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AUTHORITATIVE ENGLISH TEXT

THE HIMACHAL PRADESH MUNICIPAL ACT, 1994

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SCHEDULE.

THE HIMACHAL PRADESH MUNICIPAL ACT, 1994
(ACT NO. 13 OF 1994)[1]

(Received the assent of the Governor of Himachal Pradesh on 18th October, 1994 and was published in Hindi and English in R.H.P. Extra dated 18th October, 1994 p. 3229-3476).

Amended, repealed or otherwise effected:-

1. H.P. Ordinance No. 2 of 1995 replaced by H.P. Act No. 11 of 1995[2] published in R.H.P Extra., dated 22.11.1995. p. 4637-4640 effective w.e.f. 1.8.1995.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 19.9.1994, p. 2612 and 2732.

2. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 27-9-1995, p. 3907 and 3910.

2. H.P. Ordinance No. 2 of 1997 replaced by H.P. Act No. 8 of 1997[1] published in R.H.P Extra., dated 19.4.1997. p. 1375-1378 w.e.f. 10.1.1997.

3. H.P. Act No. 23 of 2000[2] published in R.H.P Extra., dated 20.10.2000. p. 3445-3467

4. H.P. Ordinance No. 2 of 2000 replaced by H.P. Act No. 13 of 2001[3] published in R.H.P Extra., dated 28.2.2001. p. 5731-5732

5. H.P. Ordinance No.4 of 2003 replaced by H.P. Act No. 10 of 2003[4] published in R.H.P Extra., dated 2.8.2003. p. 1109-1112.

6. H.P. Ordinance No.5 of 2003 replaced by H.P. Act No. 7 of 2003[5] published in R.H.P Extra., dated 2.8.2003. p. 1094-1094.

7. H.P. Ordinance No.6 of 2003 replaced by H.P. Act No. 2 of 2004[6] published in R.H.P Extra., dated 22.1.2004. p. 3091-3092.

8. H.P. Act No. 28 of 2005[7] published in R.H.P Extra., dated 30.3.2005 p. 3303-3308.

9. H.P. Act No. 20 of 2007[8] published in R.H.P Extra., dated 29.9.2007 p. 6161-6162.

An Act to consolidate and amend and replace the law relating to municipalities in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follow:-

CHAPTER-1
PRELIMINARY

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 25-3-1997, p. 983 and 986.

2. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 21.8.2000, p. 2551 &2567.

3. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 26.12.2000, p. 4756 &4748.

4. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 18.7.2003, p. 889 & 893.

5. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 18.7.2003, p. 832 & 835.

6. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 18.12.2003, p.2828 & 2830.

7. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 10.8.2005, p. 2454 & 2461.

8. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated .2007, p. .

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Municipal Act, 1994.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall and shall be deemed to have come into force on the 30th day of May, 1994.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,-

(1) [1]**[xxxxxxx]**

(2) "backward classes" means such classes of citizens other than scheduled castes and scheduled tribes as may be identified and notified for the purposes of reservation for appointments or posts in the services under the State Government ;

(3) "building" means any shop, house, hut, out-house, stable, a factory, an industrial shed and a temporary structure erected by means of tents and structures, raised for entertainment purposes whether roofed or not and whether used for the purposes of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall and a well;

(4) "building line" means a line beyond which the outer face or any part of an external wall of a building may not project in the direction of any street, existing or proposed ;

(5) "built area" is that portion of a municipality of which the greater part has been developed as a business or residential area;

(6) "bye-laws" mean bye-laws made under this Act;

(6-a). ―cattle‖ means domestic animals and includes elephants, camels, buffaloes, cows, oxen, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;‖; and

(7) "committee" means a committee of a municipality, constituted or deemed to have been constituted by or under this Act ;

(8) "compost manure" means the produce prepared from dung by subjecting it to the process of compost making in the manner prescribed by rules ;

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1. Clause (1) omitted vide Act No. 33 of 2011.

2. Clause (6-a) inserted vide Act No. 33 of 2011.

(9) "Deputy Commissioner" or "Deputy Commissioners of the districts" includes Additional Deputy Commissioners, or any other officer at any time appointed by the State Government to perform in any district or districts the functions of a Deputy Commissioner under this Act ;

(10) "Director" means the Director of Urban Local Bodies appointed by the State Government;

(11) "District" means a revenue district;

(12) "District Planning Committee" means a committee constituted under article 234 ZD of the Constitution of India and under section 185 of the Himachal Pradesh Panchayati Raj Act, 1994 (4 of 1994) at the district level to consolidate the plans prepared by the Panchayats and the municipalities in the district ;

(13) "dry latrine" means a latrine from which the excreta is removed manually ;

(14) "dung" means night soil, sewage, sullage, sludge, refuse, filth or rubbish or animal matter of any kind ;

(15) "election" means and includes the entire election process commencing on and from the date of notification calling for such election of members and ending with the date of declaration and notification of results thereof ;

(16) "erect or re-erect any building" includes-

(a) any material alteration or enlargement of any buildings;

(b) the conversion by structural alteration 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 at 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 a building as effect an alteration of its drainage or sanitary arrangements, or materially affects its security ;

(f) the additions of any rooms, buildings, out-houses or other structures to any building ;

(g) the construction in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land.;

(17) "Executive Officer" means a person, by whatever name called, appointed under section 305 of this Act to discharge the functions of the Executive Officer in relation to a Municipal Council and that of Secretary in relation to a Nagar Panchayat ;

(18) "explosive" and "petroleum" have the meanings, assigned to those words in the Indian Explosive Act, 1884, (4 of 1984) and the Petroleum Act, 1934 (30 of 1934), respectively;

(19) "factory" shall have the meaning assigned to it in the Factory Act, 1948 (63 of 1948);

(20) "infectious disease" means cholera, plague, small-pox, tuberculosis or such other dangerous disease as the State Government may notify in this behalf.

(21) ―inhabitant‖ include any person ordinarily residing or carrying on business, or owning or occupying immovable property, in any municipality; or in any local area which the State Government has by notification under this Act, proposed to declare to be a municipality; and in case of any dispute; means any person or persons declare by the Deputy Commissioner to be inhabitant or inhabitants;

(22) ―municipal council‖ means the municipal council constituted by or under this Act;

(23) ―municipal area‖ means the territorial area of municipality notified by the state Government and Include any territorial area which form part of municipality and commencement of this Act‘

(24) ―municipality‖ means an institution of Self Government constituted as a Nagar Panchayat or municipal council under this Act;

(25) ―Nagar Panchayat‖ means the Nagar Panchayat constituted under this Act;

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

(27) ―occupier‖ include an owner in actual occupation of his own land or building, and also any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which the word is used; for the proposes of Chapters VI and X, occupier shall include hotel-keeper, lodging house-keeper, and any owner whose premises are let to more than one tenant;

(28) ―Office bearer‖ means in relation to a municipality a member , Vice-President or a President of a municipality and in relation to municipal corporation , a councillor, Mayer or Deputy Mayer of the Municipal corporation and in relation to a panchayat an office bearer of panchayat as defined in clause (23) of section 2 of the Himachal Pradesh Panchayti Raj Act, 1994 _

(29) ―owner‖ include the person for the time being receiving the rent of land and buildings, or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land or building were let to tenant;

(30) ―panchayat‖ means an institution of self-government (by whatever name called) constituted for rural areas under the Himachal Pradesh Panchayti Raj Act,1994;

(31) ―population‖ means the population as ascertained at the last preceding census of which the relevant figures has been published;

(32) ―public place‖ means a place which is open to the use or enjoyment of the public whether or not private property and whether or not vested in the municipality;

(33) ―public street‖ shall mean any street ---

(i) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds unless before such work was carried out there was an agreement with the proprietor that the street should not thereby become a public street or unless such work was done without the implied or express consent of proprietor; or

(ii) Which under the provisions of Section 182 is declared by the municipality to be or under any other provisions of this Act become, a public street;

1[(33-a) 'ratable value' shall mean,—

(a) In the case of land, the ratable value shall be based upon per square metre of the actual area of land multiplied by the unit area rate of tax and relevant factors

prescribed for the particular zone and in the case of building, the ratable value shall be based upon per square metre of plinth area multiplied by unit area rate of tax and relevant factor prescribed for the particular zone;

1.New Clause (33-a) inserted vide Act No. 33 of 2011.

(b) for levy of tax on lands and buildings, the entire municipal area shall be divided into different zones and each zone shall have relevant factors having different values;

(c) for the purpose of determination of unit area tax, there shall be five factors i.e (i) location (ii) occupancy (iii) age of building (iv) use of building and (v) type of structure. Each factor shall have different value for different zone as may be determined by the municipality, from time to time; and

(d) the mode for levy, calculation and assessment of tax as per provisions of this Act, which relates to the classification, usages of the buildings, or apportionment of buildings, or vacant land and open spaces

forming part of the land and building shall be prescribed by bye-laws:

Provided that annual deduction of ten per cent on the ratable value of building shall be allowed on account of repair and maintenance expenses necessary for the maintenance of the building and a rebate of ten percent shall also be allowed on the amount of tax, in case the amount of tax specified in the bill is paid within fifteen days from the date of receipt of such bill, however, this rebate shall not be applicable in the case of defaulters who are in arrear of tax.]

(34)—rule‖ mean the rule made under this Act;

(35)—scheduled caste‖ shall have the same meaning as assigned to it clause (24) of the article 366 of the constitution of India ;

(36)—scheduled tribe‖ shall have the same meaning as assigned to it in clause (25) of article 366 of the Constitution of India;

(37)—State Election Commission‖ means the State Election Commission constituted by the State Government under article 243k and 243ZA of the Constitution of India and section 160 of Himachal Pradesh Panchayti Raj Act ,1994;

(38)—State Finance Commission‖ means the State Finance Commission constituted by the State Government under article 243-1 and 243-Y of the Constitution of India and section 98 of Himachal Pradesh Panchayti Raj Act ,1994;

(39)—street‖ shall mean any road, footway square, court, ally or passage accessible, whether permanently or the temporary to the public, and whether a thoroughfare or not; and shall include every vacant space , notwithstanding that it may be private property of partly or wholly obstructed by any gate, posts, chain or other barrier, if houses, shops or other building abut

thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such person be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid, and shall include also the drains or gutters therein, or on either side and the land, whether covered or not by any pavement, varandah or other erection, upto the boundary of any abutting property not accessable to the public;

(40)—unbuilt area‖ is an area within the municipal limits which is declared to be such at a special meeting of the municipality by a resolution confirmed by the State Government, or which is modified as such by the State Government;

(41)—vehicle‖ includes bicycle, tricycle and auto motor car and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER - II

CLASSIFICATION OF MUNICIPALITIES AND MUNICIPAL AREA

3. Classification of municipalities.- (1) There shall be constituted three classes of municipalities in accordance with the provisions of this section as specified below :-

(i) "Nagar Panchayat" for a transitional area with population exceeding two thousand and generating annual revenue exceeding rupees five lakhs for the local administration;

(ii) "Municipal Council" for a smaller urban area with population exceeding five thousand and generating the annual revenue exceeding rupees 1[ten] lakhs for the local administration;

(iii) "Municipal Corporation" for a larger urban area with population exceeding fifty thousand and generating annual revenue exceeding rupees two crores for the local administration and which has been declared to be a municipal area under section 3 of the Himachal Pradesh Municipal Corporation Act, 1994 (12 of 1994) :

Provided that a municipality under this section may not be constituted in such urban areas or part thereof as the State Government may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as it may deem fit, by notification, specify to be an industrial township:

1. Subs. for the words ―twenty‖ vide Act No. 20 of 2007.

Provided further that no cantonment or part of a cantonment shall form part of a municipality.

Explanation.- In this sub-section, " a transitional area", "a smaller urban area" or "a larger urban area" means such area as the State Government may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as the State Government may deem fit, specify, by notification for the purpose of this section.

(2) The State Government shall, by notification, constitute the municipalities and specify the class to which a municipality shall belong in accordance with the provisions of this section after observing the procedure as laid down in section 4:

Provided that the municipalities existing at the commencement of this Act and listed as Nagar Panchayat or as Municipal Council in the Schedule to this Act, would be deemed to have been constituted and notified as such, under and in accordance with the provisions of this section:

Provided further that the State Government may, after giving a reasonable notice of not less than thirty days of its intention to do so, amend the schedule, by notification and declare any Nagar Panchayat as a Municipal Council or any Municipal Council as a Nagar Panchayat.

4. Procedure for declaring municipal area.- (1) The State Government may, by notification, propose any local area to be a municipal area under this Act.

(2) Every such notification under sub-section (1) shall define the limits of the local area to which it relates.

(3) A copy of every notification under this section, with a translation thereof in such language as the State Government may direct shall be affixed at some conspicuous place in the office of the Deputy Commissioner, within whose jurisdiction the local area to which the notification relates lies, and at one or more conspicuous places in that local area.

(4) The Deputy Commissioner shall certify to the State Government the date on which the copy and translation were so affixed and the date so certified shall be deemed to be the date of publication of the notification.

(5) If any inhabitant desires to object to a notification issued under sub-section (1), he may, within six weeks from the date of its publication submit his objection in writing through the Deputy Commissioner to the State Government and the State Government shall take his objection into consideration.

(6) When six weeks from the date of publication have expired, and the State Government has considered and passed orders on such objections as

may have been submitted to it, the State Government may, by notification, declare the local area for the purposes of this Act, to be a municipal area.

(7) The State Government may, by notification, direct that all or any of the rules which are in force in any municipal area shall, with such exceptions and adaptations as may be considered necessary, apply to the local area declared to be a municipal area under this section, and such rules shall forthwith apply to such municipal area without further publication.

(8) When a local area, the whole or part of which was a notified area under the Himachal Pradesh Municipal Act, 1968 (19 of 1968) or a Nagar Panchayat under this Act, is declared to be Municipal Council under this section, the Municipal Council shall be deemed to be a perpetual successor of such notified area committee or of Nagar Panchayat, as the case may be, and in respect of all its rules, bye-laws, taxes, and all other matters, whatsoever and the Nagar Panchayat shall continue in office and shall notwithstanding anything contained in this Act be deemed to be the Municipal Council until the appointment and election of members is notified by the State Government under section 27.

(9) A municipality shall come into existence on such day as the State Government may, by notification, appoint in this behalf.

5. Notification of intention to include a local area in a municipal area.- (1) The State Government may, by notification, and in such other manner as it may determine, declare its intention to include within a municipal area any local area in the vicinity of the same and specified in the notification.

(2) Any inhabitant of a municipal area or local area in respect of which a notification has been published under sub-section (1) may, if he objects to the alteration proposed, submit his objection in writing through the Deputy Commissioner to the State Government within six weeks from the publication of the notification; and the State Government shall take such objection into consideration.

(3) When six weeks from the publication of the notification have expired, and the State Government has considered the objections, if any, which have been submitted under sub-section (2) the State Government may, by notification, include the local area in the municipal area.

(4) When any local area has been included in a municipal area under sub-section (3) of this Act, and, except as the State Government may, by notification, direct otherwise, all notifications, rules, bye-laws, orders directions and powers issued, made or conferred under this Act and in force throughout whole of the municipal area at the time shall apply to such area.

6. Notification of intention to exclude local area from a municipal area.- The State Government may, by notification and in such other manner as it may deem fit, declare its intention to exclude from a municipal area any local area comprised therein and specified in the notification.

7. Exclusion of local area from a municipal area.- (1) Any inhabitant of a municipal area or local area in respect of which a notification has been published under section 6 may, if he objects to the exclusion proposed, submit his objection in writing through the Deputy Commissioner to the State Government within six weeks from the publication of the notification and the State Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired and the State Government has considered the objections, if any, which have been submitted under sub-section (1), the State Government may, by notification, exclude the local area from the municipal area.

8. Effect of exclusion of local area from municipal area. - When a local area is excluded from a municipal area under section 7-

(a) this Act and all notifications, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply thereto ; and

(b) the State Government shall after consulting the municipality, frame a scheme determining what portion of the balance of the municipal fund and other property vesting in the municipality shall vest in the State Government and in what manner the liabilities of the municipality shall be apportioned between the municipality and the State Government, and, on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

9. Power to abolish municipal area. - (1) The State Government may, by notification, abolish any municipal area declared under section 4.

(2) When a notification is issued under this section in respect of any municipal area, this Act and all notifications, rules, bye-laws, orders directions and powers issued, made or conferred under this Act shall cease to apply to the said municipal area; the balance of the municipal fund and all other property at the time of the issue of the notification vested in the municipality shall vest in the State Government.

(3) Where any municipal area is abolished under sub-section (1) and subsequently the area comprising the municipal area so abolished is declared to be a Sabha area under sub-section (1) of section 3 of the Himachal Pradesh Panchayati Raj Act, 1994, the assets and liabilities referred to in sub-section (2) shall vest in the Gram Panchayat of the Sabha area from the date of its establishment under section 4 of the Himachal Pradesh Panchayati Raj Act, 1994.

Explanation.- For the purpose of this sub-section, the assets shall include all arrears of tax, tolls, cesses, rates, dues and fees imposed under this Act or rule or any bye-law which fell due to the municipality of the municipal area immediately before the date of its abolition and the same shall be recoverable by the Gram Panchayat as if these were arrears due to the Gram Panchayat.

CHAPTER -III

MUNICIPALITIES

10. Composition of municipalities.- (1) The municipalities constituted under section 3 shall consist of such number of elected members not less than seven as may be determined by the State Government, by adopting the criterion that in municipal area having population of :-

[1][(i) Not exceeding 6150 .. 7 members

(ii) Exceeding 6150 but not exceeding 12,300 .. 9 members

(iii) exceeding 12,300 but not exceeding 24,600 .. 11 members

(iv) exceeding 24,600 but not exceeding 36,900 .. 13 members

(v) exceeding 36,900 but not exceeding 49,200 .. 15members

(vi) exceeding 49,200 but not exceeding 61,500 .. 17 members

(vii) exceeding 61,500 .. 19 members:]

Provided that the determination of the number of members as aforesaid shall not affect the composition of the municipality until the expiry of the term of office of the elected members then in office.

[2][Provided further that in case of increase or decrease in the number of wards (seats) in a municipality due to higher or lesser population growth rate of that municipality than the average population growth rate of the urban area of the State, as the case may be, in that event existing number of wards (seats) of that municipality shall be maintained.]

(2) Save as provided in sub-section (3), all seats in that municipality shall be filled in by persons chosen by direct election and for the purpose of election, the Deputy Commissioner shall, in accordance with such rules as may be prescribed by the State Government,-

(a) divide the municipal area into wards in such a manner that-

(i) one member shall be elected from each ward ; and

(ii) as far as possible the population in each ward shall be equally distributed ;

(b) determine the territorial extent of each ward ; and

(c) determine the ward or wards in which seats are reserved under section 11.

1 Existing clause (i) to (vii) subs. vide Act No. 28 of 2005.

2 Proviso inserted vide Act No. 28 of 2005.

3. words inserted vide Act 12 of 2010.

4. In section 10 (1) (2) the words ―President, Vice-President and‖ & ―including the President, Vice-President‖ omitted vide Act 50 of 2013

[1][(3) In a municipality, in addition to persons chosen by direct election under this section, the Members of the State Legislative Assembly, representing constituencies which comprise wholly or partly in municipal area, shall also be the members [2][with voting right][3].]

[4][*****]

[5][(4) The state Government may, by notification, nominate as members not more than three persons having special knowledge or experience of municipal administration:

Provided that a person who contested and lost the immediately preceding election of a municipality shall not be nominated by the State Government as a member of that municipality or any other municipality during its existing term:

Provided further that a member nominated under this sub-section whether before or after the commencement of the Himachal Pradesh Municipal (Amendment) Act, 2003 shall hold office during the pleasure of the State Government, but not beyond the term of municipality as provided for in sub-section (1) of section 14 of this Act.

(5) The nominated members referred to in sub-section (4) and the Executive Officer in case of Municipal Council and Secretary in case of Nagar Panchayat, shall have the right to attend all the meetings of the municipality and to take part in the discussion therein but shall not have any right to vote.]

11. Reservation of seats. - (1) Seats shall be reserved in a municipality,-

(a) for the scheduled castes; and

(b) for the scheduled tribes;

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 the municipality as the population of the scheduled castes and the scheduled tribes in the municipal area bears to the total population of that municipal area :

1. Sub-section (3) subs. vide Act No. 8 of 1997 w.e.f. 10.1.1997.

2 Ins. vide Act No. 23 of 2000.

3 Subs. for the words ―and the State Government may, by notification, also nominate as members, not more than three persons, having special knowledge or experience of Municipal administration:‖ vide Act No. 10 of 2003 effective w.e.f. 24-5-2003..

4 Existing proviso deleted vide Act No. 10 of 2003 effective w.e.f. 24-5-2003..

5 Sub-sections (4) & (5) ins. vide Act No. 10 of 2003 effective w.e.f. 24-5-2003..

6. Proviso after sub-clause(II) of Clause(a) inserted vide Act 12 of 2010

7. Omitted existing proviso to sub-clause(II) (a) of sub-section(2), ―excluding the seat for President and Vice-President‖ and existing 1st proviso vide Act 50 of 2013

Provided that in case no reservation of seats is possible as aforesaid due to small population of the scheduled castes and the population of scheduled castes of the municipal areas is at least five percent of the total population of the municipal area, one seat shall be reserved for the scheduled castes in such a municipality:

Provided further that where there is no eligible candidate belonging to the scheduled castes to be elected as a member of the municipality, no seat shall be reserved for scheduled castes:

Provided further that in non-tribal areas where there is scheduled tribes population in a municipal area, seats shall be reserved for such members of the scheduled tribes within the reservation provided for the members of the scheduled castes and the determination of seats to be reserved amongst the scheduled castes and scheduled tribes shall be in proportion to their population in that municipal area.

Explanation.- The expression "non-tribal area" for the purpose of this proviso shall mean the areas other than the Scheduled Areas specified in relation to the State of Himachal Pradesh.

(2) 3[**One-half]** of seats, reserved under sub-section (1), shall be reserved for women belonging to the scheduled castes or, as the case may be, the scheduled tribes.

(3) 3[**One-half]** (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats to be filled by direct election shall be reserved for women.

(4) The State Government may, by general or special order, reserve such number of seats for persons belonging to backward classes in a municipality, not exceeding the proportion to the total number of seats to be filled by direct election in the municipality as the population of the persons belonging to backward classes in that municipal area bears to the total population of that area and may further reserve 3[**one-half]** of the total seats reserved under this sub-section for women belonging to backward classes.

1,2,3. Words ―excluding the seat for the President and the Vice-President‖ substituted, proviso inserted vide Act 12 of 2010 and words ―one half ― substituted year 2008.

4. after word ‖President‖ the words ― and Vice President‖ omitted vide Act no.1 of 2011

(5) The seats reserved under sub-sections (1), (3) and (4) shall be allotted by rotation to different wards in the municipal area in such manner as may be prescribed.

(6) The reservation of seats under this section shall be given effect through notification issued at the time of each election by the State Government.

12. Reservation of offices of Chairpersons.- (1) There shall be reserved by the Government, in the prescribed manner such number of offices of Chairpersons in the municipalities in the State for the persons belonging to the scheduled castes and scheduled tribes and the number of such offices, bearing as may be the same proportion to the total number of offices in the State as the urban population of the scheduled castes in the State or of the scheduled tribes in the State bears to the total urban population of the State.

(2) [1][**One-half]** of the total number of offices of Chairpersons reserved under sub-section (1), shall be reserved for women belonging to the scheduled castes or, as the case may be, the scheduled tribes.

(3) [1][**One-half]** (including the number of offices reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of offices of Chairpersons of municipalities in the State shall be reserved for women.

(4) The State Government may, by general or special order, reserve such number of offices of Chairpersons for persons belonging to backward classes in municipalities not exceeding the proportion to the total number of offices to be filled by direct election in the municipalities as the urban population of the persons belonging to backward classes in the State bears to the total urban population of the State and may further reserve [1][**one-half**]of the total seats reserved under this sub-section for women belonging to backward classes.

(5) The offices of Chairpersons reserved under sub-sections (1), (3) and (4) shall be allotted by rotation to different municipalities in the State in such manner as may be prescribed.

Explanation.- For the removal of doubts it is hereby declared that for the purpose of this section the expression "urban population" shall mean the population of municipal areas of the State, except that of the municipal area declared to be a municipal area for the purposes of the Himachal Pradesh Municipal Corporation Act, 1994.

_____

1 words substituted 2008

13. Term of office of members. - (1) The term of office of elected **[members]** shall be five years from the date appointed for the first meeting of the municipality.

[1][(2) **********]

(3) When as a result of an enquiry held under Chapter XVII, an order declaring the election of any member void has been made such members shall forthwith cease to be the member of the municipality.

(4) The members shall be entitled to receive allowances for attendance at meetings of the municipality and of its committees at such rates as may be prescribed by the State Government from time to time.

14. Duration of municipality.- (1) Every municipality unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer :

Provided that a municipality shall be given a reasonable opportunity of being heard before its dissolution:

Provided further that all municipalities existing immediately before the commencement of this Act shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the State Legislature.

(2) An election to constitute a municipality shall be completed,-

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of a period of six months from the date of its dissolution :

Provided that when 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 section for constituting the municipality for such period:

2[Provided further that the first election to a municipality after the commencement of the Himachal Pradesh Municipal (Second Amendment) Act, 2003, except a municipal council constituted by upgrading an existing Nagar Panchayat, may be held with in a period of two years of its being notified as a municipality.]

(3) A municipality constituted upon the dissolution of a municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved municipality would have continued under sub-section (1) had it not been so dissolved.

1 Existing sub-section (2) deleted vide Act No. 10 of 2003 w.e.f. 24-5-2003. 2 Second proviso subs. vide Act No. 7 of 2003 w.e.f. 15-11-2002.

3. Words‖ President, Vice-President and members‖ substituted vide Act 12, 2010. 4. In section 13 Words‖ President, Vice-President and‖ omitted vide Act 50 of 2013.

15. Resignation of member of municipality.- (1) The member of a municipality may resign by tendering his resignation in writing to the President who shall place the same before the municipality for its acceptance, unless withdrawn within fifteen days from the date of tendering the resignation.

(2) On the acceptance of the resignation under sub-section (1) the seat of the member shall be deemed to have become vacant and the same be filled up under section 19 of this Act.

16. Disqualifications. - (1) A person shall be disqualified for being chosen as and for being an office bearer of a municipality,-

(a) if he is so disqualified by or under any law for the time being in force for the purposes of the election to the State Legislature:

Provided that no person shall be disqualified on the ground that he is less than 25 years, if he has attained the age of 21 years.

(b) If he has been convicted of any offence involving moral turpitude, unless a period of six years has elapsed since his conviction; or

(c) if he has encroached upon, or is a beneficiary of the encroachment upon, any land belonging to, or taken on lease or requisitioned by or on behalf of the State Government, a Municipality, a Panchayat or a Co-operative Society unless a period of six years has elapsed since the date on which he is ejected therefrom or he ceases to be the encroacher;

Explanation.- For the purposes of this clause, the expression "beneficiary" shall include the spouse and legal heirs of the encroacher; or

(d) if he has been convicted of an 1[electoral offence under Chapter XVII-A of this Act or] under any law for the time being in force; or

2[(dd) if he has incurred more expenditure than prescribed under section 17-A or has failed to lodge account under section 17-B within thirty days of the declaration of the result of the election; or]

(e) if he has been ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1973 (2 of 1974); or

(f) if he has been disqualified for appointment in public service, except on medical grounds ; or

1. 2. Subs. for the words ―election offence‖ vide Act No. 23 of 2000.
Clause (dd) added vide Act No. 23 of 2000.

(g) if he is in the employment or service under any municipality or of any other local authority or Co-operative Society or the State Government or

Central Government or any Public Sector Undertaking under the control of the Central or the State Government ;

Explanation.- For the purposes of this clause the expressions "service" or "employment" shall include persons appointed, engaged or employed on whole time, part time, casual, daily or contract basis, or

(h) if he is registered as a habitual offender under the Himachal Pradesh Habitual Offenders Act, 1969 (8 of 1970); or

(i) if, save as hereinafter provided, he has directly or indirectly any share or interest in any work done by an order of a municipality, or in any contract or employment with, or under or by, or on behalf of the municipality ; or

(j) if he has not paid the arrears of any tax imposed by a municipality or had not paid the arrears of any kind due from him to the municipal fund ; or has retained any amount which forms part of the municipal fund ;

(k) if, he is a tenant or lessee holding a tenancy or lease under a municipality is in arrears of rent of lease or tenancy held under the municipality ;

(l) if he has been convicted of an offence punishable under the Protection of Civil Rights Act, 1955, (22 of 1955) unless a period of six years has elapsed since his conviction ;

(m) if he is so disqualified by or under any other law made by the State Legislature;

[1][(n) if he has made any false declaration as required under this Act or the rules made thereunder.

(2) The question whether a person is or has become subject to any of the disqualifications under sub-section (1), shall, after giving an opportunity to the person concerned of being heard, be decided,-

(i) if such question arises during the process of an election, by an officer who may be authorised in this behalf by the State Government, in consultation with the State Election Commission; and

(ii) if such question arises after the election process is over, by the Director.

1 Clauses (n) and (o) ins. vide Act No. 23 of 2000 and clause (o) deleted vide Act No. 28 of 2005.

17. Bar to hold more than one office.- If a person who is chosen as member of a municipality becomes a Member of the House of the People, the Council of State, the State Legislative Assembly or the Councillor of the Municipal Corporation or is or becomes an office-bearer of a Panchayat then at the expiration of a period of fifteen days from the date of publication of the election result or, as the case may be, within fifteen days from the date of the commencement of term of office of a Member of the House of People, the Council of States or the State Legislative Assembly or the Councillor of a Municipal Corporation or the office-bearer of a Panchayat his seat in a municipality shall become vacant unless he has previously resigned his seat in the House of People, the Council of States, the State Legislative Assembly, the Municipal Corporation or the Panchayat, as the case may be.

[1][17-A. Account of election expenses and maximum [2][limit] thereof.-** (1) Every candidate at an election shall, either by himself or by his election agent [3][or by any other person with his authority, consent or knowledge], keep a separate and correct account of

all expenditure in connection with the election incurred or authorised by him or by election agent [4][or by any other person with his authority, consent or knowledge] between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars, as may be prescribed by the State Government in consultation with the State Election Commission.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed by the State Government in consultation with the State Election Commission.

17-B. Lodging of account.- Every contesting candidate at an election shall, within thirty days from the date of election of the returned candidate or, if there are more than one returned candidates at the election and the dates of their election are different, the later of those two dates, lodge with the officer, as may be appointed by the State Election Commission, and account of his election expenses which shall be a true copy of the account kept by him or his election agent [5][or by any other person with his authority, consent or knowledge] under section 17-A.]

1 Sections 17-A and 17-B ins. vide Act No. 11 of 1995 effective w.e.f. 1.8.1995. 2 Ins. vide Act No. 23 of 2000.

3 Ins. vide Act No. 23 of 2000.

4 Ins. vide Act No. 23 of 2000.

5 Ins. vide Act No. 23 of 2000.

6. Ins. Vide Act No. 12 of 2010.

7. In section 17 words — President or Vice President or a‖ Omitted Vide Act No. 50 of 2013

18. Power of State Government as to removal of members.- (1) The State Government may, in consultation with the State Election Commission and by notification, remove any member of a municipality,-

(a) if he refuses to act, or becomes, in the opinion of the State Government, incapable of acting, or has been declared a bankrupt or an insolvent by a competent court or has been convicted of any such offence or subjected by a criminal court to any such order as implies in the opinion of the State Government, a defect of character which renders him unfit to be a member;

(b) if he has been declared by notification to be disqualified for employment in, or has been dismissed from the public service and the reason for the disqualification or dismissal is such as implies in the opinion of the State Government, a defect of character which renders him unfit to be a member ;

(c) if he has without reasonable cause in the opinion of the State Government absented himself for more than three consecutive months from the meetings of the municipality ;

(d) if he fails to pay any amount due from him to the municipality within three months of the service of notice making the claim. It shall be the duty of the Executive Officer, to serve such a notice at the earliest possible date after the amount has become due;

(e) if in the opinion of the State Government he has flagrantly abused his position as a member of the municipality or has through his negligence or misconduct been responsible for the loss, or mis-application of any money or property of the municipality;

(f) if he has, since his election or nomination, become subject to any disqualification which, if it had existed at the time of his election or nomination, would have rendered him ineligible under any law for the

tine being in force for election or nomination, or if it appears that he was, at the time of his election or nomination subject to any such disqualification; and

(g) if, being a legal practitioner, he acts or appears in any legal proceeding on behalf of any person against the municipality or on behalf of or against the State Government wherein the opinion of the State Government such action or appearance is contrary to the interests of the municipality :

[2][(h) He has without reasonable cause in the opinion of the State Government fails to convene more than three consecutive meetings of the Ward Committee.]

Provided that no removal of a member shall be notified unless the matter has been enquired into by an officer, not below the rank of an Additional Deputy Commissioner, appointed by the State Government and the member concerned has been given a reasonable opportunity of being heard.

(2) A person removed under this section or whose election has been declared void, for corrupt practices or intimidation, under the provisions of section 295 shall be disqualified for election for a period not exceeding six years.

19. Filling of casual vacancies.- (1) Whenever a vacancy occurs by the death, resignation or removal, or by the vacation of seat, under the provisions of sub-section (3) of section 13, of any [4][**office bearer]** , the vacancy shall be filled within six months of the occurrence of such vacancy in accordance with the provisions of this Act and the rules made thereunder:

[1][Provided that where the remainder of the term is less than six months, it shall not be necessary to hold any bye-elections to fill-up such casual vacancy.]

(2) Every person elected or nominated, to fill a casual vacancy, shall be elected or nominated to serve for the remainder of his predecessor's term of office.

20. Incorporation of municipality.- Every municipality shall be a body corporate to be known as by the name of Municipal Council or the Nagar Panchayat of its municipal area and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provisions of this Act or the rules made thereunder, to transfer any property held by it, to contract and to do all other things necessary for the purpose of its constitution; and may sue and be sued in its corporate name.

21. Members and employees to be Public servants. -Every [4][**office bearer**] of the municipality and every person employed `by the municipality, whether for the whole or part of his time, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

1 Proviso added vide Act No. 23 of 2000.

2. Clause h ins. Vide Act No. 12 of 2010.

3. ins. Vide Act No. 12 of 2010.

4. substituted by words ―office bearer‖ vide Act No. 12 of 2010

5. In Section 18(1) & Proviso omitted words ―**President or Vice President or**‖ vide Act 50 of 2013

―22. Election of President and Vice-President.- Every Municipal Council or Nagar Panchayat shall elect one of its elected members to be the President and another to be the Vice-President, and the member so elected shall become President or the Vice-President, as the case may be, of the Municipal Council or Nagar Panchayat:

Provided that the office of the President in Municipal Councils and Nagar Panchayats shall be reserved for Scheduled Castes, Scheduled Tribes and Women in accordance with the provisions of section 12:

Provided further that if the office of the President or the Vice-President is vacated during his tenure on account of death, resignation, removal or no confidence motion, a fresh election for the remainder of the period shall be held from the same category.‖.

23. Term of office of and honorarium to President and Vice-President.- (1) The term of office of President or Vice-President shall be five years or the residue of the term of his office **[as a member]** whichever is less.

(2) An outgoing President and Vice-President shall if otherwise qualified, be eligible for re-election.

(3) The President and Vice-President shall be entitled to the payment of such honorarium and allowances for attendance at meeting of the municipality and its committees at such rate as may be prescribed by the State Government from time to time.

24. Resignation of President or Vice-President.- (1) The President may, by writing under his hand addressed to the Vice-President, resign his office.

[3] **[Provided that if the office of the Vice-President is vacant then the President may submit his resignation to the Deputy Commissioner of the district.]**

(2) The Vice-President may, by writing under his hand addressed to the President, resign his office.

[3]**[Provided that if the office of the President is vacant then the Vice-President may submit his resignation to the Deputy Commissioner of the district and]**

(3) The resignation under sub-section (1) or (2) shall take effect from the date of its acceptance by the Vice-President or the President [4][**or the Deputy Commissioner],** as the case may be.

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1.Substituted vide Act No. 12 of 2010

2. words ―as a member‖ deleted vide Act No. 12 of 2010

3. After sub-section 1 & 2 proviso inserted vide Act No. 12 of 2010

4. inserted vide Act No. 12 of 2010

5. deleted

6. after word ‖President‖ the words ― and Vice President‖ omitted vide Act no.1 of 2011

7. Section 22 substituted & In section 23(1) inserted words ―as a member‖ vide Act No. 50 of 2013 & Section.

―25. Motion of no-confidence against President or Vice-President.– (1) A motion of no-confidence against the President or the Vice-President may be made in accordance with the procedure as may be prescribed.

(2) Where a notice of intention to move a resolution requiring the President or the Vice-President of the municipality to vacate his office, signed by not less than majority of its total elected members is given and if a motion of no-confidence is carried by a resolution passed by a majority of elected members present and voting at its general or special meeting, the quorum of which is not less than one-half of its total elected members, the President or the Vice-President against whom such resolution is passed shall cease to hold office forthwith.

(3) Notwithstanding anything contained in this Act or the rules made there under, the President or the Vice-President of the municipality shall not preside over a meeting in which a motion of no-confidence is to be discussed against him. Such meeting shall be presided over by such person, and convened in such manner, as may be prescribed and the person against whom a motion of no-confidence is moved, shall have a right to vote and to take part in the proceedings of such meeting.

(4) Motion of no-confidence under this section shall not be maintainable within one year of the date of his election to such office and any subsequent motion of no-confidence shall not be maintainable within the interval of one year of the last motion of no-confidence.‖.

26. Removal of President or Vice-President. - The State Government may, at any time, by notification, remove a President or Vice-President from his office on the ground of abuse of his powers or of habitual failure to perform his duties:

Provided that no removal of the President or Vice-President shall be notified unless the matter has been enquired into by an officer, not below the rank of the Sub-Divisional Officer (Civil) appointed by the State Government and the President or Vice-President, as the case may be, has been given a reasonable opportunity of being heard.

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1. substituted for words ― and no member‘ vide Act No. 12 of 2010 2. sub-section(2) substituted vide Act No. 12 of 2010
3. Inserted Section 25 vide Act No. 50 of 2013

27. Notification of elections and nominations.- (1) Every election or nomination of a member and election of a President and Vice-President of a Nagar Panchayat or Municipal Council shall be notified in the Official Gazette and 1[**no office bearer]** shall enter upon his duties until his election or nomination has been so notified and until, he has made or subscribed at a meeting of the Nagar Panchayat or Municipal Council, an oath or affirmation of his allegiance to the Constitution of India in the following form, namely:-

"I,A,B, having been elected (or nominated) member/President/ Vice-President of a Nagar Panchayat or Municipal Council of …… do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and I will faithfully, discharge the duties upon which I am about to enter".

2[(2) Every election of a **office bearer** shall be notified in the Official Gazette by the State Election Commission within 30 days from the date of declaration of such election.]

(3) If any such person omits or refuses to take or make the oath or affirmation as required by sub-section (1) within thirty days of the date of notification of his election or nomination, as the case may be, his election or nomination shall be deemed to be invalid, and his seat shall become vacant.

28. Time for holding meetings.- (1) Every municipality shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by the bye-laws.

(2) The President or, in his absence or during his incapability to attend to his duties or during the vacancy of his office, the Vice-President may, whenever he thinks fit and shall, within a period of ten days from the date of receipt of a requisition signed by not less than one-half of the total number of members of the municipality, convene either an ordinary or a special meeting at any other time:

Provided that the requisition shall specify the purpose for which the meeting is to be held.

(3) If the President or the Vice-President fails to convene a meeting of the municipality within a period of ten days from the date of receipt of such requisition, the members who signed the requisition may request the Sub-Divisional Officer (Civil) to convene the meeting.

(4) The Sub-Divisional Officer (Civil) on receipt of request under sub-section (3) shall within a period of ten days of such request, convene the meeting.

29. Ordinary and special meetings.- (1) Every meeting of municipality shall be either ordinaryor special.

(2) All business may be transacted at an ordinary meeting unless required by this Act or the rules framed thereunder, to be transacted at a special meeting.

30. Quorum.- (1) The quorum necessary for the transaction of business at a special meeting of a municipality shall be one-half of the number of sitting members of the municipality.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipality shall be such number or proportion of the members of the municipality as may, from time to time, be fixed by the bye-laws, but shall not be less than three :

Provided that, if at any ordinary or special meeting of a municipality a quorum is not present, the Chairman shall adjourn the meeting to such other day, as he may think fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at the adjourned meeting.

31. Chairman of meeting.- At every meeting of a municipality the President, or, in his absence or during the vacancy of his office, the Vice-President and if there be no President or Vice-President, then such one of the members, as the members present may elect, shall preside.

32. Vote of majority decisive. - Except as otherwise provided by this Act or the rules, all questions which come before any meeting of a municipality shall be decided by a majority of the votes of the members present, and in case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

33. Records and publication of proceedings.- (1) Minutes of the proceedings at each meeting of a municipality shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the Chairman of the meeting or of the next ensuing meeting.

(2) The minutes of the proceedings referred to under sub-section (1) shall be published in such manner as the State Government may direct, and shall, at all reasonable times and without charge, be open to inspection by any inhabitant.

(3) A copy of resolution passed at any meeting of a municipality shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner and the Director.

34. Bye-laws.- 1[Municipality may], provide by bye-laws consistent with this Act and with the rules for-

(a) the time and place of its meetings ;

(b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given ;

(c) the quorum necessary for the transaction of business at ordinary meetings ;

(d) the conduct of proceedings at meetings and the adjournment or meetings ;

(e) the custody of the common seal and the purposes for which it shall be used ;

(f) the appointment of sub committees and their duties, the division of duties among the members of the municipality and the powers to be exercised by such members as are primarily responsible for current executive administration, whether President, Vice-President, Members of sub committees or individual members;

(g) the persons by whom receipts shall be granted on behalf of the municipality for money received under this Act ;

(h) the condition on which registers, documents, maps and plans of the municipality may be inspected by the public, and copies thereof supplied, and the fees payable for such inspection or for the supply of such copies ;

(i) the appointment, duties, executive powers, leave, suspension and removal of employees of the municipality;

(j) appeal from orders of any committee, the President, Vice-President, Members, Officers and employees of the municipality ; and

(k) any other matter which is to be or may be prescribed by bye-laws made under this Act.

35. Appointment of Director. - (1) The State Government may by notification appoint a Director, and subject to such conditions and restrictions as it may deem fit, may invest him with all or any of the powers conferred on the State Government by this Act.

(2) There shall be such other classes of officers as the State Government may, by notification, declare and the State Government may appoint as many persons as it deems fit to be officer of these classes and declare what powers under this Act shall be exercised by the officers of each class.

1.Substituted the words ―State Government may, for all or any of the municipalities‖ with the words ―municipality may‖ vide Act No.33 of 2011.

36. Delegation of powers and functions. - (1) The State Government may, by notification delegate all or any of its powers under this Act, except the powers to prescribe forms or make rules under section 279 to any officer subordinate to it.

(2) Every delegation of powers under sub-section (1) may be subject to such restrictions and conditions as may be specified in the notification.

(3) Wherever it is expedient to do so in the public interest and for the efficient performance of the functions entrusted to the municipality under this Act, the municipality may, with the prior approval of the State Government, entrust any of its civic services and amenities (including collection of taxes and revenues) in relation to any matter to which the power of the municipality extends, to any person or agency subject to such conditions and restrictions, as it may consider necessary to impose.

37. Power of President or Vice-President in emergency.- (1) On the occurrence or threatened occurrence of any event involving or likely to involve extensive damage to property or danger to human life or grave inconvenience to the public, the President or in the absence of the President or during the vacancy of his office, a Vice-President or in the absence of both, the Executive Officer may, if in his opinion there is any emergency necessitating immediate action before the matter can be considered by the municipality, direct the execution of any such work or the doing of any such act which the

municipality is empowered to execute or do, as the emergency shall in his opinion justify or require, and may direct that the expenses of executing such work or doing such act be paid from the municipal fund :

Provided that every such action shall be reported to the municipality at its next meeting.

(2) The President or Vice-President or the Executive Officer shall not act under this section in contravention of any order of the municipality.

(3) The President or in his absence or during the vacancy of his office a Vice-President may prohibit, until the matter has been considered by the municipality, the doing of any act which is in his opinion undesirable in the public interest, provided that the act is one which the municipality has power to prohibit.

38. Joint committees.- A municipality may concur with any other municipality or with any Zila Parishad, or with any Panchayat Samiti, or with any cantonment authority, or with more than one such municipality, Zila Parishad, Panchayat Samiti or authority in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in delegating to any such joint committee any power which might be exercised by either or any of the municipalities, Zila Parishads, Panchayat Samities or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating thereto.

39. Vacancies and irregularities not to invalidate acts and proceedings. - (1) Notwithstanding anything contained in this Act but subject to any general or special order of the Government, where two-thirds of the total members of a municipality have been elected, the municipality shall be deemed to have been constituted under this Act.

(2) No act done or proceedings taken under this Act, shall be questioned merely on the ground of the existence of any vacancy in any municipality or any defect in the election or qualification of the President, Vice-President, the presiding authority or member of the municipality or the joint committee, or on account of any defect, irregularity of such act or proceeding or its procedure not affecting the merits of the case.

40. Authority to contract.- A municipality may, subject to the rules and provision of section 41, delegate to one or more of its members the powers of entering on its behalf into any particular contract or into any class of such contracts.

41. Mode of executing contracts and transfer of property. - (1) Every contract made by or on behalf of the municipality shall be in writing and must be signed by two members, of whom the President or Vice-President shall be one, and also the Executive Officer or the Secretary of the municipality, as the case may be.

(2) Every transfer of immovable property belonging to any municipality shall be by an instrument in writing executed by the President or Vice-President of the municipality and Executive Officer or Secretary of the municipality, as the case may be.

42. Penalty on member or employee being interested in any contract with a municipality. - (1) If any member or employee of a municipality or of a joint committee, without the previous permission in writing of the Deputy Commissioner voluntarily renders himself interested in any contract made with that municipality or joint committee, under section 38 or if within one month of his becoming interested in any such contract he neither resigns nor obtains the permission in writing of the Deputy Commissioner for his remaining a member or employee of the municipality or joint committee inspite of his interest in such contract, he shall be punishable for an offence under section 168 of the Indian Penal Code, 1860 (45 of 1860).

(2) No member or employee of a municipality or a joint committee shall by reason only of his being a shareholder in or a member of any corporate or registered company, be held to be interested in any contract entered into between the said company and the municipality or joint committee but no such person as aforesaid shall take part in any proceedings of the municipality or joint committee relating to any such contracts.

43. Suits against municipality and its employees.- No suit shall be instituted against a municipality, or against any employee of a municipality, in respect of any act purporting to be done in its or his official capacity, until

the expiration of one month next after notice in writing has been, in the case of a municipality, delivered or left at his office, and in the case of an employee, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff ; and the plaint must contain a statement that such notice has been so delivered or left :

Provided that nothing in this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963 (47 of 1963).

44. Bar of jurisdiction of civil courts. - No civil court shall grant any temporary injunction or make any interim order -

(a) restraining any person from exercising the powers or performing the functions or duties of a President or Vice- President, member and employee of a municipality on the ground that such person has not been duly elected, nominated or appointed as such President, Vice-President, member or employee ; or

(b) restraining any person or persons or any municipality from holding any election, in any particular manner.

45. Protection of action taken in good faith. - No suit, prosecution or other legal proceedings shall lie against any municipality or against any employee of a committee or against any person acting under and in accordance with the directions of any such municipality or employee or of a lawful authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act, rules and bye-laws.

46. liability for loss.- (1) Every member, officer or official of the municipality shall be liable for the loss, waste or misappropriation of any money or other property belonging to a municipality, if such loss, waste is reported by the Comptroller and Auditor General of India or other audit authority empowered by the State Government in this behalf to be a direct consequence of his neglect or misconduct in the performance of his duties while a member, officer or official of the municipality, and he may after being given an opportunity, by notice served in the manner provided for the service of summons in the Civil Procedure Code, to show cause by written or oral representation why he should not be required to make good the loss, be surcharged with the value of such property or the amount of such money by the Director and if the amount is not paid within fourteen days from the expiry of the period of appeal prescribed by sub-section (2) the Collector at the request of the Director, shall proceed forthwith to recover the amount as if it were an arrear of land revenue, and have it credited to the municipal fund.

(2) The person against whom an order under sub-section (1) is made, may, within thirty days of such order, appeal to the State Government who shall appoint an officer to hear the appeal and the appellate authority shall have the power of confirming, modifying or disallowing the surcharge:

42 Provided that no person shall under this section be called upon to show cause after the expiry of a period of four years from the occurrence of such loss, waste or misappropriation or after the expiry of one year from the time of his ceasing to be member :

Provided further that nothing in this section shall be deemed to debar the aggrieved party from seeking remedy in Civil Court against an order made under sub-section (1).

CHAPTER - IV
FUNCTIONS OF THE MUNICIPALITIES

47. General powers of municipalities. - (1) Subject to the provisions of this Act and the rule, regulations and bye-laws made thereunder, the municipal administration of a smaller urban area and transitional area shall vest in the Municipal Council and a Nagar Panchayat respectively.

(2) Without prejudice to the generality of the provisions of sub-section (1), it shall be the duty of the municipality to consider all periodical statements of the receipts and disbursements and all progress reports and pass such resolutions thereon as it thinks fit.

48. Powers and authorities of municipalities.- (1) Without prejudice to the generality of the provisions of sub-section (1) of section 47, the State Government shall, by notification endow the municipalities with such powers and authorities as may be necessary from time to time to enable them to function as institutions of Local Self Government, subject to such conditions as may be specified therein, with respect to,-

(i) the preparation of plans for economic development and social justice ;

(ii) the performance of functions and implementation of the schemes which may be entrusted to them including the following, namely:-

(1) urban planning including town planning ;

(2) regulation of land-use and construction of buildings ;

(3) planning for economic and social development ;

(4) roads and bridges ;

(5) water supply for domestic, industrial and commercial purposes ;

(6) public health, sanitation conservancy and solid waste management;

(7) fire services ;

(8) urban forestry, protection of the environment and promotion of ecological aspects ;

(9) safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded ;

(10) slum improvement and up gradation ;

(11) urban poverty alleviation ;

(12) provisions of urban amenities and facilities such as parks, gardens and playgrounds ;

(13) promotion of cultural, educational and aesthetic aspects;

(14) burials and burial grounds, cremations, cremation grounds and electric crematoriums ;

(15) cattle ponds and prevention of cruelty to animals ;

(16) vital statistics including registration of births and deaths ;

(17) public amenities including street lighting, parking lots, bus stops and public conveniences ;

(18) regulation of slaughter houses and tanneries :

Provided that the notification regarding devolution of powers under this sub-section shall be issued within three month from the date of commencement of this Act, in the first instance.

(2) Nothing contained in the provisions of this section shall be construed to divest the municipalities of various powers and functions vested in them under various provisions of this Act, rules and bye-laws, made thereunder.

49. Standing Committees.- (1) The municipality shall have the following Standing Committees ;

(a) General Standing Committee;
(b) Finance, Audit and Planning Committee; and (c) Social Justice Committee.

(2) Each Standing Committee shall consist of not less than three and not more than five members including the President or Vice President, as the case may be, elected by the members of the municipality from amongst the elected members:

Provided that Social Justice Committee shall include at least one member who may be a woman or a member of a scheduled caste or of a scheduled tribe.

(3) The President shall be the ex-officio member and also Chairman of the General Standing Committee and Finance, Audit and Planning Committee. The Vice President shall be the Ex-officio member and Chairman of the Social Justice Committee:

Provided that if the Vice President acts as the President of the municipality, the members of the Social Justice Committee shall elect its Chairman from amongst themselves.

(4) No elected member of the municipality shall be eligible to serve on more than two Standing Committees.

(5) The Executive Officer or the Secretary of the municipality shall be the ex-officio Secretary of every Standing Committee.

50. Functions of the Standing Committees.- (1) The General Standing Committee shall perform functions relating to the establishment matters, communications, buildings, urban housing, relief against natural calamities, water supply and all residuary matters.

(2) The Finance, Audit and Planning Committee shall perform the functions relating to the finance of the municipality, framing of budgets, scrutinising proposals for increase of revenue, examination of receipts and expenditure statements, consideration of all proposals affecting the finances of the municipality, general supervision of the revenue and expenditure of the municipality and co-operation, small saving scheme and any other function relating to the development of the municipal area.

(3) The Social Justice Committee shall perform functions relating to-

(a) promotion of education, economic, social, cultural and other interests of the scheduled castes and scheduled tribes and Backward Classes, Women and other weaker sections of the society;

(b) protection from social injustice and all other forms of exploitation;

(c) amelioration of the scheduled castes, scheduled tribes and backward classes, women and other weaker sections of the society; and

(d) securing social justice to the scheduled castes, scheduled tribes, women and other weaker sections of the society.

(4) The Standing Committees shall perform the functions referred to above to the extent the powers are delegated to them by the municipality.

51. Conduct of business by the Standing Committees.- (1) The municipalities may frame bye-laws relating to election of members of standing committees, conduct of business therein, and all other matters relating thereto.

(2) The Chairman of every standing committee shall in respect of the work of the committee, be entitled to call for any information, return, statement, account or report from the office of the municipality and to enter on and inspect any immovable property of the municipality or work in progress connected with the work of the committee.

(3) Each standing committee shall be entitled to require attendance at its meetings of any officer of the municipality who is connected with the work of committee. The Executive Officer or the Secretary, as the case may be, shall under instruction of the committee, issue notice and secure the attendance of such officer.

45 [1][**—51-A. Ward Sabha**.—All persons comprised in the electoral roll of a ward shall constitute the Ward Sabha for the purposes of this Act.

51-B. Meetings of Ward Sabha.—(1) There shall be two meetings of the Ward Sabha in a year. The meeting shall be convened by the elected ward Member at a public place after public notice alongwith agenda.

(2) The officer, to be nominated by the Executive Officer or Secretary, as the case may be, shall be the Secretary of the Ward Sabha. The minutes of the proceedings of the meetings of the Ward Sabha shall be recorded by the Secretary and a copy of minutes of the proceedings of each meeting shall be forwarded by him to the Executive Officer or Secretary, as the case may be.

51-C. Ward Committee.—(1) There shall be a Ward Committee for each ward in the Municipality to be constituted within six months of the constitution of municipality.

(2) Each Ward Committee shall consist of a President and not exceeding nine eminent members, to be nominated by the Ward Sabha.

(3) The elected Ward Member representing that ward shall be the President of the Ward Committee:

Provided that at least fifty per cent seats of members of the Ward Committee shall be reserved for women.

Explanation.—For the purposes of this section, ―eminent member‖ of Ward Sabha means any person or a representative of a non-government organization or an association or a community based organization working for or representing any section of civil society in fields such as environment, social welfare, rural development, health, culture, business, trade etc.]

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1. ins. vide Act No. 12 of 2010

46 [1][(4) A person shall be disqualified for being nominated as a member of the Ward Committee under sub-section (2) or to continue as such if, under the provisions of this Act or any other law for the time being in force, he is disqualified for being elected as a member of municipality.

(5) The Secretary of the Ward Sabha shall also be the Secretary of the Ward Committee. The minutes of the proceedings of the meetings of the Ward Committee shall be recorded by the Secretary and a copy of minutes of the proceedings of each meeting shall be forwarded by him to the municipality.

(6) The term of office of the member of the Ward Committee shall be two and half years from the date of nomination and shall be eligible for renomination.

51-D. Meetings of Ward Committee.—It shall be the duty of the President to conduct meetings of the Ward Committee at least once in two months for discussing the developmental issues and plans of the ward concerned.

51-E. Agenda.—It shall be the duly of the President to set agenda for the meetings of the Ward Committee.

51-F. Procedure for conduct of Ward Committee meetings.— Following procedure shall be followed while conducting meetings of the Ward Committee, namely:—

(iii) the minutes shall be presented at the next meeting of the Ward Committee for confirmation.

51-G. Disqualifications.—If a Member fails to attend three consecutive meetings of the Ward Committee, then the President may bring a resolution before the Ward Sabha, for removal of such member, for its approval. On approval of such resolution, such member shall stand removed from the Ward Committee and in his place, the Ward Sabha may nominate another person.]

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1. Ins. vide Act No. 12 of 2010

47 [1][**51-H. Duties and functions of the Ward Committee.—**The Ward Committee shall discharge and perform the following duties and functions, namely :—

(a) to prepare annual ward plan and forward the same to the municipality for its integration with annual plan of the municipality; (b) to ensure proper implementation of various developmental schemes approved by the municipality for the concerned ward;

(c) to provide assistance in solid waste management in the ward;

(d) to supervise sanitation work in the ward;

(e) to provide assistance for the preparation and encouragement of the developmental scheme(s) for the ward;

(f) to encourage harmony and unity among various groups of people in the ward;

(g) to provide assistance in the implementation of developmental schemes relating to the ward;

(h) to provide assistance for identification of beneficiaries for the implementation of development and welfare schemes;

(i) to encourage art and cultural activities and sports activities and games;

(j) to ensure people‘s participation in the voluntary activities necessary for successful implementation of the developmental activities of the municipality;

(k) to suggest community water taps, public wells, public sanitation units, and such other public amenity schemes within the ward concerned;

(l) to identify the deficiencies in the water supply and street lighting arrangements in the ward and suggest remedial measures;

(m) to render necessary assistance to the municipality Authorities for timely collection of taxes/fees and other arrears due to the municipality; (n) to generate proposals/plans and determine the priority of scheme and developmental programmes to be implemented in the ward;

(o) to improve/promote the overall environment situation by integrating

environmental considerations more systematically within the ward Sabha; and
(p) to perform such other functions as may be assigned to it by the municipality.]

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1. Ins. vide Act No. 12 of 2010

48 1[**51-I. Right to seek information.—**(1) The President and the members of the Ward Committee shall have the right to seek information from the Executive Officer or Secretary, as the case may be, on any matter relating to the ward.

(2) The Ward Committee shall submit periodical reports to the municipality in respect of the matters specified theirin.

51-J. Functions of the Executive Officer and Secretary.—The Executive Officer or Secretary, as the case may be, shall bring to the notice of the municipality any act or resolution of the Ward Committee which is done or passed in contravention of any of the Government instructions or the provisions of this Act; provided that if such act or omission is not rectified within 15 days, the Executive Officer or Secretary, as the case may be, shall bring such omission or violation to the notice of the State Government.‖.]

CHAPTER -V

MUNICIPAL FUND AND PROPERTY

52. Constitution of municipal fund. - There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof -

(a) all sums received by, or on behalf of, the municipality under this Act or otherwise ; and

(b) the balance, if any, standing at the credit of the municipal fund of the municipal area at the commencement of this Act.

53. Application of fund. -(1) The municipality shall set apart and apply out of the municipal fund -

(a) firstly, such sum as may be required for the payment of any amount falling due on any loan legally contracted by it ;

(b) secondly, such sum as the municipality may be required by the State Government to contribute towards the cost of such Directorate of Local Self Government as the State Government may establish for the purpose of advising, assisting and supervising the work of municipalities and other local bodies :

Provided that such sum shall not exceed an amount equal to one per centum of the income for the financial year preceding the year, in which the municipality is called upon to make the contribution;

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1. Ins. vide Act No. 12 of 2010

(c) thirdly, such sum as may be required to meet the establishment charges and the salary, allowances, provident fund and gratuity of the members of the municipal services and other municipal employees including such subscriptions and contributions as are referred to in the Himachal Pradesh Municipal Services Act, 1994 (11 of 1994):

Provided that the total expenditure on establishment shall not exceed one third of the total expenditure of the municipality.

(d) fourthly, such sum as may be required to pay the expenses incurred in auditing the accounts of the municipality, and such portion of the cost of any public expenditure by the Central Government or the State Government as may be held by the State Government to be equitably payable by the municipality, in return for services rendered to it ;

(e) fifthly, such sum as the municipality may be required by the State Government to contribute towards the maintenance of pauper lunatic or pauper lepers sent from any place in the State to mental hospitals or public asylums whether in or outside the State ;

(f) sixthly, such sums as may be due to the State Government in respect of the cost of services rendered by it to the municipality and for the maintenance of water works drainage, sewerage, roads, etc. by it on behalf of the municipality :

Provided that an amount allotted to the municipality by the Central or State Government or any other person or local authority for any specified work or purpose shall be utilised exclusively for such work or purpose and in accordance with such instructions as the State Government may either generally or specially issue in this behalf.

(2) Subject to the charges specified in sub-section (1) and to such rules as the State Government may make with respect to the priority to be given to the several duties of the municipality, the municipal fund shall be applicable to the payment in whole or in part, of the charges and expenses incidental to the following matters within the municipal area and with the sanction of the State Government outside the municipal area, namely:-

(a) the construction, maintenance, improvement, cleansing and repair of all public streets, bridges, town-walls, town-gates, embankments, drains, privies, latrines, urinals, tanks and watercourses and the preparation of compost manure.

(b) the watering and lighting of such streets or any of them;

(c) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for promotion of education or for the benefit of the public health, and of rest- houses, sarais, poor-houses, markets, stalls, encamping

grounds, pounds, and other works of public utility, and the control and administration of public institution of any of these descriptions ;

(d) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums, and other educational or charitable institutions ;

(e) the training of teachers and the establishment of scholarships ;

(f) the giving of relief and the establishment and maintenance of relief works in time of famine or scarcity ;

(g) the supply, storage and preservation from pollution of water for the use of men or animals ;

(h) the planting and preservation of trees, and the establishment and maintenance of public parks and gardens ;

(i) the taking of vital statistics including the registration of births and deaths, public vaccination and any sanitary measure ;

(j) the holding of fairs and industrial exhibitions :

(k) the preparation and maintenance of a record of rights in immovable property ;

(l) all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants, or expenditure whereon may be declared by the municipality with the sanction of the State Government to be an appropriate charge on the municipal fund ; and

(m) purposes specified in sections 47 and 48 and for all other purposes for which , by or under this Act or any other law for the time being in force, powers are conferred or duties are imposed upon a municipality :

Provided that no expenditure shall be incurred out of the municipal fund unless provision therefor has been made in the budget of municipality or funds are obtained by re-appropriation duly approved except in such cases as may be prescribed.

(3) Notwithstanding anything contained in the foregoing sub-sections no charges or expenses shall be paid from the municipal fund incidental to any matter which has been specifically declared so by the State Government by general or special order to be a matter in regard to which expenditure shall not be met from the municipal fund.

(4) Subject to the provisions of this Act and the rules and bye-laws, it shall be the duty of the President and of any member presiding at any meeting of the municipality or its committee to disallow the consideration or discussion of any matter for which provision is not made in this section or any other section.

54. Payment of allowances to the members out of the municipal fund.- The allowances payable to the members of the municipalities and their committees, under this Act shall be paid out of the municipal fund constituted under section 52.

55. Custody of municipal fund.- (1) In a place where there is a Government treasury or sub-treasury or a nationalised bank or a co-operative bank, a scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934 (2 of 1934) or a bank to which the Government treasury business has been made over, or a post office, the municipal fund shall be kept in any such treasury, sub-treasury, nationalised bank, co-operative bank, scheduled bank or bank or post office.

(2) In places where there is no such treasury or sub-treasury or nationalised bank, or co-operative bank or scheduled bank or bank or a post office, the municipal fund, may, with the previous sanction of the Deputy Commissioner, be deposited with any banker, or person acting as a banker, and who has given such security for the safe custody and repayment on demand of the fund so deposited as the Deputy Commissioner may in each case thinks sufficient.

Explanation.- In this section the expression "co-operative bank" shall mean a co-operative bank which holds a licence for carrying on banking business issued by the Reserve Bank of India under section 22 of the Banking Regulation Act, 1949 (10 of 1949).

56. Power to deposit and invest surplus funds. -It shall be lawful for the municipality to deposit at interest in any of the co-operative banks or scheduled banks as defined in section 2 of the Reserve Bank of India Act, 1934 (2 of 1934), or in a post office, any surplus funds which may not be required for current charges and to invest such funds in the securities of the Central Government and such other public securities as the State Government may specify in this behalf.

57. Property vested in a municipality. -(1) Subject to any special reservation made or to any special conditions imposed by the State Government, all property of the nature hereinafter in this section specified and situated within the municipal area, shall vest in and be under the control of the municipality and with all other property which has

already vested, or may hereafter vest in the municipality shall be held and applied by it for the purpose of this Act, that is to say -

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

(b) all public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land, not being private property appertaining, to any public tank or well ;

(c) all public sewers and drains, and all sewers, drains, culverts and water-courses in or under any public street, or constructed by or for the municipality alongside any public street, and all works, materials and things appertaining thereto ;

(d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind or dead bodies of animals collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the municipality under section 154 ;

(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto.

(f) all land or other property transferred to the municipality by the State Government or acquired by gift, purchase or otherwise for local public purposes ;

(g) all public streets, not being land owned by the State Government, and the pavements, stones and other materials thereof and also trees growing on, and erections, materials, implements and things provided for such streets.

(2) Where any immovable property is transferred otherwise than by the sale by the State Government to a municipality for public purposes, it shall be deemed to be a condition of such transfer, unless specifically provided to the contrary that should the property be at any time resumed by the State Government, the compensation payable thereto shall, in no case exceed the amount, if any, paid to the State Government, the compensation payable therefor shall, in no case exceed the amount, if any, paid to the State Government for the transfer, together with the cost or the present value, which ever shall be less, of any together with the cost or the present value, of any buildings erected on other works executed on the land by the municipality.

(3) The municipality shall maintain a register and a map of all immovable properties of which it is the proprietor, or which vests in it, or which it holds in trust for the State Government.

[1][(4) The Executive Officer or the Secretary, as the case may be, may, with the prior approval of the standing committee, constituted under section 49 of this Act, dispose of, by sale, lease or otherwise, any moveable or immovable properties belonging to the municipality, by public auction:

Provided that the mode and condition precedent to the transfer of immovable property, shall be governed by regulations or bye-laws made by the municipality.

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1.Sub section (4) substituted with sub-sections vide Act No.33 of 2011.

(4-a) The Executive Officer or the Secretary, as the case may be, shall maintain a register giving therein the details of the immovable properties and prepare

annual statement indicating the changes, if any, in the said inventory, in such manner as may be prescribed by bye-laws, and shall place the same before the municipality for consideration at the end of the year."; and

(5) The Executive Officer [1][or the Secretary, as the case may be] may, with the prior approval of the municipality, sell or grant a lease in respect of properties, amenities and utility raised on loans from the non-Government sources to liquidate the liabilities.]

58. Inventory and map of municipal property.- (1) The municipality shall maintain an inventory and a map of all immoveable property of which the municipality is proprietor, or which vests in it or which it holds in trust for the State Government.

(2) The copies of such inventory and map shall be deposited in the office of the Director and such other officer or authority as the State Government may direct and all changes made therein shall forthwith be communicated to the Director or other officer or authority.

59. Erection and maintenance of boundary marks of municipal area.- Every municipality shall cause to be erected and set up and thereafter maintain substantial boundary marks defining the limits or the altered limits of the municipal area subject to its authority as set out in the notification issued under section 4.

60. Management of public institutions.- (1) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the municipality.

(2) When any public institution has been placed under the direction, management and control of the municipality, all property, endowments and funds belonging thereto shall be held by the municipality in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed :

Provided that the extent of the independent authority of the municipality in respect of any such institution may be prescribed by the State Government:

Provided further that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890 (6 of 1890).

1.After the words ―Executive Officer‖, the words and signs ―or the Secretary, as the case may be,‖ inserted vide Act No.33 of 2011.

54 **61. Acquisition of land.-** When any land, whether within or outside the limits of municipal area is required for the purposes of this Act, the State Government may, at the request of the municipality proceed to acquire it under the provisions of the Land Acquisition Act, 1894 (1 of 1894) and on the payment by municipality of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the municipality.

Explanation.- When any land is required for a new street or for the improvement of an existing street, the State Government may on the request of the municipality proceed to acquire in addition to the land to be occupied by the street, the land necessary for the sites of the building to be erected on both sides of the street and such land shall be deemed to be required for the purposes of this Act.

62. Transfer to Government property vesting in municipality. - The municipality may, with sanction of the State Government, transfer to the State Government any property vesting in the municipality under section 57 or section 60 but not so as to affect any trust or public rights subject to which the property is held.

63. Power to takeover management of water works, sewerage works and roads etc.- (1) Whenever the State Government is satisfied that the municipality has neglected to perform its duties in respect of maintenance or construction of water works, sewerage works or roads and that it is in public interest to take-over the management of such water-works, sewerage works or roads for a period not exceeding ten years, it may, after giving the municipality a reasonable opportunity of showing cause against the proposed action, make an order to take over the management of water works, sewerage works or roads, as the case may be.

(2) The management of water works, sewerage works or roads, as the case may be, shall revert to the municipality after the expiry of the period for which it was taken over by the State Government or earlier than that if deemed expedient by the State Government.

(3) It shall be the liability of the municipality to pay the expenses, if any, which may be incurred by the State Government as also the liability in respect of the salary and allowances of the persons employed, by the municipality before taking over the management, for and in connection with the maintenance, construction, management and control of the water works, sewerage-works or roads.

(4) Whenever the management of any water-works, sewerage-works or roads of any municipality is taken over by the State Government, the powers, duties and functions of the municipality under this Act in respect of such water-works, sewerage-works or roads shall be exercised and performed by the State Government.

[55] **64. Finance Commission.**- (1) The Finance Commission constituted by the State Government under articles 243-I and 243-Y of the Constitution of India read with section 98 of the Himachal Pradesh Panchayati Raj Act, 1994 shall review the financial position of the municipalities and make recommendations to the Government as to -

(a) the principles which should govern-

(i) the distribution between the State Government and the municipalities of the net proceeds of 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, 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 measures need to improve the financial position of the municipalities;

(c) any other matter referred to the Finance Commission by the Government in the interest of sound finances of the municipalities.

(2) The Government shall cause every recommendations made by the Finance Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

CHAPTER - VI

TAXATION

[1][**65. Rate of tax on lands and buildings**.—(1) Save as otherwise provided in this Act, the unit area rate of tax on lands and buildings within the municipal area

shall be between one per cent to twenty five per cent of the ratable value of land and building, as may be determined by the municipality from time to time:

Provided that the municipality may exempt wholly or partially or levy lower rate of tax on the lands and buildings or portion thereof, which is exclusively used for the purpose of public worship and the area of vacant lands and buildings or portion thereof, exclusively used for the purpose of public burial or as a cremation ground, or any other place used for the disposal of dead.

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1.Section 65 substituted vide Act No. 32 of 2011.

(2) Such other tax, at such rates, as the State Government may, by notification, in each case direct:

Provided that no tax shall be imposed under sub-section (2) unless an opportunity has been given in the prescribed manner to the residents of the municipal area or to the affected parties to file objections and the objections, if any, thus received have been considered.]

1[**66. Fee, tolls and users charges.—** The municipality may impose fee, tolls and user charges for the services provided by it at such rate and in such manner as may be determined by the municipality from time to time.]

67. Limitation of taxing powers.- Nothing contained in sections 65 and 66 shall authorise a municipality to levy any tax, toll or fee which the State Legislature has no power to impose in the State under the Constitution of India:
Provided that any tax , toll or fee which immediately before the commencement of the Constitution was lawfully being levied in any municipal area may continue to be so levied until provision to the contrary is made by Parliament by law.

Explanation.- In this section 'tax' includes any duty or cess.

68. Procedure regarding taxes under section 65.- (1) A municipality, at a special meeting, shall pass a resolution, within a period of thirty days from the date of publication of notification under section 65, directing the imposition of tax with effect from the date to be fixed in the resolution if the municipality fails to pass such a resolution within the aforesaid period, the resolution in this behalf shall be deemed to have been passed by the municipality on the expiry of the period of said thirty days.

(2) After the resolution is passed or deemed to have been passed under sub-section (1) the State Government shall notify in the Official Gazette the imposition of the tax from the appointed date.

69. Collection and payment of tax on consumption of electricity.- 1[(1) **—The State Government may, by notification, determine a tax on consumption of electricity at the rate not exceeding twenty paise per unit, for electricity consumed by any person within the limits of the municipal area which‖** shall be collected by the Himachal Pradesh State Electricity Board set up under the Electricity (Supply) Act, 1948, or by any other person, as the case may be, supplying electricity for consumption in municipal limits and paid to the municipality concerned.]

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1.Section 66 substituted vide Act No. 33 of 2011. 2.Sub section (1) substituted vide Act No. 33 of 2011.

3.Section 69 Substituted vide Act No.50 of 2013

57 Provided that where any person generates electricity for his own use or consumption it shall be paid by such person.

(2) Such tax shall be collected and paid in the same manner as if it were electricity duty payable to the State Government under the Himachal Pradesh Electricity (Duty) Act, 1975 (11 of 1975).

(3) Such tax shall not be leviable on the consumption of electricity by the Government of India or where it is consumed in the construction, maintenance or operation of any railway by the Government of India.

70. [1]**[xxxxxxxxx]**

71. [2]**[xxxxxxxxx]**

72. Preparation of assessment list. -The municipality shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared, containing -

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

(b) the description of the property, either by name or by number sufficient for identification ;

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

(d) the annual value ; and

(e) the amount of the tax assessed thereon by the municipality.

73. Publication and completion of assessment lists.- When the assessment list has been completed, the municipality 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 owner or occupier of property included in the list, and any authorised agent of such person, shall be at liberty to inspect the list and to take extracts therefrom without charge.

74. Public notice of time fixed for revising assessment lists. - (1) The municipality shall at the time of the publication of such assessment list give public notice of a time, not less than one month thereafter, when it will proceed to revise the valuation and assessment, and in all cases in which any property for the first time assessed, or the assessment thereof is increased, it shall give a specific notice thereof to the owner or occupier of the property.

(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.

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1. Section 70 omitted vide Act No. 33 of 2011.

2. Section 71 omitted vide Act No. 33 of 2011.

58 **75.**

Settlement of list.- (1) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorised agent, as they may think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the municipality who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein ; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the year commencing on first day of April of the year in which notice was issued under section 73 or section 74 of this Act :

Provided that this date will not be earlier to the date on which the building comes into existence.

(2) The list when amended under this section shall be deposited in the office of the municipality and the same shall be kept open for inspection during office hours to all owners or occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

76. Further amendments of assessment list.- (1) The municipality may at any time amend the list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the municipality or of the assessee, or in the case of a tax payable by the occupier by a change in the tenancy, after giving notice to any person affected by the amendment, of a time, not less than one month from the date of service, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the municipality in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person, or by authorised agent, as he may think fit.

(3) Notwithstanding anything contained in this Act, the municipality may with a view to give effect to the annual value as defined in clause (1) of section 2 of this Act, amend the assessment list of the year commencing on the first day of April of the relevant year for increasing or reducing annual value of any property and of the assessment thereupon after giving notice at any time to any person affected by the amendment of a period not less than one month from the date of service at which the amendment is to be made and the municipality shall consider any objection made in this regard by any such person and the amended assessment list shall come into force with effect from the first day of April of the year in which notice was given to the person affected.

[59] **77. New list need not to be prepared every year.-** It shall be in the discretion of the municipality to prepare for the whole or any part of the municipal area a new assessment list every year or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year, giving to persons affected by such alterations the same notice of the valuation and assessment as if a new assessment list had been prepared :

Provided that the valuation and assessment contained in the list for any year shall not be adopted for a period exceeding five years.

78. Tax not invalid for defect of form.- No assessment and no charge or demand of any tax made under the authority of this Act shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or in the description of any property or thing liable to the tax, or of any mistake in the amount of assessment or tax, or by reason of any clerical error of other defect of form ; and it shall be enough in respect of any such tax on property or any assessment of value for the purpose of any such tax if the property taxed or assessed is so described as to be generally known ; and it shall not be necessary to name the owner or occupier thereof.

79. Power of municipality to exempt payment of taxes. -(1) A municipality may exempt, in whole or in part, for any period not exceeding one year, from the payment of any such tax, any person who by reason of poverty may in its opinion be unable to pay the same, and may, renew such exemption as often as may be necessary.

(2) [1][xxxxxxx]

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80. Power of State Government to exempt payment of taxes.- (1) The State Government may by order exempt in whole or in part from the payment of any such tax by any person or class of persons or any property or description of property.

(2) If at any time it appears to the State Government on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence or

that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the municipality to take within a specified period measures to remove the objection; and if within that period the requirement is not complied with to the satisfaction of the State Government, the State Government may, by notification, suspend the levy of the tax or of such part thereof until the objection has been removed.

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1. Sub section (2) omitted vide Act no. 33 of 2011.

60 **81. Remission of tax on unoccupied immovable property. -** (1) When any property assessed to a tax under clause (a) of section 65 which is payable by the year or by instalments, has remained unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the municipality shall remit the amount of the tax or of the instalment, as the case may be :

Provided that no such remission shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the municipality within the first month after the expiry of the period in respect of which it is so claimed.

(2) When any such property as aforesaid -

(a) has not been occupied or productive of rent for any period of not less than sixty consecutive days ; or

(b) consists of separate tenements, one or more of which has or have not been occupied or productive of rent for any such period as aforesaid ; or

(c) is wholly or in greater part demolished or destroyed by fire or otherwise ;

the municipality may remit such portion, if any, of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon him.

(4) For the purposes of this section neither the presence of a caretaker nor the mere retention in an otherwise unoccupied dwelling house of the furniture habitually used in it shall constitute occupation of the house.

(5) For the purposes of this section a house shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

(6) The enquiry necessary for a decision whether any relief should be granted under this section shall be held by the Executive Officer or the Secretary who shall make such recommendation to the municipality as he may deem proper:

Provided that the municipality shall not grant any remission of tax unless such remission is recommended by the Executive Officer or the Secretary.

82. Duty to furnish information.- (1) Every person shall on the demand of an officer duly authorised by the municipality in this behalf furnish such information as may be necessary in order to ascertain whether such person is liable to pay any municipal tax; and every hotel or lodging house keeper or Secretary of a residential club shall also on demand made as aforesaid furnish a list of all persons residing in such hotel, lodging-house or club.

61 (2) If any person so called upon to furnish such information omits to do so or furnishes information

which is untrue, he shall be punishable with a fine which shall not be less than twenty five rupees and more than five hundred rupees.

83. Notice on transfers of titles.- (1) Whenever the title to or over any building or land of any person primarily liable for the payment of property taxes on such property is transferred, the transferor and the transferee shall within three months of the registration of the deed of transfer if it be registered, or if it be not registered within three months of its execution, or if no instrument be executed, of the actual transfer, give notice in writing of such transfer to the municipality.

(2) Every person primarily liable for the payment of a tax on any property, who transfers his title to or over such property, without giving notice of such transfer to the municipality as aforesaid, shall in addition to any other liability which he incurs through such neglect, continue to be liable for the payment of all such taxes from time to time payable in respect of the said property until he gives such notice, or until the transfer is recorded in the books of the municipality.

(3) Whenever the title to or over any building or land has devolved upon any person by inheritance, the heir shall within three months of the date of the death of the former owner give notice in writing of such inheritance to the municipality.

(4) Nothing in this section shall be held to diminish the liability of the transferee or heir for the said taxes or to affect the prior claim of the municipality for the recovery of the taxes due thereupon.

(5) Whoever contravenes the provisions of sub-sections (1) and (3) shall in addition to any other penalty which he incurs through such neglect, be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees, and in the case of a continuing breach with a further fine of ten rupees for every day after the first during which the breach continues.

84. Power of entry.- The municipality may authorise any person-

(a) after giving twenty-four hours notice to the occupier, or, if there be no occupier, to the owner, of any building or land, at any time between sunrise and sunset, to enter, inspect and measure any building for the purpose of valuation ;

(b) to enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act or for which a licence has not been duly taken out.

85. Taxes when payable.- Subject to the provisions of section 68, sub-sections (7) and (8) of section 70 and section 75 and tax imposed under this Chapter and payable periodically shall be payable on such dates and in

62 such

instalments, if any, as the municipality, with the previous sanction of the Deputy Commissioner, may from time to time direct.

86. Recovery of property taxes. - (1) When any sum is due on account of a tax payable under this Act in respect of any property by the owner thereof, the municipality shall cause a bill for the amount, stating the property and the period for which the charge is made to be delivered to the person liable to pay the same.

(2) If the bill be not paid within ten days from the delivery thereof, the municipality may cause a notice of demand to be served on the person liable to pay the same, and if he does not, within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice or show sufficient cause for non-payment, the sum due, with the fee, shall be deemed to be an arrear of tax.

(3) The amount of every such arrear, besides being recoverable in any other manner provided by this Act shall, subject to any claim on behalf of the State Government, be a first charge on the property in respect of which it is payable and shall be recoverable on application made in this behalf by the municipality to the Collector, as if the property were an estate assessed to land revenue and the arrear were an arrear of such revenue due thereon.

(4) If any tax or sum leviable under this Act from the owner is recovered from the occupier, such occupier shall, in the absence of any contract to the contrary, be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

87. Recovery of taxes.- (1) Any arrears of any tax, water-rate, rent, fee or any other money claimable by a municipality under this Act may be recovered on application to a magistrate having jurisdiction within the limits of the municipality, or in any other place where the person from whom the money is claimable may for the time being be resident, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to such person. The cost of such proceedings shall be recoverable from the defaulter in the same manner as the said arrears.

(2) An application made under sub-section (1) shall be in writing and shall be signed by the President, the Vice-President, Executive Officer or the Secretary of the Municipality, but it shall not be necessary to present it in person.

88. Seizure and sale of vehicle and animal.- (1) If any person owns or occupies any vehicle or animal in respect of which tax is payable under section 65 or section 66 without having paid the tax and fails to pay the tax due on demand, any officer authorised by the municipality in this behalf may seize and detain such vehicle and animal, if any, by which it is driven or carried, as the case may be.

63 (2) After such seizure the officer authorised by the municipality in this behalf shall forthwith issue a notice in writing to the owner thereof by registered post that after the expiry of fifteen days from the date of service of the notice he will sell such vehicle or animal or both.

(3) If the animal or vehicle seized be not claimed and tax due thereon be not paid within a period of fifteen days from the date of the seizure, the officer authorised under sub-section (1) may direct that the vehicle or the animal or both shall be sold in public auction and the proceeds of the sale applied to the payment of -

(a) the tax, if any, due on the vehicle or animal or both ;

(b) such penalty not exceeding the amount of the tax as the officer authorised under sub-section (1) may direct; and

(c) all expenses occasioned by such non-payment, seizure, detention and sale.

(4) The surplus sale proceeds, if any, shall be credited to the municipal fund and may be paid on the demand to the owner of vehicle or animal or both or to other person entitled thereto to the satisfaction of the officer authorised under sub-section (1) :

Provided that, if at any time before the sale is concluded such person or his authorised agent tenders to the municipality or to the person authorised by it to sell the vehicle or the animal, the dues referred to in sub-section (3), the officer authorised under sub-section (1) shall forthwith release the vehicle or animal or both so seized.

89. Recovery of dues as arrears of land revenue.- (1) Any amount on account of arrears of any tax, water rate, rent, fee or any other money claimable by a municipality under this Act besides being recoverable in any other manner provided by this Act, may be recovered on an application made in this behalf by the municipality to the Collector, as arrears of land revenue.

(2) For the purposes of sub-section (1), the State Government may, on a request from any municipality or otherwise, appoint a person to exercise the powers of the Collector under the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954), and where the Collector is so appointed, an application under the said sub-section shall be made to such Collector.

90. Appeals. - (1) An appeal against the assessment or levy of any tax or against the refusal to refund any tax under this Act shall lie to the Deputy Commission or to such other officer as may be empowered by the State Government.

2. If, on hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on an application of any person interested draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with his own opinion on the point for the decision of the High Court.

64 (3) On a reference being made under sub-section (2) the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the provisions relating to references to the High Court contained in section 113 and Order XLVI of the Code of Civil Procedure, 1908 (5 of 1908).

(4) In every appeal the costs shall be in the discretion of the officer deciding the appeal.

(5) The costs awarded under this section to the municipality shall be recoverable by the municipality as if they were arrears of a tax due from the appellant.

(6) If the municipality fails to pay the cost awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

91. Limitation for appeal.- (1) No appeal shall lie in respect of a tax on any land or building unless it is preferred within one month after the publication of the notice prescribed by section 75 or section 76 or section 77, or after the date of final order under section 78, as the case may be, and no appeal shall lie in respect of any other tax unless it is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the appellant has paid all other municipal taxes due from him to the municipality up to the date of such appeal.

92. Revision.- (1) The State Government may call for the record of any valuation or assessment of any tax imposed by the municipality, and if such municipality appears-

(a) to have exercised a power not vested in it by law ; or

(b) to have failed to exercise other power vested in it ; or

(c) to have acted in the exercise of its power illegally or with material irregularity,

the State Government may make such order in the matter as it thinks fit:

Provided that the State Government shall not, under this section vary or reverse any assessment or valuation of any tax imposed by the municipality except where -

(a) the assessment or valuation of a tax if it has been made in favour of the party applying for the revision, would have finally disposed off the matter ;or

65 (b)

the assessment or valuation of a tax, if allowed to stand would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The State Government shall not pass any order under sub-section (1) to the prejudice of any person without giving him a reasonable opportunity of being heard.

93. Bar to question assessment.- (1) No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.

(2) No refund of any tax shall be claimable by any person otherwise than in accordance with the provisions of this Act and the rules.

CHAPTER VII

POLICE ASSISTANCE

94. Police force.- (1) If the State Government is of the opinion that the police force is required by a municipality on whole time basis for a specified period exceeding one month for carrying out the purposes of this Act, it may, on an application made by the municipality through the Deputy Commissioner, in this behalf, provide such police force.

(2) The municipality shall pay the expenses incurred by the State Government in respect of the police force provided under sub-section (1).

95. Powers and duties of police.- (1) Every member of a police force under this Act shall give immediate information to the municipality of any offence committed against this Act or the rules or bye-laws, and shall be bound to assist all members, and employees of the municipality in the exercise of their lawful authority.

(2) Every member of such police force may arrest any person committing in his view any offence against this Act or the rules or bye-laws -

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address, if given.

(3) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than as may be necessary for bringing him before a Magistrate except under the order of a Magistrate for his detention.

96. Special police assistance at fairs etc.- When special police protection is, in the opinion of the State Government required on the occasion of any fair, agricultural show or industrial exhibition, managed by a municipality, or for the purpose of guarding houses evacuated on account of plague, the State Government may provide such protection and the

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municipality shall pay the whole charge thereof or such portion of such charge as the State Government may consider equitably payable by it.

CHAPTER VIII

EXTINCTION AND PREVENTION OF FIRE

97. Establishment and maintenance of fire brigade.- For the prevention and extinction of fire, the municipality may and, if the State Government so directs, shall, establish and maintain a fire-brigade, and provide implements, machinery or means of communicating intelligence for the efficient discharge of their duties by the brigade.

98. Power of fire brigade and other persons to extinguish.- (1) On the occasion of a fire in a municipal area any Executive Magistrate of the area, or the Executive Officer or any member of municipality or any member of a fire brigade maintained by the municipality, then and there directing the operations of men belonging to the brigade, and any police officer not below the rank of Sub-Inspector, may -

(a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property ;

(b) close any street or passage in or near which any fire is burning ;

(c) for the purpose of extinguishing the fire break into or through or pull-down, or cause to be broken into or through or pulled down or used for the passage of houses or other appliances, any premises ;

(d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred ;

(e) call on the persons in charge of any fire-engine to render such assistance as may be possible ;

(f) generally take such measures as may appear necessary for the preservation of life or property ;

when any Government building is endangered by such a fire, the officer of the Public Works Department for the time being in charge of the building may exercise the powers conferred on Executive Magistrate by this sub-section.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) in good faith.

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damaged by fire within the meaning of any policy of insurance against fire.

67 **99. Observance of rules and regulations.-** The power conferred by the last foregoing section shall be subject to such rules and regulations, as may be framed by the State Government under any law for the time being in force.

CHAPTER - IX

WATER SUPPLY

100. Provision for water supply.- (1) The municipality may, and when the State Government so directs shall, provide the area under the control or any part thereof with a supply of wholesome water sufficient for public and domestic purposes.

(2) For the purpose of providing such supply within the municipality the municipality, shall cause such tanks, reservoirs, engines, pipes, taps, and other works as may be necessary to be constructed or maintained, whether within or outside the municipal area, and shall erect sufficient standpipes or other conveniences for the gratuitous supply of water to the public.

(3) When required by the Health Officer, the municipality shall arrange for the examination of water supplied for human consumption for the purpose of determining whether the water is wholesome.

101. Supply of water for domestic purposes.- (1) The municipality may, on application by the owner of any building, arrange for supplying water from the nearest main to the same for domestic purposes in such quantity as it deems reasonable, and may at any time limit the amount of water to be so supplied whenever it considers it necessary.

(2) No additional charge shall be payable in respect of such supply in any municipal area in which a water tax is levied, but for water supplied in excess of the quantity to which such supply is under sub-section (1) limited and in other municipal areas for all water supplied under this section payment shall be made at such rate as may be fixed by bye-laws.

Explanation.- A supply of water for domestic purposes shall not be deemed to include a supply-

(a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire ;
(b) for any trade, manufacture or business;
(c) for fountains, swimming baths or for any ornamental or mechanical purpose ;
(d) for gardens or for purposes of irrigation ;
(e) for watering roads and paths ;
(f) for building purposes.

102. Supply of water for other than domestic purposes.- (1) The municipality may supply water for any purpose other than a domestic purpose, on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed :

68 Provided that for building purposes, water supply shall be made for a period of one year in the first instance, on an application accompanied by a copy of a building plan duly sanctioned by the competent authority and thereafter be extended, by six months at a time for a period of not exceeding the period allowed for the completion of the construction or for three years, whichever is less:

Provided further that the water supply made, for the building purposes, on or before the commencement of this Act, shall continue for a period of three years reckoned from such commencement.

(2) For all water supplied under sub-section (1) payment shall be made at a rate not less than the rate prescribed under sub-section (2) of section 101.

(3) The municipality may withdraw such supply at any time if it should appear necessary to do so in order to maintain sufficient supply of water for domestic purposes.

103. Procedure for water connections.- (1) Where an application under section 101 or section 102 has been received, all necessary communication pipes and fittings shall be supplied by the municipality and the work of laying and applying such communication pipes and fittings, shall be executed by municipal agency under the municipality's orders ; but the cost of making any such connection and of all communication pipes and fittings so supplied and of all works so executed, shall be paid by the owner or the person making such application. The municipality may either provide a meter and charge rent for the same or may require the owner or applicant to provide a meter of such size, material and description as it shall approve.

(2) Notwithstanding anything in sub-section (1), the municipality may require any owner or person applying for a supply of water to provide all communication pipes and fittings and to carry out at his own cost under its supervision and inspection all the work of laying and applying such communication pipes and fittings.

104. Obligation of owner or occupier to give notice of waste of water.- Any owner or occupier of any building or land, in or on which water supplied under this Act is misused from negligence or other circumstances under his control, or used without permission in excess of the quantity fixed under section 101 or section 102, or in which

the pipes, mains, or other works are out of repair to such an extent as to cause waste of water, shall if he has knowledge thereof, be bound to give notice of the same to such officer as the municipality may appoint in this behalf.

105. Cutting off water supply to premises.- If any person whose premises are supplied with water, neglects to pay the water-tax, or any sum payable, under section 101 or section 102 when due, or to give notice as provided in the last preceding section, or wilfully or negligently misuses or causes waste of water , the municipality may, after due notice, cut off the supply of water from the said premises.

106. Power of municipality in respect of Communications etc. - For the purpose of providing or maintaining the water supply or of making or maintaining communications or connections with the mains, or generally for the purposes of this Chapter, the municipality shall have all powers which are conferred upon it in respect of drainage by sections 136 to 141.

107. Power to require owners of buildings to provide the storage reservoirs for rain water on their premises. - (1) Whenever it appears to the municipality or to the State Government to be desirable to require the owners of buildings or lands, situated within the limits of the whole or any part of a municipal area to make suitable provision for the storage and conservation of rain-water for use in flushing drains and for any purposes other than for the purposes of being used as drinking water, such municipality, if so required by the State Government, shall, and, in any other case, may, with the previous sanction of the State Government, by public notice , direct accordingly.

(2) Every notice, given under sub-section (1) shall state -

(a) the extent of the local area within the limits of which the owners of buildings and lands are to make suitable provision for the storage of rain-water ;

(b) the manner in which the cubic capacity of the storage accommodation to be provided by such owners is to be fixed that is, whether the extent of such capacity is to be regulated by reference to the area of the land, the size of the building, the number of occupants, or the estimated rental value thereof or by any two or more of these methods;

(c) the design, materials, situation and construction of the reservoirs or other storage accommodation to be provided ;

(d) the mode of collecting, storing, preserving from pollution and in a pure state and using the rain water to be collected and stored ; and

(e) the time within which the requirements of the notice are to be complied with.

108. Supervision and inspection of works.- The municipality may, and, if so required by the State Government, shall, make provision for the supervision of the construction, and for the inspection of the storage reservoirs and all other works in any manner relating thereto or connected therewith, and may do all acts and things which may, from time to time, be necessary for the purpose of ensuring -

(a) that the storage reservoirs and other works, as aforesaid, are constructed and carried out, as the case may be, in accordance with the requirements of the notice given under the preceding section ; and

70 (b) that all such reservoirs and other works are of sufficient strength and durability, and may cause any such reservoirs or any other works as do not comply with the requirements of the notice or are

unsuitable or insecure, to be removed and re- constructed or replaced to the satisfaction of the municipality.

109. Repairs of reservoirs.- The municipality may, by notice, require the owner or occupier of any building or land in respect of which a reservoir for the storage and conservation of rain water has been provided under section 107 to repair, alter or put in good condition the said reservoir.

CHAPTER -X

POWERS FOR SANITARY AND OTHER PURPOSES

110. Bathing and washing places.- (1) The municipality may set apart suitable places for the purpose of bathing and may specify the times at which and sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and any other act by which water in public places may be rendered foul or unfit for use, and may charge fees for the use of such places by any specified class or classes of persons or by the public generally.

(2) The municipality may fix, by notice, places at which articles of clothing, bedding or other articles which have been exposed to infection shall be washed, and, no person shall wash any such article at any place not so fixed.

111. Powers in respect of burial and cremation grounds. -(1) The municipality may by public notice order, and, if so directed by the State Government shall, within one month of such direction be deemed to have ordered, any burial or cremation ground situated within municipal area or within one kilometre thereof which is certified by the Health Officer to be dangerous to the health of persons living in the neighbourhood to be closed, from a date to be specified in the notice and shall in such case, if no suitable place for burial or cremation exists within a reasonable distance, provide a suitable place for the purpose.

(2) Private burial places in such burial grounds may be exempted from the notice, subject to such conditions as the municipality may impose in this behalf:

Provided that the limits of such burial places are, sufficiently defined, and that they shall only be used for the burial of the members of the family of the owners thereof.

(3) No burial or cremation ground, whether public or private, shall be made or formed after the commencement of this Act, except with the sanction in writing of the municipality which shall not be granted unless the Health

71 Officer has certified in writing for the information of the municipality that such burial or cremation ground is not prejudicial to public health:

Provided that no such burial or cremation ground shall be made or formed, except with the sanction of the State Government.

(4) Should any person, without the permission of the municipality, bury or cremate, or cause or permit to be buried or cremated, any corpse at any place which is not a burial or cremation ground or in any burial or cremation ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with a fine which shall not be less than twenty-five rupees and more than five hundred rupees.

112. Disposal of mad and stray dogs and other animals. - (1) The municipality may-

(a) authorise any person -

(i) to destroy, or cause to be destroyed, or confine, or cause to be confined for such period as the municipality may direct, any dog or other animal suffering or reasonably suspected to be suffering from rabbis, or bitten by any dog or other animal suffering or suspected as aforesaid ;

(ii) to confine, or cause to be confined any dogs found wandering about streets or public places without collars or other marks distinguishing them as private property and charge a fee for such detention and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee is not paid;

(b) issue a temporary or standing order that any dog without collars or other marks, distinguishing them as private property, found straying on the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed and destroy or cause them to be destroyed accordingly. Public notice shall be given of every such order.

(2) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

113. Dogs not to be at large.- Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without a muzzle -

(a) if such dog is likely to annoy or intimidate passengers, or

(b) if the municipality has by public notice during the prevalence of rabbis directed that dogs shall not be at large without muzzles.

shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

72 **114. Control of elephants, bears or camels.-** Whoever, being in charge of any elephant, bear or camel, omits, on being requested to do so, to remove, as far as may be practicable, his elephant, bear or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

115. Taking elephants along public roads. -Whoever, contrary to any orders of the municipality, takes an elephant along a street shall be punishable with fine which may extend to twenty rupees.

116. Power to require buildings, wells, tanks etc. to be secured.- Should any building, or any well, tank, reservoir, pool depression or excavation be, for want of sufficient repair, protection or enclosure dangerous to the persons dwelling or working therein or in the neighbourhood or to persons passing by, the municipality may by notice, require the owner or occupier thereof to repair, protect or enclose the same and should appear it to be necessary in order to prevent imminent danger, it shall forthwith take such steps to avert the danger as may be necessary.

117. Building etc. in dangerous state.- Should any building, well or structure, or anything affixed thereto, or any bank or tree be deemed by the municipality to be in a ruinous state or in any way dangerous, or there be any fallen building or debris or other material which is unsightly or is likely to be in any way injurious to health it may, by notice, require the owner thereof either to remove the same, or to cause such repairs to be made to the buildings, wall, structure or bank, as the municipality may consider necessary for the public safety, and should it appear to be necessary in order to prevent imminent danger, the municipality shall forthwith take such steps, at the expense of the owner, to avert the danger as may be necessary.

118. Cleaning of filthy building or land.- Should the owner, part-owner or occupier of any building or land suffer the same to be in a filthy or unwholesome state, the municipality may, by notice, require him within twenty-four hours to cleanse the same or otherwise put in a proper state and thereafter to keep it in a clean and proper state and if it appears to be necessary for sanitary purposes to do so, may at any time by notice, direct the occupier of any building to lime wash or otherwise cleanse the said building inside and outside in the manner and within a period to be specified in the notice.

119. Paving or draining of cattle-stands. - The municipality may, by notice, require the owner or occupier of any land on which cattle or other animals are habitually tethered to have the same properly paved or drained or both.

120. Power to prohibit use of unfit buildings. - Should any building, or any part of any building, appear to the municipality to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or any sufficient reason, the municipality may, by notice, prohibit the owner or occupier thereof from using the same for human habitation or

73 suffering it to be so used, until it has been rendered fit for such use to the satisfaction of the municipality, and no such owner or occupier shall inhabit such building or suffer it to be inhabited until the municipality shall have informed in writing the owner or occupier that the prohibition has been withdrawn.

121. Power to require owner to clear away noxious vegetation.- The municipality may, by notice, require the owner or occupier of any land to clear away and remove any thick vegetation of undergrowth which may appear to the municipality to be injurious to the health or offensive to the neighbourhood.

122. Power to require hedges and trees to be trimmed.- The municipality may, by notice, require the owner or occupier of any land to cut or trim within three days the hedges growing thereon and bordering on any street or any branches if trees growing thereon which overhang any street and obstruct the same or cause danger or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof or are in any way offensive or injurious to health.

123. Power to require untenanted buildings becoming a nuisance to be secured or enclosed.- The municipality may, by notice, require the owner or part owner, or person claiming to be the owner or part-owner of any building or land which, by reason of abandonment or disputed ownership or other cause has remained untenanted and become a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

124. Prohibition of cultivation of crop, use of manure or irrigation injurious to health.- (1) If the Health Officer certified that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner -

(a) in any place within the limits of any municipal area is injurious or facilitates practices which are injurious to the health of person dwelling in the neighbourhood ; or

(b) in any place within or beyond the limits of any municipal area is likely to contaminate the water-supply of such municipality or otherwise render it unfit for drinking purposes ;

the municipality may prohibit the cultivation of such crop, the use of such manure or the employment of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent such injury or contamination :

Provided that if it is notified by the State Government that the cultivation of such crop, the use of such manure, or the employment of such method of irrigation is prohibited or conditions are imposed with respect thereto, the municipality shall be deemed to have ordered such prohibition, or

74 imposed

such conditions, and shall issue notice, in accordance with the notification:

Provided also that, when on any land to which such prohibition applies the act prohibited has been practised during the five years next preceding the prohibition, in the ordinary course of husbandry, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such prohibition.

(2) Should any person fail within six months from the date of its service to comply with a prohibitory notice issued under sub-section (1), he shall be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees and with a further fine of ten rupees for every day during which the offence is continued.

125. Regulation of offensive and dangerous trade. - (1) No place within a municipal area shall be used for any of the following purposes, namely:-

(a) melting tallow, dressing raw hides, boiling bones, offal or blood ;

(b) soap house, oil-boiling house, dying house or tannery;

(c) brickfield, brick-kiln, charcoal kiln, pottery or lime-kiln.

(d) any other manufactory, engine-house, storehouse, or place of business from which offensive or unwholesome smells, gases, noises or smoke arise ;

(e) yard or depot for trade in unslaked lime, hay, straw, thatching- grass, wood charcoal or coal, or other dangerously inflammable material ;

(f) store-house for any explosive, or for petroleum or any inflammable oil or spirit;

except under a licence, obtained by the owner or occupier from the municipality which shall be renewable annually.

(2) The licence shall not be withheld unless the municipality considers that the business which it is intended to establish or maintain would be the cause of annoyance, offence or, danger to persons residing in, or frequenting the immediate neighbourhood, or that the area should be for general reasons kept clear of the establishment of such business.

(3) The municipality may charge any fees according to a scale to be approved by the Deputy Commissioner for such licences, and may impose such conditions in respect thereof as it may think necessary. Among other conditions it may prescribe that any furnace used in connection with such trade shall, so far as practicable, consume its own smoke.

(4) Whoever, without a licence uses any place for any such purpose as is specified in this section or in contravention of the conditions of any such

75 licence,

shall be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees and with a further fine of ten rupees for every day during which the offence is continued.

126. Consent of municipality to establish new factories or workshops.- (1) Within any municipal area no person shall establish a new factory or workshop without having obtained the consent of the municipality.

(2) The consent of the municipality may be given without condition or subject to the condition that the owner or user of the said factory shall provide adequate housing accommodation for labourers employed in the factory or for any proportion or class of such labourers:

Provided that the consent of the municipality shall not be withheld for any reason except the refusal of such owner or user to comply with such condition:

Provided further that if the municipality neglects or omits to give its consent within a period of two months from the date of applications such consent shall be deemed to have been given without condition.

(3) Whosoever commits a breach of the provisions of sub-section (1) or sub-section (2) shall, on conviction be punishable with a fine, which shall not be less than one hundred rupees, and more than one thousand rupees, and when the breach is a continuing one, with a further fine of one hundred rupees for every day, after the first, during which the breach continues.

127. Prohibition of cinematographs and dramatic performances except in licensed premises.- (1) No exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus for the purpose of which inflammable films are used, and no public dramatic or circus performance or pantomime, shall be given in any municipality elsewhere than in premises for which a licence has been granted by the municipality under this section.

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes part in any public dramatic or circus performance or pantomime, or if the occupier of any premises allows those premises to be used, in contravention of the provisions of this section, or of any condition of a licence granted under this section, he shall be liable to a fine which shall not be less than twenty-five rupees and more than two hundred rupees and in the case of a continuing offence to a further penalty of fifty rupees for each day during which the offence continues and the licence, if any, shall be liable to be revoked by the municipality.

128. Power to prohibit trades.- (1) Whenever it appears, that any place registered or licensed under the preceding sections is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the municipality may, and if so required by the State Government, shall by notice require the occupier thereof to discontinue the use of such place, or to effect

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alterations, additions or improvements as well, in the opinion of the municipality, render it no longer a nuisance or dangerous.

(2) Whoever, after any notice has been given under this section, uses such place or permits such place to be used in such a manner as to be a nuisance to the neighbourhood or dangerous or does not effect such alteration, addition or improvements, shall be punishable with a fine which shall not be less than fifty rupees and more than five hundred rupees and with a further fine of fifty rupees for every day during which the offence is continued.

129. Use of steam whistles etc.- (1) No person shall use or employ, in any factory or other place, any whistle or trumpet or any other mechanical contrivance which emits an offensive noise for the purpose of summoning of dismissing workmen or person employed, nor shall any person by means of any contrivance increase the noise emitted in any such factory or place by the exhaust pipe of any engine, without the written permission of the municipality, in granting which, the municipality may impose such conditions as it may deem proper, restricting the time at which such whistle or trumpet, or other contrivance may be used.

(2) The municipality may on giving one month's notice revoke any permission given under sub-section (1).

(3) Whoever, in contravention of the provisions of this section, uses or employs any whistle, trumpet or other contrivance, shall be punishable with a fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for everyday during which the offence is continued.

130. Provisions of drains, privies etc.- (1) The municipality may, by notice, require the owner of any building or land to provide, move or remove any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse or, provide any additional drains, privies, latrines, urinals, cesspools or other receptacles as aforesaid which should, in its opinion, be provided for the building or land, in such manner and of such pattern as the municipality may direct.

(2) The municipality may by notice, require any person employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order and to be daily cleaned.

(3) The municipality may, by notice, require the owner or occupier of any building or land to have any privy, latrine or urinal provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the municipality may direct, any door or trapdoor of a privy, latrine or urinal opening on to any street or drain.

(4) The municipality may, and when required by the State Government shall provide latrines and urinals for the use of public.

131. Repair and closing of drains, privies etc.- (1) The municipality may, by notice, require the owner or occupier of any building or land to repair, alter, or put in good order any drain, privy, latrine, urinal, cesspool or receptacle for any filth or refuse, or to close any drain, privy, latrine, urinal or cesspool belonging thereto.

(2) The municipality may, by notice, require any person who has constructed any new drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse without its permission in writing or contrary to its directions or regulations or the provisions of this Act, or who has constructed, rebuilt or opened any drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse which it has ordered to be demolished or stopped or not to be made, to demolish the drain, privy, latrine, urinal, cesspool or receptacle to make such alteration therein as it may think fit.

132. Unauthorised building over drains, etc.- The municipality may, by notice, require any person who without its permission in writing has newly erected or rebuilt any building over any sewer, drain, culvert, water course or water pipe vested in the municipality, to pull down or otherwise deal with the same as it may think fit.

133. Removal of latrines etc. near any source of water supply.- (1) The municipality may by notice, require any owner or occupier on whose land any drain, privy, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifteen metres of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice.

(2) Whoever, without the permission of the municipality, makes or keeps for a longer time than one week after notice under this section any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse, within fifty feet of any spring, well, tank, reservoir or any other source from which water is or may be derived for public use, shall be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees and, when a notice has been issued, with a further fine of ten rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

134. Discharging sewerage.–Whoever, without the permission of the municipality, causes or knowingly or negligently allows the contents of any sink, sewer, or cesspool or any other offensive material to flow, drain or be put upon any street or public place, or into any irrigation channel or any sewer or drain not set apart for the purpose, shall be punishable with a fine which shall not be less than two thousand five hundred rupees and not more than ten thousand rupees for the first offence, and for second contravention, in addition to the penalty as specified above, he shall be liable to render community service by personally clearing the public area in and around his premises in question under the supervision of authorized officer of the municipality for not less than a period of one week under videography:

Provided that if such person commits the same offence third time and subsequently, the municipality may deny or stop the civic amenities like water, electricity etc. in residential as well as commercial establishments, as the case may be.[1].

135. Making or altering drains without authority. -Whoever, without the permission of the municipality makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewer or drains vested in the municipality shall be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees.

136. Power to require removal of nuisance arising from tanks and the lake. -The municipality, may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private well, tank, reservoir, pool, depression or excavation therein which may appear to the municipality to be injurious to health or offensive to the neighbourhood :

Provided that if for the purposes of effecting any drainage under this section, it should be necessary to acquire any land not belonging to the same owner or to pay compensation to any person the municipality shall provide such land or pay such compensation.

137. Power of municipality to lay or carry wires, pipes, drains or sewers through private lands. - The municipality may carry any cable, wire, pipe, drain, sewer or channel of any kind, for the purpose of establishing telephonic or other similar communication or for carrying out and establishing or maintaining any system of lighting, drainage or sewerage, through, across, under or over after giving reasonable notice in writing to the owner or occupier, into, through, across, under, over or up the side of any land or building, whatsoever situate within the limits of the municipal area, and , for the purpose of the introduction, distribution of outfall of water or for the removal or outfall of sewerage without such limits, and may, at all limits do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer, or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used :

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1. Section 134 substituted vide Act 50 of 2013.

Provided that such work shall be done so as to cause the least practical nuisance or inconvenience to any person:

Provided further that reasonable compensation shall be paid to the owner or occupier for any damage at the time sustained by him and directly occasioned by the carrying out of any such operations.

138. Provision as to wire, pipes, drains or sewers laid or carried above surface of ground. - In the event of any cable, wire, pipe, drain, sewer, or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

139. Previous notice.- Except in cases to which sections 222 and 224 relate, the municipality shall cause not less than fourteen days' notice in writing to be given to the owner or occupier before commencing any operations under section 137.

140. Connection with main not to be made without permission of municipality.- (1) No person shall, without the permission of municipality, at any time make, or cause to be made, any connection or communication with any cable, wire, pipe ferrule, drain, sewer or channel constructed or maintained by or vested in the municipality, for any purpose whatsoever.

(2) Any person acting in contravention of the term of sub-section (1) shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

141. Sewerage connection.- 1[(1)The municipality may, at any time establish any connection or communication from any water-main, drain or sewer to any premises, or may by notice require the owner of any such premises to establish any such connection or communication in such manner and within such times as the municipality, by notice in that behalf, may prescribe, at the cost of such owner or occupier.]

(2) Notwithstanding anything contained in sub-section (1), it shall be the duty of the house owner or occupant of any premises to connect his latrines, urinals and septic tank, as the case may be, with sewerage line where sewerage system has been provided by the municipality, at his own expenses, by getting sewerage connection from the municipality and if he fails to do so, he shall be punishable with fine which may extend to two thousand rupees but shall not be less than five hundred rupees, in addition to other charges for such

1 Existing section re-numbered as sub-section (1) and new sub-section(2) ins. vide Act No. 28 0f 2005.

 connection which in case of continuous default will result in disconnection of essential services viz. water, electricity etc.:

Provided that where sewerage line is passing through other person‘s land, the sewerage connection shall be connected to the sewerage line through the boundary lines of such land or where the building has been constructed, the line shall be laid through the setbacks of such building, whichever is feasible.]

142. Troughs and pipes for rain water.- (1) The municipality may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying water and sullage from the building or land and for discharging the same so as not to cause inconvenience to persons passing along the street.

(2) For the purpose of efficiently draining any building or land the municipality may, by notice, in writing,-

(a) require any courtyard, alley or passage between two or more buildings to be paved by the owner or part-owner of such buildings with such materials and in such manner as may be approved by the municipality ; and

(b) require such paving to be kept in proper repair.

143. Information in relation to cholera, small-pox, etc. -Whoever -

(a) being a medical practitioner or a person openly and constantly practising the medical profession, and in the course of such practice becoming cognizant of the existence of any infectious disease in any dwelling other than a public hospital ;

(b) being the owner or occupier of such dwelling and being cognizant of the existence of any such disease therein ; or

(c) being the person incharge of or in attendance on any person suffering from any such disease in such dwelling and being cognizant of the existence of the disease therein ;

fails forthwith to give information, or knowingly gives false information to the Health Officer or to any other officer to whom the municipality may require information to be given respecting the existence of such disease, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

144. Removal to hospital of patients suffering from infectious diseases. - (1) In any municipal areas to which this section may at any time be extended by the State Government when any person suffering from any infectious disease is found to be -

(a) without proper lodging or accommodation ; or

(b) living in a sarai, hotel, boarding house or other public hostel; or

81 (c) living in a room or house which he neither owns nor pays rent for, nor occupies as the guest or relative of any person who owns or pays rent for it ; or

(d) lodged in premises occupied by members of two or more families and any of such occupiers objects to his continuing to lodge in such premises ;

the municipality or any person authorised by it in this behalf may, on the advice of any medical officer of the rank not inferior to that of an assistant surgeon, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

(2) The municipality shall, if required by the State Government, erect an infectious diseases hospital of such type and dimensions as the State Government shall deem expedient.

145. Disinfection of buildings and articles.- If the municipality is of the opinion that the cleansing or disinfecting of a building or any part thereof, or of any article therein, which is likely to retain infection will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleanse or disinfect the same, or to destroy such article, in the manner and within the time prescribed in such notice.

146. Penalty for letting infected houses.- Every person knowingly letting a house or other building or part of a house or building in which any person has been suffering from an infectious disease, without, having such house or other building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the municipality, shall be liable to a penalty which shall not be less than twenty five rupees and more than two hundred rupees.

Explanation.- For the purpose of this section, a hotel or lodging house-keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging house.

147. Provision of places and appliances for disinfection.- The municipality may, and when the State Government so directs, shall -

(a) provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection ;

(b) cause conveyances, clothing or other articles brought for disinfection to be disinfected free of charge or subject to such charges as may be approved by it ; and

(c) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed, and shall give compensation for any articles destroyed under this sub-section.

148. Acts done by persons suffering from certain disorders. -Whoever, who is suffering from an infectious, contagious or loathsome disorder-

(a) makes or offers for sale any article of food or drink for human consumption or any medicine or drug ; or

(b) wilfully touches any such article, medicine or drug which is exposed for the sale by other ; or

(c) takes any part in the business of washing or carrying soiled clothes,

shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

149. Keeping of animals injurious to health. – [1][(1) Whoever keeps any swine or other animals in disregard of any orders which the municipality may give to prevent them from becoming a nuisance, or so as to be injurious to the health of the inhabitants or of animals shall be punishable with a fine of fifty rupees and of one hundred rupees for every such subsequent offence.]

[2][(2) No person shall-

(a) feed the monkeys, langoors and other stray animals in any public place, or

(b) spit on public place, public road, public street or walls, or

(c) throw any type of garbage/refuse etc. on any public place, road, street or in open hill side except in a container provided by the municipality for this purpose.

Explanation.- For the purpose of clause (a), the expression ―public place‖ shall not include temple.

(3) Whoever contravenes the provisions of sub-section (2), he shall be punishable with fine which may extend to five hundred rupees, in addition to other charges incurred for cleaning or removal of such garbage/refuse etc.
from such public place, road, street or open hill side by the municipality.]

150. Feeding animals on deleterious substances. -Whoever feeds or allows to be fed any animal, which is kept for dairy purposes or may be used for food, on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

[2]**[150-A. Registration of cattle and maintenance of record thereof**.— (1) Head of every family shall be responsible to give or cause to be given, either orally or in writing, the details of cattle owned by his

1 Existing provision re-numbered as sub-section (1) vide Act No. 28 of 2005. 2 Sub-sections (2) and (3) inserted vide Act No. 28 of 2005.
2.Section 150-A inserted vide Act No. 33 of 2011.

83 family to the municipality within a period one month from the commencement of the Himachal Pradesh Municipal (Amendment) Act, 2011, and thereafter, every time as and when any change in the number of cattle takes place by any reasons.

(2) On receipt of the details of cattle under sub-section (1), the municipality shall register cattle and shall maintain records thereof in such form as may be notified by the State Government:

Provided that the municipality may charge registration fee at such rate as may be fixed by the municipality.

(3) It shall be the duty of the municipality to assist the officials or persons engaged by Animal Husbandry Department for applying appropriate identification mark on each cattle and to maintain the record of identification.

(4) If any cattle with identification mark is found stray, the owner of the cattle shall be identified by the municipality from the record maintained by it and such owner shall be liable to a fine of five hundred rupees for the first offence and seven hundred rupees for subsequent offence which shall be imposed by the municipality.]

(5) If the municipality fails in identifying such stray cattle due to tempering with identification mark or mutilation thereof, it shall report the matter to the In-charge of the nearest Animal Husbandry Dispensary who shall lodge the stray cattle to the nearest Goshala.]

151. Prohibition by municipality of use of unwholesome water.- Should the municipality, on the report of the Health Officer, consider that the water in any well, tank or other place is likely if, used for drinking to endanger or cause the spread of any dangerous disease, it may -

(a) by public notice prohibit the removal or use of such water for drinking ;

(b) by notice require the owner or person having control of such well, tank or place to take such steps as may be specified in the notice to prevent the public from having access to or using such water ; or

(c) take such steps as it may, on the advice of the Health Officer consider expedient to prevent the danger or spread of any such disease.

152. Penalty for selling sub-standard food or drinks.- (1) Whoever sells to the prejudice of any purchaser, any article of food or drink which is not of the nature, substance or quality of the article demanded by such

84 purchaser,

shall be punishable with fine which may extend to five hundred rupees :

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say:-

(a) where any matter or ingredient not injurious to health has been added to food or drink for the production or preparation of the same as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure or conceal the inferior quality thereof ;

(b) where food or drink is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(2) In any prosecution under this section, it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser having bought such article only for analysis was not prejudiced by the sale.

(3) The provisions of this section shall be in addition to and not in derogation to the provisions of the Prevention of Food Adulteration Act, 1954 (7 of 1954).

153. Soliciting alms. - Whoever, in any street or public place within the municipal area begs importunately for alms, or exposes, exhibits, with the object of exciting charity, any deformity, or disease, or any offensive sore or wound, shall be punishable under the provision of the Himachal Pradesh Prevention of Beggary Act, 1979(22 of 1979).

154. Removal and deposit of offensive matter.- The municipality may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipal area for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

155. Preparation of compost manure. - Where the State Government so requires it shall be the duty of the municipality to subject all dung to the process of making compost manure.

156. Power to acquire etc.- (1) Where the property in any dung vests in any person or class of persons other than the municipality, the municipality, required under the last preceding section, shall acquire, either permanently or for such period as it may deem fit, the rights or interests in the dung belonging to the aforesaid persons, on payment of such compensation as the municipality may consider reasonable and may assess the same in the manner hereinafter provided.

85 (2) Where any such dung is requisitioned or acquired under this section the amount of compensation payable shall be determined in the manner and in accordance with the principles enumerated below :-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the municipality and the person or persons as aforesaid shall appoint an arbitrator having knowledge of the price of the property or interest in the dung requisitioned or acquired ;

(c) at the commencement of the proceedings before the arbitrator, the municipality and the person to be compensated shall state what, in their respective opinion is the fair amount of compensation ;

(d) the arbitrator in making his award shall take into consideration the market value of the dung in the locality, the damage, if any, resulting from diminution of the profits accruing to the person or persons aforesaid and any other factor of a like nature ; and

(e) save as otherwise hereinafter provided in the Act or the rules, nothing in any other law for the time being in force shall apply to arbitration under this section.

157. Right of appeal and revision.- (1) Any person aggrieved by an award made under section 156 may, within thirty days from the date of the communication to him of the award prefer an appeal in writing to the Deputy Commissioner of the district where in the municipality is situated.

(2) The Deputy Commissioner shall decide the appeal after sending for the records of the case from the municipality and after giving the parties an opportunity of being heard, and if necessary, after making such further enquiry as he thinks fit, either personally or through an officer subordinate to him.

(3) A further appeal shall lie to the State Government; provided that when the award is confirmed by the Deputy Commissioner no such appeal shall lie.

(4) The State Government may, at any time, call for the records of any case pending before or disposed of by the Deputy Commissioner:

Provided that this power shall not be exercised by the State Government when an appeal has been preferred to it under sub-section (3):

Provided further that the State Government shall not under this sub-section pass an order revising or modifying an order affecting any person without giving such person an opportunity of being heard.

86 **158. Bar of jurisdiction.-** No civil court shall have jurisdiction to entertain or adjudicate any suit, application or other proceedings relating to the right or interest to or in the compensation referred to in section 156 or section 157 or the amount or apportionment or the payment thereof or any matter connected therewith.

159. Failure to remove noxious matter.- Whoever, being the owner or occupier of any building or land, keeps knowingly or negligently or allows to be kept for more than twenty four hours, or otherwise than in some proper receptacle or pit any dirt, dung, bones, ashes, night soil or filth or any noxious or offensive matter in or upon such building or land or suffers any such receptacle or pit to be in a filthy or noxious state or neglects to employ proper means to cleanse and purify the same, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

1[**160.** and **161.************]

162. Nuisance by children and others.- Whoever permits any person under his control to whom the provisions of sections 82, 83 and 84 of the Indian Penal Code, 1860 (45 of 1860), are applicable to commit a nuisance upon any street or into any public sewer or drain or any drain communicating therewith, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

163. Definition of house scavenging.- The removal of filth, rubbish, ordure or other offensive matter from privy, latrine, urinal, cesspool or other common receptacle for such matter in or pertaining to a house or building is called house scavenging.

164. Undertaking by municipality of house scavenging.- (1) The municipality may, at any time, undertake the house scavenging of any house or building on the application or with the consent of the occupier.

(2) The municipality may by public notice undertake the house scavenging of any house or building in the municipal area from any date not less than two months after issue of the notice.

(3) The occupier of any house or building affected by the notice, may at any time, after the issue thereof, apply to the municipality to exclude that house or building from the notice.

(4) The municipality shall consider and pass orders upon every such application, within six weeks of the receipt thereof, by such order, exclude such house or building from the notice.

(5) In deciding whether to exclude any house or building from the notice, the municipality shall consider, among other matters, the efficiency of the arrangements for house scavenging made by the occupier, if any, and the

1 Sections 160 & 161 deleted vide Act No. 28 of 2005.

87 purpose to which he applies the filth, rubbish, ordure or other offensive matter.

1[(6) It shall be duty of the owners and occupiers of all premises to collect and deposit the garbage for further disposal by the municipality in the manner prescribed by the Executive Officer or Secretary, as the case may be, on payment of fee for such disposal as may be fixed by the Government.]

165. Abolition of customary rights.- (1) From the date of coming into force of this Act the customary rights, if any, of a safai mazdoor in respect of the house scavenging shall stand abolished.

(2) The municipality may, and shall if so required by the State Government, pay to the Safai Mazdoor whose customary rights have been abolished such amount by way of grant as it may deem proper. The amount and the person entitled thereto shall be determined in accordance with the rules.

166. Scavenging etc.- (1) No person shall carry night soil in any receptacle on his head.

(2) No person who is not more than eighteen years of age shall be engaged by any person to take up house scavenging or sweeping.

(3) Whoever contravenes the provisions of this section shall be, punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

167. Continuance of house scavenging once undertaken by municipality. - When once the municipality has undertaken the house scavenging of any house or building, under this Chapter, it may continue to perform such house scavenging with or without the consent of the occupier for the time being of such house or buildings.

168. Obligation of municipality to perform house scavenging properly.- When the municipality has undertaken the house-scavenging of any house or building, it shall be bound to perform the same properly, until it shall have relieved itself of the obligation by an order under sub-section (4) of section 164.

169. Power of municipal employees for house scavenging purposes.- The employees of the municipality employed in house scavenging may, at all reasonable times, do all things necessary for the proper performance of any house scavenging undertaken by the municipality.

170. Vesting in municipality or collection from house scavenging.- All matter removed by the employees of the municipality in the course of house scavenging shall belong to the municipality.

1 Sub-section (6) inserted vide Act No. 28 of 2005.

88 **171. Establishment of creches of Safai Mazdoors.-** The municipality may, and when so directed by the State Government shall, in the manner prescribed by rules, make provision for the establishment and maintenance of creches for the children of safai mazdoors, who are in the employment of the municipality or work in private houses.

172. Places for slaughter of animals for sale.- (1) The municipality may, and shall when so required by the State Government , fix premises with the approval of Deputy Commissioner either within or without the limits of the municipal area for the slaughter of animals for sale, or of any specified description of such animals, and may, with the like approval, grant and withdraw licences for the use of such premises, or if they belong to the municipality, charge rent or fees for the use of the same.

(2) When such premises have been fixed by the municipality beyond municipal limits, it shall, inspect and regulate the same in accordance with the bye-laws, as if they were within those limits.

(3) When any such premises have been fixed no person shall slaughter any such animal for sale within the municipal area at any other place.

(4) Any person who slaughters, for sale any animal at any place within a municipal area other than one fixed by the municipality under this section, if any places have been so fixed, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

173. Disposal of dead animals.- (1) Whenever any animal in the charge of any person dies otherwise than by slaughter either for sale or for some religious purpose, the person incharge thereof shall within twenty four hours either -

(a) convey the carcass to a place, if any, fixed by the municipality under section 154 for the disposal of the dead bodies of animals or to any place at least one kilometre beyond the limits of municipal area ; or

(b) give notice of the death to the municipality whereupon the municipality shall cause the carcass to be disposed of.

(2) In respect of the disposal of the dead body of an animal under clause (b) of sub-section (1) the municipality may charge such fees as the municipality may, by public notice have prescribed.

(3) For the purposes of this section the word "animal" shall be deemed to mean all horned cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats, swine and other large animals.

89 (4) Any person bound to act in accordance with sub-section (1) of this section shall, if he fails so to act, be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

174. Powers in connection with streets.- The municipality.-

(a) may lay out and make a new public street and construction tunnels and the works subsidiary thereto ;

(b) may widen, lengthen, extend, enlarge, raise or lower the level of or otherwise improve any existing public street vested in the municipality ;

(c) may close temporarily any public street or any part thereof for any public purpose ;

(d) may turn, divert, discontinue or close any public street so vested ;

(e) may provide within its discretion building sites of such dimensions as it deems fit, to abut on or adjoin any public street made, widened, lengthened, extended, enlarged, improved, or the level of which has been raised or lowered by the municipality under clauses (a) and (b) or by the State Government ;

(f) subject to the provision of any rule prescribing the conditions on which property may be acquired by the municipality may acquire any land, alongwith the building thereon, which it deems necessary for the purpose of any scheme or work undertaken or projected in exercise of the powers conferred under the preceding clause ;

(g) subject to the provisions of any rules prescribing the conditions on which property vesting in the municipality may be transferred, may lease, sell or otherwise dispose of any property acquired by the municipality under clause (f); or any land vesting in and used by the municipality for a public street and no longer required therefor and in so doing may impose conditions regulating the removal and construction of buildings upon it and the other uses to which such land may be put:

Provided that land owned by proprietors other than the State Government shall become the absolute property of the municipality after it has continuously vested in the municipality for use as a public street for a period of twenty five years ; but that the possession of such land which ceases to be required for use as a public street before the expiry of twenty five years from the time it became vested in the municipality shall be transferred to the proprietor thereof, on payment by him of reasonable compensation to the municipality for the improvements of such land, and subject to such restrictions as the municipality may impose on the future use of such land, and

90 that should the proprietor be unable or unwilling to pay the amount of such compensation the municipality may, subject to such conditions as it may deem fit, sell the land and shall pay to the owner the proceeds, if any, over and above the amount of such compensation, which shall be paid into the municipal fund, or may dispose it of in such manner as it may deem fit.

175. Protection of streets during cutting down of trees, erection or demolition of buildings.- (1) No person shall cut down any tree or cut off a branch of any tree, or erect or demolish any building or a part of a building or alter or repair the out side of any building, where such action is of a nature to cause obstruction, danger or annoyance, or risk of obstruction, danger or annoyance to any person using a street, without the previous permission in writing of the municipality.

(2) The municipality may at any time by notice require that any person doing or proposing to do any of the acts, referred to in sub-section (1) shall refrain from beginning or continuing the act unless he puts up, maintains, and provides from sun set to sun rise with sufficient lighting such hoardings or screens as are specified or described in the notice and may further at any time by notice require the removal, within a time to be specified in the notice, of any hoarding or screen erected in anticipation or in pursuance of any of the said acts.

(3) Whoever contravenes the provisions of sub-section (1) or fails to comply with the terms of a notice under sub-section (2) shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees and when the contravention of non-compliance is a continuing one, with a further fine of ten rupees for every day after the first during which the contravention or non-compliance continues.

176. Notice to lay out street.- (1) No person shall lay out or make or commence to lay out or make a street without the sanction of the municipality .

(2) Every person who intends to lay out or make a street shall give notice in writing to the municipality of such intention.

(3) Where a municipality has issued an order under clause (b) of section 177 no notice under sub-section (2) shall be deemed to be valid until the particulars required under such order have been furnished to the satisfaction of the municipality.

177. Order of notice under section 176.- The municipality may, within one month of the receipt of the notice required by sub-section (2) of section 176 issue -

(a) an 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

(b) an order requiring further particulars.

91 **178. Sanction of new street.-** The Municipality may, within two months of the receipt of the notice required by sub-section (2) of section 176 refuse to sanction the proposed street, or may sanction it either absolutely or subject to such written direction as to levelling, metalling, paving means of drainage, direction and width as the municipality may deem fit to issue, and the person laying out or making such streets shall comply with the sanction of the municipality in every particular :

Provided that should the municipality neglect or omit for two months after the receipt of such notice, or if an order has been issued under clause (b) of section 177, fails within the period specified in such order, to make and deliver to the person who has given such an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed street absolutely.

179. Operation of sanction.- Every sanction for the laying out or making of a street which shall be given or be deemed to have been given, by a municipality, shall remain in force for one year only from the date of such sanction. Should the laying out or making of the street not have been commenced within the said period of one year, the sanction shall be deemed to have lapsed, but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Act.

Explanation.- A street shall be deemed to be made or laid out when it is demarcated on the ground made by permanent boundary marks.

180. Penalty.- Whoever begins, continues or completes the laying out or making of a street without giving the notice required by section 176 or in contravention of any written directions made under section 178 or of any bye-law or provision of this Act, shall be liable to a fine which shall not be less than fifty rupees and more than five hundred rupees.

181. Notice to owner of land under street.- In any case where the municipality considers that any land is being or has been laid out as a street without the notice required by section 176 having been given or in contravention of any written direction made by the municipality under section 178 or of any bye-law or provisions of this Act, the municipality may, by notice in writing, require the owner of the land to alter the street in such manner as it deems necessary.

182. Power to require repairs of street and to declare such street public.- (1) (a) When the municipality considers that in any street other than a public street, or in any part of such street within the municipal area, it is necessary for the public health, convenience or safety, that any work should be done for the levelling or cleaning thereof the municipality may by written notice require the owner or owners of such streets or part thereof, to carry out such works in a manner and within a time to be specified in such notice.

(b) Should the owner refuse or should he fail to carry out the work in the time specified, the municipality may, by written notice, require the owners

92 of the land

or buildings, fronting, adjoining, or abutting upon such street or part thereof to carry out the work in such manner and within such time as may be specified in the notice.

(2) If compliance with the terms of the notice issued under clause (b) of sub-section (1) is not effected within the time specified, the municipality may, if it thinks fit, itself execute the work and may recover, as arrears of tax under section 87, the expenses incurred in doing so in such proportion as it may deem equitable from the owner of the street and the persons served with a notice under clause (b) of sub-section (1).

(3) After such work has been carried out by the persons served with a notice under clause (b) of sub-section (1) or as provided in sub-section (2) by the municipality at the expense of such persons and the owner of the street, the street or part thereof, in which such work has been done, may and on the requisition of the owner or owners of the major portion of the said street or part thereof or on the requisition of a majority of the persons served with a notice under clause (b) of sub-section (1), it shall be declared by a public notice to be put up therein by the municipality to be a public street and shall vest in the municipality.

(4) A municipality may at any time, by notice fixed up in any street or part thereof not maintainable by the municipality, give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or any one of several owners of such street or such part of a street, lodge objection 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 vested in the municipality.

183. Punishment for encroachment or over hanging structure over street.- (1) Whoever, without the written permission of the municipality, makes any immovable encroachment on or under any street, on, over or under any sewer, or water course, or erects or re-erects any immovable overhanging structure projecting into a street at any point about the said ground level, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

(2) Without prejudice to the provisions of sub-section (1), the municipality may, by notice, call upon any person who has committed a breach of the provisions contained in the said sub-section to stop the un-authorised construction forthwith and to remove or alter such immovable encroachment or over hanging structure as aforesaid within a period of seven days and if such person fails to show cause to the satisfaction of the municipality within the said period of seven days, the municipality may itself take such measures as may appear to it to be necessary to give effect to the order and the cost of such measures shall, if not paid on demand being made to him, be recoverable from such person as arrears of land revenue.

184. Permission of occupation of public street and removal of obstruction.- (1) The municipality may grant permission in writing, on such conditions as may be approved by the Deputy Commissioner for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may at its discretion withdraw the permission, to any person to -

(a) place in front of any building any moveable encroachment upon the ground level of any public street or over or on any sewer drain or water course or any moveable over hanging structure projecting into such public street at a point above the said ground level ;

(b) take up or alter the pavement or other materials for the fences of posts of any public street ;

(c) deposit or cause to be deposited building materials, goods for sale, or other articles on any public street ;

(d) make any hole or excavation on, in or under any street, or remove materials from beneath any street, so as to cause risk of subsidence; or

(e) erect or set up any fence, post, stall or scaffolding in any public street,

and may charge fees according to a scale to be approved by the Deputy Commissioner for such permission.

(2) Whoever does any of the acts mentioned in sub-section (1) without the written permission of the municipality shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees and the municipality or the Executive Officer or the Secretary or the Health Officer or any person authorised by the municipality may,-

(i) after reasonable opportunity has been given to the owner to remove his material and if he has failed to do so, remove or cause to be removed by the Police, or any other agency, any such moveable encroachments or over hanging structures and any such material, goods or articles of merchandise and any such fence, post, stall, or scaffolding ;

(ii) take measures to restore the street to the condition it was in before any such alteration, excavation or damage.

(3) If the material specified in clause (i) of sub-section (2) has not been claimed by the owner within a fortnight of its having been deposited for safe custody by the

municipality or if the owner fails to pay to the municipality the actual cost of removal or deposit in safe custody, the municipality may have the material sold by auction at the risk of the owner, and the balance of the proceeds of such sale shall after deduction of the

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expenditure incurred by the municipality be paid to the owner, or if the owner cannot be found, or refuses to accept payment the balance shall be kept in deposit by the municipality until claimed by the person entitled thereto, and if no claim is made within two years the municipality may credit the amount to the municipal fund.

Explanation.- For the purposes of this section moveable encroachment includes a seat or settee, and moveable over hanging structure includes an awning of any material.

185. Power of Deputy Commissioner to remove encroachments.- Notwithstanding anything contained in sections 183 and 184, the Deputy Commissioner may, within his jurisdiction, order any person responsible for any encroachment as specified in sections 183 and 184 to remove or alter such encroachment within a specified time not exceeding two weeks and on non-compliance with such order may remove or alter such encroachment and recover all expenses thereby incurred from the person, as arrears of tax under section 87.

186. Power to regulate line of a street.- (1) Should any house, shop, wall or other building or part of a building project beyond the regular line of a street, either as existing or as determined for the future, or beyond the front of the building on either side thereof, the municipality may, whenever such house, shop, wall or other building or part thereof , has been either entirely or in greater part taken down or burned down, or has fallen down, by notice require such building or part when being rebuilt to be set back to or towards the said regular line or the front of the adjoining buildings ; and the portion of the land added to the street by such setting back or removal shall become a part of the street and shall vest in the municipality :

Provided that the municipality shall make full compensation to the owner of the building, or of the land thus vacated, for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The municipality may, on such terms as it may think fit, allow any building to be set forward for the improvement of the line of the street.

187. Government street.- Notwithstanding anything contained in sections 183, 184 or 186, or in clause (v) of section 202 and subject to any general or special order that the State Government may make in this behalf, if any street is vested in the State Government -

(a) the municipality shall not, in respect of such street, grant permission to do any act the doing of which without the written permission of the municipality is punishable under section 183 or section 184 or allow any building to be set forward under the provisions of sub-section (2) of section 186 except with the sanction of the State Government which may be given in respect of a class of cases generally or in respect of a particular case;

(b) the municipality shall, if so required by the State Government, exercise the power conferred upon it by sub-section (2) of section 183 or sub-section (2) of section 184 or sub-section (1) of section 186 or clause (v) of section 202 or any bye-law made in exercise of the power conferred by clause (v) of section 202 in respect of any encroachment or over hanging structure on or over such street or any material, goods or articles of merchandise deposited on such street, or fence, post, stall or scaffolding erected or set up in any such street or in respect of any

building or part of a building which projects beyond the regular line of such street.

188. Removal of over hanging structures.- The municipality may, subject to the payment of reasonable compensation, by notice require the owner or occupier of any building within a period of not less than six weeks, to be specified in such notice, to remove or alter any balcony, projection, structure or verandah, erected with the sanction of the municipality, over hanging, projecting into or encroaching on any street or on any drain, sewer or aqueduct therein.

189. Power to attach brackets for lamps. -The municipality may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

190. Construction of stalls.- The municipality may, and if so required by the State Government shall construct stalls, and shall lease them out to any person on such conditions as the State Government may by general or special order specify.

191. Destroying direction-posts, lamp-posts, etc.- Whoever, without being authorised by the municipality, defaces or disturbs any municipal directions-post, lamp post or lamp or extinguishes any municipal light, any public place, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

192. Bill-sticking without permission.- (1) Whoever, without the consent of the owner or occupier or other person for the time being in-charge, affixes any posting bill, notice placard or other paper or means of advertisement against or upon any building, wall, tree, board, fence or pale or writes upon soils, defaces or marks any such building, wall, tree, board, fence or pale, with chalk or paint or in any other way whatsoever, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

(2) Notwithstanding anything contained in section 247 a court may take cognizance of an offence under sub-section (1) of this section upon the complaint of the owner or occupier or other person incharge of the property in respect of which offence is alleged to have been committed.

193. Names or numbers of streets, buildings etc. - (1) The municipality may cause a name or number to be given to any street, chowk, locality or building, and to be affixed on any chowk, locality or building in such place as it may think fit.

(2) Whoever shall destroy, pull down or deface any name or number affixed to any street, chowk, locality or building under this section, or put up any different name or number from that put up by order of the municipality shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

194. Inflammable materials.- The municipality may, where it appears to be necessary for the prevention of danger to life or property by public notice, prohibit all persons from stacking or collecting timber, wood, dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

195. Roofs and external walls not to be made of inflammable materials. - The municipality may direct that, within certain limits, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the municipality in writing; and the municipality may, by written notice, require any person, who has disobeyed any such direction, remove or alter the roofs or walls so made or renewed, as it may think fit.

196. Picketing animals and collecting carts.- (1) Whoever, without the permission of the municipality, pickets animals or collects carts on any street, or uses any street as a halting place, for vehicles or animals of any description or as a place of encampment or causes or permits animals to stray shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

(2) Any animal found picketed, tethered or straying on any public street without the permission of the municipality may be removed to a pound by any employee of the municipality or by a police officer.

197. Driving vehicles without proper lights.- (1) Whoever drives or propels any vehicle not properly supplied with lights in any street during the period from half an hour after sun-set to half an hour before sun-rise, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

(2) Whoever, in driving, leading or propelling vehicle along a street, fails without reasonable excuse -

(a) to keep to the left, or

(b) when he is passing vehicle going in the same direction, to keep to right of that vehicle shall be liable to a fine which shall not be less than twenty five rupees and more than two hundred rupees.

198. Beating drums etc.- Whoever, in contravention of any general or special prohibition issued by the municipality without the permission of the municipality, beats a drum or tomtom, blows a horn or trumpet or beats or sounds any brass or other instrument or utensil, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

Explanation-I.- In the case of bands, each individual member of such band shall be punishable under this section.

Explanation-II.- For the purposes of this section "instrument" shall include a gramophone, a wireless receiver, a loudspeaker or any electrically or mechanically operated instrument capable of producing loud noises.

199. Discharging fire-arms etc.- Whoever discharges fire arms or lets off fire works, fire balloons or detonators, or engages in any game, in such a manner as to cause or likely to cause, danger to persons passing by a dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

200. Building operations, quarrying, blasting or cutting timber.- Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

201. Powers to levy fee at fair.- A municipality may, with the previous sanction of the Deputy Commissioner, levy small fees on each person attending a fair on which the municipality incurs expenditure under clause (j) of sub-section (2) of section 53 and on persons exposing goods for sale and all persons carrying on any occupation for gain, except water carriers, scavengers and others employed in connection with the fair, for defraying the cost of sanitary arrangements, watch and ward and the like.

CHAPTER XI

BYE-LAWS

202. General bye-laws.-A municipality may,[1][xxxxxxx] by bye-laws-

(a) render licences necessary for the proprietors or drivers of vehicles, other than motor vehicles or animals kept or plying for hire within the limits of

the municipal area, and fix the fees payable for such licences and conditions on which they are to be granted and may be revoked and may by such conditions provide among other things for a minimum breadth for wheel tyres, and for a minimum diameter of the wheel;

(b) limit the rates which may be demanded for the hire of any carriage, cart, or other conveyance, or of animals hired to carry loads or persons, or for the services of persons hired to carry loads or to impel or carry such conveyances, and limit the loads which may be carried by any animal, or carriage, cart, or other conveyance, plying for hire, within the limits of the municipal area;

(c) provide, save as provided under the Registration of Birth and Deaths Act, 1969 for the proper registration of births and deaths and for recording vital statistics ;

(d) fix, and from time to time vary, the number of persons who may occupy a building or part of a building, which is let in lodgings or occupied by members of more than one family or which is situated within such congested bazaar areas as may be specified in the bye-laws ; and provide -

(i) for the registration and inspection of such buildings ;

(ii) for the licensing of hotels and lodging-houses and for the fees payable for such licenses and the condition on which they may be granted or revoked ;

(iii) for promoting cleanliness and ventilation in such buildings;

1.The words ―and shall if so required by the State Government‖ omitted vide Act no. 33 of 2011.

(iv) for the notices to be given and the precautions to be taken in the case of any infectious or contagious disease breaking out in such buildings ;

(v) for the scavenging, removal and disposal of all rubbish, filth, night-soil, sullage or sewage in such buildings ;

(vi) in the case of hotel, sarai and lodging house-keepers and the secretaries of residential clubs for the maintenance of registers in such forms as the municipality may prescribe, of visitors and lodgers ; and

(vii) generally for the proper regulation of such buildings ;

(e) provide -

(i) for the inspection and proper regulation of encamping grounds, pounds, sarais, bakeries, aerated-water factories, ice factories, dhobi ghats, flour mills, foodgrain godowns, dispensing chemists, shops, slaughter-houses, and places licensed under section 125 ;

(ii) for the inspection and proper regulation of markets and stalls, for the preparation and exhibition of a list of current price and fixing the fees, rents and other charges, to be levied in such markets and stalls ;

(iii) for the holding of fairs and industrial exhibitions within the municipal area, or under the control of the municipality, and for the collection of fees under section 201 ;

(iv) for controlling and regulating the use and management of burial and burning grounds ;

(v) for the supervision, regulation and protection of public wells, tanks, springs or other sources from which water is or may be made available for the use of the public, whether within or outside the municipal area ;

(vi) for the licensing, inspection and proper regulation of theatres and other places of public resort, recreation or amusement ;

(vii) for the inspection and proper regulation of channels which are supplied with water from any canal to which either the Northern Indian Canals and Drainage Act, 1873 (8 of 1873), or the Himachal Pradesh Minor Canals Act, 1976 (42 of 1976), applies ;

(f) require and regulate the appointment by owners of buildings or land in the municipal area, who are not resident in the municipal area, or persons residing within or near the municipal area to act as their agents for all or any of the purposes of this Act or the rules ;

(g) render licences necessary for using premises as stables, cow-houses or houses of enclosures for sheep, goats, or swine, and regulate the grant and withdrawal of such licences ;

(h) in any municipal area where a reasonable number of slaughter houses have been provided or licenced by the municipality, control, regulate or prohibit the admission within the municipal limits for the purpose of sale of the flesh other than cured or preserved meat, of any cattle, sheep, goat or swine slaughtered at any slaughter-house or place not maintained or licensed under this Act, and may provide for the seizure, destruction or disposal otherwise of any flesh brought within the municipal limits in contravention of any such bye-law.

(i) fix premises, within the Municipal area in which the slaughter of animals of any particular kind not for sale, shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within the Municipal area :

Provided that no such bye-laws shall apply to animals slaughtered for any religious purpose;

(j) prohibit the letting off of fire-arms, fire works, fire- balloons, bombs or detonators except (1) with the permission of the municipality or of a municipal officer empowered to give such permission, (2) subject to such conditions as the municipality may impose, and (3) on payment of such fees, if any, as may at any time have been fixed by the municipality in that behalf;

(k) regulate the conditions on which the consent of municipality to establish new factories or workshops be given under section 126 ;

(l) provide for the issue of directions for abatement of nuisance caused by the steam, water, electrical, mechanical or other power ;

(m) regulate the making and use of connections or communications between private houses and premises

and mains or service cables, wires, pipes, drains, sewers and other channels established or maintained by the municipality under any of the provisions of this Act ;

(n) regulate the collection, storage, preservation from pollution and use of rain water, and the carrying out of the provisions of sections 100 to 106 ;

(o) regulate the posting of bills and advertisement, and the position, size, shape, and style of name boards, sign- boards and sign-posts ;

(p) provide for, regulate, require or prohibit the construction, pattern of construction, maintenance and materials of boundary walls hedges and fences hereafter erected or re- erected so as to abut on a public street or upon property vested in the municipality ;

(q) regulate or prohibit any description of traffic in the streets and provide for the reduction of noise caused thereby ;

(r) prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum, spirit, naptha or other inflammable material in any building not registered or licensed under section 125 ;

(s) provide for the seizure and confiscation of ownerless animals straying within the limits of the municipal area;

(t) provide for the registration of all or any specified classes of dogs, and in particular and without prejudice to the generality of the foregoing .-

(i) provide for the imposition of an annual fee for such registration ;

(ii) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the municipality ;

(iii) provide that any dog not registered and wearing such token, may, if found in any public place, be detained at a place to be set apart for the purpose, and will be liable to be destroyed or otherwise disposed of after a period to be specified in the bye-laws ;

(u) render licences necessary for hand carts employed for transport, or hawking articles for sale, and for the persons using such hand carts, and prescribe the conditions for the grant and revocation of such licences ;

(v) regulate the conditions on which and the period for which permission may be given under sub-section (1) of section 183 and sub-section (1) of section 184, and provide for the levy of fees and rents for such permission ;

(w) licences necessary for hand carts employed for transport, or hawking articles for sale, and for the persons using such hand carts, and prescribe the conditions for the grant and revocation of such licences ;

(x) generally provide for carrying out the purposes of this Act ;

(y) for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appear to the municipality to be necessary for the maintenance of water supply, the preservation of soil, the prevention of land slips or of the formation of ravines or torrents, or the protection of land against erosion of the deposit thereon of sand, gravel or stones;

(z) for fixing places where timber or wood of any description may be stacked, and for regulating the manner in which such timber or wood, as the case may be, stacked, where such regulation appears to the municipality to be necessary for the prevention of fire or other danger or grave inconvenience to the public or of landslips or other injurious disturbance of the surface of any land ;

(za) for fixing charges in the municipal area -

(i) for persons working as job porters for the conveyance of goods ;

(ii) for animals or carriages let out on hire for a day or part thereof ; and

(iii) for persons impelling or carrying carriages ;

(zb) for fixing the fees payable for such licences as are referred to in this section, and the conditions on which such licences are to be granted and may be revoked.

203. Prohibition to erect buildings without sanction. - (1) No person shall erect or re-erect or commence to erect or re-erect any building without the sanction of the municipality.

(2) Every person who intends to erect or re-erect any building shall give notice in writing to the municipality of such intention.

(3) The municipality shall by bye-law -

(a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the municipality ;

(b) require that with every such notice shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building, of such character and with such details as the bye-law may require :

[1][Provided that every such plan and specification shall be duly signed by a qualified Structural Engineer or Architect or Planner or Junior Engineer or Draughtsman who is registered with the municipality, on payment of such fee as may be fixed by the municipality;]

Explanation.- For the purposes of this clause the expression "a qualified Structural Engineer" means a graduate (civil) engineer ; and

(c) where the building appears likely to be used as a factory, require the provision of adequate housing accommodation in connection therewith :

Provided that the State Government may of its own or on a representation from any municipality alter, vary or modify the bye-laws so as to suit the particular needs of the municipality.

(4) Where bye-laws have been framed under this section, no notice under sub-section (2) shall be considered to be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the municipality.

204. Power of municipality to make bye-laws as to erection or re-erection of building. - (1) The municipality may, [2][xxxxxxx] make bye-laws to regulate in respect of the erection or re-erection of any building within the municipal area or part thereof -

(a) the materials and method of construction to be used for external and partition walls, roofs, floors, stair-cases, lifts, fire places and chimneys;

(b) the materials and method of construction and position of fire places, chimneys, drains, water seal latrines, privies, urinals and cesspools.

Explanation.- For the purpose of this clause "Water seal latrine"

1. Proviso subs. vide Act No. 20 of 2007.

2.The words ―if so required by the State Government‖ omitted vide Act no. 33 of 2011.

means a latrine with a minimum water seal of 20 mm in which excreta is pushed in or flushed by water and is not required to be removed manually;

(c) the height and slope of the roof above the upper-most floor upon which human beings are to live or cooking operations are to be carried on ;

(d) the ventilation and the space to be left about the building to secure the free circulation of air and for the prevention of fire ;

(e) the line of frontage where the building abuts on a street ;

(f) the number and height of the storeys of which the building may consist ;

(g) the means to be provided for egress from the building in case of fire ;

(h) the materials and method of construction to be used for godowns intended for the storage of food grains in excess of twenty five quintals, in order to render them rat proof ;

(i) the minimum dimensions of rooms intended for use as living rooms or sleeping rooms ;

(j) the ventilation of rooms and the minimum dimension of doors and windows ;

(k) the position and dimensions of projections beyond the outer face of any external wall of a building ;

(l) the height of factory chimneys and the provision to be made for consumption of smoke arising from the combustible used in any fire-place or furnace in a factory.

(2) Notwithstanding anything contained in section 208 no person shall erect or re-erect any building in contravention of any bye-law made under sub-section (1).

205. Building scheme.- (1) The municipality may and if so required by the Deputy Commissioner shall, within six months of the date of such requisition, draw up a building scheme for built areas, and a town planning scheme for un-built areas, which may among other things provide for the following matters, namely -

(a) the restriction of the erection or re-erection of buildings or any class of buildings in the whole of or any part of the municipal area and of the use to which they may be put ;

(b) the prescription of a building line on either side or both sides of any street existing or proposed ;

(c) the amount of land in such inbuilt area which shall be transferred to the municipality for public purposes including use as public streets by owners of land either on payment of compensation or otherwise, provided that the total amount so transferred shall not exceed forty

per centum, and the amount transferred without payment shall not exceed twenty five per centum, of any one owner's land within such inbuilt area; (d) the determination of the size and shape of a reconstituted plot so as to render it suitable for building purposes and where the plot is already built upon, to ensure that the building, so far as possible, complies with the provisions of the scheme in respect of open spaces ;

(e) the formation of a re-constituted plot by the alteration of the boundaries of an original plot ;

(f) the formation of a reconstituted plot by the transfer wholly or partly of the adjoining lands ;

(g) the allotment of a plot to any owner dispossessed of land in the furtherance of the scheme ;

(h) the transfer of ownership of a plot from one person to another ; and

(i) the details of the internal services, estimated cost for providing them, the extent of the liability of the owners of buildings and lands for the payment of the cost and the manner of payment of the same.

Explanation.- For the purposes of this section -

(1) the "reconstituted plot" shall mean a plot which is altered in ownership or otherwise as a result of making of a town planning scheme ;

(2) "Internal services" shall mean,-

(i) metalling of roads and paving of footpaths ; (ii) turfing and plantations with trees of open spaces;

(iii) street lighting ;

(iv) adequate and wholesome water-supply ;

(v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal ; and (vi) any other works that the municipality may think necessary for the development of the area comprised in the scheme.

(2) When a scheme has been drawn up under the provisions of sub-section (1), the municipality shall give public notice of such schemes and shall at the same time intimate a date not less than thirty days from the date of such notice by which any person may submit to the municipality in writing any objection or suggestion with regard to such scheme which he may wish to make.

(3) The municipality shall consider every objection or suggestion with regard to the scheme which may be received by the date intimated under the provisions of sub-section (2) and may modify the scheme in consequence of any such objection or suggestion and shall then forward such scheme as originally drawn up or as modified to the Deputy Commissioner, who may, if he thinks fit, return to the municipality for reconsideration and resubmission by a specified date; and the Deputy Commissioner shall submit the plans as forwarded, or as re-submitted, as the case may be, with his opinion to the State Government, who may sanction such scheme or may refuse to sanction it or may return it to the municipality for reconsideration and re-submission by a specified date.

(4) If a municipality fails to submit a scheme within six months of being required to do so under sub-section (1) or fails to re-submit a scheme by a specified date, when required to do so under sub-section (3) or re-submits a scheme which is not approved by the State Government, the Deputy Commissioner may draw up a scheme of which public notice shall be given by notification and by publication within the municipal area together with an intimation of the date by which any person may submit in writing to the Deputy Commissioner any objection or suggestion which he may wish to make, and the Deputy Commissioner shall forward with his opinion any such objection or suggestion to the State Government, and the State Government may sanction such scheme as originally notified or modified in consequence of any such objection or suggestion, as

the State Government may think fit, and the cost of such scheme or such portion of the cost as the State Government may deem fit, shall be defrayed from the municipal fund.

(5) When sanctioning a scheme the State Government may impose conditions for the submission of periodical reports on the progress of the scheme to the Deputy Commissioner or to the State Government, and for the inspection and supervision of the scheme by the State Government.

(6) After the scheme has been sanctioned, the municipality shall proceed to provide internal services as soon as possible and complete it within a period of five years from the date of its sanction.

206. Regularisation of certain buildings.- (1) Notwithstanding anything contained in section 205, the State Government may, in the public interest, regularise the buildings in any area whether constructed with or without sanction of the municipality and for which no building scheme or town planning scheme has been sanctioned.

(2) The municipality may, in respect of the area covered under sub-section (1) of section 205 proceed to provide internal services as defined in sub-section (1) of section 205 to the owners of the buildings and plots and

shall impose a fee for providing the same in accordance with the provisions of section 70.

207. Punishment for erection or re-erection of a building on sanction of a building scheme under section 205. - If under the provisions of any scheme sanctioned under section 205 the erection or re-erection of buildings in a specified area for a specified purpose is prohibited, any person who after such scheme is sanctioned uses any building for such purpose shall, unless it was used for this purpose before the scheme was sanctioned, on conviction be liable to a fine which shall not be less than one hundred rupees and more than five hundred rupees and if after such conviction, he continues to use such building for such purpose shall be liable to a further fine of fifty rupees for every day during which such use continues.

208. Powers of municipality to sanction or refuse erection or re-erection of buildings. - (1) The municipality shall refuse to sanction the erection or re-erection of any building in contravention of any bye-law made under sub-section (1) of section 204 or in contravention of any scheme sanctioned under sub-section (3) or sub-section (4) of section 205, unless it be necessary to sanction the erection of a building in contravention of such a scheme owing to the municipality‘s inability to pay compensation as required by section 186 for the setting back of a building.

(2) When the erection or re-erection of a building is likely in the opinion of the municipality to interfere with the enforcement of a scheme proposed under section 205, the municipality may refuse its sanction, and in such case shall communicate its refusal in writing together with the ground therefor, to the applicant within sixty days of the receipt of his application and the applicant may thereafter by written notice require the municipality to proceed with the preparation of the proposed scheme with all possible speed. The application shall be deemed to have been sanctioned if an order of refusal is not passed by the municipality, within the time specified above, or if the proposed scheme has not received the sanction of the State Government within twelve months of the date of delivery of applicant's written notice hereinbefore referred to :

Provided that should a resolution refusing such sanction be suspended under section 263, the period prescribed above shall commence to run afresh from the date of communication of final orders by the Director or the Deputy Commissioner under section 266.

Explanation.- A scheme shall be deemed to have been proposed under this section if a requisition for its preparation has been received by the municipality from the Deputy

Commissioner or if the preparation of the scheme is under the consideration of the municipality.

(3) The municipality, may refuse to sanction the erection or re-erection of any building for any other reason, to be communicated in writing

to the applicant, which it, deems to be just and sufficient as affecting such building, or if on the land, which it is proposed to erect or re-erect such building in vested in the Government or in the municipality, and the consent of the concerned Government or, as the case may be, of the municipality has not been obtained, or if the title to the land is in dispute between such person and the municipality or any Government.

(4) Subject to the provisions of sub-section (1) the municipality, may sanction the erection or re-erection of any building either absolutely or subject to such modifications in accordance with the bye-laws and rules as it may deem fit.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (3) but subject to the provisions of sub-section (2) of section 204 and sub-section (2) of this section if the municipality neglects or omits, within sixty days of the receipt from any person of a valid notice of such person's intention to erect or re-erect a building, or within one hundred twenty days, if the notice relates to a building on the same or part of the same site, on which sanction for the erection of a building has been refused within the previous twelve months, to pass orders sanctioning or refusing to sanction such erection or re-erection, such erection or re-erection shall, unless the land on which it is proposed to erect or re-erect such buildings belongs to or vests in the municipality, be deemed to have been sanctioned, except in so far as it may contravene any bye-law, or any building or town planning scheme sanctioned under section 205 :

Provided that should a resolution convey in or refusing such sanction be suspended under section 263, the period prescribed under this sub-section shall commence to run afresh from the date of communication of final orders by the Director or the Deputy Commissioner under section 266 :

Provided further that if not less than one fifth of the members present vote against a resolution conveying sanction, the sanction shall be deemed not to have been conveyed until after the lapse of fourteen days from the passing of the resolution.

209. Power of municipality to direct modification of sanctioned plan of a building before its completion. - (1) For the purposes of drawing up of a building scheme for built up areas and a town planning scheme for unbuilt up areas, the municipality may, and if so required by the State Government shall, cause the geological survey of the municipal area conducted by such persons and in such manner as may be prescribed.

(2) Where the building plan is sanctioned, the person, at whose instance building operations are to be carried out shall, after the excavation of the foundation and before starting construction thereon, intimate the municipality about the excavation of the foundation.

(3) For the purpose of ascertaining, whether the strata of the land, over which a building is to be erected is geologically fit, and the building operation thereon can be carried out in accordance with the sanctioned plan, the municipality may, within seven days from the intimation under sub-section (2), cause inspection of excavated foundation to be made by such persons as it may direct, and in such manner as may be prescribed:

Provided that the person at whose instance the building operations are carried out shall be associated in the inspection.

(4) The persons making the inspection under sub-section (3), may communicate to the person, from whom intimation under sub-section (2) has been received, its views in

regard to the result of such inspection and may after ascertaining the opinion of the said person, recommend to that person the action to be taken as a result of such inspection and also report to the Executive Officer of the municipality, the action, if any, which is proposed to be taken for the purposes of implementation of any such recommendation.

(5) On the receipt of the report under sub-section (4), the municipality may, within seven days from the date of intimation under sub-section (2), give such direction to the person concerned, as it may deem fit.

(6) Notwithstanding anything contained in the preceding sub-sections, if at any time before the completion of a building of which the erection has been sanctioned under section 208, the municipality finds that any modification of the sanctioned plan is necessary, the municipality may, subject to the compensation for any loss to which the owner may be put, direct that building be modified accordingly.

210. Completion Certificate and lapse of sanction.- (1) Every person shall, within one month after the completion of the erection of the whole or part of the building, deliver or send or cause to be delivered or sent to the Executive Officer a notice in writing of such completion or part of completion accompanied by a certificate in the Form prescribed by bye-laws made in this behalf and shall give to the Executive Officer all necessary facilities for the inspection of such building or part of the building.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or part thereof until permission has been granted by the Executive Officer in this behalf in accordance with the bye-laws made under this Act:

Provided that if the Executive Officer fails within a period of thirty days after the receipt of the notice of completion to communicate his refusal to grant such permission such permission shall be deemed to have been granted.

[1][XXXXXXXXXXXXXXXXXXXXXXXXXX]

211. Penalty for disobedience. - (1) Should a building be begun, erected or re-erected -

(a) without sanction as required by sub-section (1) of section 203 ; or

(b) without notice as required by sub-section (2) of section 203 ; or

(c) when sanction has been refused,

the municipality may, by notice, delivered to the owner within six months from the completion of building, require the building to be altered or demolished as it may deem necessary within the period specified in such notice; and should it be begun or erected -

(d) in contravention of the terms of any sanction granted ;

(e) when the sanction lapsed ; or

(f) in contravention of any bye-law made under section 204 or, in the case of a building, of which the erection has been deemed to be sanctioned under sub-section (5) of section 208, if it contravenes any scheme sanctioned under section 205,

the municipality may by notice to be delivered to the owner within six months from the completion of the building, require the building to be altered in such manner as it may deem necessary, within the period specified in such notice:

Provided that the municipality shall require a building to be demolished or altered so for as is necessary to avoid contravention of a building scheme drawn up under section 205:

Provided further that where the erection of the work has not been completed, the Executive Officer may by the same or separate order, whether made at the time of the

issue of the notice under this sub-section or at any other time, direct the person to stop erection or work till the expiry of the period within which an appeal against the order of demolition if made, may be preferred under sub-section (1) of section 212:

Provided further that if any notice issued by the Executive Officer or Secretary, as the case may be, under this section on the ground that a building has been begun or has been erected in contravention of the terms of any sanction granted or in contravention of any bye-law made under section 204, the person to whom the notice is issued may, within fifteen days from the date of service of such notice, appeal to the municipality and subject to the provisions of sections 212, 263 and 269, the decision of the municipality shall be final :

1. Sub-section (3) of section 210 deleted vide Act No. 20 of 2007.

Provided further that the copy of the final order of the municipality shall be given free of cost to the appellant immediately after it is made.

[1][(2) Where the owner of the building submits the revised plan, after the work has been stopped by him or the work is completed by him and there are deviations from the sanctioned plan, the municipality may, subject to the special or general directions of the State Government under sub-section (3), compound the cases of deviations upto 10 % from the sanctioned plan:

Provided that where the revised plan involves erection of building-

(i) on any Government land or the land vested in a municipality or a local authority ; or

(ii) by covering any public road, street, path or drain ; or

(iii) by contravening the provisions of the Himachal Pradesh Roadside Land Control Act, 1968 (21 of 1969);

the municipality shall not compound deviations from the sanctioned plan.

(2-A) Any person aggrieved by the decision of the municipality under sub-section (2), may, within thirty days from the passing of the order by the municipality and in such manner as may be prescribed, appeal to the Deputy Commissioner.

(2-B) Any person aggrieved by the decision of the Deputy Commissioner in appeal under sub-section (2-A), may, within thirty days from the order made by the Deputy Commissioner and in such manner as may be prescribed, appeal to the State Government.

(2-C) The appellate authority may, for reasons to be recorded in writing, allow the appeals to be filed after the expiry of the period of thirty days specified in sub-sections (2-A) and (2-B) and for calculating the period of thirty days under the said sub-sections, the time spent in procuring the certified copies of the orders to be appealed against shall be excluded.

(2-D) Notwithstanding anything contained in sub-sections (2), (2-A) and (2-B), the State Government may, in exceptional cases of extreme hardship, compound the cases of deviations from sanctioned plans.]

(3) Without prejudice to the provisions contained in this Act, the Government, may from time to time, give such special or general directions in the matters of policy in relation to the compounding of cases involving deviations from the sanctioned plans as in its opinion are required to be followed by the municipality for compounding such cases under sub-section (2) of this section.

(4) Notwithstanding anything to the contrary contained in this Act, the municipality may, after affording a reasonable opportunity of being heard, deny or

1. Subs. for Sub-Section (2) vide Act No. 8 of 1997 effective w.e.f. 10.1.1997.

withdraw the civic amenities including water and sewerage connections, if the owner of the building makes deviations from the sanctioned plan by addition of a storey beyond the sanctioned plan, erection of a building on any Government land or land vested in the municipality or by covering any public road, street, path or drain.

(5) Any person failing to comply with the direction to stop erection or work under second proviso to sub-section (1), shall be punishable with fine which may extend to one thousand rupees and when the non-compliance is a continuing one, with a further fine, which may extend to fifty rupees for every day during which the non-compliance continues.

212. Order of demolition of building and works in certain cases and appeal. - (1) Any person aggrieved by an order of the municipality made under second proviso to sub-section (1) of section 211 may prefer an appeal to the District Judge having jurisdiction over the municipal area within the period of seven days from the date on which the copy of order made by the municipality given to him.

(2) Where an appeal is preferred under sub-section (1) against an order of demolition, the District Judge may stay the enforcement of that order on such terms if any, and for such period, as it may think fit:

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the District Judge unless reasonable opportunity of being heard is afforded to the municipality and security sufficient in the opinion of the District Judge has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(3) Save as provided in this section no court shall entertain any suit, application or other proceedings for injunction or other relief against the municipality or restrain it from taking any action or making any order in pursuance of the provisions of this section.

(4) Every order made by the District Judge on appeal and subject only to such order, the order of demolition made by the municipality shall be final and conclusive.

(5) Where no appeal has been preferred against an order of demolition made by the municipality under section 211 or where an order of demolition made by the municipality under that section has been confirmed on appeal, whether with or without variation the person against whom the order has been made shall comply with the order within the period specified therein or, as the case may be, within the period, if any fixed by the District Judge on appeal, and on the failure of the person to comply with the order within such period, the Executive Officer may himself cause the erection of the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

213. Compensation. - (1) No compensation shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of erection of any building.

(2) The municipality shall make reasonable compensation to the owner for any damage or loss which he may sustain in consequence of the prohibition of the re-erection of any building or a part of a building except in so far as the prohibition is necessary under any bye-law:

Provided that the municipality shall make full compensation to the owner for any damage which he may sustain in consequence of his building or any part thereof being set back, unless for a period of three years or more immediately preceding such notice, the building has by reason of its being in a ruinous or dangerous condition become unfit for

human habitation or unless an order of prohibition issued under section 120 has been and still is in force in respect of such building.

214. Power of municipality to regulate the manufacture, preparation and sale of food and drink.- The municipality may, [1][xxxxxxx] by bye-laws -

(a) prohibit the manufacture, sale or preparation or exposure for sale, of any specified article of food or drink, in any place or premises not licenced by the municipality ;

(b) regulate the hours and manner of transport within the municipal area of any specified articles of food or drink, and prescribe the route by which such articles shall be carried ;

(c) prohibit the sale of milk, butter, ghee, curd, meat, game, fish and poultry by persons not licenced by the municipality ;

(d) prohibit the import into the municipal area for sale of milk cream, butter, ghee, curd, meat, game, fish and poultry by persons not licenced by the municipality ;

(e) regulate the grant and withdrawal of licences and the levying of fees therefor under this section :

Provided that no person shall be punishable for breach of any bye-law made under clause (a) of this section by reason of the continuance of such manufacture, preparation or exposure for sale, or sale upon any premises which are, at the time of the making of such bye-law, used for each such purpose until he has received from the municipality six months notice in writing to discontinue such manufacture, preparation or exposure for such sale, or such sale in such premises:

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1. The words ―and shall if so required by the State Governmentǀ omitted vide Act no. 33 of 2011.

Provided further that nothing herein contained shall affect the operation of section 43 of the Punjab Laws Act, 1872 (4 of 1872), and the rules made thereunder.

215. Prohibition of possession or sale of wild animals. - No wild animal in respect of which any close time has been notified by the State Government under section 16 of the Wild Life Protection Act, 1972 (3 of 1973) shall whether dead or alive be possessed or sold during such close time within any municipal area and no such animal shall at any other time be sold within any municipal area except under an annual licence to be granted by the municipality:

Provided that these prohibitions shall not extend to wild animals possessed or sold as pets.

216. Penalty for infringement of bye-laws.- In making any bye-law under any section of this Chapter, the municipality may direct that a breach or an abetment of a breach of it, shall be punishable with a fine which shall extend to [1][five thousand] rupees and when the breach is a continuing breach, with a further fine of [1][one hundred] rupees for every day after the first during which the breach continues.

[2]**[217. Supplemental provisions respecting bye-laws.-**Any power to make bye-laws conferred by this Act is conferred subject to the condition that bye- laws being made after previous publication by the municipality, after having been published in the Official Gazette for inviting public objections:
Provided that State Government may cancel any such bye-law if found to be contrary to the provisions of this Act or the rules made thereunder and thereupon the bye-law shall cease to have effect.]

218. [3]**[xxxxxxx]**

219. [3]**[xxxxxxx]**

220. Bye-laws to be available for purchase and inspection. -(1) A copy of all bye-laws

made under this Act for any municipal area shall be kept at the office of the municipality and shall be open during office hours without charge to the inspection of any inhabitant.

(2) Copies of all such bye-laws shall be kept at the office of the municipality for sale to the public at a price not exceeding 4[fifty rupees].

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1 The words ―two hundred rupees‖ and ―ten rupees‖ substituted with the words ―five thousand rupees‖ and ―one hundred rupees‖ vide Act No.33 of 2011.

2 Section 217 substituted vide Act No.33 of 2011.

3 Section 218 & 219 omitted vide Act No.33 of 2011.

4 The words ―ten rupees‖ substituted with the words ―fifty rupees‖ vide Act No.33 of 2011.

CHAPTER-XII

PREVENTION OF SOIL EROSION AND HILL SIDE SAFETY

221. Regulation of felling of trees within municipal limits.- (1) No person shall fell any tree whether belonging to him or otherwise, of the prescribed class within the jurisdiction of any municipality in the State except under a permit obtained from the prescribed authority in the prescribed manner.

Explanation.- For the purposes of this Chapter the expression "felling of tree" shall include cutting or destroying or causing or suffering to be cut or destroyed any tree but shall not include bonafide pruning, trimming or otherwise altering shrubs or fruit trees for purely horticultural purposes and other petty acts, such as, the cutting of twigs, digging of ferns and the like from which no material harm of any kind to person or property is likely to result.

(2) No application for grant of permit for felling of tree shall be entertained unless it is accompanied by a fee of Rs. 10/- which amount shall be utilised for fresh plantation.

(3) (i) A breach of the provision of sub-section (1) or abetment of breach thereof in respect of cutting or destroying of each tree of the prescribed class shall be a separate offence and shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(ii) When any person is convicted for breach of the provisions of sub-section (1), the court convicting such person shall, in addition to the punishment imposed, order forfeiture in favour of the concerned municipality of any tree/ fuel/ timber in whatever from it may have been converted and in respect of which the breach of the provisions of sub-section (1) is made and in case such tree/ fuel/ timber is not available for forfeiture the market value thereof as determined by the court shall be recoverable from him in the same manner as fine imposed.

(iii) No offence or breach of the provisions of sub-section (1) shall be compounded by any authority empowered to compound, without providing for forfeiture of the tree, fuel or timber in favour of the concerned municipality.

(iv) Any officer especially empowered in this behalf by the State Government, having reason to believe that a breach of such provision of the Act has been committed or is

likely to be committed, may seize the tree, fuel or timber in respect of which such breach has been committed and also all tools used or likely to be used in the commission of such offence and all these

articles shall on conviction of the offender or on the composition of the offence, be forfeited to the concerned municipality.

Explanation.- For the purpose of this sub-section, the term "municipality" means the Municipal Council or Nagar Panchayat, as the case may be.

(4) The State Government may make rules consistent with this Act to carry out the purposes of this Chapter and all such rules shall be laid before the Legislative Assembly.

CHAPTER XIII

PROCEDURE, POWER OF ENTRY AND INSPECTION

222. Inspection of drains privies and cesspools. - (1) The municipality or Executive Officer or Secretary, as the case may be, may authorise any person to enter, between sunrise and sunset, into any building or upon any land and to inspect any drain, privy, latrine, urinal, cesspool, cable, wire, pipes, sewer or channel therein or thereon, and to cause the ground to be opened where such person as aforesaid may think fit for the purpose of preventing or removing any nuisance arising from the drains, privies, latrines, urinals, cesspools, cable, wires, pipes, sewers or channels.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it be found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work, if any, opened, injured or removed for the purpose of such inspection shall be filled in, reinstated and made good by the municipality.

(3) No building other than a latrine, urinal or privy shall be entered under this section until six hours' notice in writing has been given to the occupier of the building by municipality or by the person authorised by the municipality to make the entry.

223. Inspection of building etc.- (1) The municipality or Executive Officer or the Secretary, as the case may be, may authorise any person after giving three hours notice to the occupier, or, if there be no occupier, to the owner of any building to enter and inspect it at any time between sunrise and sunset where such inspection appears necessary for sanitary reasons.

(2) If the building to be inspected is a stable for horses or a house or shed for cows or other cattle, previous notice shall not be required before inspection.

224. Other powers of entry on buildings or land.- The municipality or Executive Officer or the Secretary, as the case may be, may authorise any person, after giving twenty four hour‘s notice to the occupier, or if there be no occupier, to the owner of any building or land, at any time between sunrise and sunset -

(a) to enter on and to survey, and to take levels or measurements of any building or land ;

(b) to enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or to maintain ;

(c) to enter into any building or on any land for the purpose of inspecting or repairing gas, water, telephonic, electric or other installations and for taking readings of meters connected therewith;

(d) to enter into any building or on any land for the purpose of ascertaining whether any building is being or has been erected or re-erected without sanction or in contravention of any sanction given by the

municipality or Executive Officer or the Secretary as the case may be, or of any byes-laws made under section 204 or of any scheme sanctioned under section 205 and to take such measurements and to do any other such acts as may be necessary for such purpose.

225. Power to inspect places for sale of food or drink etc, and to seize unwholesome articles exposed for sale.- The municipality or Executive Officer or the Secretary, as the case may be, may authorise any person at all reasonable times to enter into and to inspect any market, building, shop, stall or place for the sale of food or drink for man, or as a slaughter house, or for the sale of drugs, and to inspect and examine any food or drink, animal or drugs, which may be therein; and, if any article of food or drink, or any animal therein appears to be intended for the consumption of man to be unfit may seize and remove the same or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption ; and in case it is reasonably suspected that any drug is adulterated in such manner as to lessen its efficiency or to change its operation or to render it noxious, to remove the same giving a receipt therefor, and to cause the owner thereof to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for orders as to the disposal of the said drug.

226. Inspections of place for illicit slaughter of animals.- If there are reasonable grounds for believing that any animal has been, is being, or is about to be, slaughtered in any place or premises not fixed for such purpose

under section 172 or in contravention of any bye-law made under sub-clause (i) of clause (e) of section 202, the municipality or Executive Officer or Secretary or any person authorised by it or him in this behalf may, at all reasonable times, enter into and inspect any place or premises :

Provided that no entry shall be made under the provisions of this section without an order in writing from the President or from the Health Officer. Such order shall specify the place or premises to be entered and the locality in which same is situated and the period which shall not exceed seven days for which it is to remain in force.

227. Refusal to allow inspection. - Whoever in contravention of section 224 or section 225 or section 226 or section 229, refuses to suffer inspection of any premises, food, drink, drug or animals, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

228. Search for inflammable or explosive material in excess of authorised quantity.- (1) The municipality or Executive Officer/Secretary may authorise any person to enter upon, at any reasonable time, and inspect any house or building which is suspected to contain petroleum, explosive or other inflammable material in excess of the quantity permitted to be kept in such house or building under the provisions of this Act or of any rule, bye-law or public notice made or published thereunder.

(2) Should any such excess quantity of such material be discovered, it may be seized and held subject to such order as a Magistrate may pass with respect to it.

(3) If the Magistrate decides that the material seized was stored in the house or building contrary to the provisions of this Act or of any rule, bye-law or public notice made or published thereunder, he shall pass an order confiscating the same.

(4) Subject to any general rules for the time being applicable thereto, the material confiscated may be sold by order of the Magistrate, and the proceeds, after defraying the expenses of such sale, shall be credited to the municipal fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.

229. Power of entry for the purpose of preventing spread of disease. - (1) The Health Officer or any other officer authorised by the municipality may enter, at any time, after three hour's notice, into any building or premises in which any infectious disease is reported or suspected to exist, for the purpose of inspecting such building or premises.

(2) No such inspection shall be made except in the hours between sunrise and sunset.

230. Authorisation of powers. - The municipality or Executive Officer or Secretary, as the case may be, may authorise persons to exercise the powers of entry conferred by the foregoing sections of this Chapter either generally in regard to all buildings and lands or particularly in regard to specified buildings and lands or classes of building and lands.

231. Precautions to be observed in entering dwelling.- When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupier, and before any apartment in the actual occupancy of any woman who according to custom does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and reasonable facility shall be afforded to her for withdrawing.

232. Reasonable time for compliance to be fixed. -When any notice under this Act requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

233. Authentication, service and validity of notices.- (1) Every notice issued by a municipality under this Act or under any rule or bye-law, shall be in writing, signed by the President, Vice-President, Executive Officer, Secretary, Assistant Secretary, or the Health Officer or by the members of any sub-committee specifically authorised by the municipality in that behalf, and every such notice and every order made under section 208 may be served on the person to whom it is addressed, or delivered or left at his usual place o abode or business with some adult male member or servant of his family, or, if it can not be so served may be affixed to some conspicuous part of his place of abode or business.

(2) When the place of abode or business of person to whom notice is addressed in not within the limits of the municipal area, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the owner of any property has no place of abode or business within the municipal area, every such notice addressed to him as such owner may be served on the occupier.

(4) When the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(5) No notice issued by the municipality under this Act or under any rule or bye-law shall be invalid for defect of form.

234. Service when owner and occupier are different persons.- Whenever it is provided by this Act that any notice may be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given tone of them primarily liable to comply with such notice, and in case of doubt to both of them :

Provided that in any such case, where there is no owner resident within the municipal area, the delivery of such notice to the occupier shall be sufficient.

235. Mode of giving notice to owner or occupier of property.- When any notice is under the provisions of this Act to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served-

(a) by delivering a written notice to some person on the property or should there be no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property; or

(b) by putting into the post a pre-paid letter containing a written notice and addressed by the description of the "owner" or "occupier" of the property, naming it, in respect of which the notice is given, without further name or description.

236. Publication of public notices.- Every public notice given by a municipality under this Act or any rule or bye-law shall be published by proclamation or in such other manner as the State Government may, by rule, direct.

237. Penalty for disobedience of orders of municipalities.- Whoever disobeys any lawful direction of prohibition given by the municipality by public notice under this Act or any written notice lawfully issued by it thereunder, or fails to comply with the conditions subject to which any permission was given by the municipality to him under those powers shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with a fine which shall not be less than twenty-five rupees and more than two hundred rupees, and, in the case of a continuing breach, with a further fine of ten rupees for every day after the first during which the breach continues.

238. Compensation for damage.- Every person convicted for an offence under this Act on account of any act or omission, shall, notwithstanding any punishment to which he may have been sentenced for such offence, pay compensation, the amount of which shall be determined by the Magistrate before whom he was so convicted, to the municipality for any damage that may have occurred to any property of the municipality, in consequence of such act or omission.

239. Power of municipality in the event of non-compliance. -Whenever the terms of any notice other than a notice under section 183 have not been complied with the municipality may, after six hour‘s notice, by its officer, cause the act to be done.

240. Penalty for obstruction.- Any person wilfully obstructing the municipality or any employee of the municipality or any person authorised by the municipality, in exercise of the powers conferred by this Act, shall be punishable with a fine which shall not be less than twenty five rupees and more than two hundred rupees.

241. Recovery of cost of execution.- (1) Where, under this Act, the owner or occupier of property is required by the municipality to execute any work and default has been made in complying with the requirement, and the municipality has executed the work, the municipality may recover the cost of the work from the person in default.

(2) As between themselves and the municipality both owner and occupier shall be deemed to be in default for the purposes of this section, but that one of them shall be deemed to be primarily in default upon whom, as between landlord and tenant, the duty of doing the required act would properly fall either in pursuance of the contract of tenancy or by law.

(3) When the person primarily in default is the owner, and the municipality has recovered the whole or any part of the cost from the occupier, or he has paid the same upon its demand, he may deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner, or otherwise recover it from such owner:

Provided that no occupier shall be required to pay under sub-section (3) any sum greater than the amount for the time being due from him to the owner, either in respect of rent due at the date of such demand as aforesaid or thereafter accruing unless he has refused on demand by the municipality truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the

sum so demanded by the municipality from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on, the occupier.

(4) All money recoverable by a municipality under this section may be recovered on application to a Magistrate having jurisdiction within the municipal area, by distress and sale of the movable property of the person from whom the money is recoverable, and if payable by the owner of the properly shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

(6) Where under section 116 or section 117, the municipality has executed any work, the cost thereof may be recovered from the owner or

occupier in connection with work done under section 116, and from the owner in connection with work done under section 117, in the manner herein provided for the recovery of the cost of work from a defaulting owner or occupier and subject to the provisions herein contained.

242. Relief to agents and trustees.- (1) When any person, by reason of his receiving or being entitled to receive the rent of immovable property as agent or trustee of a person or society, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had in his hand funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the fact entitling an agent or trustee to relief under this section shall lie on him.

(3) When any agent or trustee has claimed and established his right to relief under this section, the municipality may give him notice to apply to the discharge of such obligation as aforesaid, the first money which shall come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

243. Payment of compensation.- (1) The 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 the municipality, its employees, under this Act, and shall make such compensation where the damage was caused by the negligence of the municipality, its employees and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) Should any dispute, for the settlement of which no express provision is made by any other section, arise touching the amount of any compensation which the municipality, is by this Act required to pay or empowered to receive for injury to or in respect of any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement, in the manner provided by the Land Acquisition Act, 1894 (1 of 1894), with reference to the acquisition of and payment of compensation for land for public purposes so far as it can be made applicable.

244. Appeals from orders of municipality.- (1) Any person aggrieved -

(a) by the refusal of a municipality under section 208 to sanction the erection or re-erection of a building, or

(b) by a notice from a municipality under section 182 requiring a street to be drained, levelled, flagged, metalled or provided with

proper means of lighting, or declaring a street to be a public street , or

(c) by an order made by a municipality or an Executive Officer/ Secretary under the powers conferred upon it by section 111 or section 120, or section 125 or section 128 or section 237,

may appeal within thirty days, from the date of such prohibition, notice or order to such officer as the State Government may appoint for the purpose of hearing such appeals or any of them, or, failing such appointment, to the Deputy Commissioner and no such refusal, notice or order shall be liable to be called in question otherwise than by such appeal.

(2) The appellate authority may, if it shall think fit, extend the period allowed by sub-section (1) for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the refusal notice or order appealed from shall be final:

Provided that the refusal, notice or order shall not be modified or set aside until the appellant and the municipality have had reasonable opportunity of being heard.

245. Prosecution to be suspended in certain cases.- When any order of the kind specified in section 111, section 128 and section 237 is subject to appeal, and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for any breach thereof, shall be suspended pending the decision of the appeal and if, such order is set aside on appeal, disobedience thereto, shall not be deemed to be an offence.

246. Appeals from certain orders.- Every order of confiscation under section 228 shall be subject to appeal to the next superior court, but shall not be otherwise open to appeal.

247. Authority for prosecution. - Unless otherwise expressly provided, no court shall take cognizance of any offence punishable under this Act or any rule or any bye-law except on the complaint of, or upon information received from the municipality or its Executive Officer / Secretary or some person authorised by the municipality or by the Executive Officer / Secretary in this behalf.

Explanation.- The municipality or its Executive Officer/ Secretary may authorise any person and shall be deemed to have authorised any person appointed to this end by the State Government to make complaints or give information, without previous reference to the municipality, either generally in regard to all offences against this Act and the rules or bye-laws, or particularly in regard only to specified offences or offences of a specified class. The person authorised may be authorised by office, if he is President, Vice-President, Health Officer / Executive Officer or Secretary of the municipality, or officer-in-charge of a police station; in other cases the

authority must be personal. The authority must in all cases be in writing and may at any time be cancelled by the municipality.

248. Power to compound offences. -(1) Except as otherwise provided under any other provision of this Act, the municipality or the Executive Officer / Secretary or any other officer authorised by the State Government in this behalf may accept from person against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or bye-law, a sum of money not less than five rupees by way of composition for such offence.

(2) On payment of such sum of money, the suspected person if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded for.

(3) Sums paid by way of compensation under this section shall be credited to the municipal fund.

(4) Authorisation under sub-section (1) to accept composition for alleged offences may be given by the municipality either generally in regard to all offences under this Act and the rules and bye-laws, or particularly in regard only to specified offences or offences of a specified class and may, at any time, be withdrawn by the municipality.

(5) If the municipality has not authorised any of the officers specified in sub-section (1), it shall, if so required by the Deputy Commissioner give such authorisation to any of the officers specified in sub-section (1), and shall not withdraw authorisation given on such requisition without the sanction of the Deputy Commissioner.

CHAPTER XIV

FINANCIAL CONTROL AND AUDIT

249. Presentation of accounts and budget of municipality.- (1) The Finance, Audit and Planning Committee shall cause to be prepared and laid before the municipality at a meeting, which shall be held between the first day of February and the tenth day of March, a complete account of the actual and expected receipts and expenditure for the official year ending on the thirty-first day of March next following together with a budget estimate of the income and expenditure of the municipality for the official year to commence on the first day of 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 first day of April next following. The budget as passed by the municipality shall be sent, through the Deputy Commissioner to the Director, before such may be fixed by the Director.

(3) In such budget estimate, the municipality shall among other things,-

(a) make adequate and suitable provision for such service as may be required for the fulfilment of the several duties imposed on the municipality by this Act or any other law ;

(b) provide for the payment, as they fall due, of all instalments of principal and interest for which the municipality may be liable in respect of loans contracted by it ;

(c) allow for a balance at the end of said year of not less than such sum or percentage of income as may, from time to time, be fixed by the Director either generally for all municipality or specially for any municipality.

(4) If such budget estimate is not in accordance with the provisions of this Act or the rules and orders issued thereunder, the Director may, within two months from the date of receipt of the budget, modify the same to secure compliance with the Act, the rules or the orders:

Provided that the Director shall not have power to direct that total proposed expenditure shall exceed the total of the estimated income of the municipality for the following year and the opening balance.

(5) If the municipality fails to approve the budget estimate on or before the date mentioned in sub-section (1), the Executive Officer or the Secretary of the municipality shall forward the budget estimate, through the Deputy Commissioner, to the Director who shall approve it with or without modification. The budget so approved by the Director shall be certified by the Director and thereupon shall be deemed to have been duly approved by the municipality.

250. Revision of budget.- If, in the course of the official year the municipality finds it necessary to modify the provisions made in the budget with regard to the receipts or to the distribution of the amounts to be expended on the different services it undertakes, it may make such modifications :

Provided that no diversion of grants transferred by the Government out of the Consolidated Fund of the State can be made for a purpose, programme or scheme not covered under such grants:

Provided also that, without the approval of the Director,-

(a) no reduction of over ten per cent is made in the grants approved for any developmental functions of the municipality ; and

(b) the closing balance shall not be reduced below the sum fixed under clause (c) of sub-section (3) of section 249.

251. Supplementary budget.- Supplementary budget may be prepared and submitted when necessary. The municipality may, at any time during the year for which a budget has been sanctioned by the Director, cause a supplementary budget to be prepared and submitted to the Director.

Every such supplementary budget shall be considered and approved by the Municipality and submitted, through the Deputy Commissioner to the Director for approval.

252. Maintenance of accounts and restriction of expenditure.- (1) Accounts of the income and expenditure of the municipality shall be kept in accordance with such rules as may be prescribed.

(2) Expenditure from the municipality fund shall, save as otherwise expressly provided for in this Act, be incurred subject to such sanction, conditions and limitations as may be prescribed.

(3) The municipality shall within a period not exceeding three months after the close of the official year pass the accounts of that year.

253. Transmission of accounts. - The municipality shall, as soon as the annual accounts have been finally passed by it, transmit to the Director an account in the form prescribed in this behalf and shall furnish such details and vouchers relating to the same as the Director, may from time to time, direct.

254. Power to write off irrecoverable sums.- Subject to such restrictions as may be prescribed a municipality may write off any sum due to it, if in its opinion, such sum is irrecoverable :

Provided that no sum exceeding one thousand rupees shall be written off except with the previous sanction of the Director.

255.Audit of accounts. - (1) The accounts of the municipality fund shall be audited by a separate and independent audit agency [1][xxxxxxxxxx] and audit agency shall, for the purpose of audit have access to all the accounts and other records of the municipality.

(2) The audit agency shall within one month of the completion of the audit forward the copy of the audit note to the municipality and on receipt of the said report, the municipality shall, as soon as may be, remedy defects or irregularities, if any, pointed out in the report and shall forward without delay to the State Government through the Deputy Commissioner and the Director, so many copies of the said report as may be required by the State Government with a brief statement of the action, if any, taken or proposed to be taken thereon.

1. The words ―under the control of the Director‖ deleted vide Act No. 20 of 2007.

(3) The State Government shall on receipt of the audit report of the municipalities, lay them before the State Legislature.

256. Action by municipality on audit report. - (1) The municipality shall, on the report of the audit agency may on its own motion and after taking the explanation of

the person concerned or making such further enquiry as it may consider necessary, charge any person responsible for irregular expenditure pointed out by the audit agency or the amount of any deficiency or loss caused by the negligence or misconduct of such person or any sum received which ought to have been, but is not brought into account by such person, and shall, in every such case certify the amount due from such person.

(2) The municipality shall in writing state the reasons for its decision in respect of every charge and send a copy thereof to the person against whom it is made.

257. Recovery of amounts disallowed. -(1) Every sum certified by the municipality to be due from any person under sub-section (1) of section 256 shall be paid by such person to the municipality within thirty days from the date of the receipt by him of a copy of the decision.

(2) Such sum, if not duly paid alongwith interest at fifteen per cent per annum or the amount due from the date from which it became due shall be recoverable as an arrear of land revenue alongwith the necessary expenses of such recovery and shall be credited to the municipality fund.

258. Procedure for recovery of dues of municipality.- (1) When any sum payable on demand -

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

(b) which is claimable as a fee or other amount due to the municipality under this Act, or under any rules and regulations made thereunder, shall have become payable and remains un paid for fifteen days after the same is due, the Executive Officer or Secretary, as the case may be, or an Officer duly authorised by him in writing in this behalf (hereinafter referred to as the authorised Officer) may serve upon the person or persons liable to pay such sum a notice in writing in the prescribed form.

(2) If such person does not, within fifteen days, from the service of such notice of demand upon him, pay the sum due, or show cause to the satisfaction of the Executive Officer or the Secretary why the same should not be paid, the Executive Officer or the Secretary may recover such sum, with all costs, by distraint and sale of the movable property of the defaulter.

(3) In order to effect the distraint and sale of properly under sub-section (2), the Executive Officer or the Secretary, as the case may be, or the

authorised officer shall issue a warrant in the prescribed form and a warrant fee of one rupee shall be leviable for each such warrant.

(4) The Executive Officer or the Secretary, as the case may be, or the authorised officer shall make an inventory of the property distrained, a copy of which shall on demand be delivered to the defaulter or any person on his behalf, and if the amount due is not paid within fifteen days after distraint, the property may be sold.

(5) The Executive Officer or the Secretary, as the case may be, or the authorised officer shall give or cause to be given to every person making payment of the amount due, a receipt therefor signed by him. Such receipts shall specify,-

(a) the date of the payment thereof ;

(b) the name of the person by whom it is paid ;

(c) the amount due in respect of which the payment has been made ;

(d) the period for which the payment has been made ; and

(e) the amount in respect of which it is granted.

(6) Any sum due to a municipality under this Act, shall without prejudice to any other mode of collection, be recoverable as an arrear of land revenue.

259. Conditions of distraint and sale. - (1) Whenever, under section 258 any property is distrained, seized or sold in consequence of the non-payment of any amount due, such distraint, seizure and sale shall be effected subject to the provisions of the following sub-sections and of section 62 of the Code of Civil Procedure, 1908 (5 of 1908).

(2) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908) exempt from attachment or sale in execution of the decree shall be exempt from distraint or sale under this section.

(3) The distress shall not be excessive. The value of the property distrained shall be, as nearly as possible, proportionate to the amount due on account of the fee, rent or other amount due, and the distraint fee and the probable expenses incidental to the detention and sale of the said property.

(4) When the property seized is subject to speedy and natural decay, or if in the opinion of the person seizing the property, the expenses of keeping it in custody together with amount due, exceeds the value of the property, the said person shall immediately after seizure of such property, give notice to the person from whose possession it was seized, to the effect that it will be sold at once and shall sell it accordingly unless the amount due is paid forthwith.

(5) Any surplus amount that may remain after deduction of the amount due and of the said expenses, including the expenses of the same, shall be paid to the owner of the property.

(6) If any claim be set up by a third person to moveable property distrained under section 258, the Executive Officer or the Secretary, as the case may be, shall, after a summary enquiry, held, after giving reasonable notice to the claimant admit or reject the claim. If the claim be admitted wholly or partly the property shall be dealt with accordingly. Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposed of as hereinbefore directed:

Provided that nothing in this sub-section shall be deemed to bar the claimant or any person having any interest in the property distrained from seeking relief in a Civil Court having jurisdiction.

CHAPTER XV

DEVELOPMENT PLANS AND DISTRICT PLANNING COMMITTEE

260. Preparation of development plan. - Every municipality shall prepare every year a development plan for its area and submit it to the District Planning Committee.

261. District Planning Committees.- (1) The District Planning Committee, constituted by the State Government under section 185 of the Himachal Pradesh Panchayati Raj Act, 1994 (4 of 1994) shall consolidate the development plans prepared and submitted to it by the municipalities in the District, under section 260 and prepare a draft development plan for the district as a whole.

(2) The persons to represent the municipalities in the District Planning Committee, under clause (d) of sub-section (2) of section 185 of the Himachal Pradesh Panchayati Raj Act, 1994 (4 of 1994), shall be chosen by the elected members of the municipalities in the District in the prescribed manner from amongst themselves.

(3) Every District Planning Committee shall in preparing the draft development plan -

(a) have regard to -

(i) matters of common interest between the municipalities and panchayats including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation ;

(ii) the extent and type of available resources whether financial or otherwise ;

(b) consult such institutions and organisations as the State Government may by order specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such committee to the State Government.

CHAPTER XVI

CONTROL

262. Control by Deputy Commissioner.- (1) The Deputy Commissioner or any Officer authorised in writing by him or any person empowered by the State Government in this behalf by a general or special order, may -

(a) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immoveable property occupied by any municipality or any work in progress under its direction ;

(b) by order in writing addressed to the Executive Officer/ Secretary call for and inspect or cause to be inspected any book or document in the possession or under the control of any municipality and the member or the employee of the municipality in possession of such book or document shall immediately place such book or document shall immediately place such book or document at the disposal of the Executive Officer/ Secretary, who shall immediately comply with such order and shall immediately inform the President of the requisition. He shall also bring the matter to the notice of the municipality at its meeting next following;

(c) by order in writing addressed to the Executive Officer/ Secretary require any such municipality to furnish within a specified period such statements, accounts, reports and copies of documents relating to the proceedings or duties of the municipalities as he may think fit to call for ;

(d) inquire generally into the affairs of a municipality or with a view to ascertaining whether a municipal area is being satisfactorily administered, and for the purposes of such enquiry make use of any property of the municipality, and of the powers mentioned in clauses (a), (b) and (c), and the members and employees of the municipality shall render such assistance in the inquiry as may be deemed necessary.

Explanation.- Any person so empowered shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

(2) The Deputy Commissioner may record in writing for the consideration of any such municipality any observations that he may think proper in regard to the proceedings or duties of municipality.

(3) Every municipality shall submit such periodical reports to the Deputy Commissioner or other authority as the State Government may direct.

263. Power to suspend execution of orders, etc.- (1) The State Government or the Director or the prescribed authority may by an order in writing and for reasons to be stated therein, suspend the execution of any resolution passed, order issued, licence or

permission granted or prohibit the performance of any act by the municipality if in its opinion-

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised;

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or is contrary to any law; or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely -

(i) to cause loss, waste or misapplication of any money or damage to any property vested in the municipality ;

(ii) to be prejudicial to the public health, safety or convenience;

(iii) to cause injury or annoyance to the public or any class or body of person ; or

(iv) to lead to a breach of peace.

(2) Whenever an order is made by the Director or the prescribed authority under sub-section (1), it shall forthwith and in no case later than ten days from the date of order, forward to the State Government a copy of the order with the statement of the reasons for making it, and the State Government may confirm, set-aside or modify such order as it may deem fit.

264. Power of Deputy Commissioner in emergency.- (1) In case of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act which a municipality is empowered to execute or do, and the immediate execution or doing of which is, in his opinion necessary for the service or safety of the public and may direct that the expense, of executing the work or of doing the act shall be forthwith paid by the municipality.

(2) Should the expenses be not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expenses, or so much thereof as may from time to time be possible from that balance, in priority to all other charges against the same.

265. Powers to provide for performance of duties in case of default of municipality.- (1) When the Deputy Commissioner after due enquiry is satisfied that a municipality has made default in performing any duty imposed upon it by this Act or by any order or rule under this Act, he may, by an order in writing, fix a period of the performance of that duty ; and, should it not be performed within the period so fixed he may appoint some person to perform it, and may direct that the expenses thereof shall be paid, within such time as he may fix, by the municipality.

(2) Should the expenses be not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expenses, or so much thereof as may from time to time be possible from that balance in priority to all other charges against the same.

266. Action of Deputy Commissioner to be immediately reported.- When the Deputy Commissioner makes an order under section 264 or section 265, he shall forthwith forward to the Director a copy thereof, with a statement of reasons for making it with such explanation, if any, as the municipality of such municipal area may wish to offer and the Director may thereupon confirm, modify or rescind the order :

Provided that if an officer subordinate to Deputy Commissioner under the delegated powers makes an order under section 264 or section 265, the power of confirmation, modification or recision of such order shall vest in the Deputy

Commissioner, who shall before exercising such power, consider the explanation of the committee of such municipality which it may wish to offer and the Director may thereupon confirm, modify or rescind the order.

267. Power of State Government to give directions.- The State Government may issue directions to any municipality for carrying out the purposes of this Act and in particular with regard to,-

(a) various uses to which any land with a municipal area may be put;

(b) repayment of debts and discharging of obligations ;

(c) collection of taxes ;

(d) observance of rules and bye-laws ;

(e) adoption of development measures and measures for promotion of public safety, health, convenience and welfare ;

(f) sanitation and cleanliness ;

(g) establishment and maintenance of fire brigade ;

(h) execution of any work in public interest.

268. Exercise of committee's power pending establishment of municipality. - When a municipal area is constituted under this Act, the State Government may appoint a person to exercise the powers, discharge the duties and perform the function of the municipality for a period not exceeding 1[two years] or until the municipality is established whichever is earlier and he shall for the purposes aforesaid be deemed to be the municipality.

(2) The person so appointed under sub-section (1) shall comply with such directions as may be given to him by the State Government, from time to time, for carrying the said purposes.

269. Power of State Government and its officers over municipality. - (1) The State Government and the Director or the prescribed authority acting under the orders of the State Government, shall be bound to require that the proceedings of municipalities shall be in conformity with law and with the rules in force under any enactment for the time being applicable to Himachal Pradesh generally or the areas over which the municipality have authority.

(2) The State Government may exercise all powers necessary for the performance of this duty, and may among other things by order in writing, annul or modify and proceeding which it may consider not to be in conformity with law or with such rules as aforesaid, or for the reasons which would in its opinion justify an order by the Director or any prescribed authority under section 263.

(3) The Director or the prescribed authority may, within his jurisdiction for the same purpose, exercise such powers as may be conferred upon him by the rules made in this behalf by the State Government.

270. General powers of State Government.- Notwithstanding anything contained in this Act, the State Government shall have the power of reversing or modifying any order of any officer of the State Government passed or purporting to have been passed under this Act, if it considers to be not in accordance with the said Act, or the rules or to be for any reason inexpedient, and generally for carrying out the purposes of the Act the State Government shall exercise over its officers all powers of superintendence, direction and control :

Provided that the power of reversing or modifying any order of any officer of the State Government shall not apply to the orders passed in an election by the authorised officer or the District Judge.

1 Subs. for the words ―six months‖ vide Act No. 7 of 2003.

271. Power of State Government to dissolve municipality for default, abuse of powers, etc. - (1) If at any time, it appears to the State Government or the prescribed authority that a municipality is persistently making the default in the performance of the duties imposed on it by or under this Act or under any other law for the time being in force, or exceeds or abuses its powers or fails to carry out any order of the State Government or the competent authority, the State Government or the prescribed authority, may, after such enquiry as it may deem fit, by an order dissolve such municipality and may order a fresh constitution thereof.

(2) No order under sub-section (1) shall be passed unless reasonable opportunity has been given to the municipality for furnishing its explanation. The notice calling explanation shall be addressed to the President of the municipality and shall be served in the manner prescribed. The reply of the municipality to the notice shall be supported by the resolution of the municipality.

(3) On dissolution of municipality under sub-section (1), the following consequences shall ensure, namely:-

(a) all the members, President and Vice-President shall vacate their offices with effect from the date of such order ;

(b) all powers and duties of the municipality shall, until the municipality is re-constituted, be exercised and performed by such person or committee of persons as the State Government or the prescribed authority may appoint in this behalf and where a committee of persons is so appointed, the State Government or the prescribed authority shall also appoint a head of such committee; and

(c) where a committee is appointed under clause (b), any member of such committee duly authorised by it may issue or institute or defend any action at law on behalf of or against the municipality.

(4) Any person appointed to exercise and perform the powers and duties of municipality during the period of dissolution may receive from the fund of the municipality concerned such payment for his service as the State Government may, by order, determine.

(5) A municipality dissolved under sub-section (1) shall be re-constituted in accordance with the provisions of this Act within six months of its dissolution. Such re-constituted municipality shall function for the remaining term of the municipality:

Provided that if the unexpired period is less than six months, the municipality shall not be reconstituted for this period.

272. Suspension of office bearers of municipalities. - (1) The prescribed authority may suspend from office any office bearer-

(a) against whom charges have been framed in any criminal proceeding under Chapters V-A, VI, IX-A, X, XII, sections 302, 303, 304-B, 305, 306, 312 to 318, 336-A, 336-B, 373 to 377 of Chapter XVI, sections, 395 to 398, 408, 409, 458 to 460 of Chapter XVII and Chapter XVIII of the Indian Penal Code, 1860 (45 of 1860) or under any law for the time being in force for prevention of adulteration of food stuff and drugs, suppression of immoral traffic in women and children and protection of civil rights ; or

(b) who has been served with a notice alongwith a charge sheet to show cause under this Act for his removal from the office.

(2) Where the inspection or an audit report discloses the mis-appropriation, mis-utilization or embezzlement of municipal funds by an office bearer of a municipality and the prescribed authority is satisfied that continuance in office of such a person will prejudice the enquiry under section 273 and apprehends tempering with record and witnesses may suspend such a person and in case he is in possession of any record, money or any property of the municipality, order him to hand-over such records, money or property to the Executive Officer/ Secretary of the municipality.

(3) The order of suspension under sub-section (1) or (2) shall be reported to the State Government within a period of ten days and shall be subject to such orders as the State Government may deem fit to pass. If the order of suspension is not confirmed by the State Government within ninety days from the date of receipt of such report it shall be deemed to have been revoked.

[1][(4) In the event of both the President and Vice-President of a municipality being suspended under sub-section (1) or sub-section (2), the municipality shall nominate one of the elected members of the municipality who is the senior most in age, to hold the office of President or Vice-President as the case may be, and such shall perform all the duties and exercise all the powers of President or Vice-President, as the case may be, during the period for which suspension continues.

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1.Sub-section (4) substituted vide Act No.12 of 2010

(5) A person who has been suspended under sub-section (1) or sub-section (2) shall also forthwith stand suspended from the office of member or office bearer of any other municipality or standing committee or District Planning Committee or any other Committee of which he is a member or office bearer. Such person shall also be disqualified for being elected, under the Act during his suspension.

273. Removal of office bearers of municipality. (1) The State Government or the prescribed authority may after such enquiry as it may deem fit to make at any time, remove an office bearer -

(a) if he has incurred any disqualification under this Act ;

(b) if he has been guilty of mis-conduct in the discharge of his duties; or

(c) if he refuses to act or becomes incapable of acting or is adjudged as insolvent ;

(d) if he without reasonable cause absents himself from more than three successive consecutive meetings of the municipality or its committees ;

(e)

if his continuance in office is undesirable in the interest of the public :

Provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office.

Explanation.- For the purposes of this sub-section "misconduct" shall include -

(a) any action which adversely affects -

(i) the sovereignty, unity and integrity of India ; or

(ii) the harmony and the spirit of common brotherhood amongst all the people of State transcending religious, linguistic, regional, caste or sectional diversity ; or (iii) the dignity of women ; or

(b) gross negligence in the discharge of the duties under this Act; and

(c) the failure of the President to convene the meeting of the municipality, at regular intervals as specified under this Act.

(2) A person who has been removed under sub-section (1) shall forthwith cease to be a member of other municipality or Standing Committee or District Planning Committee or any other committee of which he is a

member, such person shall also be disqualified for a period of six years to be elected as office bearer of a municipality under this act.

274. Power to call for record.- The State Government may, at any time for the purpose of satisfying itself as to the legality or the propriety of any resolution passed or order made by a municipality or any order purported to have been made under the provisions of this Act or the rules or the bye-laws made thereunder, call for and examine record relating to such resolution or order, as the case may be, and may pass such order in reference thereto as it thinks fit :

Provided that no resolution or order shall be varied or reversed without affording a reasonable opportunity of being heard to the parties interested unless the Government is satisfied that such a resolution or order has been vitiated by unlawful consideration.

275. Power of inspection and supervision.- (1) The Director may inspect the work, of municipalities and exercise the following powers :-

(a) call for proceedings of any municipality or any extract of any book or document in the possession or statement of accounts or report ;

(b) require a municipality to take into 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 such municipality or any information which appears to him to necessitate the doing of anything by such municipality or within such period as he might fix ;

(c) order a duty to be performed within a specified period if a municipality has made default in the performance of any duty and if such duty is not performed within the specified period to appoint a person to perform such duty and direct that the expenses thereof shall be paid by the defaulting municipality within such period as he might fix;

(d) call for meetings of the municipality or any of its committees if no meeting of the municipality or its committees has been held as per the Act or rules.

(2) The municipality may appeal to the Government against any order under clause (c) of sub-section (1) by the Director within thirty days from the date of the order.

276. Technical supervision and inspections.- The heads of Departments concerned and the Officers incharge of the departments at the District level or Divisional level may inspect works or development schemes relating to that department under the control of any municipality and also to

inspect relevant documents pertaining to such works or development schemes in the manner specified by the Government.

(2) The scope of such inspections may cover technical aspects including feasibility, economic viability, the technical quality of work and the expenditure being incurred.

(3) The notes of inspections by such officers after such inspections shall be forwarded to the Executive Officer or the Secretary of the concerned municipality for appropriate action.

277. Taking over of certain branches or departments of the municipality. - When the State Government, after due enquiry, is satisfied that a municipality has committed default in as much as its particular branch or a department is incompetent of

performing or does not adequately perform any of all of its functions, it may take over the control of such branch or department or the municipality under its control and may appoint additional staff, if necessary, for the efficient discharge of the functions of such branch or department and may direct that the expenses thereof shall be paid by the municipality within such time as the State Government may fix in this behalf.

278. Disputes.- (1) In the event of any dispute arising between two or more municipalities or municipality and any other local authority in any matter in which they are jointly interested such dispute shall be referred to the State Government and the decision of the State Government thereon shall be final :

Provided that if the dispute between a municipality and cantonment board the decision of the State Government shall be subject to approval of the Central Government.

(2) The State Government, may, by rules made under this Act, regulate the relations between municipalities or municipality and other local authority in matters in which they are jointly interested.

279. Power of State Government to frame forms and make rules.- (1) The State Government may frame forms for any proceeding of a municipality and may make any rules consistent with this Act to carry out the purposes thereof and in particular and without prejudice to the generally of the foregoing power make rules-

(a) with respect to the powers and duties of municipalities;

(b) as to the division of municipal area into wards, or of the inhabitants into classes, or both ;

(c) as to the number of representatives proper for each ward and class;

(d) as to the priority to be given to the several duties to the municipality ;

(e) as to the authority on which money may be paid from the municipal fund ;

(f) as to the formation and working of municipal fire brigades and the provisions of implements, machinery or means of communicating intelligence for the efficient discharge of their duties by such brigades ;

(g) as to the conditions on which property may be acquired by the municipality or on which property vested in the municipality may be transferred by sale, mortgage, lease, exchange or otherwise ;

(h) as to the intermediate office or offices, if any, through which correspondence, between municipality or members of municipality and the State Government or officers of that Government shall pass;

(i) for the preparation of plans and estimates for works partly or wholly to be constructed at the expenses of municipalities, and for the preparation and periodical revision of maps and registers made under section 58 and for the authorities by which and the conditions, subject to which such plans, estimates, maps and registers are to be prepared and sanctioned ;

(j) for the regulation of contracts with electric supply companies for the supply of electric energy ;

(k) for the assessment and collection of, and for the compounding for, refunding or limiting refunds of taxes imposed under this

Act, and for preventing evasion of the same; and for fixing the fees payable for notices of demand ;

(l) as to the conditions on which a municipality may receive animals or articles into a bounded ware-house and as to the agreements to be signed by traders or others wishing to deposit animals or articles therein ;

(m) as to the accounts to be kept by municipalities as to the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts are to be audited and published, and as to the powers of the auditors in respect of dis-allowance and surcharge ;

(n) as to the preparation of estimates of income and expenditure of municipalities, and as to the persons by whom, and the conditions subject to which, such estimates may be sanctioned ;

(o) as to returns, statements and reports to be submitted by municipalities ;

(p) as to the powers to be exercised by Deputy Commissioners under section 269 and the powers to be exercised by such Local Self Government Directorate as the State Government may establish ;

(q) as to the language in which business shall be transacted, proceedings, recorded and notices issue;

(r) as to the publication of notices ;

(s) to regulate the proceedings of persons empowered to accept composition under section 248 for alleged offence ;

(t) mode of assessment, apportionment of compensation under section 156 amongst, and payment to, the persons entitled thereto ;

(u) mode of communication of the order under section 156 to the persons affected thereby ;

(v) the manner in which the compost is to be made ;

(w) as to the establishment of training institutions for employees of municipalities and course of training for different classes of employees ;

(x) as to the imposition of fine where owners do not take advantage of any amenities provided by the municipalities, such as electricity, tap water supply, sewerage etc. ;

(y) as to regulate the charges to be paid to the safai mazdoors engaged in house scavenging ;

(z) to regulate the re-erection and setting up of substantial boundary marks, defining the limits or altered limits of the area subject to its authority ;

(za) as to the penalty for cutting streets or removal of obstruction or encumbrances obstructing streets or drains ;

(zb) as to the exemption to a municipality from liability to any forfeiture, penalty or damages for cutting of the supply of water or not supplying water in cases of draught or other unavoidable cause or accident, etc.;

forming of markets, collection of rents and fees and removal of such persons who occupy stalls or space in an unauthorised manner ;

(zd) as to the constitution of committees consisting of official and non-official members at Divisional and District headquarters, to examine and discuss the annual accounts and the reports of the municipalities and to suggest remedial measures thereto ;

(ze) as to the manner in which the seats in the District Planning Committee shall be filled in ;

(zf) as to the manner in which the chairpersons of the District Planning Committee shall be chosen ;

(zg) as to the functions relating to the District Planning Committees ;

(zh) generally for carrying out the purposes of this Act.

(2) The rules under sub-section (1) may among other matters provide,

(i) for reservation of seats in "municipalities" ;

(ii) for determination of number of elected members in municipalities.

(3) The Municipal Account Code at present in operation in the municipalities in the State of Himachal Pradesh shall be deemed to have been made in pursuance of the powers conferred upon the State Government by sub-section (1) of this section.

(4) In making rules under clauses (f) and (k) of sub-section (1), the State Government may direct that a breach of any provision thereof shall be punished with a fine which shall not be less than fifty rupees and more than five hundred rupees.

(5) All rules made under this Act shall be subject to previous publication.

(6) A rule under this section may be general for all municipal areas or may be special for the whole or any part of any one or more municipalities as the State Government directs.

CHAPTER XVII

DISPUTES RELATING TO ELECTION

280. Definitions.- In this Chapter, unless the context otherwise requires,-

(a) "agent" means any person appointed in writing by a candidate at an election to be his agent for the purposes of his election with the written consent of such person ;

(b) "Authorised officer" means the officer authorised under section 282 to have election petitions;

(c) "candidate" means a person who has been, or claims to have been duly, nominated as candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate ;

(d) "corrupt practice" means any of the practices specified in section 301 ;

(e) "costs" means all costs, charges and expenses of, or incidental to a trial of an election petition ;

(f) "election" means an election to fill an office under the provisions of this Act ;

(g) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

281. State Election commission. - (1) The superintendence, direction and control of the preparation of electoral rolls, delimitation of wards, reservation and allotment of seats by rotation for, and the conduct of, all elections to the municipalities shall be vested in the State Election Commission constituted under articles 243-K and 243-ZA of the Constitution of India and section 160 of the Himachal Pradesh Panchayati Raj Act, 1994 (4 of 1994) in the manner, as may be prescribed by rules.

(2) The Commission shall frame its own rules and lay its own procedure.

[1][(3) The Governor shall, when so requested by the State Election Commissioner, make available to him such staff as may be necessary for the discharge of the functions conferred on him under this Act.

(4) The officers or staff so employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of election shall be deemed to be on deputation with the State Election Commission for the period during which they are so employed.]

[2][**281-A. Requisitioning of premises, vehicles etc., for election purpose.-** (1) If it appears to the State Government that in relation to the municipalities,-

(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

1. Sub-sections (3) and (4) ins. vide Act No. 23 of 2000.
2. Section 281-A. ins. vide Act No. 23 of 2000.

(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 performance of any duties in connection with such election, the State Government, 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 poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner 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 required for any of the purposes mentioned in that sub-section.

(4) In this section -

(a) ―premises‖ means any land, building or part of building and includes a hut, shed or other structure or any part thereof; and

(b) ―vehicle‖ means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.]

282. Officers authorised to hear election petitions.- The election petitions under this Act shall be heard by the Sub-Divisional Officer (Civil) having jurisdiction over the municipal area.

283. Election petitions.- No election under this Act shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

284. Presentation of petitions.- (1) Any elector of a municipality may, on furnishing the prescribed security in the prescribed manner, present within thirty days of the publication of the result, on one or more of the grounds specified in sub-section (1) of section 296 to the authorised officer an election petition in writing against the election of any person under this Act.

(2) The election petition shall be deemed to have been presented to the authorised officer -

(a) when it is delivered to him -

(i) by the person making the petition ; or

(ii) by a person authorised in writing in this behalf by the person making petition ; or

(b) when it is sent by registered post and is delivered to the authorised officer or any other person empowered to receive it.

[1][**284-A. Parties to the petition.-** A petitioner shall join as respondent to his petition,-

(a) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioners, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.]

285. Contents of petition. - (1) An election petition -

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

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the Commission of each such practice ; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleading :

Provided that where the petitioner alleges any corrupt practice, the petition shall also accompanied by an affidavit in the prescribe

form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

286. Procedure on receiving election petition. -If the election petition is not furnished in the prescribed manner or the petition is not

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1. Sec. 284-A. ins. vide Act No. 23 of 2000.

presented within the period specified in section 284, the authorised officer shall dismiss the petition:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

287. Withdrawal and transfer of petitions. -The Director may, at any stage, after notice to parties and for reasons to be recorded withdraw any election petition pending before an authorised officer and transfer it for hearing to another authorised officer in the State and upon such transfer, that authorised officer shall proceed with the petition form the stage at which it was withdrawn :

Provided that such authorised officer may, if it thinks fit, recall and re-examine any of the witnesses already examined.

288. Procedure before the authorised officers.- (1) Subject to the provisions of this Act and of any rules made thereunder every election petition shall be heard by the authorised officer in accordance with the procedure applicable under the Code of Civil Procedure 1908 (5 of 1908) to the trial of suits; and decided within a period of six months from the date of presentation under section 284 :

Provided that the authorised officer shall have the discretion to refuse, for reasons to be recorded in writing to examine any witness or witnesses, if he is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (1 of 1908) shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

289. Appearance before the authorised officer.- Any appearance, application or act before the authorised officer may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that it shall be open to the authorised officer to direct any party to appear in person whenever the authorised officer considers it necessary.

290. Power of the authorised officer. - The authorised officer shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:-

(a) discovery and inspections ;

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

(c) compelling the production of documents ;

(d) examining witnesses on oath ;
(e) granting adjournments ;
(f) reception of evidence taken on affidavit ; and
(g) issuing commissions for the examination of witnesses,
and may summon and examine suo motu any person whose evidence appears to him to be

material and shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

Explanation.- For the purpose of enforcing the attendance of witnesses the local limits of the jurisdiction of the authorised officer shall be the limits of the State of Himachal Pradesh.

291. Documentary evidence.- In relation to the production of unstamped or un-registered documents at the hearing of an election petition, the provisions of section 93 of the Representation of People's Act, 1951(43 of 1951) shall apply.

292. Secrecy of voting.- (1) No witness or other person shall be required to state for whom he has voted at an election.

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

(3) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months, or with fine, or with both.

293. Answering of incriminating questions and certificate of indemnity. - (1) No witnesses shall be excused from answering any question to any matter relevant to a matter in issue in the hearing of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :

Provided that -

(a) witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the authorised officer ; and

(b) an answer given by a witness to a question put by or before the authorised officer shall not, except in the case of any criminal proceedings for perjury in respect of the evidence,

be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any Court and shall be a full and complete defence to or upon any charge under chapter IX-A of the Indian Penal Code, 1860 (45 of 1860), arising out of the matter to which such certificate relates but it shall not be deemed to relieve him from any disqualification, in connection with an election, imposed by this Act or any other law.

294. Expenses of witnesses. -The reasonable expenses incurred by any person in attending to give evidence may be allowed by the authorised officer to such person, and shall, unless he otherwise directs, be deemed to be part of the costs.

295. Decision of the authorised officer.- (1) Where an election petition has not been dismissed under section 286, the authorised officer shall inquire into the election petition and at the conclusion of the inquiry shall make an order -

(a) dismissing the election petition ;or

(b) setting aside the election.

(2) At the time of making an order under sub-section (1), the authorised officer shall also make an order, -

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording -

(i) a finding whether any corrupt practice has or has not been proved to have been committed at the election and the nature of that corrupt practice ; and

(ii) the name of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice ; and

(b) fixing the total amount of costs, payable, and specifying the persons by and to whom costs shall be paid :

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless -

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

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

296. Grounds for setting aside election. - (1) If the authorised officer is of the opinion -

(a) that on the date of his election the elected person was not qualified, or was disqualified to be elected under this Act ; or

(b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent ; or

(c) that any nomination has been improperly rejected ; or

(d) that the result of the election, in so far as it concerns the elected person, has been materially affected -

(i) by the improper acceptance of any nomination; or

(ii) by improper reception, refusal or rejection of any vote or the reception of any vote which is void ; or

(iii) by any non-compliance with the provisions of this Act or of any rule made under this Act ;

the authorised officer shall set aside the election of the elected person.

(2) When an election has been set aside under sub-section (1), a fresh election shall be held.

297. Abatement of election petition. - An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

298. Costs and payment thereof out of security deposits and return of such deposits. - (1) Costs including pleader's fees shall be in the discretion of the authorised officer.

(2) If in any order as to costs under the provisions of this Chapter, there is a direction for payment of cost by any party to any person, such costs shall, if they have not been already paid, be paid in full or so far as possible, out of the security deposit made by such party under this Chapter, on an application made in writing in that behalf, within a period of one year from the date of such order, to the Collector by the person in whose favour the costs have been awarded.

(3) If there in any balance left of the security deposit under this Chapter after payment under sub-section (1) of the costs referred to in that sub-section, such balance or where no costs have been awarded or no application as aforesaid has been made within the said period of one year, the whole of the said security deposit may, on an application made in that behalf in writing to the Collector by the person by whom the security has been deposited or if such person dies after making such deposit, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

299. Execution of orders as to costs. - Any order as to costs under the provisions of this Chapter may be produced before the principal Civil Court within the local limits of jurisdiction any person directed by such order to pay any sums of money has a place of residence or business and such Court shall execute the order or cause the same to be executed in the same manner, and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof, may be recovered by an application made under sub-section (2) of section 298, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to insufficiency of the amount of the security deposit referred to in that sub-section.

300. Corrupt practices entailing disqualifications. - The corrupt practices specified in section 301 shall entail disqualification for membership of a municipality for a period of six years counting from the date on which the finding of the authorised officer as to such practice has been given:

Provided that the Government may, for reasons to be recorded, remove the disqualification or reduce the period thereof.

301. Corrupt practices.- (1) The following shall be deemed to be corrupt practices for the purposes of this Chapter :-

(1) Bribery, that is to say -

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

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

(b) an elector of the municipal area to vote or refrain from voting at an election ; or as a reward to -

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

(ii) an elector of the municipal area for having voted or refrained from voting ;

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

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

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to

induce an elector of the municipal area to vote or refrain from voting, or any candidate to withdraw his candidature.

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

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

Provided that -

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

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

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

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

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

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

furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of, or attempt to promote, feelings of enmity or hatered between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

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

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent, for the conveyance of an elector of the municipal area (other than the candidate himself, the members of his family or his agent) to or from any polling station or a place fixed for the poll.

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

[1][(6-A). The incurring or authorising, of expenditure in contravention of section 17-A.]

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

302. Appeals. - Notwithstanding anything contained in this Act, any person aggrieved by an order made by the authorised officer under this Chapter, may, within the prescribed time and in the prescribed manner, appeal to the Director having jurisdiction over the municipal area and who shall dispose of the appeal within a period of ninety days and his decision on such appeal shall be final.

303. Bar to interference by Courts in electoral matters.- Notwithstanding anything contained in this Act -

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1. Sub-section (6-A) ins. vide Act No. 11 of 1995 effective w.e.f. 1.8.1995.

(a) the validity of any law relating to the delimitation of constituencies [1][or the allotment of seats in such constituencies] made or purporting to be made under this Act, shall not be called in question in any court;

(b) no election to any municipality shall be called in question except by an election petition presented to the authorised officer and in such manner as may be prescribed by rules.

304. Power to make rules for conduct of elections.- The State Government may, by notification in the Official Gazette and in consultation with the State Election Commission, make rules for the composition of municipalities, conducting the election, allotment of symbols and all matters relating to or in connection with the conduct of elections to the municipalities.

[2][CHAPTER XVII-A

ELECTORAL OFFENCES

304-A. Promoting enmity between classes in connection with the election.- Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

304-B. Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.- (1) No person shall,-

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto; in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of poll for any election in that polling area.

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine or with both.

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1. Ins. vide Act No. 23 of 2000.

2.. Chapter XVII-A ins vide Act No. 23 of 2000.

Explanation.- In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of an election.

304-C. Disturbances at election meetings.-(1) Any person who at a public meeting to which this section applies acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called to gather, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) An offence punishable under sub-section(1) shall be cognizable.

(3) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon constituency to elect a member or members and the date on which election is held.

(4) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

304-D. Restrictions on the printing of pamphlets, posters etc.- (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate ; and

(b) unless within reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,-

(i) where it is printed in the Capital of the State, to the [1][State

(ii) Election Commissioner]; and

in any other case, to the District Magistrate of the district it is printed.

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1. Subs. for the words ―Chief Electoral Officer‖ vide Act No. 13 of 2001, effective w.e.f. 14.12.2000.

(3) For the purposes of this section,-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printed and the expression "printer" shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or

poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

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

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both.

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

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

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

(b) to dissuade any person from giving his vote in 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 (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

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

304-G. Prohibition of canvassing in or near polling stations.- (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:- (a) canvassing for votes ; or
(b)
soliciting the vote of any elector; or (c) persuading any elector not to vote for any particular candidate; or
(d) persuading any elector 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 provision of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees. (3) An offence punishable under this section shall be cognizable.

304-H. Penalty for disorderly conduct in or near polling stations.- (1) No person shall on the date or dates on which a poll is taken at any polling station,-
(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or
(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to

cause annoyance to any person visiting the poling 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 be punishable with imprisonment which may extend to three months, or with fine, 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 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.

304-I. Penalty for misconduct at the polling station.-(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 elector 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 be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

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

304-J. Penalty for failure to observe procedure for voting.- If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.

304-K. Penalty for illegal hiring or procuring of conveyance at elections.- If any person is guilty of any such corrupt practices as specified in sub-section (6) of section 301 of this Act, at or in connection with an election, he shall be punishable with imprisonment which may extend to three months, or with fine.

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

(2) An offence punishable under sub-section (1) shall be cognizable.

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

(4) The persons to whom this section applies are the district election officers, returning officers, assistant retuning officers, presiding officers, polling officers, and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidature or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

304-M. Penalty for Government servants for acting as election agent, polling agent or counting agent.- If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall

be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

304-N. Prohibition of going armed to or near a polling station.- (1) No person, other than the returning officer, the presiding officer, any police officer and any other person appointed to maintain peace and order at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (54 of 1959), of any kind within the neighbourhood of polling station.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Notwithstanding anything contained in the Arms Act, 1959, (54 of 1954) where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the licence granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

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

304-O. Removal of ballot papers from polling station to be an offence.-(1) Any person who at any election unauthorizedly takes, or attempts to take, ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred 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 punish able 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 the 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 handed 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.

304-P. Offence of booth capturing.- Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall

not be less than one year but which may extend to three years, and with fine, and where such offence is committed by a person in the service of the Government, he shall ne punishable with imprisonment for a term of which shall not be less than three years but which may extend to five years, and with fine.

Explanation.- For the purposes of this section "booth capturing" includes among other things, all or any of the following activities, namely: -

(a) seizure of a polling station or a place fixed for the poll by a person or persons making poling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of election;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from free exercise of their right to vote ;

(c) coercing or intimidating or threatening directly or indirectly any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote ;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes ; and

(e) doing by any person in the service of Government of all or any of the aforesaid activities or aiding or conniving at any such activity in the furtherance of the prospects of the election of a candidate.

304-Q. Grant of paid holiday to employees on the day of poll.- (1) Every person employed in any business, trade, industrial under-taking of any other establishment and entitled to vote at election to the Municipalities shall, on the day of poll, be granted a holiday.

(2) No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3) If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

304-R. Liquor not to be sold, given or distributed on Polling day.- (1) No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, catering house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(3) Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his Possession shall be liable to confiscation and the same shall be disposed off in such manner as may be prescribed.

304-S. Other offences and penalties therefor.- (1) A person shall be guilty of an electoral offence if at any election he-

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

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

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper of any declaration of identity or official envelop used in connection with voting by postal ballot; or

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

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

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

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

(2) Any person guilty of an electoral offence under this section shall-

(a) if he is a returning officer or an assistant 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, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both; and

(b) if there is any other person, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both; and

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

(4) An offence punishable under sub-section (2) shall be cognizable.]

CHAPTER XVIII

MISCELLANEOUS

305. Appointment of Executive Officers/Secretaries in municipalities.- (1) There shall be an Executive Officer in each Municipal Council and a Secretary in each Nagar Panchayat, who shall be appointed by the State Government and shall be governed by such conditions of service as may be prescribed by rules under this Act.

(2) It shall be the duty of the Executive Officer and the Secretary, as the case may be, to assist the President of the Municipal Council or Nagar Panchayat, as the case may be, in the discharge of their functions under this Act or any other law for the time being in force.

(3) Save as otherwise expressly provided by or under this Act, the officer referred to in sub-section (1), shall -

(a) exercise all the powers specifically imposed or conferred upon him by or under this Act or under any other law for the time being in force ;

(b) lay down the duties of and supervise and control officers and officials holding office under the municipality in accordance with the rules made by the Government ;

(c) supervise and control the execution of all works of the municipality;

(d) take necessary measures for the speedy execution of all works and development schemes of the municipality ;

(e) have custody of common seal and all papers and documents connected with the proceedings of the meetings of the municipality and of its Standing Committees and other Committees ;

(f) draw and disburse money out of the municipal fund ; and

(g) exercise such other powers and discharge such other functions as may be prescribed ;

(h) attend every meeting of the municipality and shall have the right to attend the meeting of any committee thereof and to take part in the discussion but shall not have the right to move any resolution or to vote. If in his opinion any proposal before the municipality is violative of or inconsistent with the provisions of this Act or any other law, rule or order made thereunder, it shall be his duty to bring the same to the notice of the Government.

(4) Every person in possession of moneys, accounts, records or other property pertaining to a municipality shall on the requisition for this purpose in writing of the officer referred to in sub-section (1), forthwith hand over such moneys or deliver up such accounts, records or other property to the said officer or the person authorised in the requisition to receive the same.

(5) The Executive Officer shall bring to the notice of the municipality any act or resolution of the municipality which may be in violation of any Government instructions or the provisions of this Act, provided that if such act or omission of the directions of the Government or the provisions of this Act, as the case may be, is not rectified within 15 days of the communication, it shall be the duty of the Executive Officer to bring such omission or violation to the notice of the Government.

306. Posts in municipality and appointments thereto.- (1) Subject to the provisions contained in this Act and the Himachal Pradesh Municipal Services Act, 1994 (19 of 1994), the municipality may with the previous approval of the State Government or any other officer authorised in this behalf, appoint such officers and servants as it considers necessary for the efficient discharge of its duties.

(2) The qualifications, method of recruitment, salaries, leave, allowances and other conditions of service including disciplinary matters of such officers and servants shall be such as may be prescribed.

(3) The salary, allowances, gratuity, pension, contribution and other payments required to be made in accordance with the conditions of their services, to the officers and officials employed for the discharge of duties of the municipality under this Act, shall be charged from the Municipal Fund in the prescribed manner.

(4) An officer or official in regular employment of the municipality may, in lieu of the Contributory Provident Fund benefits admissible to him under the Provident Fund Act, 1925 (19 of 1925), opt for service and family pensions and in that event he will be governed by the rules, as are applicable to the employees of the State Government; and such person shall contribute to the General Provident Fund:

Provided that.-

(a) the share of the money contribution by the municipality alongwith interest accrued thereon, to the credit of such a person in his Contributory Provident Fund, shall be credited to the Pension and Gratuity Fund; established for this purpose ;

(b) the share of money, alongwith interest accrued thereon, to the credit of such a person in the Contributory Provident Fund on account of his own contribution, shall be transferred to his credit in the General Provident Fund established for the purpose ; and any loss caused to the municipality through withdrawals during the service shall be made good by him.

(5) The municipality shall, in relation to such employees who have exercised the option for pension under sub-section (4), shall credit its contributions regularly but not later than fifth day of the month following the month to which the contribution relates, into the pension and gratuity.

(6) The "Pension and Gratuity Fund" and "General Provident Fund" referred to in sub-section (4), shall be established and maintained by the Director, Urban Local Bodies, Himachal Pradesh, in such manner, as may be prescribed.

(7) Notwithstanding anything to the contrary contained in this Act, the persons, who were in the regular service of any municipality as on 1st April, 1992 and had retired before the 30th day of May, 1994 ; provided they opt for service and family pensions under this section, and refund to the Director, within such period as may be specified, the employer's contribution to the Provident Fund including interest received by them from the employer together with simple interest at the rate of six percent per annum from the date of its withdrawal till the date of repayment, will also be eligible for service and family pension under this Act.

(8) Approval for the creation of posts in a municipality shall be made by the Director after taking into considerations the requirements of the municipality and its financial capacity.

(9) In making appointment to any post referred to in this section, the appointing authority shall follow the instructions issued by the Government from time to time in relation to reservation of appointments or posts for

Scheduled Tribes/Scheduled Castes, Backward Classes and for any other category of persons.

307. Officers and other employees not to be interested in any contract etc. with municipality.- (1) A person shall be disqualified for being appointed in the municipality if he has, directly or indirectly, by himself or by a partner or by any other person, any share or interest in any contract made with, or any work being done for the municipality, other than as an employee.

(2) If any such employee acquires, directly or, indirectly by himself or by a partner or by any other person, any share or interest in any such contract or work as is referred to in sub-section (1), he shall unless the authority appointing him in any particular case otherwise decides, be liable to be removed from his office by an order of such authority:

Provided that before an order of removal is made such officer or other employee shall be given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

308. Power to enquire and report about misconduct of certain officers or officials. - (1) On a complaint being made to the municipality by any member that an officer or official of the municipality or any other class of Government officer or official discharging any duties in relation to the functions of the municipality, to which the Government may, by notification, extend the provisions of this section has misconducted himself in his official capacity, the municipality may enquire into the matter and submit a report alongwith the prima facie evidence to the superior officer whom it may concern, or to the Deputy Commissioner or the Sub-Divisional Officer (Civil), as the case may be, and the said officer shall, after such further enquiry as may be required, take suitable action under intimation to the municipality and the Director.

(2) On the report being made by any member that an officer or official of the municipality or any other class of Government officers or officials discharging any duties in relation to the functions of the municipality, to which the Government may, by notification extend the provisions of this section, has failed to perform any duty imposed, upon him by any law or rules, the municipality may, by notice fixing a reasonable period, require him to perform the duty and, on his failure to do so, shall report the matter to the superior officer whom it may concern, or to the Deputy Commissioner and the said officer shall, after such enquiry as may be required, take suitable action under intimation to the municipality and the Director.

309. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with the provisions thereof which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid on the Table of the Legislative Assembly.

310. Repeal of H.P. Act No. 19 of 1968. - (1) On and from the date of commencement of this Act, the Himachal Pradesh Municipal Act, 1968 (19 of 1968), shall stand repealed (hereinafter referred to as the repealed Act) :

Provided that the repeal shall not affect.-

(a) the previous operation of the repealed Act, or anything duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act ; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or, remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act has not been enforced :

Provided further that subject to the preceding proviso anything done or any action taken (including any appointment, or delegation made, notification, notice, order, instruction or direction issued, rule, regulation, bye-laws, form, or scheme framed, certificate obtained, permit or licence granted, registration affected, tax imposed or fee or rate levied), under the repealed Act shall, in so far as it is in force immediately before the coming into force of this Act and is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) The existing municipalities shall continue till the expiration of their duration, unless sooner dissolved under the provisions of this Act or by a resolution passed to that effect by the Legislative Assembly.

(3) The arrangement existing for the municipalities under the repealed Act shall continue, until the corresponding municipality is constituted under this Act.

311. Repeal of Himachal Pradesh Ordinance No. 2 of 1994.- (1) The Himachal Pradesh Municipal Ordinance, 1994 is hereby repealed.

(2) Notwithstanding the repeal of the Himachal Pradesh Municipal Ordinance, 1994, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

2 **SCHEDULE I**

[Section 3(2)]

MUNICIPAL COUNCILS

Part:I

Sl.No.	Name of the Municipal Committee	Renamed Municipal Councils
1.	Municipal Committee, Rampur.	Municipal Council, Rampur.
2	Municipal Committee, Theog.	Municipal Council, Theog.
3	Municipal Council, Rohroo	Municipal Council, Rohroo
4.	Municipal Committee, Solan.	Municipal Council, Solan.
5.	Municipal Committee, Nalagarh.	Municipal Council, Nalagarh.
6.	Municipal Committee, Parwanoo	Municipal Committee, Parwanoo
7.	Municipal Council, Baddi	Municipal Council, Baddi
8.	Municipal Committee, Nahan.	Municipal Council, Nahan.
9.	Municipal Committee, Paonta Sahib.	Municipal Council, Paonta Sahib.
10.	Municipal Committee, Sri Naina Devi Ji.	Municipal Council, Sri Nain
11.	Municipal Committee, Bilaspur.	Municipal Council,Bilaspur.
12	Municipal Council, Ghumarwin	Municipal Council, Ghumarwin
13.	Municipal Committee, Mandi.	
14.	Municipal Committee, Sundernagar.	
15.	Municipal Committee, Nerchowk.	
16.	Municipal Committee, Kullu.	

17 Municipal Council, Manali
18. Municipal Committee, Hamirpur.
Municipal Council, Mandi.

Municipal Council, Sundernagar.
Municipal Council, Nerchowk Municipal Council, Kullu.
Municipal Council, Manali
Municipal Council, Hamirpur.

19 Municipal Council, Sujanpur Municipal Council, Sujanpur
20. Municipal Committee, Kangra.
21. Municipal Committee, Nurpur. 22. Municipal Committee, Palampur.
Municipal Council, Kangra.
Municipal Council, Nurpur. Municipal Council, Palampur.

23 Municipal Council, Dehra Municipal Council, Dehra

24 Municipal Council, Jawalamukhi Municipal Council, Jawalamukhi
25 Municipal Council, Nagrota 26. Municipal Committee, Una.
Municipal Council, Nagrota
Municipal Council, Una.

27 Municipal Council, Santokgarh Municipal Council, Santokgarh
28. Municipal Committee, Chamba. 29. Municipal Committee, Dalhousie.
Municipal Council, Chamba. Municipal Council, Dalhousie.

Part II: NAGAR PANCHAYATS

Sl.No.	Name of Notified Area Committee	Renamed Nagar Panchayats
1.	2.	3.
1.	Notified Area Committee, Sunni	Nagar Panchayat, Sunni.
2.	Notified Area Committee, Narkanda.	Nagar Panchayat, Narkanda
3.	Notified Area Committee, Kotkhai.	Nagar Panchayat, kotkhai.
4.	Notified Area Committee, Jubbal	Nagar Panchayat, Jubbal.
5.	Notified Area Committee, Chopal.	Nagar Panchayat, Chopal.
6.	Notified Area Committee, Arki.	Nagar Panchayat, Arki.
7.	Notified Area Committee, Rajgarh.	Nagar Panchayat, Rajgarh.
8.	Notified Area Committee, Talai	Nagar Panchayat, Talai.
9	Notified Area Committee, Sarkaghat	Notified Area Committee, Sarkaghat
10	Notified Area Committee, Karsog	Nagar Panchayat, Karsog
11.	Notified Area Committee, Rewalsar	Nagar Panchayat, Rewalsar.
12	Notified Area Committee, Jogindernagar.	Nagar Panchayat, Jogindernagar.
13.	Notified Area Committee, Bhuntar.	Nagar Panchayat, Bhuntar.
14.	Notified Area Committee, Banjar.	Nagar Panchayat, Banjar
15.	Notified Area Committee, Gagret.	Nagar Panchayat, Gagret.
16	Notified Area Committee, Mehatpur	Notified Area Committee, Mehatpur
17.	Notified Area Committee, Daulatpur Chowk	Nagar Panchayat, Daulatpur Chowk.
17	Notified Area Committee, Tahliwal	Nagar Panchayat, Tahliwal
19.	Notified Area Committee, Nadaun	Nagar Panchayat, Nadaun.
20.	Notified Area Committee, Bhota.	Nagar Panchayat, Bhota.
21.	Notified Area Committee, Chowari.	Nagar Panchayat, Chowari.
22.	Notified Area Committee, Baijnath Paprola	Nagar Panchayat, Baijnathpaprola
23.	Notified Area Committee, Jawali	Nagar Panchayat, Jawali