall be increased or reduced from the date specified in such notice.

(2) ***Assessment of and liability to taxes on buildings or lands.***

Preparation of an assessment list.

105. (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 borough to be prepared containing-

(a) the name of the street or division in which the property is situate;

(*b*) a description of the property sufficient for identification;

(c) the names of the owner and occupier, if known;

54G[(d) the assessment based on the carpet area and of the area of land of the property made in accordance with sub-section (1) of section 99A;] and

(e) the amount of the tax assessed thereon.

(2) In assessing a tax on buildings or lands, 54H[where the assessment determined under clause *(d)* of sub-section *(1),* a sum equal to ten percentum of the said assessment] shall be deducted there from in lieu of all allowance for repairs or on

any other account whatsoever.

Power to inspect and require returns.

(*3*) 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 borough 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 subscribed with his signature, of the name and place of abode of the owner or occupier or of both and 54I[the carpet area of such building and the area of land].

Person primarily liable of a tax on buildings or lands or both how to be designated if his name cannot be ascertained.

106. (1) When the name of the person primarily liable for the payment of a tax on building or land 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.

Occupier liable for tax on buildings or lands or both until he gives information.

(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.

Publication of notice of assessment List.

107. When the assessment list has been completed, the chief officer shall give public notice thereof and of the place where the list or a 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.

Public notice of time fixed for lodging objections.

108. (1)The chief officer, shall at the time of the publication of the assessment list under section 107, give public notice of a date not less than one month after such publication, before which objection to the 54J[* * *] assessment in such list shall be made; and in all cases in which any property is for the first time assessed or t on account of a change in the

54K[carpet area] 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.

Objections how to be made.

(2) Objections to the 54L[* * * *] assessment of 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 executive committee before the time fixed in the aforesaid public notice, by application in writing, stating the grounds on which the 54M[* * *] assessment is disputed; all applications so made shall be registered in a book to be kept by the executive committee for the purpose.

Hearing of objections.

(3) The executive committee, after allowing the applicant an opportunity of being heard in person or by agent, shall-

(a) investigate and dispose of the objections,

(b) cause the result thereof to be noted in the book kept under sub-section (2), and

(c) 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 thereof shall be recorded in the book kept under sub-section (2):

Provided further that powers and duties of the executive committee under this sub-section may be transferred to any other

committee appointed by the municipality or with the permission of the Development Commissioner, to any officer or pensioner of the Government.

Authenticat of list.

(4)As and when in respect of any property the objections made under this section have been disposed of and the amendments required by sub-section *(3)* have been made in the assessment list, the said list so far as such property is concerned shall be authenticated by the signature of the chairman and at least one other member of the executive committee, or if the executive committee's powers and functions under sub-section *(3)* have been transferred to any other committee or to an officer or pensioner of the Government, by the signatures of not less than two members of such committee or of the officer or pensioner aforesaid; the person or persons so authenticating the list shall certify that no valid objection has been made to the 54N[* * * *] assessment of the property contained in the list except in the cases in which amendments have been made therein.

Custody an inspection o list.

(5) The list so authenticated shall be deposited in the municipal office, and shall there be open 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.

Authenticat list how far conclusive.

(6) Subject to Such alternation as may be made therein under the provisions of section 109 and to the result of any appeal or revision made under section 138 the entries in the assessment-list so authenticated and deposited and the entries, if any inserted in the said list under the provisions of section 109 shall be accepted as conclusive evidence-

(i) for the purposes of all municipal taxes, 54-O[of the assessment under clause (d) of sub-section (1) of section 105], regulating the tax on buildings, lands and both, the buildings and lands to which such entries respectively refer, and

(ii) for the purpose of the tax for which such assessments-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 in force.

Amendment of assessment list Notice of new buildings.

109. (1)The executive committee may at any time alter the assessments-list by inserting or altering an entry in respect of any property, such entry having been ommitted 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.

Objection how dealt with.

(2)An objection made by any person interested in any such alternation before the time fixed in such notice and in the manner provided by sub-section *(2) of* section 108 shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment

(3)An entry or alteration made under this section shall subject to the provisions of section 138, 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.

Notice to be given to the executive committee of demolition of or removal of building.

110. (1)When any building or any portion of a building which is liable to the payment of a tax on building or lands or both is demolished or remove, otherwise than by order of the executive committee, the person primarily liable for the said payment of the tax shall give notice thereof in writing to the chief officer.

(2)Until such notice is given the person aforesaid shall continue to be liable to pay every such tax as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(3)Nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assess-ment List need not be prepared every year.

111. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that the assessment-list shall be completely revised every four years, the chief officer may adopt the [54P][* * * *] assessment contained in the list for any year, with such alteration as may be deemed necessary, for the year immediately following.

(2)But the provisions of sections 107, 108 and 109 shall be applicable every year as if a new assessment list had been completed at the commencement of the official year.

Power of State Government to appoint person to authenticate list in case of default by municipality.

112. (1)When in any year a new assessment-list is prepared or a list is revised or the [54Q][* * * *] assessment contained in the list for the year immediately preceding is adopted with or without alteration, such new revised or adopted assessment list shall be authenticated in the manner provided by section 108 at any time not later man the thirty-first day of July of the official year to which the list relates, and if it is not so authenticated, then the State Government, shall appoint such person or persons as it minks fit [55][to prepare, revise of adopt and authenticate the assessment list and thereupon such person or persons shall duly prepare, revise or adopt or, as the case may be, authenticate] such list at any time before the last day of the official year to which such list relates, and sections 105 to 108 or section 111 shall, so far as may be necessary, apply to the preparation, revision or adoption of the list, as the

case may be, by the person or persons appointed by the State Government to authenticate the list.

(2)Where the State Government appoints any person or persons for the purpose of preparing, revising or adopting and authenticating an assessment list under sub-section *(1),* the expenses incurred by such person or persons for such purpose and the reasonable remuneration payable to such person or persons shall be recovered by the State Government in the manner provided by section 262.

Tax from whom primarily leviable.

113. (1)Subject to the provisions of sub-section 55A[* * *]*(6)*,a tax imposed in the form of a tax on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the Government or from the municipality, or on a building lease from any person, otherwise the tax shall be primarily leviable as follows, namely:-

(a) if the property is let, from the lessor;

(b) if the property is sublet, from the superior lessor;

(c) if the property is unlet, from the person in whom the right to let the same vests :

Provided that the tax due in respect of buildings vesting in the Government and occupied by the servants of the Government or other persons on payment of rent shall be leviable primarily from the Government.

(2) Where any land has been let for any term exceeding one year to a tenant and such tenant or any person deriving title howsoever from such tenant has built upon such land, the tax assessed upon the said land shall be leviable from the lessor and the tax assessed upon the building erected thereon shall be leviable primarily from the said tenant or person, whether or not the premises be in the occupation of the said tenant or person.

55B[* * * * * * * * * * *]

[*Section 114 was deleted by Guj. 13 of 2007, s.12*]

Notice to be given to the chief officer of all transfers of title of person primarily liable to payment of tax on buildings or lands.

115. (1)Whenever the title of any person primarily liable for the payment of a tax on building or lands or both to or over such buildings or land 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 be punished with fine which may extend to fifty rupees.

116. (1) The notice to be given under section 115 shall be in the form so specified in Schedule II or Schedule III, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

Form of

(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.

117. (1)Every person primarily liable for the payment of a tax on building or land or both who transfers his title to or over such building or land or both without giving notic ef officer as aforesaid shall, in addition to

Liability of tax on land or b continue of any no

any other liability which he incurs through such neglect, continue to be liable for the payment of the said tax on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the executive committee.

(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 municipality on the said building and land conferred by section 140, for the recovery of the tax on the buildings or land or both.

(3) Power to charge fees.

Fees may for certai

118. (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 municipality, the authority grating or giving such licence or permission may charge a fee for the same :

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.

Levy of fee unauthorize occupation projection.

(2) The municipality 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 municipality, 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 provision of this Act or any other law for the time being in force.

The rates of such higher fees shall be determined by rules.

Market and their fees.

(3) A chief officer may also charge such fees as may be fixed by bye-laws under clause *(a)* of sub-section *(1) of* section 275 for the use of any such places mentioned in that clause as belong to the municipality.

(4) Special provisions relating to certain taxes.

Fixed charg agreement f payment in taxes for wa supplied.

119. *(1)* A municipality may, instead of imposing a water-rate or where a water-rate has been imposed in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,-

(a) fix at rates not exceeding such as shall be specified in the rules in force under section 271, charges for such supply according to the quantity used, as ascertained by measurement; or

(b) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality in such quantities, or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person :

Provided that -

(a) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions and alteration of such works shall be under the control of the municipality and the expense thereof shall, so far as it is not inconsistent with the rules or bye-laws of the municipality, to be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(b) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the bye-laws for the time bein .

Power to fix a special rate in lieu special sanitary cess.

(2) Where a municipality 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 cess 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,

(i) in accordance with the rules for the time being in force under section 271, or

(ii) by written agreement with the person who would have been

otherwise liable for the cess, provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(3)Where a municipality has imposed a tax on vehicles or animals used for riding, draught or burden and kept for such use within the municipal borough, it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and 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.

Recovery of sum claimed under this section.

(4)Every sum claimed by a municipality as due under sub-section (1) as charges, payments or expenses, or as a special rate under sub-section (2) or as a *lump sum* payable under sub-section (3), shall for the purposes of Chapter IX be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said Chapter :

Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purpose of this Act.

Taxes on pilgrims may be assigned in part to panchayats.

120. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Development Commissioner may require the municipality of such borough to assign and pay to the district panchayat or to the taluka panchayat having authority in the taluka in which such municipal borough is situate, or partly to the said district panchayat and partly to the said taluka panchayat, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said panchayat or panchayats within the areas respectively, under their authority on works conductive to the health, convenience and safety of the said pilgrims.

(5)[56][* * * *] *Tolls,*

121. *[Power to take effectual measures to prevent entry without payment of octroi.]*

122. *[Octroi by-laws to be submitted with proposal for imposition of octroi. I*

123. *[Power to examine articles to octroi.]*

124. *[Presentation of bills for octroi.]*

125. *[Penalty for evasion of octroi.]*

Sections 121 to 126 were deleted by Guj. 14 of 2001, s. 6.

Table of tolls to be shown on demand.

126. A municipality imposing any toll under this Act, shall cause to be kept at each place where such toll is to be collected, a table in the Gujarati, and in English language showing the amount leviable in all cases provided for in the rules 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 authorized to demand payment of a toll, to show such table on the request of any person form whom such demand is made.

Power to seize vehicle or animal on non-payment of 58[* *] toll.

127. [57][(1) In the case of nonpayment on demand of any toll leviable by a municipality, any person appointed to collect such toll may seize any vehicle or animal on which the toll is chargeable or any part of the burden on 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 or animal seized, a list of the property together with a written notice in the form specified

in Schedule VI;]

Power to sell property seized at once.

(2)When any property seized is subject to speedy decay, or when expense of keeping it together with the amount of the [59][* * *] 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 [59][* * *] toll demanded be forthwith paid.

Release of property on payment.

(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 [59][* * *] toll payable, the chief officer shall forthwith deliver to him the property seized.

Sale.

(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 [60] * * * toll and the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(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 applications made, shall be the property of the municipality.

128. *[Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods. I*

129. *[Collection of octroi by one public body on behalf of others.]*

[61]***[129A.*** *[Fanning of octroi]] Sections 128 to 129A were deleted by Guj. 14 of 2001, S. 6.*

(6) Powers of State Government in respect of municipal taxes.

Power of State Government to suspend levy of objectionable taxes.

130. (1)If it shall at any time appears to the State Government on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence or that the leavy thereof or of any part thereof is obnoxious to the interest of the general public, it may by order require the municipality, within such period as the State Government shall fix in this behalf to take measures for removing any objection which appears to it to exist to the said tax; and if within the period so fixed, requirement shall not be carried into effect to the satisfaction of the State Government, it may, by notification in the *Official Gazette,* suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed:

Provided that no such order or notification shall be made unless the municipality is given opportunity to show cause as to why such order or notification should not be made.

(2) The State Government may at any time, by a like notification, rescind any suspension of tax made under sub-section *(1).*

Power of State Government to require municipalities to impose taxes.

131. Where it appears to the State Government that the balance of the municipal fund or of a municipality is insufficient for meeting any expenditure incurred under section 259 or for the performance of any duties for the performance of which the State Government has directed the Development Commissioner to fix a period under section 262, the State Government may by notification require the municipality to impose, within the municipal borough, any tax specified in the notification which may be imposed under section 99 and which is not at the time imposed within the said borough or to enhance any existing tax in such manner or to such extent as the State Government considers fit; and the municipality 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

municipality had been passed for the purpose under section 101 :

Provided that-

(a) the State Government shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(b) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed ;

(c) the State Government may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER IX.

RECOVERYOFMUNICIPALCLAIMS.

Presentation of bill for taxes.

132. (1)When any amount,--

(a) which by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(b) which, not being leviable under sub-section *(1)* of section 127 or payable on demand on account of [62]** * * * * a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough,

shall have become due, the chief officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof a bill for the sum claimed as due.

(2) Every such bill shall specify the period of 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.

Contents of bill.

(3) If the person to whom a bill has been presented as aforesaid does not, within fifteen days from the presentation thereof, either—

(a) pay the sum claimed as due 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 138 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 specified in Schedule IV or to the like effect.

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133. (1)If the person on whom notice of demand has been served under sub-section *(3)* of section 132 does not within fifteen days from the service of such notice pay the sum demanded in the notice—

(i) such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in consultation with the president in the form specified in Schedule V or to the like effect by distress and sale of the

movable property or the attachment and sale of immovable property of the defaulter, and

(ii) where the sum so demanded is on account of any tax levied in respect of water supply, sanitary service or any other service provided by the municipality under this Act, her remedy for the

recovery of the sum provided in this Act, it shall be lawful for the Chief Officer to discontinue the supply of water or the relevant service rendered to the defaulter until the sum so demanded together with the expenses incurred by the municipality in discontinuing and re-commencing the water supply or as the case may be, the service is paid to the municipality or recovered under this Chapter.

(2) Where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by the State Government, any proceedings under this Chapter in respect of such property shall abate.

To whom w should be ad

(3) (a)Where the property is in the municipal borough, the warrant shall be addressed to an officer of the municipality ;

(b)where the property is in another municipal borough, the warrant shall be addressed to the chief officer of that municipal borough ;

Bom. LIX of 1949.

Corporation other than Bombay Provincial addressed to the

(c)where the property is within the limits of a that for the City of Ahmedabad, constituted under the Municipal Corporations Act, 1949, the warrant shall be Municipal Commissioner of such Corporation;

(d)where the property is in a cantonment, the warrant shall be addressed to the executive officer of the cantonment;

(e)where the property is not within the limits of such Corporation or a municipal borough or cantonment, the warrant shall be addressed to a Government officer not lower in rank than a Mahalkari;

(f)where the property is in the City of Ahmedabad, the warrant shall be addressed to the Registrar of the Court of Small Causes of Ahmedabad :

Provided that such chief officer, Municipal Commissioner, executive officer, Government officer or Registrar may endorse such warrant to a subordinate officer.

Power of entry under special order.

(4)It shall be lawful for any officer to whom a warrant issued under sub-section *(1)* is addressed or endorsed, if the warrant contains a special order authorizing 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 themselves.

Warrant how to be executed.

(5) It shall also be lawful for any such officer, if authorised by the warrant, to distrain, wherever it may be found, any moveable property or attach any immoveable property of the person named in the warrant issued under sub-section *(1)* as defaulter, subject to the following conditions, exceptions and exemptions, namely :-

(iii) when the defaulter is an agriculturist, his implements of husbandary, seed-grain, and such cattle 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 of 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 times of distraint or attachment a written notice in the form specified in 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 a conspicuous part of the municipal office, and also, when the property is land paying revenue to the State Government, in the office of the Collector of the district in which the land is situate;

(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 municipality enforceable under the attachment.

Sale of goods destrained in special cases.

134. *(1)* When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the chief officer shall at once give notice to the person in whose possession the property was when distrained, to the effect that it will be sold at once; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained or attached; application of proceeds of sale.

(2) If not sold at once under sub-section *(1),* 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 State 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 together with costs is paid by the defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules

framed in that behalf.

(3) After sale of the immovable 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.

(4) It shall be lawful for the municipality to offer a nominal bid, in the case of any immovable property put up for auction provided the previous approval of the Collector is obtained to such bidding.

(5) The surplus, if any, shall be forthwith credited to the municipal fund, notice Surplus, if any, of such credit being given at the same time to the person in whose possession the how dealt with.

property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the chief officer within three years from the date of the notice given under this sub-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 municipality.

Sale outsi municipal borough.

135. Where the warrant is addressed outside the municipal borough, the chief officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Ahmedabad to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 134, and to exercise the powers and perform the duties of the chief officer under sub-sections (1) and (2) of section 134 in respect of such sale except the power of suspending the warrant. Such officer or Registrar shall, after deducting all costs of recovery incurred by him, 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 section 134.

Fees and costs charge-able.

136. Fees for every notice issued under sub-section *(3)* of section 132, every warrant issued under sub-section *(1)* of section 133 or distress or attachment made under sub-section *(4)* of the said section, and the maintenance of any livestock seized under the said sub-section shall be chargeable at the rates respectively specified in that behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 133.

Summary proceedings may be taken against persons about to leave the borough.

137. (*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 became due, is about to remove himself from the municipal borough, 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 moveable 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.

Appeals to Magistrates.

138. (1) Appeals against any claim included in a bill presented under sub-section (1) of section 132 may be made to any Judicial Magistrate or Bench of such Magistrates by whom under the direction of the Session Judge such class of cases is to be tried.

(2) No such appeal shall be entertained unless-

(a) the appeal is brought within fifteen days next after the presentation of the bill complained of; and

(b) in the case of a tax on buildings or land or both, an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the executive committee within the time fixed in the notice given under section 108 or 109 of the assessment or alternation thereof, according to which the bill is prepared, and

(c) the amount claimed from the applicant has been deposited by him in the municipal office.

(3) The decision of the Magistrate or Bench of Magistrate in any appeal made under sub-section *(1)* shall, at the instance of either party, be subject to revision by the Court to which appeals against the decision of such Magistrate or Bench ordinarily lie.

Entries in the assessment list and taxes and decisions to be final.

139. (1)Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinafter provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinafter provided, and, subject to the provisions of sub-section *(3)* of section 138, the decision of the Magistrate or Bench of Magistrates upon any appeal shall be final.

(2) Effect shall be given by the chief officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

Liability of land, buildings, etc, for taxes.

140. All sums due on account of any tax imposed on lands or, buildings or both shall, subject to prior payment of land-revenue, if any, due to Government thereupon be a first charge upon the buildings or land, in respect of which such tax is leviable and upon the moveable property, if any, found within or upon such buildings 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 or for a period during which such occupier was not in occupation.

141. 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 payment.

Receipts to b given for all payments.

142. Where any amount referred to in sub-section (1) of section 132 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 State of Gujarat or his not having any or sufficient property in the State, and such person has property outside the State, then such amount shall be recoverable as an arrears of land revenue and the provisions of the Revenue Recovery Act, 1890 shall apply to the recovery thereof.

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[63][CHAPTER IX A.

FINANCECOMMISSION.

142A. (1)The Finance Commission shall review the financial position of the municipalities and make recommendations to the Government as to-

Finance Co

(a) the principles which should govern-

(i) the distribution between the State and the municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the municipalities at all levels of their respective shares

of such proceeds;

(ii) the determination of the taxes duties, tolls and fees which may be assigned to, or appropriated by, the municipalities;

(iii) the grants-in-aid to the municipalities from the Consolidated Fund of the State;

(b) the measure needed to improve the financial position of the municipalities;

(*c*) any other matter referred to the Finance Commission in the interest of sound finances of the municipality.

(*2*) Every recommendation made by the Finance Commission together with an explanatory memorandum as to the action taken

thereon shall be laid before the State Legislature.]

CHAPTER X.

FINANCIALASSISTANCETOMUNICIPALITIES

Rebate in re of cost of collection o revenue, etc

143. A municipality shall, in respect of the cost of collection of land revenue (including cesses) and recoverable as arrears of land revenue under section 93 be entitled to rebate at such rate as the State Government may be general or special order determine and different rates may be determined for different municipalities.

Power of Governmer make grants

144. 64[(1) The State Government may, after considering the recommendations of the 65[Finance Commission or otherwise] determine whether for augmenting the finances of a municipality for any of the purposes of this Act, it is necessary to make any grant to the municipality and if so, the amount thereof.

(2) The grant so determined shall be made to the municipality every year but it may be revised after a period of every five years having regard to the recommendations of the 65[Finance Commission or otherwise] in respect of the revision of grants to municipalities.]

(3) Every grant under this section shall be made after due appropriation made by the State Legislature by law in this behalf.

Condition of grant.

145. The payment of a grant to a municipality shall be subject to the condition that if there be any amount due from the municipality to the State Government, it shall be lawful for the State Government to recover the amount from the municipality by making the deduction from the amount of the grant payable to the municipality under sub-section *(2)* of section 144.

CHAPTER XI.

MUNICIPALPOWERSANDOFFENCES.

(1) *Powers in respect of streets.*

Power regarding public streets.

146. (1) It shall be lawful for a municipality to lay out and make new public streets; to construct tunnels and other works subsidiary to public streets: to widen, open, enlarge or otherwise improve, and to turn, divert, extend, discontinue or stop up any public street; and, subject to the provision of sub-section (2*)* of section 65 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act:

Provided that no proposal for permanently discontinuing any public street shall be sanctioned by a municipality unless one month at least before the meeting at which the proposal is decided, a notice signed by the chief officer has been put up on the notice board in the office of the municipality and in the street or part of a street which is proposed to be so discontinued informing the

residents of the said proposal nor until the objections, if any, to the said proposal made in writing any time before the day of the said meeting have been received and considered by the municipality.

Acquisition of adjacent land to form street.

(2)In laying out, making, turning, diverting, extending, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may acquire the land required for the construction of houses and buildings to form the said street; and, subject to the provisions contained in sub-section *(2)* of section 65, 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 houses or buildings to be erected thereon as it may think fit.

Power to require, repair etc., of private street.

147. (1) Where the executive committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health convenience or safety that any work should, be done for the levelling, paving, metalling, flagging, channeling, draining, lighting or cleaning th ittee 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.

And to declare such street public.

(2) After such work has been carried out by such owners or, as provided in section 239 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the executive committee, to be a public street.

Apportionment of expenses in default.

(3) If the notice under sub-section *(1)* is not complied with and such work is executed by the municipality as provided in section 239, the expenses thereby incurred shall be apportioned by the executive committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

Power to declare any street a public street subject to objections by the owners.

148. The executive committee may at any time, by notice fixed up [66][in any private street which is not maintainable by the municipality but which is permanently accessible to the public] give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up the owner of such street or of greater part thereof lodges objections thereto at the municipal office, the municipality may, by notice in writing put up, in such street, or such part, declare the same to be a public street.

[67]*[Explanation.*-In this section, the expression "private street" means any road, footway, square, court, alley or passage, whether a thoroughfare or not, but which is not a public street.]

New private streets.

149. (1)Every person intending to lay out or make any new street, shall give notice, in writing thereof to the chief officer and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the executive committee.

Power of municipality to pass interim orders.

(2)Before passing orders under sub-section *(1)*, the executive committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order the intended work shall not be proceeded with or demand further particulars.

Right to proceed in certain cases.

(3)If-

(a) within one month from the receipt of the notice given under sub-section *(1),* the executive committee has neither-

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section *(1)* with regard to level, means of drainage, direction and width of the street; nor

(ii) under sub-section *(2)* issued any provisional order or demand for further particulars, or

(b) the executive committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars,

then within a period of one year from the date on which the person giving notice under sub-section *(1)* becomes entitled to lay out or make the street, the street may be laid out and made, 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.

Penalty.

(4) Whoever lays out or makes any such street either without giving the notice required by sub-section *(1)* or, except in accordance with the provisions of sub-section (3), without awaiting or otherwise than in accordance with the instructions issued by the executive committee, or in any manner contrary to the provisions of this Act or of any bye-law in force thereunder, shall be punished with fine which may extend to one thousand rupees; and the executive committee 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 it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

Regular line of a public street.

150. (1)The chief officer shall subject to the approval of the municipality prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed or for any part thereof:

Provided that-

(a) at least one month previous to prescribing such line or such fresh line, as the case may be, the chief officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed;

(b) the chief officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal. delivered at the office of the municipality within such time as may be specified in such public or special notice :

Provided further that the width of the street as per line once prescribed shall not be curtailed or that the line once prescribed shall not be shifted towards the centre of the street without the sanction of the Collector.

(2) The line for the time being so prescribed shall be called "the regular line of the public street".

(3) *(a)* Except under the provisions of section 176 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the chief officer under section 155.

(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 on the expiry of a period of one year from the date on which permission was so refused or before the expiry of the said period, with the approval of the municipality be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(c) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 268, shall be paid by the municipality 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 cases to which section 182 applies.

(4) Whoever contravenes the provisions of sub-section (3) shall be punished with fine which may extend to three thousand rupees and, in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention

continues after the conviction for the first such contravention, and the chief officer may-

(a) direct that the building be stopped, and

(b) with the previous sanction of the executive committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(2) Powers to regulate buildings, etc.

Setting back projecting buildings.

151. (1)If any part of a building projects beyond the regular line of a public street as prescribed under section 150 or beyond the front of the building on either side thereof, the municipality may,-

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(b) if the projecting part is not such 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 or beyond the said front of the adjoining building on either side thereof shall be removed or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thereforth be deemed part of the public street and be vested in the municipality.

Acquisition of land which is within the regular line of a street and open or occupied only by platforms, etc.

(2) *(a)* If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied bya building other than aplatform, verandah, step or other structure external to a main building, the municipality, after giving the owner of the land

not less than fifteen clear days, written notice of its intention, or if the land is vested inGovernment then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, 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 municipality.

(b) If any such land is occupied by a building and, in the opinion of the municipality the projecting part of the building is an obstruction to the safe and convenient passage along the public street, the municipality may forthe purpose of removing the projecting part, proceed to acquire the land which lies within the regular line of the public street alongwith the superstructure thereon and the provisions of section 69 shall apply to such acquisition.

Compensat payable by municipalit

(3)Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 268, shall be paid by the municipality to the owner of any land added to a street under sub-section *(1)* or acquired under sub-section *(2)*, 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 municipality under either of the said sub-sections; provided that no such compensation shall be payable in cases to which section 182 applies.

(4) 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 182, the municipality 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.

Setting forward to regular line of street.

152. (1)Theexecutive committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(2) If the land which will be included in the premises of any person permitted under sub-section *(1)* to set forward a building belongs to the municipality, the permission of the executive committee 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 municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

Roofs and external wall of buildings not to be made of inflammable materials.

153. (1)The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material except with the written consent of the chief officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflamable.

(2) 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 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 time at which this Act came into force, and whether it was made with or without the consent of the chief officer.

(3) An appeal shall lie to the executive committee against any order of the chief officer refusing the consent under sub-section *(1)* or against any notice given by the chief officer under sub-section *(*2) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

Penalty.

(4) Whoever without such consent 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 be punished with fine which may extend to one hundred rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued unless the offence ceases to continue before the expiry of seven days from the date of the first conviction.

Level of buildings.

154. No building shall hereafter 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 municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the chief officer.

Notice of new buildings.

155. (1)Before beginning to construct any building or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the executive committee is empowered by section 151 to enforce a removal or set back, or to construct or reconstruct which the chief officer is empowered by section 150 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the chief officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order of the State Government to do so, a plan certified by a qualified person recognised by the municipality for the purpose and 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 by-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, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

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(2) Save as otherwise provided in this act or the rules and by-laws thereunder, the chief officer may either give permission to construct, alter, add or reconstruct. according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation 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 the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction or may for reasons recorded in writing reject the notice given under sub-section *(1)*.

(3) The municipality may, before any work has been commenced in pursuance of any permission granted by the chief officer under sub-section *(2)*, revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matter mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

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(4) Before issuing any orders under sub-section (2), the chief officer may, within one month from the receipt of such notice, either issue-

(a) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) may demand further particulars.

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(5) A work proposed in a notice given under sub-section *(1)* may be proceeded within the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely :-

*(*a) in case the chief officer within one month from the receipt of the notice given under sub-section *(1)* has neither-

(i) passed orders under sub-section *(*2*)* and served notice thereof in respect of the intended work ; nor

(ii) issued under sub-section *(4)* any provisional order or any demand for further particulars;

(b) in case the chief officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

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work.

(6) No person who becomes entitled under sub-section *(*2*)* or (5*)* to proceed with any intended work of which notice is required by sub-section *(1)* shall commence such work 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 *(1)* to *(5)*. And no to erect or alter or add to any building

Bom. III of 1901.

has been granted by the municipality under section 96 of the Bombay District Municipal Act, 1901, or of that Act as adapted and applied to the Saurashtra area or under section 123 of the Bombay Municipal Boroughs Act, 1925 or of that Act as adapted and applied to the Saurashtra area or that Act as extended to the Kutch area shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force.

Bom. XVIII of 1925

(7) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section *(1)* or without furnishing any plan, information or particulars required by or under this section, or except as provided in sub-section *(5)*, without awaiting or in any manner contrary to such legal orders of the chief officer as may be issued under this section or contrary to the provisions of sub-section (5*)* or *(6)* or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to an amount to fifty percent of the cost of the construction, alteration, addition, or reconstruction, as the case may be, or one thousand rupees, whichever is greater and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to an amount upto one percent of the cost or ten rupees, whichever is greater, for each day during which such contravention continues after conviction for the first such contravention; and the chief officer may-

(a) direct that the construction, alteration, addition or reconstruction be stopped, and

(b) upon a conviction being obtained under sub-section *(7)*, by written notice require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(8) The Chief officer may at any time inspect any work of which notice is required by sub-section *(1)* without giving notice of his intention to do so; and at any time during the execution of any such work as aforesaid, 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 by-law made under this Act at the time in force 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-law 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.

Explanation.-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, doorstep 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 a building 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 arrangement, or its security or stability, and

(f) the addition of any rooms, buildings, or other structures to any building and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression "a new building".

Power of municipality to refuse permission.

156. (1) When a person has given notice to the chief officer under subsection *(1)* of section 155 in regard to his intention to build, add to or reconstruct a building, it shall be lawful to the chief officer to refuse the permission applied for if the municipality passes a resolution proposing to acquire the land on which any building is proposed to be erected or any building situated on which is proposed to be altered, added to or reconstructed, or if the proposed construction, alteration, addition or reconstruction is likely to be an encroachment on land belonging to the Government or municipality.

(2) Such refusal 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 *(1)* of section 155, the same shall be determined in accordance with the provisions of section 268, 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 municipality proposing to acquire the land, the land is not acquired by the municipality by agreement upon payment, if within such period, an application has not been made to the Collector for the institution of proceedings for compulsory acquisition under the provisions of the Land Acquisition Act, 1894, or if the municipality abandons the proposal to acquire the land, the notice given under sub-section *(1)* of section 155 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 municipality to abandon the proposal is arrived

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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 municipality had not passed a resolution to acquire the land. The municipality 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 municipality's refusal to grant the permission:

Provided that the municipality shall not be liable to pay compensation if the notice under sub-section *(1)* of section 155 is given subsequent to the passing of the resolution by the municipality to acquire the land.

Completion certificates : permission to occupy or use.

157. (1)Every person erecting a building or executing a work as described in sub-section *(1)* of section 155 shall, within one month after the completion of the erection of such building or the execution of such work, 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 the inspection of such building or of such work.

(2) Where a building is to be erected or any work is to be executed in accordance with a plan certified under sub-section *(1)* of section 155 a notice under sub-section *(1)* shall be accompanied by a completion certificate signed by a qualified person recognised by the municipality for the purpose.

(3) *(a)* An inspection referred to in sub-section *(1)* shall be commenced within seven days from the date of receipt of 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 and delivered at his address as stated in such notice or in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

(ii) refuse such permission in case such building has been erected or such work executed 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 155 intimating to the person who gave the notice under sub-section *(1)* of section 155 the reasons for such refusal and requiring such person, or, if the person responsible for giving notice under sub-section *(1)* of section 155 is not at the time of such notice the owner of such building or work 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 155 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.

(4) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until-

(a) the permission referred to in clause (*b*) of sub-section *(3)* 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.

(5) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to five hundred rupees, and in the case of a continuing contravention or non-compliance with an additional fine which may extend to ten rupees for everyday during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

Regulation of huts.

158. It shall not he lawful for any person to erect any hut or shed or range or block of huts or sheds or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the chief officer; the chief officer may require such huts or sheds to be built so that they stand in regular lines, with a tree 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 shed 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 builder thereof, or to the owner or occupier of the land on which t ng erected, requiring him within

such same, or reasonable time as shall be specified in the notice to take down and remove the to make such alterations therein or additions thereto as having regard to sanitary considerations the chief officer may think tit.

Improvement of huts.

159. (1)Where the executive committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason-

(a) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, 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, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, within such reasonable time as may be fixed by the executive committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the executive committee 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 shed or to carry out such alterations or works within the time appointed, the chief officer may cause such hut or shed to be taken down, or such alterations or works to be carried out. in accordance with the requirements of the executive committee.

(3) Where such hut or shed is taken down by the chief officer, the said officer shall cause the materials of the hut or shed 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 shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same :

Provided always that where a hut or shed, existing at the time when the land on which iris situate first became part of a municipal borough, 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 268.

(3) *Powers connected with drainage, etc.*

Municipal control over drains, etc.

160. (1)All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal borough shall be under the survey and control of the municipality.

(2) All covered sewers, drains and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong with proper traps or other means of ventilation, and the chief officer may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Powers for making and repairing drains.

161. *(1)* It shall be lawful for a municipality or any person acting under its authority to carry for any drainage purposes any drain, sewer, 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, into, through or under any land whatsoever within the municipal borough after giving reasonable notice in writing to the owner or occupier of such land and after taking into consideration any objections made by the owner or occupier within the period specified in the notice.

*(*2) A municipality, 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 municipality has been already constructed, or repair or alter any drain vested in the municipality or may discontinue, close up or destroy any such drain which has become useless or

unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or surface drainage :

Provided that if by reason of any such discontinuance, closing up, destruction or prohibition any person is deprived of the lawful use of any drain, the municipality shall, as soon as may be, provide for his use some other drain as effectual as the one which had been so discontinued, closed up, destroyed or the use of which has been prohibited.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation which shall in case of dispute be ascertained and determined in the manner provided in section 268 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

Power to require sufficient drainage of houses.

162. 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 executive committee, 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 fifteen meters 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.

New building not to be erected without drains.

163. (*1*) It shall not be lawful to construct or reconstruct any building, or to occupy or permit to be occupied any building newly constructed or reconstructed, unless and until-

(a) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the chief officer to be

necessary for the effectual drainage of such building;

(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 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 municipality for the discharge of drainage, situate at a distance not exceeding fifteen meters from such buildings; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the chief officer.

Power of owners and occupiers of buildings or lands to drain into municipal drains.

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164. *(1)* The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain :

Provided that he first obtains the written permission of the chief and that he complies with such conditions as the chief officer may by writing prescribe as to the quantity and kind of matter to be so emptied mode in which and the superintendence under which the communications be made between drains not vested in the municipality and drains which vested.

(2) An appeal shall lie to the executive committee against any order of the chief officer under sub-section *(1)* if the appeal is made within fifteen days of the receipt of such order.

Right to carry drain through land or into drain belonging to other person.

165. *(1)* If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through 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 executive committee the chief officer there upon 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, authorize the applicant to carry his drain into, through, or under the said land, or into the same 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 competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purposes, 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 all 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.

Right of owner of land through which drain is carried in regard to subsequent building thereon.

166. If the owner of any land into, through or under which a drain has been carried under section 165 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 executive committee 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 thesame, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provisions of privies, etc.

167. *(1)* Where the chief officer is of opinion that any privy ox cesspool or additional privies or cesspools, should be provided in or on any building or land, or in municipal borough in which a water-closet system has been introduced, that water-closets or additional water-closets should be provided in oron any building or land, 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 executive committee, 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 executive committee 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 theatr resort, to provide such

latrines and urinals 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 executive committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal 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 trap door which opens on to any street, and which he deems to be a nuisance.

Power of Chief Officer to require owner to provide water closet or privy accommodation.

68[**167A.** *(1)* Where any premises are, in the opinion of the Chief Officer, without adequate and suitable water-closet or privy accommodation in accordance with the bye-laws made by the municipality in that behalf, the Chief Officer, may, by written notice, require the owner of such premises to provide such water-closet or privy accommodation in accordance with the bye-laws made by the municipality in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be

extended by the Chief Officer for any reasonable cause it shall be lawful for the Chief Officer to make such provision from the municipal fund. The expenses incurred by the Chief Officer in making such provision shall, on demand by the Chief Officer, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Chief Officer in the manner provided by Chapter IX of this Act.

*(*2) Notwithstanding anything contained in sub-section *(1)*, where the owner of any premises fails to comply with such requirement within the period specified under sub-section *(1)*, the Chief Officer may, in a case where the owner is not himself the occupier of such premises, permit the occupier of such premises to make provision for such water-closet or privy accommodation at the cost of the owner, if the occupier is willing to do so, instead of the Chief Officer himself making such provision. Any such occupier who makes such provision shall after obtaining the necessary certificate from the Chief Officer about such provision having been made by him the amount of expenses incurred by him in making such provision and the reasonableness of such expenses, be entitled to deduct, such amount of expenses as is certified by the Chief Officer to be reasonable, from the rent or any other sum payable by him to the owner or to recover such amount from the owner in any other lawful manner.

(3) For the purpose of making the provision specified in sub-section *(*1*)*, the Chief Officer shall have power to do all acts necessary for the purpose and the municipality shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in making such provision.

(4) Where any water-closet or privy accommodation is provided or set up by the Chief Officer under sub-section *(1)* and the expenses incurred by the Chief Officer in doing so are paid, or recovered from, the owner in full, such water- closet or privy accommodation shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining it in good repairs and efficient condition.

(5) The provision as aforesaid made under sub-section *(1)* or sub-section *(*2) shall not be deemed to be a permanent structure for the purpose of clause *(*b) of sub-section *(1)* of section 13 of the Bombay Rents, Hotel and Lodging House Rates Contro

Bom. LVII

Explanation. — For the purpose of this section "water closet" means a closet used as a privy in which discharges are pushed in or carried off by water, and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P.R. A.I. *(*Planning Research Action Institute) type, septic tank type, hand flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the *Official Gazette,* specify.]

Power to require owners to keep drains, etc. in proper order or to demolish or close privy or cesspool.

168. *(1)* All sewers, drains, privies, water-closets, urinals, house-gullies and cesspools within a municipal borough shall, unless, constructed, at the cost of the municipality, be altered, repaired, cleaned and kept in proper order at the costs 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 executive committee 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) Subject to the control of the executive committee the chief officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, 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.

Power to close existing private drains.

169. When any building or land within municipal borough has a drain communicating with any cesspool or sewers, the chief officer, if he considers 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 sewerage of the locality, may, subject to the control of the executive committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains 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.

Power in res sewer etc., unauthorized constructed, or unstopped

170. The executive committee may by written notice require that any sewer, drain, privy, water-closet, urinal, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped-

(a) after such land became part of a municipal borough, and

(b) either without the consent or contrary to the orders, directions or general regulations or bye-laws, of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped-

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, urinal, house-gully or cesspool, whether he does or does not receive such notice or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which, may extend to one hundred rupees.

Encroachme municipal d

171. *(1)* If any person, without the written consent or permission of the chief officer first obtained or in contravention of any conditions imposed or prescribed under this Act, makes or empties or causes to be made or to empty any drain into or out from any of the sewer or drains vested in a municipality, he shall on conviction be punished with fine which may extend to one hundred rupees, and the chief officer may by

written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(2) *(a)* No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the chief officer, and the chief officer may by, written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

(b) Any person who constructs or reconstructs any building in contravention of clause *(a)* shall, on conviction, be punished with fine which may extend to one hundred rupees.

Inspection o etc.

172. (1) A chief officer after due notice to the occupier may inspect any sewer, drain, privy, water-closet, urinal, house-gully or cesspool; 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 to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection w be borne by municipality

(2) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the municipality, unless the sewer, drain, privy, water-closet, urinal, house-gully or cesspool is found to be in bad order or conditions 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 sewer, drain, privy, water-closet, house gully or cesspool, and shall be recoverable in the same manner as an amount claimed on account of an tax recoverable under chapter IX.

Executive committee may excecute certain works under this sub-chapter without allowing option to person concerned of executing the same.

173. (1) The executive committee may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the municipality under any of the provisions of this sub-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.

Expenses in such cases by whom to be paid.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

Pipes etc., constructed by municipality to be municipal property.

174. 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 municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land.

(4) Powers in respect of water-supply.

Power of carrying water mains.

175. For the purpose of obtaining a supply or an additional supply of water or of distributing the same the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and subject to under the provisions hereinbefore contained for carrying, renewing and repairing drain within the municipal borough.

(5) Powers regarding external structures, etc.

Permission necessary for certain projections.

176. (1)The chief officer, subject to any bye-laws made under the provisions of this Act, and on payment of such fees as may be specified in such bye-laws, may

give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms to project from any upper storey of such buildings, to an extent not exceeding 1.24 metres beyond the line of the plinth or basement wall of the building; and may prescribe the conditions subject to which permission may be given for the projection over such streets of roofs, eaves, weather-boards, shop-boards and the like.

(2) Permission granted under sub-section *(1)* may be permanent or for such period at a time as may be specified in writing when such permission is granted.

(3) (a)Notwithstanding any proceedings which may be taken under clause *(b)* of this sub-section, the chief officer may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

(b) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to one hundred rupees: and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to ten rupees for each day on which such failure or neglect continues.

Removal of projection.

(4) The chief officer may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal borough, shall have been made against or in front of such building, and which-

(a) overhangs just into, or in any way projects, or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or

(b) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof:

Provided always that the chief officer shall, if such projection, encroachment or obstruction shall have been made in any place before the date on which such place became part of a municipal borough or after such date with the written permission of the municipality, pay reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 268.

Troughs for rain w

177. The chief officer may by written notice require the owner of a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of brackets, e houses.

IX of 1910. XIII of 1885.

178. 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 provisions of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires, or wires for the conduct of electricity or locomotive purposes; or such pipes as he may deem necessary for the proper ventilation of

sewers and water-works; such brackets and pipes shall be erected 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.

Naming numberi premises for defa

179. (1)The municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner of or entrance to a street, the name by which such street is to be known, and may from time to time by written notice require the owner of any premises or part thereof either to put up by means of a metal plate a number or sub-number on such premises or part thereof 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 municipality.

(2) Any person, who destroys, pulls down or defaces any such name, number, or sub-number or puts up any name, number or sub-number different from that put up by the municipality and any owner of any premises or part thereof who does not at his own expense keep such number or sub-number in good order after it has been put up thereon, shall, on conviction, be punished with fine which may extend to fifty-rupees.

(3) Where a number or sub-number is put up on any premises or part thereof under the orders of the municipality 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.

Penalty f building

180. 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 pole, post, lamp-post or the like, or

(b) who, without such consent as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pol, 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 one hundred: rupees and in addition shall be liable to pay to the owner or occupier, or, as the case may be, the municipality, such sum by way of cost of the removal of the bill, placard, paper or advertisement so posted or of the removal of the writing, soiling, defacing or marking referred to in clause *(b)* as may be

determined by the Court. Any sum so determined, if not paid, shall be recovered as if it were fine recoverable under the Code of Criminal Procedure, 1973. 2 of 197

Removal and trimming of hedges, trees, etc.

181. The chief officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which such officer deems, likely to overhang, endanger or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

(6) Power for promotion of public health, safety and convenience.

Ruinous or dangerous buildings; precautionary measures.

182. (1) Where any building or anything affixed thereon is deemed by the chief officer to be in a ruinous state or likely to fall or in any other way danger-ous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers, the chief officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers :

Provided that if the danger be not of hourly imminence, the chief officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the chief officer considers sufficient in the circumstances of the case, the chief officer, shall at once cause such hoard or fence to be put up.

Repairs to be made by owner or occupier; default by such.

(2) The chief officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require; and if such owner or occupier does not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with the due diligence, the chief officer shall cause all or so much of such building or things as he shall think necessary to be taken down, repaired or secured.

(3) All expenses incurred by the chief officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

Powers and duties with regard to dangerous, stagnant or insanitary sources of water supply.

183. (1)The chief officer may at any time by written notice require that the owner of or any person who has 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 repair, 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 by surface drainage, or

(d) repair, protect or enclose in such manner as the chief officer approves, any such source of water-supply other than a stream in its natural flow, 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 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, other than a stream in its natural flow, 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, 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 injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provision of

sub-section *(1)*, 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 claimed on account of any tax recoverable under Chapter IX:

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 by 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 executive committee so direct, be paid from the municipal fund.

Displacing pavement, etc.

184. *(1)* Whoever displaces, takes up, or makes any alteration in 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 such municipal property therein, without the written consent of the chief officer or other lawful authority, shall be punished with fine which may extend to two hundred rupees.

(2) Any person who has displaced, taken up or made alteration in, any such pavement, gutter, flags or other materials, or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants or other municipal property, whether with or without the consent required under sub-section *(1)* shall be liable to pay the expense which the municipality may incur in replacing or restoring the same. Such expense shall be recoverable in the same manner as

an amount claimed on account of any tax recoverable under Chapter IX.

Obstructions and encroachments upon public streets and, any open spaces.

185. *(1)* Whoever in any area after it has become a municipal borough,

(a) shall, have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing or other encroachment or obstruction, or

(b) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

In any public place or street or in or over or upon any open drain, gutter, sewer or aqueduct in such place or street shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which, such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(2) The chief officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not; provided that if the space be vested in Government the permission of the Collector shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(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 private property, shall be punished with fine which may extend to two hundred rupees, and, in the case of encroachment, with further fine which may extend to twenty rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(4) Nothing contained in this section shall prevent the chief officer from allowing any temporary occupation of or erections in any public street on

occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days and in such manner as not to inconvenience the public or any individual from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purposes in accordance with bye-laws made under the Act.

(5) Nothing contained in this section shall apply to any projection duly authorized under sub-section *(1)* of section 176.

Hoards to be set up during repairs, etc.

186. *(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 inconvenience in any street, before beginning such work—

(a) first obtain a licence 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 of the provisions of this section shall be punished with fine which may extend to one hundred rupees, and with further fine which may extend to twenty rupees for every day, or night, as the case may be, on which, such contravention continues, after the date of first conviction for such offence.

Fencing and lighting during repairs, etc.

187. (1)The chief officer shall, during the construction or repair of any of the streets , sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts 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, 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 be punished with fine which may extend to one hundred rupees.

Timber not to be deposited or hole made in street without permission.

188. *(1)* No person shall, without the written permission of the chief officer and except in accordance with the conditions of such permission and on payment of such fees as may be specified by the bye-laws of the municipality, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the chief officer; and when such-permission is granted to any person, he shall; at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the chief officer until the materials are removed, or the hole is filled up or otherwise made secure and shall cause such materials or hole to be sufficiently lighted during the night.

(2) Whoever contravenes any of the provisions of sub-section *(1)* shall be punished with fine which may extend to one hundred rupees, and with further fine which may extend to twenty rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence.

Dangerous quarrying.

189. *(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 order with 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 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 :

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 claimed on account of any tax recoverable under Chapter IX.

Provision as to dogs.

190. *(1)* The chief officer may by public notice require that every dog while in the streets 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) Subject to the provisions of sub-section *(*3) the chief officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention or cause it to be 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, 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: provided that any dog which is found to be rebid may be destroyed at any time.

(4) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having been detained for the said period of three clear days.

(5) 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 manner provided by Chapter IX.

Provision as to keeping of pigs.

191. *(1)* If it shall appear to the chief officer at any time that nuisance or annoyance is caused to the public by the keeping of pigs within the limits of the municipal borough, the chief officer 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 any part of the borough.

(2) Whoever shall after such direction keep any pigs in any place within the municipal borough without the permission required as aforesaid, or otherwise than in accordance with the terms thereof, shall be punished with fine which may extend to one hundred rupees.

(3) Any pigs found straying may be forthwith destroyed and the carcass thereof disposed of as the chief officer shall direct. No claim shall lie for compensation for any pigs so destroyed.

(7) Powers for the prevention of nuisances.

Depositing dust, etc., committing nuisance.

192. *(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, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any 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 member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to one hundred rupees.

(2) Whoever throws or puts or causes or suffers any member 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 sewer, 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 sewer, drain, culvert, tunnel, gutter or watercourse, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to one hundred rupees.

Discharging sewage, etc.

193. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, or water in such quantity as is likely to remain stagnant 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 be punished with fine which may extend to one hundred rupees.

Non-removal of filth, etc.

194. 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 be punished with fine which may extend to one hundred rupees and with further fine which may extend to ten rupees for every day, on which such offence is continued, after the date of the first conviction for such offence.

Removal of night-soil.

195. *(1)* The chief officer may by public notice from time to time fix the hours within which and streets or routes by which only it shall be lawful to remove any night-soil or other such offensive matter.

(2) Whoever —

(a) when the chief officer has fixed such hours and streets or routes and given public notice thereof removes or causes to be removed along any street except the street or route so fixed any such offensive matter at any time except within the hours so fixed, or

(b) at any time, whether such hours and streets 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 spills any such offensive matter in the removal thereof, or

(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, or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as

aforesaid, through any street or by any route, other than the street or route so fixed,

shall be punished with fine which may extend to one hundred rupees.

Filthy buildings, etc.

196. *(1)* Whoever, being the owner or occupier of any building land, whether

tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the chief officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation and who shall not, within a reasonable time after notice in writing by the chief officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(2)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 the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the executive committee, 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 borough 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 shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the executive committee, on the expiration of the period specified as aforesaid may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

Buildings or rooms in buildings unfit for human habitation.

197. *(1)* If, for any reason, it shall appear to the executive committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the executive committee shall give to the owner or occupier of such building a notice in writing, stating such reason, 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 executive committee invalid or insufficient, the executive committee 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, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U. H. H." 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 suffer the same to be used for human habitation until the executive committee

certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Power to enter and inspect, etc., buildings.

198. It shall be lawful for the president, vice-president, chairman of the executive committee, chief officer or any councilor or officer authorised by the municipality in this behalf, at any time between sunrise and sunset after due notice, to enter into and inspect all buildings and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally lime washed or otherwise cleansed.

Bathing places.

199. (1)The executive committee may set apart sufficient public places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal borough.

(2) Copies of all orders passed and notices issued by the executive committee and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable time.

Regulation of washing of clothes by washermen.

200. *(1)* The executive committee may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose; and when any such prohibition has been made, no person who is, by calling a washerman shall wash clothes at any place not appointed for this purpose by the executive committee, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the executive committee for washermen.

(2) The executive committee shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it with the approval of the municipality.

(3) The executive committee shall, before issuing any public notice under sub section *(1)*, publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby; a list of washing places proposed to be provided under sub-section *(*2), together with a notice specifying a date on or after which the list will be taken into consideration; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.

Fouling water.

201. Whoever, in disobedience of any order of the municipality under section 199, or of any bye-laws, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever or throws puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought there into anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and whoever without permission of the chief officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to one hundred rupees.

Abatement of nuisance from wells, etc.

202. *(1*) If, in the opinion of the chief officer-

(a) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, watercourse, 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 accumulates,

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 fill up, cover over or drain off the same in such manner and with such materials as the chief officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the chief officer shall determine.

(2) *(a)* No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the chief officer.

(b) If any such work is begun or completed without such permission, the Chief Officer may either-

(i) 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

(ii) grant written permission to retain such work; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause *(a)* of this sub-section.

Using offensive manure, etc.

203. 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, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Tethering cattle, tethered by etc. obstruct or suffers such

204. Whoever tethers cattle or other animals, or causes or suffers them to be any member of his family or household, in any public street, or place so as to endanger the public traffic therein, or to cause a nuisance, or who causes or animals to stray about without a keeper shall, on conviction, be punished-

(a) for a first offence, with fine which may extend to two hundred rupees;

(b) for any subsequent offence, with fine which may extend to five hundred rupees.

Feeding animals on filth.

205. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed to or be fed on such matter, shall be punished with fine which may extend to one hundred rupees.

Consumption of smoke.

206. (1)It shall be lawful for the municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever, within the limits of the municipal borough whether a stream engine be or benot used or employed therein shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(2) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said work or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to one hundred rupees and upon any subsequent

conviction to one thousand rupees:

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of road.

(8) Regulation of market, sale of foods, etc.

Licensing and slaugh houses.

207. (1)It shall be lawful for the municipality to direct that no place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clauses *(i)* and *(ii)* of clause *(b)* of sub-section *(1)* of section 275 except under and in accordance with the conditions of a licence from the executive committee, which may at its discretion from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases.

(2) Whoever uses or permits the use of any place contrary to such direction, or without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence, shall be punished with fine which may extend to fifty rupees.

(3) Upon a conviction being obtained in respect of any place under sub-section *(2)* of this section, the Magistrate shall, on the application of the executive committee but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with fine which may extend to ten rupees for each day during which he continues to use, or permits such use of, the place after it has been so ordered to be closed.

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(4) Nothing in this section or in sub-clause *(ii)* of clause *(b)* of sub section *(1)* of section 275 shall apply to any liquor as defined in the Bombay Prohibition Act 1949.

Opening, c and letting markets an slaughter-

208. (1)The municipality may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(2) Any person who, without the permission of or a licence from the municipality, shall sell, or expose for sale, any article in the said markets or use the said slaughter-house, shall be punished with fine which may extend to fifty rupees.

Power to r persons fr municipal

209. If any officer specially empowered in this behalf by the municipality is satisfied that any person occupying any stall or space in any market is in unauthorised occupation of the stall or space or continues to occupy the stall or space after authority to occupy has ceased, he may, with the previous sanction of the municipality, require such person to vacate the stall or space within such time as may be mentioned in the requisition and if such person fails to comply with the requisition, such person may, in addition to any penalty which may be imposed under this Act, be summarily removed from the stall or space.

Slaughter h etc., beyon municipal

210. It shall be lawful for a municipality with the sanction of the 43[Director] or, if authorised by him, of the Collector to establish slaughter houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough and all provisions of this Act and of bye-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough.

Search for a

211. (1)The presi an of the health committee, chief officer

or any councillor or officers authorised by the municipality in this behalf- inspection o unwholesom

articles.

*(*a) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in or brought to any place for the purpose of sale or of preparation for sale or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein; and

(b) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of perishable nature may under the orders of the president, vice-president, chairman, of the executive committee or chief officer, if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine be forthwith destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appears to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely a bailee or carrier thereof,

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shall, if in such case the provisions of section 273 of the Indian Penal Code, 1860 do not apply, be punished with fine which may extend to two hundred rupees and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or use for human food or drink or medicine.

Application for summons to be refused if not applied for within reasonable time.

(2) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Powers of inspection of weights and measure,etc.

212. The president, vice-president, chief officer or any councillor authorised by the municipality in this behalf may at all reasonable times enter into any place where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures weighing or measuring instruments.

(9) Regulation of dairies and cattle sheds.

Licensing of dairies.

213. (1)Except under and in accordance with the terms of a licence from the executive committee, no person shall-

(a)carry on the trade or business of a dealer, in, or importer or seller of, sweetmeats, milk, butter or other milk products, or

(b)use or permit to be used for the purposes of trade, any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter.

*(*2) The executive committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw or suspend such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions

of the licence, the licence may be withdrawn or suspended without any such notice.

(3)Whoever carries on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk products, or so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence, shall be punished with fine which may extend to one hundred rupees and in the case of a continuing offence with additional fine which may extend to twenty rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(4)Upon a conviction being obtained in respect of any place under sub-section *(3)* the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(10) Prevention of dangerous diseases.

Powers to prevent disease which may at any time be conferred.

214. (1) Whenever any area within a municipal borough is declared by the State Government as affected by the out-break of any dangerous disease the municipality shall, subject to the limitations, restrictions, and conditions, if any, as the State Government may by notification in the *Official Gazette* prescribe in this behalf, exercise within the municipal borough the powers specified in sub-section *(*2), until the declaration made is withdrawn.

(2) The powers to be exercised by the municipality shall be as follows, namely:-

(a) Power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital; or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management, or control, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf.

(b) Power to direct or authorise the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable, of any place in which any dangerous disease is reported or suspected to exist and the taking *of* measures to prevent the spread of the disease beyond such place.

(c) Power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease.

(*d*) Power to direct or cause the removal on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, 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 municipality.

(e) Power to require by written notice the owner or occupier of any building or part of a building , or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality, in the circumstances of the case considers, reasonable, at the expense of the municipality.

(*f*) Power to provide the means and to prescribe places for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof.

(g) Power-

(*i)* to provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances and

(iii) to direct that conveyances that may at any time to be used for conveying any such person shall be immediately disinfected.

(h) Power to prohibit-

(i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, *dharmashala,* theatre, market or other place of public resort, or

(ii) any person in charge of any person so suffering from so exposing such sufferer.

(i) Power to prohibit any person from removing to another place, transferring 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.

(j) Power to prohibit the letting of or the providing of accommodation in any hotel, inn, *dharmashala,* or *serai* 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, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf.

(k) Power, with the previous permission in each case of a Magistrate exercising not less man second class powers to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(3) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall for any loss or damage caused by any exercise of the powers specified therein.

(4) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in

exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to one hundred rupees.

215. *(1)* In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the Collector may deem necessary for the purpose of preventing, meeting, mitigating or suppressing suck outbreak.

Duties of municipality on threatened or actual outbreak of dangerous disease.

(2) In such event asaforesaid the Collector may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease, confer on the municipality all or any of the additional powers specified in sub-section *(3)* and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the Collector in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(3) The powers, all or any of which may be conferred under sub-section (2) are-

(a) power to order, subject to the conditions-

(i) that the permission of a Taluka Magistrate shall be in each case first obtained, and

(ii) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

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;

(b) power 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 borough, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times, and places as may be prescribed, for a period not exceeding ten days;

(c) power 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 Civil Surgeon of the district or other medical officer appointed by the State Government in this behalf 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.

(4) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(5) If in any municipal borough in which a notification under sub-section *(2)* is for the time being in force, any person-

(a) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 214 or under this section; or

(b) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and order.

216. (1)The State Government, in the case of section 214, and the Collector, in the case of section 215, may at any time-

(a)withdraw any such power;

(b)cancel or modify any limitation, restriction or condition prescribed in respect ofany such power ; or

(c)cancel any order passed by a municipality in exercise of any such power.

*(*2) Every order passed by a municipality in exercise of any power under section 214, or as the case may be, section 215 shall, on the withdrawal of such power, cease to be in force in the municipal borough.

Duties of municipality in respect of diseases among cattle.

217. If in any municipal borough any infectious disease amongst cattle, breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing fee disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of building.

218. (1)Whenever the executive committee considers the interior of a building to be 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 executive committee e taken before a taluka Magistrate for the

purposes of obtaining an order to present such overcrowdings.

(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 building 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 sublet the same, the land-lord 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 inmates of the said buildings as may be necessary to fulfill 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 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 buildings in accordance with notice given to him under sub-section (4), shall be punished with fine which may extend to twenty-five rupees for each day subsequent to the date specified in such requisition during which such overcrowding or such omission to vacate continues.

Special powers which may be conferred by the State Government. in respect of over crowded area.

219. (1)If the State Government 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 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 or area as aforesaid, or

(d)the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section *(*2), and may, if it deems necessary, at any rime make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the municipality shall exercise within that area the powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the State Government

(2) The powers which may be conferred on a municipality under sub-section (*1)* are as follows:

(a) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1)* has given or is in the opinion of the municipality 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 municipality 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 there with as the municipality deems necessary to prevent all such risk or disease;

(b) 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;

(c) power, subject to a right of appeal to the [69][Director] whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (3*)* of section 226, the erection of any building or of any building exceeding such dimensions as may be specified in such notice :-

(*i*) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(ii) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part; and either to acquire such site or space or to prescribe

such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to made thereof:

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 268 shall be paid to any person whose rights are affected by such prohibition.

(3) When, in pursuance of any notice under sub-section (2). any building has been pulled down, the municipality 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 268.

(4) The State Government may prescribe by rules a fine exceeding one thousand rupees for every breach, and a further fine not exceeding fifty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

Closing of places for disposal of the dead.

220. (1) Where the municipality is of opinion that any place used for the disposal of the dead should cease to be so used by reason of its being surrounded by an area developed into a busy locality or being in the vicinity of some source of water supply or there being any religious or communal controversies or is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the [69][Director] and the [69][Director] thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made 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 in Gujarati shall be published in the local newspaper, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the pl tes.

(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 be punished with fine which may extend to two hundred rupees.

(11) Nuisances from certain trades and occupations.

Regulation of certain trades.

221. (1) If it be shown to the satisfaction of the executive committee that any building or place used or intended by any person to be used-

(a) for boiling or storing offal, blood, bones and range,

(b) for salting, curing or storing fish,

(c) for storing-hides, horns or skin,

(d) for tanning,

(e)for the manufacture of leather or leather goods,

(f) for dyeing,

(g)for melting tallow or sulphur,

(h)for washing or drying wool or hair,

(i) for manufacturing or preparing by any process whatever, bricks, pottery or lime,

(j)for soap making,

(k) for oil-boiling or oil extracting,

(l) as a manufactory of sago,

(m)as a distillery,

(n)for storing hay, straw, fodder, wool, coal or other combustible material,

(o)as a manufactory of snuff,

(p)for the manufacture or sale of sweetmeats,

(q)as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work or in which steam, water or any mechanical power is used or intended to be used,

(r)as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

(s) as a hair dressing saloon or a barber's shop or a *humamKhana,* is or is likely to become by reason of such use and of its situation a nuisance to neighbourhood or is so used or is so situated as to likely to be dangerous to life, health or property, the executive committee may by written notice require the owner or *occupier*-

(i) at once to discontinue the use of or at once to desist *from* carrying out or allowing to be carried out the intention so to use, such building or place, or

(ii) to use it in such manner or after such structural alterations as the executive committee in such notice prescribes so that it may not become or may be no longer, a nuisance or dangerous.

Explanation-1.-For the purpose of clauses *(q)* and *(r)* nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

V of 1923.

Explanation-2.—Nothing in clauses *(q)* and *(r)* shall be deemed to affect any provision of the Indian Boilers Act, 1923, LXIII of 1948. or shall authorize 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.

(2) Whoever after notice has been given under sub-section *(1)*, uses any building or place or permits it be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to five hundred rupees, and with further fine which may extend to seventy-five rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(3) Upon a conviction being obtained under this section, the Magistrate shall, on the application of the executive committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section *(1)*.

(4) Whoever uses without licence or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section *(1)* in any municipal borough in which bye-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to one hundred rupees and with further fine which may extend to twenty rupees for every day on which such use is continued after the date of first conviction.

Prohibition of use of steam whistles, etc.

222. *(1)* No person shall use or employ in any factory or any other place 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 from the executive committee.

*(*2) The executive committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

*(*3) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such licence, shall be punished with fine which may extend to one hundred rupees.

Loitering or importuning for purpose of prostitution.

223. Whoever in any street or public place within the limits ofa municipal borough loiters, for the purpose of prostitution or importunes any person to the commission of sexual immorality shall be punished with fine which may extend to one hundred rupees:

Provided that no Court shall take cognizance of an offence under this section except on the complaint ofthe person importuned, or of a police officer not below the rank of an officer in charge of police station and specially authorized in this behalf by the district magistrate or by the municipality.

(12) Regulation of pilgrim's lodging houses.

Pilgrims' lodging houses.

224. *(1)* No person shall, inany municipal borough which the State Government shall have declared by notification to be pilgrim centre for the purposes of this section and of clause (d) of sub-section *(1)* of section 275 use or permit to be used any place or building for the purpose of lodging pilgrims except under and in accordance with the conditions of a licence from the executive committee.

(2) The executive committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any further notice.

*(*3) Whoever lodges or permits to be lodged any pilgrims in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such licence, shall be punished with a fine not exceeding ten rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) Powers in case of fire.

Police and municipal officers to aid fire-brigade.

225. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

(14) Service of notices, summons, etc., penalties on non-compliance therewith and execution of works on default.

Service of notices, etc. addressed to individuals.

226. *(1)* The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name, addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorised by the chief officer in this behalf-

(i) if such person resides within the municipal borough-

*(*a) by giving or tendering the notice or bill to the person; or

*(*b) if the person is not found, by leaving the same at his last known place of abode, within the municipal borough, or by giving or tendering, the same to some adult member or servant of his family or by registered post under cover bearing the address ofthe place of abode last known; or

(ii) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue of the notice or bill, then by forwarding the same by registered post under cover bearing the said address; or

(iii) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on owners or occupiers of buildings and lands.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise, specially provided for in this Act, shall be effected either-

(a) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some adult member or servant of the family of any such owner or occupier as aforesaid; or

*(*c) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(3) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings or places in each ward and where necessary is published in such local papers or in such other manner, as the municipality in bye-laws in this behalf prescribes.

Defective form not to invalidate notice.

(4) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(5) *(a)* Where any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(b) In the event of non-compliance with the terms of the notice it shall be lawful for the chief officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served and shall be recoverable in the manner provi

(6) The foregoing provisions of this section shall *mutatis mutandis apply* to the service of any summons, requisition or order issued under this Act and to be served on any person.

Punishments disobedience order and no punishable u any other se

227. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a municipality under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to onehundred rupees and with further fine which may extend to ten rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

228. Whoever does or omits to do an act in contravention of any provisions of this Act General penalty. or the bye-laws made thereunder or the conditions of a licence permission granted by a municipality under the said provisions or bye-laws shall if such act or omission is not an offence under the said provisions or bye-laws, be punished with fine which may extend to one hundred rupees and with further fine which may extend to ten rupees for every day on which act or omission continues after the date of the first conviction.

Municipality default of ow occupier ma execute work recover expe

229. (1)Where under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may, after giving reasonable notice to the owner or occupier and taking into consideration the objections, if any, made within the period specified in the notice, cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX either in one sum or by instalments as to the municipality may seem fit:

Provided that-

Agreement f construction drainage and connections.

(a) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 162 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 municipality 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)*;

Improvemen expenses.

(b) where an order or requisition has been passed under sub-section *(1)*

of section 147, sub-section *(1)* of section 149, sub-section *(2)* or *(8)* of section 155, or under sections 160, 162, 167 or 168 or where permission has been given under section 164, or where an arrangement has been made under proviso (a) of this sub-section, the municipality may without prejudice to any other powers under this Act, if it thinks fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upo shall be levied in such instalments

as the municipality may decide, including interest at the rate of seven and a half percent, per annum, and shall be recoverable in the manner described in sub-sections *(2)* and *(3)*.

Power to levy charges on occupire who may deduct the same from his rent.

(2) If the defaulter be the owner of the building or land the municipality 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 tax recoverable under Chapter IX; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount or rent due.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expense 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 landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, 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 contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

Occupier in default of owner, may execute works, and deduct expenses from his rent.

230. Where default is made by the owner of any building or land in the execution of any work required to be executed by him the occupier of such building or land may, with the approval of the municipality, cause such work to be executed and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

231. 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 and 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 continue to refuse to permit such owner to execute any such work, such occupier shall for every day during which he so continued to refuse, be punished with fine which may extend to one hundred rupees and every such owner, during the continuance of such refusal, shall be discharged

from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Liability of persons receiving rent as owners subject to availability of funds.

232. A person who by reason of his receiving the rent of any land or building as agent or trustee for another person is an owner within the meaning of clause (18) of section 2 shall not be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he has funds of, or due to, the owner sufficient to pay for the same and shall not be subject to any penalty for omitting to do such act if he can prove that the default was occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required

and, where a notice, requisition or order was issued under this Act requiring the owner or occupier of the land or building to do any act as specified in the notice, requisition or order, if he can prove that he had soon after the service of the notice, requisition or order informed the authority issuing the notice, requisition or order that he had no funds of or due to the owner sufficient to defray the expense of doing the act required and forwarded the notice, requisition or, as the case may be, order to the owner.

[CHAPTER XII.

POWERTOEVICTPERSONSFROMPREMISESBELO NGINGTO MUNICIPALITY.

233. Power to evict certain persons from municipal premises.

234. Power to recover rent or damages as arrears of land revenue.

235. Deduction of rent from salary or wages in certain cases.

236. Appeal.

237. Bar of Jurisdiction of Civil Courts.] Repealed by Guj. 12 of 1973; *s.* 19.

CHAPTER XIII.

CATTLEPOUNDS.

I of 1871.

238. In every municipal borough the provisions of the Cattle-trespass Act, 1871, shall cease to apply with effect on and from the date of the commencement of this Act:

Cattle-trespa to cease to a

Provided that-

(a) nothing in this section shall affect the liability of any person to any penalty under any law so ceasing to be in force;

(b) any appointment, notification, order or rule made or issued under any such law in respect of any cattle pounds within the limits of such municipal borough 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 notification, order or rule made under this Act;

(c) any cattle pound established in the municipal borough under the Act so ceasing to apply shall be deemed to be vested in the municipality of the municipal borough and shall be maintained in accordance with the provisions of this Act.

Power to est cattle pound appoint pou keepers.

239. (1) Notwithstanding anything contained in any law for the time being in force, every municipality 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 such persons to be keepers of such pounds as it may think necessary. The duties of pound keepers shall be such as may be prescribed by the municipality.

(2) Every pound keeper so appointed shall, in the performance of his duties, be

subject to the direction and control of the municipality by which he is appointed.

Penalty for allowing cat stray in stree trespass upo private or pu

240. (1) Whoever, within the limits of a municipality, 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-

property.

(*i*) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both;

(*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 five hundred 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 exce y rupees as the Magistrate

considers reasonable to any person for any damage proved 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 the accused is convicted shall be forfeited to the State 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 cognisable.

(5) Nothing contained in sub-section (1) shall render any person liable to any punishment provided in that sub-section, if in the opinion of the Court, the offence was committed without his knowledge or he exercised all due diligence to prevent the commission of such offence.

Impounding of Cattle.

241. (1) It shall be the duty of every Police Officer and a Watch and Ward appointed by the municipality and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the limits of the municipal borough.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after them to a pound, shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees, or with both.

Sale of Cattle not claimed.

242. (1)If within seven days after any cattle have been impounded, no person appearing to be the owner of such cattle offers to pay the pound-fee and expenses chargeable under section 243 such cattle shall be forthwith sold by auction in the manner provided in the rules and the surplus remaining after deducting the 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 such officer as the municipality authorises in this behalf that he was the owner of such cattle and shall, in any other case, form part of the municipal fund. If the impounded cattle cannot be sold by auction, the municipality may dispose it of by entrusting it to any *Panjarapole* or such other institution free of charge. In such case the expenses chargeable under section 243 and other incidental expenses shall be borne by the municipality.

(2) No police officer, or officer, member or servant of the municipality including the pound-keeper shall, directly or indirectly, purchase any cattle at a sale under

sub-section (*1*).

Pound-fees and expenses chargeable to be fixed.

243. (1) The pound-fee chargeable shall be such as the State Government may from time to time by notification in the *Official Gazette* specify 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 shall from time to time be fixed by the municipality.

Complaints illegal seizu detention.

244. (1) Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act may, at any time within ten days from the date of the seizure, make a complaint to the 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 sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry 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 one hundred 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 Act 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.

Security in res of impounded cattle.

245. (1) In any municipal borough to which the State Government may by notification in the *Official Gazette,* apply this section, 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 may be prescribed. Progressively increasing scales may be prescribed in the rules made by the State Government in respect of cattle belonging to or kept by the same person according to the number of cattle impounded at a time and the number of times the cattle are impounded and different scales may be prescribed for different municipalities.

(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 directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. 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.

(3) On every occasion on which the release of the cattle impounded under this Act is claimed, the owner of the cattle shall deposit a fresh security.

CHAPTER XIV.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality n prosecute.

246. (1) Subject to the provisions of sub-section *(3)* the chief officer may, and where the executive committee so requires shall, direct any prosecution for any public

nuisance whatever and order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or bye-law thereunder and shall order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act or bye-laws framed 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 next after the commission or discovery of such offence.

Jurisdication of Magistrate; recovery of compensation and expenses.

(2) Any prosecution under this Act or under any rule or bye-law 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 thereunder 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 moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(3) The chief officer shall not, except with the previous approval of the executive committee, 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:-

Section 72; sub-section *(*4) of section 149; sub-section *(4)* of section 150; section 206; and sub-section *(*4) of section 219.

Distress lawful through defective in form.

247. 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

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.

Damage to municipal property how made good.

248. 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 municipality 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.

Alternative procedure by suit.

249. In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter IX, or of any compensation, expenses, charges or damages payable under this Act. it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

Power to sue, compromise and pay compensation.

250. (1)A municipality may sue in any Court of competent jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property rights or privileges of the municipality.

(2) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or

compromising any claim or demand arising out of such contract:

Provided further that if any such suit is in respect of land leased or sold under sub-section *(1)* of section 146 or in respect of any immoveable property sold or leased for a term exceeding ten years or otherwise transferred, it shall not be lawful for the municipality to compound or compromise in respect of the suit except with the previous sanction of the State Government.

(3) A municipality 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 and servants under this Act.

(4) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.

Assistance for the recovery of rent on land.

251. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86 and 87 of the Land Revenue Code, and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an interior holder.

Bar of suits against municipality, its offices, servants, etc. for acts done in good faith.

252. No suit shall lie in respect of anything in good faith done or intended to be done under this Act against any municipality or against any committee constituted under this Act or against any councillor, officer or servant of a municipality or against any person acting under and in accordance with the directions of any such municipality, committee, officer or servant or of a magistrate.

Limitation of suit against municipality, its officers and servants for acts done in pursuance of execution of this Act.

253. (1)No suit shall lie against a municipality or against any officer or servant of municipality 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 instituted 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 municipality, delivered or left at the municipal office and in the case of an officer or servant of a municipality, delivered to him or left at his office or place of abode; and all such notices shall state with reasonable particularity, the cause 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 municipality payment of any sum or part thereof payable by him or in consequence of the suit may, with the sanction of the executive committee be made from the municipal fund.

Previous sanction for prosecution against president, Vice-President or councillor.

254. When any person who is or had been a president or vice-president or councillor of a municipality is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the State Government or any officer authorised by the State Government in this behalf.

Powers of Police officers.

255. (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 bye-law thereunder, if the name and address of such person is unknown to him, and if he 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 a police station until his name and address has been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before Magistrate, or than twenty-four hours at the utmost.

*(*2) It shall also be the duty of all Police officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any bye-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XV.

PROVISIONS RELATING TO SERVICES.

Posting under muncipalities of officers and servants in State Service.

256. (1) For the purpose of enabling the municipalities to discharge their functions and duties under this Act, it shall be lawful for the State Government to direct by a general or special order that such number of officers of the All India Service and of officers of the State Service except officers of class IV Service shall be posted under such municipality and for such period and subject to such conditions as may be specified in the order and accordingly the officers specified in the order shall be posted under such municipality.

(2) The pay and allowances of an officer posted in accordance with subsection (*1)* shall, during the period of posting, be paid by the municipality from its fund.

CHAPTER XVI. CONTROL.

Power of inspection and supervision.

257. (1)The [70][Director], Collector or any officer of Government authorized by the State Government by a general or special order shall have powers-

(a) to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(b) to call for or inspect any extract from any municipality's or any committee's proceedings and any book or documents in the possession of or under the control of a municipality.

(2) The Collector shall have power-

(*a*) to call for any return, statement, account, report or record which he may think fit to require such municipality to furnish;

(b) to require a municipality 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 or on behalf of such municipality or any

information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time stating its reasons for not d not doing, such thing.

[71][(3) The Collector may delegate any power exercisable by him under this section to any Deputy or Assistant Collector subordinate to him.]

Powers of Collector to suspend execution of orders, etc. of municipalities.

258. (1) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public 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 and where the execution of any work in pursuance of the order or resolution of the municipality is already commenced or completed direct the municipality to restore the position in which it was before the commencement of the work.

(2) When the Collector makes any order under this section he shall forthwith forward to the municipality affected thereby a copy of the order with a statement of the reasons for making it and also submit a report to the State Government alongwith copies of such order and statement.

(3) Against the order made by the Collector under sub-section (1) the municipality may prefer an appeal to the State Government within [72][thirty days] from the date on which it receives a copy of the order. The State Government may on such appeal being preferred rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force, with or without modification, permanently or for such period as it may specify:

Provided that the order shall not be revised, modified or confirmed by the State Government without giving the municipality reasonable opportunity of showing cause against the order.

Extraordinary powers of Collector in case of emergency.

259. (1)In cases 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 municipality 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 do it, shall be forthwith paid by the municipality.

(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 municipality, 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.

(3) The provisions of sub-sections *(2)* and *(3)* of section 258 shall apply, so far as may be, to any order made under this section.

Power of [73][Director] to prevent extravagance in the employment of establishment.

260. If in the opinion of the [73][Director] the number of persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ or the [74][remuneration] assigned by the municipality to those persons or to any particular person is excessive the municipality shall, on the requirement of the [73][Director] reduce the number of the said persons or the [74][remuneration] of the said person or persons:

Provided that the municipality may appeal against any such requirement to the State Government whose decision shall be conclusive.

Inquiry into municipal mat by State Government.

261. (1)The State Government may after giving the municipality an opportunity of being heard order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act.

(2)The officer holding such inquiry shall for the purposes thereof have the V of 1908. powers which are vested in a Court under the Code of Civil Procedure, 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)examining witnesses on oath,

(e)granting adjournments,

(f)reception of evidence taken on affidavit, and

(g)issuing commission 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 Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898.

Explanation. — For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the State of Gujarat.

(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 State Government and the State Government shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 percent per annum; and such costs and interest shall be leviable as an arrear of land revenue.

Power of State Government to provide for performance of duties on default by municiplity.

262. (1) When the State Government is informed, on complaint made or otherwise, that default, has been made in the performance of any duty imposed on a municipality by or under this Act or by or under an enactment for the time being in force, the State Government, if satisfied after due inquiry that the alleged defult has been made, may direct the [75][Director] to fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the [75][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 municipality.

(3) If the expense and remuneration are not so paid, the [75][Director] may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the Government Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of

the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality 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 municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.

Power of State Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

263. (1) If, in the opinion of the State Government, a municipality is not competent to perform, or deliberately makes default in theperformance of the duties imposed on it by or under this Act, or otherwise by law or exceeds or abuses its powers, the State Government may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefore, in the *Official Gazette* declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality [76] * * * * *.

[77] * * * * * Consequences of

dissolution .[78] *****.

(2) When the municipality is so dissolved [78] * * * * *, the following consequences shall ensue : -

(a) all councillors of the municipality shall [79] * * * * in the case of dissolution as from the date specified in the order of dissolution, vacate their offices as such councillors ;

(b) all powers and duties of the municipality shall, during the period of dissolution [80]* * * * be exercised and performed by such officer as the [81][Director] from time to time appoints in this behalf;

[82] * * * * *

Constitution of Municipality after dissolution.

[83][*(3) (a)* An election to constitute a municipality shall be completed before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the municipality for such period;

(b) A municipality constituted upon the dissolution of municipality before the expiration of its duration shall continue only for the reminder of the period for which the dissolved municipality would have continued had it not been so dissolved.]

[84] * * * * *

Explanation.-If for any reason the number of vacancies in a municipality exceeds two-thirds of the total number of seats the municipality shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

263A. *[Power of State Government to appoint officer to exercise and perform the duties of municipality when elections cannot be held for reconstituting it.]*

This section which was inserted by Guj. 2 of 1983, s. 2. was subsequently deleted by Guj. 17 of 1993, s. 21.

Powers of State Government over Collectors, etc.

264. In all matters, connected with this Act, the State Government, and Collectors shall, respectively, have and exercise the same authority and control over Collectors and their subordinates as in matters of general and revenue administration.

[85][CHAPTER XVIA.

NOTIFIED AREAS.

Notified areas.

[86][**264A.** For the purpose of this Chapter, notified area means an urban area or part thereof specified to be an industrial township area under the proviso to clause *(1)* of article 243 Q of the Constitution of India.]

impose taxation and regulate expenditure of the proceed thereof.

(a) apply or adapt to any notified area the provisions of any section of this Act, or part of any such section, or of any rules in force or which can be imposed in any municipal borough under the provisions, of this Act,

subject to such restrictions and modifications, if any, as it may think fit;

(b) impose in any such area any tax, which might be imposed therein under the provisions of this Act if the said area were a municipal borough;

(c) appoint a person or a committee for the purposes of the assessment and recovery of any tax imposed under clause *(b),* and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any section or rules applied or adapted under clause *(a)*.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in such manner in which, if the notified area were a municipal borough, the municipal fund thereof might be expended.

Application of Act to notified area.

264C. For the purposes of any section of this Act which may be applied to a notified area, the person or committee appointed for such area under section 264B shall be deemed to be a Municipality under this Act, and the area shall be deemed to be a municipal borough.

264D.*[Preliminaries to notification.] Deleted by Guj. 17 of 1993, s.23.*

Vesting, recovery and application of property, rights and liabilities of persons or committees appointed for areas ceasing to be notified area.

264E. 87[*(1)* When any area ceases to be a notified area, the property *(*including arrears of taxes) and rights which, prior to such cessation, vested in the persons or committee appointed for such area under clause *(*c) of sub-section (1) of section 264B shall, subject to all charges and liabilities effecting the same, vest in the municipality, if any, constituted for such area or within the limits of which such area is included or if there be no such municipality, in the State Government.]

88[*(2)* Any arrears of taxes vesting in a municipality under sub-section *(*1) shall be recoverable under the provisions of this Act as if the taxes were imposed and recovered under this Act:

Provided that steps to recover such arrears of taxes shall be initiated within a period of three years from the date on which they so vest in the municipality.]

*(*3) Where any property and rights vest in the State Government under subsection (1) the proceeds thereof shall, after satisfying all charges and liabilities affecting the same be applied for the benefit of the inhabitants of the said area in such manner as the State Government may think fit.

CHAPTER XVII.

SPECIALPROVISIONSAPPLICABLEWHENMUNICIPALBOROUGH LIMITSAREALTEREDORMUNICIPALBOROUGHAREAMALGAMATED WITHOTHERLOCALAUTHORITIESORSPLITUPINTODIFFERENT LOCALAUTHORITIES.

Interpretation.

265. In this Chapter, unless the context otherwise requires,-

(a) "appointed day" means the day from which a change referred to in any of the clauses *(a)* to *(d)* of sub-section (1) of section 266 takes effect;

(b) "existing local authority", in relation to any local area, means the munici-pality or the panchayat;

(c) "successor local authority", in relation to any local area, means the municipality or the panchayat;

(d) "the panchayat" means a gram 89* * * panchayat established or deemed to be Guj. VI of 1962.

established under the Gujarat Panchayats Act, 1961.

Power of State Government to make suitable provisions by order when a municipal borough altered.

266. (1) When-

(a) any local area is added to a municipal borough;

(b) any local area is excluded from a municipal borough;

(c) two or more municipal boroughs are amalgamated into one municipal borough; or

(d)a municipal borough is split up into two or more municipal boroughs, the State 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 Gazelle,* provide for all or any of the following matters, namely :-

90[*(i)* in a case falling under clause (a), the election of the councillors for the additional area shall be held within a period of six months from the

ance with the provisions of

the Act. The duration of such Councillors shall be for the remainder duration of municipality to which new area is added;]

(ii) in a case falling under clause *(b),* the removal of the councillors, who in the opinion of the State Government represent the area excluded from the municipal borough;

[91]*[(iii)* in a case falling under clauses (c) and (d), the municipalities shall stand dissolved on the appointed day and the municipality shall be reconstituted within a period of six months from the appointed day in accordance with the provisions of this Act. The duration of such reconstituted municipality and the councillors shall be same as provided in section 8 of this Act;]

[92][* * * * * * * * * * * * * *]

(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 contract made by it) to any successor local authorities [93][* * * * *] 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 services of any 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, notification, notices, taxes, orders, schemes, licences, permission, rules, bye-laws, 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 appointed day, until superseded or modified;

(x) the extension and commencement of all or any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws or forms, made, issued, imposed or granted under this Act by or in respect of, any existing municipality and in force within its area immediately before the appointed day, to and in all or any of the other areas of the successor borough municipality, in supersession of corresponding appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws or forms (if any) in force in such other areas immediately before the appointed 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, valuations, measurements or divisions made or authenticated by, or in respect of, such existing local authority and in force within its area immediately before the appointed day, unti

(xii) the removal of any difficulty which may arise on account of any change referred to in clauses *(a)* to *(d)*.

(2) 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.

94[*** *** ***

95[CHAPTER XVIIA.

SPECIAL PROVISIONS FOR CONVERSION OF GRAM 96[* * *] PANCHAYATS INTO MUNICIPALITIES.

Interpretation.

266A. For the purposes of this Chapter, unless the context otherwise requires-

(a) "gram" means a gram formed or an area deemed to be a gram, under the Panchayats Act;

(b) "gram panchayat" means a gram panchayat constituted or deemed to be constituted for a gram and includes a person or persons appointed to exercise the powers and perform the functions of a gram panchayat under the Panchayats Act;

97* * * * * * * * * *

Guj. VI of 1962.

(f) "Panchayats Act" means the Gujarat Panchayats Act, 1961.

Effect of conversion of 98[gram] panchayat into

266B.99[Where an area comprised in a gram is specified as a transitional area or, as the case may be, a small urban area, under clause (2) of article 243Q of the Constitution of India, then with effect from the date on which such area is so specified, the following consequences shall ensue that is to say;

(a) the panchayat functioning in the local area shall stand dissolved and the Sarpanch and the Upasarpanch or, as the case may be, the Chairman and the Vice-Chairman and all other members of such panchayat shall vacate their offices ;

(b) *(i)* the member elected by the gram panchayat of the gram shall cease to be the member of the Nyaya Panchayat constituted for a group of grams and the said Nyaya Panchayat shall continue to function in respect of the group of grams excluding the local area unless the number of grams remaining in the group is rendered less than three ;

(ii) the Nyaya Panchayat of the dissolved nagar panchayat shall stand dissolved and all members thereof shall vacate their offices ;

(iii) the concilliation panch of the dissolved panchayat shall cease to exist;

100 * * * * * * *

101[*(d)* the State Government shall appoint an officer as an administrator to exercise the powers and perform the duties and functions of municipality for such area until a municipality is constituted for such area under this Act;

(dd) the municipality shall be reconstituted within a period of six months from the said date in accordance with the provisions of this Act. *The* duration of such reconstituted municipality and the Councillors shall be the same as provided in section 8 of this Act;]

(*e*) the unexpended balance of the gram fund 102 * * * and property including arrears of rates, taxes, and fees, belonging to the dissolved panchayat, and all rights and powers, which prior to the said ayat shall subject to all

charges and liabilities affecting the same, vest in the administrator or administrators on behalf of the [103] * * * municipality until a municipality is constituted and on constitution of a municipality in such municipality;

(*f*) *(i)* any appointment, notification, notice, order, scheme, licence, permission, rule, bye-law or form made, issued or granted or deemed to have been made, issued or granted under the Panchayats Act, immediately before the said date in respect of the local area shall continue in force and be deemed to have been made, issued or granted in respect of the municipal borough, until it is superseded or modified by any other appointment, notification, notice, order, scheme, licence, permission, rule, bye-law or form made, issued or granted under this Act;

(ii) any tax, fee or cess *(*not being cess levied under section 181 of the Panchayats Act) which immediately before the said date were being levied by the State Government or by the dissolved panchayat in the local area shall continue to be levied in the municipal borough until it is superseded or modified by any other tax, fee or cess levied under this Act;

(iii) any tax, fee or cess which immediately before the said date were being levied by a taluka panchayat or a district panchayat or the cess

Bom. Iof 1904.

which before the said date was being levied by the State Government under section 181 of the Panchayats Act in the local area shall cease to be so levied in the municipal borough after the end of the financial year in which the said date occurs except that as respects arrears of such tax, fee or cess at the end of the financial year, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply as if the Panchayats Act had then been repealed by a Gujarat Act, in so far as the local area is concerned;

(g) all budget estimates, assessments, assessment lists, valuation or measurements made or authenticated under the Panchayats Act immediately before the said date in respect of the local area shall be deemed to have been made or authenticated under this Act;

(h) all debts and obligations incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on that date shall be deemed to have been incurred and made by the [104] * * * municipality until a municipality is constituted and on constitution of a municipality by such municipality in exercise of the powers conferred on it by or under this Act;

(i) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be officers and servants of the [105] * * * municipality until a municipality is constituted and on constitution of a municipality, of such municipality under this Act, and shall, until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date :

Provided that it shall be competent to [106]* * * * * * the municipality subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim municipality or, as the case may be, the municipality after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the panchayat in the employ of which he was, had not ceased to exist;

(*j*) all proceedings pending at the said date before the dissolved panchayat shall be deemed to be transferred to, and continued by the interim municipality until a municipality is constituted and on constitution of a municipality such municipality;

(*k*) all appeals pending at the said date before the dissolved panchayat shall, so far as may be practicable, be disposed of as if the local area had been the municipal borough when they were tiled;

(l) all prosecutions instituted by or on behalf of the dissolved panchayat and all suits or other legal proceedings instituted by or against such panchayat or any officer of the dissolved panchayat pending at the said date shall be continued by or against the interim municipality until a municipality is constituted and on constitution of a municipality by or against such municipality as if the local area had been the municipal borough when such prosecutions, suits or proceedings were instituted;

(m) *(i)* the provisions of sub-sections (2) and (3) of section 282 of the Panchayats Act shall be deemed to apply in respect of any suits or cases pending before the dissolved Nyaya Panchayat or, as the case may be,

before the Nyaya Panchayat continuing to function under sub-clause *(i)* of clause (b), in so far as such suits and cases relate to the area comprised in the gram, as if the District or Sessions Court, as the case may be, had passed an order under sub-section *(*1) of the said section 282 quashing such suits or cases: and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits and for the recovery of fines and compensation in cases shall be transferred to the Court of the Civil Judge of the lowest grade or the Court of the Magistrate, as the case may be, who would have had jurisdiction to try the suit or cases if the Nyaya Panchayat had not been constituted and such Civil Court or the Court of Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Civil Court or the Court of such Magistrate;

(*n*) any law *(*other than the Panchayats Act) or any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the nagar immediately before the said date shall continue to apply to and to be in force in the municipal borough until it is superseded.

[266 C. Application of section 266B in certain cases.

266 D. Interim municipalities.

266 E. Power to remove difficulties.] Deleted by Guj. 17 of 1993, s 30.

CHAPTER XVIII.

MISCELLANEOUSPROVISIONS.

Entry for purpose of the Act.

267. It shall be lawful for the president, vice-president, chief officer or any officer authorised by the chief officer for such purpose, to enter for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land:

Provided that except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier :

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in case of compensation, etc.

268. (1)Save as expressly provided in section 26 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 a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be sarpanch, shall be selected by the members already appointed as above.

(2) If either party or both parties fail to appoint members or if the members fail to select a sarpanch within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to

constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(3) In the event or the panchayat not giving a decision within one month from the date of the selection of the sarpanch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court

I of 1894.

which shall in cases in which the compensation is claimed in respect of land, follow as far may be the procedure provided by the Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court:

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.

(4) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party if dissatisfied with the decision, may within a month of the date thereof apply to the District Court and the matter shall be determined by the District Court in accordance with the provisions of sub-section (3).

(5) In any case where the compensation is claimed in respect of any land or building the municipality may after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building after paying the amount of the compensation determined by the panchayat 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 municipality shall deposit, the amount of the compensation in the District Court.

Costs or ex how deter and recove

269. 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 executive committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

Power of a officer to record, m other prop

270. (1)Where, on an application from a municipality, the officer authorised in this behalf by the State Government is of the opinion that any person who in his capacity as a councillor, officer, or servant of a municipality had, in his custody any record, money or other property belonging to the municipality is, after his retirement, removal or suspension from office, or on his otherwise ceasing to hold office, as the case may be, not likely to deliver such record or property or pay such money, the officer so authorised may by a written order, require that the record, property or money so detained be delivered or paid to the municipality forthwith.

*(*2) If any such person as aforesaid shall not deliver the record or property or pay the money as directed, the officer so authorised may cause him to be apprehended and may send him with a warrant in such form as may be prescribed to be confined in a civil jail till he delivers the record or property or pays the money :

Provided that no such person shall be so detained in confinement for a period longer than one calendar month.

(*3*) It shall be lawful for the officer so authorised-

(a) for recovering any such money to direct that such money be recov-ered as an arrear of land revenue and no such direction being given such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such record or property to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be

V of 1898.

exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1898.

(4) No action under sub-section (1), *(*2) or *(*3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

Explanation.-In this section "councillor" includes a president and vice-president of the Municipality and a chairman of any committee thereof.

270A. [*Powers and duties of municipality not validly constituted to be performed by person appointed by Government.] This section which was inserted by Guj. 4 of 1966, s.2 was subsequently deleted by Guj. 17 of 1993, s. 31.*

Municipalities to make rules.

271. municipality shall make rules not inconsistent with this Act and the rules or orders made by the State Government under this Act, and may from time to time alter or rescind them-

(a) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the chief officer or subject to the provisions of section 54 the powers or duties of any committee to any other committee or to the chief officer and the appointment and constitution of committees under section 55;

(b) prescribing the limitations and restrictions subject to which the Pilgrim committee shall exercise the powers and perform the duties of the municipality in respect of the Pilgrim Fund;

Defining the functions of the president and others.

(c) determining the executive functions to be performed by the president, vice-President and the Chairman of any committee;

Establishment.

(d) determining the staff of officers and servants to be employed by the municipality and their powers and duties:

General guidance of municipal servants.

(e)generally for the guidance of its officers and servants in all matters relating to the municipal administration;

Amount of security.

Mode of appointing, etc. municipal servants.

(f)fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

(g)determining subject to the limitations imposed by sections 47 and 50 the mode and conditions of appointing, punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint,

fine, reduce, suspend or dismiss any officer or servant;

Leave to municiapal servants.

(h) regulating the grant of leave to its officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

Pensions, etc.

(i) regulating the period of service of its officers and servants and determining

the conditions under which such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement or discharge from service or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving

relatives of any such officers or servants whose death has been caused through the execution of their duty;

Provident funds.

(j) authorizing the payment of contributions at such rates and subject to conditions as may be prescribed in such rules, to any pension or provident such fund

which may be established by the municipality or, with the approval of the municipality, by its officers and servants;

(k) enabling such officers or servants who are subscribers to any provident fund to exercise the option of joining any pension fund established as aforesaid, either retrospectively or prospectively, on such terms and conditions as may be specified in the rules and providing for the manner in which the amount of contributions made to the provident fund by such officers or servants and the municipality and standing to the credit of such officers or servants on the date on which the option is exercised shall be dealt with;

(l) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, [106A][* * * * * * * * *] the limits of the charges or payments to be fixed in lieu of any tax under section 119, the fees to be charged for licences or permissions granted under section 118 and for giving copies and stamping weights and measures; the fees for notices demanding payments due on account of any tax and for the issue and execution of warrants of distress and the rates to be charged for maintaining any live-stock distrained; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of moveable and immovable property under section 134 shall be held; Prescribing taxes.

(m) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable and the conditions subject to which the whole or part of any fee chargeable for distress may be remitted by the executive committee : Writing off amounts due.

Provided that-

(a) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by the State Government; Approval required to rules.

(b) if an officer serving or having served under a municipality has been, or is, transferred from or to the service of the Government or is partly employed by the Government and partly by a municipality, the municipality shall make such contributions to his pension and leave allowances as may be required by the conditions of his service under the Government, to be made by him or on his behalf; Officers transferred from or to the service of the Government.

(c) a municipality shall not, unless with the assent of the Government dispense with the services of any officer transferred from the service of the Government to the service of the municipality or employed partly by the Government and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality, to the service of the Government without giving the Government six months' previous notice. Notice required in certain cases of dismissal.

272. A municipality may, at its discretion, make rules, not inconsistent with this Act and the rules or orders made by State Government under this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of its officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances: Discretionary power to make rules.

Provided that no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by the State Government.

273. [*Rules made with approval of Director or without approval*.] Deleted by Guj. 15 of 1994, s.4.

Power to sus
reduce or ab
any existing

274. (1) Subject to the requirements of clause *(*a) of the proviso to section 271 a municipality may, except as otherwise provided in clause *(*b) of the proviso to section 131 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax.

*(*2) The provisions of Chapter VIII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

Power to make bye-laws.

275. (1)A municipality may from time to time, make, alter or rescind by-laws not inconsistent with this Act-

Markets and slaughter-houses, etc.

(a) for the regulation and inspection of markets and slaughter houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality, for regulating the sale of fruit and vegetables in the municipal market or other specified places;

Licensing, regulating, and inspecting certain businesses.

(b) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality-

(i) as a slaughter-house;

(ii) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(iii) for any of the purposes mentioned in sub-section *(1)* of section 221; and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

Use of steam whistles, etc.

(c) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen or persons employed;

Pilgrims lodging houses.

(d) prescribing the conditions on or subject to which and circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings;

Stalling of cattle, etc.

(e) prohibiting the stalling or herding of horses, camels, cattle donkeys, sheep or goats otherwise than in accordance with such regulations prescribed in such bye-laws in regard to the number thereof, and the places to be used for the purpose, as may be ne o the public health;

Milk Shops.

(f) prescribing the conditions on which sweet-meats, milk, butter or other milk products may be sold and on which licences may be granted, refused, suspended, or withdrawn for carrying on the trade or business of

a dealer in, or importer or seller of, sweet-meats, milk, butter or other milk products, or for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, storing or selling butter or other milk products;

For regulation on dairies and cattle-sheds.

(g) (i) for the inspection of milch cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers ;

(ii) for securing the cleanliness of milk-stores, milk-shops and

Milk stores,

(h) for the registration of births, deaths, and marriages within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration effective ;

Registration births, etc.

(i) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead;

Regulating disposal of dead.

(j) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of section 214 and 215;

For enforcin supply of information

epidemics.

(k) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein

For enforcin supply of information liability to municipal ta

[107][* * * * * * * * * * *]

(m) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water whether within or without the limits of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance, and control of municipal water-works and of pipes and fittings in connection therewith whether the property of the municipality or not;

For protectir water.

Explanation —Sources and means of water supply shall include private wells which are used by the public ;

(n) for securing an adequate supply of pure water to persons occupying

Supply of water.

residential premises;

(o) regulating the use of public bathing and washing places within the Public baths, etc. municipal borough ,

(p) regulating sanitation and conservancy and the disposal of the

Conservancy.

carcasses of dead animals ,

(q) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures, on public streets or for projections over public streets ,

Temporary structures and buildings.

(r) regulating the structure and dimensions of plinths, walls, Buildings.

foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health, and determining the purposes for which existing or newly erected buildings may be used in any area;

Streets.

(s) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets; and for the payment of compensation in such cases when necessary ;

Ventilation.

(t) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air;

For requiring lighting stair-cases, etc. at night.

(u) for requiring an owner of a building divided into two or more separate tenements to provide adequate means of lighting at night time a staircase, passage or private court of or in any such building or the spaces near or leading to latrines or urinals or washing places therein and of extinguishing such lights ;

Qualified surveyors.

(v) prescribing the qualifications of surveyors or persons by whom plans required under section 155 are to be prepared, or of plumbers; for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licences; and for modifying the provisions of or revoking such licences; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections being carried out or made except by such persons :

Drains.

(w) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation, shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not;

Requiring information and plans in certain cases.

(x) determining the information and plans to be required by the municipality under sections 149 and 155 :

Controlling unweildy traffic.

(y) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up post at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unweildy objects as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliance for protection of the roadway, number or lights and assistants, and other general precautions as may be prescribed either generally in such bye-laws or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such bye-laws:

Provided that no such bye-laws relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the municipality in conspicuous places; at or near both ends of such street or portion of a street;

Public parks.

(z) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

(aa) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for, the use of hand-carts, and

hand-barrows, other than those plying for the hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the bye-laws made under this section; Bom. VII of 1920.

(bb) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not:

(cc) prescribing the conditions on or subject to which permission may be granted, renewed, refused suspended or withdrawn for erecting, exhibiting, fixing or retaining any sky-sign or advertisement, over any land building or structure;

Explanation.-The expression "sky-sign" shall mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support, wholly or in part upon or over any land, building, or structure which, or any part of which sky-sign, shall be visible-against the sky from some point in any street and includes all and every part of any such post, pole, standard, frame-work, or other support. The expression "sky-sign" shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include-

(a) any flag staff, pole, vane or weather-cock, unless adapted or used wholy or in part for the purpose of any advertisement, announcement or direction :

(b) any sign, or board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, parapet or ridge to, against, or on which it is fixed or supported;

(c) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach, belonging to a railway company, and so placed that it cannot fall into any street or public place;

(d) any notice of land or building to be sold or let, placed upon such land or building;

(dd) generally for the regulation of all matters relating to municipal administration; General regulation.

and the municipality may with the like sanction, prescribe a fine not exceeding five hundred rupees for every infringement of any such bye-law. Fine may be imposed for infringement of bye-laws.

(2) A municipality may, from time to time, with the previous sanction of the

Central Government, make, alter or rescind bye-laws but not so as to render them inconsistent with this Act, for the taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such census effective.

(3) A municipality shall, before making any bye-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed bye-law, together, with a notice specifying a date on or after which the draft will be taken into c fore making the by-law, Publicatio drafts of p bye-laws.

receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

(4) No bye-law, or alteration or rescission of a bye-law made under sub-section (1) shall have effect unless and until it has been sanctioned by the State Govern-ment.

Objections and suggestions to be submitted to Central or State Government.

(5) When any bye-law made by a municipality is submitted to the Central Government or the State Government for sanction, a copy of the notice published and of every objection or suggestion received under the provision of sub-section (3), shall be submitted for the information of that Government along with the said bye-law.

(6) Every bye-law, or alteration or rescission of a bye-law made under this section shall as soon as it is sanctioned by the State Government or, as the case may be, the Central Government, be published in such manner as shall in the opinion of the Municipality be sufficient, for the information of the persons likely to be affected thereby.

Rules and bye-laws to be printed and sold.

276. The rules and bye-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in Gujarati and in English shall be kept on sale at cost price.

Power of State Government to make rules.

277. (1)The State Government may, by notification in the *Official Gazette,* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made-

*(*a) for the whole or any part of the State of Gujarat and for all or any municipality, and

(b) to provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this Act by the State Government shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazelle* and shall thereupon take effect.

Special provisions for agricultural area.

278. (1)If in respect of any area within the limits of a municipal borough the State Government is of opinion that the area predominantly consists of unoccupied land or land used for agricultural purposes and is mostly unoccupied by houses other than farm buildings, it may, after consulting the municipality, by notification in the *Official Gazette* declare the area to be an agricultural area. The

declaration shall state the boundaries of the area and the place where the plan of the area may be available for inspection.

(2) On the publication of the declaration, notwithstanding anything contained in this Act, the following consequences shall ensue that is to say-

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(b) in the said area, the municipality shall not be required to make provision for the matters specified in section 87, and none of the taxes mentioned in section 99 shall be leviable by the municipality;

(c) section 155 shall not apply to the construction of a farm building.

(3) If at any time after the making of a declaration under sub-section (1), the State Government, after such inquiry as it may deem fit, is satisfied that the whole or a part of the agricultural area-

(a) has ceased to be predominantly used for agricultural purposes and is occupied by houses,

(b) or is likely to cease to be used for agricultural purposes and to develop as an urban area,

it may by notification direct that the declaration made under sub-section (1) shall cease to apply to the whole of the area or such part thereof as may be specified in the notification. On the publication of the notification the provisions of sub-section (2) shall cease to apply to the area specified in the notification.

Explanation.-In this section " farm building " shall have the meaning assigned to it in section 65 of the Land Revenue Code.

any of its powers, functions or duties under this Act to any of its officers including the Director.]

Bom. III of 1901. Bom. XVIII of 1925.

279. (1) The Bombay District Municipal Act, 1901 and that Act as adapted and applied to the Saurashtra area of the Gujarat State, and the Bombay Municipal Boroughs Act, 1925, and that Act as adapted and applied to the Saurashtra area of the Gujarat State and that Act as extended to the Kutch area of the Gujarat State are hereby repealed. Repeal.

(2) Notwithstanding the repeal of the said Acts —

(i) any local area declared to be either a municipal borough or municipal district immediately before the date on which this Act comes into force *(*hereinafter referred to as " the said date"*)* shall be deemed to be a municipal borough under this Act;

(ii) the municipalities constituted under the said Acts immediately before the said date (hereinafter called " the old municipalities") shall be deemed to be municipalities of the respective boroughs (hereinafter respectively called " the new municipalities " and " the new boroughs") ;

(iii) the president, vice-president and councillors elected or appointed for the old municipalities and holding office immediately before the said date shall respectively be deemed to be the president, vice-president and councillors of the new municipalities and subject to the provisions relating to disqualification, resignation, removal and vacancy as provided in this Act shall hold office for the following period, that is to say :-

(a) in case the term of their office would have expired after the said date on or before the [110][30th September 1965] under any of the Acts so repealed or under any other law for the time being in force, for such period not exceeding one year from the said date as the State Government may by general or special order specify.

(b) in any other case, for the period for which they would have held office under any of the Acts so repealed :

[111][(*iiia*) if any municipality constituted under an Act so repealed has been superseded before the said date under a provision of such Act corresponding to the provision of section 263 of this Act and the period of supersession of such municipality as specified under such Act expires on or after the said date, such supersession shall be deemed to have been made under section 263 of this Act, for the period so specified, notwithstanding anything to the contrary contained in that section :

Provided that where such period expires before the 30th September, 1965 the State Government may by order in writing, extend it for such period

not exceeding one year from the said date as it may specify in the order and any such order may be made so as to have retrospective effect.]

(iv) the unexpended balance of the municipal fund and all the properties (including arrears of rates, taxes and fees) vesting in the old municipalities shall from the said date vest in the new municipalities and such arrears of rates, taxes and fees shall be recoverable under the provisions of this Act as if they had been imposed and recoverable under the provisions of this Act;

(v) all debts and obligations incurred and all contracts made by or on behalf of the old municipalities immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the new municipalities in exercise of the powers conferred on them by this Act;

(vi) any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, or form made, issued, imposed, or granted in respect of the said boroughs or districts and in force immediately before the date of the commencement of this Act shall in so far as they are not inconsistent with the provisions of this Act be deemed to have been made, issued, imposed or granted under this Act in respect of the borough and shall continue in force until it is superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under this Act;

(vii) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated immediately before the commencement of this Act by the old municipalities shall be deemed to have been made or authenticated by the new municipalities under this Act;

(viii) all officers and servants in the employ of the old municipalities immediately before the said date shall be officers and servants of the new municipalities and shall until other provision is made in accordance with the provisions of this Act, receive the salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the State Government after giving a Municipal Commissioner such notice as is required to be given by the terms of his employment, to discontinue his services if in the opinion of the Government he is not necessary or suitable to the requirements of the municipal service; and every Municipal Commissioner whose services are to discontinued shall be entitled to such leave, pension, provident fund, gratuity, other rights and privileges as he would have been entitled to take or receive *or* being invalided out of service if he had continued in the employ of the municipality after the said date;

(ix) all proceedings pending before the old municipalities shall be deemed to have been instituted and to be pending before the new municipalities and shall be heard and disposed of by the said municipalities under this Act;

(x) all prosecutions instituted by or on behalf of the old municipalities and all suits or other legal proceedings instituted by or against the old municipalities or any officer of municipalities pending at the said date shall be continued by or against the new municipalities;

(xi) any reference in any enactment or in any instrument to any Acts hereby repealed or to any provision thereof or any authority elected or appointed thereunder shall be construed as a reference to the Gujarat Municipalities Act, 1963, or to the corresponding provision thereof or to the corresponding authority elected or appointed thereunder.

Guj. 34 of 1964.

Removal of difficulties.

280. If any difficulty arises in first giving effect to the provisions of this Act, the State Government may, as occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

Transitory Provision.

112[**281.** (1)Notwithstanding anything contained in this Act, where the duration of the municipality has already expired before the date of the commencement of the Gujarat Municipalities (Amendment) Act, 1993 *(*hereinafter reffered to as "the said date" in this section) or is due to expire within one year from the said date, the election to constitute such municipality shall be completed within one year from the said date in accordance with the provisions of this Act.

Guj. 17 of 1993.

(2) Where the duration of the existing municipality expires after one year from said date, the election to constitute such municipality shall be completed before the expiry of its duration in accordance with the provisions of this Act.

(3) Where an area is specified as transitional area or, as the case may be, a smaller area, under clause *(*2) of article 243Q of the Constitution of India during the period of six months from the said date, the election to constitute the municipality for such area shall be completed within one year from the said date in accordance with the provisions of this Act.

(4) Where an election to constitute municipality could not be completed or it is not possible to hold the election to constitute a municipality as provided in this section on account of unforeseen circumstances such as natural calamity, riots, communal disturbances, all powers and duties of the municipality shall be exercised and performed by such officer as the State Government may by order appoint in this behalf.]

SCHEDULE I.

[*See* clause (b) of section 101]

Notice is hereby given to the inhabitants of the municipal borough of…… that the municipality desire to impose the tax, toll, octroi or cess (as the case may be) defined in the rules appended *(*in lieu of the tax known as the……which is published at page……..of the sanctioned rules□).

Any inhabitant of the municipal borough objecting to the proposed tax may within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

[The rules approved by the Municipality under clause (a) of section 101 are to be appended here].

SCHEDULE II.

(See* section *116)

FORMOFNOTICEOFTRANSFERTOBEGIVENWHENTHETRANSFERHAS BEEN EFFECTEDBYINSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A, B,* hereby give notice as required by section 116 of the Gujarat Municipalities Act, 1963, of the following transfer of property :-

Date of Notice.	Date of instrument.	Name of vendor or assignee.	Name of purchaser or assigner.	Amount of considertion.	DISCRIPTION OF THE PROPERTY							Remarks.
					Of what if consists.	Situation.	Number in Assessment Book.	Chief Officer' s No.	Dimensions of land.	Bouncaries.	If any instrument has been registered the date of registration.	

Dated (Signed)

SCHEDULE III.

(See* section *116)

FORMOFNOTICEOFTRANSFERTOBEGIVENWHENTHETRANSFERHASTAKEN PLACEOTHERWISETHANBYINSTRUMENT.

TO

THE CHIEF OFFICER,
Municipality,

I, A, B, hereby give notice as required by section 116 of the Gujarat Municipalities Act, 1963, of the following transfer of property :-

Date of Notice.	Name in Which the property is at present Entered in the Chief Officer's record.	To whom it is to be transferred.	DISCRIPTION OF THE PROPERTY						Remarks.
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Bouncaries.	

Dated (Signed)

SCHEDULE IV

(See sub-section *(3)* of section 132)

FORMOFNOTICEOFDEMAND To

A, B,……..... residing at……..Take notice that the municipality of……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 rule 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 he issued for the recovery of the same with costs, and also the service in respect of which the tax is leviable shall be discontinued.

Dated this day of 19

*(*Signed)
Chief Officer.

SCHEDULE V

(See sub-section (1) of section 133)

FORMOFWARRANT

(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□Here describe the taxmentioned in the margin for the period commencing

on.……the……..day of…….19 and ending with the ……day of……19 and leviable under rule No. ;

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain/attach subject to the provisions of section 132 of the Gujarat Municipalities Act, 1963 the goods and chattels/an property of the said A, B, to the amount of……..being the amount due from him, as follows :-

	Rs.	nP.
On account 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 goods distrained/property attached by you thereunder.

Dated this …….day of……19

(Signed)
Chief Officer.

SCHEDULE VI

[See clause *(c)* of sub-section (5*)* of section 133 and sub-section *(1)* of section 127]

FORMOFINVENTORYANDNOTICE.

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 Hare describe the tax mentioned in the margin for the period commencing with the……..day of……19 ……and ending with the day of……..19 together with Rs……..due as for service of notice of demand and Rs……due as for issue for warrant and that unless within five days from the day of the date of this notice you pay into the municipal office at…….the said 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

Inventory.

(Here state particulars of goods and chattels/property *seized.)*

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1 For Statement of Objects and Reasons see *Gujarat Government Gazette* Part V, November 18, 1963, p. 616. This Act was assented to by the President on the 23rd December, 1964.

 Please see section 3 of Guj. 5 of 1978.

 For Transitory provision please see section 7 of Guj. 15 of 1978.
Please see section *3* of Guj. 2 of 1979.

 Please see section 4 of Guj. 13 of 1980.

1A Clause (1) was deleted by Guj. 13 of 2007, s. 2(a).

2 Clause (1A) was inserted by Guj. 17 of 1993, s.2(1).

2A Clause (2A) was inserted by Guj. 13 of 2007, s. 2(b).

3 Clause (3A) was inserted by Guj. 17 of 1993, s, 2(2).

3A Clause (3B) was inserted by Guj. 13 of 2007, s. 2 (c).

4 Clause (6) was substituted for the original by Guj. 6 of 1965, s 2.

5Clauses (7A) and (7B) were inserted by Guj. 17 of 1993, s. 2(3).

6Clause (12A) which was inserted by Guj. 15 of 1978, s. 2 was subsequently Substituted by Guj. 7 of 1990, s 2.

6A Clause (12B) was inserted by Guj. 21 of 2011,s. 6.

7Clause (13)was substituted for the original by Guj. 17 of 1993, s. 2(4).

8 Clause (14) was substituted for the original *by Guj. 17 of 1993,* s. 2 (5).

9 Clause (16) was deleted by Guj. 14 of 2001, s. 2.

10 Clause (20) and (20A) were substituted for clause (20) by Guj. 17 of 1993, s. 2(6).

11 Clause (24A) was inserted by Guj. 17 of 1993, s 2(7).

12 The words "MUNICIPAL BOROUGHS AND" were deleted, *ibid.* s.4.

13 The brackets, figure and words "(1) Municipal Boroughs" were deleted, *ibid.*

14 Section 5 was substituted for the original by Guj 17 of 1993, s. 6.

15 Section 6 was substituted lor the original, *ibid..* s. 7.

16 Section 7 was substituted by Guj 17 of 1993, s. 9

17 Sections 8 and 8A were substituted tor section 8, *ibid.,* s. 10

18 Section 9 was substituted by Guj. 7 of 1990, s. 4.

19 Sections 9 to 9J were substituted for section 9 by Guj. 15 of 1978, s. 5.

20 Sub-sections (2) and (2A) were substituted for sub-section (2) by Guj.17 of 1993, s. 11.

21 These words were inserted by Guj 17 of 1993, s 12(i).

22 This word was substituted for the words "vote or is qualified or is not qualified to be elected, as the case may be," *ibid,* s. 12(ii).

23 The reference to Untouchability (Offences) Act, 1955 has to be construed as reference to the protection of Civil Rights Act, 1955 by virtue of section 19 of the Central Act No. 106 of 1976.

24 Clause (g) was added by Guj. 17 of 1993, s. 13.

25 Clause (h) was inserted by Guj. 17 of 2005, s.3.

26 Sub-section (4) was added by Guj. 23 of 1986, s. 11.

27 These words, brackets, figures and letter were inserted by Guj. 15 of 1978, s, 6.

28 These words, brackets and figures were substituted for the words, brackets, figures and letter "sub-section (6) of section 9 C" by Guj. 7 of 1990, s. 6.

29 This heading was substituted for the heading “PRESIDENT, VICE-PRESIDENT, COUNCILLORS AND CHIEF OFFICERS” by Guj. 15 of 1994, s.2(i)

30 Sub-section (/) was substituted for original by Guj. 17 of 1993, s.14 (i).

31 The words "the determination of the term of office of the president and vice-president and " were deleted , *ibid,* s. 14 (ii)

32 Sub-section *(1)* was originally substituted by Guj. 3 of 2000, s. 2 and subsequently again substituted by

Guj. 21 of 2011. s. 7.

33 Sub-section *(3)* was substituted for the original, by Guj. 17 of 1993, s. 15 (2).

34 Sub-section (4) was substituted by Guj. 29 of 1978, s. 11.

35 These words, brackets and figures were substituted for the words "On the election of a new president or vice-president", *ibid.,* s. 12

36 Sub-section (5) was inserted by Guj, 3 of 1968, s. 2.

37 These words were substituted for the words "on receipt of" by Guj. 3 of 1968, S. 3.

38 Section 37A was inserted, *ibid., s.4.*

39 Section 42 was substituted for the original by Guj. 17 of 1993, s. 16.

40 Sub-heading (3) was substituted for the sub-heading "(3) Chief officer and other officers" by Guj. 15 of 1994, s.2(2).

41 Sections 47,47A, 48,49 and 50 were substituted for sections 47,48, 49 and 50, *ibid. s.2(3).*

42 Section 50A was inserted by Guj. 11 of 1979, Sch., item 5.

43 This word was substituted for the words "Development Commissioner" by Guj.6 of 1965, s. 5.

44 This word was substituted for the words "Development Commissioner" byGuj. 6 of 1965, s. 5.

45 These words were substituted by Guj. 14 of 2001, s. 3 (1).

46 This Proviso was added by Guj. 3 of 1968, s 5.

46A Sub-sections (4) and (5) were inserted by Guj. 21 of 2011,s. 8.

47 This word was substituted for the words "Development Commissioner" by Guj. 6 of 1965, s 5.

48 Clauses (e) and (t) were inserted by Guj. 17 of 1993, s. 17.

49 Chapter VIIA was inserted by Guj. 5 of 1978, s.2.

49A. These words ware substituted for the words " annual letting value or the capital value or a percentage of capital value." by Guj. 13 of 2007. s. 3.

50 Clause (iv) was deleted by Guj. 14 of 2001, s. 4(1).

50A Clause (xiv-a) was inserted by Guj. 10 of 2008, s. 16, Sch II, Sr. No. 2(1).

50B This clause was inserted by Guj. 21 of 2011, s. 9.

51 These brackets and words were inserted by Presi. Act No. 11 of 1976. Sch.II, item (3).

51A The words "a tax on professions, trades, callings and employments or" were deleted by Guj. 10 of 2008, s. 16, Sch. II, Sr. No. 2(2).

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52 These words were inserted by Guj. 16 of 1977, Sch., item 3.

53 These words were inserted by Guj. 14 of 2001. s.4 (2).

54 Paragraph (b) was deleted, 14 of 2001., s .4(3).

54A Section 99A was inserted by Guj. 13 of 2007, s. 4.

54B The word, brackets and letter "or (b)" were deleted, *ibid.*, s. 5(1)(a).

54C These words, brackets and figure were substituted for the words, brackets and figure "sub-sections (2) and (3)" *ibid.*, s. 5(1)(b).

54D Sub-section (2) was deleted , *ibid.*, s.5(2).

54E These words were substituted for the words, brackets and figure "a rateable value of the same amount as that fixed under sub-section (2)" *, ibid*., s. 5(3).

54F These words were substituted for the words "valuation on which such tax is to be imposed*, ibid.,* s. 6. 54G Clause (d) was substituted for the original, *ibid.*, s. 7(1).

54H These words, brackets, letter and figure were substituted, *ibid.*, s. 7(2).

54I These were substituted for the words "the annual letting value and his estimate of the value of such building or land, *ibid.*, s. 7(3).

54J The words "valuation or" were deleted, *ibid.*, s. 8(1)(ii).

54K These words were substituted for the word "valuation", *ibid.*, s. 8(1)(ii).

54L The words "valuation and" were deleted, *ibid.,* s. 8(2)(i).

54M The words "valuation or" were deleted, *ibid.,* s. 8(2)(ii).

54N The words "valuation and" were deleted, *ibid*., s. 8(3).

54-O These words were substituted for the words "of the valuation, or annual letting value on the basis prescribed in the rules", *ibid*., s. 8(4).

54P The words "valuation and" were deleted, *ibid.*, s. 9.

54Q The words "valuation and" were deleted, *ibid.,* s. 10.

55 These words were substituted for the words "to authenticate the assessment list, and there upon such person or persons shall duly authenticate" by Guj. 3 of 1968, s. 6.

55A The brackets, figure and word "(4) and" were deleted, *ibid.,* s. 11(1).

55B Sub-sections (3), (4) and (5) were deleted, ibid. s. 11 (2).

56 These words "Octroi and" were deleted, by Guj. 14 of 2001, s.
5.

58 The word "Octroi or" were deleted, *ibid, s.* 7(4).

57 Sub-section (1) was substituted, *ibid,* s 7(1).

59 The words "octroi or" was deleted, by Guj. 14 of 2001, s 7(2).

60 The word "Octroi or" were deleted, ibid, s 7 (3).

61 Sections 129-A were inserted by Guj. 15 of 1994. s. 3.

62 The words "an octroi or" were deleted by Guj. 14 of 2001, s. 8.

63 Chapter IXA was inserted by Guj. 17 of 1993. s .18.

64 Sub-sections (1) and (2) were substituted by Guj. 12 of 1979, Sch., item 2.

65 These words were substituted for the words "Gujarat Municipal Finance Board" by Guj. 17 of 1993. s. 19.

66 These words were substituted for the words "in any street or part of a street not maintainable by the municipality" by Guj. 3of 1968. s 7(1).

67 This Explanation was added, *ibid, s* 7(2)

68 Sections 167A was inserted by Guj. 20

69 This word was substituted for the words "Development Commissioner" by Guj 6 of 1965 s. 5.
70 This word was substituted for the words "Development Commissioner" by Guj. 6 of 1965. s.5.
71 Sub-section (3)was inserted, by Guj. 3 of 1968, s. 8.
72 These words were Substituted for the words "eight days" by Guj. 11 of 1969, s. 6.
73 This word was substituted for the words "Development Commissioner" by Guj. 6 of 1965. s. 5.
74 This word was substituted for the word "honorarium" by Guj. 11 of 1969, s. 7.
75 This word was substituted for the words "Development Commissioner" by Guj. of 1968. s. 5.
76 The words beginning with words "or supersede it" and ending with the words "superseded under this Section" were deleted by Guj. 17 of 1993. s. 20(1) (i).
77 This proviso which was added by Guj. 3 of 1965, s. 9 (1) was subsequently deleted *ibid.,* s..20(1) (ii).
78 The words "or superseded" and "or supersession" were deleted, *ibid.,* s. 20 (2) (a).
79 The words "in the case of supersession as from the date of the order of Supersession, and" were deleted, *ibid.,* s. 20 (2) (b).
80 The words "or Supersession" were deleted by Guj. 17 of 1993, s. 20 (2) (a).
81 This word was substituted for the words "Development Commissioner" by Guj. 6 of 1965 s. 5.
82 Clauses (c) and (d) were deleted by Guj. 17 of 1993, s. 20 (2) (c).
83 Sub-section *(3)* was substituted for the original, *ibid, s.* 20 (3).
84 Sub-sections *(4)* and *(5)* were deleted, *ibid,* s. 20 (4).
85 Chapter XVIA was inserted by Guj. 3 of 1968, s.10.
86 Section 264A was substituted for original by Guj. 17 of 1993, s.22.
87 Sub-Section *(1)* was substituted for the original by Guj. 17 of 1993, s.24 (i). 88 Sub-Section (2) was Substituted for the original by Guj. 17 of 1993, s. 24 (ii). 89 The words "or nagar" were deleted, *ibid,* s. 25.
90 Clause (i) was substituted for the original by Guj. 17 of 1993. s.26 (i) (a). 91 Clause (iii) was substituted for the original, *ibid,* s.26(i) (b).
92 Clauses (iv) and (v) were deleted, *ibid,* s.26(i) (c).
93 The words "or the State Government" were deleted, *ibid,* s.26 (i) (d).
94 sub-section (3) was deleted by Guj. 17 of 1993. s. 26 (ii).
95Chapter XVII a was inserted by Guj. 20 of 1980, s.8.
96 The words " or nagar" ware deleted, ibid, s.27.

97 Clauses (c), (d) and (e) were deleted by Guj. 17 of 1993, s. 28.
98 This word was substituted for the word "nagar", *ibid, s. 29* (i).
99 This portion was substituted for the portion beginning with "where under" and ending with words "ensue that is to say." *ibid; s.* 29 (ii).
100 Clause (c) was deleted, *ibid.,* s. 29 (iii).
101 Clauses (d) and (dd) were substituted for clause (d), *ibid,* s. 29 (iv).
102 The words "or the nagar fund" and "interim" were deleted by Guj. 17 of 1993 s. 29 (v).
103 The word "interim" was deleted *ibid s.* 29 (vi)
104 The word " interim" was deleted *ibid,* s. 29 (vi).
105 The word "interim" was deleted, *ibid* s. 29 (vii).
106 The words " interim municipalities or. as the case may be." were deleted by Guj. 17 of 1993 s 29 (vii).
106A The words beginning with “the conditions” and ending with “of such taxes;” were deleted by Guj. 13 of 2007, s. 13.
107 Clause (1) relating to octroi was deleted by Guj 14 of 2001, s.9.
108 Clause (a) was deleted by Guj. 14 of 2001. s. 10.
109 Section 278A was inserted by Guj 32 of 1965, s. 2.
110 These figures, letters and words were substituted for the figures, letters and word "31st March 1965" by Guj. 6 of 1965, s. 4(1).
111 This clause shall be and shall be deemed always to have been inserted by Guj 6 of 1965. s.4(2) 112 Section 281 was added by Guj. 17 of 1993, s. *32.*