MUNICIPAL ACT, 2000

(Act No. XX of 2000)

THE JAMMU AND KASHMIR MUNICIPAL ACT, 2000

(Act No. XX of 2000)

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SCHEDULE-1

THE JAMMU AND KASHMIR MUNICIPAL ACT, 2000

(Act No. XX of 2000)

[Received the assent of the Governor on 14th November, 2000 and published in the Government Gazette dated 14th November 2000].

An Act to consolidate, amend and replace the law relating to municipalities in Jammu and Kashmir.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-first Year of the Republic of India as follows:—

CHAPTER – 1

Preliminary

1. *Short title, extent and commencement.* —(1) This Act may be called the Jammu and Kashmir Municipal Act, 2000.

(2) It extends to the [1][whole of the Union territory of Jammu and Kashmir].

[2](3) It shall come into force on such date as the Government may, by notification in the *[Government Gazette], appoint.

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

[3][x x x x]

[4][(1)] *"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 Government ;

[4][(2) *"Board"* means the Jammu and Kashmir Property Tax Board constituted under the Jammu and Kashmir Property Tax Board Act, 2010 ;] 1.Substituted for "whole of the State of Jammu and Kashmir" by S.O. 3466(E) of 2020. 2.Chapter I, II, III, section 64 of Chapter V, Chapter VII to XVIII enforced w.e.f. 18th February, 2003 vide SRO-45 dated 18.02.2003.

3.Existing clause (1) omitted by S.O. 3466(E) of 2020.

4.Existing clause (2) renumbered as clause (1) and after clause (1) so renumbered, clause (2) inserted *ibid*.

(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 a greater part has been developed as a business or residential area ;

(6) *" bye-laws"* means by-laws made under this Act ;

(7) *"Committee"* means a committee of 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 ;

(9) *"Deputy Commissioner"* or "Deputy Commissioner of the Districts" includes Additional Deputy Commissioner or any other officer at any time appointed by the Government to perform in any District or Districts the functions of a Deputy Commissioner under this Act ;

(10) *"Director"* means the Director of the Local Bodies appointed by the Government under section 35 of this Act ;

(11) *"District"* means a revenue district ;

[1][(12) *District Planning Committee"* means a District Planning Committee constituted under section 47-A of the Jammu and Kashmir Panchayati Raj Act, 1989 ;]

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

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

1. Clause (12) substituted by S.O. 3466 (E) of 2020.

[1][(14-a)"economically weaker section" means such class of persons,[2][x x x] as may be notified by the Government from time to time, for the purpose of providing housing sites of the dimension 4 metre x 7.5 metre and carpet area within the range of 25 square metre to 30 square metre] ;

(15) *"election"* means and includes the entire election process commencing on and from the date of notification calling for such election of member 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 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 alteration of building as effect an alteration of its drainage or sanitary arrangements, or materially affect its security ;

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

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

(17) *"Executive Officer"* means a person, by whatever name called, appointed under section 306 of this Act to discharge the functions of the Executive Officer under this Act and 'Secretary' means a Secretary of the Municipal Council or Municipal Committee ;

(18) *"explosive" and "petroleum"* have the meaning assigned to those words in the Indian Explosives Act, 1884, and the Petroleum Act, 1934, respectively ;

1. Clause (14-a) inserted by Act No. XIII of 2012.

2. Words "being permanent residents of the State" omitted by S.O.3466 (E) of 2020.

(19) *"factory"* shall have the meaning assigned to it in the Factories Act, 1948 ;

[1][(19-a)"floor space index" means the area that can be constructed on a piece of land divided by the total area of the land];

(20) *"Government"* means the Government of the [2][Union territory of Jammu and Kashmir] ;

[3][(20-a)"group housing" means more than two buildings on a plot with one or more floors and with one or more dwelling units in each floor];

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

(22)*"land"* shall include land which is built upon or covered with water ;

[4][(22-a) "low income group" means such class of persons, [5][x x x x] as may be notified by the Government from time to time, for the purpose of providing housing sites which may be of dimension 4.5 meter x 10 meter or floor area of not exceeding 50 square meter in case of flatted accommodation];

(23) *"Municipality"* means any local area declared by or under this Act to be a Municipality;

(24) *"Municipal Fund"* means the Municipality Fund constituted under section 52 of this Act ;

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

1. Clause (19-a) inserted by Act No. XIII of 2012, s. 2, w.e.f. 26.04.2012. 2. Substituted for "State" *ibid.*

3. Clause (20-a) inserted *ibid*.

4. Clause (22-a) inserted *ibid*.

5. Words "being permanent residents of the State" omitted by S.O.3466 (E) of 2020.

(27) *"occupier"* includes 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 or damages on account of the occupation of such land or building, and also an owner living in or otherwise using, his own land or building and also a rent-free tenant ;

(28) *"owner"* when used in reference to any land or building includes the person for the time being receiving the rent of the land or building or any of the part of the land or building whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver who would so receive such rent if the land, building or part thereof were let to a tenant ;

(29) *"President"* means the President elected under section 22 of this Act ;

[1][(29-a)"shelter fee" means fee levied and collected in lieu of the reservation of land or floor area, as the case may be, being an amount equal to the market value of the land or floor area determined on the basis of the rates notified by the Government, which is required to be reserved for the economically weaker sections and the lower income groups] ;

[2][(29-b)"Special Tribunal" means the Special Tribunal constituted under section 4 of the Jammu and Kashmir Special Tribunal Act, 1988 ;]

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

and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from suing as aforesaid ;

1. Clause (29-a) inserted by Act No. XIII of 2012, s. 2, w.e.f. 26.04.2012. 2. Clause (29-b) inserted by S.O. 3466 (E) of 2020.

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, up to the boundary of any abutting property not accessible to the public ;

(31) [1]*["fee"]* shall include any toll, rate, cess, fee or other impost leviable under this Act ;

[2][(31A)"Taxable annual value" means the taxable annual value of any land and building or vacant land or both determined under section 73 for the purpose of assessment of property tax ;]

(32) *"vehicle"* means a wheeled conveyance capable of being used on a street.

[3][2A. *Substitution of expression.*— For the words "annual value" or"rateable value" wherever occurring in this Act, the words "taxable annual value" shall be substituted.]

CHAPTER – II

Classification of Municipalities and Municipal Area

3. *Classification of municipalities.* —(1) There shall be constituted three classes of urban areas constituting two sets of Municipalities and one Municipal Corporation in accordance with the provisions of this section as specified below:—

(a) a *"Municipal Committee"* for small town ;

(b) a *"Municipal Council"* for medium town ; and

(c) a *"Municipal Corporation"* for the capital cities of Jammu and Srinagar :

Provided that no cantonment or part of cantonment shall form part of any Municipal Committee, Municipal Council or Municipal Corporation :

Provided further that a municipality under this section may not be constituted in such urban area or a part thereof as the Government may, having regard to the size of the area and the municipal services being

1. Substituted by Act V of 2017 for "tax", s. 173(i).
2. Clause (31A) inserted by S.O. 3466 (E) of 2020.
3. Section 2A inserted ibid.

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.

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

Provided that the Municipalities, Town Area Committees and Notified Area Committees existing at the commencement of the Act and listed 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 the 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 Municipal Council to be Municipal Committee and *vice versa* or include or exclude any area from any Municipality or de-notify any Municipal Committee or Municipal Council through medium of a notification and procedure as it may deem fit.

4. *Procedure for declaring municipal area.* —(1) The 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 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 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 Government and the Government shall take his objection into consideration.

(6) When six weeks from the date of publication have expired and the Government has considered and passed orders on such objections as may have been submitted to it, the Government may, by notification, declare the local area for the purposes of this Act, to be a municipal area.

(7) The 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 any Town Area Committee or Notified Area Committee or any part of any Town Area Committee or Notified Area Committee is declared to be a Municipal Council or Municipal Committee under this section, the Municipal Council or Municipal Committee shall be deemed to be the perpetual successor of such Town Area Committee or Notified Area Committee as the case may be and in respect of all its rules, bye-laws, [1][fees] and all other matters, whatsoever, shall continue in office and shall, notwithstanding anything contained in this Act be deemed to be the Municipal Committee until the appointment and election of members is notified by the Government under the provisions of this Act.

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

5. *Notification of intention to include a local area in a municipal area.*—(1) The 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 inhabitants 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 Government within six weeks from the publication of the notification ; and the Government shall take such objection into consideration.

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

1. Substituted by Act V of 2017 for “taxes”, s. 173(i).

(4) When any local area has been included in a municipal area under sub-section (3) of this Act, and, except as the 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 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 Government within six weeks from

the publication of the notification and the Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired and the Government has considered the objections, if any, which have been submitted under sub-section (1), the 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 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 Government and in what manner the liabilities of the municipality shall be apportioned between the municipality and the 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 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 Government and the liabilities of the municipality shall be transferred to the 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 Halqa under clause (j) of sub-section (1) of section 2 of the Jammu and Kashmir Panchayati Raj Act, 1989, the assets and liabilities referred to in sub-section (2) shall vest in the Halqa Panchayat of the Halqa from the date of its establishment under sub-section (1) of section 4 of the Jammu and Kashmir Panchayati Raj Act, 1989.

Explanation.—For the purposes of this sub-section, the assets shall include all arrears of [1][fee], toll, 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 Director Urban Local Bodies.

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 Government, by adopting the criterion that in the municipal area having population of:—

(i)	not exceeding 5,000	05 members ;
(ii)	exceeding 5,000 but not exceeding 20,000	13 members ;
(iii)	exceeding 20,000 but not exceeding 50,000	17 members ;
(iv)	exceeding 50,000 but not exceeding 1,00,000	21 members ;
(v)	exceeding 1,00,000 but not exceeding 2,00,000	25 members ;

1. Substituted by Act V of 2017 for "tax", s. 173(i).

(vi)	exceeding 2,00,000 but not exceeding 5,00,000	27 members ;
(vii)	exceeding 5,00,000	30 members :

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

(2) Save as provided in sub-section (3), all seats in that municipality shall be filled in by person chosen by direct election and for the purpose of election, the Deputy Commissioner, Chief Electoral Officer or any other officer appointed by the Government, shall, in accordance with such rules as may be prescribed by the 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.

(3) In addition to persons chosen by direct election from the wards, the than three persons having special knowledge or experience in municipal administration, as members of a municipality :

Provided that the persons nominated under this sub-section shall not have the right to vote in the meeting of the municipality :

Provided further the Executive Officer in the case of a Municipal Council and Municipal Committee, shall have the right to attend all the meetings of the municipality.

11. *Reservation of seats.*— Should the prescribed authority so feel expedient and necessary, any unrepresented section of the society shall be considered for nomination by it, which shall not exceed in aggregate by not more than five Councillors in addition to 75 seats.

[1][11-A. *Reservation of seats for certain categories.* —(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality in proportion to the total population of the Scheduled Castes and Scheduled Tribes in the Municipal Area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be.

(3) Not less than one-third (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 in the Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in the Municipality.

[2][(3-A) A person who becomes a member or an office bearer of a Municipality on the basis of a false Scheduled Caste or Scheduled Tribe Certificate, shall be disqualified from the date on which it is found that he had become such member or office bearer on the basis of such false caste certificate and shall continue to be disqualified for further period of six years].

(4) The Deputy Commissioner concerned or the Chief Electoral Officer, as the Government may appoint in this behalf, shall be the competent authority for purposes of this Act].

12. *Reservation of offices of Chairperson.* —(1) The Government may, by general or special order reserve such number of offices of Chairperson, for persons belonging to Scheduled Castes, Scheduled Tribes and Backward Classes in the Municipal Committee/Municipal Council as the case may be not exceeding the

proportion to the total number of offices to be filled by direct election in the municipalities as urban population of the persons belonging to these classes in the [3][Union territory of Jammu and Kashmir] bears to the total population and may further reserve one-third of the total seats reserved under this sub-section for women belonging to these classes.

(2) The offices of Chairperson reserved under sub-section (1), shall be allotted by rotation to different municipalities in the [3][Union territory of Jammu and Kashmir] in such a manner as may be prescribed.

1. Section 11-A inserted by Act No. XIV of 2005, s.3, w.e.f. 28.09.2004. 2. Sub-section (3-A) inserted by Act No. IX of 2006, s. 2.
3. Substituted for "State" *ibid.*

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 [3][Union territory of Jammu and Kashmir], except that of the municipal area declared to be a municipal area for the purposes of the Jammu and Kashmir Municipal Corporation Act, 2000.

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.

(2) The term of the nominated members shall be coterminous with the term of elected members.

(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 member 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 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.

(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 :

1. Substituted for "State" by S.O. 3466 of 2020.

Provided further that the first election to a municipality constituted after the commencement of this Act, may be held within a period of [1][two years] of its being notified as a municipality :

[2][Provided also that the first election to any Municipality constituted after the commencement of the Act may be postponed by the Government for climatic or other reasons and the elections to such Municipality shall be held within a period of three years of its being notified as a Municipality.]

[3][(2-A) Notwithstanding anything to the contrary contained in this Act, fresh elections may be held for vacant seats within a period of one year from the date of first election for any Municipal Committee where two-third members have not been elected at an election and till constitution of a Municipal Committee the powers of such Committee may be exercised by such Administrator as may be appointed by the Government in this behalf].

(3) A municipality constituted upon the dissolution of 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.

15. *Resignation of a member of municipality.* —(1) A 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 shall be filled up under section 19 of this Act.

[4][15A. *Qualification.*— A person shall not be qualified for being chosen as, and for being, a member of a municipality, unless—

(a) he is a citizen of India ;

(b) he has attained the age of 25 years ; and

(c) his name is registered as an elector in the electoral roll of any ward in the municipal area.]

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

1. Substituted for the words "one year" by Act No. XI of 2004, s. 4, w.e.f. 14.02.2004. 2. Proviso inserted by Act No. XIV of 2005, s. 4 (i), w.e.f. 16.02.2005.
3. Sub-section (2_A) inserted *ibid.*
4. Section 15A inserted by S.O. 3466 (E) of 2020.

[1][x x x x] ;

(b) if he is so disqualified by or under any law for the time being in force for the purposes of the election to the [2][the Legislative Assembly of the Union territory of Jammu and Kashmir ; or]

[3][x x x x]

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

(d) if he was encroached upon, is a beneficiary of the encroachment upon, any land belonging to, or taken on lease or requisitioned by or on behalf of the 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

(e) if he has been convicted of an election offence under any law for the time being in force ; or

(f) if he has been ordered to give security for good behaviour under relevant section of [4][the Indian Penal Code, (45 of 1860)] ; or

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

(h) 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 expression "service" or"employment" shall include persons appointed, engaged, or employed on whole time, part time, casual, daily or contract basis ; or

1. Clause (a) omitted by S.O. 3466 (E) of 2020.
2. Substituted for "State Legislature" *ibid*.
3. Proviso omitted *ibid*.

4. Substituted for "the Jammu and Kashmir State Ranbir Penal Code, Svt. 1989 (1932 A.D.)" *ibid*.

(i) if he is registered as a habitual offender under the law for the time being in force ; or

(j) 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

(k) if he has not paid the arrears of any [1][fee] 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 [2][Municipal fund or any Department of the Government or local body or authority] ; or

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

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

(n) is not a voter on the electoral rolls of any constituency of a municipal area ; or

(o) if he is so disqualified by or under any other law made by the [3][State Legislature].

(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 Government, in consultation with the Chief Electoral Officer ; and

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

17. *Bar to hold more than one office.*— If a person who is chosen as a member of a municipality becomes a Member of the House of the People, the

1. Substituted by Act V of 2017 for "tax", s. 173(i).
2. Substituted for "Municipal fund" by S.O.3466 (E) of 2020.
3. Now "Legislative Assembly of the Union territory of Jammu and Kashmir.

Council of States, *[the State Legislative Assembly or the State Legislative Council] 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 State Legislative Council] or the Councillor of 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 or the State Legislative Council] or the Municipal Corporation or the Panchayat, as the case may be.

18. *Power of Government as to removal of members.* —(1) The Government may, in consultation with the Chief Electoral Officer and by notification, remove any member of a municipality,—

(a) if he refuses to act, or becomes, in the opinion of the 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 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 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 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 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 misapplication of any money or property of the municipality ;

* Now the Legislative Assembly of the Union territory of Jammu and Kashmir.

(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 time 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 Government where in the opinion of the Government such action or appearance is contrary to the interests of the municipality :

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 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 296, shall be disqualified for election for a period not exceeding six years.

[1][18-A. *Disqualification on ground of defection.* —(1) A member of a Municipality belonging to any political party shall be disqualified for being a member of the Municipality—

(a) if he has voluntarily given up his membership of such political party ; or

(b) if he votes or abstains from voting in such Municipality contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned in writing by such political party, person or authority within fifteen days from the date of such voting or abstention.

(2) Notwithstanding anything contained in sub-section (1), a person who on the commencement of the Jammu and Kashmir Municipal Laws (Amendment) Act, 2005 is a member of a Municipality (whether elected or nominated as such) shall, where he was a member of a political party, immediately before such commencement

1.Sections 18-A, 18-B, 18-C, 18-D and 18-E inserted by Act No. XII of 2005, s. 3, w.e.f. 10.05.2005.

be deemed, for the purposes of sub-section (1), to have been elected as a Member of such Municipality as a candidate set up by such political party.

Explanation:—For the purposes of this section,—

(a) an elected member of a Municipality shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member or which he joins after such election ; and

(b) a nominated member of a Municipality shall,—

(i) where he is a member of any political party on the date of his nomination as such member be deemed to belong to such political party ;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes a member.

18-B. *Disqualification on ground of defection not to apply in case of merger.* ––(1) A member of a Municipality shall not be disqualified under sub-section (1) of section 18-A where his original political party merges with another political party and he claims that he and any other member of his original political party,—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such member ; or

(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-section (1) of section 18-A and to be his original political party for the purposes of this sub-section.

(2) For the purposes of sub-section (1), the merger of the original political party of a member of a Municipality shall be deemed to have taken place if, and only if, not less than two-third of the members of the political party concerned have agreed to such merger.

Explanation:—For the purposes of this section "original political party", in relation to a member of Municipality means the political party to which he belongs for the purposes of this section.

[1][18-BB. *Disqualification on the ground of defection not to apply in case of split.* —(1) A member of a Municipality shall not be disqualified under sub-section (1) of section 18-A where he and any other member of his original political party constitute the group representing a faction which has arisen as a result of split in his original political party and from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purposes of sub-section (1) of section 18-A and to be his original political party for the purposes of this sub-section.

(2) For the purposes of sub-section (1), the split of the original political party of a member of a Municipality shall be deemed to have taken place if and only if not less than two-third of the members of the political party concerned have agreed to such split.]

18-C. *Decision on question as to disqualification on ground of defection.*— If any question arises as to whether a member of a Municipality has become subject to disqualification, the question shall be referred for the decision of the Chief Electoral Officer by any other member of the Municipality.

18-D. *Appeals.* —(1) Any person aggrieved of any decision of the Chief Electoral Officer, may prefer an appeal to the Special Tribunal constituted under the Jammu and Kashmir Special Tribunal Act, 1988.

(2) Appeals shall be preferred within a period of 15 days from the date of decision.

(3) The decision of the Special Tribunal shall be final and conclusive.

18-E. *Bar of Jurisdiction.*— Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, no Court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a Municipality under section 18-A].

19. *Filling of casual vacancies.* —(l) 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 member, 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.

(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.

1. Section 18-BB inserted by S.O. 3808(E) dated 26.10.2020.

20. *Incorporation of municipality.*— Every municipality shall be a body corporate to be known by the name of Municipal Council or the Municipal Committee 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 member 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 [1][the Indian Penal Code, (45 of 1860)].

22. *Election of President and Vice-President.*— Every Municipal Committee or Municipal Council [2][shall elect [3][x x x x] 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 Committee or a Municipal Council :

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

Provided further that if the office of the President or 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 committee at such rate as may be prescribed by the Government from time to time.

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, 1989 (1932 AD)" by S.O. 3466 of 2020.

2. Substituted for the words "shall elect" by Act No. VIII of 2010, s. 3, w.e.f. 21.04.2010. 3. Words "through open ballot" omitted by S.O. 3466 of 2020.

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

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

(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, as the case may be.

25. *Motion of no confidence against President or Vice-President.* —(1) A motion of no confidence against the President or Vice-President, may be made in accordance with the procedure laid down in the rules.

(2) Where a notice of intention to move a resolution requiring the President or 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 thereunder the President or Vice-President of the municipality shall not preside over a meeting in which a motion of no-confidence is discussed against him. Such meeting shall be presided over by such a person, and convened in such manner, as may be prescribed and the persons against whom a motion of no-confidence is moved, shall have a right to vote and to take part in the proceedings of such a 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 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, appointed by

the Government and the President or Vice-President, as the case may be, has been given a reasonable opportunity of being heard.

27. *Notification of elections and nominations.* —(1) Every election or nomination of a member and election of President and Vice-President of a Municipal Committee or Municipal Council shall be notified in the Government Gazette and no member 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 Municipal Committee or Municipal Council, an oath or affirmation of his allegiance to the Constitution of India in the following form, namely:—

"I, AB, having been elected (or nominated) Member/President/Vice-President of a Municipal Committee 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) Every election of a member shall be notified in the Government Gazette by the Chief Electoral Officer and every election of a President and Vice-President shall be notified by the Government in the Government Gazette within thirty days from the date of declaration of the result of such election.

(3) lf 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, as the case may be, shall be deemed to be invalid, and his seat shall become vacant.

28. *Time for holding meetings.* —(1) Every election or nomination of a member at such time as may be from time to time, be fixed by the bye-laws.

(2) The President, or in his absence 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 member who signed the requisition may request the officer nominated by the Government to convene the meeting.

(4) The officer appointed by the Government 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 ordinary or 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, which 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 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.

[1][33A.*Constitution of Ward Committees.* —(1) There shall be constituted a Ward Committee for each Ward of the Municipality within a period of six months from the date appointed for its first meeting referred to in sub-section (1) of section 27 :

Provided that where a Municipality has been constituted before the commencement of the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), the Ward Committee shall be constituted within two years from such commencement.

(2) Each Ward Committee shall consist of—

(i) the member of the municipality representing the ward, who shall be the chairperson of the Ward Committee ;

(ii) not more than ten electors representing the civil society from the ward, to be nominated by the municipality in such manner as may be prescribed :

Provided that if the population of the ward does not exceed two thousand, the number of nominated members shall be four, and if the population of the ward

exceeds two thousand, there shall be one additional member for every thousand population or part thereof in excess of two thousand :

Provided further that in reckoning the number of additional members of the Ward Committee exceeding four, any part of population less than one thousand shall be ignored :

1. Sections 33A and 33B inserted by S.O. 3466 of 2020.

Provided also that half of the persons to be nominated to the Ward Committee shall be women ; and

(iii) the representatives of Area Sabha.

Explanation.— For the purpose of this section, the expression "civil society"means any non-Governmental organisation or association of persons established, constituted or registered under any law for the time being in force, working for social welfare, and includes any community based organisation, residents welfare association, professional institution or any civic, health and educational institution or any social or cultural body or any trade or industrial organisation or other stakeholders or such other association or body, as may be prescribed.

(3) A person shall be disqualified for being nominated as, and for being, a member of the Ward Committee if he is disqualified for being chosen as, and for being, a member of a municipality under the provisions of this Act.

(4) The term of office of Ward Committee shall be co-terminus with the term of office of the municipality.

(5) The manner of conduct of business at the meetings of the Ward Committee shall be such as may be prescribed.

(6) The Ward Committee shall discharge the following functions, namely:—(i) supervision and monitoring of the—

(a) sanitation work and drainage maintenance ;

(b) distribution of water supply ;

(c)

working of the street lights ; (d) minor repair of roads ;

(e) maintenance of markets ;

(f) maintenance of parks and playgrounds ; and

(g) implementation of poverty alleviation programmers ;

 (ii)

monitoring the functioning of schools, maternity centres, dispensaries and health centres wherever they are under control of the Municipality ;

(iii) facilitation in the collection of taxes ;

(iv) preparation of list of beneficiaries for beneficiary oriented schemes, pensions and subsidies ;

(v) prepare an annual ward development plan in a manner consistent with the rules to be prescribed ;

(vi) map the ward infrastructure index ;

(vii)preparation of inventory of municipal assets ;

(viii)assistance in the implementation of all Government schemes ; and (ix) any other function as may be prescribed.

(7) Every Ward Committee shall be empowered to—

(i) seek information from the Executive Officer regarding any matter relating to the ward ;

(ii) obtain information about the Master Plan and Zonal Developmental Plan of the municipality ;

(iii)

obtain information relating to municipality budget ; (iv) be consulted in the development of land use and zoning regulations within the ward ; and

(v) obtain full details of all revenue items relating to the Ward.

(8) The Municipality shall allocate twenty percent. of the amount earmarked in the annual budget of the municipality for maintenance of services relating to sanitation, water supply, drainage, roads, street lighting, parks, markets etc. to all Ward Committees enabling them to perform the functions as specified in sub-section (6).

(9) The Ward Committee may, from time to time, appoint from amongst its members such sub-committees, consisting of such number of members as it

may think fit, and may refer to such sub-committees for enquiry or opinion any matter relating to the functions entrusted to it.

33B.*Constitution of Area Sabha.* —(1) Each ward in a municipality shall be divided into areas in such a manner that each such area shall, as far as possible, comprise of not less than five hundred and not more than one thousand people.

(2) All the electors of an area of a ward shall constitute the Area Sabha for such area and every Area Sabha shall elect an Area Sabha Representative from amongst themselves.

(3) The qualifications and disqualifications prescribed for being chosen as, and for being, a member of municipality under the provisions of this Act shall apply mutatis mutandis to the Area Sabha Representative.

(4) The term of the Area Sabha Representative shall ordinarily be co-terminus with that of the municipality concerned.

(5) The Area Sabha may, having regard to its managerial, technical, financial and organisational capacity and the actual conditions obtaining in the ward area perform and discharge the following functions and duties, namely:—

(i) to formulate proposals and determine the priority of schemes and development programmes to be implemented in the area and forward the same to Ward Committee for inclusion in the development plan of the ward ;

(ii) to identify the eligible persons for beneficiary oriented schemes on the basis of criteria fixed by the Government and prepare the list of beneficiaries in order of priority and forward the same to Ward Committee for inclusion in the development plan of the ward ;

(iii) to verify the eligibility of persons getting various kinds of welfare assistance from Government such as pensions and subsidies ;

(iv) to identify the deficiencies in water supply, street lighting and sanitation arrangements in the jurisdiction of the Area Sabha and to suggest the remedial measures to the Ward Committee ;

(v) to suggest the location of street lights, public taps, public wells, public toilets or any other public facility to the Ward Committee ;

 (vi) to assist in the activities of public health centers in the area ; and (vii)to undertake and support tax mapping.

(6) The Area Sabha, shall be empowered to—

(i) obtain any information from the official concerned relating to the services and the works proposed to be provided or executed in the area by the Ward Committee ;

(ii) obtain information from the Ward Committee about every decision taken by them concerning the jurisdiction of the Area Sabha ; (iii) obtain information from the Ward Committee relating to follow up action taken on the decisions concerning the area ;

(iv) impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution.

(7) The manner of conduct of business at the meetings of the Area Sabha shall be such as may be prescribed.

(8) The superintendence, direction and control for the preparation of the electoral rolls for, and the conduct of elections to, the seats of Area Sabha Representatives of the municipalities shall be vested in the Chief Electoral Officer..]

34. *Bye-laws.*— The Government may, for all or any of the municipality, 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 of meetings ;

(e) the custody of the common seal and the purpose 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 the 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 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 Government by this Act.

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

36. *Delegation of powers and functions.* —(1) The 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 280 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 Government, entrust any of its civic services and amenities (including collection of [1][fees] 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 any emergency necessitating immediate action before the matter can be considered by the municipality, the Executive Officer may 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 Block Development Council, or with any Halqa Panchayat, or with any cantonment authority, or with more than one such municipality, Block Development Council, Halqa Panchayat or authority in appointing out of their respective bodies a joint committee for purposes 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, Block Development Councils, Halqa Panchayats or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of corresponding 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

1. Substituted by Act V of 2017, s. 173 (i).

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 grounds of the existence of any vacancy in any municipality or any defects 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 provisions 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 the Secretary of the Municipality, as the case may be.

42. *Penalty on member or employees 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 1[the Indian Penal Code, (45 of 1860)].

(2) No member or employee of a municipality or a joint committee shall, by reason only of his being a share-holder in or a member of any corporated or registered company, be held to be interested in any contract entered into between

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, 1989 (1938 AD)" by S.O. 3466 of 2020.

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.

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 or 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 byelaws.

46. *Liability of loss.* —(1) Every member, officer 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 Government in this behalf to be a direct consequence of his neglect or misconduct in the performance of his duty 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 1[the Code of Civil Procedure, 1908 (5 of 1908)] to show cause by written or oral representation

1. Substituted by S.O. 3466 of 2020.

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 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 :

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 a 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 the Municipalities.* —(1) Subject to the provisions of this Act and the rules, regulations and bye-laws made thereunder, the municipal administration of a local area of any municipality shall vest in the Municipal Council and a Municipal Committee 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 Government may 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) solid waste management ;

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

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

(8) slum improvement and upgradation ;

(9) urban poverty alleviation ;

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

(11) promotion of cultural, educational and aesthetics aspects ;

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

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

(14) vital statistics including registration of births, deaths ;

(15) regulation of slaughter houses and tanneries ;

(16) regulation of amenities including street lighting, parking lots, bus stops and public conveniences :

Provided that the notification regarding devolution of powers under this sub-section shall be issued within three months 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 by-laws, made thereunder.

49. *Standing Committees.* —(1) The municipality shall have the following Standing Committees:—

(a) General Standing Committee ;

(b) Finance, Audit, Planning and Health Committees ;

(c) Development Committees ; and

(d) 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 the Chairman of the General Standing Committee and Finance, Audit and Planning Committee. The Vice-President shall be the *ex officio* member and the Chairman of other Committee not mentioned here into this sub-section :

Provided that if the Vice-President acts as the President of the municipality, the members of other Committees 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 Committee.* —(l) The General Standing Committee shall perform functions relating to the establishment matters, general policy matters and all other residuary matters which are not covered under the domain and ambit of other Committees.

(2) The Finance, Audit, Planning and Health 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 matters and consideration of all proposals effecting the planning of the municipal area, health of the local inhabitants and general supervision.

(3) The Development Committee shall perform functions relating to functions of every kind of development of municipal areas. This will include the building regulations etc.

(4) Social Justice Committee shall perform the following functions:—

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

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

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

(5) 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.

CHAPTER – V

Municipal fund and property

52. *Constitution of municipal fund.*— There shall be formed for each municipality a municipal fund, and this 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.

1[52-A. *Constitution of Basic Services Fund*. —(1) There shall be a separate fund called the 'Basic Services to the Urban Poor Fund' constituted by every Municipality for delivery of basic services to the urban poor including the inhabitants of slum areas.

(2) A minimum of twenty five percent of the funds out of development funds after reducing expenditure on establishment etc. within the budget of Municipality shall be earmarked and used for providing basic services to the urban poor, including inhabitants of slum areas on a yearly basis. The allocation to the fund shall be made from the following budgetary resources,—

(i) municipality's own sources of revenue like taxes, fees, user charges and rent etc ;

(ii) assigned revenues ;

(iii) allocations from Central or State Finance Commission or other inter-governmental transfers ;

(iv) contributions in cash or kind, gifts from individuals, organizations, donors for services to the poor ;

1. Section 52-A inserted by Act No. XIII of 2012, s. 3, w.e.f. 26.04.2012.

(v) grants from externally aided projects ;

(vi) sale of municipal assets ;

(vii)other sources as determined by the municipality.

Explanation:—For the purpose of this section any grant or contribution by whatever name called, received by the Municipality which is exclusively for the development of slum areas shall not be a part of the above earmarked fund.

(3) The earmarked funds under sub-section (1) shall be for providing basic services to the urban poor including the inhabitants of the slum areas.

Explanation:—For the purposes of this section, 'basic services' shall include expenditure on capital and revenue account directly incurred on water supply, drainage, sewerage, construction of community toilets, solid waste management, connecting roads, street lighting, public parks and play grounds, community and livelihood centres, community health centres, pre-primary and primary education centres, affordable housing for poor, and other services as determined by the Municipality but shall not include establishment

expenses, including salary and wages, not directly and specifically incurred for delivery of basic services to the poor.

(4) The allocation of the funds and its utilization for providing basic services to the urban poor should be detailed and enclosed with the Municipal Annual Budget as Budget for Poor along with the corresponding figures for the previous year.

(5) The fund shall be in the nature of a non-lapsable fund. In the event of the annual allocations not fully utilized, the balance funds should not be transferred to the municipal general fund but carried forward for utilization in the subsequent years. The fund allocation in the subsequent years shall be considered in addition, and shall not be reduced by the unspent funds of the previous years.

(6) A separate bank account shall be opened with a nationalized bank by the name of 'Basic Services to Urban Poor Fund' account wherein funds earmarked under sub-section (1) shall be periodically deposited ensuring that the yearly allocation is equal to the allocation as in the Municipal Budget.

(7) There shall be maintained separate Primary Books of Accounts with detailed accounting heads in line with the Jammu and Kashmir Municipal Accounts Manual for operation of special fund accounts].

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 Government to contribute towards the cost of such Directorate of Local Self Government as the 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 ;

(c) thirdly, such sum as may be required to meet the establishment charges and the salary, allowances, provident fund and gratuity of the member as of the municipal services and other municipal employees including such subscriptions and contributions as may be prescribed or determined by the Government :

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 ;

(e) fifthly, 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 ;

(f) sixthly, such sums as may be due to the 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 :

* Now Government of Union territory of Jammu and Kashmir.

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 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 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 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 water-courses and the preparation of compost manure ;

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

(c) the construction, establishment of institutions for the promotion or for the benefit of public health, rest houses, saraies/poor houses, markets, stalls, encamping grounds and works of public utility and the control and administration of public institutions 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 supply, storage and preservation from pollution of water for the use of men or animals ;

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

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

(h) the holding of fairs and industrial exhibitions ;

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

* Now Government of Union territory of Jammu and Kashmir.

(j) 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

(k) 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 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 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

* Now Government of Union territory of Jammu and Kashmir.

office, the municipal fund, may, with the previous sanction of the Deputy Commissioner, be deposited with any banker, or persons 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 think 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.

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 bank or scheduled banks as defined in section 2 of the Reserve Bank of India Act, 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 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 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 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 deposits 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 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, 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 Government or acquired by gift purchase or otherwise for local public purposes ;

(g) all public streets not being land owned by the 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 Government to a municipality for public purposes, it shall be deemed to be a condition of such transfer, unless specified to the contrary that should the property be at any time resumed by the 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, whichever shall be less, of any building, erected on or other works executed on the land by municipality.

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

(4) The Executive Officer may with the prior approval of the municipality—

(i) dispose of by sale or otherwise any moveable property belonging to the municipality the value of which does not exceed one lakh rupees ; or

(ii) grant a lease, not exceeding a period of ten years, of any immovable property belonging to the municipality ; or

(iii) sell or grant a lease in perpetuity of any immovable property belonging to the municipality the value of which does not exceed one lakh rupees or the annual rent of which does not exceed ten thousand rupees.

* Now Government of Union territory of Jammu and Kashmir.

(5) The Executive Officer 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 immovable property of which the municipality is proprietor, or which vests in it or which it holds in trust for the 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 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 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 [1][the Charitable Endowments Act, 1890 (6 of 1890)].

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 Government may, at the request of the municipality proceed to acquire it under the provisions of [2][the Right to Fair Compensation and Transparency in Land Acquisition,

1.Substituted for "the Jammu and Kashmir Charitable Endowments Act, Samvat 1989" by S.O. 3466 of 2020.

2. Substituted for "the State Land Acquisition Act, Samvat 1990" *ibid.*

Rehabilitation and Re-settlement, Act 2013 (30 of 2013)] 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 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 buildings 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 the sanction of the Government, transfer to the 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.

[1][62-A. *Reservation of Land for Housing to Economically Weaker Sections and Low Income Groups*. —(1) In all Area Planning Schemes such as a Town Planning or Land Re-adjustment Scheme, there shall be reservation of not less than ten per cent of the gross land area under each scheme for the purpose of providing housing accommodation to the members of economically weaker sections and low income groups.

(2) In all residential layouts of extent above 4000 square meters, not less than ten per cent of the gross land area shall be earmarked for economically weaker sections and low-income groups :

Provided that where the total extent of land is between 1000 square meters and 4000 square meters, either land may be reserved for economically weaker sections and low-income groups or shelter fee as may be prescribed by the Government may be collected, as the case may be.

(3) All residential layouts of extent below 1000 square meters may be exempted from reservation of land as well as payment of shelter fee.

(4) The size of the plot reserved under sub-sections (1) and (2) for economically weaker sections and low-income groups shall not be less than 30 square meters or higher, as may be prescribed by the Government.

1. Sections 62-A to 62-E inserted by Act No. XIII of 2012, s. 4.

(5) In all residential buildings with total plot area above 1000 square meters, not less than ten per cent of the floor area shall be reserved for economically weaker sections and low-income groups by way of flats :

Provided that where the total plot area is between 500 square meters and 1000 square meters, either floor area may be reserved for economically weaker sections and low-income groups or shelter fee be collected, as the case may be.

(6) All residential buildings with plot area below 500 square meters may be exempted from reservation of floor area as well as payment of shelter fee.

(7) The size of the unit reserved under section (5) for economically weaker sections and low-income groups shall not be less than 25 square meter of carpet area or higher, as prescribed by the Government.

(8) The earmarking in sub-sections (1) and (5) shall be such that a minimum of 20 per cent of developed land or 20 per cent of floor space Index in all land development or housing projects (both by Public and Private Agencies) is reserved for the economically weaker sections and low-income groups category taking into account the reservation at area plan or layout approval stage or group housing approval stages together.

62-B. *Identification of Eligible Persons and Determination of Cost of Land or Houses*. —(1) A Government Department or agency of the Government, as may be prescribed, shall maintain an inventory of all the plots or houses as the case may be, reserved for the economically weaker sections and the low income groups and ensure its protection from encroachment.

(2) For the allotment of plots or houses to the economically weaker sections and the low-income groups, the procedure for the selection of eligible persons and the determination of the cost of such plots or houses shall be such as be prescribed by the Government.

62-C. *Incentives to Developers*.— Every developer who makes provision for earmarking of land or floor area, as the case may be, for economically weaker sections and low income groups housing, shall be incentivized through a scheme of cross-subsidization, which shall be such, as may be prescribed by the Government including land use concessions through conversion of part of residential use for commercial use, higher floor space index, Transferable Development Right, etc. and/or higher prices charged from Higher Income Groups.

62-D. *Non-residential Development.*— The Government shall consider levy of suitable fee like Impact fee on all non-residential land development and buildings above 1000 square meters to generate resources for the shelter fund which may be used for provision of land, housing basic service, etc. to the urban poor.

62-E. *Utilization of Shelter Fee.*— The Shelter Fee collected shall be maintained in a separate account and be utilized as per guidelines for the acquisition of land, development of land and construction of houses and in such other ways so as to provide for housing to economically weaker sections and low income groups].

63. *Power to take over management of water works, sewerage works and roads, etc.* —(1) Whenever the 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 Government or earlier than that if deemed expedient by the Government.

(3) It shall be the liability of the municipality to pay the expenses, if any, which may be incurred by the 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 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 Government.

64. *Finance Commission.* —(1) The Finance Commission when constituted by the Government 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 Government and the municipalities of the net proceeds of taxes, duties, tolls and fees leviable by the [1][Union territory of Jammu and Kashmir], which may be divided between them and the allocation between the municipalities at all levels of their respective shares of such proceeds ;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the municipalities ;

(iii) the grants-in-aid to the municipalities from the Consolidated Fund of the [1][Union territory of Jammu and Kashmir] ;

(b) the measures needed to improve the financial position of the municipalities ; and

(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 recommendation 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

65. *Taxes which municipality shall impose.* —(1) For the purpose of this Act and subject to the provisions thereof every municipality shall impose the following taxes, namely:—

[1][(a)taxes on lands and buildings or vacant lands or both situated within the municipal area (hereinafter referred to as 'property tax')] ;

1. Substituted for "State" by S.O. 3466 of 2020.

1. Clause (a) substituted *ibid.*

* Now the Legislative Assembly of the Union territory of Jammu and Kashmir.

(b) if so authorised by the Government, a duty on transfer of property in the form of a surcharge on the duty imposed by the Stamp Act, Samvat 1977, on instrument of sale, gift and mortgage with possession of immovable property situated in municipal area at such rate as may be fixed by the Government not exceeding two per cent on, as the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgage, as set forth in the instrument.

(2) The duty imposed under clause (b) of sub-section (1) shall be collected by the Registrar or Sub-Registrar in the shape of non-judicial stamp paper at the time of registration of the document and intimation thereof shall be sent to the municipality immediately. The amount of the duty so collected shall be paid to the municipality concerned.

66. *Taxes that may be imposed.* —(1) Subject to any general or special orders of the Government in this behalf and to the rules, a municipality may, from time to time, for the purposes of this Act, impose in the whole or any part of the municipality any of the following taxes, tolls and fees, namely:—

(i) a [1][fee] on profession, trade, callings and employments ;

(ii) a [1][fee] on vehicles other than motor vehicles, plying for hire or kept within the municipal area ;

[2][x x x] ;

(iv) a [1][fee] on dogs, kept within the municipal area ;

(v) a show [1][fee] ;

[3][(vi) a fee for infrastructure development on motor vehicles suitable for use on road within the municipality.

Explanation.—For the purpose of this clause the expression "motor vehicle"shall have the same meaning as assigned to it in the Motor Vehicles Act 1988 (Central Act 59 of 1988)] ;

(vii) a [1][fee] on boats moored within the municipal area ;

1. Substituted by Act V of 2017 for "tax".

2. Clause (iii) omitted by S.O. 3466 of 2020.

3. Substituted for clause (vi) *ibid.*

(viii) a [1][fee] on the consumption of electricity [2][x x x] for every unit of electricity consumed by any person within the limits of the municipal area ;

[3][x x x] ;

(x) a [1][fee] on buildings payable along with the application for sanction of the building plans ;

(xi) a fee with regard to pilgrimage ;

(xii) a fee with regard to drainage ;

(xiii) a fee with regard to lighting ;

[4][(xiv)a fee for the purpose of collection, transportation and disposal of solid waste.

Explanation.— For the purpose of this section solid waste', includes filth, offensive matter, rubbish sewage, trade effluent, trade refuse, waste from hospital and any other waste which is detrimental to public health] ;

[5][x x x x] ;

(xvi) a fee in the nature of costs for providing internal services under the scheme framed under section 205 ;

(xvii) an education cess ;

(xviii)a local rate on land revenue ;

(xix) with the previous sanction of the *[State Government], any other tax, toll or fee which the **[State Legislature] has power to impose in the [6][Union territory of Jammu and Kashmir] under the Constitution of Jammu and Kashmir.

1. Substituted for "tax" by Act V of 2017, s. 173(i).
2. Words "at the rate of one paise" omitted by S.O. 3466(E) of 2020 dated 05.10.2020. 3. Clause (ix) omitted by Act V of 2017, s. 173(i).
4. Clause (xiv) substituted by S.O. 3466(E) dated 05.10.2020.
5. Clause (xv) omitted *ibid*.
* Now Government of Union territory of Jammu and Kashmir.
** Now the Legislative Assembly of the Union territory of Jammu and Kashmir.
6. Substituted for "State" by S.O. 3466(E) of 2020 dated 05.10.2020.

(2) The rates of any tax, toll or fee under sub-section (1) except that under clause (viii) thereof shall be determined by the municipality :

Provided that such rates shall not exceed the maximum limits which, the [1][State Government] may from time to time, by notification, specify in this behalf.

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 [2][State Legislature] has no power to impose in the [3][Union territory of Jammu and Kashmir] under the Constitution of Jammu and Kashmir :

Provided that any tax, toll or fee which immediately before the commencement of the Constitution of India 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 the 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 [4][fee] with effect from the date to be fixed in the resolution and 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 [1][State Government] shall notify in the [5][Government Gazette] the imposition of the [4][fee] from the appointed date.

69. *Collection and payment of tax on consumption of electricity.* —(1) The [4][fee] on consumption of electricity referred to in clause (viii) of sub-section (1) of section 66 shall be collected by the Power Development Department or by any other person, as the case may be, supplying electricity for consumption in municipal limits and paid to the municipality concerned :

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 manner as may be prescribed by Government under rules.

1. Now Government of Union territory of Jammu and Kashmir.
2. Now Legislative Assembly of the Union territory of Jammu and Kashmir.
3. Substituted for "State" by S.O. 3466(E) of 2020 dated 05.10.2020. 4.
Substituted for "tax" by Act V of 2017, s. 173(i).

(3) Such [1][fee] 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. *Procedure to impose taxes under section 66.* —(1) A municipality may, at a special meeting, pass a resolution to propose the imposition of any [2][tax or fee] under section 66.

(2) When such a resolution has been passed, the municipality shall publish a notice, specifying the class of persons or description of property proposed to be taxed, the amount or rate of the [2][tax of fee] to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed [2][tax or fee] may, within thirty days from the publication of the said notice, submit his objection in writing to the municipality, and the municipality shall at special meeting take his objection into consideration.

(4) If the municipality decides to amend its proposals or any of them, it shall publish amended proposals, along with a notice indicating that they are in modification of those previously published for objections.

(5) Any objections to the amended proposals which may be received within thirty days of their publication shall be dealt with in the manner prescribed in sub-section (3).

(6) When the municipality has finally settled its proposals, it shall, if the proposed [2][tax or fee] falls under clauses (i) to clause (xvi) of sub-section (1) of section 66, direct that the [2][tax or fee] be imposed, and shall forward a copy of its order to that effect, to the Deputy Commissioner, Director and the Government.

(7) If the proposed [2][tax or fee] falls under clauses (xvii) to (xix) of sub-section (1) of section 66, the Deputy Commissioner shall submit the proposals and objections with his recommendations through the Director to the Government.

(8) The Government on receiving proposals for taxation under sub-section (7) may sanction or refuse to sanction the same or return them to the municipality for further consideration.

1. Substituted for "tax" by Act V of 2017, s. 173(i).
2. Substituted for "tax" by S.O. 3466 of 2020.

(9) When—

(a) a copy of order under sub-sections (6) and (7) has been received ;

(b) a proposal has been sanctioned under sub-section (8), the [1][State Government] shall notify the imposition of the tax in accordance with such order or proposal, and shall in the notification specify a date not less than one month from the date of the notification, on which the [2][tax or fee] shall come into force.

[3][(10) A tax or fee leviable shall come into force from such date as may be notified.]

(11) A notification of the imposition of a [2][tax or fee] under this Act shall be conclusive evidence that the [2][tax or fee] has been imposed in accordance with the provisions of this Act.

71. *Power of Government in respect of taxation.* —(1) The Government may, by special or general order notified in the *[Government Gazette], require a municipality to impose any [4][fee], mentioned in section 66 not already imposed, at such rate and within such period as may be specified in the notification and the municipality shall thereupon act accordingly.

(2) The Government may require a municipality to modify the rate of any [4][fee] already imposed and thereupon the municipality shall modify the [4][fee] as required within such period as the Government may direct.

(3) If the municipality fails to carry out any order passed under sub-section (1) or sub-section (2), the Government may, by a suitable order notified in the Official Gazette, impose or modify the [4][fee]. The order so passed shall operate as if it were a resolution duly passed by the municipality and as if the proposal was sanctioned in accordance with the procedure contained in section 70.

[5][71A. *Powers of Government to make interim arrangements with regard to assessment and collection of taxes and fees.* —(1) The Government may, by notification, make such interim arrangements for the assessment and collection of one or more of the taxes and fees levied in terms of any of the provisions of this Chapter as may be deemed necessary or expedient, and the provisions of

1. Now Government of Union territory of Jammu and Kashmir..
2. Substituted for "tax" by S.O. 3466 of 2020.
3. Sub-section (10) substituted *ibid*.
4. Substituted for "tax" by Act V of 2017, s. 173(i).
5. Section 71A inserted by S.O. 3466(E) dated 05.10.2020.

this Chapter in so far as they relate to the assessment and collection of any such tax or fee shall stand modified to the extent and in the manner given in the notification during the period such interim arrangements remain in force.

(2) Any interim arrangement so made shall be for a period of up to three years only :

Provided that, for good and sufficient reasons to be recorded in writing, the Government may extend such interim arrangements for a maximum period of up to five years :

Provided further that on the request of the municipality, the Government may extend such interim arrangements for such period and on such conditions as may be mutually agreed between the municipality and the Government.]

[1][72.*Description and class of property tax.* —(1) Unless exempted under this Act or any other law for the time being in force, property tax shall be levied on all lands and buildings or vacant lands or both situated within the municipal area.

(2) The property tax shall be levied at such percentage not exceeding fifteen per cent of the taxable annual value of land and building or vacant land or both, as the Government may, by notification, from time to time specify.

73. *Determination of taxable annual value.*—(1) Subject to the provisions of section 68 and rules, if any, made by the Government in this behalf, the taxable annual value of land and building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total built-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building :

Provided that subject to such conditions and in such circumstances as it may deem fit, the municipality may, after passing a resolution in that behalf, in lieu of tax payable under this Act fix a lump sum amount not exceeding the sum payable under section 72 as annual tax for certain categories of property :

Provided further that such a resolution shall come into effect only it is approved by the Government.

1. Sections 72 to 80 substituted by S.O. 3466 of 2020.

Explanation.— For purpose of sub-section (1), the expression 'unit area value'means the unit area value determined under the Jammu and Kashmir Property Tax Board Act, 2013.

(2) The property tax payable shall be reduced by twenty-five percent in respect of a self-occupied building used for residential purpose and such class of self-

occupied non-residential building as may be notified by the Government on the recommendation of the municipality.

(3) The person liable to pay the property tax shall pay the tax in two equal installments, the first being before 30th May and the second by the 30th November of each financial year :

Provided that the owner or occupier may, if he so chooses, pay the tax in one installment :

Provided further that if the owner or occupier who is liable to pay property tax files return and also pays property tax for the whole year within one month from the date of commencement of the financial year, he shall be allowed a rebate of ten per cent. on the tax payable by him.

(4) Before any owner or occupier submits any return under sub-section (5), he shall pay in advance half year tax calculated or the full amount of the property tax payable by him for the year on the basis of such return declared by him as being true and complete.

(5) Every owner or occupier, who is liable to pay property tax under this Act, shall every year submit to the Executive Officer or any officer authorised by him in this behalf a return in the prescribed form within the stipulated period and in the prescribed manner.

(6) In order to facilitate filing of return by an owner or occupier of any building or vacant land or both and assessment of property tax under this section, the Board shall, from time to time, issue guidelines for determining the taxable annual value of the property and the tax payable thereon.

(7) Every return filed by an owner or occupier shall be deemed to be assessed to tax except in cases where the Executive Officer or any officer authorised by him take up cases for random scrutiny in such manner as may be prescribed.

(8) For the purpose of random scrutiny of the return filed or in cases where returns are not filed as required under sub-section (5) in respect of any

building or land or both, the Executive Officer or any officer authorised by him in this behalf may enter any land or building for inspection, survey or measurement after giving notice to the owner or occupier and the owner or the occupier shall be bound to furnish necessary information required and based on such inspection and information collected, the Executive Officer or such other officer, as the case may be, shall assess the property tax subject to sub-sections (10) and (11) and send a copy of the order of assessment to the owner or occupier concerned :

Provided that no such entry shall be made into and upon any building or vacant land before sunrise and after sunset.

(9) If the owner or occupier of the property refuses to allow the authorised officer to enter the premises for inspection, survey or measurement, the officer shall, after intimating such owner or occupier in this behalf, record the refusal and proceed to assess the property to the best of his judgment :

Provided that in case of a building used as human dwelling, due regard shall be paid to the social and religious customs of the occupiers thereof and no residential premises in the actual occupancy of a women shall be entered until she has been informed that she is at liberty to withdraw and every facility has been afforded to her for withdrawing.

(10) Upon random scrutiny, if the Executive Officer or the officer authorised by him in this behalf has reasons to believe that any return furnished, which is deemed as assessed, is incorrect or has been under-assessed resulting in evasion of property tax, he may, on the basis of information available on record and after physical inspection, proceed to re-assess the property after giving a reasonable opportunity to the tax payer to make a representation in this behalf.

(11) After making re-assessment under sub-section (10), the Executive Officer or the authorised officer, shall issue a notice of re-assessment to the tax payer

demanding that the re-assessed tax shall be paid within thirty days of the service of the notice :

Provided that if the tax re-assessed is higher than the tax remitted along with the returns by more than five per cent. the evaded tax shall be payable by such person together with a penalty of not less than two times of the tax so evaded along with interest for the difference in tax paid and payable calculated at twelve percent per annum.

(12) The owner or occupier may either accept the property tax assessed and the penalty levied under sub-section (11) or send objections to the

Executive Officer or the authorised officer within thirty days from the date of receipt of the notice under sub-section (11).

(13) The Executive Officer or the officer authorised by him shall consider the objections, if any, received under sub-section (12) and pass such orders either confirming or revising such re-assessment within a period of sixty days from the date of filing of objections and send a copy of the order to the concerned tax payer.

(14) An assessment or re-assessment under this section shall not be made on expiry of three years after—

(i) filing the tax return under this section ;

(ii) the evidence of fact justifying re-assessment, comes to the knowledge of the Executive Officer or the officer authorised by him in this behalf.

(15) In computing the period of limitation specified for assessment or reassessment, as the case may be, under this Act, the period taken for the disposal of any appeal against an assessment order or other proceedings by the appellate authority, tribunal or competent court shall not be taken into account.

(16) The property tax assessed and levied under this section shall be subject to revision once in three years by enhancing the tax by such percentage not exceeding ten percent of the tax as may be prescribed, commencing from the financial year from which the property tax is determined under this section (hereinafter referred to as base year) :

Provided that the non-assessment of property tax under this section during the block period of three years shall not be applicable to a building which undergoes any addition, change of use, alteration, or variation and the owner or occupier shall report such changes within six months from the date of completion or occupation, whichever is earlier, along with the revised return and tax :

Provided further that nothing contained in this sub-section shall be deemed to affect the powers of the Board to order an earlier revision of property tax for reasons to be recorded in writing and after giving a reasonable opportunity of filing objections to the person liable to pay tax.

74. *Incidence of tax.*—(1) The property tax shall be primarily leviable and payable as follows:—

(a) if the land or building is let, upon the lessor ;

(b) if the land or building is sub-let, upon the superior lessor ;

(c) if the land or building is unlet, upon the person in whom the right to let the same vests.

(2) If any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the property tax assessed in respect of that land and the building erected thereon shall be primarily leviable upon the said tenant, whether the land, building or both are in the occupation of such tenant or a sub-tenant of such tenant.

Explanation.— The term "tenant" includes any person deriving title to the land or building erected upon such land from the tenant whether by operation of law or by transfer inter vivos.

(3) Assessment of any building to a tax under this Act would not imply or be proof of the fact that the building is an authorised one.

75. *Duty to furnish information.*—(1) Every person shall, on the demand of any officer duly authorised by the municipality in this behalf, furnish such information as may be necessary in order to ascertain—

(a) the name and place of a residence of the owner or occupier or of both of such land or building ;

(b) the measurements or dimensions of such land or building or vacant land or both or any portion thereof and whether the property has been let out or otherwise and its usage ; and

(c) any details required in connection with the determination of the taxable annual value.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and give true information to the best of his knowledge or belief.

(3) Whoever omits to comply with any such requisition or fails to give true information to the best of his knowledge or belief shall, in addition to the tax levied, be also liable for penalty which may not be less than the tax so payable.

76. *Evidentiary value of assessment list and unit area value.*— The entries in the assessment list prepared under section 16, and the unit area value determined under section 18, of the Jammu and Kashmir Property Tax Board Act, 2013 shall be accepted as conclusive evidence for the purposes of assessing any tax levied under this Act and taxable annual value of land and building or vacant land or both to which such entries or determination respectively relate.

77. *Tax not invalid for defect of form.*— No assessment and no charge or demand of any tax made under this Act shall be called in question on the ground, or be affected by reason, of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or of any mistake in the amount of assessment or tax, or of any clerical error or other defect of form; and it shall be enough in respect of any such tax on property 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.

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

(2) If a person who is primarily liable for the payment of a tax on any property transfers his title on, or over, such property, and fails to give notice of such transfer to the municipality as aforesaid, he shall, in addition to any other liability which he incurs through such neglect, continue to be liable for 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 on 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 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 (I) or (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 one thousand rupees and

not more than five thousand rupees, and in the case of a continuing breach, with a further fine of one hundred rupees for every day after the first conviction till the breach continues.

79. *Notice of erection of building etc.*— When any new building is erected, or any existing building is reconstructed or altered or improved, or when any building which has been vacant is re-occupied, the person primarily liable to pay tax under this Act shall give notice thereof in writing to the Executive Officer within fifteen days from the date of its completion or occupation, whichever first occurs or as the case may be, from the date of its alteration, improvement or re-occupation and the tax shall be assessable on the building from the said date.

80. *Notice of domolition or removal of building.* —(1) When any building or any portion thereof, which is liable to tax under this Act, is demolished or removed, otherwise than by or under an order of the Executive Officer, the person primarily liable for the payment of the tax shall give notice thereof in writing to the Executive Officer.

(2) Until notice is given under sub-section (1), the person primarily responsible for payment of tax shall continue to be liable to pay such taxes as he would have been liable to pay in respect of such building if the same or any portion thereof had not been demolished or removed.]

[1]81.Omitted.

[2][82. *Power of Government to exempt payment of taxes.* —(1) The Government may, by order exempt, in whole or in part, from the payment of any tax payable under this Act by any person or class of persons or in respect of any property or description of property.

(2) If at any time, it appears to the Government on complaint made or otherwise, that any tax imposed is unfair in its incidence or that the levy thereof or of any part thereof is detrimental to the interests of the general public, it may require the municipality to take within a specified period measures to remove the objections; and, if within that period the requirement is not complied with to the satisfaction of the Government, it may, by notification, suspend the levy of tax or of such part thereof until the objection has been removed.

83. *Taxation of Union Properties*.— Notwithstanding anything contained in the foregoing provisions of this Chapter, lands and buildings or vacant lands

1. Section 81 omitted by S.O. 3466 of 2020.
2. Sections 82 and 83 substituted *ibid*.

or both being properties of Union of India shall be exempted from the taxes :

Provided that nothing in this section shall prevent the Municipality from levying a service charge on any property of the Central Government which is exempted from payment of property tax under this section, at the rate upto five per centum of the taxable annual value of such land and building.]

[1]84.Omitted.

[1]85.Omitted.

86. *Recovery of property taxes.* —(1) When any sum is due on account of a [2][fee] 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 [2][fee].

(3) The amount of every such arear, besides being recoverable in any other manner, provided by this Act shall, subject to any claim on behalf of the 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 [2][fee] 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

1. Sections 84 and 85 omitted by S.O. 3466 of 2020.
2. Substituted for "tax" by Act V of 2017, s. 173(i).

claimable may for the time being be resident, by the distress and the sale of [1][any moveable property including any sum of money due or likely to become due to such defaulter from any person or entity including a bank, a Department of the Government, or any other entity by whatever name called] 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) The Government may prescribe the manner in which warrant under sub-section (1) is to be executed and for the summary determination of any claim made by any person other than the defaulter in respect of any property attached in execution of such warrant.

(3) 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.

[2]88. Omitted.

[3][89. *Taxes on lands and buildings as first charge.*— Taxes due under this Act in respect of any land and building or vacant land or both shall, subject to the prior payment of the land revenue if any due to the Government, be a first charge thereon.

Explanation.—The term "taxes" in this section shall be deemed to include the cost of recovery thereof and the penalty, if any, payable under this Act.

90. *Appeal.*—(1) An appeal against—

(i) the levy of any tax or fee ; or

(ii) the refusal to refund any tax or fee ; or

(iii) the calculation of taxable annual value of any property ; or

(iv) the assessment or re-assessment of any tax payable ; or any

(v) penalty imposed,

1. Substituted for "any moveable property" by S.O. 3466 of 2020. 2. Section 88 omitted *ibid*.
3. Sections 89, 90, 91 and 92 substituted *ibid*.

under this Act shall lie to the Jammu and Kashmir Property Tax Board.

(2) If on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of tax arises on which the Board entertains reasonable doubt, the Board may, either of its 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 its own opinion on the point for the decision of the High Court.

(3) If the High Court is not satisfied that the statements contained in the case are sufficient to enable to it determine the questions raised thereby, the Court may

refer the case back to the Board, to make such additions thereto or the alterations therein as the Court may direct in that behalf.

(4) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which decision is founded.

(5) The High Court shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar; and the Board shall, on receiving such copy, dispose of the case conformably to such judgment.

(6) In every appeal, the costs shall be in the discretion of the Board.

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

(8) If the municipality fails to pay the costs awarded to an appellant within ten days after the date of the order for payment thereof, the Board 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 under section 90 unless it is preferred within one month after the order appealed against is made or in respect of any tax 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 under this section, if the appellant satisfies the Board 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.*— Any person aggrieved by an order passed in appeal under section 90 may within thirty days of the passing of such order prefer an application before the Special Tribunal for revision against the said order and the Tribunal may confirm, alter or rescind the said order :

Provided that the Tribunal shall not pass an order under this section prejudicial to any person without giving such person reasonable opportunity of being heard.]

[1]93.Omitted.

CHAPTER – VII

Police assistance

94. *Police force.* —(1) If the 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 Government in respect of the police force provided under sub-section (1).

95. *Powers and duties of police.* —(1) Every member of 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 under 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.

1. Section 93 omitted by S.O. 3466 of 2020.

(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 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 Government may provide such protection and the municipality shall pay the whole charge thereof or a such portion of such charge as the Government may consider equitably payable by it.

CHAPTER — VIII

Extinction and prevention of fire

97. *Establishment and maintenance of fire brigade.* —(1) For the prevention and extinction of fire, the municipality may and, if the Government so directs, shall, establish and maintain a fire-brigade, and provide implements, machinery or means of a 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 use 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 incharge 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 and property.

When any Government building is endangered by such a fire, the officer of the Public Works Department for the time being incharge 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.

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 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 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 municipal area, 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.

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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 quantities as it deem reasonable, and may at any time limit the quantity 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 :

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 :

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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, 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 order ; 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 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 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 making or maintaining communications or connections with the main, or generally for the purposes of this Chapter, the municipality shall have all powers which are conferred upon it in respect 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 the 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 drain and for every purpose other than for the purposes of being used as drinking water, such municipality, if so required by the Government, shall and, in any case, may, with the previous sanction of the 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 the 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 Government, shall, make provision for the supervision of the construction, 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

(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 requirement of the notice or are unsuitable or insecure, to be removed and reconstructed 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 person by whom, such places may be used, and may also set apart suitable places for washing animal 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 time or by person 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 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 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 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 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 rabbies, 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 dogs 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 incharge 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 rabies directed that dogs shall not be at large without muzzles,

shall be punishable with a fine which shall not be less than one thousand rupees and more than two thousand rupees.

114. *Control of elephants, bears or camels.*— Whoever, being incharge 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 one hundred 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 one hundred 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, wall or structure, or anything affixed thereof 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 property 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 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 of 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 or use of manure or irrigation injurious to health.* —(1) If the Health Officer certifies 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 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 impose 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, 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 one hundred rupees and more than two hundred rupees and with a further fine of fifty 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) brick field, brick-kiln, charcoal kiln, pottery or lime-kiln ;

(d) any other manufacture, 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) storehouse 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 finance 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 licence, shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand rupees and with a further fine of fifty 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 if the municipality neglects or omits to give its consent within a period of two months from the date of application, 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 five hundred rupees, and more than five thousand rupees, and when the breach is a continuing one, with a further fine of five hundred rupees for every day, after the first, during which the breach continues.

127. *Prohibition of cinematograph 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 or dance

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 dance 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 one hundred rupees and more than one thousand 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 Government, shall, by notice require the occupier thereof to discontinue the use of such place, or to effect such alterations, additions or improvements as will, in the opinion of the municipality, render it no longer 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 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 two hundred rupees and more than two thousand rupees and with a further fine of one hundred 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 or dismissing workmen or persons 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 employ any whistle, trumpet, or other contrivance, shall be punishable with a fine which may extend to two hundred rupees, and with a further fine which may extend to fifty rupees for every day 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 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 trap door of a privy, latrine or urinal opening on to any street or drain.

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

131. *Repairs 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 or 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 one hundred rupees and more than one thousand rupees and, when a notice has been issued, with a further fine of fifty 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 matter 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 one hundred rupees and more than five hundred rupees.

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 one hundred rupees and more than one thousand 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 or 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 any road, street, or place laid out as or intended for a road or street, and, 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 or outfall of water or for the removal or outfall of sewerage without such limits, and may, at all times 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 :

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, pipe, 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 to 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, ferrute, drain, sewerage, channel constructed or maintained 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 one hundred rupees and more than one thousand rupees.

141. *Sewerage connection.*— 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 time as the municipality, by notice in that behalf, may prescribe, at the cost of such owner or occupier.

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 ; or

(b) being the owner or occupier of such dwelling and being cognizant of the existence of the 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 one hundred rupees and more than one thousand 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 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

(c) living in a room or house which he neither owns nor pays rent for, nor occupies as the guest or relation 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 Government, erect an infectious diseases hospital of such type and dimensions as the *[State Government] shall deem expedient.

145. *Disinfection of buildings and areas.*— 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 one hundred rupees and more than one thousand 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 Government so directs, shall—

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(a) provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have not 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 cloth, bedding or other articles likely to retain infection to be disinfected or destroyed under this sub-section.

148. *Acts done by persons suffering from certain disorders.*— Whoever, suffering from an infectious, contagious or loathsome disorder—

(a) makes or offer 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 when 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,*— 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 two hundred rupees and of one hundred rupees for every such subsequent offence.

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 two hundred rupees.

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 purchaser, shall be punishable with fine which may extend to two thousand 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 by the purchaser having brought 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.

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 provisions of the Jammu and Kashmir Prevention of Beggary Act, 1960.

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 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.

(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 wherein 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 Government ; provided that when the award is confirmed by the Deputy Commissioner no such appeal shall lie.

(4) The 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 Government when an appeal has been preferred to it under sub-section (3) :

Provided further that the 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.

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 one hundred rupees and more than one thousand rupees.

160. *Depositing or throwing of earth or material of any description on roads or into drains.*— Whoever, without the permission of the municipality or in disregard of its order, throws or deposits, or permits his servants or

members of his household under his control to throw or deposit earth or material of any description, or refuse, rubbish or offensive matter of any kind upon any street or public place or into any irrigation channel or public sewer or public drain or into any drain communicating with an irrigation channel or a public sewer or public drain, shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand rupees.

161. *Spitting in places other than drains or receptacles provided.*—Whoever, in public place within the limits of a municipal area to which the operation of this section has been extended by a notification by the *[State Government] in this behalf, spits in a place other than a drain or a receptacle provided by the municipality for this purpose shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand rupees.

162. *Nuisance by children and others.*— Whoever permits any person under his control to whom the provisions of sections 82, 83 and 84 of 1[the Indian Penal Code (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 one hundred rupees and more than one thousand 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.* —(l) 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, and may by such order, exclude such house or building from the notice.

* Now Government of Union territory of Jammu and Kashmir.

1. Substituted for "the State Ranbir Penal Code, Svt. 1989" by S.O. 3466 of 2020.

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

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 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 one hundred rupees and more than one thousand 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 building.

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 of collection from house scavenging.*— All matter removed by the employees of the municipality in the course of house scavenging shall belong to the municipality.

171. *Establishment of creches for the children of Safai Mazdoors.*— The municipality may, and when so directed by the 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 one hundred rupees and more than one thousand rupees.

173. *Disposal of dead animal.* —(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 ;

(b) give notice of the death to the municipality whereupon the municipality shall cause the carcass to be disposed of.

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(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 homed cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats, swine and other large animals.

(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 one hundred rupees and more than one thousand rupees.

174. *Powers in connection with streets.*— The municipality—

(a) may lay out and make a new public street and construct 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 provisions of any rule prescribing the conditions on which property may be acquired by the municipality may acquire any land, along with 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

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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 building upon it and the other uses to which such land may be put :

Provided that land owned by proprietor other than, the 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 or the improvements of such land, and subject to such restrictions as the municipality may impose on the future use of such land, and 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 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 outside 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 (1) 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.

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 street 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 for laying out street in contravention of the provisions.*—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 two hundred rupees and more than two thousand 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 streets 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, paving, metalling, flagging, channelling, draining, lighting 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 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 expenses of such persons and the owner of 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 requisitions 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 overhanging 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 above the said ground level, shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand 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 unauthorised construction forthwith and to remove or alter such immovable encroachment or overhanging 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 overhanging 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 one hundred 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 overhanging structures and any such materials, 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 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 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 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 of settee, and moveable overhanging structure includes an awning of any material.

185. *Power of Deputy Commissioner to remove encroachment.*— 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 specified time, not exceeding two weeks and in case of non-compliance of such order may remove or alter such encroachment and recover all expenses thereby incurred from the person as arrear 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 in clause (v) of section 202 and subject to any general or special order the Government may make in this behalf, if any street is vested in the 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 overhanging 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 overhanging 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, overhanging, 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 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 direction post, lamp or post or lamp or extinguisher, any municipal light, at any public place, shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand rupees.

192. *Bill sticking without permission.*—(1) Whoever, without the consent of the owner or occupier or other person for the time being incharge, affixes any posting bill, notice placard or other paper or means of advertisement against

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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 one hundred rupees and more than one thousand 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 of 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 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 one hundred and more than one thousand 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 employees 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 sunset to half an hour before sunrise shall be punishable with a fine which shall not be less than one hundred rupees and more than one thousand 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 a 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 one hundred rupees and more than one thousand 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 tom-tom, 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 one hundred rupees and more than one thousand 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 firearm etc.*— Whoever discharges firearms or lets off fireworks, 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 one hundred rupees and more than one thousand 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 two hundred rupees and more than one thousand 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 (i) 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 carrier, 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, and shall if so required by the *[State Government] by bye-laws—

(1) 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 tyre, and for a minimum diameter of the wheel ;

(2) limit the rates which may be demanded for the hire of any carriage, cart, or other conveyance, or of animals hired to carry loads of 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 ;

(3) provide, save as provided under the Registration of Birth and Deaths Act, 1969, for the proper registration of births and deaths and the recording vital statistics ;

(4) 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

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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 licencing 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 ;

(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 ;

(5) provide—

(i) for the inspection and proper regulation of encamping grounds, pounds, sarais, bakeries, aerated-water factories, ice factories, dhobi ghats, flour mills, food grain godowns, dispensing chemists' shops, slaughter-house 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 ;

(6) 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 ;

(7) 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 ;

(8) in any municipal area where a reasonable number of slaughter- houses have been provided or licensed by the municipality, control, regulate or prohibit the admission within the municipal limits for the purpose of sale of the flesh other than cured as 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 a municipal limits in contravention of any such bye-law ;

(9) 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 ;

(10) prohibit the letting off of fire-arms, fireworks, fire-balloons, bombs or detonators except—

(i) with the permission of the municipality or of a municipal officer empowered to give such permission ;

(ii) subject to such conditions as the municipality may impose ; and

(iii) on payment of such fees, if any, as may at any time have been fixed by the municipality in that behalf ;

(11) regulate the conditions on which the consent of municipality to establish new factories or workshops be given under section 126 ;

(12) provide for the issue of directions for abatement of nuisance caused by the steam, water, electrical, mechanical or other power ;

(13) 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 ;

(14) regulate the collection, storage, preservation from pollution and use of rainwater, and the carrying out of the provisions of sections 100 to 106 ;

(15) regulate the posting of bills and advertisements, and the position, size, shape, and style of name boards, sign-boards and sign-posts ;

(16) 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 ;

(17) regulate or prohibit any description of traffic in the streets and provide for the reduction of noise caused thereby ;

(18) prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum, spirit, naphtha or other inflammable material in any building not registered or licensed under section 125 ;

(19) provide for the seizure and confiscation of ownerless animals straying within the limits of the municipal area ;

(20) 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 treated by any other efficacies and medically well established method of treatment or otherwise disposed of after a period to be specified in the bye-laws ;

(21) 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 ;

(22) 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 ;

(23) provide for the registration, inspection and proper regulation of building ordinarily utilised for the residence or treatment of persons suffering from infectious diseases and for the limiting of the number of such persons who reside in such buildings or part of such buildings ;

(24) generally provide for carrying out the purposes of this Act ;

(25) 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 or the deposit thereon of sand, gravel or stones ;

(26) 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 land slips or other injurious disturbance of the surface of any land ;

(27) 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 ;

(iii) for persons impelling or carrying carriages;

(28) for fixing the fees payable for such licences as are referred to in this section and the conditions on which such licenses 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-laws—

(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-laws may require :

Provided that every such plan and specifications shall be duly signed by a qualified structural engineer who shall be registered with the municipality for the purpose.

Explanation.— For the purpose 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 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 buildings.*—(1) The municipality may, if so required by the *[State Government] shall 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" 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 ;

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(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 dimensions 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 provisions to be made for consumption of smoke arising from the combustible used in any fireplace 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 or by the Government shall, within six months of the date of such requisition, draw a building scheme/Master Plan for built areas, and a town planning scheme/Master Plan for unbuilt areas, which may among other things provide for the following matters, namely:—

(a) the restriction of the erection or re-erection of buildings or a 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 unbuilt area which shall be transferable 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 cent, of any one owner's land within such unbuilt area ;

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 buildings, so far as possible it 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 plantation with trees on 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 resubmitted, as the case may be, with his opinion to the Government, who may sanction such scheme or may refuse to sanction it or may return it to the municipality for reconsideration and resubmission 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 resubmit a scheme by a specified date, when required to do so under sub-section (3) or resubmits a scheme which is not approved by the 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 Government, and the Government may sanction such scheme as originally notified or modified in consequence of any such objection or suggestion, as the Government may think fit and the cost of such scheme or such portion of the cost as the 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.

* Now Government of Union territory of Jammu and Kashmir.

206. *Regularisation of certain buildings.* —(1) Notwithstanding anything contained in section 205, the 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/Master Plan or town planning scheme/Master Plan 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 the said sub-section 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 propose before the scheme was sanctioned, on conviction be liable to a fine which shall not be less than five hundred rupees and more than two thousand rupees and if after such conviction, he continues to use such building for such purpose shall be liable to a further fine of one hundred 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 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 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 264, the period prescribed above shall commence to run afresh from the date of communication of final orders by the Government under its sub-section (2).

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 is vested in the Government or in the municipality, and the consent of the 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 the 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 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 conveying or refusing such sanction be suspended under section 264 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 267 :

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 a 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 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 operation 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 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 the 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.

(3) Every sanction for the erection or re-erection of any building which shall be given or be deemed to have been given by a municipality, shall remain in force for two years only from the date of such sanction or for such longer period as the municipality or the Executive officer or Secretary, as the case may be, may have allowed when conveying sanction under sanction 203. Should the erection or re-erection of the building not have been commenced within one year and completed within three years or such longer period as may have been allowed by the municipality, 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 the Act.

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 ;

(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 sanction 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 sanction 205 ;

the municipality may by notice to be delivered to the owner within six months from the completion of 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 far as is necessary to avoid contravention of a building scheme drawn up under section 205 :

Provided further that where the erection or 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 another 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 sanction 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 section 212, 264 and 269, the decision of the municipality shall be final :

Provided further that the copy of the final order of the municipality shall be given free of costs to the appellant immediately after it is made.

(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 deviation from the sanctioned plan are minor in nature, the municipality may, subject to the special or general directions of the Government under sub-section (3), compound the cases of deviation.

Explanation.— For the purpose of this sub-section the expression "minor" shall not include—

(a) addition of a storey beyond the sanctioned plan ;

(b) erection of a building—

(i) on any Government land or the land vested in municipality or a local authority ;

(ii)by covering any public road, street, path or drain.

(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 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 or 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 is 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 he may think fit :

Provided that whether 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 inundation 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. *Compensations.* —(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 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, and shall, if so required by the Government 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-laws 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.

215. *Prohibition of possession or sale of wild animals.*— No wild animals in respect of which any close time has been notified by the Government under [1][Wild Life (Protection) Act, 1972 (53 of 1972)] 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.

1. Substituted for "section 15 of the Jammu and Kashmir Wild Life (Protection) Act, 1978" by S.O. 3466 of 2020.

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 five hundred rupees and when the breach is a continuing breach, with a further fine of ten rupees for every day after the first conviction during which the breach continues.

217. *Confirmation of bye-laws.* —(1) No bye-law made, under any section of this Chapter shall come into force until it has been confirmed by the Government and, published for such time and in such manner as the Government may prescribe in this behalf.

(2) The Government may cancel its confirmation of any such bye-laws, and thereupon the bye-laws, shall cease to have effect.

218. *Power of Government to make bye-laws.* —(1) In any case in which no bye-laws have been made by the municipality under section 202 or section 203 or section 204 or section 214 the *[State Government] may make bye-laws for that purpose.

(2) The bye-laws made under the aforesaid sub-sections shall cease to operate when the municipality makes bye-laws in that behalf.

219. *Procedure for making bye-laws.*— All bye-laws made under this Act shall be subject to previous publication.

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 twenty rupees.

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 [1][Union

* Now Government of Union territory of Jammu and Kashmir.

1. Substituted for "State" by S.O. 3466 of 2020.

territory of Jammu and Kashmir] 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. 50/- which amount shall be utilised for fresh plantation.

(3) (i) A breach of the provision for 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 one thousand 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

form 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 are 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 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 Halqa Panchayat, as the case may be.

(4) The 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 *[State Legislature].

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, sewers or channels therein or thereupon, and to cause the grounds 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, cables, 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/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

* Now Legislative Assembly of the Union territory of Jammu and Kashmir.

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 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—

(a) to enter on and to survey, and to take levels or measurements of any buildings or land ;

(b) to enter into any building or on any land for the purpose of examining works under construction, or 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 the Executive Officer or the Secretary, as the case may be, or of any bye-laws made under section 204 or of any scheme sanctioned under section 205 and to take such measurements and 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 the 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-laws made under sub-clause (i) of clause (5) of section 202, the municipality or Executive Officer/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 one hundred rupees and more than one thousand 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 into building or land.* —(1) The Health Officer or any other officer authorised by the municipality may enter, at any time, after three hours' 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 during the hours between sunrise and sunset.

230. *Authorization of powers.*— The municipality or Executive Officer or Secretary, as the case may be, may authorise persons to exercise the power of entry, conferred by the foregoing sections of this Chapter either generally in regard to all buildings and land 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 of abode

or business with some adult male member or servant of his family, or, if it cannot 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 the person to whom notice is addressed is 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 to one of them primarily liable to comply with such notice, and in case of doubt to both of them :

Provided that in any such case, 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 Government may, by rule, direct.

237. *Penalty for disobedience of orders of municipalities.*— Whoever disobeys any lawful direction or 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 fine which shall not be less than one hundred rupees and more than one thousand rupees, and, in the case of a continuing breach, with a further fine of fifty rupees for every day after the first conviction during which the breach continues.

238. *Compensation for damage.*— Every person convicted of 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 of a notice under section 183 have not been complied with the municipality may, after six hours' notice, by its officer, cause the act to be done.

240. *Penalty of 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 one hundred rupees and more than one thousand rupees.

241. *Recovery of costs 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 occupier exceeds the rent due at the time of 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 or sale of moveable property of the persons from whom the money is recoverable and if payable by the owner of the property 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 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 respect 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 [1][the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013 (30 of 2013)], with reference to the acquisition of and payment of compensation for land for public purpose so far as it can be made applicable.

244. *Appeals from orders of municipalities.* —(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 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 ;

1. Substituted for "the Land Acquisition Act, 1990" by S.O. 3466 of 2020.

may appeal within thirty days, from the date of such prohibition, notice or order to such officer as the 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 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 218 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 by the 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 offence or offences of a specified class. The person authorised may be authorised by office, if he is

President, Vice-President, Health Officer 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 provisions of this Act, the municipality or the Executive Officer/ Secretary or any other officer, authorised by the 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 hundred 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.

[1][248A. *Eviction of unauthorised occupant.* —(1) Notwithstanding anything contrary contained in this Act or in any other law for the time being in force, if the Executive Officer is of the opinion that any person is in unauthorised occupation of any property and that he should be evicted, the Executive Officer shall issue, in the manner hereinafter provided, a notice in writing calling upon that person to show cause as to why an order of eviction should not be passed.

(2) If, after considering the reply, if any, given by such person in pursuance of a notice under sub-section (1) and any evidence he may produce in support of the same, and after giving him a reasonable opportunity of being heard, the

1. Section 248A inserted by S.O. 3466 of 2020.

Executive Officer is satisfied that the property is in unauthorised occupation, the Executive Officer shall make an order of eviction, for reasons to be recorded therein, directing that the property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be made public.

(3) If any person refuses to, or fails to comply with, the order of eviction within thirty days of the date of service of order under sub-section (2), the Executive Officer shall evict that person and take possession of the said property and may, for the purpose, call upon the officer in charge Police Station of the area to render such assistance as may be necessary for evicting that person.

(4) Where any person has been evicted from any property under sub-section (3), the Executive Officer may, after giving a notice to the person from whom possession of the property has been taken and after publishing such notice in at least two daily news papers having wide circulation in the locality, remove or cause to be removed any article remaining on such property and may make an order for the proper custody of such article :

Provided that if the owner of the article refuses or fails to take delivery thereof after notice or if the article is subject to speedy and natural decay, the Executive Officer may cause it to be disposed of by public auction and deliver the sale proceeds thereof, after deduction of cost incurred on such public auction, to such owner.

(5) Any person aggrieved by an order of the Executive Officer made in respect of any property under sub-section (3) or sub-section (4) may prefer an appeal to the District Judge having jurisdiction over the area in which the property is located within a period of thirty days from the date of order.

(6) Notwithstanding anything contained in this Act or in any other law for the time being in force, nothing done or purported to have been done under this section shall be called in question in any Court except as provided under sub-section (5).

Explanation.— For the purpose of this section, "unauthorised occupations"means occupation by any person of any property, being the property of the Municipality or where Municipality has any interest in such property, without authority for such occupation and includes the continuance in occupation by any person of such property after the authority, whether by

way of lease, mortgage or otherwise, under which he was authorised to occupy such property, has expired.]

CHAPTER – XIV

Financial Control And Audit

249. *Constitution of Finance Commission to review financial position.* —(1) The Governor shall, as soon as may be within one year from the commencement of this Act and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Municipalities and to make recommendations to the Governor as to—

(a) the principle which should govern—

(i) the distribution between the [1][Union territory of Jammu and Kashmir] and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the [1][Union territory of Jammu and Kashmir], which may be divided between them under this part and allocation between the Municipalities at all levels of their respective shares of such proceeds ;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Municipalities ;

(iii) the grant-in-aid to the Municipalities from the Consolidated Fund of the [1][Union territory of Jammu and Kashmir] ;

(b) the measures needed to improve the financial position of the Municipalities ;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Government may, by notification, provide for composition of the Commission, the qualification which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commissioner shall determine their procedure and shall have such powers in the performance of their function as the Government may, by notification, confer on them.

1. Substituted for "State" by S.O. 3466 of 2020.

(4) The Governor shall cause every recommendation made by the Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the *[State Legislature].

250. *Presentation of accounts and budget of a 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 date as 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 municipalities 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.

* Now Legislative Assembly of the Union territory of Jammu and Kashmir.

(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.

251. *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 [1][Union territory of Jammu and Kashmir] 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 percent 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 250.

252. *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.

253. *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 municipal 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.

1. Substituted for "State" by S.O. 3466 of 2020.

254. *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.

255. *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.

256. *Audit of accounts.* —(1) The accounts of the municipal fund shall be [1][audited by Comptroller and Auditor General of India] and the 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 Government with a brief statement of the action, if any, taken or proposed to be taken thereon.

(3) The Government shall on receipt of the audit report of the municipalities, lay them before the **[State Legislature].

257. *Action by municipality on audit report.* —(1) The municipality shall, on the report of the audit agency and may on its own motion, 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.

1.Substituted for "audited by a separate and independent audit agency under the control of the Director" by S.O. 3466 of 2020.

* Now Government of Union territory of Jammu and Kashmir.

** Now Legislative Assembly of the Union territory of Jammu and Kashmir.

258. *Recovery of amounts disallowed.* —(1) Every sum certified by the municipality to be due from any person under sub-section (1) of section 257 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 along with interest at fifteen per cent per annum of the amount due from the date from which it became due shall be recoverable as an arrears of land revenue along with the necessary expenses of such recovery and shall be credited to the municipal fund.

259. *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 unpaid 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, 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 or the Authorised Officer, as the case may be, the Executive Officer, the Secretary or the Authorised Officer may recover such sum, with all costs, by distraint and sale of the moveable property of the defaulter.

(3) In order to effect the distraint and sale of property 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 ten rupees 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.

260. *Conditions of distraint and sale.* —(1) Whenever, under section 259 any property is seized or sold in consequence of the non-payment of any amount distraint, seizure and sale shall be effected subject to the provisions following sub-section and of section 62 of 1[the Code of Civil Procedure, 1908 (5 of 1908)].

(2) All such property as is by the Code of Civil Procedure, Samvat 1977 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 distraint shall be, as nearly as possible, proportionate to the and on account of the fee, rent or other amount due and the distraint for probable expenses incidental to the detention and sale of the said.

(4) When the property seized is subject to speedy and natural decay and 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.

1. Substituted for “the Code of Civil Procedure, Samvat 1977” by S.O. 3466 of 2020.

(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 distraint under section 259, 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 wholly admitted 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 and Development Board

261. *Preparation of development plan.*— Every municipality shall prepare every year a development plan for its area and submit it to 1[the District Planning Committee constituted under section 47-A of the Jammu and Kashmir Panchayati Raj Act, 1989].

262.[1]*[District Planning Committee]*. —(1) [1][The District Planning Committee], constituted by the Government under [2][section 47-A] of the Jammu and Kashmir Panchayat Raj Act, 1989 shall consolidate the development plans prepared and submitted to it by the municipalities in the District, under section 261 and prepare a draft development plan for the district as a whole.

[3][x x x x].

[4][(2)] Every [1][District Planning Committee] shall in preparing the draft development plan—

(a) have regard to—

1. Substituted for "the District and Development Board" by S.O. 3466 of 2020. 2. Substituted for "section 45" *ibid*.

3. Sub-section (2) omitted *ibid*.

4. Existing sub-section (3) renumbered as sub-section (2) *ibid*.

(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.

[1][(3)] The Chairperson of every [2][District Planning Committee] shall forward the development plan, as recommended by such committee to the Government.

CHAPTER – XVI

Control

263. *Control by Deputy Commissioner*. —(1) The Deputy Commissioner or any Officer authorised in writing by him or any person empowered by the 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 immovable 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 documents 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 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

* Now Government of Union territory of Jammu and Kashmir.

1. Existing sub-section (4) renumbered as sub-section (3) by S.O. 3466 of 2020. 2. Substituted for "the District and Development Board"*ibid* .

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 [1][the Indian Penal Code (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 Government may direct.

264. *Power to suspend execution of orders etc.* —(1) The 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 ;

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989 (1932 AD)" by S.O. 3466 of 2020.

(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 persons ; 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 Government, a copy of the order with the statement of the reasons for making it, and the Government may confirm, set aside or modify such order as it may deem fit. The orders of the Government shall be forthwith communicated to the Director, the municipality and the prescribed authority.

265. *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 expense, 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. *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 made 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 expense 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 expense, or so much thereof as may from time to time be possible from that balance in priority to all other charges against the same.

267. *Action of Deputy Commissioner to be immediately reported.*—When the Deputy Commissioner makes an order under section 265 or section

266, 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 265 or section 266, the power of confirmation, modification or rescission 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.

268. *Power of Government to give directions.*— The 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 within a municipal area may be put ;

(b) repayment of debts and discharging of obligations ;

(c) collection of [1][fees] ;

(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.

269. *Exercise of committee's power pending establishment of municipality.* —(1) When a municipal area is constituted under this Act, the Government may appoint a person to exercise the powers, discharge the duties and perform the functions of the municipality for a period not exceeding six months or until the municipality is established whichever is earlier and he shall for the purpose 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 Government, from time to time, for carrying out the said purpose.

1. Substituted for "taxes" by Act V of 2017, s. 173(i).

270. *Power of Government and its officer over municipality.* —(1) The 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 the [1][Union territory of Jammu and Kashmir] generally or the areas over which the municipality have authority.

(2) The Government may exercise all powers necessary for the performance of this duty, and may among other things by order in writing, annul or modify any 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 264.

(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 Government.

271. *General powers of Government.*— Notwithstanding anything in this Act, the Government shall have the power of reversing or modifying any order of any officer of the 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

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 Government shall not apply to the orders passed in an election by the Authorised Officer or the District Judge.

272. *Power of Government to dissolve municipality for default, abuse of powers, etc.* —(1) If at any time it appears to the 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 Government or the competent authority, the 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.

* Now Government of Union territory of Jammu and Kashmir.

1. Substituted for "State" by S.O. 3466 of 2020.

(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 Government or the prescribed authority may appoint in this behalf and where a committee of persons is so appointed, the 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 Government may, by order, determine.

(5) A municipality dissolved under sub-section (1) shall be reconstituted 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 un-expired period is less than six months the municipality shall not be re-constituted for this period.

273. *Suspension of office bearers of municipality.* —(1) The prescribed authority may suspend from office any office bearer—

(a) against whom charges have been framed in any criminal proceedings under Chapters V-A, VI, IX-A, XII, sections 302, 303, 304, 305, 306, 312 to 318, 336, 366-B, 373 to 377 of Chapter XVI, sections 395 to

398, 408, 409, 458 to 460 of Chapter XVII and Chapter XVIII of [1][the Indian Penal Code (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 along with 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 misappropriation, 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 272 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 Government within a period of ten days and shall be subject to such orders as the 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.

(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 elect an office bearer qualified to hold the office of President or Vice-President, as the case may be, such person 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.

(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 and Development Board 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.

274. *Removal of office bearers of municipality.*— The Government or the prescribed authority may after such enquiry as it may deem fit to make at any

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989" by S.O. 3466 of 2020.

* Now Government of Union territory of Jammu and Kashmir.

time, remove an office bearer—

(a) if he has incurred any disqualification under this Act ; or

(b) if he has been guilty of misconduct 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 1[Union territory of Jammu and Kashmir] 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 member of other municipality or Standing Committee or District Planning and Development Board or any other committee of which he is a member,

1. Substituted for "State" by S.O.3466 (E) of 2020.

such person shall also be disqualified for a period of six years to be elected as office bearer of a municipality under this Act.

275. *Power to call for record.*— The 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 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.

276. *Power of inspection and supervision.* —(1) The Director may inspect the works of municipalities and exercise the following powers: —

(a) call for proceedings of any municipality or any extract of any body 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 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.

277. *Technical supervision and inspections.* —(1) 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.

278. *Taking over of certain branches or departments of the municipality.*— When the 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 or all of its functions it may take over the control of such branch or department of 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 Government may fix in this behalf.

279. *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 Government and the decision of the Government thereon shall be final :

Provided that if the dispute is between a municipality and Cantonment Board, the decision of the *[State Government] shall be subject to approval of the Central Government.

(2) The 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.

280. *Power of the Government to frame forms and make rules.* —(1) The Government may frame forms for any proceedings of municipality and may make any rules consistent with this Act to carry out the purposes thereof and in

* Now Government of the Union territory of Jammu and Kashmir.

particular and without prejudice to the generality of the foregoing power makes 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 or members of municipality and the Government or officers of the Government shall pass ;

(i) for the preparation of plans and estimates for the works partly or wholly to be constructed at 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 warehouse and as to the agreements to be

signed by traders or others wishing to deposit animals or articles therein ;

(m) as to the condition on which a municipality may receive animals or articles into a bounded warehouse and 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 the 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 Government may establish ;

(q) as to the language in which business shall be transacted, proceedings recorded and notices issued ;

(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 drought 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 and Development Board shall be filled in ;

(zf) as to the functions relating to the District Planning and Development Board ;

(zg) 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 [1][Union territory of Jammu and Kashmir] shall be deemed to have been made in pursuance of the powers conferred upon the Government by sub-section (1) of this section.

(4) In making rules under clauses (f) and (k) of sub-section (1), the Government may direct that a breach of any provisions thereof shall be punished with a fine which shall not be less than two hundred rupees and more than two thousand 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 Government directs.

CHAPTER – XVII

Disputes relating to Election

281. *Definition.*— 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 283 to hear 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 begun to hold himself out as a prospective candidate ;

(d) "corrupt practice" means any of the practices specified in section 302 ;

1. Substituted for "State" by S.O. 3466 of 2020.

(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.

282. *Chief Electoral Officer.* —(1) The Superintendence, direction and control of the preparation of electoral rolls, determination of wards, reservation and allotment

of seats by formation, for and the conduct of all elections to the municipalities shall be vested in the Chief Electoral Officer.

(2) The Commission shall frame its own rules and lay its own procedure.

283. *Officers authorised to hear election petitions.*— The election petitions under this Act shall be heard by the Officer as may be prescribed by the Government under rules.

284. *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.

285. *Presentation of petition.* —(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 ;

(b) when it is sent by registered post and is delivered to the authorised officer or any other persons empowered to receive it.

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286. *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 practices 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 [1][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 be accompanied by an affidavit in the prescribed

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.

287. *Procedure on receiving election petition.*— If the election petition is not furnished in the prescribed manner or the petition is not presented within the period specified in section 285, the authorised officer shall dismiss the petition :

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard.

288. *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 [2][Union territory of Jammu and Kashmir] and upon such transfer, that authorised officer shall proceed with the petition from 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.

289. *Procedure before the authorised officers.* —(1) Subject to the provisions of this Act and of any rules made thereunder every election petition

1.Substituted for "the Code of Civil Procedure, Samvat 1977" by S.O. 3466 of 2020. 2.Substituted for "State" *ibid.*

shall be heard by the authorised officer in accordance with the procedure applicable under [1][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 [2][Indian Evidence Act, 1872 (1 of 1872)] shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

290. *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.

291. *Powers of the authorised officer.*— The Authorised Officer shall have the powers which are vested in a Court under [1][the Code of Civil Procedure, 1908 (5 of 1908)] when trying a suit in respect of the following matters— (a) discovery and inspection ;

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

(c) compelling the production of the documents ;

(d) examining witness on oath ;

(e) granting adjournments ;

(f) reception of evidence taken on affidavit ; and

(g) issuing commissions for the examination of witness ; and may summon and examine suo moto any person whose evidence appears

1.Substituted for "the Code of Civil Procedure, Samvat 1977" by S.O. 3466 of 2020. 2.Substituted for "Evidence Act, Samvat 1977" *ibid*.

to him to be material and shall be deemed to be a Court within the meaning of [1][Code of the Criminal Procedure, 1973 (2 of 1974)].

Explanation.— For the purpose of enforcing the attendance of witness the local limits of the jurisdiction of the authorised officer shall be limits of the *[State of Jammu and Kashmir].

292. *Documentary evidence.*— In relation to the production of unstamped or un-registered documents at the hearing of an election petition, the provisions of 2[the Representation of the People Act, 1951 (43 of 1951)] shall apply.

293. *Secrecy of voting.* —(1) No witness or other person shall be required to state for whom he has voted at any 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 (concept 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.

294. *Answering incriminating question and certificate of indemnity.*—(1) No witness 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

1.Substituted for "sections 345 and 346 of the Code of the Criminal Procedure, Samvat 1989" by S.O. 3466 of 2020.

* Now Union territory of Jammu and Kashmir.

2.Substituted for "section 93 of the Jammu and Kashmir Representation of the People Act, 1957" by S.O. 3466 of 2020.

(b) any answer given by witness to a question put by or before the authorised officer shall not, except in case of any criminal proceeding 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 1[the Indian Penal Code (45 of 1860)] arising out of the matter to which such certificate is related 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.

295. *Expenses of witness.*— The reasonable expenses incurred by any person 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.

296. *Decision of the authorised officer.* —(1) Where an election petition has been presented under section 285, 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 change 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 whom costs shall be paid ;

1.Substituted for "the State Ranbir Penal Code, Samvat 1989" by S.O. 3466 of 2020.

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 the person 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.

297. *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 provision of this Act or 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.

298. *Abatement of election petition.*— Any election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

299. *Costs and payment thereof out of the security deposits and return of such deposits.* —(1) Costs including pleader's fees shall be in discretion of the authorised officer.

(2) If in any order as to costs under the provision of this Chapter, there is direction for payment of costs 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 is any balance left of the security deposit under this Chapter after the 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.

300. *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 whose jurisdiction any person directed by such order to pay sums of money has a place of residence or business. 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 299, 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.

301. *Corrupt practice entailing disqualifications.*— The corrupt practice specified in section 302 shall entail disqualification for membership of

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.

302. *Corrupt practices.*— 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 consent of a candidate or his agent any gratification to any person, whomsoever, with the object, directly or indirectly of inducing :—

(a) a person to stand or not 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 to 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 an 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 candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or attempting to induce an elector of the municipal area to vote or refrain from voting, any candidate to withdraw his candidature.

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

(2) undue influence, that is to say any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his 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 of 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 with 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 hatred 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 ; and

(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.

303. *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.

304. *Bar to interference by Courts in electoral matters.*— Notwithstanding anything contained in this Act—

(a) the validity of any law relating to the delimitation of 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.

305. *Power to make rules for conduct of elections.*— The Government may, by notification, in the Government Gazette and in consultation with the Chief Electoral Officer 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.

CHAPTER – XVIII

Miscellaneous

306. *Appointment of Executive Officers/Secretaries in municipalities.*— (1)There shall be an Executive Officer in each Municipal Council, Municipal Committee and a Secretary in those municipalities as the Government may describe, who shall be appointed by the 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 Municipal Committee, 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 developmental 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 with the approval of President ;

(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

or 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.

[1][307. *Posts in Municipality and appointments thereto.* —(1) The Government may, for ensuring efficient management of the affairs of the Municipalities and other urban bodies, and to sub serve the common good, establish one or more Urban Service or Services as may be considered necessary, and each such Service shall comprise of such number, classes and categories of posts as may be prescribed.

(2) The qualifications, method of recruitment, reservation, deputation, transfer from one urban body to another, seniority, salaries, leave, allowances, pension gratuity and other conditions of service including disciplinary matters of officers and servants in each of these Services shall be such as may be prescribed.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force, a person appointed to an Urban Service constituted in terms of this section shall not be deemed to have been appointed under any civil service or post under the Government.]

[2][307 A. *Power of Government to appoint officers and servants.* —(1) The Government or any officer authorised by it in this behalf may appoint such officers and servants as it considers necessary for the efficient discharge of duties by the Municipality.

(2) The salary, allowances, gratuity, pension contribution and other payments required to be made, in accordance with the conditions of the 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.".

308. *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.

1. Section 307 substituted by S.O. 3466 of 2020.
2. Section 307A inserted *ibid.*

(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.

309. *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 mis-conducted 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 any other officer appointed

by the Government, 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.

310. *Power to remove difficulties.* —(1) If any difficulty arises in giving effect to the provisions of this Act, the 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.

311. *Repeal and saving.* —(1) On and from the date of commencement of this Act, the Jammu and Kashmir Municipal Act, Samvat 2008 and Town Area Act, Samvat 2011 (hereinafter referred to as the repealed Act) shall stand repealed :

Provided that the repeal shall not effect—

(a) the previous operation of the repealed Acts, or anything duly done or suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Acts ; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Acts ; 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 made, 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 arrangement existing for the municipalities under the repealed Acts shall continue until the corresponding municipality is constituted under this Act.

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SCHEDULE-1

[Section 3 (2)]

MUNICIPAL COUNCILS

Part I

Name of the Municipality/ Town Area Committee

Renamed Municipal Councils

1. Poonch Municipality.

2. Town Area Committee, Kathua. 3. Town Area Committee, Udhampur. 4. Town Area Committee, Anantnag. 5. Town Area Committee, Baramulla.

6. Town Area Committee, Sopore.

Municipal Council, Poonch.

Municipal Council, Kathua. Municipal Council, Udhampur. Municipal Council, Anantnag. Municipal Council, Baramulla. Municipal Council, Sopore.

MUNICIPAL COMMITTEES

Name of the Notified Area Committee
Renamed Municipal Com-mittee

Kashmir Division

1. Notified Area Committee, Mattan. Municipal Committee, Mattan

2. Notified Area Committee, Achabal. Municipal Committee, Achabal

3. Notified Area Committee, Bijbehara. Municipal Committee, Bijbehara

4. Notified Area Committee, Pahalgam. Municipal Committee, Pahalgam

5.Notified Area Committee, Dooru Verinag

Municipal Committee, Dooru Verinag

6. Notified Area Committee, Kokernag. Municipal Committee, Kokernag

7. Notified Area Committee, Qazigund. Municipal Committee, Qazigund

Name of the Notified Area Committee	Renamed Municipal Committee
8. Notified Area Committee, Kulgam	Municipal Committee, Kulgam
9. Notified Area Committee,	Municipal Committee, Pulwama

10.Notified Area Committee, Pampore 11. Notified Area Committee, Shopian 12. Notified Area Committee, Tral

13. Notified Area Committee, Khrew

14.Notified Area Committee, Awantipora 15. Notified Area Committee, Ganderbal 16. Notified Area Committee, Budgam 17. Notified Area Committee, Chrar-i-

Municipal Committee, Pampore
Municipal Committee, Shopian
Municipal Committee, Tral
Municipal Committee, Khrew
Municipal Committee, Awantipora
Municipal Committee, Ganderbal
Municipal Committee, Budgam
Municipal Committee, Chrar-i-

Sharief. Sharief.

18. Notified Area Committee, Beerwah 19. Notified Area Committee, Khan Sahib 20.Notified Area Committee, Bandipora.

21. Notified Area Committee, Pattan. 22. Notified Area Committee, Kunzer. 23. Notified Area Committee, Tangmarg. 24. Notified Area Committee, Sumbal.

25. Notified Area Committee, Hajan.

26. Notified Area Committee, Uri

Municipal Committee, Beerwah Municipal Committee, Khan Sahib Municipal Committee, Bandipora Municipal Committee, Pattan
Municipal Committee, Kunzer Municipal Comnlittee, Tangmarg Municipal Committee, Sumbal

Municipal Committee, Hajan
Municipal Committee, Uri

Name of the Notified Area Committee	Renamed Municipal Committee
27. Notified Area Committee, Kupwara. 28. Notified Area Committee, Handwara. 29. Notified-Area Committee, Leh 30. Notified Area Committee, Kargil. 31. Notified Area Committee, Magam. 32. Notified Area Committee, Kangan.	Municipal Committee, Kupwara Municipal Committee, Handwara Municipal Committee, Leh Municipal Committee, Kargil Municipal Committee, Magam Municipal Committee, Kangan

Jammu Division

33.Notified Area Committee, Billawar. 34.Notified Area Committee, Basohli. 35.Notified Area Committee, Lakhanpur. 36.Notified Area Committee, Parole. 37.Notified Area Committee, Hiranagar. 38.Notified Area Committee, Bari-	Municipal Committee, Billawar Municipal Committee, Basohli Municipal Committee, Lakhanpur Municipal Committee, Parole Municipal Committee, Hiranagar Municipal Committee, Bari-
Brahamana.	Brahamana
39.Notified Area Committee, Vijaypur. 40.Notified Area Committee, Samba. 41.Notified Area Committee, Bishnah. 42.Notified Area Committee, Arnia. 43.Notified Area Committee, R.S. Pura. 44.Notified Area Committee, Akhnoor. 45.Notified Area Committee, Khour.	Municipal Committee, Vijaypur Municipal Committee, Samba Municipal Committee, Bishnah Municipal Committee, Arnia Municipal Committee, R.S.Pura Municipal Committee, Akhnoor Municipal Committee, Khour

Name of the Notified Area Committee	Renamed Municipal Committee
46.Notified Area Committee, Jourian. 47.Notified Area Committee, Gho-	Municipal Committee, Jourian Municipal Committee, Gho-
manasan	manasan
48.Notified Area Committee, Ramgarh. 49.Notified Area Committee, Rajouri. 50.Notified Area Committee, Thanna-	Municipal Committee, Ramgarh Municipal Committee, Rajouri Municipal Committee, Thanna-
mandi.	mandi
51.Notified Area Committee, Nowshera. 52.Notified Area Committee, Sunder-bani 53.Notified Area Committee, Ramnagar. 54.Notified Area Committee, Chenani. 55.Notified Area Committee, Katra. 56.Notified Area Committee, Reasi. 57.Notified Area Committee, Purana	Municipal Committee, Nowshera Municipal Committee, Sunder-bani Municipal Committee, Ramnagar Municipal Committee, Chenani Municipal Committee, Katra Municipal Committee, Reasi Municipal Committee, Purana
Derour.	Derour

58.Notified Area Committee, Batote. 59.Notified Area Committee, Ramban. 60.Notified Area Committee, Banihal.

61.Notified Area Committee, Doda. 62.Notified Area Committee, Bhaderwah 63.Notified Area Committee, Kishtwar.

Municipal Committee, Batote

Municipal Committee, Ramban Municipal Committee, Banihal

Municipal Committee, Doda

Municipal Committee, Bhaderwah Municipal Committee, Kishtwar