MUNICIPAL CORPORATION ACT, 2000

(Act No. XXI of 2000)

THE JAMMU AND KASHMIR MUNICIPAL CORPORATION ACT, 2000

(Act No. XXI of 2000)

CONTENTS

Section

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

CONSTITUTION OF CORPORATION

3. Declaration of Municipal area as Corporation.
4. Incorporation and constitution of Corporation.
5. Duration of the Corporation.
6. Delimitation of wards.
7. Qualifications for Councillors.
8. Disqualification of Councillor.
9. Election to the Corporation.
10. Reservation of seats.

10-A. Reservation of seats for certain categories.

11. Right to Vote.
12. Filling of casual vacancies.
13. Publication of results of elections.
14. Election petition.
15. Relief that may be claimed by the petitioner.
16. Grounds for declaring election to be void.
17. Procedure to be followed by the prescribed authority.

Section

18. Decision of prescribed authority.
19. Procedure in case of equality of votes.
20. Finality of decision.
21. Corrupt practices.
22. Maintenance of secrecy of voting.
23. Officers etc. at elections not to act for candidates or to influence voting. 24. Prohibition of canvassing in or near polling station and of public meeting on election day.
25. Penalty for disorderly conduct in or near polling station.
26. Penalty for misconduct at the polling station.
27. Breaches of official duty in connection with election.
28. Removal of ballot papers from Polling Station to be an offence.
29. Offence of booth capturing.
30. Other offence and penalties.
31. Power to make rules regulating the election of Councillors.

32. Bar to interference by Courts in electoral matters.

33. Oath of affirmation by Councillor.

34. Removal of or resignation by Councillors.

34-A.Disqualification on ground of defection.

34-BB.Disqualification on the ground of defection not to apply in case of split.

34-B.Disqualification on ground of defection not to apply in case of merger.

34-C.Decision on question as to disqualification on ground of defection. 34-D.Appeals.

34-E.Bar of Jurisdiction.

35. Payment of allowances to Councillors.

36. Annual election of Mayor, Deputy Mayor and their term of office.

Section

37. Motion of No-confidence against Mayor or Deputy Mayor.

38. Discharge of functions of the Mayor by Deputy Mayor.

39. Resignation of Mayor and Deputy Mayor.

39A.Constitution of Ward Committees.

39B.Constitution of Area Sabha.

40. Standing Committees.

CHAPTER III

FUNCTIONS OF THE CORPORATION

41. General Powers of Corporations.

42. Functions of Corporations to be entrusted by Government.

43. Obligatory functions of the Corporation.

44. Discretionary functions of the Corporation.

CHAPTER IV

MUNICIPAL AUTHORITIES UNDER THE CORPORATION 45. Appointment of Commissioner.

46. Appointment of Joint/Assistant Commissioner and certain other officers. 47. Salary and allowances of Commissioners.

48. Leave etc. to Commissioner.

49. Contribution by Corporation.

50. Function of the Commissioner.

51. Power of the Corporation to require Commissioner to produce documents and furnish returns, reports etc.

52. Exercise of power to be subject to sanction.

CHAPTER V

TRANSACTION OF BUSINESS BY THE CORPORATION

53. Meetings.

Section

54. First Meeting of the Corporation after general elections for election of Mayor.

55. Notice of Meetings and business.

56. Quorum.

57. Presiding Officer.

58. Method of deciding question.

59. Maintenance of order at and admission of public to meetings.

60. Councillor not to vote on matter in which he is interested.

61. Right to attend meetings of Corporation and its Committees etc. and right of Councillor to ask the questions.

62. Power to make regulations.

63. Keeping of minutes and proceedings.

64. Circulation of minutes and inspection of minutes and reports of proceedings. 65. Forwarding minutes and reports of proceedings to Government.

66. Validation of proceedings etc.

CHAPTER VI

CORPORATION OFFICERS AND OTHER CORPORATION EMPLOYEES 67. Posts in Corporation and appointments thereto.

67A.Staff.

68. Officers and other employees not to be interested in any contract etc. with Corporation.

CHAPTER VII

REVENUE AND EXPENDITURE

69. Constitution of Corporation Fund.

69-A. Constitution of Basic Services Fund.

70. Corporation Fund to be kept in Jammu and Kashmir Bank or in a Scheduled Bank in a Government Treasury.

71. Operation of accounts with banks.

Section

72. Payment not to be made unless covered by a budget grant.

73. Duty of persons signing Cheques.

74. Procedure when money not covered by a budget grant is expended. 75. Application of Corporation Fund.

76. Payments from Corporation Fund for works urgently required for public service.

77. Investment of surplus money.

78. Constitution of special funds.

79. Finance Commission.

80. Budget Estimates.

81. Power of Corporation to alter budget estimates.

82. Power of Corporation to readjust income and expenditure during the year. 83. Provisions as to unexpended budget grant.

83-A. Reservation of land for housing to economically weaker sections and low income groups.

83-B.Identification of eligible persons and determination of cost of land or houses. 83-C.Incentives to developers.

83-D.Non-residential development.

83-E.Utilization of shelter fee.

CHAPTER VIII

TAXES AND FEES

84. Taxes, etc. to be imposed by Corporation under this Act and arrangement of certain taxes collected by Government.

85. Fees that may be charged by the Corporation.

86. Description and class of property tax.

87. Omitted.

88. Determination of taxable annual value.

Section

89. Taxation of Union properties.

90. Incidence of taxes on lands and buildings.
91. Omitted.
92. Omitted.
93. Omitted.
94. Omitted.
95. Evidentiary value of assessment list and unit area value.
96. Omitted.
97. Omitted.
98. Notice of transfers.
99. Notice of erection of building etc.
100. Notice of demolition or removal of building.
101. Power of Commissioner to call for information.
102. Premises owned by or let to, two or more persons in severalty to be ordinarily assessed as one property.
103. Assessment in case of amalga-mation of premises.
104. Power of Commissioner to assess separately out houses and portion of building.
105. Powers of Commissioner to employ valuers.
106. Recovery of tolls or taxes.
107. Tax on vehicles and animals.
108. Tax on whom leviable.
109. Exemption from taxes on vehicles and animals.
110. Levy of development tax.
111. Amount of development tax.
112. Payment of development tax.

Section

113. Notice on completion of scheme.
114. Assessment of development tax.
115. Tax on advertisements.
116. Prohibition of advertisement without written permission of Commissioner.
117. Permission of Commissioner to become void in certain cases.
118. Presumption in case of contravention.
119. Power of Commissioner in case of contravention.
120. Fee on building applications.
121. Time and manner of payment of taxes or fees.
122. Presentation of bill of tax or fee.
123. Consequences of the failure to pay tax or fee within thirty days.
124. Manner of recovering tax or fee.
125. Power of seizure of vehicles and animals in case of non-payment of tax thereon.
126. Demolition etc. of building.
127. Omitted.
128. Omitted.
129. Omitted.
130. Omitted.
131. Omitted.
132. Appeal.

133. Limitation for appeal.
134. Finality of appellate orders.
135. Taxation not to be questioned except under this Act.
136. Power to inspect for the purposes of determining the taxable annual value of tax or fee.

Section

137. Composition.
138. Irrecoverable debts.
139. Obligation to disclose liability.
140. Power to amend list in certain cases.
141. lmmaterial error not to affect liability.
142. Powers of exemption.
143. Powers of Government in regard to taxes.
143A. Powers of Government to make interim arrangements with regard to assessment and collection of taxes and fees.

CHAPTER IX

BORROWING

144. Power of Corporation to borrow.
145. Time for repayment of money borrowed under section 144.
146. Form and effect of debentures.
147. Receipt by joint holders for the interest or dividend.
148. Maintenance and investment of sinking fund.
149. Application of sinking funds.
150. Annual statement by Commissioner.
151. Priority of payment for interest and repayment of loans over other payment. 152. Attachment of Corporation Fund for recovery of money borrowed from the Government.
153. Power to make regulations.
154. Property vested in Corporation and management of public institutions.

CHAPTER X

PROPERTIES AND CONTRACTS

155. Acquisition of immovable property by agreement.

Section

156. Procedure when immovable property cannot be acquired by agreement
157. Disposal of property.
158. Contracts by Corporation.
159. Procedure for making contracts.
160. Mode of executing contracts.

CHAPTER XI

ACCOUNTS AND AUDIT

161. Maintenance of Accounts.
162. Report by Audit agency.
163. Action by Commissioner on the Report.
164. Procedure to be followed by audit agency.
165 Power of auditor to make queries etc. and call for returns.

CHAPTER XII

WATER SUPPLY, DRAINAGE AND SEWAGE DISPOSAL

166. Definitions.

167. Power to require Corporation to carry out surveys and formulate proposals.
168. Power to construct additional works.
169. Functions in relation to water supply.
170. Supply of water to connected premises.
171. Power to supply water for non-domestic purposes.
172. Making connection with municipal water works.
173. Obligation of owner or occupier to give notice of waste of water.
174. Cutting of supply to premises.
175. New premises not to be occupied without arrangement for water supply.
176. Public gratuitous water supply.
177. Power to lay mains.

Section

178. Power to lay service pipes etc.
179. Provision of fire hydrants.
180. Power to enter premises to detect waste or misuse of water.
181. Power to test water fittings.
182. Power to close or restrict use of water from polluted source of supply.
183. Water pipes not to be placed where water will be polluted.
184. Joint and several liability of owners and occupiers for offence in relation to water supply.
185. Public drains etc. to vest in Corporation.
186. Control of drains and sewage disposal works.
187. Certain matters not to be passed into municipal drains.
188. Application by owners and occupiers to drain into municipal drain.
189. Drainage of undrained premises.
190. New premises not to be erected without drainage.
191. Power to drain group or block of premises by combined operations.
192. Power of Commissioner to close or limit the use of private drain in certain cases.
193. Use of drain by a person other than owner.
194. Sewage and rain water drains to be distinct.
195. Powers of Commissioner to require owner to carry out certain works for satisfactory drainage.
196. Appointment of places for the emptying of drains and disposal of sewage.
197. Connection with water works and drains not to be made without permission.
198. Buildings and private streets not to be erected or constructed over drains or water works without permission.
199. Right of user of property for aqueducts, lines etc.

Section

200. Power of owner of premises to place pipes and drains through land belonging to other persons.
201. Railway administration be informed in certain cases.
202. Power of Commissioner to execute work after giving notice to the person liable to do so.
203. Power of Commissioner to affix shafts etc. for ventilation of drain or cesspool.
204. Power of Commissioner to examine and test drain etc. believed to be defective.

205. Employment of Government agencies for repairs etc.
206. Work to be done by licensed plumber.
207. Prohibition of certain acts.

CHAPTER XIII

STREETS

208. Vesting of public streets in Corporation.
209. Functions of Commissioner in respect of public streets.
210. Disposal of land forming site of public streets permanently.
211. Power to make new public streets.
212. Minimum width of new public streets.
213. Power to prohibit use of public streets for certain kinds of traffic.
214. Power to acquire land and buildings for public streets and for public parking places.
215. Defining regular lines of streets.
216. Setting back building to regular line of streets.
217. Compulsory setting back of building to regular line of streets.
218. Acquisition of open land and land occupied by platforms etc. within a regular line of streets.

Section

219. Acquisition of remaining part of building and land after their portions within regular line of streets have been acquired.
220. Setting forward of building to regular line of street.
221. Compensation to be paid in certain cases of setting back or setting forward of buildings etc.
222. Owner's obligation when dealing with land or building sites.
223. Layout plans.
224. Alteration or demolition of street made in breach of section 223.
225. Power of Commissioner to order work to be carried out or to carry it out himself in default.
226. Declaration of public streets.
227. Prohibition of projection upon street etc.
228. Projection over streets may be permitted in certain cases.
229. Ground floor door etc. not to open outwards on streets.
230. Prohibition of structures, fixtures or deposit of things in streets.
231. Special provision regarding streets belonging to Government.
232. Power to remove anything deposited or exposed for sale in contravention of this Act.
233. Prohibition of tethering of animals and milking of cattle.
234. Precautions during repairs of streets.
235. Streets not to be opened or broken up and building materials not to be deposited thereon without permission.
236. Disposal of things removed under this chapter.
237. Naming and numbering to streets.
238. Commissioner to take steps for repairing or enclosing places.
239. Measures for lighting.

Section

240. Prohibition of removal, etc. of lamps.

CHAPTER XIV
BUILDING REGULATIONS

241. Definitions.
242. Prohibition of erection of building without sanction.
243. Erection of building.
244. Applications for additions to, or repairs of building.
245. Condition of valid notice.
246. Sanction or refusal of building or work.
247. When building or work may be proceeded with.
248. Sanction accorded under misrepresentation.
249. Building at corners of street.
250. Provisions as to buildings and works on either side of new streets. 251. Period for completion of building or work.
252. Prohibition against the inflammable materials for buildings etc. without permission.
253. Order of demolition and stoppage of building and works in certain cases and appeal.
254. Order of stoppage of building or works in certain cases.
255. Power of the Government to give direction for compounding deviations from sanctioned plan.
256. Power of Commissioner to require alteration of work.
257. Completion certificate.
258. Restrictions on use of buildings and removal of dangerous buildings. 259. Power to order building to be vacated in certain circumstances.

Section

260. Building Scheme.

CHAPTER XV
SANITATION AND PUBLIC HEALTH

261. Provision for daily cleansing of streets and removal of rubbish and filth. 262. Rubbish etc. to be property of Corporation.
263. Provision for placement of receptacles, depots and places for rubbish etc. 264. Duty of owners and occupiers to collect and deposit rubbish etc.
265. Removal of rubbish etc. accumulated on premises used as factories, workshops, etc.
266. Prohibition against accumulation of rubbish etc.
267. Commissioner's power to get premises scavenged and cleansed.
268. Public latrines, urinals, etc.
269. Construction of latrines and urinals.
270. Latrines and urinals etc. in new buildings.
271. Latrines and urinals for labourers etc.
272. Provision of latrines and urinals for markets etc.
273. Other provisions as to private latrines.
274. Removal of congested building.
275. Power of Commissioner to require improvement of buildings unfit for human habitation.
276. Enforcement of notice requiring execution of works of improvement. 277. Power of Commissioner to order demolition of buildings unfit for human habitation.
278. Insanitary huts and sheds.
279. Prohibition against washing by washerman.

Section

280. Obligation to give information of dangerous disease.
281. Removal of patient to hospital suffering from dangerous disease.
282. Disinfections of buildings and articles.
283. Destruction of infectious huts or sheds.
284. Means of disinfection.
285. Special measures in case of out-break of dangerous or epidemic disease.
286. Infected clothes not to be sent to washerman or to laundry.
287. Contamination and disinfection of public conveyances.
288. Driver of conveyance not bound to carry persons suffering from dangerous diseases.
289. Disinfection of buildings before letting the same.
290. Disposal of infected articles without disinfection.
291. Prohibition of making or selling of food, etc. or washing of clothes by infected persons.
292. Power to restrict or prohibit sale of food or drink.
293. Control over wells and tanks etc.
294. Duty of persons suffering from dangerous diseases.
295. Disposal of infectious corpse, where any person has died from any dangerous disease.
296. Conditions of service of Safai Karamcharies and certain other classes of persons employed in Corporation services.
297. Power to call for information regarding burning and burial ground.
298. Permission for use of new burning or burial ground.
299. Power to require closing of burning and burial grounds.
300. Removal of corpses.

Section

301. Disposal of dead animals.

CHAPTER XVI

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

302. Prohibition of nuisances.
303. Power of Commissioner to require removal or abatement of nuisance.
304. Registration and control of dogs.
305. Stacking or collecting inflammable materials.
306. Care of naked lights.
307. Discharging fire works, fire arms etc.
308. Power to require buildings, wells etc. to be rendered safe.
309. Enclosure of waste land used for improper purposes.

CHAPTER XVII

EXTINCTION AND PREVENTION OF FIRE

310. Establishment and maintenance of fire brigade.
311. Power of members of fire-brigades and other persons for suppression of fire.
312. Limitation on operation of this Chapter.

CHAPTER XVIII

MARKETS, SLAUGHTER HOUSES, TRADES AND OCCUPATION

313. Provision of municipal markets and slaughter houses.

314. Use of municipal markets.
315. Private markets and slaughter houses.
316. Conditions of grant of license for private market.
317. Prohibition of keeping markets open without licence etc.
318. Prohibition on use of unlicensed markets.

Section
319. Prohibition of business and trade.
320. Levy of stallages, rent and fees.
321. Stallages, rent etc. to be published.
322. Butcher's, fishmonger's and poulterer's licence.
323. Factory etc. not to be established without permission of the Commissioner.
324. Premises not to be used for certain purposes without licence.
325. Seizure of certain animals.
326. Power of the Commissioner to prevent use of premises in particular area for the purposes referred in section 324.
327. Licence for hawking articles etc.
328. Eating houses etc. not to be used without license from Commissioner.
329. Licensing and control of theatre, circuses and places of public amusement.
330. Power of Commissioner to stop use of premises used in contravention of licences.
331. Power of Commissioner to inspect places where unlawful slaughter of animals etc. is suspected.

CHAPTER XIX
IMPROVEMENT

332. Improvement scheme.
333. Matters to be provided for in an improvement scheme.
334. Submission of improvement scheme to the Corporation for approval and to the Government for sanction.
335. Publication of the notice after scheme is sanctioned.
336. Rehousing Scheme.
337. Improvement scheme and Rehousing scheme to comply with master plan and zonal development plan.

Section
338. Provision of housing accommodation for the economically weaker sections.

CHAPTER XX
REGULATION OF FELLING AND PLANTING TREES

339. Prohibiting felling, cutting, damaging, destroying any tree in any urban area. 340. Constitution of Tree Authority.
341. Meeting of Tree Authority.
342. Duties of Tree Authority.
343. Appointment of Tree Officer.
344. Application for permission for cutting, felling or removal of a tree.
345. Permission for felling of tree.
346. Planting of adequate number of trees.
347. Planting in place of fallen/destroyed trees.
348. Responsibilities for preservation of trees.

349. The recovery of expenditure on failure to comply with orders for planting of trees.
350. Appeals.
351. Seizure.
352. Penalty.
353. Compounding of offences.
354. Operation of other laws not barred.
355. Power to make rules.

CHAPTER XXI

POWER, PROCEDURE, OFFENCES AND PENALTIES

356. Signature, conditions, duration, suspension, revocation, etc. of licences and written permissions.
357. Power of entry and inspection.

Section

358. Power to enter land, adjoining land in relation to any work.
359. Breaking into building.
360. Time of making entry.
361. Consent ordinarily to be obtained.
362. Regard to be had to social or religious usages.
363. Prohibition of obstruction or molestation in execution of work.
364. Public notice how to be made known.
365. Newspaper in which advertisement of notices to be published.
366. Proof of content etc. of Commissioner etc.
367. Notices etc. to fix reasonable time.
368. Signature on notices etc. may be stamped.
369. Notice etc. by whom to be served or issued.
370. Service of notices, etc.
371. Power in case of non-compliance with notice, etc.
372. Liability of occupier to pay in default of owner.
373. Execution of work by occupier in default of owner and deduction of expenses from rent.
374. Relief to agents and trustees.
375. General power to pay compensation.
376. Compensation to be paid by offenders for damage caused by them.
377. Mode of receiving certain dues.
378. Right of owner to apply to Court of the District Judge in case of obstruction by occupier.
379. General powers and procedure of the Court of District Judge.
380. Fees in proceeding before the Court of District Judge.
381. Repayment of half fee on settlement before hearing.

Section

382. Power of the Court of District Judge to delegate certain powers and to make rules.
383. Punishment for certain offences.
383A. Eviction of unauthorised occupants.
384. General Penalty.
385. Offences by Companies.

386. Police establishment.
387. Arrest of offenders.
388. Powers to initiate legal proceedings etc. and obtain legal advice.
389. Prosecution.
390. Composition of offences.
391. Protection of action taken in good faith etc.
392. Notice to be given of suits.

CHAPTER XXII
RULES, REGULATIONS AND BYE-LAWS

393. Supplemental provision respecting rules.
394. Supplemental provisions respecting regulations.
395. Powers to make bye-laws.
396. Penalty for breaches of bye-laws.
397. Supplemental provisions respecting bye-laws.
398. Bye-laws to be available for inspection and purchase.

CHAPTER XXIII
CONTROL

399. Power of Government to require production of documents.

MUNICIPAL CORPORATION ACT, 2000 23

Section

400. Inspection.
401. Powers to give directions.
402. Powers to provide for enforcement of direction under section 398.
403. Power of revision.
404. Dissolution of Corporation.
405. Delegation.
406. Validity of notices and other documents.
407. Admissibility of document or entry as evidence.
408. Evidence of Corporation officer or employee.
409. Prohibition against obstruction of Mayor or any Corporation authority. 410. Prohibition against removal of mark.
411. Prohibition against removal or obliteration of notice.
412. Prohibition against unauthorised removal of deposit, etc.
413. Liability of Councillors.
414. Councillors and Corporation officers and employees to be public servants. 415. Annual Administration Report.
416. Construction of reference.
417. Special provisions as to rural areas.
418. Power to suspend any resolution or order of the Corporation.
419. Power of Government to modify proceedings.
420. Power of Government to withdraw any area of Municipal area from operation of Act.
421. District Planning Committee.
422. Transitional provisions.

24 MUNICIPAL CORPORATION ACT, 2000

Section

423. Provisions regarding officers and employees.
424. Assets, liabilities, debts, obligations, contracts and pending proceedings. 425. Provision for municipality or local authority which is superseded.

426. Power to enquire and make report about misconduct of certain officer or official
427. Power to remove difficulties.
428. Repeal of Act No. VIII, Samvat 2008.

First Schedule.

THE JAMMU AND KASHMIR MUNICIPAL CORPORATION ACT, 2000

(Act No. XXI 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 amend and consolidate the law relating to the establishment of Municipal Corporation for certain Municipal areas in the State of 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 Corporation Act, 2000.

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

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provisions to the commencement of this Act shall be construed as reference to the coming into force of that provision.]

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

(1) "*backward classes"* means such classes of citizens other than scheduled castes and scheduled tribes, as may be identified and

1.Substituted for "whole of the State of Jammu and Kashmir" by S.O. 3466 (E) of 2020 dated 5th October, 2020.

2.Chapters I, II, V, section 79 of Chapter VII, Chapters XV, XVI, XVIII, XIX, XXI (except section 386) and XXIII have come into force w.e.f. 18th February, 2003 vide SRO 46 of 2003 dated 18-02-2003.

notified for the purpose of reservation for appointments or posts in the services under the Government ;

[1][(1A) "Board" shall mean the Jammu and Kashmir Property Tax Board constituted under the Jammu and Kashmir Property Tax Board Act, 2013 ;]

(2) "*budget-grant"* means the total sum entered on the expenditure side of a budget estimates under a major head and adopted by the Corporation and includes any sum by which such budget grant may be increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the regulations made thereunder ;

(3) "*building"* means a shop, house, out-house, stable, latrine, urinal, shed, hut, wall or any other structure, whether of masonry, bricks, wood, metal or other material and includes a well but does not include any portable shelter ;

(5) "*Casual vacancy"* means a vacancy occurring otherwise than by efflux of time in the office of a Councillor or in any other elective office ;

(6) "*Chief Electoral Officer"* means the Chief Electoral Officer [3][x x x] ;

(7) *"Commissioner"* means the Commissioner of the Corporation appointed by the [4][State Government] ;

(8) *"Corporation"* means the Municipal Corporation declared and constituted under sections 3 and 4 of this Act ;

(9) *"Corrupt practice"* means any of the practices specified in section 21 ;

(10) *"dangerous disease"* means—

(a) cholera, plague, chicken-pox, small-pox, tuberculosis, leprosy, enteric fever, cerebro-spinal meningitis and diphtheria ; and

3.Words "of the State" omitted by S.O. 3466(E) 05.10.2020. 4.Now Government of the Union territory of Jammu and Kashmir.

(b) any other epidemic, endemic or infectious disease which the Commissioner may, by notification, in the [1][Government Gazette], declare to be dangerous disease for the purpose of this Act ;

(11) *"Director"* means the Director of Urban Local Bodies appointed by the Government ;

(12) *"District"* means a district in the [2][Union territory of Jammu and Kashmir] ;

(13) *"District Judge"* means the District Judge having jurisdiction over the municipal area ;

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

(15) *"Divisional Commissioner"* means the Commissioner of the Division in which the Corporation is situated and includes any other officer appointed by the Government to perform all or any of the functions of the Divisional Commissioner under this Act ;

(16) *"drain"* includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying of sewage, offensive matter, polluted water, waste water, rain water or sub-soil water ;

(17) *"dry latrine"* means a latrine or privy from where night soil is removed through manual scavenging ;

[4][(17-a) *"economically weaker section"* means such class of persons, [5][x x x x x] as may be notified by the Government from time to time, for the purpose of providing housing sites of [6][such dimension as may be prescribed] ;

(18) *"entertainment"* includes any exhibition, performance, amusement, game or sport which persons are ordinarily admitted on payment ;

(19) *"factory"* means a factory as defined in the Factories Act, 1948 ;

2. Substituted by S.O. 3466(E) of 2020 dated 5th October, 2020 for "State"

3. Clause (14) substituted *ibid*.

4. Clause (17-a) inserted by Act No. XIII of 2012, s.5.

5. Words "being permanent residents of the State" by S.O. 3466 (E) of 2020 dated 5.10.2020. 6. Substituted for certain words *ibid*.

(20) *"filth"* includes offensive matter and sewage ;

(21) *"Finance Commission"* means the Finance Commission constituted by the Government under section 249 of the Jammu and Kashmir Municipal Act, 2000 ;

[1][(21-a) *"floor space index"* means the area that can be constructed on a piece of land divided by the total area of the land] ;

(22) *"goods"* includes animals ;

(23) *"Government"* means the Government of the [2][State of Jammu and Kashmir] ;

[3][(23-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] ;

(24) *"house gully"* or *"serving passage"* means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a

drain or affording access to a latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by Corporation employees or other person employed in the cleaning thereof or in the removal of such matter therefrom ;

(25) *"hut"* means any building which is constructed principally of wood, bamboo, mud, leaves, grass, cloth or thatch and includes any structure of whatever material made which Corporation may declare to be a hut for the purpose of this Act ;

(26) *"land"* includes benefits that arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street ;

(27) *"licensed architect" , "licensed draftsmen" , "licensed engineer" ,"licensed plumber" , "licensed surveyor" , and "licensed town planner"* means respectively a person licensed under the provisions of this Act as an architect, draftsman, engineer, plumber, surveyor and town planner ;

[4][(27-a)"low income group" means such class of persons, [5][x x x] as may be notified by the Government from time to time, for the purpose of

1. Clause (21-a) inserted by Act No. XIII of 2012, s. 5.
2. Now Union territory of Jammu and Kashmir.
3. Clause (23-a) inserted by Act No. XIII of 2012, s. 5.
4. Clause (27-a) inserted *ibid*.
5. Words "being permanent residents of the State" by S.O. 3466 (E) of 2020 dated 5.10.2020.

providing housing sites which may be of [1][such dimension as may be prescribed] ;

(28) *"member"* in relation to the Corporation means a Councillor thereof ;

(29) *"municipal area"* means the territorial area of the Corporation declared under section 3 of this Act ;

(30) *"municipal drain"* means a drain vested in the Corporation ;

(31) *"municipal market"* means market vested in or managed by the Corporation ;

(32) *"municipal slaughter house"* means a slaughter house vested in or managed by the Corporation ;

(33) *"municipal water works"* means water works vested in the Corporation ;

(34) *"municipality"* means an institution of self-Government constituted under section 3 of the Jammu and Kashmir Municipal Act, 2000 which may be a Municipal Committee or a Municipal Council or a Municipal Corporation ;

(35) *"nuisance"* includes any act, omission, place, animal or a thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to health or property ;

(36) *"occupier"* includes—

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

(b) an owner in occupation of, or otherwise using his land or building ;

(c) a rent-fee tenant of any land or building ;

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

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

1. Substituted for certain words by S.O. 3466 (E) of 2020 dated 5.10.2020.

(37) *"offensive matter"* includes animal carcasses, kitchen or stable refuse, dung, dirt and putrid or putrefying substances, other than sewage ; (38) *"owner"* includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building whether on his own account or on account of himself and other or as an agent, trustee, guardian or receiver or any other person who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant ;

(39) *"population"* means the population as ascertained at the last preceding census of which the relevant figures have been published ;

(40) *"premises"* means any land or building or part of a building and includes:—

(a) the garden, ground and out-house, if any, appertaining to a building or part of a building ; and

(b) any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof ;

(41) *"prescribed"* means prescribed by rules made under this Act ; (42) *"private market"* means a market which is not a municipal market ; (43) *"private slaughter house"* means a slaughter house which is not a municipal slaughter house ;

(44) *"private street"* means any street, which is not a public street and includes any passage securing access to two or more places belonging to the same or different owners ;

(45) *"public place"* means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not ;

(46) *"public securities"* means any securities of the Central Government or a Government or any securities guaranteed by the Central

Government or a State Government or any securities issued under this Act ;

(47) *"public street"* means any street which vests in the Corporation or which under the provisions of this Act becomes, or is declared to be a public street ;

(48) *"railway administration"* means and would have the same meaning as assigned to it in the Indian Railway Act, 1890 ;

[1][x x x x]

(50) *"regulation"* means a regulation made by the Corporation under this Act, by notification, in the [2][Government Gazette] ;

(51) *"reside"* : —

(a) a person shall be deemed to "reside" in any dwelling house which or some portion of which he sometimes, although not uninterruptedly uses as a sleeping apartment ; and

(b) a person shall not be deemed to cease to "reside" in any such dwelling house merely because he is absent from it or has elsewhere another dwelling house in which he resides, if there is, liberty of returning to it at any time, and no abandonment of the intention of returning to it ;

(52) *"rubbish"* includes ashes, broken bricks, broken glass, dust, mulba, mortar and refuse of any kind which is not filth ;

(53) *"rural areas"* means the part of the municipal area which immediately before their inclusion within the limits of the municipal areas were situated within the local limits of a Gram Panchayat but shall not include such portion thereof, as may, by virtue of a notification under section 417 cease to be included in the rural areas as herein defined ;

(54) *"Scheduled Castes"* shall have the same meaning as assigned to it in clause (24) of Article 366 of the Constitution of India ;

(55) *"Scheduled Tribes"* shall have the same meaning as assigned to it in clause (25) of Article 366 of the Constitution of India ;

(56) *"sewage"* means night soil and other contents of latrines, urinal, cesspools or drains and polluted water from sinks, bathrooms, stables, cattle sheds and other like places, and includes trade effluents and discharges from manufactures of all kinds ;

(57) *" shed"* means a slight or temporary structure for shade or shelter ;

[1][(57-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 ;

(58) *"slaughter house"* means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption ;

(59) *"Special Tribunal"* means the Tribunal constituted under section 4 of the Jammu and Kashmir Special Tribunal Act, 1988 ;

(60) *"street"* shall mean any road, footway, square, court alley, gully 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 person as means of access to or from an 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 right at all hours to prevent all other persons from using as aforesaid and shall include also the drains or gutters therein, or either side or the land, whether covered or not by any pavement, verandah or other erection, up to the boundary of any abutting property, not accessible to the public ;

[2][(60A) *"Taxable annual value"* means the taxable annual value of any land and building or vacant land or both determined under section 88 for the purpose of assessment of property tax ;]

1.Clause (57-a) inserted by Act No. XIII of 2012, s. 5.

2.Clause (60A) inserted by S.O. 3466 (E) of 2020 dated 5.10.2020.

(61) *"trade effluent"* means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises **[and in relation to any trade premises]* means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage ;

(62) *"trade premises"* means any premises used or intended to be used for carrying on any trade or industry ;

(63) *"trade refuse"* means the refuse of any trade or industry ;

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

(65) *"ward"* means a municipal ward of the Corporation made under sub-section (2) of section 4 of this Act for the purpose of election of a member ;

(66) *"water course"* includes any river, stream or channel whether natural or artificial ;

(67) *"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 by human agency ;

(68) *"water works"* includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water trucks, sluices, main pipes, culverts, hydrants, stand-pipes and conduits and all lands, buildings, machinery, bridges and things used for, or intended for the purpose of supplying water ;

(69) *"workshop"* means any premises (including the precincts thereof) other than a factory, wherein any industrial process is carried on ; and

(70) *"year"* means a year commencing on the 1st day of April.

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* To make the definition complete the words "and in relation to any trade premises" should be there. Administrative Department (Housing and Urban Development) may take note of it and move proposal for amending clause (61) accordingly. **.....(Author).**

CHAPTER II

CONSTITUTION OF CORPORATION

3. *Declaration of Municipal area as Corporation.* —(1) For the purposes of this Act, the area comprised within the limits of the municipal area of Jammu and Srinagar shall be limits of Municipal Corporation of Jammu and Srinagar respectively.

(2) The Government may, from time to time, by a notification in the [1][Government Gazette], declare any municipality to be a Corporation ; provided that no municipality shall be so declared to be a Corporation unless the population thereof exceeds four lacs.

(3) The Government may, from time to time, after consultation with the Corporation, by notification in the [1][Government Gazette], alter the limits of the municipal area of the Corporation declared under sub-section (1) and (2) so as to include therein or exclude therefrom such areas as may be specified in the notification.

(4) When the limits of the municipal area are altered, so as to include therein any area, except as the Government may otherwise by notification direct, all rules, regulations, notifications, bye-laws, orders, directions and powers issued or conferred and all taxes imposed under this Act and in force in the municipal area, shall apply to such area.

(5) When a local area is excluded from the Corporation under sub-section (3),—

(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 Corporation, frame a scheme determining what portion of the balance of the Corporation fund and other property vesting in the Municipal Corporation shall vest in the Government and in what manner the liabilities of the Corporation shall be apportioned between the Corporation and the Government, and on the scheme being notified the property and liabilities shall vest and be apportioned accordingly.

4. *Incorporation and constitution of Corporation.* —(1) The Corporation shall be a body corporate having perpetual succession and common seal with powers subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued.

(2) Save as provided in sub-section (3), all seats in the Corporation shall be filled by persons chosen by direct election from the territorial constituencies in the

municipal area and for this purpose the municipal area shall, by a notification issued in this behalf, be divided into territorial constituencies to be known as wards.

(3) In addition to the persons chosen by direct election from the territorial constituencies, the Government may, by notification, nominate the following categories of persons as Councillors of the Municipal Corporation :—

(i) three persons having special knowledge or experience in municipal administration ; and

(ii) members of the Legislative Assembly representing constituencies which comprise wholly or partly the municipal area :

Provided that the persons referred to in clause (i) above shall not have the right to vote in the meetings of the Corporation.

(4) After the commencement of this Act, all powers and duties conferred and imposed upon the Corporations by or under this Act or any other law, shall be exercised and performed by the Commissioner for a period not exceeding [1][two years] or till a Corporation is constituted under the provisions of this Act, whichever is earlier.

5.*Duration of the Corporation.* —(1)The Corporation, unless sooner dissolved under section 404 of this Act, shall continue for five years from the date appointed for its first meeting.

(2) An election to constitute the Corporation 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 :

1. Substituted for the words "one year" by Act No. XI of 2004, s. 2, w.e.f. 14.02.2004. For earlier amendment see Act No. V of 2004, s. 2.

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period :

[1][Provided further that the first election to a Corporation constituted after the commencement of the Act shall be held within a period of [2][two years] of its constitution].

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

6. *Delimitation of wards.*— For the purposes of elections of Councillors the Deputy Commissioner 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 Councillor shall be elected from each ward ; and

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

Provided that the population in each ward shall not be less than 7500 and the number of total seats to be filled by direct election shall not exceed seventy five ;

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

(c) determine the ward or wards in which seats are reserved under this Act.

7.*Qualification for Councillors.*—A person shall not be qualified to be chosen as a Councillor, unless :—

[3][x x x x] ;

1. Proviso inserted by Act No. V of 2004, s. 3, w.e.f. 14.08.2003. 2. Substituted for the words "one year" by Act No. XI of 2004, s. 3. 3. Clause (a) omitted by S.O. 3466 of 2020 dated 5.10.2020.

(b) he has attained the age of [1][twenty-five years] ; and

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

8.*Disqualification of Councillor.* —(1) A person shall be disqualified for being chosen as, and for being, a Councillor of the Corporation—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of election to [2][the Legislative Assembly of the Union territory of Jammu and Kashmir [3][x x x x] ;

(b) if he is so disqualified by or under any law made by [2][the Legislative Assembly of the Union territory of Jammu and Kashmir] ;

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

(d) if he is an undischarged insolvent ;

(e) if he is not citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under an acknowledgment of allegiance or adherence to a foreign State ;

(f) if he has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of—

(i) any corrupt practice under section 21 of this Act ;

(ii) any offence punishable under [4][x x x] section 29 or clause (a) of sub-section (2) of section 30 of this Act ; unless a period of six years has elapsed since the date of finding ;

(g) if he has been sentenced or convicted by a criminal court to imprisonment for an offence involving moral turpitude, unless a period of six years has elapsed since his conviction ;

1. Substituted for "eighteen years" by S.O. 3466 of 2020 dated 5.10.2020.

2. Substituted for "the Legislature of the State" *ibid*.

3. Proviso omitted *ibid*.

4. Certain words and figures omitted *ibid*.

(h) if he holds any office of profit under the Government *[or the Municipal Corporation] ;

(i) if he is a licensed architect, draftsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also partner ;

(j) if he holds any office of profit under *[the Government or] the Municipal Corporation ;

(k) if he is interested in any subsisting contract made with, or any work being done for the Corporation except as a share holder (other than a director) in an incorporated company or as a member of a co-operative society ;

(l) If he is retained or employed in any professional capacity either personally or in the name of a firm of which he is a partner or with which he is engaged in a professional capacity, in connection with any cause or proceeding which the Corporation or any of municipal authorities is interested or concerned ;

(m) if he, having held any office under the Government, the Corporation or any other local authority, any Government company or any corporate body owned or controlled by the Government, has been dismissed from service ;

(n) if he has encroached upon or is a beneficiary of the encroachment upon any land belonging to, or taken on lease or requisitioned by or on behalf of, the Government, a Municipality, a Panchayat, Co-operative

society or any other local authority, 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 purpose of this clause the expression "beneficiaries" shall include the spouse and legal heirs of the encroachers ;

* Clause (j) has unnecessarily been repeated when the words already exist in clause (h). In fact, in clause (h), the words "or the Municipal Corporation" and in clause (j), the words "the Government or", need to be omitted. In the alternative one of the clauses needs to be omitted completely. Housing and Urban Development Department may take note of it and move proposal for necessary amendment. **..... ....(Author).**

(o) if he is registered as a habitual offender under any existing law [1][x x x x] ;

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

(q) if he fails to pay any arrears of any kind due to him, otherwise than as an agent, receiver, trustee or an executor to the [3][Corporation or any Department of the Government or local body or authority] within three months after a notice in this behalf has been served upon him ;

(r) if he is in the employment or service under any Panchayat or of any other local authority or co-operative society or the 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 term, casual, daily or contract basis.

(2) Notwithstanding anything contained in sub-section (1), —

(a) a disqualification under clause (g) of sub-section (1) shall not take effect until three months have elapsed since the date of such disqualification or if within these three months an appeal or petition for revision is brought in respect of the conviction or sentence until that appeal or petition is disposed of ;

(b) a person shall not be deemed to have incurred any disqualification under clause (h) or clause (i) of sub-section (1) by reason only of his receiving :—

(i) any pension ; or

(ii) any allowance or facility for serving as a Mayor or Deputy Mayor or as a Councillor ; or

(iii) any fee or attendance at a meeting of any committee of the Corporation ;

1.Words "of State" omitted by S.O. 3466 of 2020 dated 5.10.2020. 2.Substituted for "Code of Criminal Procedure, Samvat 1989" *ibid*. 3.Substituted for "Corporation" *ibid*.

(c) a person shall not be deemed to have any interest in a contract or work such as is referred to in clause (k) of sub-section (1) by reason only of his having a share or interest in—

(i) any lease, sale, exchange, purchase of immovable property or any agreement for the same ; or

(ii) any agreement for the loan of money or any security for the payment of money only ; or

(iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted ; or

(iv) the sale to the Corporation or to any other municipal authority or any officer or other employee of the Corporation on behalf of the

Corporation of any article in which he regularly trades or the purchase from the Corporation or from any such authority, officer or other employee on behalf of the Corporation of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work ; or

(v) the letting out on hire to the Corporation or the hiring from the Corporation of any article not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work ; and

(vi) any agreement or contract with the Corporation or any other municipal authority for taking water or any other thing which the Corporation may generally supply.

(3) If a person sits or votes as a Councillor of the Corporation when he is not qualified or when he is disqualified for such Councillorship, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as arrears of tax under this Act.

(4) If any question arises as to whether a Councillor of the Corporation has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of such authority and in such manner as the Government may by notification provide.

(5) If a person who is chosen as a Councillor of the Corporation, becomes a member of the House of the People, the Council of States, the Legislative Assembly [1][x x x], or is or becomes member of a Municipality, or a panch of a Panchayat, then at the expiration of a period of fifteen days from the date of publication of the election result, 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, the State Legislative Assembly or member of the Municipality, or panch of a Panchayat, his seat in a Corporation shall become vacant, unless he has previously resigned his seat in the House of People, the Council of the States, the Legislative Assembly, [1][x x x], the Panchayat or the Municipally, as the case may be.

Explanation:—For the purpose of sub-section (5) the expression "Panch of the Panchayat" shall have the same meaning as is assigned to it under clause (m) of sub-section (1) of section 2 of the Jammu and Kashmir Panchayati Raj Act, 1989, and shall include a Sarpanch and Naib-Sarpanch.

9.*Election to the Corporation.* —(1)The superintendence, direction and control of the preparation of election rolls, delimitation of wards, reservation and allotment of seats by rotation for, and the conduct of all elections to the Corporation, shall be vested in the Chief Electoral Officer.

(2) The Government as well as the Corporation shall, when so requested by the Chief Electoral Officer, make available to the Chief Electoral Officer such staff as may be necessary for the discharge of the functions conferred on the Chief Electoral Officer by sub-section (1).

(3) The Electoral Authority shall frame its own rules and lay down its own procedure.

10. *Reservation of Seats.*— Should the Government 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 more than five Councillors in addition to seventy five seats.

[2][10-A. *Reservation of seats for certain categories.*—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Corporation in proportion to the total population of the Scheduled Castes and

1. Words "or the Legislative Council" omitted by S.O. 3466 of 2020 dated 5.10.2020. 2. Section 10-A inserted by Act No. XIV of 2005, s. 2, w.e.f. 28.09.2004.

Scheduled Tribes in the area falling under the Municipal Corporation and such seats may be allotted by rotation to different constituencies in a Corporation.

(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 Corporation shall be reserved for women and such seats may be allotted by rotation to different constituencies in the Corporation.

[1][(3-A) A person who becomes a member or an office bearer of a Corporation on production 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].

11. *Right to vote.* —(1) For every municipal area there shall be a list of voters which shall be prepared in accordance with the provisions of the Act and the rules made thereunder.

(2) Every person who is qualified to be registered in Legislative Assembly roll relatable to the municipal area or whose name is entered therein and ordinarily resident within the municipal area shall be entitled to be registered in the list of voters of that municipal area :

Provided that no person shall be entitled to be registered in the list of voters for more than one ward of the municipal area.

Explanation I:—The expression "ordinarily resident" shall have the meaning assigned to it in [2][the Representation of the People Act, 1951 (43 of 1951)] subject to the modification that reference to

1.Sub-section (3-A) inserted by Act No. IX of 2006, s. 3.

2.Substituted for "section 16 of the Jammu and Kashmir Represemtation of the People Act, 1957" by S.O. 3466 of 2020 dated 5.10.2020.

"constituency" therein will be constructed as reference to"municipal area".

Explanation II:—A person shall be disqualified for registration in the list of voters of the municipal area if he is disqualified for the registration in the Legislative Assembly roll.

12. *Filling of casual vacancies.* —(1) Whenever a vacancy occurs by death, resignation or removal, or by vacation of a seat for any other reason, the vacancy shall be filled within six months of the occurrence of such vacancy :

Provided that no election shall be held to fill a casual vacancy occurring within six months prior to the holding of a general election.

(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.

(3) If the vacancy be a vacancy reserved for any category, the vacancy will be filled from the same category.

13. *Publication of results of elections.*— The names of all persons elected as Councillors shall, as soon as may be after such election, be published by the Chief Electoral Officer in the [1][Government Gazette] :

Provided that the names of all the councillors elected at a general election shall be so published as far as possible simultaneously.

14. Election Petition. —(1) No election of a Councillor shall be called in question except by an election petition presented to the District and Sessions Judge or

any other Judge designated for this purpose hereinafter in this Chapter referred to as the prescribed authority within thirty days from the date of the publication of the results of the election under section 13.

(2) An election petition calling in question any such election may be presented on one or more of the grounds specified in section 16, by any candidate at such election or by any elector of the ward concerned.

(3) A petitioner shall join as respondents to his petition all the candidates at the election.

(4) An election petition:—

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

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

(c) shall be signed by the petitioner and verified in the manner laid down in the [1][Code of Civil Procedure, 1908 (5 of 1908)], for the verification of pleadings.

15. *Relief that may be claimed by the petitioner.*— A petitioner may claim:—

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

(b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.

Explanation:— The expression "returned candidate" means a candidate whose name has been published in the [2][Government Gazette] under section 13.

16. *Grounds for declaring election to be void.* —(1) Subject to the provisions of the sub-section (2), if the prescribed authority is of the opinion—

(a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a Councillor ; or

(b) that any corrupt practice has been committed by a returned candidate or his agent or by any person with the consent of a returned candidate or his agent ; or

(c) that any nomination paper has been improperly rejected ; or

(d) that the result of the election in so far as it concerns returned candidate, has been materially affected—

(i) by the improper acceptance of any nomination ; or

(ii) by any corrupt practice committed in the interest of the returned candidate by a person other than the candidate or

his agent or a person acting with the consent of such candidate or agent ; or

(iii) by the improper acceptance or refusal of any vote or reception of any vote which is void ; or

(iv) by the non-compliance with the provisions of this Act or any rules or orders made thereunder,

it shall declare the election of the returned candidate to be void.

(2) When a returned candidate or any of his agents, has been alleged to be guilty of any corrupt practice but the prescribed authority is satisfied—

(a) that no such corrupt practice was committed at the election by the candidate, or such corrupt practice was committed contrary to the order, and without the consent of the candidate ;

(b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election ; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

it may decide that the election of the returned candidate is not void.

17. *Procedure to be followed by the prescribed authority.*— The procedure provided in the [1][Code of Civil Procedure, 1908 (5 of 1908)], in regard to suits shall be followed by the prescribed authority in the trial and disposal of an election petition under this Act.

18. *Decision of prescribed authority.* —(1) Subject to the provisions of this Act and of any rules made thereunder every election petition shall be decided by the prescribed authority within a period of six months from the date of its presentation under section 14 and at the conclusion of the hearing of an election petition, the prescribed authority shall make an order—

(a) dismissing the election petition ; or

(b) declaring the election of all or any of the returned candidates to be void ; or

1.Substituted for "Code of Civil Procedure, Samvat 1977" by S.O. 3466 of 2020 dated 5.10.2020.

(c) declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidates to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed declaration that he himself or any other candidate has been duly elected and the prescribed authority is of the opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes ; or

(b) that but for the vote obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes, the prescribed authority shall after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may, be, to have been duly elected.

19. *Procedure in case of equality of votes.* —(1) If during the hearing of an election petition it appears that there is an equality of votes between any candidate at the election and that the addition of a vote would entitle any of those candidate to be declared elected, then the prescribed authority shall decide between them by lots and proceed as if the one on whom the lot falls had received an additional vote.

20. *Finality of decision.* —(1) Save as otherwise provided, an order of the prescribed authority on an election petition shall be final.

(2) An election of a Councillor not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

(3) Any person aggrieved by the order of the prescribed authority may file an appeal before the High Court, within a period of thirty days from the date of the order and the High Court shall hear and dispose of the appeal within a period of ninety days.

21. *Corrupt practices.*— The following shall be deemed to be corrupt practices, namely :—

(i) bribery as defined in [1][Representation of the People Act, 1951 (43 of 1951 ;

(ii) undue influence as defined in [2][Representation of the People Act, 1951] ;

(iii) an appeal by a candidate or agent or by any other person with the consent of the candidate or his election agent to vote or refrain from voting on ground of caste, race, community or religion 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 that candidate's election ;

(iv) the publication by a candidate or his agent or by any other person with the consent of the candidate or his election agent of any statement of fact which is false, and which he either believes to be false or doesn't believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal from contest of any candidate being a statement reasonable calculated to prejudice the prospects of that candidate's election ;

(v) the hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of the candidate or his election agent for conveyance of any elector (other than the candidate himself, and the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act :

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical powers :

Provided further that the use of any public transport vehicle or vessel or any railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause ;

1.Substituted for "section 132 of the Jammu and Kashmir Representation of the People Act, 1957" by S.O. 3466 of 2020 dated 5.10.2020.

2.Substituted for "sub-section (2) of section 132 of the Jammu and Kashmir Representation of the People Act, 1957" *ibid*.

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.

(vi) the holding of any meeting in which intoxicating liquors are served ;

(vii) the issuing of any circular, placard or poster having a reference to the election which doesn't bear the name and address of the printer and publisher thereof ;

(viii) any other practice which the Government may by rules specify to be corrupt practice.

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

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

23. *Offences, etc. at elections not to act for candidates or to influence voting.* ––(1) No person who is returning officer, or an assistant returning officer or a presiding officer or polling officer at an election or an officer or official appointed by the returning officer or the presiding officer to perform any duty in connection with an election or a member of a police force, shall, in the conduct or management of the election do any act (other than the giving of votes) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid shall endeavour—

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

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

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

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

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

(a) canvassing for votes ; or

(b) soliciting the votes of any elector ; or

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

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

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

(2) No person shall convene, hold or attend any public meeting within any ward on the date and dates on or at any time within twenty-four hours, preceding the start of the poll for an election in that ward.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to two hundred and fifty rupees.

(4) An offence committed under sub-section (1) or sub-section (2) shall be cognizable.

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

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

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

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

(2) Any person who contravenes or skilfully aids or abets the contravention of the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

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

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

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

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

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

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

27. *Breaches of official duty in connection with election.* —(1) If any person to whom this section applies, is without reasonable cause guilty of any act or omission in breaches of his official duty, he shall be punishable with fine which may extend to five hundred rupees. An offence punishable under this section shall be cognizable.

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

(3) The persons to whom this section applies are returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election ; and the expression "official duty" shall for the purpose of this section be construed accordingly.

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

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

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

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

(4) An offence punishable under sub-section (1) shall be cognizable.

29. *Offence of booth capturing.*— Whoever commits an offence of booth capturing, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less that one year but which may extend to three years and with fine.

Explanation:—For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely,—

(a) seizure of a polling station or a place fixed for the poll by any person or persons making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections ;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting ;

(c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote ;

(d) seizure of a place for counting of votes by any person or persons making the counting authorities surrender the ballot papers or voting machine and the doing of anything which affects the orderly counting of votes ;

(e) doing by any person in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

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

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

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

(c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot ; or

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

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

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

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

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

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

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

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of any election or part of any election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election.

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

(5) No court shall take cognizance of any offence under section 24 or under section 28, or under clause (a) of sub-section (2) of this section unless there is a complaint made by order of, or under authority from, the Chief Electoral Officer.

31. *Power to make rules regulating the election of Councillors.* —(1) The Government may in consultation with Chief Electoral Officer make rules to provide for or regulate all or any of the following matters for the purpose of holding elections of Councillors under this Act, namely :—

(a) qualifications of elector and the preparation, publication, correction and revision of electoral rolls ;

(b) the appointment of returning officers, assistant returning officers, presiding officers and polling officers for the conduct of election ; (c) the nomination of candidates, form of nomination papers, objections to nominations and scrutiny of nomination and allotment of symbols

to candidates ;

(d) the deposits to be made by candidates, time and manner of making such deposits and the circumstances under which such deposits may be refunded to candidates or forfeited to the Corporation ; (e) the withdrawal of candidature ;

(f) the appointment of agents of candidates ;

(g) the procedure in contested and uncontested elections ;

(h) the date, time and place for poll and other matters relating to the conduct of elections including :—

(i) the appointment of polling stations for each ward ;

(ii) the hours during which the polling station shall be kept open for the casting of votes ;

(iii) the printing and issue of ballot papers ; (iv) the checking of voters by reference to electoral roll ; (v) the marking with indelible ink of the left fore-finger or any other finger or limb of the voter and prohibition of the delivery of the ballot to any person if at the time such person applies for such paper he has already such mark, so as to prevent personation of voters ;

(vi) the manner in which votes are to be given and in particular in the case of illiterate voters or of voters under physical or other disability ;

[1][(vi-a) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used ;] 1. Sub-clause (vi-a) inserted by S.O. 3466 of 2020 dated 05.10.2020.

(vii) the procedure to be followed in respect of challenged votes and tendered votes ;

(viii) the scrutiny of votes, counting of votes, the declaration of the results and the procedure in case of equality of votes or in the event of a Councillor being elected to represent more than one ward ;

[1][(viii-a) the procedure as to counting of votes recorded by means of voting machines ;]

[2][(ix) the custody of voting machines and disposal of papers relating to elections ;]

(x) the suspension of polls in case of any interruption by riot, violence or any other sufficient cause and the holding of a fresh poll ;

[3][(xi) the holding of fresh poll in case of destruction of, or tampering with ballot boxes or voting machines, or mechanical failure of voting machines, before the count ;]

(xii) the countermanding of the poll in the case of the death of a candidate before the poll ;

(i) the requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitions, eviction from requisitioned premises and release of premises from requisition ;

(j) the fee to be paid on an election petition ;

(k) any other matter relating to elections or election disputes which is to be prescribed or in respect of which the Government deems it necessary to make rules under this section or in respect of which this Act makes no provisions or makes insufficient provisions and provision is, in the opinion of the Government, necessary.

(2) Any person who contravenes the provisions of any rule framed under this section shall be punishable with fine which may extend to one thousand rupees.

1. Sub-clause (viii-a) inserted by S.O. 3466 of 2020 dated 05.10.2020. 2. Sub-clause (ix) substituted *ibid*.
3. Sub-clause (xi) substituted *ibid*.

32. *Bar to interference by courts in electoral matters.*— Notwithstanding anything in this Act, the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, shall not be called in question in any court.

33. *Oath of affirmation by Councillor.* —(1) Every Councillor shall, before taking his seat, make and subscribe at a meeting of the Corporation an oath of affirmation according to the following form, namely :—

"I A.B.C. having been elected/nominated as Councillor of the Municipal Corporation of .....do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India [1]*[x x x x x] and that I will faithfully discharge the duty upon which I am about to enter".*

(2) If a person sits or votes as a Councillor before he has complied with the requirements of sub-section (1), he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as an arrear of tax under this Act, and his vote will be considered invalid.

34. *Removal or resignation by Councillors.* —(1) The Government may, by notification, remove any Councillor, if in its opinion—

(a) he becomes subject to any of the disqualifications mentioned in section 8 ; or

(b) he has flagrantly abused his position as a Councillor or has through negligence or misconduct been responsible for the loss or mis-application of any money or property of the Corporation ;

(c) he has become physically or mentally incapacitated for performing his duties as a Councillor ; or

(d) he absents himself during three successive months from the meetings of the Corporation ; or

(e) he acts in contravention of the provisions of section 61 :

Provided that before making an order under this section, reasonable opportunity shall be given to the Councillor to be heard and to show cause against such an order.

1.Words "and Constitution of Jammu and Kashmir as by law established" omitted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(2) If a Councillor resigns his seat by writing under his hand addressed to the Commissioner, he shall cease to be a Councillor on the date of acceptance of his resignation and his office shall thereupon fall vacant.

[1][34-A.*Disqualification on ground of defection.* —(1) A member of a Corporation belonging to any political party shall be disqualified for being a member of the Corporation—

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

(b) if he votes or abstains from voting in such Corporation 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 Corporation (whether elected or nominated as such) shall, where he was a member of a political party, immediately before such commencement be deemed, for the purposes of sub-section (1), to have been elected as a member of such Corporation as a candidate set up by such political party.

*Explanation:*__For the purposes of this section,—

(a) an elected member of a Corporation 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 Corporation 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.

1.Sections 34-A, 34-B, 34-C, 34-D and 34-E inserted by Act No. XII of 2005, s. 2, w.e.f. 10th May, 2005.

34-B. *Disqualification on ground of defection not to apply in case of merger.* __(1) A member of a Corporation shall not be disqualified under sub-section (1) of section 34-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 34-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 Corporation 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 Corporation means the political party to which he belongs for the purposes of this section.

1[34-BB. *Disqualification on the ground of defection not to apply in case of split.* —(1) A member of a Corporation shall not be disqualified under sub-section (1) of section 34-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 34-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.]

34-C. *Decision on question as to disqualification on ground of defection.*—If any question arises as to whether a member of a Corporation has become subject to disqualification, the question shall

1. Section 34-BB inserted by S.O. 3808(E) dated 26.10.2020.

be referred for the decision of the Chief Electoral Officer by any other member of the Corporation.

34-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.

34-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 Corporation under section 34-A].

35. *Payment of allowance to Councillors.*— The Councillors shall be entitled to receive allowances for attendance at meetings of the Corporation and of its committees at such rates as may be prescribed subject to the limits as may be imposed by the Government.

36. *Annual election of Mayor, Deputy Mayor and their term of office.* —(1) The Corporation shall at its first meeting [1][x x x x x] [2][elect through open ballot one of its Councillors] to be the Chairperson to be known as the Mayor and another Councillor to be known as the Deputy Mayor of the Corporation.

(2) The term of office of the Mayor and the Deputy Mayor of the Corporation shall be [3][co-terminus with the term of the Corporation], unless in the meantime he resigns his office as Mayor or Deputy Mayor or unless in the case of Deputy Mayor is elected as the Mayor and he shall cease to hold his office on the expiry of his term of office :

Provided that if the office of the Mayor or Deputy Mayor is vacated or falls vacant during the tenure on account of death, resignation or no-confidence motion, a fresh election within a period of one month of the vacancy shall be held from the same category, for the remainder period :

1.Words "and thereafter at the expiration of two years and six months," omitted by S.O. 3466 (E) of 2020 dated 05.10.2020.
2.Substituted by S.O. 3808 (E) dated 26.10.2020 for "elect one of its Councillors". (For earlier amendments see Act VIII of 2010 and S.O. 3466(E) dated 05.10.2020.)
3.Substituted *ibid* for "five years from the date of his election as such". (For earlier amendment see Act No. VIII of 2010, and S.O. 3466(E) dated 05.10.2020.)

[1][Provided further that the term of the Mayor and the Deputy Mayor who have been elected as such before the commencement of the Jammu and Kashmir Reorganisation (Adaptation of State Laws) Fifth Order, 2020 shall also be co-terminus with the term of the Corporation.]

[2][x x x x].

(3) The Mayor and Deputy Mayor shall be entitled to the payment of such honorarium and may be given such facilities in respect of residential accommodation, telephone, conveyance and the like as may be prescribed by bye-laws.

(4) The Mayor of the Corporation shall have access to the record of the Corporation and issue directions to the Commissioner or other functionaries of the Corporation or call for reports from them with a view to ensuring proper implementation of the decision of the Corporation.

(5) The Mayor shall have such powers as may be necessary to carry out the purposes of this Act and to implement the decisions of the Corporation.

37. *Motion of No-confidence against Mayor or Deputy Mayor.* —(1) A motion of no confidence against the Mayor or Deputy Mayor 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 Mayor or Deputy Mayor of the Corporation to vacate his office, signed by not less than majority of its total elected Councillors is given and if a motion of no confidence is carried by a resolution passed by a majority of elected Councillors present and voting at its general or special meeting, the quorum of which is [3][not less than three-fourth]

of its total elected members, the Mayor or the Deputy Mayor 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 Mayor or Deputy Mayor of the Corporation 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 person against whom motion of no confidence is moved, shall have a right to vote and take part in the proceedings of such a meeting.

(4) Motion of no confidence under this section shall not be maintainable within six months of the date of his election to such office and any subsequent

1.Proviso inserted by S.O. 3808(E) dated 26.10.2020.

2.Proviso omitted by S.O. 3466(E) dated 05.10.2020.

3.Substituted by S.O. 3808(E) dated 26.10.2020 for "not less than one-half".

motion of no confidence shall not be maintainable within the interval of six months of the last motion of no confidence.

38. *Discharge of functions of the Mayor by Deputy Mayor.* —(1) When the office of the Mayor is vacant, the Deputy Mayor shall act as the Mayor until a new Mayor is elected.

(2) When the Mayor is absent from duty on account of illness or any other cause, the Deputy Mayor shall act as Mayor during his absence.

39. *Resignation of Mayor and Deputy Mayor.* —(1) The Mayor may, by writing under his hand addressed to the Deputy Mayor, resign his office.

(2) The Deputy Mayor may, by writing under his hand addressed to the Mayor, resign his office.

(3) A resignation under sub-section (1) or sub-section (2) shall take effect from the date of its acceptance by the Mayor or Deputy Mayor, as the case may be.

1[39A. *Constitution of Ward Committees.* —(1) There shall be constituted by the Corporation a Ward Committee for each ward in a Corporation within a period of six months from the date appointed for its first meeting referred to in sub-section (1) of section 36 :

Provided that where a Corporation has been constituted before the commencement of the Jammu and Kashmir Reorganization 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 Municipal Corporation representing the ward, who shall be the chairperson of the Ward Committee ;

(ii) the Area Sabha representative, if any, of the area situated in the ward ; and

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

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

1. Sections 39A and 39B inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

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

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

Provided also that half of the persons to be nominated the expression to the Ward Committee shall be women.

Explanation.—For the purpose of this section and section 39B, 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 Municipal Corporation 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 Municipal Corporation.

(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 Municipal Corporation ;

(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 ; assistance in the implementation of all Government schemes ; and

(viii) any other function as may be prescribed.

(7) Every Ward Committee shall be empowered to—

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

(ii) obtain information about the master plan and zonal developmental plan of the Municipal Corporation ;

(iii) obtain information relating to Municipal Corporation 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 Municipal Corporation shall allocate twenty percent of the amount earmarked in the annual budget of the Municipal Corporation 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.

39B.*Constitution of Area Sabha.* —(1) Each ward in a Municipal Corporation shall be divided by the Corporation into areas in such a manner that each such area shall, as far as possible, comprise of not less than one thousand and not more than two 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 Municipal Corporation 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 coterminus with that of the Municipal Corporation 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 ; and

(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 Municipal Corporation shall be vested in the Chief Electoral Officer.]

40. *Standing Committees.* —(1) The Corporation shall have the following standing committees, namely :—

(a) [1][Executive Committee] ;

(b) Finance and Planning Committee ;

(c) Public Health and Sanitation Committee ; [2][x x x x]

(d) Social Justice Committee [3][;]

[4][(e)Housing for All Committee ;

1.Substituted for “General Functions Committee” by S.O. 3466 (E) of 2020 dated 05.10.2020. 2.Word “and” omitted *ibid*.

3.Substituted for sign full stop (.) *ibid*.
4.Clauses (e), (f) and (g) inserted *ibid*.

(f) Skill Up-gradation and Self-Employment Committee ; and

(g) Swacch Bharat Committee.]

(2) Each standing committee shall consist of not less than five and not more than nine Councillors including the Mayor or the Deputy Mayor, as the case may be, elected by the Councillors of the Municipal Corporation from amongst the elected Councillors :

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 [1][:]

[2][Provided further that the Executive Committee shall consist of the Mayor, who shall be its Chairman, a member representing largest opposition group or party in the Corporation, four members to be elected by the elected members of the Corporation and the Commissioner who shall be its ex-officio Secretary.]

[3][(3) The Executive Committee shall perform functions relating to the establishment matters, communications, construction of roads and buildings, housing, relief against natural calamities and all residuary matters and shall be empowered to– –

(i) make recommendations on all policy matters for discussion and decision by the General Council ;

(ii) approve the budget ;

(iii) approve all development plans, annual action plans and works plans ;

(iv) approve contracts above rupees one crore or such higher amount as the corporation may fix ; and

(v) make recommendations to the General Council about staffing pattern in the Corporation and all other service matters." ;

(4) The Finance and Planning Committee shall perform the functions relating to the finances of the Corporation, preparation of budget, scrutinising proposals for increase of revenue including taxes, examination of receipts and expenditure statement, sales and leases of Corporation properties, recovery of

1.Substituted for full stop by S.O. 3466 (E) of 2020 dated 05.10.2020. 2.Proviso inserted *ibid*.
3.Sub-section (3) substituted *ibid*.

loans, examinations of schedule of rates, consideration of all proposals affecting the finance of the Corporation and any other functions relating to the development of the municipal area.

(5) The Public Health and Sanitation Committee shall perform functions relating to the health, sanitation, water supply, drainage and sewage disposal.

(6) The Social Justice Committee shall perform functions relating to—

(a) promotion of education, economic, social, cultural and other interests of the Scheduled Castes, Scheduled Tribes, Backward Classes, and weaker sections of the society ;

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

(c) amelioration of the Scheduled Castes, Scheduled Tribes and Backward Classes including other weaker sections of the society ;

(d) securing social justice to the Scheduled Castes, Scheduled Tribes, women and other weaker sections of the society.

[1][(6A) The Housing for All Committee shall perform functions related to monitoring and review of progress under the Prime Minister Awas Yojana.

(6B) The Skill Up-gradation and Self Employment Committee shall perform functions related to monitoring and review of progress under the National Urban Livelihood Mission.

(6C) The Swacch Bharat Committee shall perform functions related to monitoring and review of progress under the Swacch Bharat Mission.]

2[(7) The Mayor shall be the ex-officio member and also the Chairman of the Executive Committee and the Finance and Planning Committee and the Deputy Mayor shall be the ex-officio member and also the Chairman of the Housing for All Committee and Skill Up-gradation and Self Employment Committee.]

(8) The members of the other Committees shall elect its Chairman from amongst themselves.

1.Sub-sections (6A), (6B) and (6C) inserted by S.O. 3466 (E) of 2020 dated 05.10.2020. 2.Sub-section (7) substituted *ibid.*

(9) No member of the Corporation shall be eligible to serve on more than two standing committees at a time.

(10) A standing Committee may, with the approval of the Corporation, co-opt not more than two persons who are not Councillors of the Corporation but who in the opinion of the Corporation possess special qualifications for serving on such committee :

Provided that such co-opted members shall not be deemed to be Councillors of the Corporation and shall have no right to vote in any capacity whatsoever but shall be entitled to participate in all proceedings of the committee in an advisory capacity.

(11) The Chairman of every 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 Corporation and to enter on and inspect any immovable property of the Corporation or work in progress connected with the work of the Committee.

(12) Each committee shall be entitled to attendance as its meetings of any officer of the Municipal Corporation who is connected with the work of the committee. The Commissioner shall under the instructions of the committee, issue notices and secure the attendance of the officer.

(13) The Corporation may frame regulations relating to election of members of the Standing Committees, conduct of business therein, and all other matters relating thereto.

(14) The Commissioner, or the Joint/Assistant Commissioner, appointed under section 46, shall be the *ex-officio* Member-Secretary of the Standing Committee.

CHAPTER III

FUNCTIONS OF THE CORPORATION

41. *General powers of Corporations.* —(1) Subject to the provisions of this Act, and the rules, regulations and bye-laws made thereunder, the municipal administration of the municipal area shall vest in the Corporation.

(2) Without prejudice to the generality of the provisions of sub-section (1) it shall be the duty of the Corporation to consider all periodical statements

of the receipts and disbursements and all progress reports and pass such resolutions thereon as it deems fit.

42. *Functions of Corporations to be entrusted by Governments.* —(1) Without prejudice to the generality of the provisions of sub-section (1) of section 41 the Government may by notification endow the Corporation with such powers and authority as may be necessary from time to time to enable it to function as an institution of Local Self Government, subject to such conditions as may be specified therein, with regard to,—

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

[1][(aa) the preparation of plans for urban planning including town planning ;

(ab)the preparation of city development plans ;]

(b) the performance of functions and implementation of schemes which may be entrusted to it including the functions in respects of the following matters, namely :—

(i) regulations of land use and construction of building ;

(ii) planning for economic and social development ;

(iii) roads and bridges ;

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

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

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

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

(viii)slum improvement and upgradation ;

1.Clauses (aa) and (ab) inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(ix) urban poverty alleviation ;

(x) provision of urban amenities and facilities such as parks, gardens and play-grounds ;

(xi) burials and burial grounds, cremation and cremation grounds and electric crematoriums ;

(xii) cattle pounds, prevention of cruelty to animals ;

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

(xiv)public amenities including street lighting, parking lots, bus stops and public convenience ;

(xv) regulation of slaughter houses and tanneries ;

[1][(xvi)Fire services] :

Provided that the notification regarding the 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 this section shall be construed to divest the Corporation of various powers and functions vested in it under various provisions of this Act, rules, bye-laws made thereunder.

43. *Obligatory functions of the Corporation.*— It shall be incumbent on the Corporation to make adequate provisions by any means or measures which it may lawfully use or take for each of the following matters, namely :— (a) the construction, maintenance and cleaning of drains and drainage works, and of public latrines, urinals and similar conveniences ; (b) the construction and maintenance of works and means for providing supply of water for public and private purposes ;

(c) the scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters ;

(d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisance ;

1.Sub-clause (xvi) inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(e) the regulation of places for the disposal of the dead and the provisions and maintenance of places for the said purposes ;

(f) the construction and maintenance of cattle pound ;

(g) measures for preventing and checking the spread of dangerous diseases ;

(h) the construction, maintenance of municipal markets and the regulation thereof ;

(i) the regulation of the abatement of offensive or dangerous trades or practices ;

(j) the securing of removal of dangerous buildings and places ;

(k) the construction, maintenance, alteration and improvements of public streets, bridges, culverts, causeways and the like ;

(l) the lighting, watering and cleaning of public streets and other public places ;

(m) the removal of obstruction and projections in or upon streets, bridges and other public places ;

(n) the naming and numbering of street and premises ;

(o) the maintenance of municipal offices ;

(p) the laying out of the maintenance of public parks, gardens or recreation grounds ;

(q) the maintenance of monuments and memorials vested in a local authority in the municipal area immediately before the commencement of this Act or which may be vested in the Corporation after such commencement ;

(r) the maintenance and development of the value of all properties vested in or entrusted to the management of the Corporation ;

(s) the fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force ;

(t) planning and care of trees on road side etc ; and

(u) survey of buildings and lands ;

[1][(v)providing necessary administrative, financial and infrastructure support to the Ward Committee for its efficient performance of function and discharge of duties].

44. *Discretionary functions of the Corporation.*— The Corporation may provide either wholly or in part for all or any of the following matters, namely :—

(a) the furtherance of education including cultural and physical education ;

(b) the establishment and maintenance of and aid to, libraries, museums, art galleries, botanical gardens or zoological collections ;

(c) the establishment and maintenance of, and aid to stadium, gymnasia, akharas and places for sports and games ;

(d) the civic reception to persons of distinction ;

(e) the providing of music or other entertainments in public places or places of public resort and the establishment of theatres and cinemas ;

(f) the organisation and management of fairs and exhibitions ;

(g) the construction and maintenance of—

(i) rest houses ;

(ii) poor houses ;

(iii) infirmaries ;

(iv) children's homes ;

(v) houses for the deaf and dumb and for disabled and handicapped children ;

1.Clause (v) inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(vi) shelters for destitute and disabled persons ;

(vii)asylums for persons of unsound mind ;

(h) the building or purchase and maintenance of dwelling houses for Corporation officers and other Corporation employees ;

(i) any measures for the welfare of the Corporation officers and other Corporation employees or any class of them, including the sanctioning of loans to such officers and employees or any claim of them for construction of houses and purchase of vehicles ;

(j) the organisation or management of chemical or bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief ;

(k) the provisions for relief to destitute and disabled persons ;

(l) public vaccination and inoculation ;

(m) the organisation, construction, maintenance and management of swimming pools, public wash houses, bathing place and other institution designed for the improvement of public health ;

(n) the organisation and management of farms and dairies within or outside the municipal area for the supply, distribution and processing of milk and milk products for the benefits of the residents of the municipal area ;

(o) the organisation and management of cottage industries, handicraft centres and sales emporium ;

(p) the construction and maintenance of warehouses and godowns;

(q) the construction and maintenance of garages, sheds and stands for vehicle and cattle biers ;

(r) the provision for unfiltered water supply ;

(s) the improvement of the municipal area in accordance with improvement schemes approved by the Corporation ;

(t) the provision of housing accommodation for the inhabitants of any area or for any class of inhabitants ;

(u) the establishment and maintenance of hospitals, dispensaries and maternity and child welfare centres and the carrying out of other measures necessary for public medical relief ;

(v) any measures not herein before specifically mentioned, likely to promote public safety, health convenience or general welfare.

CHAPTER IV

MUNICIPAL AUTHORITIES UNDER THE CORPORATION

45. *Appointment of Commissioner.* —(1) The Government shall, by notification, in the [1][Government Gazette], appoint a Class I Officer of the Government having a service of not less than fifteen years, as the Commissioner of the Corporation.

(2) Subject to the provisions of sub-section (3) the Commissioner so appointed shall hold office for a term of three year in the first instance :

Provided that his appointment may be renewed for a term not exceeding three years :

Provided further that no officer who has attained the age of superannuation shall be appointed or continue as Commissioner.

(3) The Government :—

(a) shall recall the Commissioner if at a special meeting of the Corporation called for the purpose, a resolution for such recall has been passed by a majority of not less than two thirds of the total number of members ;

(b) may in the public interest recall the Commissioner at any time during the term of his appointment.

46. *Appointment of Joint/Assistant Commissioner and certain other officers.* — (1) The Government may, if in its opinion it is expedient to do so in the public interest, appoint a person or persons to be called Joint/Assistant Commissioner to assist the Commissioner appointed under section 45 for the

efficient performance of the functions of the Corporation and they shall be governed by such conditions of service as may be fixed by the Government from time to time.

(2) Subject to the approval of the Corporation and rules made in this behalf the Joint/Assistant Commissioners appointed under sub-section (1) shall be subordinate to the Commissioner and shall exercise such powers and perform such duties as may be conferred and imposed upon the Commissioner under this Act and are further delegated to them by the Commissioner.

(3) There shall be a legal Advisor-cum-Prosecutor to aid and advise the Corporation in all legal matters, to be appointed by the Corporation by deputation on such terms and conditions as may be prescribed.

47. *Salary and Allowances of Commissioners.*— The Commissioners and the officers appointed under section 46 shall be paid out of the Corporation Fund such monthly salary and such monthly allowance, as may from time to time be fixed by the Government and may be given such facilities in relation to residential accommodation, conveyance and the like as may from time to time be fixed by the Government.

48. *Leave etc. to Commissioner.*— On the recommendations of the Mayor, leave (except causal leave) may be granted to the Commissioner by the Government and the casual leave shall be granted by the Mayor, and whenever the Commissioner is on leave or on training, another officer may be appointed by the Government in his place.

49. *Contribution by Corporation.*—The Corporation shall make such contribution towards leave, allowances, pension and provident fund of the Commissioner as may be required by the conditions of his service under the Government.

50. *Functions of the Commissioner.*— Save as otherwise provided in this Act, and subject to supervision and control of [1][the Corporation] the executive power for the purpose of carrying out the provisions of this Act, shall vest in the Commissioner, who shall also :—

(a) exercise all the powers and discharge all the duties specifically conferred or imposed upon him by this Act or by any other law for the time being in force ;

1. Substituted for "the Corporation and its Mayor" by S.O. 3466 (E) of 2020 dated 05.10.2020.

(b) prescribe the duties of and exercise supervision and control over the acts and proceedings of all Corporation officers and other Corporation employees and subject to any rules that may be made in this behalf dispose of all questions relating to the service of the said officers and other employees and their pay, privileges, allowances and other conditions of service ;

(c) on the occurrence or threatened occurrence of any sudden accident or any unforeseen event or natural calamity involving or likely to involve extensive damages to any property of the Corporation or danger to human life, take such immediate action in consultation with the Mayor and make a report forthwith to the Corporation of the action he has taken and the

reasons for the same as also of the amount of cost, if any, incurred or likely to be incurred in consequence of such action, which is not covered by a budget grant ;

(d) the Commissioner shall bring to the notice of the Corporation any act or resolution of the Corporation which may be in violation of any Government instructions or the provisions of this Act, provided that if such act or omission of the directions of the Government or the provisions of the Act, as the case may be, is not rectified within 15 days of the communication, it shall be the duty of the Commissioner to bring such omission or violation to the notice of the Government.

51. *Power of the Corporation to require Commissioner to produce documents and furnish returns, reports etc.* —(1) The Corporation and Mayor may at any time require the Commissioner—

(a) to produce any record, correspondence, plans or other documents which is in his possession or under his control as Commissioner or which is recorded or filed in his office or in the office of any Corporation officer or other Corporation employee subordinate to him ;

(b) to furnish any return, plan, estimate, statement, account of satisfaction concerning or connected with any matter pertaining to the administration of this Act or any municipal authority ;

(c) to furnish a report by himself or to obtain from any Corporation officer or other employee subordinate to him and furnish with his own remarks thereon, a report upon any subject concerning or

connected with the administration of this Act or any municipal authority.

(2) Every such requisition shall be complied with by the Commissioner without any unreasonable delay ; and it shall be incumbent on every Corporation officer and other Corporation employee to obey any order made by the Mayor or Corporation or Commissioner in pursuance of any such requisition :

Provided that the Commissioner shall not be bound to comply with any such requisition if with the previous approval of the Mayor he makes a statement that such compliance would be prejudicial to public interest or to the interests of the Corporation.

52. *Exercise of power to be subject to sanction.*— Save as otherwise provided in this Act, the exercise of any power or the performance of any duty conferred or imposed upon the Corporation or any other authorities by or under this Act, which will involve expenditure, shall be subject to the following conditions, namely :—

(a) that such expenditure, in so far as it is to be incurred in the year in which such power is exercised or duty performed, shall be provided for under a current budget grant ; and

(b) that if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said year, such expenditure shall not be incurred without the sanction of the Corporation.

CHAPTER V

TRANSACTION OF BUSINESS BY THE CORPORATION

53. *Meetings.* —(1) The Corporation shall ordinarily hold at least one meeting in every month for the transaction of its business.

(2) The Mayor or in his absence the Deputy Mayor may, whenever he thinks fit, and shall upon a requisition in writing by not less than one-fourth of the total number of Councillors, convene a special meeting of the Corporation.

(3) Any meeting may be adjourned until the next or any subsequent date, and an adjourned meeting may be further adjourned in the like manner.

54. *First Meeting of the Corporation after general elections for election of Mayor.* —(1)The first meeting of the Corporation after general elections shall be held as early as possible but not later than thirty days after the publication of the results of the election of the Councillors under section 13 and shall be convened by the Commissioner.

(2) Notwithstanding anything contained in section 57, for election of the Mayor, the Commissioner shall nominate a Councillor who is not a candidate for such election to preside over the meeting.

(3) If during the election of Mayor it appears that there is an equality of votes between the candidates at such election and that the addition of a vote would entitle any of these candidates to be elected as Mayor, then, the person presiding over the meeting shall decide between them by lot to be drawn in the presence of the candidates and in such manner as he may determine, and the candidate on whom the lot falls be deemed to have received an additional vote.

55. *Notice of meetings and business.*— A list of the business to be transacted at every meeting except at an adjourned meeting shall be sent at the recorded address of each Councillor at least five days before the time fixed for such meeting and no business shall be brought before or transacted at, any meeting other than the business of which a notice has been so given :

Provided that an urgent meeting may be called on a notice of a lesser period than five days :

Provided further that any Councillor may send or deliver to the Commissioner notice of any business going beyond the matters mentioned in the notice given of such meeting so as to reach him at least forty-eight hours before the date fixed for the meeting and Commissioner shall with all possible despatch take steps to circulate such resolution to every Councillor in such manner as he may think fit :

Provided further that such other business or resolution may be transacted or taken up only with the permission of the Chair.

56. *Quorum.* —(1) The quorum necessary for the transaction of business at a meeting of the Corporation shall be one-third of the total number of Councillors.

(2) If at any time during a meeting of the Corporation there is no quorum it shall be the duty of the Mayor or the person presiding over such meeting

either to adjourn the meeting or to suspend the meeting until there is a quorum.

(3) Where a meeting has been adjourned under sub-section (2) the business which would have been brought before the original meeting if there had been a quorum present, shall be brought before, and may be transacted at an adjourned meeting, whether there is quorum present or not :

Provided that notice of an adjourned meeting under sub-sections (2) and (3) shall be given to all Councillors.

57. *Presiding Officer.* —(1) The Mayor or in his absence, the Deputy Mayor shall preside at every meeting of the Corporation.

(2) In the absence of both the Mayor and the Deputy Mayor from the meeting the Councillors present shall elect one from amongst themselves to preside.

(3) The Mayor or the person presiding over a meeting shall have and exercise a second or a casting vote in all cases of equality of votes.

58. *Method of deciding question.* —(1) Save as otherwise provided in this Act, all matters required to be decided by the Corporation shall be decided by majority of the votes of Councillors present and voting.

(2) The voting shall be by show of hands, but the Corporation may, subject to such regulations as may be made by it, resolve that any question or class of questions shall be decided by secret ballot.

(3) At any meeting unless voting be demanded by at least four Councillors, a declaration by the presiding officer at such meeting that resolution has been carried or lost, and an entry to that effect in the minutes, of the proceedings shall, for the

purpose of this Act, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(4) If voting as aforesaid is demanded, the votes of all of the members present who desire to vote shall be taken under the direction of the presiding officer at the meeting and the result of the voting shall be deemed to be resolution of the Corporation at such meeting.

59. *Maintenance of order at and admission of public to meetings.* —(1) The Mayor or the person presiding over a meeting shall prepare order

thereat and shall have all powers necessary for the purpose of preserving such order.

(2) The Mayor or the person presiding over a meeting may direct any Councillor whose conduct is in his opinion grossly disorderly to withdraw immediately from the meeting, and any Councillor so directed to withdraw shall do so forthwith and shall absent himself during the remainder of the meeting.

(3) If any Councillor is ordered to withdraw at a second time within fifteen days, the Mayor or the person presiding may suspend such Councillor from attending the meetings of the Corporation for a period not exceeding fifteen days and the Councillor so suspended shall absent himself accordingly :

Provided that the Mayor or the person presiding may at any time cancel such suspension :

Provided further that such suspension shall not debar the suspended Councillor from serving on any committee of the Corporation of which he is a member.

(4) Subject to sub-section (5), every meeting shall be open to the public unless a majority of the Councillors present at the meeting decide that any inquiry of deliberation pending before the Corporation shall be held in camera.

(5) The Corporation may make regulations for the purpose of admission of the members of the public to its meetings and for the removal by force if necessary, of any member of the public admitted to a meeting for interrupting or disturbing the proceedings of the meeting.

(6) The Corporation may make regulations for removal of persons of disorderly conduct.

(7) In the case of grave disorder arising in a meeting the Mayor or the person presiding may, if he thinks it necessary to do so, adjourn the meeting to a date or time specified by him.

60. *Councillor not to vote on matter in which he is interested.*— No Councillor shall vote at a meeting of the Corporation or of any committee thereof on any question relating to his own conduct or vote or take part in any discussion on any matter (other than a matter affecting generally the residents

of the municipal area or any particular wards), which affects his pecuniary interest or any property in respect of which he is directly or indirectly interested, or any property of or for which he is a manager or an agent.

61. *Right to attend meetings of Corporation and its committees etc. and right of Councillor to ask the questions.* —(1) The Commissioner or any Corporation officer authorised by him in this behalf may attend, speak in, or otherwise take part in the proceedings of any meeting of the Corporation or any of its committees, but he shall not be entitled to vote in any such meeting.

(2) A Councillor may, subject to the provisions of sub-section (3) ask the Commissioner, during first half of any hour of every meeting, question on any matter relating to the municipal administration of the area or the administration of this Act.

(3) The right to ask a question shall be governed by the following conditions, namely :—

(a) not less than seven days clear notice in writing specifying the question shall be given to the Commissioner ;

(b) no question shall :—

(i) bring any name or statement not strictly necessary to make the question intelligible ;

(ii) contain arguments, ironical expressions, imputations, epithets or defamatory statement ;

(iii) ask for an expression of opinion or the solution of a hypothetical proposition ;

(iv) ask as to the character or conduct of any person except in his official or public capacity ;

(v) relate to a matter which is not primarily the concern of the Corporation or any of the Municipal authorities ;

(vi) make or imply a charge of a personal character ;

(vii) raise question of policy too large to be dealt with within the limits of an answer to a question ;

(viii) repeat in substance question already answered or to which an answer has been refused ;

(ix) ask for information on trivial matters ;

(x) ordinarily ask for information on matters of past history ;

(xi) ask for information set forth in accessible documents or in ordinary works of reference ;

(xii) raise matters under the control of bodies or persons not primarily responsible to the Corporation ; or

(xiii) ask for any information on a matter which is under adjudication by a Court of Law.

(4) The Mayor shall disallow any question, which is, in his opinion in contravention of the provisions of sub-section (3).

(5) If any doubt arises whether any question is or is not in contravention of the provisions of sub-section (3), the Mayor shall decide the point and his decision shall be final.

(6) The Commissioner shall not be bound to answer a question if it asks for information which has been communicated to him in confidence or in the opinion of the Mayor it cannot be answered without prejudice to public interest or the interest of the Corporation.

(7) Unless otherwise directed by the Mayor or the Presiding Officer of the meeting every question shall be answered by the Commissioner at a meeting of the Corporation.

62. *Power to make regulations.*— The Corporation may make regulations for the transaction of business at its meeting and at the meeting of its Standing Committee or any other committee and manner in which the notice of such meetings shall be given :

Provided that the time, place and procedure for the first meeting after the Constitution of the Corporation under section 4, shall be determined by the Commissioner.

63. *Keeping of minutes and proceedings.*— Minutes, in which shall be recorded the names of the Councillors present at and the proceedings of each

meeting of the Corporation or of its committee, shall be drawn up and recorded by the Commissioner in a book to be kept for that purpose and shall be laid before the next ensuing meeting of the Corporation or of the committee, as the case may be, and shall be signed at such meeting by the presiding officer thereof.

64. *Circulation of minutes and inspection of minutes and report of proceedings.*— Minutes of the proceedings of each meeting of the Corporation shall

be circulated to all the Councillors of the Corporation and shall at all reasonable times be available at the Corporation office for inspection without charge by any Councillor or person on payment of a fee prescribed by regulations.

65. *Forwarding minutes and reports of proceedings to Government.*—(1)The Corporation shall forward to the Government and the Director a copy of the minutes of the proceedings of each meeting of the Corporation within three days from the date of the meeting.

(2) The Director or the Government may also in any case ask for a copy of any paper or all the papers which were laid before the Corporation or any committee thereof and the Corporation shall forward to the Government, a copy of such paper or papers.

66. *Validation of proceedings etc.* —(1) The Corporation shall have power to act notwithstanding any vacancy in the membership thereof and no act done or the proceedings taken under this Act shall be questioned on the ground merely of :—

(a) the seat of any Councillor remaining unfilled for any cause whatsoever ;

(b) the existence of any vacancy in, or any defect in the constitution of the Corporation, or in any committee thereof ;

(c) any Councillor having voted or taken part in any proceedings in contravention of section 61 ;

(d) any defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Corporation or of any Committee thereof, the minutes of proceeding of which have been duly drawn up and signed, shall be deemed to have been duly convened and to be free from all defects and irregularities.

CHAPTER VI

CORPORATION OFFICERS AND OTHER CORPORATION EMPLOYEES

[1][67. *Posts in Corporation and appointments thereto.* —(1) The Government may, for ensuring efficient management of the affairs of the Municipal Corporations and other urban bodies, and to subserve 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.

67A. *Staff.*—(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 Corporation.

(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 Corporation under this Act, shall be charged from the Corporation Fund in the prescribed manner.]

(1) Subject to the provisions contained in this Act or any other law, the Corporation may, with the previous approval of the Government or any other officer authorised in this behalf, appoint such officers and servants as it considers necessary for the efficient discharge of its duties.

(2) The qualifications, methods of recruitment, salaries, leave, allowances and other conditions of service including disciplinary matters of such officers and servants shall be such as may be prescribed.

1. Substituted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(3) The salary, allowances, gratuity, pension, contributions and other payments required to be made, in accordance with the conditions of their services to the officers and officials employed for the discharge of duties of the Corporation under this Act, shall be charged from the Corporation Fund in the prescribed manner.

(4) An employee in regular employment of the Corporation may in lieu of the Contributory Provident Fund benefits admissible to him under Jammu and Kashmir Provident Fund Act, Samvat 2000, opt for service and family pensions and in that event he will be governed by the rules as are applicable to the employees of the Government ; and such a person may contribute to the General Provident Fund :

Provident that :—

(a) the share of money contribution by the Corporation, along with interest accrued thereon, to the credit of such a person in his Contributory Provident Fund, shall be credited to the Pension and Gratuity Fund, established for this purpose ;

(b) the share of money, along with interest accrued thereon, to the credit of such a person in the Contributory Provident Fund on account of his own contribution, shall be transferred to his credit in the General Provident Fund established for the purpose ; and any loss caused to the Corporation through withdrawals during the service shall be made good by him.

(5) The Corporation shall, in relation to such employees who have exercised the option for pension under sub-section (4), credit its contributions regularly but not later than fifth day of each month following the month to which the contributions relate, into the Pension and Gratuity Fund.

(6) The *"Pension and Gratuity Fund"* and *"General Provident Fund"*referred to in sub-section (4), shall be established and maintained by the Director, Urban Local Bodies, Jammu and Kashmir in such manner, as may be prescribed.

(7) The approval for creation of post in a Corporation services shall be given by the Government after taking into consideration the requirements of the Corporation and its financial capacity.

(8) In making appointment to any post referred to in this section, the appointing authority shall follow the instructions issued by the Government from time to time in relation to reservation of appointments or posts for

Scheduled Caste, Scheduled Tribe, Backward Classes and any other category of persons.

68. *Officers and other employees not to be interested in any contract etc. with Corporation.* —(1) A person shall be disqualified for being appointed in the Corporation if he has, directly or indirectly, by himself or by a partner or any other person, any share or interest in any contract, made with, or any work, being done for the Corporation, other than as an employee.

(2) If any such officer or employee acquires, directly or indirectly, by himself or by a partner or any other person, any share or interest in any such contract or work as is referred to in sub-section (1), he shall, unless 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.

CHAPTER VII

REVENUE AND EXPENDITURE

69. *Constitution of Corporation Fund.* —(1) Save as otherwise provided in this Act—

(a) all funds which, immediately before the declaration and constitution of any Corporation under sections 3 and 4 of this Act, vested in anybody or local authority of the municipal area or any part thereof, if any ;

(b) all money received by or on behalf of the Corporation under the provisions of this Act or any law for the time being in force or under any contract ;

(c) all proceeds of the disposal of the property by, or on behalf of the Corporation ;

(d) all rents accruing from any property of the Corporation ;

(e) all money raised by any tax, rate or cess levied for the purposes of this Act ;

(f) all fees collected and all fines levied under this Act or under any rule, regulation or bye-law made thereunder ;

(g) all money received by or on behalf of the Corporation from the Government or any individuals by way of grant or gift or deposit ;

(h) all interest and profit arising from any investment of, or from any transaction in connection with, any money belonging to the Corporation including loans and advances under this Act ;

(i) all money received by or on behalf of the Corporation from any other source whatsoever,

shall form one Fund to be known as the Corporation Fund.

(2) The Corporation Fund shall be held by the Corporation in trust for the purposes of this Act subject to the provisions herein contained and a general account relating to all moneys received by or on behalf of the Corporation shall be maintained.

[1][69-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 Municipal Corporation 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 Municipality's budget 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) Municipal Corporation's own sources of revenue e.g. 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 ;

(v) grants from externally aided projects ;

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1. Section 69-A inserted by Act No. XIII of 2012, s.6.

(vi) sale of municipal corporation's assets ;

(vii)other sources as determined by the municipal corporation.

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

(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 Corporation's 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 fundand in the event of the annual allocations not fully utilized, the balance funds should not be transferred to the municipal corporation's 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 Corporation 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].

70. *Corporation Fund to be kept in Jammu and Kashmir Bank or in a Scheduled Bank or in a Government Treasury.*— All money payable to the credit of the Corporation Fund shall be received by the Commissioner and shall be forthwith paid into the Jammu and Kashmir Bank or into the Scheduled bank or a[State Treasury of the Government or any other bank approved by the Government in this behalf.

71. *Operation of accounts with banks.*— Save as otherwise provided in this Act, no payment shall be made by any bank referred to in section 70 out of the Corporation Fund except on a cheque signed by both—

(a) officer incharge of the accounts ; and

(b) the Commissioner or an officer subordinate to him authorised by him in this behalf.

72. *Payment not to be made unless covered by a budget grant.*— No payment of any sum out of the Corporation Fund shall be made unless the expenditure of the same is covered by a current budget grant and sufficient balance of such budget grant is still available notwithstanding any reduction or transfer thereof which may have been made under the provisions of this Act :

Provided that this section shall not apply to payment made in the following classes of cases, namely :—

(a) repayment of moneys, belonging to contractors or other persons and held in deposit and of moneys collected or credited to the Corporation Fund by mistake ;

(b) refund of taxes and other moneys which are authorised under this Act ;

(c) sums payable in any of the following circumstances :—

(i) under orders of the Government on failure of the Corporation to take any action as required by the Government ; or

(ii) under any other enactment for the time being in force ; or

(iii) under the decree or order of a civil or criminal court passed against the Corporation ; or

(iv) under a compromise of any claim, suit or other legal proceeding ; or

(v) on account of cost incurred in taking immediate action by the Corporation or the Commissioner to avert a sudden threat of danger to the property of the Corporation or to human life.

(d) temporary payment for works urgently required by the Government in the Public interest ;

(e) sums payable as compensation under this Act or under rules; regulations or bye-laws made thereunder ;

(f) expenses incurred by the Corporation special measures taken on the outbreak of dangerous diseases ;and

(g) amount payable to Government by way of audit fee.

73. *Duty of persons signing cheques.*— Before any person signs a cheque in accordance with section 72 or signs any bill for payment of any amount from the treasury, he shall satisfy himself that the sum which is specified for payment in the bill or for which the cheque is drawn, as the case may be, is either—

(a) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant ; or

(b) required for any payment referred to, or specified in section 72.

74. *Procedure when money not covered by a budget grant is expended.*— Whenever any sum is expended under clause (c), (e) or (f) of the proviso to section 72, the Commissioner shall forthwith communicate the circumstances to the Corporation to take such action under the provisions of this Act as shall, in the circumstances, appears possible and expedient for covering the amount of the additional expenditure.

75. *Application of Corporation Fund.* —(1) The money from time to time credited to the Corporation Fund, shall be applied in payment of all sums, charges of cost necessary for carrying out the provisions of this Act and of the rules, regulations and bye-laws made thereunder or of which payment is

duly directed, sanctioned or required by or under any of the provisions of this Act, and in payment of such sum as may be required to meet the establishment charges and the salary, allowances, provident fund, and gratuity of the member of municipal services :

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

(2) The moneys referred to in sub-section (1) shall likewise be applied in payment of all sums payable out of the Corporation Fund under any other enactment for the time being in force :

Provided that an amount allotted to the Corporation by the Central or State Government or any other person or local authority for any specific 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.

(3) Notwithstanding anything contained in this Act, the moneys referred to in sub-section (1) may also be applied in payment of all sums, charges and cost on all acts and things which are likely to promote the safety, health, welfare, or convenience of the inhabitants or expenditure whereof may be declared by the Corporation with the sanction of the Government to be an appropriate charge on the Corporation Fund.

76. *Payments from Corporation Fund for works urgently required for public service.*— On the written requisition of the Director or any other officer authorised by the Government, the Commissioner may at any time undertake the execution of any work to be urgently required in the public interest, and for this purpose may temporarily make payments from the Corporation Fund so far as the same can be met without unduly interfering with the regular work of the Corporation.

77. *Investment of surplus money.*— Surplus moneys standing at the credit of Corporation Fund which cannot immediately or at an early date be applied for the purpose specified in section 75, shall be invested in the prescribed manner.

78. *Constitution of special funds.* —(1) The Corporation shall constitute such special fund or funds as may be prescribed by regulations and such other funds necessary for the purpose of this Act as may be so prescribed.

(2) The constitution and disposal of such funds shall be effected in the manner laid down by regulations.

79. *Finance Commission.* —(1) The Finance Commission constituted by the Government shall review the financial position of the Corporation and make recommendation to the Government as to—

(a) the principals which should govern :—

(i) the distribution between the [1][Union territory of Jammu and Kashmir] and the Corporation 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 and the allocation between the Corporation 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 Corporation ;

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

(b) the measures need to improve the financial position of the Corporation ;

(c) any other matters referred to the Finance Commission by the Government in the interest of sound finances of the Corporation ;

(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 [1][Union territory of Jammu and Kashmir].

80. *Budget Estimates.*— The Corporation shall not later than the first week of February of every year, adopt for the ensuring year a budget estimate which shall be an estimate of the income and expenditure of the Corporation to be received and incurred on account of the Corporation.

(2) The budget estimate adopted under sub-section (1) shall be submitted to the Government not later than the last week of February preceding the year to which the budget estimate relates.

(3) The budget estimate received by the Government under sub-section (2), shall be returned to the Corporation before the thirty first day of March after approval without any modification or with such modification as the Government may deem fit.

1. Substituted for "State" by S.O. 3466(E) dated 05.10.2020.

(4) The budget estimate shall be prepared in such manner and shall provide for all such matters as may be prescribed.

81. *Power of Corporation to alter budget estimates.* —(1) On the recommendations of the Commissioner, the Corporation may from time to time during the year—

(i) increase the amount of any budget grant under any head ;

(ii) make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year ;

(iii) transfer the amount or portion of the amount of the budget grant under any head to the account of budget grant under any other head ; or

(iv) reduce the amount of the budget grant under any head :

Provided that due regard shall be had to all the requirements of this Act and in making any increase or any additional budget grant the estimated cash balance at the close of the year shall not be reduced below the sum of one lakh rupees or such higher sum as the Corporation may determine in respect of each budget estimate.

(2) Every increase in budget grant and every additional budget grant made in any year under sub-section (1) shall be made with the prior approval of the Government and after such approval shall be deemed to be included in the budget estimate finally adopted for that year.

(3) The Commissioner may, from time to time during the year—

(a) reduce the amount of a budget grant ; or

(b) sanction the transfer of any amount within a budget grant :

Provided that every reduction if it exceeds fifty thousand rupees shall be reported forthwith by the Commissioner to the Corporation and the Commissioner shall give effect to any order that may be passed by the Corporation in relation thereto.

(4) The Commissioner may, from time to time during the year sanction the transfer of any amount not exceeding fifty thousand rupees within a minor head if such transfer does not involve a recurring liability.

82. *Power of Corporation to re-adjust income and expenditure during the year.* —(1) If at any time during the year it appears to the Corporation that, notwithstanding any reduction of budget grant that has been made under section 81, the income of the Corporation Fund during the same year will not suffice to meet the expenditure sanctioned in the budget estimate of that year and to leave at the close of the year, the cash balance specified or determined under the proviso to sub-section (1) of section 81, then it shall be incumbent on the Corporation to sanction forthwith any measures which it may consider necessary for adjusting that year's income to the expenditure.

(2) For the purpose of sub-section (1), the Corporation may either reduce the sanctioned expenditure of the year so far as it may be possible to do with regard to all the requirements of this Act.

83. *Provisions as to un-expended budget grant.*— If the whole or any part of any budget grant included in the budget estimate for a year remains unexpended at the close of that year, and the amount thereof has not been taken into account in the opening balance entered in the budget estimate of any of the next two following years, the Commissioner may sanction the expenditure of such budget grant or the unexpended portion thereof during the next two following years for the completion of the purpose or object for which the budget grant was originally made and not for any other purpose or object.

[1][83-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.

1. Sections 82-A, 82-B, 82-C, 82-D and 82-E inserted by Act No. XIII of 2012, s. 7.

(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.

(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.

83-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.

83-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.

83-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.

83-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].

CHAPTER VIII

TAXES AND FEES

84. *Taxes etc. to be imposed by Corporation under this Act and arrangement of certain taxes collected by Government.* —(1) The Corporation shall, for the purposes of this Act, levy the following taxes :—

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

(b) such other tax, at such rates as the [2][State Government] may, by notification, in each case direct ;

(c) a duty on the transfer of immovable properties situated within the limits of the municipal area in addition to the duty imposed under the Stamp Act, Samvat 1977, as in force for the time being in the [3][Union territory of Jammu and Kashmir], on instruments of sale, gift and mortgage with possession of immovable property situated in the municipal area at such rate, as the Government may, by notification, direct, which shall not be less than one per centum and more than two per centum on the amount of the consideration, the value of the property or the amount secured by the mortgage, as set forth in the instrument. The said duty shall be collected by the Registrar or Sub-Registrar in the shape of non-judicial stamp

1. Clause (a) substituted by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Now Government of the Union territory of Jammu and Kashmir.

3. Substituted by S.O. 3466(E) dated 05.10.2020 for "State".

paper at the time of registration of the document and intimation thereof shall be sent to the Corporation immediately. The amount of the duty so collected shall be paid to the Corporation.

(2) Subject to the prior approval of the Government, the Corporation may for the purposes of this Act, in addition to the taxes specified in sub-section (1) levy :—

(a) a tax on profession, trades, callings and employments ;

(b) a tax on vehicles other than motor vehicles and animals ;

(c) a tax on the increase in urban land values caused by the execution of any development or improvement work ;

(d) show tax ;

(e) tax on consumption of energy [1][x x x] for every unit of electricity consumed by any person within the municipal area ;

(f) sewerage tax ; [2][(g)water tax ; and

(h) any other tax that may be imposed under the Jammu and Kashmir Municipal Act, 2000] :

Provided that no tax shall be imposed under this sub-section unless an

opportunity has been given in the prescribed manner to the residents of the municipal area to file objections and the objections, if any, thus received have been considered.

(3) The taxes as specified in sub-section (1) and sub-section (2) shall be levied at such rates as may, from time to time, be specified by the Government by notification and shall be assessed and collected in accordance with the provisions of this Act, and the [2][rules and] bye-laws made thereunder.

(4) The Government may, by special or general order, direct the Corporation to impose any tax falling under sub-section (1) or sub-section (2) not already imposed, within such period as may be specified and the Corporation shall thereupon act accordingly.

1. Substituted by S.O. 3466 (E) of 2020 dated 05.10.2020.

2. Words "rules and" inserted *ibid*.

(5) If the Corporation fails to carry out any order passed under sub-section (4), the Government may by a suitable order notified in the [1][Government Gazette] impose the tax and the order so passed shall operate as if the tax had been duly imposed by the Corporation under sub-section (1) or sub-section (2), as the case may be.

85. *Fees that may be charged by the Corporation.* —(1) Subject to the prior approval of the Government, the Corporation may in the manner prescribed levy a fee with regard to the following :—

(i) a fee on advertisements other than advertisements in the newspapers ;

(ii) a fee on building applications ;

(iii) development fee for providing and maintaining civic amenities in certain areas ;

(iv) a fee with regard to lighting ;

(v) a fee with regard to scavenging ;

(vi) a fee in the nature of costs for providing internal services in a building scheme or town planning scheme ;

[2][(vii)a fee for infrastructure development on motor vehicles suitable for use on road within the city.

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) ;

(viii)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 ;

1. Now Official Gazette.

2. Substituted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(ix) any other fee as the Corporation may deem fit by for services rendered by it.]

(2) The rates at which and the conditions subject to which the fees as laid down in sub-section (1) may be levied by the Corporation would be decided by the Government.

[1][86. *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 Corporation.

(2) The property tax shall be levied at such percentage, not being more than 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 :

Provided that the Government may exempt certain classes or categories of persons or lands and buildings, or vacant lands or both from the payment of the property tax.

(3) Notwithstanding any exemption granted under sub-section (2), it shall be open to the Corporation to collect service charges for providing civic amenities and for general or specific services rendered at such rates as may be specified by the Corporation by notification.]

[2]87. Omitted.

[3][88. *Determination of taxable annual value.* —(1) Subject to the provisions of section 86 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 condition and in such circumstances as may be notified by the Commissioner, the Municipal Corporation may, in lieu of tax payable under this Act, fix a lump sum amount as annual tax for a certain category of properties.

1. Section 86 substituted by S.O. 3466 (E) of 2020 dated 05.10.2020.

2. Section 87 omitted *ibid*.

3. Section 88 substituted *ibid*.

Explanation.—For purpose of sub-section (1), the "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 Corporation.

(3) The person liable to pay the property tax shall pay the tax in two equal installments, the first being before the 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 percent. on the tax payable by him :

Provided also that the Government may, on the recommendation of the Corporation, by notification, extend the time limit for the payment of property tax without penalty and for the benefit of ten percent rebate in respect of the financial year 2020-21.

(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 Commissioner or any officer authorised by him in this behalf a return in 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 Commissioner 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 Commissioner 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 buildings or lands or both, the Commissioner 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 Commissioner or such other officer 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 Commissioner 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 Commissioner 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 percent, 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 Commissioner or the authorised officer within thirty days from the date of receipt of the notice under sub-section (11).

(13) The Commissioner 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 Commissioner 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 fifteen 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 Government 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.]

89. *Taxation of Union properties.*— Notwithstanding anything contained in the foregoing provisions of this Chapter, lands and buildings being properties of the Union of India shall be exempted from the taxes on lands and buildings specified in section 86 :

[1][Provided that nothing in this section shall prevent the Corporation 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].

90. *Incidence of taxes on lands and buildings.* —(1) The [2][property tax] shall be primarily leviable 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 let, 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 taxes on lands and buildings assessed in respect of that land and the building erect thereon, shall be primarily leviable upon the said tenant, whether the land, building 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.

[2]91. Omitted.

1. Proviso substituted by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Section 91 omitted *ibid*.

[1]92. Omitted.

[1]93. Omitted.

[1]94. Omitted.

[2][95. *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.]

[3]96. Omitted.

[3]97. Omitted.

98. *Notice of transfer.* —(1) Whenever the title of any person primarily liable for the payment of taxes specified in section 86 on any land and buildings is transferred the person whose title is transferred and the person to whom the same is transferred shall within three months after execution of the instruments of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer in writing to the Commissioner.

(2) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves, shall give notice of such devolution to the Commissioner within six months from the date of the death of the deceased.

(3) The notice to be given under this section shall be in such form as may be determined by bye-laws made under this Act, and the transferee or the other person on whom the title devolves shall, if so required, be bound to produce before the Commissioner any documents evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Commissioner, shall, in addition to any penalty to which he may be subjected under the provisions of this Act, continue to be liable for the

1. Sections 92, 93 and 94 omitted by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Section 95 substituted *ibid*.
3. Sections 96 and 97 omitted *ibid*.

payment of all taxes specified in section 86 from time to time payable in respect of the land or building transferred until he gives such notice or until the transfer has been recorded in the Commissioner's book, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said taxes.

(5) The Commissioner shall record every transfer or devolution of title notified to him under this section in his books and in the assessment list.

(6) On a written request by the Commissioner, the Registrar or Sub-Registrar, having jurisdiction in the municipal area appointed under [1][the Registration Act, 1908 (16 of 1908)], shall furnish such particulars regarding the registration of instruments of transfer of immovable properties in the municipal area, as the Commissioner may from time to time require.

(7) Such information shall be furnished as soon as may be after the registration of an instrument of transfer is effected, or if the Commissioner so requests, by periodical returns at such intervals as the Commissioner may fix.

99. *Notice of erection of building etc.*— When any new building is erected or when any building is re-built or enlarged or when any building which has been vacant is re-occupied, the person primarily liable for the taxes specified in section 86 assessed on the building, shall give notice thereof in writing to the Commissioner 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 enlargement or re-occupation and the said taxes shall be assessable on the building from the said date.

100. *Notice of demolition or removal of building.* —(1) When any building or any portion of a building, which is liable to the payment of taxes specified in section 86 is demolished or removed, otherwise than by order of the Commissioner, the person primarily liable for the payment of the said taxes, shall give notice thereof in writing to the Commissioner.

(2) Until notice is given by person as mentioned under sub-section (1), he shall continue to be liable to the payment of 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.

101. *Power of Commissioner to call for information.* —(1) To enable the Commissioner to determine the [2][taxable annual value] of any land or building and the person primarily liable for the payment of any taxes specified in section

1. Substituted for "the Registration Act, Samvat 1977" by S.O. 3466 of 2020 dated 05.10.2020. 2. Substituted *ibid* for "rateable value".

86 leviable in respect thereof, the Commissioner may require the owner or occupier of such land or a building, or of any portion thereof to furnish him within such reasonable period as the Commissioner fixes in this behalf, with information by such owner or occupier—

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

(b) as to the measurements or dimensions of such land or building or any portion thereof and the rent, if any, obtained for such land or building or any portion thereof ;

(c) as to the actual cost or other specified details connected with the determination of the value of such land or a building.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to 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 any penalty to which he may be liable, be precluded from objecting to any assessment made by the Commissioner in respect of such land or building of which he is the owner or occupier.

102. *Premises owned by or let to, two or more persons in severalty to be ordinarily assessed as one property.*— Notwithstanding that any land or building is owned by, or let to two or more persons in severalty, the Commissioner shall for the purpose of assessing such land or a building to taxes specified in section 86 treat the whole of it as one property :

Provided that the Commissioner may, in respect of any land or building which was originally treated as one property but which subsequently passes on by transfer, succession or in any other manner to two or more persons who divide the same into several parts and occupy them in severalty, treat, subject to any bye-law made in this behalf each such several part, or two or more of such several parts together, as a separate property and assess such part or parts to the said taxes accordingly.

103. *Assessment in case of amalgamation of premises.*— If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Commissioner shall on such

amalgamation assign to them one or more numbers and assess them to taxes specified in section 86 accordingly :

Provided that the total assessment on amalgamation shall not be greater than the sum of the previous assessment of the several premises except when there is an revaluation of any of the said premises.

104. *Power of Commissioner to assess separately out houses and portion of buildings.*— The Commissioner may in his discretion assess any out houses appurtenant to a building, or any portion of a land or building separately from such building or, as the case may be, from the rest of such land or building.

105. *Powers of Commissioner to employ valuers.* —(1) The Commissioner may, if he thinks fit, employ one or more competent persons to give advice or assistance in connection with the valuation of any land or building, and any person so employed shall have power at all reasonable times and after giving due notice, and on production, if so required, of authorisation in writing in that behalf from the Commissioner, to enter on, survey and value any land or building which the Commissioner may direct him to survey and value.

(2) No person shall wilfully delay or obstruct any such person in the exercise of any of his powers under this section.

106. *Recovery of tolls or taxes.* —(1) In case of non-payment of any toll on demand, the officer empowered to collect the same may seize any article or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(2) The Corporation after the lapse of five days from the seizure and after the issue of a proclamation fixing the time and place of sale may cause any property so seized, or so much thereof, as may be necessary to be sold by auction to satisfy the demand with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid :

Provided that, by order of the Commissioner, articles of a perishable nature which cannot be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regards to the nature of the articles, think proper.

107. *Tax on vehicles and animals.*—(1)A tax under clause (b) of sub-section (2) of section 84 shall be levied at rates specified, from time to time, by the Government in this behalf on :—

(a) vehicles, other than motor vehicles and other conveyances plying for hire and kept within the municipal area ;

(b) animals used for riding, driving, drought or load when kept within the municipal area.

(2) A vehicle or animal kept outside the limits of the municipal area but regularly used within such limits shall be deemed to be kept for the use in municipal area.

108. *Tax on whom leviable.*— The tax on vehicles or animals shall be leviable upon the owners of or the person having possession or control of such vehicle or animals in respect of which the tax is leviable :

Provided that in the case of an animal generally used or employed in drawing any vehicle, the tax in respect of such animal, shall be leviable upon the owner of, or the person having possession or control of, such vehicle, whether or not such animal is owned by such owner or person.

109. *Exemption from taxes on vehicles and animals.* —(1) The tax under clause (a) of sub-section (1) of section 107, shall not be leviable in respect of :—

(a) vehicles belonging to the Corporation, Government or the Union of India ;

(b) vehicles intended exclusively for the conveyance, free of charge, of the injured, the sick or the dead ;

(c) vehicles kept by *bona fide* dealers and vehicles merely for sale and not for use.

(2) The tax under clause (b) of sub-section (1) of section 107 shall not be leviable in respect of animals belonging to the Corporation, the Government or the Government of India.

110. *Levy of development tax.*— The Corporation shall, with the approval of the Government, charge development tax on the increase in the value of the land or building comprised in a scheme put into operation within the

municipal area under Chapter XIX, but not actually required for the execution thereof.

111. *Amount of development tax.* —(1) The development tax shall be an amount equal to one half of the difference between the market value of the land or building on the date specified in the notification issued under sub-section (2) and the market value of such land or building on or immediately before the date on which the scheme after sanction is finally notified under Chapter XIX :

Provided that for the purpose of calculation under this section the land shall be treated as free of all building.

112. *Payment of development tax.*— Every owner of land or building mentioned in section 110 or any person having an interest therein in respect of the increase in the value of such land or building, shall in the manner hereinafter provided, pay to the Corporation such development tax as may be assessed by the Commissioner.

113. *Notice of completion of scheme.*— The Government shall, by notification in the [1][Government Gazette], declare the date on which a scheme shall be deemed to have been completed.

114. *Assessment of development tax.* —(1) The Commissioner or an officer authorised by him in his behalf shall at any time after the publication of the notification under section 113 assess the amount of development tax payable by the person concerned and shall give a notice in writing to such a person stating the amount of tax and the instalments, if any, and the dates on which tax shall be paid together with such particulars as may be necessary.

(2) Any person on whom a notice of assessment is served under sub-section (1) may, within one month from the date of service of such notice file an objection against such assessment before the Commissioner or an officer authorised by him in this behalf :

Provided that an objection may be entertained after the expiry of the period of one month if the Commissioner or an officer authorised by him under sub-section (1) is satisfied that the failure to file objection was due to any cause beyond the control of the objector.

(3) After the opportunity has been given to the objector of being heard the Commissioner or an officer authorised under sub-section (1) shall decide the objection and may then confirm, modify or cancel the assessment.

(4) If the person on whom the notice of assessment is served under sub-section (1) fails to file an objection under sub-section (2), the order or assessment shall be conclusive and shall not be questioned before any Court or Tribunal.

115. **Tax on advertisements.* —(1)Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, boarding, frame, post or structure or upon or in any vehicle any advertisement or, who displays through advertisements to public view any matter whatsoever visible from the public street or public place (including any advertisement exhibited by means of cinematograph) shall pay for every advertisement which is so erected, exhibited, fixed or retained or so displayed to public view, a fee calculated at such rates, as may from time to time, be specified by the Government :

Provided that no fee shall be levied under this section on any advertisements which :—

(a) appears in newspapers, relates to a public meeting, or to an election to Parliament or Legislative Assembly or the Corporation or to candidature in respect of such election ; or

(b) is exhibited within the windows or any building if the advertisements relates to the trade, profession or business carried in the building ; or

(c) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effect therein or to any sale, entertainment or meeting to be held on or upon or in the same ; or

(d) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or the occupier of such land or building ; or

(e) relates to any activity of the Government or Union of India or the Corporation.

(2) The fee on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as may be determined by bye-laws made in this behalf.

* The word 'Fee' should have been used instead of 'Tax'.

Explanation–I.— The word 'structure' in this section includes any moveable board on wheels used an as an advertisement or an advertisement medium.

Explanation–II.—The word 'advertisement' in relation to a fee on advertisement under this Act, means any word, letter, model, sign, placard, notice, device or representation whether illuminated or not in nature of and employed wholly or in part for the purposes of advertisement, announcement or direction.

116. *Prohibition of advertisement without written permission of Commissioner.* —(1) No advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, boarding, frame, post or structure or upon any vehicle or shall be displayed in any manner, whatsoever in any place within the municipal area without the written permission of the Commissioner granted in accordance with bye-laws, made under this Act.

(2) The Commissioner shall not grant such permission, if :—

(a) the advertisement contravenes any bye-law made under this Act ; or

(b) the fee, if any, due in respect of advertisement has not been paid.

(3) Subject to the provisions of sub-section (2) in the case of any advertisement liable to the advertisement fee, the Commissioner shall grant permission for the period to which the payment of the fee relates and no fee shall be charged in respect of such permission.

117. *Permission of Commissioner to become void in certain cases.* —The permission granted under section 116 shall become void in the following cases, namely :—

(a) if the advertisement contravenes any bye-laws made under this Act ;

(b) if any material change is made in the advertisement or any part thereof without the previous permission of the Commissioner ;

(c) if the advertisement or any part thereof falls otherwise than through accident ;

(d) if any addition or alteration is made to, or in the building, walls, boarding, frame, post or structure upon or over which the advertisement is erected, exhibited, fixed or retained if such addition or alteration involves the disturbance of the advertisement or any part thereof ; or

(e) if the building, wall, boarding, frame, post or structure over which the advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

118. *Presumption in case of contravention.*— When any advertisement has been exhibited, fixed or retained upon or over any land, building, wall, boarding, post or structure or upon or in any vehicle or displayed to public view from a public street or public place in contravention of the provisions of this Act or any bye-laws made thereunder, it shall be presumed, unless and until contrary is proved, that the contravention had been committed by the person or the persons on whose behalf the advertisement purports to be or the agents of such person or persons.

119. *Power of Commissioner in case of contravention.*— If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of section 116, the Commissioner may require the owner or occupier of the land, building, wall, boarding, frame, post or structure or vehicle upon or over or in which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or

may enter any land, building, property or vehicle and have the advertisement dismantled, taken down or removed or spoiled, defaced or screened.

120. *Fee on building applications.*— Every person who makes an application to the Commissioner for the sanction of a building plan shall pay alongwith the application, fee at such rate as may, from time to time, be specified by the Government.

121. *Time and manner of payment of taxes or fees.*— Save as otherwise provided in this Act, any tax or fee levied under this Act shall be payable on such dates, in such number of instalments and in such manner as may be determined by bye-laws in this behalf :

Provided that if the tax or fee is not paid within one month of the due date, an interest at the rate of one percent per month shall be charged for every calendar month or part thereof.

122. *Presentation of bill of tax or fee.* —(1) When the tax or fee has become due, the Commissioner shall cause to be presented to the person liable for the payment thereof, a bill for the amount due :

Provided that no such bill shall be necessary in the case of :—

(a) tax on vehicles and animals ;

[1][(aa) Property Tax ;]

(b) show tax ; and

(c) tax on advertisement.

(2) Every such bill which shall be in the prescribed form, shall, for the purposes of this Act, be considered a notice of demand and shall specify the particulars of tax or fee and the period for which the charge is made.

(3) If the amount specified in bill is paid within a period of fifteen days from the presentation thereof, a rebate of ten percent shall be allowed in the amount of tax or fee.

(4) If the tax on vehicles and animals or the show tax is not paid after it has become due, the Commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the prescribed form.

(5) For every notice of demand served under sub-section (4) a fine of such amount as may be determined by bye-laws made in this behalf shall be payable by the person on whom the notice is served and shall be included in the costs of recovery.

123. *Consequences of the failure to pay tax or fee within thirty days.*—If the person liable for the payment of any tax or fee does not within thirty days from the serving of the notice of demand under sub-section (2) or sub-section (4) of section 122, pay the same, the tax or fee together with the costs of recovery shall be recoverable in the manner provided hereinafter.

124. *Manner of recovering tax or fee.*— Any sum due on account of tax or fee payable under this Act may be recovered, together with costs of recovery by all or any of the following processes, in the manner prescribed :—

(i) an arrear of land revenue ;

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1. Clause (aa) inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(ii) by distraint and sale of a defaulter's moveable property [1][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] ;

(iii) by the attachment and sale of a defaulter's immovable property ;

(iv) in the case of octroi and toll, by the seizure and sale of goods and vehicles ;

(v) in the case of taxes on lands and buildings by the attachments of rent due in respect of the property ; and

(vi) by a suit.

125. *Power of seizure of vehicles and animals in case of non-payment of tax thereon.* —(1) If the tax on any vehicle or animal is not paid, then instead of proceeding against the defaulter by distraint and sale of his other moveable property, the Commissioner may, at any time after the tax has become due, seize and detain the vehicle or animal or both, and if the owner or other person entitled thereto does not within seven days in respect of vehicle and two days in respect of animal from the date of such seizure and detention, claim the same and pay the tax due together with the charges incurred in connection with the seizure and detention, the Commissioner may cause the same to be sold and apply the proceeds of the sale or such part thereof as is required in the discharge of the sum due and the charges incurred as aforesaid.

(2) The surplus, if any, remaining after the application of the sale proceeds under the sub-section (1) shall, immediately after the sale of the property be credited to the Corporation Fund and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative and if the same is claimed by written application to the Commissioner within one year from the date of notice a refund thereof shall be made to such person or his representative.

(3) Any surplus not claimed within one year as aforesaid shall be the property of the Corporation.

[2][126. *Demolition etc. of building.*— If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Commissioner may, on the application in writing from the owner or occupier and after

1. Words inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.
2. Section 126 substituted *ibid*.

conducting such enquiry as may be necessary, accept the revised return filed by the applicant and adjust the tax for the subsequent period.]

[1]127. Omitted.

[1]128. Omitted.

[1]129. Omitted.

[1]130. Omitted.

[1]131. Omitted.

[2][132. *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 (v) any penalty imposed,

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 a 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.

1. Sections 127, 128, 129, 130 and 131 omitted by S.O. 3466 (E) of 2020 dated 05.10.2020.
2. Section 132 substituted *ibid*.

(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 Municipal Corporation shall be recoverable by the Corporation as if they were arrears of a tax, due from the appellant.

(8) If the Municipal Corporation 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.]

[1][133. *Limitation for appeal.* —(1) No appeal shall lie under section 132 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 taxes due from him to the Municipal Corporation up to the date of such appeal.".

134. *Finality of appellate orders.*— Any person aggrieved by an order passed in appeal under section 132 may within thirty days of the announcement of the 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. Section 133 substituted by S.O. 3466 (E) of 2020 dated 05.10.2020.

135. *Taxation not to be questioned except under this Act.*—(1) No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Act.

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

136. *Power to inspect for the purposes of determining the* [1]*[taxable annual value] of tax or fee.* —(1) The Commissioner or any other person authorised by him in this behalf, may without giving any previous notice, enter upon and make an inspection of :—

(a) any land or building for the purpose of determining the [1][taxable annual value] of such land or building ;

(b) any stable, garage, or coach house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax or fee under this Act ;

(c) any place or premises which he has reason to believe are being used or are about to be used for any performance or show in respect of which the show tax is payable or would be payable ; and

(d) any land, building or vehicle in or upon which any advertisement liable to fee under this Act is exhibited or displayed.

(2) The Commissioner may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person and may examine such person or servant as to the number and description of vehicles and animals owned by or in the possession or under the control of such person and every

person and servant of such person so summoned shall be bound to attend before the Commissioner and to give information to the best of his knowledge and belief as to the said matter.

137. *Composition.* —(1) Subject to the rules made in this behalf, the Commissioner may, with the previous sanction of the Corporation, allow any person to compound any tax for a period not exceeding one year at a time.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recovered as an arrear of tax under this Act.

1. Substituted for "rateable value by S.O. 3466(E) dated 05.10.2020.

138. *Irrecoverable debts.* —(1) The Commissioner may write off any sum due on account of any tax or of the costs of recovering any tax if such sum is, in his opinion, irrecoverable :

Provided that no sum exceeding one thousand rupees shall be written off in favour of any one person without the previous sanction of the Corporation.

(2) The Commissioner shall report to the Corporation every case in which any sum has been written of under sub-section (1).

139. *Obligation to disclosed liability.* —(1) The Commissioner may, by written notice, call upon any person in the Municipal area to furnish such information as may be necessary for the purpose of ascertaining:—

(a) whether such inhabitant is liable to pay any tax or fee imposed by the Corporation under this Act ;

(b) at what amount he should be assessed ; or

(c) the [1][taxable annual value] of the land or building which he occupies and the name and address of the owner or lessee thereof.

(2) If any person when called upon under sub-section (1) to furnish information neglects to furnish it within the period specified in this behalf by the Commissioner or furnishes information which is not true to the best of his knowledge or belief, he shall be liable, in addition to any penalty which may be imposed under this Act, to be assessed at such amount on account of tax or fee as the Commissioner deems proper.

140. *Powers to amend list in certain cases.*— Notwithstanding anything contained in this Chapter, where the prescribed authority is satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Corporation or any officer or employees of the Corporation or of the assessee, it may, after giving to the assessee an opportunity of being heard or after making such enquiry as it may deem fit, pass an order amending the assessment already made and fixing the amount of tax payable for that property and on the issue of such an order the assessment list then in force shall, subject to the order, if any, passed in appeal or revision be deemed to have been amended accordingly with effect from first day of January, or first day of April, or first day of July or fist day of October next following the month in which the order is passed.

1. Substituted for "rateable value by S.O. 3466(E) dated 05.10.2020.

141. *Immaterial error not to affect liability.*— No assessment and no charge or demand on account of any tax shall be impeached or affected by reason only of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax or in the description of any property or thing, or of any mistake in the amount of the assessment, charge or demand, or by reason only of clerical error or other defects of form, if the directions contained in this Act and the bye-laws made thereunder have in substance and effect been complied with ; and it shall be enough in the case of any such tax on property or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

142. *Powers of exemption.*— The Corporation may, by resolution passed in this behalf, exempt, whole or in part for any period not exceeding one year from the

payment of any tax, any person who by reason of poverty may in its opinion, be unable to pay the same, and may renew such exemption as often as may be necessary.

143. *Powers of Government in regard to taxes.* —(1) The Government may by order exempt in whole or in part from the payment of any tax any person or class of persons or 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 any part thereof is injurious to the interest of the general public, it may require the Corporation to take within the specified period, measures to remove the objections ; and, if within that period the requirement is not complied with to the satisfaction of the Government, the Government may, by notification, suspend the levy of the tax or such part thereof until the objection has been removed.

[1][143A. *Power 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 this Chapter insofar 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 upto three years only :

1. Section 143A inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

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

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

CHAPTER IX

BORROWING

144. *Powers of Corporation to borrow.* —(1) The Corporation may, in pursuance of any resolution passed by it, borrow by way of debenture or otherwise on the security of any immovable property vested in it or proposed to be acquired by it or of all or any of the taxes, rates, cesses, fees and charges authorised by or under this Act, or from public financial institutions, any sums of money which may be required :—

(a) for acquiring any land which it has power to acquire ;

(b) for erecting any building which it has power to erect ;

(c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing which it has power to execute, provide or do, if the cost of carrying out the purpose in question ought to be spread over a term of year ;

(d) to pay off any debt due to the Government ;

(e) to repay a loan previously raised under this Act or any other Act previously in force ; or

(f) for any other purpose for which the Corporation is, by virtue of this Act or any other law for the time being in force, authorised to borrow :

Provided that —

(i) no loan shall be raised without the previous sanction of the Government ;

(ii) the amount of loan, the rate of interest and the terms including the date of floatation, the time and method of the repayment and the like shall be subject to the approval of the Government.

(2) When any sum of money has been borrowed under sub-section (1) no portion of any sum of money borrowed for any of the purposes referred to in clause (c) of sub-section (1) shall be applied to the payment of salaries and allowances to any Corporation employees other than those exclusively employed in connection with the carrying out of that purpose.

145. *Time for repayment of money borrowed under section 144.*— The time for the repayment of any money borrowed under section 144 shall in no case exceed sixty years and the time for repayment of any money borrowed for the purpose of discharging any previous loan shall not except with the express sanction of the Government extend beyond the unexpired portion of the period for which such previous loan was sanctioned.

146. *Form and effect of debentures.*— All debentures issued under this Chapter shall be in such form as the Corporation may, with the previous sanction of the Government, determine and shall be transferable in such manner as shall be expressed therein, and the right to sue in respect of the money secured by any of such debentures shall vest in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

147. *Receipt by joint holders for the interest or dividend.*— When two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debentures or security, unless notice to the contrary has been given to the Corporation by the other persons.

148. *Maintenance and investment of sinking fund.* —(1) The Corporation shall maintain sinking funds for the repayment of money borrowed on debentures issued and shall pay every year into such sinking funds such sum as will be sufficient for the repayment within the period fixed for the loan of all moneys borrowed on the debentures issued.

(2) All moneys paid into the sinking funds shall, as soon as possible, be invested by the Commissioner in public securities and every such investment shall be reported by the Commissioner to the Corporation within fifteen days.

(3) All dividends and other sums received in respect of any such investment shall, as soon as possible after the receipt, be paid into the sinking funds and invested in the manner laid down in sub-section (2).

(4) Any investment made under this section may, subject to the provisions of sub-section (2), be varied or transposed.

149. *Application of sinking fund.*— A sinking fund or any part thereof shall be applied in or towards the discharge of loan or part of the loan for which fund was created, and until such loan or part is wholly discharged shall not be applied for any other purpose.

150. *Annual statement by Commissioner.* —(1) The Commissioner shall, at the end of every year, submit to Corporation a statement showing :— (a) the amount which has been invested during the year under section 148 ;

(b) the date of the last investment made prior to the submission of the statement ;

(c) the aggregate amount of the securities then in his hand ; and (d) the aggregate amount which has up to the date of the statement been applied under section 149, in or towards discharging loans.

(2) A copy of every such statement shall also be submitted to the Government.

151. *Priority of payment for interest and repayment of loans over other payment.*— All payments due from the Corporation on account of interest and repayment of loans shall be made in priority to all other payments due from the Corporation.

152. *Attachment of Corporation Fund for recovery of money borrowed from the Government.* —(1) If any money borrowed or deemed to have been borrowed by the Corporation from the Government or any interest or costs due in respect thereof be not repaid according to the conditions of the loan, the Government may attach the Corporation Fund or any part thereof.

(2) After the attachment no person except an officer appointed in this behalf by the Government shall in any way deal with the attached fund ; but such officer may do all acts in respect thereof which any Corporation authority, officer or other employees might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrears and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceeding :

Provided that no such attachment shall defeat or prejudice any debt for which the fund was previously charged in accordance with law ; and all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds of the funds is applied to the satisfaction of the debt due to the Government.

153. *Powers to make regulations.*— The Corporation may make regulations to carry out the purposes of this Chapter including in particular, the issue of duplicate in case of losses of debenture by theft, destruction or otherwise, and renewal of debentures on payment of fees prescribed in this behalf by such regulations.

154. *Property vested in Corporation and management of public Institutions.* — (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 Corporation and with all other property, which vests in the Corporation by virtue of the provisions of this Act or any other law for the time being in force, shall be held and applied by it for the purposes of this Act, that is to say :—

(a) all such public towns, walls, gates, markets, stalls, slaughter houses, manure and depots and public building of every description as have been constructed or are maintained out of the Corporation 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 all drains, and sewers, culverts and water courses in or under any public street, or constructed by or for the Corporation alongside any public street, and all works, material and things appertaining thereto ;

(d) all public lamps, lamp posts and apparatus connected therewith or appertaining thereto ;

(e) all land or other property transferred to the Corporation by the Government or acquired by gift, purchase or otherwise for public purposes ;

(f) 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 sale by the Government to the Corporation for the public purposes, it shall be deemed to be a condition of such transfer, unless specially provided to the contrary that should the property be at any time resumed by Government the compensation payable therefor shall in no case exceed the amount, if any, paid to the Government for the transfer, together with the cost or the present value whichever shall be less, of any building erected, other works executed on the land by the Corporation.

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

(4) The management, control and administration of every public institution maintained out of the Corporation Fund shall vest in the Corporation.

(5) When any public institution has been placed under the direction, management and control of the Corporation, all property, endowments and funds belonging thereto shall be held by the Corporation in trust for the purpose 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 Corporation in respect of any such institution may be prescribed by the Government.

CHAPTER X

PROPERTIES AND CONTRACTS

155. *Acquisition of immovable property by agreement.*— When the Corporation decides to acquire any immovable property for the purpose of this Act, the Commissioner shall acquire such property on behalf of the Corporation by agreement on such terms and at such price as may be approved by the Government.

156. *Procedure when immovable property cannot be acquired by agreement.*— Whenever the Commissioner is unable to acquire any immovable property under section 155 by agreement, Government may at the request of the Commissioner acquire the same under the provisions of the [1][Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (30 of 2013)], and on payment by the Corporation of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, whereafter the land shall vest in the Corporation.

157. *Disposal of property.*— With respect to the disposal of property belonging to the Corporation, the following provisions shall have effect, namely :—

(a) The Commissioner may, with the prior approval of the Corporation—

(i) dispose of, by sale or otherwise, any moveable property belonging to the Corporation 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 Corporation ; or

(iii) sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value of which does not exceed fifty lakh rupees or the annual rent of which does not exceed five lakh rupees ;

1.Substituted for "State Land Acquisition Act, Samvat 1990" by S.O. 3466 (E) of 2020 dated 05.10.2020.

*(b)in cases not covered by clause (a) the Commissioner may, with the sanction of the Government on recommendation of the Corporation lease, sell, let out on hire or otherwise transfer any property, moveable or immovable, belonging to the Corporation ;

(c) the consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition ;

(d) the sanction of the Government under the aforesaid clauses may be given either generally for any class of cases or specially for any particular case ;

(e) subject to any condition or limitation that may be specified by or under any other provision of this Act, the forgoing provisions of this

section shall apply to every disposal of property belonging to the Corporation made under, or for any purposes of this Act.

158. *Contracts by Corporation.* —(1) Subject to the provisions of section 159 the Corporation shall be competent to enter into and perform any contract necessary for the purposes of this Act.

(2) The contracts by the Corporation under this Act would be made in the manner prescribed.

159. *Procedure for making contracts.*— With respect to the making of contracts, the following provisions shall have effect, namely :—

(a) every such contract shall be made on behalf of the Corporation by the Commissioner ;

(b) no such contract, for any purpose which in accordance with any provision of this Act the Commissioner may not carry out without the approval or sanction of the Corporation, shall be made by him until and unless such approval or sanction has been duly obtained ;

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* Sub-clauses (iv), (v), (vi) and (vii) have been numbered as clauses (b), (c), (d) and (e) by the Editor. Administrative Department may kindly look into the matter and remove the error crept therein in the original Act.

1[(c)every contract involving an expenditure up to rupees one crore or such higher amount as the Corporation may fix, may be made by the Commissioner and contracts exceeding one crore or the higher amount so fixed by the Corporation, may be made by the Executive Committee ;]

(d) no contract other than a contract falling under clause (c) shall be valid unless the same has been made with the prior approval of the Corporation :

Provided that contracts exceeding rupees fifty lacs in value or such other higher amount as the Government may fix, shall be entered into by the Corporation only after prior approval of the Government.

160. *Mode of executing contracts.* —(1) The mode of executing contracts under this Act shall be prescribed by bye-laws made in this behalf.

(2) No contract which is not made in accordance with the provisions of this Act and bye-laws made thereunder shall be binding on the Corporation.

CHAPTER XI

ACCOUNTS AND AUDIT

161. *Maintenance of Accounts.* —(1) There shall be kept in such manner and in such form as may be prescribed by regulations, accounts of receipts and expenditure of the Corporation.

(2) Till regulations as mentioned in sub-section (1) are framed, the provisions of the Jammu and Kashmir Financial Code, presently in force in respect of the municipalities shall be applicable.

(3) The accounts of the Municipal Corporation Fund shall be 2[audited by the Comptroller and Auditor General of India].

(4) For the purpose of examination and audit of the Corporation accounts, the audit agency shall have access to all the Corporation Accounts and to all records and correspondence relating thereto and the Commissioner shall forthwith furnish to the audit agency any explanation concerning any receipts or expenditure which they may call for.

1. Clause (c) substituted by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Substituted for certain words *ibid*.

162. *Report by Audit Agency.* —(1) The audit agency shall :—

(a) report to the Corporation any material impropriety or irregularity which it may at any time observe in the expenditure or in the recovery of moneys due to the Corporation or in the Corporation accounts ;

(b) furnish to the Corporation such information as it may from time to time require concerning the progress of the audit.

(2) On receipt of the report under sub-section (1) the Corporation shall take such action thereon as may be deemed necessary.

(3) As soon as may be after the commencement of each year, the audit agency shall deliver to the Corporation a report of the entire Corporation accounts for the previous year.

(4) The Commissioner shall cause the said report to be printed and shall forward as soon as may be a printed copy thereof [1][to each member of the Corporation and the Government which shall, as soon as may be, lay the said report in the Legislative Assembly of the Union territory of Jammu and Kashmir].

163. *Action by Commissioner on the report.* —(1) The Commissioner shall, as soon as may be, remedy defects or irregularities, if any, pointed out in the said report and shall also forward without delay to the Government 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.

(2) If there is a difference of opinion between the audit agency and the Commissioner or if the Commissioner does not remedy the defects or irregularities pointed out in the report within a reasonable period the audit agency shall refer the matter to the Secretary, Housing and Urban Development Department whose decision shall be final and binding.

164. *Procedure to be followed by audit agency.* —(1) Audit agency shall audit the accounts of the Corporation with the assistance of officers and other employees subordinate to it.

(2) In the discharge of his functions under this section, the auditor shall—

1. Substituted for "to each member" by S.O. 3466 (E) of 2020 dated 05.10.2020.

(a) audit the accounts of expenditure of the Corporation and shall ascertain whether moneys shown therein as having been disbursed were legally available for, and applicable to the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it ;

(b) audit the accounts of debt, deposits, sinking funds, advances, suspense and remittance transactions of the Corporation and report upon those accounts and upon the results of verification of the balances relating thereto.

(3) The auditor shall examine and audit the statement of accounts relating to the commercial service conducted in any department of the Corporation, including the trading, manufacturing and profit and loss accounts, and the balance-sheets where such accounts are maintained under the order of the Corporation, and shall certify and report upon these accounts.

(4) The auditor shall in consultation with the Commissioner and subject to any directions given by the Government, determine the form and manner to which his reports, on the accounts of the Corporation shall be prepared and shall have authority to call upon any officer of the Corporation to provide any information necessary for the preparation of these reports.

165. *Power of auditor to make queries etc and call for returns.* —(1) The auditor may make such queries and observations in relation to and of the accounts of the Corporation which he is required to audit and call for such vouchers, statements, returns and explanations in relation to such accounts as he may think fit.

(2) Every such query or observation as aforesaid shall be promptly taken into consideration by the officer or authority to whom it may be addressed and returned without delay with the necessary vouchers, documents or explanations to the auditor.

(3) The powers of the auditor with regard to the disapproval of and the procedure with regard to the settlement of objections to the expenditure from the

revenue of the Corporation shall be such as may be prescribed in consultation with the auditor.

(4) If the auditor considers it desirable that the whole or any part of the audit applied to any accounts which he is required to audit shall be conducted in the offices in which those accounts originate, he may require that those

accounts together with all books and documents having relation thereto, shall at all convenient times be made available to the said officers for inspection.

(5) The auditor shall have the power to require that any books or other documents relating to the accounts he is required to audit shall be sent for inspection by him :

Provided that if the documents are confidential he shall be responsible for preventing disclosure of their contents.

(6) The audit agency shall have authority to frame standing orders and to give directions on all matters relating to audit and particularly in respect of the method and the extent of audit to be applied and the raising and pursuing of objections.

CHAPTER XII

WATER SUPPLY, DRAINAGE AND SEWAGE DISPOSAL

166. *Definitions.*— In this Chapter, unless the context otherwise requires, the following words and expressions in relation to water supply shall have the respective meanings given below, namely :—

(i) "communication pipe" means—

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building on the street and has a stop-cock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock ;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also—

(i) where the communication pipe ends at a stopcock that stopcock ; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main ;

(ii) "main" means a pipe laid by the Corporation for the purpose of giving a general supply of water to individual consumers and includes any apparatus used in connection with such a pipe ;

(iii) "service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap ;

(iv) "supply pipe" means so much of any service pipe which is not a communication pipe ;

(v) "trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or, reservoir to another filter or, reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits or for the purpose of giving or taking a supply of water in bulk ;

(vi) "water fitting" includes pipes (other than mains) taps, cocks, valves, ferrules, meters, cisterns, baths and other similar apparatus used in connection with the supply and use of water.

167. *Power to require Corporation to carry out surveys and formulate proposals.*— The Government may require the Corporation to—

(a) carry out a survey of the existing consumption of and demand for water supplied in the municipal area and of the water resources in or available for the municipal area ;

(b) prepare an estimate of the future water supply requirements of the municipal area ;

(c) carry out a survey of the existing quality of sewage disposal of and the manner in which it is disposed of ;

(d) formulate proposals as to—

(i) the existing or future sewage disposal requirements of the municipal area ;

(ii) the existing or future sewage disposal requirements in the municipal area including proposals for the manner in which

and the place or places at which such sewage should be carried, treated and disposed of.

168. *Power to construct additional works.*— If the Corporation is of the opinion that the works and other properties for the time being vested in it for the purpose of water supply drainage and sewage disposal are inadequate for the purpose of sufficient supply of water or for the purpose of proper drainage and efficient disposal of sewage under this Act, it may take steps in accordance with the provisions of this Act for the construction of additional works whether within or outside the limits of the Corporation and for the acquisition of additional properties for such works.

169. *Functions in relations to water supply.* —(1) It shall be the duty of the Corporation to take steps from time to time :—

(a) for ascertaining the sufficiency and wholesomeness of water supplies within the municipal area ;

(b) for providing a supply of wholesome water in pipes to every part of the municipal area in which there are houses, for the domestic purpose of the occupants thereof, and for taking the pipes affording supply to such point or points that will enable the houses to be connected thereto at a reasonable cost, so, however, that this clause shall not require the Corporation to do anything which is not practicable at a reasonable cost or to provide such supply to any part of municipal area where such a supply is already available at such point or points aforesaid ;

(c) for providing, as for as possible, a supply of wholesome water otherwise than in pipes to every part of the municipal area in which there are houses, for the domestic purposes of the occupants thereof and to which it is not practicable to provide a supply in pipes at a reasonable cost, and in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and a public supply is required and can be provided at a reasonable cost, and for securing that such supply is available within a reasonable distance of every house in that part.

(2) If any question arises under clause (b) of sub-section (1) as to whether anything is or is not practicable at a reasonable cost or is to the point or points to which pipes must be taken in order to enable houses to be connected to them at reasonable cost, or under clause (c) thereof as to whether a public

supply can be provided at a reasonable cost, the Corporation shall determine that question and thereupon the Commissioner shall give effect to that determination.

170. *Supply of water to connected premises.* —(1) The Commissioner may on application by the owner of any building arrange for supplying water from the nearest main to such building for domestic purposes in such quantities as he deems

reasonable and may at any time limit the amount of water to be supplied whenever he considers necessary.

(2) Apart from the charges for the domestic supply at rates as may be fixed by the Government, additional charges will be payable for the following supplies of water :—

(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 purposes ;

(d) for gardens or for purposes of irrigation ;

(e) for watering roads and paths ;

(f) for building purposes.

171. *Power to supply water for non domestic purposes.* —(1) The Commissioner may supply water for any purpose other than a domestic purpose on such terms and conditions consistent with this Act and the bye-laws made thereunder as may be laid down in this behalf by the Corporation in receiving a written application specifying the purpose for which the 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 a competent authority and thereafter be extended, by six months at a time for a period of not exceeding the period allowed for the completion of the construction or for three years whichever is less :

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

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

172. *Making connection with municipal water works.* —(1) Where an application under section 170 or section 171 has been received, all necessary communication pipes and fittings shall be supplied by the Corporation and the work of laying and applying such communication pipes and fittings shall be executed by Corporation agency under the orders of the Commissioner, 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 Corporation 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 contained in sub-section (1) the Commissioner may require any owner or person applying for a supply of water to provide all communication pipes and fittings and to carry out at his own cost under his supervision and inspection all the work of laying and applying such communication pipes and fittings.

173. *Obligation of owner or occupier to give notice of waste of water.*—Any owner or occupier of any building or land in or on which water supplied under this Act is misused from negligence or other circumstances under his control or used without permission in excess of the quantity fixed under section 170 or section 171 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 Corporation may appoint in this behalf.

174. *Cutting of supply to premises.*— If any person whose premises are supplied with water, neglects to pay the water tax or any sum payable under section

170 or section 171 when due, or to give notice as provided in the last preceding section, or wilfully or negligently misuses or causes waste of water the Corporation may cut off the supply of water from the said premises.

175. *New premises not to be occupied without arrangement for water supply.*— It shall not be lawful for the owner of any premises which may be

newly constructed or reconstructed within any portion of the municipal area, in respect of which the Commissioner has given public notice under clause (b) of section 87 to occupy it or cause or permit it to be occupied until he has obtained a certificate from the Commissioner that there is provided within, or within a reasonable distance of the premises such supply of wholesome water as appears to the Commissioner to be adequate for the person who may occupy, or be employed in such premises for their domestic purposes.

176. *Public gratuitous water supply.* —(1) The Commissioner, with the approval of the Corporation, may provide gratuitous supply of wholesome water to the public within the municipal area and may for that purpose erect public hydrants or other conveniences.

(2) The Commissioner may with like approval, close a public hydrant for other convenience when it is no longer, required for the supply of wholesome water to the public.

177. *Powers to lay mains.* —(1)The Commissioner may lay a main whether within or outside the limits of the Corporation—

(a) in any street ; and

forming part of a street, in, over or on that land, and may from time to time in respect of repair, alter or renew or may at any time remove any main so laid whether by virtue of this section or otherwise :

Provided that where a consent required for the purpose of this sub-section is withheld, the Commissioner may after giving the owner or occupier of the land a written notice of his intention so to do, lay the main in, over or on that land even without such consent.

(2) Where the Commissioner in exercise of the powers under this section lays a main in, over or on any land not

forming part of a street or inspects, repairs, alters, renews or removes a main so laid down, in, over or on any such land he shall pay compensation to every person interested in that land for any damage done to, or injurious affection of that land by reasons of the inspection, lying, repair, alteration, renewal or removal of the main.

178. *Power to lay service pipes etc.* —(1) The Commissioner may, in any street, whether within or outside the limits of the Corporation lay such service pipes with such stopcocks and other water fittings as he may deem necessary for supplying water to premises and may from time to time inspect, repair, alter

or renew and may at any time, remove any service pipe laid in a street whether by virtue of this section or otherwise.

forming part of a street, the Commissioner may, from time to time, enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution thereof but shall pay compensation for any damage done in the course of such action.

179. *Provision of fire hydrants.* —(1) The Commissioner shall fix hydrants on water mains (other than trunk mains) at such places as may be most convenient for affording supply of water for extinguishing any fire which may break out and shall keep in good order and from time to time renew every such hydrant.

(2) To denote the situation of every hydrant placed under this section, letters, marks or figures shall be displayed prominently on some wall, building or other structure near such hydrant.

(3) As soon as any such hydrant is completed the Commissioner shall deposit a key thereof at each place where a public fire engine is kept and in such other places as he deems necessary.

(4) The Commissioner may at the request and expense of the owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a pipe is laid (and not being a trunk main and being of sufficient dimensions to carry a hydrant), fix on the pipe and keep in good order from time to time to renew one or more fire hydrants to be used only for extinguishing fires as near as conveniently may be to that factory, workshop, trade premises or place of business.

(5) The Commissioner shall allow all persons to take water for extinguishing fires from any pipe on which a hydrant is fixed without any payment.

180. *Power to enter premises to detect waste or misuse of water.*— The Commissioner or any Corporation officer authorised by the Commissioner in writing may, between sunrise and sunset, enter any premises supplied with water by the Corporation in order to examine if there be any waste or misuse of such water and the Commissioner or such officer shall not be refused admittance to the premises not shall be obstructed by any person in making his examination.

181. *Power to test water fittings.*— The Commissioner may test any water fittings used in connection with water supplied by the Corporation.

182. *Power to close or restrict use of water from polluted source of supply.* — (1) If the Commissioner is of the opinion that the water in or obtained from any well, tank or other source of supply not vested in the Corporation being water which is or is likely to be used for domestic purposes or for the preparation of food or drink for human consumption or is likely to become so polluted as to be prejudicial to health the Commissioner may after giving the owner or occupier of the premises in which the source of supply is situated a reasonable opportunity of being heard, by order direct that the source of supply be permanently or temporarily closed or cut off or the water therefrom be used for certain purposes only or make such order as appears to him necessary to prevent injury or danger to the health of persons using the water or consuming food or drink prepared therewith or therefrom.

(2) Before making any order under this section, the Commissioner may cause the water to be analysed at the cost of the Corporation.

(3) If the person to whom an order is made under this section fails to comply therewith, the Commissioner may do whatever may be necessary for giving effect to the order and any expenses reasonably incurred by him in so doing may be recovered by him from the person in default as an arrears of tax under this Act.

183. *Water pipes not to be placed where water will be polluted.*—(1) No water pipes shall be laid in a drain on the surface of an open channel or house gully or within six meters of a cesspool or in any position where the pipe is likely to be injured or the water therein, polluted and no well or tank shall be constructed within six meters of a latrine or cesspool.

(2) No latrine or cesspool shall be constructed or made within six meters of any well, tank, water pipe or cistern or in any position where the pipe, well, tank or cistern is likely to be injured or the water therein polluted.

184. *Joint and several liability of owners and occupiers for offence in relation to water supply.*— If any offence relating to water supply is committed under this Act or any premises connected with the Corporation water works the owner, the person primarily liable for the payment of the water tax, and the occupiers of the said premises shall be jointly and severally liable for such offence.

185. *Public drains etc. to vest in Corporation.* —(1) All public drains, all drains in, alongside or under any street and all sewage disposal works whether constructed out of the Corporation Fund or otherwise and all works, materials and things pertaining thereto which are situated in the municipal area shall vest in the Corporation.

(2) All public and other drains which are vested in the Corporation are hereafter in this Act referred to as Corporation drains.

(3) For the purpose of enlarging, deepening or otherwise repairing or maintaining any such drain or sewage disposal work so much of the sub-soil pertaining thereto as may be necessary for the said purposes shall also be deemed to vest in the Corporation.

(4) All drains and ventilation-shafts, pipes and all appliances and fittings connected with the drainage works constructed, erected or set up out of the Corporation Fund in or upon premises not belonging to the Corporation whether —

(a) before or after the commencement of this Act ; and

(b) for the use of the owner or occupier of such premises or not,

shall unless the Corporation has otherwise determined or does at any time otherwise determine, vest and be deemed always to have vested in the Corporation.

186. *Control of drains and sewage disposal works.* —(1) All Corporation drains, all sewage disposal works and works, materials and things appertaining thereto, shall be under the control of the Commissioner.

(2) The Commissioner shall maintain and keep in repair all municipal drains and sewage disposal works and when authorised by the Corporation in this behalf, shall construct as many new drains and sewage disposal works as may from time to time be necessary for effectual drainage and sewage disposal.

187. *Certain matters not to be passed into municipal drains.*— No person shall throw, empty, or turn into any Corporation drain or into any drain communicating with a Corporation drain—

(a) any matter likely to injure the drain or to interfere with the free flow of its content, or to affect prejudicially the treatment and disposal of its contents ; or

(b) any chemical refuse or waste steam, or any liquid of a temperature higher than forty five degrees Celsius being refuse or steam or a liquid which when so heated is either alone or in combination with the contents of the drain, dangerous or the cause of nuisance, prejudicial to health ; or

(c) any dangerous petroleum.

Explanation:—In this section the expression "dangerous petroleum" has the same meaning as is assigned to it in the Petroleum Act, 1934.

188. *Application by owners and occupiers to drain into municipal drain.*—(1) Subject to such conditions as may be prescribed by bye-laws made in this behalf the owner or occupier of any premises having a private drain, or the owner of any private drain within the municipal area may apply to the Commissioner to have his drain made to communicate with the drains and thereby to discharge foul water and surface water from those premises or that private drain :

Provided that nothing in this sub-section shall entitle any person—

(a) to discharge directly or indirectly into any Corporation drain :—

(i) any trade effluent from any trade premises except in accordance with bye-laws made in this behalf ; or

(ii) any liquid or other matter the discharge of which into Corporation drains is prohibited by or under this Act or any other law ; or

(b) where separate Corporation drains are provided for foul water and for surface water to discharge directly or indirectly :—

(i) foul water into a drain provided for surface water ; or

(ii) except with the permission of the Commissioner surface water into drain provided for foul water ; or

(c) to have his drains made to communicate directly with a storm water overflow drain.

(2) Any person desirous of availing himself of the provisions of sub-section (1) shall give to the Commissioner a notice of his proposal and at any

time within one month after receipt thereof, the Commissioner may by notice to him refuse to permit the communication to be made, if it appears to him that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the drainage system and for the purpose of examining the mode of construction and condition of the drain he may, if necessary require it to be laid open for inspection.

(3) The Commissioner may, if he thinks fit, construct such part of the work necessary for having a private drain made to communicate with the municipal drain as is in or under a public street and in such a case the expenses incurred by the Commissioner shall be paid by the owner or occupier of the premises, or as the case may be, the owner of the private drain and shall be recoverable from the owner or occupier as an arrears of tax under this Act.

189. *Drainage of un-drained premises.* —(1) Where any premises are in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place approved by the Commissioner for the discharge of filth and other polluted and obnoxious matter is situated at a distance of not exceeding thirty metres from any part of the said premises, he may, by written notice require the owner of the said premises—

(a) to make a drain emptying into such Corporation drain or place ;

(b) to provide and set up all such applications and fittings as may appear to the Commissioner necessary for the purpose of gathering and receiving the filth and other polluted and obnoxious matter from and conveying the same off, the said premises and of effectual flushing such drain and every fixture connected therewith ;

(c) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is injurious to health ;

(d) to provide a close drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing which is or likely to be injurious to health ;

(e) to provide and set up all such appliance and fittings as may appear to the Commissioner to be necessary for purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed and conveying the same through spouts, by

down take pipes so as to prevent such waste water from discharging directly on streets or inside and lower portion of the premises ;

(f) to carry out any work to improve or remodel an existing drain which is inadequate, insufficient or faulty.

(2) Where in any case not provided for in sub-section (1), any premises are in the opinion of the Commissioner, without sufficient means of effectual drainage, he may, by written notice, require the owner of the premises—

(a) to construct a drain up to a point to be prescribed in such notice but not at a distance of more than thirty metres from any part of the premises ; or

(b) to construct a close cesspool, a soakage pit and drain or drains supplying into such cesspool or soakage pit.

(3) Any requisition for the construction of any drain under sub-section (2) may contain any of the details specified in sub-section (1).

190. *New premises not to be erected without drainage.* —(1) It shall not be lawful to erect or to re-erect any premises in the municipal area or occupy any such premises unless :—

(a) a drain be constructed of such size, materials and with such fall as shall appear to the Commissioner to be necessary for the effectual drainage of such premises ;

(b) there have been provided and set up on such premises, such appliances and fittings as may appear to the Commissioner to be necessary for the purpose of gathering or receiving the filth and other polluted and obnoxious matter from and conveying the same off the said premises and of effectual flushing the drain of the said premises and every fixture connected therewith.

(2) The drain so constructed shall empty into a Corporation drain situated at a distance of not exceeding thirty metres from the premises, but if no Corporation drain is situated within that distance then such drain shall empty into a cesspool situated within that distance to be specified by the Commissioner for the purpose.

191. *Power to drain group or block of premises by combined operations.*—(1) If it appears to the Commissioner that any group or block of premises may

be drained more economically or advantageously in combination than separately and a Corporation drain of sufficient size already exists or is about to be constructed within thirty meters of any part of that group or block of premises the Commissioner may cause that group or block of premises to be drained by a combined operation.

(2) The expenses incurred in carrying out any work under sub-section (1) in respect of any group or block of premises shall be paid by the owners of such premises in such proportion as the Commissioner may determine and shall be recoverable from them as an arrear of tax under this Act.

(3) Not less than fifteen days before any such work is commenced, the Commissioner shall give to each such owner—

(a) written notice of the nature of the proposed work ; and

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

(4) The Commissioner may require the owners of such group or block of premises to maintain the work executed under this section.

192. *Power of Commissioner to close or limit the use of private drain in certain cases.*— Where a drain connecting any premises with a Corporation drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable but is not in the opinion of the Commissioner, adapted to the general system of drainage in the municipal area, he may by written notice addressed to the owner of the premises, direct—

(a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done ; or

(b) that such drain shall from such date as may be specified in the notice in this behalf be used for filth and polluted water only or for rain water and un-polluted sub-soil water only :

Provided that—

(i) no drain may be closed, discontinued or destroyed by the Commissioner under clause (a) except on condition of his providing another drain equally effectual for the drainage of the premises and communicating with any Corporation drain which he thinks fit ; and

(ii) the expenses of the construction of any drain so provided by the Corporation and of any work done under clause (a) may be paid out of the Corporation Fund.

193. *Use of drain by a person other than owner* .—(1) Where the Commissioner either on receipt of an application from the owner of any premises or otherwise is of opinion that the only or the most convenient means of effectual drainage of the premises into Corporation drain is through a drain belonging to another person, the Commissioner may by notice in writing require the owner of such drain to show cause within a period specified in the notice as to why an order under this section should not be made.

(2) Where no cause is shown within the specified period or the cause shown appears to the Commissioner invalid or insufficient the Commissioner may by order in writing either authorise the owner of the premises to use the drain or declare him to be joint owner thereof.

(3) An order made under sub-section (2) may contain directions as to—

(a) the payment of rent or compensation by the owner ;

(b) the construction of a drain for the premises for the purpose of connecting with the aforesaid drain ;

(c) the entry upon the land in which the aforesaid drain is situated with assistants and workmen at all reasonable hours ; and

(d) the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the aforesaid drain.

194. *Sewage and rain water drains to be distinct.*— Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent for the Commissioner to require that there shall be one drain for filth and polluted water and an entirely distinct drain for rain water and un-polluted sub-soil water or both rain water and un-polluted sub-soil water each emptying into separate Corporation drains at other suitable places.

195. *Powers of Commissioner to require owner to carry out certain works for satisfactory drainage.*— For the purpose of efficient drainage of any premises the Commissioner may by notice in writing—

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

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

196. *Appointment of places for the emptying of drains and disposal of sewage.*– – The Commissioner may cause any or all of the Corporation drains to empty into and all sewage to be disposed of at such place or places as he considers suitable :

Provided that no place which has been not before the commencement of this Act used for any of the purposes specified in this section, shall after such commencement be used therefor without the approval of the Corporation :

Provided further that on and after such date as may be appointed by the Government in this behalf no sewage shall be discharged into any water course until

it has been so treated as not to effect prejudicially the purity and quality of the water into which it is discharged.

197. *Connection with water works and drains not to be made without permission.*— Without the written permission of Commissioner no person shall for any purpose whatsoever, at any time make or cause to be made any connection or communication with any drain referred to in section 186 or any water works constructed or maintained by, or vested in the Corporation.

198. *Buildings and private streets not to be erected or constructed over drains or water works without permission.*— (1) Without the written permission of the Commissioner no private street shall be constructed and no building, wall, fence or other structure shall be erected on any municipal drain or on any water works constructed or maintained by or vested in the Corporation.

(2) If any private street be constructed or any building, wall, fence or structure erected on any drain or water works as aforesaid without the written permission, the Commissioner may remove or otherwise deal with the same as he may think fit.

(3) The expenses incurred by the Commissioner in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure,

as the case may be, or the person offending and shall be recoverable as an arrear of tax under this Act.

199. *Rights of user of property for aqueducts, lines etc.* —(1) The Commissioner may place and maintain aqueducts, conduits and lines of mains or pipes or drains over, under, along or across any immovable property whether within or outside the limits of the municipal area, if necessary through an agreement, and may at any time for the purpose of examining, repairing, altering or removing any aqueducts, conduits or lines of mains or pipes or drains after giving a reasonable notice of his intention so to do, enter on any property over, under, along or across which the aqueducts, conduits or lines of mains or pipes or drains have been placed :

Provided that the Corporation shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line or mains or pipes or drain is placed.

(2) The powers conferred by sub-section (1) shall not be exercisable in respect of any property vested in the Government or under the control or management of the Government or vested in any local authority save with the permission of the Government or the local authority, as the case may be, and in accordance with any bye-laws made in this behalf :

Provided that the Commissioner may, without such permission, repair, renew or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain without interruption the supply of water, drainage or disposal or sewage or is such that delay would be dangerous to health, human life or property.

(3) In the exercise of the powers conferred upon him by this section the Commissioner shall cause as little damage and inconvenience as may be possible and shall make full compensation for any damage or inconvenience caused by him.

200. *Power of owner of premises to place pipes and drains through land belonging to other persons.* —(1) If it appears to the Commissioner that the only or most convenient means of water supply to and drainage of, any premises is by placing, or carrying any pipe or drain over, under, along or across the immovable property of another person, the Commissioner may, by order in writing authorise the owner of the premises to place or carry such pipe or drain over, under, along or across such immovable property :

Provided that before making any such order the Commissioner shall give to the owner of the immovable property a reasonable opportunity of showing cause within such times as may be prescribed by bye-laws made in this behalf as to why the order should not be made :

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across, which any such pipe or drain is placed or carried.

(2) Upon the making of an order under sub-section (1) the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistance and workmen at any time between sun rise and sun set for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing the same.

(3) In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall—

(a) cause the pipe or drain to be placed or carried with the least practicable delay ;

(b) fill in, reinstate and make good at his own cost with the least practicable delay and land owned, broken up or removed for the purpose of placing or carrying such pipe or drain ; and

(c) pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe or drain.

(4) If the owner of the immovable property over, under, along or across which a pipe or drain has been placed or carried under this section while such immovable property was not built upon, desires to erect any building on such property, the Commissioner shall by notice in writing, require the owner of the premises to close, remove or divert the pipe of drain in such manner as shall be approved by him and to fill in, reinstate and make good the immovable property as if the pipe or drain had not been placed or carried over, under, along or across the same :

Provided that no such requisition shall be made unless in the opinion of the Commissioner it is necessary or expedient for the construction of the proposed building on the safe enjoyment thereof that the pipe or drain should be closed, removed or diverted.

201. *Railway administration to be informed in certain cases.*— If the Corporation desires to place or carry any pipe or drain or do any other work connected with the water supply or drainage across any railways line, it shall inform the railway administration who may execute the same at the cost of the Corporation.

202. *Power of Commissioner to execute work after giving notices to the person liable to do so.* —(1) When under the provisions of this Chapter any person may be required or is liable to execute any work the Commissioner may in accordance with the provisions of this Act and of any bye-laws made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by him for this purpose.

(2) The expenses incurred or likely to be incurred by the Commissioner in the execution of any such work shall be payable by the said person and the expenses incurred by the Commissioner in connection with the maintenance of such work or the enjoyment of amenities and conveniences rendered possible by such work, shall be payable by the person or persons enjoying such amenities and conveniences.

(3) The expenses referred to in sub-section (2) shall be recoverable from the person or persons, liable therefor as an arrear of tax, under this Act.

203. *Power of Commissioner to affix shafts for ventilation of drain or cesspool.*— For the purpose of ventilating any drain or cesspool, whether vested in the Corporation or not the Commissioner may, in accordance with bye-laws made in this behalf, erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as may appear to him to be necessary.

204. *Power of Commissioner to examine and test drain etc. believed to be defective.* —(1) Where it appears to the Commissioner that there are reasonable grounds for believing that a private drain or cesspool is in such condition as to be

prejudicial to health or a nuisance or that a private drain communicating directly or indirectly with a municipal drain is so defective as to admit sub-soil water, he may examine its condition and for that purpose may apply any test other than a test of water under pressure and if he deems necessary open the ground.

(2) If on examination the drain or cesspool is found to be in proper condition, the Commissioner shall as soon as possible reinstate any ground which has been opened by him and make good any damage done by him.

205. *Employment of Government agencies for repairs etc.*— The Government may, for reasons to be recorded, direct that any specified work, repair, renewal, or replacement which is to be undertaken by or for the Corporation under this Chapter, shall be carried out on behalf of the Corporation by the Government and the Corporation shall pay the charges therefor at the rate and subject to the terms for the time being applicable in the case of works constructed by the Government on behalf of a local authority.

206. *Work to be done by licensed plumber.* —(1) No person other than a licensed plumber shall execute any work described in this Chapter and no person shall permit any such work to be executed except by a licensed plumber :

Provided that if, in the opinion of the Commissioner the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs licensed plumber to execute any work shall when so required, furnish to the Commissioner the name of such plumber.

(3) When any work is executed in accordance with the provisions of sub-section (1) such work shall be liable to be dismantled at the discretion of the Commissioner without prejudice to the right of the Corporation to prosecute under this Act the person at whose instance such work has been executed.

(4) The Corporation may make bye-laws for the guidance of licensed plumbers and a copy of all such bye-laws shall be attached to every licence granted to a plumber by the Corporation.

(5) The Corporation may from time to time prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of this Chapter.

(6) No licensed plumber shall, for any work referred to in sub-section (5) demand or receive more than the charges prescribed therefor under that sub-section.

(7) The Corporation shall make bye-laws providing for :—

(a) the exercise of adequate control on all licensed plumbers ;

(b) the inspection of all works carried out by them ;

(c) the hearing and disposal of complaints made by the owners or occupiers of premises with regard to the quality of work done, material used, delay in execution of work and the charges made by a licensed plumber.

(8) No licensed plumber shall contravene any of the bye-laws made under this section or execute carelessly or negligently any work under this Act or make use of bad materials, appliances or fittings.

(9) If any licensed plumber contravenes sub-section (8) his licence may be suspended or cancelled whether he is prosecuted under this Act or not.

207. *Prohibition of certain acts.* —(1) No person shall—

(a) wilfully, obstruct any person acting, under the authority of the Corporation or the Commissioner, in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purpose of setting out lines of such work or deface or destroy any works made for the same purpose ; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Corporation ; or

(c) unlawfully obstruct the flow of, or flush, draw off, or divert or take water from any water works belonging to the Corporation or any water course by which any such water is supplied ; or

(d) unlawfully obstruct the flow of, or flush, draw off, divert or take sewage from any sewage work belonging to the Corporation or break or damage any electrical transmission line maintained by the Corporation ; or

(e) obstruct any officer or other employee of the Corporation in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water or sewage work ;

(f) bath in, at or upon any water work or wash or throw or cause to enter therein any animal or throw any rubbish, dirt, filth into any

water work or wash or clean therein any cloth, wool or leather or the skin of any animal or cause the water of any sink of drain or any steam-engine or boiler, or any polluted water to turn or be brought into any water work or do any other act whereby the water in any water work is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

CHAPTER XIII

STREETS

208. *Vesting of public streets in Corporation.* —(1) All streets within the municipal area which are or at any time become public streets and the pavement stones and other materials thereof, shall vest in the Corporation.

(2) All public streets vesting in the Corporation shall be under the control of the Commissioner and shall be maintained, controlled and regulated by him in accordance with the bye-laws made in this behalf.

209. *Functions of Commissioner in respect of public streets.* —(1) The Commissioner shall, from time to time, cause all public streets vested in the Corporation to be levelled, metalled or paved, channelled and altered or repaired and altered or repaired and may widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered or may place and keep in repair fences and posts for the safety of foot passengers.

(2) With the previous sanction of the Corporation, the Commissioner may permanently close the whole or any part of a public street :

Provided that before according such sanction the Corporation shall by notice published in the manner specified by bye-laws give reasonable opportunity to the residents likely to be affected by such closure to make suggestions or objections with respect to such closure and shall consider all such suggestions or objections, which may be made within one month from the date of the publication of the said notice.

210. *Disposal of land forming site of public streets permanently closed.*— Whenever any public street or a part thereof is permanently closed under sub-

section (2) of section 209, the site of such street or of the portion thereof may be disposed of as land vesting in the Corporation.

211. *Power to make new public streets.*— The Commissioner may, at any time with the previous sanction of the Corporation—

(a) lay out and make new public streets ;

(b) construct bridges and sub-ways ;

(c) turn or divert any existing public streets ;

(d) lay down and determine the position and direction of a street or streets in any part of the municipal area notwithstanding that no proposal for the erection of any building in the vicinity has been received.

212. *Minimum width of new public streets.*— The Commissioner, shall, from time to time, with the sanction of the Corporation, specify the minimum width of different classes of new public streets according to the nature of the traffic likely to be carried thereon and the streets with which they join at one or both ends, the localities in which they are situated, the heights up to which buildings abutting thereon may be erected and other similar consideration.

213. *Power to prohibit use of public streets for certain kinds of traffic.*— (1) The Commissioner may—

(a) prohibit vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality ;

(b) prohibit in respect of all public streets or any particular public streets the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwidely objects as may be likely to cause injury to the roadways or any construction thereon, except under such conditions as to time, mode of the traction or locomotion, use of appliances for the protection of roadways, number of lights and assistants and other general precautions, and upon the payment of such charges as may be specified by the Commissioner generally or specially in each case ;

(c) prohibit access to premises from any particular public street carrying high speed vehicular traffic :

Provided that the Commissioner shall not take action without the sanction of the Corporation in cases under clauses (a) and (c).

(2) Notices of such prohibition as are imposed under sub-section (1) shall be posted in conspicuous places at or near both ends of public streets or portions thereof to which they relate, unless such prohibition applied generally to all public streets.

214. *Power to acquire land and buildings for public streets and for public parking places.*— Subject to the provisions contained in Chapter X the Commissioner may :—

(a) acquire any land required for the purposes of opening, widening, extending or otherwise improving any public street or of making any new public street and any building standing upon such land ;

(b) acquire in relation to any such land or building, all such land with buildings, if any thereon as the Corporation may think expedient to acquire outside the regular line or the intended regular line of such street ; or

(c) when any land, whether within or outside the limits of the municipal area is required for the purposes of this Act the Government may, at the request of the Corporation proceed to acquire it under the provisions of the Land Acquisition Act, and on payment by the Corporation of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the Corporation.

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 Corporation 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 purpose of this Act.

215. *Defining regular lines of streets.* —(1) The Commissioner may define a line on one or both sides of any public street in accordance with the bye-laws made in this behalf and may with the previous sanction of the Corporation redefine at any time any such regular line :

Provided that, before according sanction the Corporation shall by public notice afford reasonable opportunity to the residents of premises abutting on such public street to make suggestions or objections with respect to the proposed redefined line of the street and shall consider all suggestions or objections which may be made within one month from the date of the publication of the said notice :

Provided further that the regular line of any public street operative under any law in force in any part of the municipal area immediately before the commencement of this Act shall be deemed to be a line defined by the Commissioner under this sub-section.

(2) The line for the time being defined or redefined shall be called the regular line of street.

(3) No person shall construct or reconstruct any building or a portion thereof or any boundary wall or other structure whatsoever within the regular line of a street except with the written permission of Commissioner :

Provided that if within 60 days after the receipt of application from any person for permission to construct or reconstruct a boundary wall or a portion thereof the Commissioner fails to take steps to acquire the land within the regular line of the street in accordance with section 218 then that person may subject to other provisions of this Act and the bye-laws made thereunder proceed with the work of construction or reconstruction of such boundary wall or portion thereof.

216. *Setting back of building to regular line of street.* —(1) If any part of a building abutting on a public street is within the regular line of that street, the Commissioner may, whenever it is proposed to repair, remove, construct or reconstruct or make any additions to or structural alterations of, any portion of such building which is within the regular line of the street by order which he issues concerning the additions to rebuilding, construction, repair or alterations of such building require such building to be set back to the regular line of the street.

(2) When any building or any part thereof within the regular line of a public street falls down or is burnt down or is whether by the order of the Commissioner or otherwise, taken down the Commissioner may forthwith, take possession on behalf of the Corporation of the portion of the land within the regular line of the street therefore occupied by the said building and if necessary, clear the same.

(3) Land acquired under this section shall be deemed to be a part of the public street and shall vest in the Corporation.

217. *Compulsory setting back of building to regular line of streets.* —(1) Where any building or any part thereof is within the regular line of a public street and in the opinion of the Commissioner it is necessary to set back the building or part thereof to the regular line of the street, he may, by notice served on the owner in accordance with the provisions of this Act require him to show cause within such period as may be specified in the notice as to why such building or part thereof which is within the regular line of the street should not be pulled down and the land within the regular line acquired by the Commissioner on behalf of the Corporation.

(2) If such owner fails to show cause as required by sub-section (1) the Commissioner may, with the approval of the Corporation require the owner by another notice to be served on him in accordance with the provisions of this Act to pull down the building or part thereof which is within the regular line of the street within such period as specified in the notice.

(3) If within such period the owner of the building fails to pull down the building or part thereof as required by the Commissioner, the Commissioner may pull

down the same and all the expenses incurred in doing so shall be paid by the owner and be recoverable from him as an arrear of tax under this Act.

(4) The Commissioner shall at once take possession on behalf of the Corporation of the portion of the land within the regular line of the street occupied by the said building or part thereof and such land shall thereupon be deemed to be a part of the public street and shall vest in the Corporation.

218. *Acquisition of open land and land occupied by platforms etc. within the regular line of streets.* —(1) If any land, whether open or enclosed, not vesting in the Corporation and not occupied by any building is within the regular line of a public street or if a platform, verandah, step, compound wall, hedge or fence or some other structure external to a building abutting on a public street or a portion of such platform, verandah, step, compound wall, hedge or fence or some other structure is within the regular line of such street the Commissioner may after giving to the owner of the land or building not less than seven days'notice of his intention so to do take possession on behalf of the Corporation of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step, compound wall, hedge or fence or other structure or of any portion thereof which is within the regular line of the public street and if necessary clear the same and the land so acquired shall thereupon be deemed to be part of the public street and shall vest in the Corporation :

Provided that where the land or building is vested in the Government or the Central Government, the Commissioner shall not take possession thereof without the previous sanction of the Government or the Central Government, as the case may be.

219. *Acquisition of remaining part of building and land after their portions within regular line of street have been acquired.* —(1) Where a land or building is partly within the regular line of a public street and the Commissioner is satisfied that the land remaining after the requisition of the portion within the said line still not be suitable or fit for any beneficial use he may, at the request of the owner, acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public street and shall vest in the Corporation.

(2) Such surplus land may thereafter be utilised for the purpose of setting forward a building under section 220.

220. *Setting forward of building to regular line of street.* —(1) The Commissioner may, upon such terms, as he thinks fit, allow any building to be set forward for the purpose of improving the regular line of a public street and may with the sanction of the Corporation by notice require any building to be so set forward in the case of reconstruction thereof or of a new construction.

Explanation.— For the purpose of this section a wall separating any premises from a public street shall be deemed to be a building and it shall be deemed a sufficient compliance, with permission or requisition to set forward a building to the regular line of a street if a wall of such material and dimensions as are approved by the Commissioner is erected along the said line.

221. *Compensation to be paid in certain cases of setting back or setting forward of buildings etc.* —(1) Compensation shall be paid by the Commissioner to the owner of any building or land acquired for a public street under the provisions of sections 216, 217 and 218 for any loss which such owner may sustain in consequence of his building or land being so acquired and for any expenses incurred by such owner in consequence of any order made by the Commissioner.

Provided that—

(a) any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to

accrue from the setting back to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation ; and

(b) if any such increase in the value exceeds the amount of loss sustained or expenses incurred by the owner, the Commissioner may recover from him half of the amount of such excess as a betterment charge.

(2) If in consequence of any order to set forward a building made by the Commissioner the owner of such building sustains any loss or damage, compensation shall be paid to him by the Commissioner for such loss or damage after taking into account any increase in value likely to accrue, from the setting forward.

(3) If the additional land which will be included in the premises of any person required or permitted under sub-section (2) to set forward a building belongs to the Corporation the order or permission of the Commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land and, the price to be paid to the Corporation by the owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the order or permission.

(4) If, when the Commissioner required any building to be set forward, the owner of the building is dissatisfied with the price fixed to be paid to the Corporation or with any of the terms and conditions of conveyance, the Commissioner shall, upon the application of the owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Court of the District Judge whose decision thereon shall be final.

222. *Owner's obligation when dealing with land or building sites.*— If the owner of any land utilises, sells, leases out or otherwise disposes of such land for the construction of building thereon, he shall lay down and make a street or streets giving access to the plots into which the land may be divided and connecting with an existing public or private street.

223. *Layout plans.* —(1) Before utilising, selling or otherwise dealing with any land under section 222 the owner thereof shall send to the Commissioner a written application with a lay out plan of the land showing the following particulars, namely :—

(a) the plots into which the land is proposed to be divided for the erection of building thereon and purpose or purposes for which such buildings are to be used ;

(b) the reservation or allotment of any site for any street, open space, park, recreation ground, school, market or any public purpose ;

(c) the intended level, direction and width of street or streets ;

(d) the regular line of street or streets ; and

(e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining, conserving and lighting street or streets.

(2) The provisions of this Act and the bye-laws made thereunder as to width of the public streets and the height of building abutting thereon shall apply in the case of streets referred to in sub-section (1) and all the particulars referred to in that sub-section shall be subject to the sanction of the Corporation.

(3) Within sixty days after the receipt of any application under sub-section (1) the Corporation shall either accord sanction to the layout plan on such conditions as it may think fit or ask for further information with respect to it.

(4) Such sanction shall be refused :—

(a) if the particulars shown in the layout plan would conflict with any arrangement which have been made or which are in the opinion of the Corporation likely to be made for carrying out any general scheme of development of the municipal area whether contained in the master plan or a zonal development plan prepared for the municipal area or not ; or

(b) if the said layout plan does not conform to the provisions of this Act and bye-laws made thereunder ; or

(c) if any street proposed in the plan is not designed so as to connect at one end with a street which is already open.

(5) No person shall utilise, sell or otherwise deal with any land or layout or make any new street without or otherwise than in conformity with the orders of the Corporation and if further information is asked for, no step shall be taken

to utilise, sell or otherwise deal with the land or to layout or make the street until orders have been passed upon receipt of such information :

Provided that the passing of such order shall not be in any case delayed for more than 60 days after the Corporation has received the information which it considers necessary to enable it to deal with the said application.

(6) The layout plan referred to earlier in this section shall, if so required by the Corporation, be prepared by a licensed town planner.

224. *Alteration or demolition of street made in breach of section 223.*—(1) If any person lays out or makes any street referred to in section 223 without or otherwise than in conformity with the orders of the Corporation, the Commissioner may, by notice :—

(a) require the offender to show cause by a written statement signed by him and sent to the Commissioner on or before such date as may be specified in the notice, why such street should not be altered to the satisfaction of the Commissioner or if such alteration be impracticable why such street should not be demolished ; or

(b) require the offender to appear before the Commissioner whether personally or by duly authorised agent on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show cause to the satisfaction of the Commissioner why such street should not be so altered or demolished, the Commissioner may pass an order directing the alteration or demolition of such street.

225. *Power of Commissioner to order work to be carried out or to carry it out himself in default.* —(1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Commissioner, he may by notice require the owners of such street or part and the owners of the lands and buildings fronting or, abutting on such street or part to carry out any work which in his opinion may be necessary and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice, the Commissioner may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners referred to in sub-section (1) in such proportion as

may be determined by the Commissioner and shall be recoverable from them as an arrear of tax under this Act.

226. *Declaration of public streets.* —(1) If any street has been levelled, paved, metalled, flagged, channelled, sewered, drained, conserved and lighted under the provisions of section 225, the Commissioner may, and on the requisition of the majority of the owner referred to in sub-section (1) of that section shall declare such a street to be a public street and thereupon the street shall vest in the Corporation.

(2) The Commissioner may at any time, by notice fixed up in any street or part thereof, not maintainable by the Corporation, give intimation of his 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 the several owners of such street or such part of a street lodge objection thereto at the Corporation Office, the Commissioner may by notice in writing, put up in such street or such part, declare the same to be a public street vested in the Corporation.

227. *Prohibition of projection upon street etc.* —(1) Except as provided in section 228, no person shall erect, set up, add to or place against or in front of any premises any structure or fixture which will :—

(a) overhang, jut or project into, or in any way encroach upon and obstruct in any way the safe or convenient passage of the public along any street ; or

(b) jut or project into or encroach upon any drain or open channel in any street so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Commissioner may by notice require the owner or occupier of any premises to remove or to take such other action as he may direct in relation to any structure or fixture which has been erected, set up, added or placed against, or in front of the said premises in contravention of this section.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit into account with the owner of the premises for all reasonable expenses incurred by him in complying with the notice.

228. *Projection over streets may be permitted in certain cases.* —(1) The Commissioner may give a written permission on such terms and on payment of such fee as he in each case thinks fit, to the owner or occupier of the building or any street—

(a) to erect an arcade, over such street or any portion thereof, or

(b) to put up a verandah, balcony, arch connecting passage, sunshade, weather frame, canopy, awning or other such structure or thing projecting from any story over or across any street or portion thereof :

Provided that no permission shall be given by the Commissioner for the erection of an arcade in any public street in which construction of an arcade has not been generally sanctioned by the Corporation.

(2) The Commissioner may at any time by notice require the owner or occupier of any building to remove a verandah, balcony, sunshade, weather frame or the like put up in accordance with the provisions of this Act and such owner or occupier shall be bound to take action accordingly but shall be entitled to compensation for the loss caused to him by such removal and the cost incurred thereon.

229. *Ground floor door etc. not to open outwards on streets.*— The Commissioner may at any time by notice require the owner of any premises on the ground floor of which any door, gate or window opens outwards upon a street or upon any land required for the improvement of a street in such manner as in opinion of the Commissioner is likely to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

230. *Prohibition of structures, fixtures or deposit or things in streets.* —(1) No person shall, except with the permission of the Commissioner granted in his behalf erect or set-up any wall, fence, rail, post, step, booth or other structure whether fixed or moveable or whether of a permanent or temporary nature, or any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to or an encroachment upon, or projection over, or to occupy any portion of such street, channel, drain, well or tank

(2) No person shall, except with the permission of the Commissioner and on payment of such fee as he in each case thinks fit, place or deposit upon any street, or upon any open channel, drain or wall in any street or upon any public

place any stall, chair, bench, ladder, bale or other thing whatsoever so as to form an obstruction thereto or encroachment thereon.

(3) Nothing in sub-section (1) shall apply to any erection or thing to which clause (c) of sub-section (1) of section 235 applies and nothing in sub-section (2) shall apply to building materials.

231. *Special provision regarding streets belonging to Government.*— Notwithstanding anything contained in sections 220, 227, 228 or in clause (v) of Part C of section 395 and subject to any general or special order that the Government may make in this behalf, if any street is vested in the Government :—

(a) the Commissioner shall not, in respect of such street grant permission to do any act the doing of which without his written permission would contravene the provisions of section 227 or section 228 or allow any building to be set forward under the provision of section 220 except with the sanction of the Government which may be given in respect of a class of cases generally or in respect of a particular case ;

(b) the Commissioner shall, if so required by the Government, exercise the power conferred upon him by sections 220, 227, 228 or clause (v) of Part C of section 395 or any bye-law made in exercise of the power conferred by the aforesaid clause (v) in respect of the encroachment or overhanging structure on or over such street or any materials, goods or articles of merchandise deposited on such street.

232. *Power to remove anything deposited or exposed for sale in contravention of this Act.*— The Commissioner may, without notice cause to be removed :—

(a) any stall, chair, bench, box, ladder, bale or other things whatsoever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of this Act ; or

(b) any article whatsoever hawked or exposed for sale on any public place in contravention of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

233. *Prohibition of tethering of animals and milking of cattle.* —(1) No person shall tether any animal or cause or permit the same to be tethered in any public street.

(2) No person shall milk or cause or permit to be milked any cow or buffalo in the street.

(3) Any animal tethered or any cow or any buffalo found being milked as aforesaid in any street may be removed by the Commissioner or any Corporation officer or employee and be impounded and dealt with under the provision of [1][the Cattle Trespass Act, 1871 (1 of 1871)].

234. *Precaution during repairs of streets.* —(1) The Commissioner shall, so far as is practicable, during the construction or repair of any public street or any municipal drain or a premises vested in the Corporation :—

(a) cause the same to be fenced and guarded ;

(b) take proper precautions against accident by shooting up and protecting the adjoining buildings ;

(c) cause such bars, chains, or posts to be fixed across or in any street in which any such work of construction or repair is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The Commissioner shall cause such street, drain or premises to be sufficiently lighted or guarded during night while under construction or repair.

(3) The Commissioner shall, with all reasonable speed cause the said work to be completed, the ground to be filled in the said street, drain or premises to be repaired, and the rubbish occasioned thereby to be removed.

(4) No person shall, without the permission of the Commissioner or other lawful authority, remove any bar, chain, post or shoring, timber or remove or extinguish any light set up under this section.

235. *Streets not to be opened or broken up and building materials not to be deposited thereon without permission.* —(1) No person other than the Commissioner or a Corporation Officer or other Corporation employee shall, without the written permission of the Commissioner :—

(a) open, break up, displace, take up or make any alteration in, or cause any injury to the soil or pavement or any wall, fence, post, chain or other material or thing

forming part of any street ; or

1. Substituted for "the Cattle Trespass Act, Samvat 1977" by S.O. 3466 of 2020 dated 05.10.2020.

(b) deposit any building materials in any street ; or

(c) set up in any street scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rolls, boards or other things by way of an enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) of sub-section (1) shall be terminable at the discretion of the Commissioner on his giving not less than twenty-four hours' notice of such termination to the person to whom such permission was granted.

(3) The Commissioner may, without notice, cause to be removed any of the things referred to in clause (b) or clause (c) of sub-section (1) which has been deposited or set up in any street without the permission specified in that sub-section or which having been deposited or set up with such permission has not been removed within the period specified in the notice issued under sub-section (2) :

Provided that nothing in this sub-section shall apply to cases under clause (b) or clause (c) of sub-section (1) in which an application for permission has been made with such fee as may be prescribed by the Commissioner in this behalf but no reply has been sent to the applicant within seven days from the date of the application.

236. *Disposal of things removed under this Chapter.* —(1) Any of the things caused to be removed by the Commissioner under this Chapter shall, unless the owner thereof turns up to take back such things and pays to the Commissioner the charges for the removal and storage of such things, be disposed of by the Commissioner by public auction or in such other manner and within such time as the Commissioner thinks fit.

(2) The charges for removal and storage of the things sold under sub-section (1) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the Corporation.

237. *Naming and numbering to streets.* —(1) The Commissioner may—

(a) with the sanction of the Corporation, [1][determine the number] by which any street or public place vested in the Corporation shall be known ;

(b) cause to be put up or painted at a conspicuous part of any building, wall or place, at or near each end, corner or entrance of such street on or some convenient part of such street, the name or number by which it is to be known ;

(c) cause to be put up or painted on boards of suitable size the name of any public place vested in the Corporation ;

(d) determine the number or sub-number by which any premises or part of such premises shall be known and cause such number or sub-number to be fixed to the side or outer door of such premises or to some place at the entrances of the enclosure thereof.

(2) No person shall destroy, remove, deface or in any way injure or alter such name or number or sub-number or put up or paint any name or number or sub-number different from that put up or painted by order of the Commissioner.

238. *Commissioner to take steps for repairing or enclosing places.* —(1) If any place is, in the opinion of the Commissioner, for want of sufficient repair or protection or enclosure, or owing to some work being carried on thereupon, dangerous or causing inconvenience to passengers along a street or to other persons including the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, the Commissioner may by notice in writing require the

owner or occupier of such place to repair, protect or enclose the same or take such other steps as shall appear to the Commissioner necessary in order to prevent the danger or inconvenience arising therefrom.

(2) The Commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent the danger or inconvenience arising therefrom and any expense incurred by the Commissioner in taking such temporary measures shall be recoverable from the owner or occupier of the place as arrears of tax under this Act.

239. *Measures for lighting.*— The Commissioner shall :—

(a) take measures for lighting in a suitable manner all such public streets and public places as may be specified by the Corporation ;

1. Substituted for "determine the name or number" by S.O. 3466 of 2020 dated 05.10.2020.

procure, erect and maintain such number of lamps, lamp posts and other appurtenances as may be necessary for the said purpose ; (c) cause such lamps to be lighted by means of oil, electricity or such other light as the Corporation may determine.

240. *Prohibition of removal, etc. of lamps.* —(1) No person shall without lawful authority take away wilfully or negligently break or throw down or damage :—

(a) any lamp or any appurtenance of any lamp or lamp post or lamp iron set up in any public street or any public place ;

(b) any electric wire for lighting such lamp ;

(c) any post, pole, standard stay, strut, bracket or other contrivance for carrying, suspending or supporting any electric wire or lamp.

(2) No person shall wilfully or negligently extinguish the light of any lamp set up in any public street or any public place.

(3) If any person wilfully or through negligence or accident breaks or causes any damage to any of the things described in sub-section (1) he shall in addition to any penalty to which he may be subjected to under this Act, pay the expenses of repairing the damage so done by him.

CHAPTER XIV
BUILDING REGULATIONS

241. *Definitions.*— In this Chapter, unless the context otherwise requires, the expression "to erect building" means:—

(a) to erect a new building on any site whether previously built upon or not ;

(b) to re-erect :— (i) any building of which more than one-half of the cubical contents above the level of the plinth have been pulled down, burnt or destroyed ; or

(ii) any building of which more than one-half of the superficial area of the external walls above the level of the plinth has been pulled down ; or

(iii) any frame building of which more than a half of the number of the posts of beams in the external walls have been pulled down ;

(c) to convert into a dwelling house any building or any part of a building not originally constructed for human habitation or, if originally so constructed, subsequently appropriated for any other purpose ;

(d) to convert into more than one dwelling houses a building originally constructed as one dwelling house only ;

(e) to convert into place of religious worship or into sacred building any place or building not originally constructed for such purpose ;

(f) to roof or cover an open space between walls or buildings to the extent of the structure which formed by the roofing or covering of such space ;

(g) to convert two or more tenements in a building into greater or lesser number ;

(h) to convert into a stall, shop, warehouse or godown, stable, factory or a garage any building not originally constructed for use as such or which was not so used before the change ;

(i) to convert a building which when originally constructed was legally exempted from the operations of any building regulations contained in this Act or in any bye-laws made thereunder or in any other law, into a building which had it been originally erected in its converted form, would have been subject to such building regulations ; and

(j) to convert into or use as a dwelling house any building which has been discontinued as or appropriated for any purpose other than a dwelling house.

242. *Prohibition of erection of building without sanction.*— No person shall erect or commence to erect any building or execute any of the works specified in section 244 except with the previous sanction of the Commissioner, or otherwise than in accordance with the provisions of this Chapter and of the bye-laws made under this Act in relation to the erection of buildings or execution of works.

243. *Erection of building.*— Every person who intends to erect a building shall apply for sanction by giving notice in writing of his intention to the Commissioner in such form and containing such information as may be prescribed by bye-laws made in this behalf.

(2) Every such notice shall be accompanied by such documents and plans alongwith specification as may be prescribed :

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 purposes of this sub-section the expression "a qualified structural engineer" means a graduate (civil) engineer.

244. *Applications for additions to, or repairs of building.* —(1) Every person who intends to execute any of the following works, namely :—

(a) to make any addition to a building ;

(b) to make any alteration or repairs to a building involving the removal or re-erection of any external or partition wall thereof or of any wall which supports the roof thereof to an extent exceeding one half of such wall above the plinth level, such half to be measured in superficial metres ;

(c) to make any alteration or repairs to a frame building involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid or involving the removal or re-erection of any such wall thereof as aforesaid to an extent exceeding one half of such wall above plinth level, such half to be measured in superficial metres ;

(d) to make any alteration in a building involving—

(i) the sub-division of any room in such building so as to convert the same into two or more separate rooms ; or

(ii) the conversion of any passage or space in such building into a room or rooms ;

(e) to repair, remove, construct, re-construct, or make any addition to or structural alteration in any portion of a building abutting on a street which stands within the regular line of such street ;

(f) to close permanently any door or window in an external wall ; and

(g) to remove or re-construct the principal staircase or to alter its position ;

shall apply for sanction by giving notice in writing of his intention to the Commissioner in such form and containing such information, as may be prescribed by bye-laws made in this behalf.

(2) Every such notice shall be accompanied by such documents and plans as may be so prescribed.

245. *Condition of valid notice.* —(1) A person giving the notice required by section 243 shall specify the purpose for which it is intended to use the building to which such notice relates and a person giving the notice required by section 244 shall specify whether the purpose for which the building is being used is proposed or likely to be changed by the execution of the proposed work.

(2) No notice shall be valid until the information required under sub-section (1) and any further information and plans which may be required by bye-laws made in this behalf have been furnished to the satisfaction of the Commissioner alongwith the notice.

246. *Sanction or refusal of building or work.* —(1) The Commissioner shall sanction the erection of a building or the execution of a work unless such building or work would contravene any of the provisions of sub-section (2) of this section or the provisions of section 250.

(2) The grounds on which the sanction of a building or work may be refused shall be the following, namely :—

(a) that the building or work, or the use of the site for the building or work or any of the particulars comprised in the site plan, ground plan, elevation, section or specification would contravene the provisions of any bye-law made in this behalf or of any other law or rule, bye-law or order made under such other law ;

(b) that notice for sanction does not contain the particulars, or is not prepared in the manner required under the bye-laws made in this behalf ;

(c) that any information or documents required by the Commissioner under this Act or any bye-laws made thereunder has or have not been duly furnished ;

(d) that in cases falling under section 222 layout plans have not been sanctioned in accordance with section 223 ;

(e) that the building or work would be an encroachment on Government land or land vested in the Corporation ;

(f) that the site of the building or work does not abut on a street or projected street and that there is no access to such building or work from any such street by a passage or pathway appertaining to such site ;

(g) that the building or work would be in contravention of any scheme sanctioned under section 260 ; and

(h) that a building for habitation, does not provide for a flush or a water seal latrine.

(3) The Commissioner shall communicate the sanction to the person who has given the notice ; and where he refuses sanction on any of the grounds specified in sub-section (2) of this section or under section 250 he shall record a brief statement of his reasons for such refusal and communicate the refusal alongwith the reasons therefor to the person who has given the notice.

(4) The sanction or refusal as aforesaid shall be communicated in such manner as may be specified in the bye-laws made in this behalf.

247. *When building or work may be proceeded with.* —(1) Where within a period of sixty days after the receipt of any notice under section 243 or section 244 or of the further information, if any, required under section 245 the

Commissioner does not refuse to sanction the building or work or upon refusal does not communicate the refusal to the person who has given the notice, the Commissioner shall be deemed to have accorded sanction to the building or work and person by whom the notice has been given shall be free to commence and proceed with the building or work in accordance with his intention as expressed in the notice and the documents and plans accompanying the same :

Provided that if it appears to the Commissioner that the site of the proposed building or work is likely to be affected by any scheme of acquisition of land for any public purpose or by way any proposed regular line of a public street or extension, improvement, widening or alteration of any street, the Commissioner may withhold sanction of the building or work for such period not exceeding sixty days as he deems fit and the period of sixty days shall be deemed to commence from the date of the expiry of the period for which the sanction has been withheld.

(2) Where a building or work is sanctioned or deemed to have been sanctioned by the Commissioner under sub-section (1), the person who has given the notice shall be bound to erect the building or execute the work in accordance with such sanction, but not so as to contravene any of the provisions of this Act or any other law or of any bye-law made thereunder.

(3) If the person or any one lawfully claiming under him does not commence the erection of the building or the execution of the work within one year of the date on which the building or work is sanctioned or is deemed to have been sanctioned, he shall have to give notice under section 244, or as the case may be, under section 243 for fresh sanction of the building or the work and the provisions of this section shall apply in relation to such notice as they apply in relation to the original notice.

(4) Before commencing the erection of a building or execution of a work within the period specified in sub-section (3), the person concerned shall give notice to the Commissioner of the proposed date of the commencement of the erection of the building or the execution of the work :

Provided that if the commencement does not take place within seven days of the date so notified, the notice shall be deemed not to have been given and a fresh notice shall be necessary in this behalf.

(5) Where the building plan is sanctioned or deemed to have been sanctioned, the person, at whose instance building operations are to be carried on, shall, after the excavation of the foundation and before starting

construction thereon, intimate the Corporation about the excavation of the foundation.

(6) 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 Corporation may, within seven days from the intimation under sub-section (5), cause inspection of excavated foundation to be made by such persons as it may direct, and in such manner as may be prescribed :

Provided that the person at whose instance the building operations are carried out shall be associated in the inspection.

(7) The persons making the inspection under sub-section (6), may communicate to the person, from whom intimation under sub-section (5) 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 Commissioner the action, if any, which is proposed to be taken for the purposes of implementation of any such recommendation.

(8) On the receipt of the report under sub-section (7), the Corporation may, within seven days from the date of intimation under sub-section (5), give such direction to the person concerned, as it may deem fit.

248. *Sanction accorded under misrepresentation.*— If at any time after the sanction of any building or work has been accorded, the Commissioner is satisfied

that such sanction was accorded in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under sections 243, 244 and 245, he may, by order in writing, cancel for reasons to be recorded such sanction and any building or work commenced, erected or done shall be deemed to have been commenced, erected or done without such sanction :

Provided that before making any such order the Commissioner shall give reasonable opportunity to the person affected as to why such order should not be made.

249. *Building at corners of streets.*— The Commissioner may require any building intended to be erected at the corner of two streets to be rounded off or splayed or cut off to such height and to such extent as he may determine,

and may acquire such portion of the site at the corner as he may consider necessary for public convenience or amenity.

250. *Provisions as to buildings and works on either side of new streets.*—(l) The erection of any building on either side of a new street may be refused by the Commissioner unless and until such new street has been levelled and wherever in the opinion of the Commissioner practicable, metalled or paved, drained, lighted and laid with a water main to his satisfaction.

(2) The erection of any such building or the execution of any such work may be refused by the Commissioner if such building or any portion thereof for such work comes within the regular line of any street, the position and direction of which has been laid down by the Commissioner but which has not been actually constructed or if such building or any portion thereof or such work is in contravention of any building or any other scheme or plan prepared under this Act or any other law for the time being in force.

251. *Period for completion of building or work.*— The Commissioner when sanctioning the erection of a building or execution of a work, shall specify a reasonable period after the commencement of the building or work within which the building or work is to be completed and if the building or work is not completed within the period so specified it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Commissioner on application made, therefor, has allowed an extension of that period.

252. *Prohibition against the inflammable materials for buildings etc. without permission.*— In such areas as may be specified by bye-laws made in this behalf, no roof, varendah, pandal or wall of a building or no shed or fence shall be constructed or re-constructed of cloth, grass, leaves, mats or other inflammable material except with the written permission of the Commissioner nor shall any such roof, varendah, pandal, wall, shed or fence constructed or reconstructed in any year be retained in subsequent year except with fresh permission obtained in this behalf.

253. *Order of demolition and stoppage of building and works in certain cases and appeal.* —(1) Where the erection of any work has been commenced, or is being carried on or has been completed without or contrary to the sanction referred to in section 246 or in contravention of any condition subject to which such sanction has been accorded or in contravention of the provisions of this Act or bye-laws made thereunder, the Commissioner may in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced or is being carried on or has been completed within

such period (not being less than seven days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to that person) as may be specified in the order of demolition :

Provided that no order of demolition shall be made unless the person has been given, by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order should not be made :

Provided further that where the erection or work has not been completed, the Commissioner may by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the Special Tribunal within the period specified in the order for the demolition of the erection or work to which it relates.

(3) Where an appeal is preferred under sub-section (2) against an order of demolition, the Tribunal may stay the enforcement of that order on such terms, if any, and for such period, as it may think fit :

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the Tribunal unless reasonable opportunity of being heard is afforded to the Commissioner and security sufficient in the opinion of the Tribunal has been furnished by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(4) Save as provided in this section no court shall entertain any suit, application or other proceedings for injunction or other relief against the Commissioner or restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Subject to the order made by the Tribunal on appeal, the order of demolition made by the Commissioner shall be final and conclusive.

(6) Where no appeal has been preferred against an order of demolition made by the Commissioner under sub-section (1) or where an order of demolition

made by the Commissioner under that sub-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 Tribunal on appeal, and on the failure of the person to comply with the order within such period, the Commissioner may 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.

254. *Order of stoppage of building or works in certain cases.* —(1) Where the erection of any building or execution of any work has been commenced or is being carried on (but has not been completed) without or contrary to the sanction referred to in section 246 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provisions of this Act or bye-laws made thereunder, the Commissioner may in addition to any other action that may be taken under this Act by order require the person at whose instance the building or the work has been commenced or is being carried on, to stop the same forthwith.

(2) If an order made by the Commissioner under section 253 or under sub-section (1) of this section directing any person to stop the erection of any building or execution of any work is not complied with, the Commissioner may require any Police Officer to remove such person and all his assistants and workmen from the premises within such time as may be specified in the requisition and such Police officer shall comply with the requisition accordingly.

(3) After the requisition under sub-section (2) has been complied with, the Commissioner may, if he thinks fit, depute by a written order a Police officer or a Corporation officer or other Corporation employee to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued.

(4) Where a Police officer or a Corporation officer or other Corporation employee has been deputed under sub-section (3) to watch the premises, the cost of

such deputation shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as an arrear of tax under this Act.

(5) 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 deviations from the sanctioned plan are minor in nature, the Commissioner may subject to

the special and general directions of the [1][State Government] under section 255, compound the cases of deviations.

Explanation:—For the purposes of sub-section (5), the expression "minor in nature" in relation to deviations shall not include—

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

(b) erection of a building :—

(i) on any Government land or land vested in the Corporation ; or

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

(6) Notwithstanding anything to the contrary contained in this Act, the Corporation may, after affording a reasonable opportunity of being heard, deny or withdraw the civic amenities including water and sewerage connection, if the owner of the building makes deviations from the sanctioned plan by addition of a storey beyond the sanctioned plan, erection of a building on any Government land or land vested in the Corporation, or by covering any public road, street, path or drain.

255. *Power of the Government to give directions for compounding deviations from sanctioned plan.*— Without prejudice to the provisions contained in this Act the Government may, from time to time, give such special or general directions in the matter of policy in relation to the compounding of the cases involving deviations from the sanctioned plan as in its opinion are required to be followed by the Commissioner for compounding such cases under sub-section (5) of section 254 of this Act.

256. *Power of Commissioner to require alternation of work.* —(1) The Commissioner may, at any time during the erection of any building or execution of any work or at any time within three months after the completion thereof, by a written notice specify any matter in respect of which such erection or execution is without or contrary to the sanction referred to in section 246 or is in contravention of any condition of such sanction or any of the provisions of this Act or any bye-laws made thereunder and require the person who gave the notice under section 243 or section 244 or the owner of such building or work either—

(a) to make such alteration as may be specified in the said notice with the object of bringing the building or work in conformity with the said sanction, condition or provisions, or

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

(b) to show cause why such alterations should not be made within the period stated in the notice.

(2) If the person or the owner does not show cause as aforesaid he shall be bound to make the alterations specified in the notice.

(3) If the person or the owner shows cause as aforesaid, the Commissioner shall by an order either cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he thinks fit.

257. *Completion certificate.* —(1) Every person who employs a licensed architect or engineer or a person approved by the Commissioner to design or erect a building or execute any work shall, within one month after the completion of the erection of the building in whole or part thereof or execution of the work, deliver or send or cause to be delivered or sent to the Commissioner a notice in writing of such completion accompanied by a certificate in the form prescribed by bye-laws made in

this behalf and shall give to the Commissioner all necessary facilities for the inspection of such building or work.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or a part thereof effected by any such work until permission has been granted by the Commissioner in this behalf in accordance with bye-laws made under this Act :

Provided that if the Commissioner fails, within a period of thirty days after the receipt of the notice of completion of a building or part thereof to communicate his refusal to grant such permission, such permission shall be deemed to have been granted.

258. *Restrictions on user of buildings and removal of dangerous buildings.* — (1) No person shall, without the written permission of the Commissioner, or otherwise than in conformity with the conditions, if any, of such permission—

(a) use or permit to be used for human habitation any part of a building not originally erected or authorised to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and of the bye-laws made thereunder ;

(b) change or allow the change of the use of any land or building ;

(c) convert or allow the conversion of one kind of tenement into another kind.

(2) If it appears to the Commissioner at any time that any building is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or any other building or place in the neighbourhood of such building, the Commissioner may, by order in writing, require the owner or occupier of such building to demolish, secure or repair such building or do one or more of such things within such period as may be specified in the order, so as to prevent all cause of danger therefrom.

(3) The Commissioner may also, if he thinks fit, require such owner or occupier by the said order either forthwith or before proceeding to demolish, secure or repair the building to set up a proper and sufficient board or fence for the protection of passers-by and other persons, with a convenient platform and hand rail wherever practicable to serve as a footway for passengers outside of such board or fence.

(4) If it appears to the Commissioner that danger from a building which is in a ruinous condition or likely to fall is imminent, he may, before making the order aforesaid fence off, demolish, secure or repair the said building or take such steps as may be necessary to prevent the danger.

(5) If the owner or occupier of the building does not comply with the order within the period specified therein, the Commissioner shall take such steps in relation to the building as to prevent all cause of danger therefrom.

(6) All expenses incurred by the Commissioner in relation to any building under this section shall be recoverable from the owner or occupier thereof as arrears of tax under this Act.

259. *Power to order building to be vacated in certain circumstances.* —(1) The Commissioner may by order in writing direct that any building which in his opinion is in a dangerous condition or is not provided with sufficient means of egress in case of fire or is occupied in contravention of section 257, be vacated forthwith or within such period as may be specified in the order :

Provided that at the time of making such order the Commissioner shall record a brief statement of the reasons therefor.

(2) If any person fails to vacate the building in pursuance of such order the Commissioner may direct any police officer to remove such person from the building and the police officer shall comply with such direction accordingly.

(3) The Commissioner shall, on the application of any person who has vacated, or has been removed from any building in pursuance of an order made by him, allow such person to re-occupy the building on the expiry of the period for which the order has been in force ; provided that the reasons on account of which the vacation was ordered have been rectified or have ceased to exist.

260. *Building scheme.* —(1) The Corporation may, and if so required by the Government shall, within six months of the date of such requisition, draw up 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 on the erection or re-erection of buildings or any class of buildings in the whole or any part of the city, 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 area of land in such unbuilt area which shall be transferred to the Corporation for public purposes including use as public streets by owners of land either on payment of compensation or otherwise ; provided that the total area so transferred shall not exceed thirty-five per cent and the area transferred without payment shall not exceed twenty-five per cent of any one owner's land within such unbuilt area ;

(d) the determination of the size and shape of a reconstituted plot so as to render it suitable for building purposes and where the plot is already built upon, to ensure that the building, so far as possible, complies with the provisions of the scheme in respect of open spaces ;

(e) the formation of a reconstituted 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 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 of open spaces ;

(iii) street lighting ;

(iv) adequate and wholesome water supply ;

(v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal ; and

(vi) any other works that the Corporation 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 Corporation shall give public notice of such scheme 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 Corporation in writing any objection or suggestion with regard to such scheme which he may wish to make.

(3) The Corporation 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 Government which may sanction such scheme or may refuse to sanction it, or may return it to the Corporation for reconsideration and re-submission by a specified date.

(4) If a Corporation fails to submit a scheme within six months of being required to do so under sub-section (1) or fails to re-submit a scheme by a

specified date, when required to do so under sub-section (3) or re-submit a scheme which is not approved by the Government, the Government may draw up a scheme of which public notice shall be given by notification and by publication within the city together with an intimation of the date by which any person may submit in writing to the Government any objection or suggestion which he may wish to make and the Government may sanction such scheme as originally notified or modified in consequence of any such objections or suggestions 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 Corporation Fund.

(5) While sanctioning a scheme the Government may impose condition for the submission of periodical reports to it on the progress of the scheme and for the inspection and supervision of the scheme.

(6) After the scheme has been sanctioned, the Corporation 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.

(7) If under the provisions of any scheme sanctioned under the preceding sub-sections the erection or re-erection of building in a specified area for a specified purpose is prohibited, any person who after such scheme is sanctioned, uses any building for such purpose shall, unless it was used for this purpose before the scheme was sanctioned, on conviction be liable to fine which may extend to five thousand rupees, and if after such conviction he continues to use such building for such purpose shall be liable to fine which may extend to one hundred rupees for every day during which such use continues.

(8) For the purpose of drawing up a building scheme for built up areas and a town planning scheme for unbuilt up areas, the Corporation 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.

Explanation :— For the purpose of this section—

(i) *"built area"* is that portion of a municipal area of which the greater part has been developed as a business or residential area ; and

(ii) "*unbuilt area"* is an area within the local limits of a municipal area which is declared as such at a special meeting of the Corporation by a resolution confirmed by the Government, or which is notified as such by the Government.

CHAPTER XV

SANITATION AND PUBLIC HEALTH

261. *Provision for daily cleansing of streets and removal of rubbish and filth.* – –(1) For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner shall provide—

(a) for the daily surface cleansing of all streets and the removal of the sweepings therefrom ; and

(b) for the removal of the contents of all receptacles and depots and of the accumulation at all places provided or appointed by him under the

provisions of this Act for the temporary deposit of rubbish, filth and other polluted and obnoxious matter.

(2) The Commissioner may, by public notice issue directions as to the time at which, the manner in which, and the conditions subject to which any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

262. *Rubbish etc. to be property of Corporation.*— All matters deposited in public receptacles, depots and places provided or appointed under section 263 and all matters collected by Corporation employees or contractors in pursuance of sections 261 and 266 shall be property of the Corporation.

263. *Provision for placement of receptacles, depots and places for rubbish etc.* ––(1) The Commissioner shall—

(a) provide or place in proper and convenient situations public receptacles, depots or places for the temporary deposit of rubbish, filth and other polluted and obnoxious matters and for the final disposal of rubbish, filth and other polluted and obnoxious matters ;

(b) provide dustbins for the temporary deposit of rubbish ;

(c) provide vehicles or other suitable means for the removal of rubbish and offensive matters ; and

(d) provide covered vehicles or vessels for the removal of filth and other polluted and obnoxious matters.

(2) The Commissioner shall make adequate provision for preventing receptacles, depots, dustbins, vehicles and vessels referred to in sub-section (1) from becoming sources of nuisance.

264. *Duty of owners and occupiers to collect and deposit rubbish etc.*—It shall be the duty of the owners and occupiers of all premises—

(a) to have the premises swept and cleaned ;

(b) to cause all filth, rubbish and other polluted and obnoxious matter to be collected from their respective premises and deposited at such times as the Commissioner, by the public notice prescribe, in public receptacles, depots or places provided or appointed under section 263 for temporary deposit or final disposal thereof ;

(c) to provide receptacles of the type and in the manner prescribed by the Commissioner for the collection therein of all filth, rubbish and other polluted and obnoxious matter from such premises and to keep such receptacles in good condition and repair.

265. *Removal of rubbish etc. accumulated on premises used as factories, workshops etc.*— The Commissioner may, if he thinks fit—

(a) by written notice require the owner or occupier of any premises used for carrying on any manufacture, trade or business or used as a factory, workshop, trade premises or market or in any way so that rubbish, filth and other polluted and obnoxious matter are accumulated in large quantities, to collect all such rubbish, filth and other polluted and obnoxious matter accumulating thereon and to remove the same at such time and in such carts or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed under section 263 ; or

(b) after giving such owner or occupier notice of his intention cause all rubbish, filth and other polluted and obnoxious matter accumulated in such premises to be removed and charge the said owner or occupier for such removal such fee as may, with the sanction of the Corporation, be specified in the notice issued under clause (a).

266. *Prohibition against accumulation of rubbish etc.* —(1) No owner or occupier of any premises shall keep or allow to be kept for more than twenty-four

hours or otherwise than in a receptacle approved by the Commissioner, any rubbish, filth or other polluted and obnoxious matter, on such premises or

any place belonging thereto or neglect to employ proper means to remove such rubbish, filth and other polluted and obnoxious matter from or to cleanse, such receptacle and to dispose of such rubbish, filth and other polluted and obnoxious matter in the manner directed by the Commissioner, or fail to comply with any requisition of the Commissioner as to the construction, repair, pavement or cleansing of any latrine or urinal on or belonging to the premises.

(2) No owner or occupier shall allow the water of any sink, drain, latrine or urinal of any rubbish, filth and other polluted and obnoxious matter to run down on or to be thrown or put upon, any street or into any drain in or along the side of any street except in such manner as shall prevent any avoidable nuisance from any such water, rubbish, filth or other polluted and obnoxious matter.

(3) No person shall, after due provision had been made in this respect under the foregoing provisions of this Chapter for the deposit and removal of the same—

(a) deposit any rubbish, filth and other polluted and obnoxious matter in any street or on the verandah of any building or on any unoccupied ground alongside any street or on the bank of a water course ; or

(b) deposit any filth or other polluted and obnoxious matter in any dustbin or in any vehicle not intended for the removal of the same ; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth and other polluted and obnoxious matter.

267. *Commissioner's power to get premises scavenged and cleansed.*—If any premises are not properly and regularly scavenged or cleansed or are in a filthy and unwholesome condition, the Commissioner may cause them to be scavenged and cleansed and recover the expenses from the owner or as the case may be, occupier as an arrear of tax under this Act.

268. Public latrines, urinals etc.——(1) The Commissioner shall provide and maintain in proper and convenient places sufficient number of public latrines and urinals.

(2) Such public latrines and urinals shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be

provided with all necessary conservancy establishments and shall regularly be cleansed and kept in proper order.

269. *Construction of latrines and urinals.*— The Commissioner may require the owner or occupant of any service latrine, within a period to be specified in the notice, to demolish or close such service latrine and convert it into water flush latrine ; and on the failure to convert such latrine, the Commissioner may himself get the same converted and recover the cost incurred thereon from the owner or occupier, as the case may be.

(2) No building plans shall be sanctioned by the Corporation unless the provisions for flush or water seal latrine is made.

270. *Latrines and urinals etc. in new buildings.* —(1) It shall not be lawful to erect any residential building without providing flush or water seal latrine and accommodation for bathing or for washing clothes and utensils on each floor of such building as may be prescribed.

(2) While prescribing such accommodation it may in each case be determined—

(a) whether such building shall be served by the flush system or by water seal system ;

(b) what shall be the site or position of each latrine, urinal, bathing or washing place or site and their number on each floor and their clear internal dimensions.

(3) It shall not be lawful to erect a residential building comprised of separate tenements on the flat system without providing at least one latrine and one bathing or washing place for servants on the ground floor of such building or at any other suitable place in the same premises.

(4) In this section the expression "to erect a building" has the same meaning as in section 241.

271. *Latrines and urinals for labourers etc.* —(1) Every person employing workmen, labour or other persons exceeding twenty in number shall provide and maintain for the separate use of persons of each sex so employed, latrines and urinals, of such description and number as the Commissioner may by

notice require and within such time as may be fixed in the notice and shall keep the same in clean and proper order.

272. *Provision of latrines and urinals for markets etc.*— The Commissioner may by notice require any owner or manager of a market, cart stand, cattle shed, theatre, railway station and other places of public resort within such time as may be specified in such notice to provide and maintain for the separate use of persons of each sex, latrines and urinals of such description and number and in such position as may be specified and to keep the same in clean and proper order.

273. *Other provisions as to private latrines.*— The Commissioner may, by written notice—

(a) require the owner or other person having the control of any private latrine or urinal not to put the same to public use ; or

(b) require the owner or other person having control of such private latrine or urinal which in the opinion of the Commissioner constitutes a nuisance, to remove the latrine or the urinal ; or

(c) require any person having the control whether as owner, lessee or occupier of any land or building—

(i) to have any latrine provided for the same shut out by a sufficient roof, wall or fence from the view of persons passing by or dwelling in the neighbourhood ; or

(ii) to cleanse in such manner as the Commissioner may specify in the notice any latrine or urinal belonging to the land or building ; or

(d) where the premises intended, or used for human habitation are without any latrine or urinal accommodation or are provided with insufficient latrine or urinal accommodation, require the owner, lessee or occupier of such premises to provide same or such additional latrine or urinal accommodation as may be prescribed, if necessary, by causing any part of such premises to be vacated and demolished in accordance with the bye-laws made in this behalf.

274. *Removal of congested building.* —(1) Where it appears to the Commissioner that any block of buildings is in an unhealthy condition by reason of the manner in which the building are crowded together, or of the

narrowness, closeness, or faulty arrangement of streets, or for the want of proper drainage and ventilation, or of the impracticability of cleansing the building or other similar cause, he shall cause the block to be inspected by the Corporation Health Officer and the Corporation Engineer, who shall make a report in writing to him regarding the sanitary condition of the block.

(2) If upon receipt of such report the Commissioner considers that the sanitary condition of the block is likely to cause risk to disease to the inhabitants of the buildings or of the neighbourhood or otherwise to endanger the public heath, he shall with the approval of the Corporation select the buildings which in his opinion should wholly or in part be removed in order to abate the unhealthy condition of the block

and may thereupon by notice in writing require the owner of such buildings to remove them within such period as may be specified in the notice :

Provided that before issuing the notice, reasonable opportunity should be afforded to the owners to show cause why the buildings should not be removed.

Provided further that the Commissioner shall pay compensation to the owners for any buildings so removed which may have been erected under proper authority.

(3) If a notice under sub-section (2) requiring any owner of a building to remove it is not complied with, then, after the expiration of the time specified in the notice the Commissioner may himself remove the building required to be removed by the notice and recover from the owner of the building the expenses of such removal as an arrear of tax under this Act.

275. *Power of Commissioner to require improvement of buildings unfit for human habitation.* —(1) Where the Commissioner upon information in his possession is satisfied that any building is in any respect unfit for human habitation, he may, unless in his opinion the building is not capable at a reasonable expense of being rendered fit, serve upon the owner of the building a notice requiring him within such time not being less than thirty days as may be specified in the notice to execute the works of improvement specified therein and stating that in his opinion those works will render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner the Commissioner may serve a copy of the notice on any other person having an interest in the building whether as a lessee, mortgagee or otherwise.

(3) In determining whether a building can be rendered fit for human habitation at a reasonable expense regard shall be had to the estimated cost of the work necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

276. *Enforcement of notice requiring execution of works of improvement.*— If a notice under section 275 requiring the owner of the building to execute works of improvement is not complied with, then, after the expiration of the time specified in the notice the Commissioner may himself do the works required to be done by the notice and recover the expenses incurred in connection therewith as an arrear of tax under this Act.

277. *Power of Commissioner to order demolition of buildings unfit for human habitations.* —(1) Where the Commissioner upon any information in his possession is satisfied that any building is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the owner of the building and upon any other persons having an interest in the building, whether as a lessee, mortgagee or otherwise a notice to show cause within such time, as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1), appears in pursuance thereof before the Commissioner and gives an undertaking to him that such person shall, within a period specified by the Commissioner, execute such works of improvement in relation to the building as will, in the opinion of the Commissioner, render the building fit for human habitation or an undertaking that the building shall not be used for human habitation until the Commissioner on being satisfied that it has been rendered fit for that purpose, cancel the undertaking the Commissioner shall not make an order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case, where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the Commissioner shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order not being less than thirty

days from the date of the order, and that it shall be demolished within six weeks of the expiration of that period.

(4) Where an order of demolition of a building under this section has been made, the owner of building or any other person having an interest therein

shall demolish that building within the time specified in that behalf by the order, and if the building is not demolished within the time, the Commissioner shall demolish the building and sell the materials thereof.

(5) Any expenses incurred by the Commissioner under sub-section (4), if not satisfied out of the proceeds of the sale of materials of the building, shall be recovered from the owner of the building or any other person having an interest therein as an arrear of tax under this Act.

(6) In determining for the purposes of section 275 and this section whether a building is unfit for human habitation, regard shall be had to its condition in respect of the following matters, that is to say—

(a) repair ;

(b) stability ;

(c) freedom from damp ; (d) natural light and air ;

(e) water supply ;

(f) drainage and sanitary conveniences ;

(g) facilities for storage, preparation and cooking of food and for the disposal of rubbish, filth and other polluted matter,

and the building shall be deemed to be unfit as aforesaid if and only if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

Explanation:—In sections 275, 276 and this section, "work of improvement" in relation to a building includes any one or more of the following works, namely :—

(a) necessary repairs ;

(b) structural alterations ;

(c) provision of light points and water taps ; (d) construction of drains, open or covered ;

(e) provision of latrines and urinals ;

(f) provision of additional or improved fixtures and fittings ;

(g) opening up or paving of court yard ;

(h) removal of rubbish, filth and other polluted and obnoxious matter ;

(i) any other work including the demolition of any building or any part thereof which, in the opinion of the Commissioner is necessary for executing any of the works specified above.

278. *Insanitary huts and sheds.*— Where the Commissioner upon any information in his possession is satisfied that any hut or shed used as dwelling house or as a stable or for any other purpose, is likely, by reason of its being constructed without a plinth or on account of the impracticability of scavenging and cleansing it or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger public health or safety, he may by notice in writing require the owner or occupier of the hut or shed or the owner or occupier of the land on which the hut or shed stands to remove or alter the hut or shed or carry out such improvement thereof as the Commissioner may deem necessary within such time as may be specified in the notice.

279. *Prohibition against washing by washerman.* —(1) The Commissioner may by public notice, prohibit the washing of clothes by washermen in the exercise of their callings except at such places as he may appoint for the purpose.

(2) When any such prohibition has been made, no person who is by calling a washerman shall in contravention of such prohibition wash clothes except for himself or for personal and family service or for hire on or within the premises of the hirer at any place other than a place appointed under sub-section (1).

280. *Obligation to give information of dangerous disease.*— Any person being incharge of or in attendance whether as medical practitioner or otherwise, upon any person whom he knows or has reason to believe to be suffering from a dangerous disease, or being owner, lessee, or occupier of any building in which he knows that any such person is so suffering shall forthwith give information in respect of the existence of such disease to the Corporation Health Officer.

281. *Removal of patient to hospital suffering from dangerous disease.*—When any person suffering from any dangerous disease is found to be—

(a) without proper lodging or accommodation ; or

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

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

(d) lodged in premises occupied by members of two or more families,

the Commissioner or any person authorised by him 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.

282. *Disinfection of buildings and articles.*— Where the Commissioner is of the opinion that the cleansing and disinfection of any building or part of a building or of any article in such building or part of which are likely to retain infection or the renewal or flooring of any building or part of such building and the renewal of plastering of the walls thereof, would tend to prevent or check the spread of any dangerous disease, he may, by notice in writing, require the owner or occupier to cleanse and disinfect the said building, part or articles, as the case may be, or to renew the said flooring and if necessary the said plastering also within such time as may be specified in the notice :

Provided that where in the opinion of the Commissioner the owner or occupier is from poverty unable effectually to carry out any such requisition, the Commissioner may at the expense of the Corporation cleanse and disinfect the building or articles or, as the case may be, renew the flooring and if necessary, the plastering also.

283. *Destruction of infectious huts or sheds.* —(1) Where the destruction of any hut or shed is in the opinion of the Commissioner necessary to prevent the spread of any dangerous disease, the Commissioner may by notice in writing require the owner to destroy the hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the Commissioner is satisfied that the destruction of any hut or shed is immediately necessary for the purpose of preventing the spread of

any dangerous disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith or may himself cause it to be destroyed.

(3) Compensation may be paid by the Commissioner, in any case which he thinks fit to any person who sustain substantial loss by the destruction of any such hut or shed ; but, except as so allowed by the Commissioner, no claim for compensation shall be allowed for any loss or damage caused, by any exercise of the power conferred by this section.

284. *Means of disinfection.* —(1) The Commissioner shall—

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

(b) cause conveyances, clothing and other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as he may fix.

(2) The Commissioner may notify places at which articles of clothing, bedding and conveyances or other articles which have been exposed to infection shall be washed and if he does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(3) The Commissioner may direct the destruction of any clothing, bedding or other articles likely to retain infection and may give such compensation as he thinks fit for any article so destroyed.

285. *Special measures in case of out-break of dangerous or epidemic disease.* ––(1) In the event of the municipal area or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Commissioner, if he thinks that the other provisions of this Act and the provisions of any other law for the time being in force are insufficient for the purpose may, with the previous sanction of the Corporation—

(a) take such special measures ; and

(b) by public notice, give such directions to be observed by the public or by any class or section of the public as he thinks necessary to prevent the outbreak or spread of the disease :

Provided that where in the opinion of the Commissioner immediate measures are necessary, he may take action without such sanction as aforesaid and if he does so, shall forthwith report such action to the Corporation.

(2) No person shall commit a breach of any direction given under sub-section (1) and if he does so, he shall be deemed to have committed an offence under section 183 of [1][the Indian Penal Code (45 of 1860)].

286. *Infected clothes not to be sent to washerman or to laundry.* —(1) A person shall not send or take to any washerman or to any laundry or place set apart for the exercise by washermen or their calling, for the purpose of being washed or to any place for the purpose of being cleansed, any cloth or other article which he knows to have been exposed to infection from a dangerous disease unless that cloth or article has been disinfected by or to the satisfaction of the Corporation Health Officer.

(2) The occupier of any building in which a person is suffering from a dangerous disease shall, if required by the Corporation Health Officer furnish to him the address of any washerman to whom or any laundry or other place to which clothes and other articles from the building have been or will be sent during the continuance of the disease for the purpose of being washed or cleansed.

287. *Contamination and disinfection of public conveyances*. —(1) Whoever :—

(a) uses a public conveyance while suffering from a dangerous disease ;

(b) uses a public conveyance for the carriage of person who is suffering from any disease ; or

(c) uses a public conveyance for the carriage of the corpse of a person who had died from such disease ;

shall be bound to take proper precautions against the communication of the disease to other person using or who may thereafter use the conveyance and to notify such use to the owner, driver or person incharge of the conveyance and further report without delay to the Commissioner the number of the conveyance and the name of the person so notified.

(2) Where any person suffering from, or the corpse of any person who has died from a dangerous disease has been carried, in public conveyance

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, Samvat 1989" by S.O. 3466 (E) of 2020 dated 05.10.2020.

which ordinarily plies in the municipal area or any part thereof, the driver thereof, shall forthwith report the fact to the Commissioner who shall forthwith cause the conveyance to be disinfected if that has not already been done.

(3) No such conveyance shall be again brought into use until the Corporation Health Officer has granted a certificate stating that it can be used without causing risk of infection.

(4) Whoever fails to make to the Commissioner any report which he is required to make under this section shall be guilty of an offence.

288. *Driver of conveyance not bound to carry persons suffering from dangerous diseases.*— Notwithstanding anything contained in any law for the time being in force, no owner, driver or person incharge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of the municipal area any person suffering from a dangerous disease or the corpse of any person who had died from such disease unless and until such person pays or tenders a sum sufficient to recover any loss and expenses which would ordinarily be incurred in disinfecting the conveyance.

289. *Disinfection of buildings before letting the same.* —(1) Where any building or part of a building is intended to be let in which any person has, within six weeks immediately preceding been suffering from a dangerous disease, the person letting the building or part shall, before doing so, disinfect the same in such manner as the Commissioner may by general or special notice direct together with all articles therein liable to retain infection.

(2) For the purposes of this section the keeper of a hostel, hotel, lodging house or sarai shall be deemed to let a part of the building to any person accommodated in such hostel, hotel, lodging house or sarai, as the case may be.

290. *Disposal of infected articles without disinfection.*— No person shall, without previous disinfection give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe was exposed to contamination by any dangerous disease and is likely to be used in or taken into the municipal area or any part thereof.

291. *Prohibition of making or selling of food, etc. or washing of clothes by infected persons.*— No person while suffering from, or in circumstances in which he is likely to spread any dangerous disease, shall—

(a) make, carry or offer for sale or take any part in the business of making, carrying or offering for sale, any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear ; or

(b) take any part in the business of the washing or carrying of clothes.

292. *Power to restrict or prohibit sale of food or drink.*— When the municipal area or any part thereof is visited or threatened by an outbreak of any dangerous disease, the Commissioner may by public notice restrict in such manner or prohibit for such period as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in the notice or the sale of flesh of any description of animal so specified.

293. *Control over wells and tanks etc.* —(1) If the Commissioner is of opinion that the water in any well, tank or other place is likely, if used for drinking, to endanger, or cause the spread of any disease, he may—

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

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

(c) take such other steps as he may consider expedient to prevent the outbreak or spread of any such disease.

(2) In the event of the municipal area or any part thereof being visited or threatened by an outbreak of a dangerous disease, the Corporation Health Officer or any person authorised by him in this behalf, may without notice and at any time, inspect and disinfect any well, tank or other place from which water is or is likely to be taken for the purpose of drinking and may further take such steps as he may think fit, to ensure the purity of the water or to prevent the use of the same for drinking purposes.

294. *Duty of persons suffering from dangerous diseases.*— No person shall :—

(a) knowing that he is suffering from dangerous disease expose other persons to the risk of infection by his presence or conduct in any

public street or public place ;

(b) having the care of a person whom he knows to be suffering from a dangerous disease cause or permit that person to expose other persons to the risk of infection by his presence or conduct in any such street or place as aforesaid ;

(c) place or cause to be placed in a dustbin or other receptacle for the deposit of rubbish, any matter which he knows to have been exposed to or having infection from a dangerous disease and which has not been disinfected properly ;

(d) throw or cause to be thrown into any latrine or urinal any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly.

295. *Disposal of infectious corpse, where any person has died from any dangerous disease.*— Where any person has died from any dangerous disease the Commissioner may by notice in writing—

(a) require any person having charge of corpse to convey the same to mortuary thereafter to be disposed of in accordance with law ; or

(b) prohibit the removal of corpses from the place where the death occurred except for the purpose of being burnt, buried or for being conveyed to a mortuary.

296. *Conditions of service of Safai Karamcharies and certain other classes of persons employed in Corporation services.* —(1) No person being a Safai Karamchari employed in the Corporation service shall in the absence of any contract authorising him so to do, resign his employment without having given one month's notice to the Commissioner or shall abstain himself or neglect or refuse to perform his duties without reasonable cause.

(2) The Corporation may by resolution direct that on or from such date as may be specified in the resolution, the provisions of this section shall apply in the case of any specified class of persons employed by the Corporation whose functions are intimately concerned with public health or safety.

297. *Power to call for information regarding burning and burial ground.*—The Commissioner may, by notice in writing, require the owner or person incharge of any building or burial ground, cremation ground or electric

crematorium to supply such information as may be specified in the notice concerning the condition, management or position of such ground.

298. *Permission for use of new burning or burial grounds.* —(1) No place which has not been used as a burning or burial ground, cremation ground or electric

crematorium before the commencement of this Act, shall be so used without the permission in writing of the Commissioner.

(2) Such permission may be granted subject to any condition which the Commissioner may think fit to impose for the purpose of preventing any annoyance to or danger to the health of any person residing in the neighbourhood.

299. *Power to require closing of burning and burial grounds.* —(1) Where the Commissioner, after making or causing to be made local enquiry, is of opinion that any burning or burial ground or cremation ground or electric crematorium, has become offensive to, or dangerous to the health of persons residing in the neighbourhood, he may with the previous sanction of the Corporation, by notice in writing require the owner or person incharge of such ground to close the same from such date as may be specified in the notice.

(2) No corpse shall be burnt or buried at the burning or burial ground in respect of which a notice has been issued under this section.

300. *Removal of corpses.*— The Commissioner may by public notice prescribe routes by which alone corpses may be removed to burning or burial grounds.

301. *Disposal of dead animals.* —(1) Whenever any animal in the charge of any person dies, the person incharge thereof shall within twenty-four hours either—

(a) convey the carcass to a place provided or appointed under section 263 for the final disposal of the carcasses of dead animals ; or

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

(2) In respect of the disposal of the carcass of dead animals under clause (b) of sub-section (1) the Commissioner may charge such fees as he may by public notice specify.

CHAPTER XVI

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

302. *Prohibition of nuisances.* —(1) No person shall :—

(a) in any public street or public place—

(i) ease himself ; or

(ii) carry meat exposed to public view ; or

(iii) picket animals or collect carts ; or

(iv) being engaged in the removal of rubbish, filth or other polluted and obnoxious matter wilfully or negligently permit any portion thereof to spill or fall or neglect to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place ; or

(v) without proper authority affix, upon any building, monument, post, wall, fence, trees or other things, any notice or other document ; or

(vi) without proper authority deface or write upon or otherwise mark any building, monument, post, wall, fence, tree or other thing ; or

(vii) without proper authority remove, destroy, deface or otherwise obliterate any notice or other document put up or exhibited under this Act or the rules or bye-laws made thereunder ; or

(viii) without proper authority displace, damage, make any alteration in, or otherwise interfere with, the pavement, gutter, storm, water-drain, sign-board or other materials of any such street or any lamp, bracket, direction post, hydrant or water-place maintained by the Corporation in any such street or place, or extinguish a public light ; or

(ix) carry rubbish, filth or other polluted or obnoxious matter at any hour prohibited by the Commissioner by public notice, or in any pattern of cart or receptacle which has not been

approved for the purpose by the Commissioner, or fail to close such cart or receptacle when in use ; or

(b) carry rubbish, filth or other polluted or obnoxious matter along any route in contravention of any prohibition made in this behalf by Commissioner by public notice ; or

(c) deposit, or cause or permit to be deposited, earth or materials of any description or any rubbish or polluted or obnoxious matter in any place not intended for the purpose or in any public street or public place or unoccupied and under the management of the Corporation ; or

(d) make any grave or burn or bury any corpse at any place not set apart for such purpose ; or

(e) at any time or place at which the same has been prohibited by the Commissioner by public or special notice, beat a drum or tom-tom or blow a horn or trumpet, or beat any utensil, or sound any brass or other instrument, or play any music ; or

(f) disturb the public peace or order by singing, screaming or shouting or by using any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker ; or

(g) let loose any animal so as to cause, or negligently allow any animal to cause injury, danger, alarm or annoyance to any person ; or

(h) save with the written permission of the Commissioner and in such manner as he may authorise store or use night-soil, cow-dung, manure, rubbish or any other substance omitting an offensive smell ; or

(i) use or permit to be used as a latrine any place not intended for that purpose.

(2) Every person shall take all reasonable means to prevent every child under the age of twelve years being in his charge from easing himself in any public street or public place.

(3) The owner or keeper of any animal shall not allow it straying in public street or public place without a keeper.

(4) Any animal found straying as aforesaid may be removed by an officer or employee of the Corporation or by any police officer to a pound.

(5) Any swine found straying in a public street or public place shall be liable to be destroyed by any officer or other employee of the Corporation appointed in this behalf.

303. *Power of Commissioner to require removal or abatement of nuisance.*— Where the Commissioner is of opinion that there is a nuisance on any land or building, he may, by notice in writing, require the person by whose act, default or sufferance the nuisance arises or continues or the owner, lessee or occupier of the land or building, or one or more of these persons to remove or abate the nuisance by taking such measures in such manner and within such period as may be specified in the notice.

304. *Regulation and control of dogs.* —(1) The Corporation may, by bye-laws made in this behalf—

(a) require the registration by the registering authority appointed by the Commissioner in this behalf of all dogs kept within the municipal areas;

(b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registering authority, and fix the fee payable for the issue thereof ;

(c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose ; and

(d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week.

(2) The Commissioner may :—

(a) cause to be destroyed or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies ;

(b) by public notice direct that after such date as may be specified by the notice, dogs which are without collars or without marks, distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed and cause them to be destroyed accordingly.

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

(4) No one, being the owner or person incharge of any dog, shall allow it to be at large in any public street or public place without being muzzled and without being secured by a chain lead in any case in which :—

(a) he knows that the dog is likely to annoy or intimidate any person ;

(b) the Commissioner has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzled and chain leads.

(5) No one shall :—

(a) allow any ferocious dog which belongs to him or is in his charge to be at large without being muzzled ; or

(b) set on or, urge any dog or other animal to attack, worry or intimidate any person ; or

(c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by any animal suffering or reasonably suspected to be suffering from rabies, fail or neglect to give immediate information of the fact to the Commissioner or give information which is false.

305. *Stacking or collecting inflammable materials.*— The Commissioner may by public notice, prohibit in any case where such prohibition appears to him to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials or the placing of mats or thatched huts or the lighting of fires in any place which may be specified in the notice.

306. *Care of naked lights.*— No person shall set a naked light on or near any building in any public street or other public place in such manner as to

cause danger of fire :

Provided that nothing in this section shall be deemed to prohibit the use of lights for the purpose of illumination on the occasion of a festival or public or private entertainment.

307. *Discharging fireworks, firearms etc.*— No one shall discharge any fire arms or let off fireworks or fire balloons or engage in any game in such manner as to cause or to be likely to cause danger to person passing by or dwelling or working in the neighbourhood or risk of injury to property.

308. *Power to require buildings, wells, etc. to be rendered safe.*— Where any building, or wall, or anything affixed thereto, or any well, tank, reservoir, pool, depression or excavation, or any bank or tree, is in the opinion of the Commissioner, in a ruinous state, for want of sufficient repairs, protection or enclosure, a nuisance or dangerous to persons passing by or dwelling or working in the neighbourhood, the Commissioner may by notice in writing require the owner or part-owner or person claiming to be the owner or part-owner thereof or failing any of them, the occupier thereof, to remove the same or may require him to repair, protect or enclose the same in such manner as he thinks necessary; and if the danger is, in the opinion of the Commissioner, imminent, he shall forthwith take such steps as he thinks necessary to avert the same.

309. *Enclosure of waste land used for improper purposes.*— The Commissioner may, by notice in writing, require the owner or part-owner or person claiming to be the owner or part-owner of any land or building or the lessee or the person claiming to be the lessee of any such land which by reason of misuse or disputed ownership or other cause, has remained unoccupied and has become the resort of the idle and disorderly person or persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves or is used for gaming or immoral purposes or otherwise occasions or is likely to occasion a nuisance, secure and enclose the same within such time as may be specified in the notice.

CHAPTER XVII

EXTINCTION AND PREVENTION OF FIRE

310. *Establishment and maintenance of fire brigade.*— For the prevention and extinction of fire, the Corporation may, and if the Government so directs shall, establish and maintain a fire-brigade and provide implements, machinery

or means of communicating intelligence for the efficient discharge of their duties by the brigade.

311. *Power of members of fire-brigades and other person for suppression of fire.* —(1) On the occasion of a fire in the municipal area any Magistrate, the Commissioner of the Corporation, any member of a fire brigade maintained by the Corporation 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 which 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 purposes of extinguishing the fire, break into or through or pull down, or cause to be broken into or through or pulled down or used for the passage of houses or other appliances, any premises ;

(d) cause mains and pipes to be shot 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 or property.

(2) When any Government building is endangered by fire, the officer of the Public Works Department for the time being incharge of the building may also exercise the powers conferred under sub-section (1).

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

(4) 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.

312. *Limitation on operation of this Chapter.*— The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by the rules.

CHAPTER XVIII

MARKETS, SLAUGHTER HOUSES, TRADES AND OCCUPATION

313. *Provision of municipal markets, and slaughter houses.* —(l) The Commissioner, when authorised by the Corporation in this behalf, may provide and maintain municipal markets and slaughter houses in such number as he thinks fit together with stalls, shops, sheds, pens and other buildings and conveniences for the use of persons carrying on trade or business in, or frequenting such markets or slaughter houses and may provide and maintain, in such markets, buildings and places, machines, weights, scales and measures for the weighment or measurement of goods sold therein.

(2) Municipal markets and slaughter houses shall be under the control of the Commissioner who may at any time, by public notice, close any municipal market or slaughter house or any part thereof.

314. *Use of municipal markets.* —(1) No person shall, without the general or special permission in writing of the Commissioner, sell or expose for the sale any animal or article in any municipal market.

(2) Any person contravening the provisions of sub-section (1), and any animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Commissioner or any officer or employee of the Corporation authorised by the Commissioner in this behalf.

315. *Private markets and slaughter houses.* —(1) No place other than a municipal market shall be used as a market unless such place has been licensed as a market by the Commissioner.

(2) No place other than a municipal slaughter house shall be used as slaughter house :

Provided that nothing in this sub-section shall be deemed—

(a) to restrict the slaughter of any animal in any place on the occasion of any religious festival or ceremony, subject to such conditions as the Commissioner may, by public or special notice, impose in this behalf, or

(b) to prevent the Commissioner, with the sanction of the Corporation, from setting apart places for the slaughter of animals in accordance with religious customs.

316. *Conditions of grant of license for private market.* —(1) The Commissioner may charge such fees as he thinks fit to impose for the grant of a license to any person to open a private market and may grant such license subject to such conditions, consistent with this Act and any bye-laws made thereunder, as he thinks fit to impose.

(2) When the Commissioner refuses to grant any licence, he shall record a brief statement of the reasons for such refusal.

(3) The Commissioner may, with the previous approval of the Corporation and for reasons to be recorded, suspend a licence in respect of a private market for such period as he thinks fit or cancel such licence :

Provided that no such licence shall be cancelled without giving an opportunity of being heard, to the licencee.

(4) A private market of which the licence has been suspended or cancelled as aforesaid, shall be closed with effect from such date as may be specified in the order of suspension or cancellation.

317. *Prohibition of keeping markets open without licence etc.*- (1) No person shall keep open for public use any market in respect of which a licence is required by

or under this Act without obtaining a licence therefor or while the licence therefor is suspended or after the same has been cancelled.

(2) When a licence to open a private market is granted or refused or is suspended or cancelled, the Commissioner shall cause a notice of the grant, refusal, suspension or cancellation to be pasted in such language or languages as he thinks necessary in some conspicuous place by or near the entrance to the place to which the notice relates.

318. *Prohibition on use of unlicensed market.* -No person knowing that any market has been opened to the public without a licence having been obtained thereof when such licence is required by or under this Act or that the licence granted therefor is for the same time being suspended or that it has been cancelled, shall sell or expose for sale any animal or article in such market.

319. *Prohibition of business and trade.* —(1) No animal or article shall be sold or exposed for sale within distance of one hundred metres of any municipal market or licensed private market without the permission of the Commissioner.

(2) Any person contravening the provision of sub-section (1) and any animal or article exposed for sale by such person may be summarily remanded

by or under the order of the Commissioner or any officer or employee of the Corporation appointed by him in this behalf.

320. *Levy of stallages, rent and fees.*— The Commissioner, with the previous approval of the Corporation may :—

(a) charge such stallages, rents or fees as may from time to time be fixed by him in this behalf :—

(i) for the occupation or use of any stall, shop, stand, shed or pen in a municipal market or municipal slaughter houses ;

(ii) for the right to expose articles for sale in a municipal market ;

(iii) for the use of machines, weights, scales and measures provided for in any municipal market ; and

(iv) for the right to slaughter animals in any municipal slaughter house and for the feed of such animals before they are ready for slaughter ; or

(b) put up to public auction or dispose of by private sale, the privilege of occupying or using any stall, shop, stand, shed or pen in a municipal market or municipal slaughter house for such period and on such condition as he may think fit.

321. *Stallages, rent etc. to be published.*— A copy of the table of stallage, rents and fees, if any, chargeable in any municipal market or municipal slaughter house or the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter house printed in such language or languages as the Commissioner may direct, shall be affixed in some conspicuous place in the market or slaughter house.

322. *Butcher's, fishmonger's and poulterer's licence.* —(1) No person shall without or otherwise than in conformity with a licence from the Commissioner carry on the trade of a butcher, fishmonger, poulterer or importer of flesh intended for human food or use any place for the sale of flesh, fish or poultry intended for human food :

Provided that no licence shall be required for any place used for the sale or storage for sale of preserved flesh or fish contained in air tight hermetically sealed receptacles.

(2) The Commissioner may, by order and subject to such conditions as to supervision and inspection as he thinks fit to impose, grant a licence or may by order, refuse for reasons to be recorded, to grant the same.

(3) Every such licence shall expire at the end of the year for which it is granted or, at such earlier date as the Commissioner may, for special reasons, specify in the licence.

(4) If any place is used for the sale of the flesh, fish or poultry in contravention of the provisions of this section, the Commissioner may stop the use thereof by such means as he may consider necessary.

323. *Factory etc. not to be established without permission of the Commissioner.* —(1) No person shall, without the previous permission in writing of the Commissioner establish in any premises, or materially alter, enlarge or extend any factory, workshop or trade premises in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Commissioner may refuse to give such permission, if he is of opinion that the establishment, alteration, enlargement or extension of such factory, workshop or trade premises in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance to the inhabitants of the neighbourhood.

324. *Premises not to be used for certain purposes without licence.* —(1) No person shall use or permit to be used any premises for any of the following purposes without or otherwise than in conformity with the terms of a licence issued by the Commissioner in this behalf, namely :—

(a) any of the purpose specified in Part–I of the Schedule –I ;

(b) any purpose which is, in the opinion of the Commissioner dangerous to life, health or property or likely to create a nuisance ;

(c) keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for the sale of the produce thereof ; or

(d) storing any of the article specified in Part–II of the Schedule–I except for domestic use of those articles :

Provided that the Corporation may declare that premises in which the aggregate quantity of articles stored for sale does not exceed

such quantity as may be prescribed by bye-laws in respect of any such articles shall be exempted from the operation of clause (d).

(2) In prescribing the terms of a licence granted under this section for the use of premises as mills or iron yards or for similar purposes the Commissioner may, when he thinks fit, require the licencee to provide a space or passage within the premises for carts for loading and unloading purposes.

(3) The Corporation shall fix a scale of fees to be paid in respect of premises licensed under sub-section (1) :

Provided that such fee shall exceed five hundred rupees.

325. *Seizure of certain animals.* —(1) If any horses, cattle or other quadruped animals or birds are kept on any premises in contravention of the provision of section 324 or are found abandoned and roaming or tethered on any street or public place or on any land belonging to the Corporation, the Commissioner or any officer empowered by him may seize them and may cause them to be impounded or removed to such place as may be appointed by the Government or the Corporation for this purpose and cost of seizure of these animals or birds and of impounding or removing them and of feeding and watering them, shall be recoverable by sale by auction of these animals or birds :

Provided that anyone claiming such animals or birds may within seven days of this seizure get them released on his paying all expenses incurred by the Commissioner in seizing, impounding or removing and in feeding and watering such animals or birds, and on his producing a licence for keeping these animals and birds issued under the provision of section 324.

(2) Whenever the Commissioner is of the opinion that the user of any premises for any of the purposes referred to in sub-section (1) of section 324 is causing a

nuisance and such nuisance should be immediately stopped, the Commissioner may order the owner, or the occupier of the premises to stop such nuisance within such time as may be specified in the order and in the event of the failure of the owner or occupier to comply with such order, the Commissioner may himself or by an officer subordinate to him, cause such user to be stopped.

(3) Without prejudice to the foregoing provisions of this section any person by whom or at whose instance any horse, cattle or other quadruped animals or birds are so kept, abandoned or tethered, shall also be punishable under this Act.

326. *Power of the Commissioner to prevent use of premises in particular area or the purposes referred in section 324.* —(1) The Commissioner may give public notice of his intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to in sub-section (1) of section 324 which may be specified in such notice.

(2) No objection to any such declaration shall be received after the period of one month from the publication of the notice.

(3) The Commissioner shall consider all objections received within the said period giving any person affected by the notice an opportunity of being heard and may thereupon make declaration in accordance with the notice published under sub-section (1), with such modifications, if any, as he may think fit.

(4) Every such declaration shall be published in the [1][Government Gazette] and in such other manner as the Commissioner may determine, and shall take effect from the date of its publication in the [1][Government Gazette].

(5) No person shall, in any area specified in any declaration published under sub-section (3), use any premises for any of the purposes referred to in section 324 specified in the declaration and the Commissioner shall have the power to stop the use of any such premises by such means as he considers necessary.

327. *Licence for hawking articles etc.*— No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf—

(a) hawk or expose for sale in any place any article whatsoever, whether it be for human consumption or not ;

(b) use in any place his skill in any handicraft or for rendering service to and for the convenience of the public for the purpose of gain or making a living.

328. *Eating houses etc. not to be used without licence from Commissioner.* — (l) No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, keep any eating house, lodging house, hotel, boarding house, tea shop, coffee house, cafe, restaurant, refreshment room or any place where the public are admitted for repose or for the consumption of any food or drink or any place where food is sold or prepared for sale.

(2) The Commissioner may at any time cancel or suspend any licence granted under sub-section (1) if he is of opinion that the premises covered thereby are not kept in conformity with the conditions of such licence or with the provisions of any bye-laws made in this behalf.

329. *Licensing and control of theatre, circuses and places of public amusement.*— No person shall without or otherwise than in conformity with the terms of licence granted by the Commissioner in this behalf, keep open any theatre, circus, cinema house, dancing hall or other similar place of public resort, recreation or amusement :

Provided that nothing in this section shall apply to private performances in any such place.

330. *Power of Commissioner to stop use of premises used in contravention of licences.*— If the Commissioner is of opinion that any eating house, lodging house,

hotel, boarding house, tea shop, coffee house, cafe, restaurant, refreshment room or other place where the public are admitted for repose or for consumption of any food or drink or where food is sold or prepared for sale or any theatre, circus, cinema house, dancing hall or similar other place of public resort, recreation or amusement is kept open without a licence or otherwise than in conformity with the terms of a licence granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means as he may consider necessary.

331. *Power of Commissioner to inspect place where unlawful slaughter of animals etc. is suspected.* —(1) If the Commissioner or any person authorised by him in this behalf has reason to believe that any animal intended for human consumption is being slaughtered or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorised under this Act, he may at any time by day or night without notice, inspect such place for the purpose of satisfying himself as to whether any provisions of this Act or any bye-law made under this Act at the time in force is being contravened thereat and may seize any such animal or the carcass of such animal or such flesh found therein.

(2) The Commissioner may remove and sell by auction or otherwise dispose of any animal or carcass of any animal or any flesh seized under sub-section (1).

(3) If within one month of such seizure the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Commissioner or if the owner is convicted of an offence under this Act in respect of such

animal, carcass or flesh, the proceeds of any sale under sub-section (1) shall vest in the Corporation.

(4) Any person slaughtering any animal or selling or posing for sale the flesh of any such animal in any place or manner not duly authorised under the provisions of this Act shall be punishable with imprisonment of up to six months and may be arrested by any police officer without a warrant.

(5) No claim shall lie against any person for compensation for any damage necessarily caused by any entry or by the use of any force necessary for effecting any entry under this section.

CHAPTER XIX

IMPROVEMENT

332. *Improvement scheme.*— Where the Commissioner upon information is satisfied in respect of any area :—

(a) that the buildings in that area are by reason of disrepair or sanitary defects unfit for human habitation or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets or the want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of the area ; and

(b) that the most satisfactory method dealing with the conditions in the area is the rearrangement and reconstruction of the streets and buildings in the area in accordance with an improvement scheme,

he may frame an improvement scheme in respect of the area in accordance with the bye-laws made in this behalf.

333. *Matters to be provided for in an improvement scheme.* —(1) An improvement scheme may provide for all or any of the following matters, namely :—

(a) the acquisition by agreement or under [1][the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act, 2013 (93 of 2013)] of any property necessary for or affected by the execution of the scheme ;

1.Substituted for “the State Land Acquisition Act, Samvat 1990” by S.O. 3466 of 2020 dated 05.10.2020.

(b) the relaying out of any land comprised in the scheme ;

(c) the redistribution of sites belonging to owners of property comprised in the scheme ;

(d) the closure or demolition of building or portions of buildings unfit for human habitation ;

(e) the demolition of obstructive buildings or portions thereof ;

(f) the construction and reconstruction of buildings ;

(g) the construction and alteration of streets ;

(h) the water supply, street lighting, drainage and other conveniences ;

(i) the provision of urban amenities and facilities such as parks, garden, play-ground ;

(j) the sanitary arrangements required for the area comprised in the scheme ;

(k) the provision of accommodation for any class of the inhabitants ;

(l) the provision of facilities for communication ;

(m) the sale, letting or exchange of any property comprised in the scheme ;

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

(o) urban property elevation ;

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

(q) cattle pounds, prevention of cruelty to animals ;

(r) public amenities including street light, parking lots, bus stops and public conveniences ; and

(s) any other matter for which, in the opinion of the Commissioner, it is expedient to make provision with a view to the improvement of the

area to which the scheme relates.

(2) Where any land is designated in an improvement scheme as subject to acquisition or is required by the scheme to be kept as an open space, then, if at the expiration of ten years from the date of sanction of the scheme by the Government under sub-section (2) of section 334 the land is not acquired by the Commissioner, the owner of the land may serve on the Commissioner, a notice requiring his interest in the land to be so acquired.

(3) If the Commissioner, fails to acquire the land within a period of six months from the receipt of the notice, the improvement scheme shall have no effect after the expiration of the said six months as if the land were not designated as subject to acquisition by the Commissioner or were not required to be kept as an open space.

334. *Submission of improvement scheme to the Corporation for approval and to the Government for sanction.* —(1) Every improvement scheme shall, as soon as may be, after it has been framed, be submitted by the Commissioner, for approval to the Corporation, and the Corporation may either approve the scheme without modifications or with such modifications as it may consider necessary or reject the scheme with direction to the Commissioner to have a fresh scheme framed according to such directions.

(2) No improvement scheme approved by the Corporation under sub-section (1) shall be valid unless it has been sanctioned by the Government.

335. *Publication of the notice after scheme is sanctioned.* —(1) After an improvement scheme is sanctioned by the Government, the Commissioner shall prepare a notice stating :—

(a) the fact that the scheme has been sanctioned ;

(b) the boundaries of the area comprised in the scheme ; and

(c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire may be seen.

(2) The Commissioner shall cause the aforesaid notice to be published in the [1][Government Gazette] and also in the manner specified in section 364.

336. *Rehousing Scheme.*— The Commissioner, while framing the improvement scheme under this Chapter for any area may also frame a scheme, (hereinafter in this Act referred to as the rehousing scheme) for the construction, maintenance and management of such and so many buildings as he may consider necessary for providing accommodation for persons who are likely to be displaced by the execution of the improvement scheme.

337. *Improvement scheme and rehousing scheme to comply with master plan and zonal development plan.*— No improvement scheme or rehousing scheme framed under this Chapter after development plan for the municipal area or a zonal development plan for any part thereof has been prepared in accordance with law shall be valid unless such scheme is in conformity with the provisions of the development plan or the zonal development plan.

338. *Provision of housing accommodation for the economically weaker sections.*— If the Corporation, upon consideration of report from the Commissioner or any other information is satisfied that it is expedient to provide housing accommodation for the economically weaker sections in any area and that such accommodation can be provided without making an improvement scheme, the Corporation shall cause that area to be defined on a plan and pass a resolution authorising the Commissioner to provide such accommodation—

(a) by the erection of buildings or by attachment of land belonging to the Corporation or of land acquired by the Corporation for the purpose ;

(b) by the conversion of any buildings belonging to the Corporation into dwellings for the economically weaker sections.

CHAPTER XX

REGULATION OF FELLING AND PLANTING TREES

339. *Prohibiting felling, cutting, damaging, destroying any tree in any urban area.*— No person shall cut, damage, destroy, fell or remove any tree of the prescribed class, whether included in a private holding or not, within the jurisdiction of the Municipal Corporation, except with prior permission obtained from the Government under the provisions made in this Chapter or any rules made thereunder.

Explanation.— For the purpose of this section the expression "damage" in relation to a tree shall include—

(a) grilling, drilling of holes, boring and use of poisonous substance ;

(b) cutting and exposure of roots or making a tree dangerous ; (c) setting fire to a tree or its branches ;

(d) debarking or stripping of the bark ;

(e) extraction of resin and gum ;

(f) lopping of branches ;

(g) extraction and removal of torchwood ;

(h) damage to trees by throwing debris or stones but such damage shall not include the damage which is caused—

(1) by the bonafide exercise of the rights of the right holders of the area ;

(2) by lopping of branches of trees which are grown mainly for fodder, horticultural or ornamental purposes.

340. *Constitution of Tree Authority.* —(1) The [1][State Government] shall by notification, constitute the Tree Authority consisting of the following :— (i) the Mayor of the Municipal Corporation ;

(ii) the Commissioner ;

(iii) the Divisional Forest Officer having jurisdiction over the city ; (iv) the District Horticulture Officer having jurisdiction over the city ; and

(v) one Councillor to be nominated by the Mayor.

(2) The Mayor shall be the Chairman of the Tree Authority.

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

341. *Meeting of Tree Authority.* —(1) The Tree Authority shall meet at least once in two months at such place and time as the Chairman may decide.

(2) The quorum to constitute a meeting of the Tree Authority shall be one-half of the total number of its members.

342. *Duties of Tree Authority.*— Notwithstanding anything in the Act the Tree Authority shall subject to any general or special order of the Government be responsible for :—

(a) the preservation of all trees within its jurisdiction ;

(b) obtaining declaration from all owners or occupants about the number of trees in their lands ;

(c) specifying the standards regarding the number and kind of trees in each locality, type of land and premises ;

(d) assisting private and public institutions connected with planting and preservation of trees ; and

(e) undertaking such schemes or measures as may be directed from time to time for achieving the objectives of these provisions.

343. *Appointment of Tree Officer.*— The [1][State Government] shall appoint one or more forest officers not below the rank of an Assistant Conservator of Forests as Tree Officer for the territorial limits of a Municipal Corporation. Every Tree Officer shall exercise jurisdiction over the whole or such part of the areas of the Municipal Corporation as the Government may from time to time determine.

344. *Application for permission for cutting, felling or removal of a tree.* —(1) Any person intending to cut, fell or remove a tree within the territorial jurisdiction of the Corporation shall make an application to the Tree Officer, in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Such application shall be accompanied by such fee as may be prescribed.

345. *Permission for felling of tree.* —(1) On receipt of application from any person to fell any standing tree or to cut, lop, remove or otherwise dispose

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

of a fallen tree, the Tree Authority shall, after making such inquiry as it may think fit, and with prior approval of the Government either permit in whole or in part or refuse the permission applied for :

Provided that no such permission shall be refused if the tree :—

(i) is dead, diseased or wind-fallen ; or

(ii) constitutes a danger to life or property ; or

(iii) is substantially damaged or destroyed by fire, lighting, rain or other natural causes.

(2) Where permission to fell a standing tree or to cut, remove or otherwise dispose of a fallen tree is granted, the Tree Authority may impose condition that the applicant shall plant another tree or trees of the same or other suitable species preferably on the same site within sixty days of the date on which the tree is felled or within such extended time as the Tree Authority may allow.

(3) The permission granted under this section shall be valid for a period of 180 days from the date on which the sanction is conveyed to the applicant. If the applicant fails to cut, fell, lop or remove the tree permitted to be cut, felled, lopped, or removed

within the aforesaid period of 180 days, the permission granted shall lapse, unless the applicant obtains from the Commissioner an extension of time on an application for extension and payment of prescribed fee.

346. *Planting of adequate number of trees.* —(1) If in the opinion of the Tree Officer the number of trees in any land is not adequate according to the standards prescribed under clause (c) of section 342 the Tree Officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees and at such places in the land as may be specified in the order.

(2) When an order is made under sub-section (1), the owner or occupier of the land shall comply with such order within thirty days from the receipt thereof or such extended time as the Tree Officer may allow.

347. *Planting in place of fallen/destroyed trees.* —(1) When any tree is fallen or destroyed by wind, fire, lighting, rain or such other natural causes the Tree Officer may *suo moto* or on information given to him after holding such

enquiry as he deems fit, by order require such owner or occupier to plant a tree or trees in place of the tree so fallen or destroyed as may be specified in the order.

(2) When an order is made under sub-section (1) the owner or occupier of the land shall comply with such order within thirty days from the receipt thereof or such extended time as the Tree Officer may allow.

348. *Responsibilities for preservation of trees.*— When an order is made by the Tree Officer under section 345, section 346 and section 347 subject to the provisions of section 349, it shall be the duty of owner or occupier of the land who is directed to plant a tree to see that the tree grows properly and is well preserved. It shall also be the duty of such owner or occupier to preserve all other trees existing on the land at the time of commencement of this Act within the area in which the land is situated.

349. *The recovery of expenditure on failure to comply with orders for planting of trees.*— Where the owner or occupier of the land fails to comply with any orders made by the Tree Officer under section 346 or section 347 or section 348, the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of being heard and without prejudice to any other action which may be taken against the defaulter under these provisions, take the necessary action himself and recover the expenditure incurred therefrom from the owner or the occupier, as the case may be.

350. *Appeals.* —(1) When any decision is given or order is made under section 346, section 347 or section 348 by the Tree Officer an appeal shall lie to the Tree Authority.

(2) The appeal shall be made within thirty days from the date the decision is communicated to or the order is received by the owner or occupier of the land.

(3) The Tree Authority shall, as far as possible, decide the appeal within ninety days from the date of its receipt after giving a reasonable opportunity to the appellant of being heard.

(4) The decision of the Tree Authority shall be final and shall not be questioned in any court of law.

351. *Seizure.*— When the Tree Officer has reason to believe that an offence under the provisions of this Chapter has been committed in respect of any tree, he may seize the tools, ropes, chains, boats, vehicles or animals used

for the commission of the said offence alongwith tree or part thereof which has been severed from the ground or the trunk, as the case may be.

352. *Penalty.*— Whoever fells or abets the felling of any tree or causes any tree to be felled in contravention of the provisions of this Chapter or any rules made thereunder or without any reasonable excuse fails to comply with any order issued or conditions imposed by the Tree Officer or any other officer subordinate to him in the discharge of their functions under the provisions of this Chapter shall on conviction

be punished with imprisonment which may extent to three months or with fine which may extend to five hundred rupees or with both.

Explanation.— For the purposes of this section a breach of the provisions of this Chapter or abetment of breach thereof in respect of cutting or destroying each tree shall be a separate offence.

353. *Compounding of offences.*— No offence or breach of the provisions of this Chapter shall be compounded by any authority empowered to compound without providing for forfeiture of the tree fuel or timber alongwith articles seized under section 351 in favour of the concerned Municipal Corporation.

354. *Operation of other laws not barred.*— Nothing in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constituted an offence under these provisions or from being liable under such other law to higher punishment or penalty than that provided by these provisions or the rules made thereunder.

355. *Power to make rules.*— The Government may by notification make rules to carry out the purposes of the provisions of this Chapter.

CHAPTER XXI

POWERS, PROCEDURE, OFFENCES AND PENALTIES

356. *Signature, conditions, duration, suspension, revocation, etc. of licences and written permissions.* —(1) Whenever it is provided in this Act or any bye-law made thereunder that a licence or a written permission may be granted for any purpose, such licence or written permission shall be signed by the Commissioner or by the officer empowered to grant the same under this Act or the bye-laws made thereunder or by any Corporation officer authorised by the Commissioner and shall specify, in addition to any other matter required to be specified under any other provision of this Act or any provision of any bye-law made thereunder :—

(a) the date of the grant thereof ;

(b) the purpose and the period, if any, for which it is granted ;

(c) restrictions or conditions, if any, subject to which it is granted ;

(d) the name and address of the person to whom it is granted ; and

(e) the fee, if any, paid for the licence or written permission.

(2) Except as otherwise provided in this Act or any bye-law made thereunder, for every such licence or written permission a fee may be charged at such rate as may from time to time be fixed by the Commissioner with the sanction of the Corporation and such fee shall be payable by the person to whom the licence or written permission is granted.

(3) Save as otherwise provided in this Act or any bye-law made thereunder any licence or written permission granted under this Act or any bye-law made thereunder may at any time be suspended or revoked by the Commissioner or by the officer by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud or if any of its restrictions or conditions has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or any bye-law made thereunder relating to any matter for which the licence or permission has been granted :

Provided that :—

(a) before making any order of suspension or revocation, reasonable opportunity should be afforded to the grantee of the licence or the written permission to show cause why it should not be suspended or revoked ; and

(b) every such order shall contain a brief statement of the reasons for the suspension or revocation of the licence or the written permission.

(4) When any such licence or written permission is suspended or revoked or when the period for which the same was granted has expired, the grantee shall, for all

purposes of this Act or any bye-law made thereunder, be deemed to be without a licence or written permission until such time as the order suspending or revoking the licence or written permission is rescinded or until the licence or written permission is renewed.

(5) Every grantee of any licence or written permission granted under this Act shall at all reasonable times while such licence or written permission remains in force if so required by the Commissioner or the authority by whom it was granted, produce such licence or written permission.

357. *Power of entry and inspection.*— The Commissioner or any Corporation officer or other Corporation employee authorised by him in this behalf or empowered in this behalf by or under any provision of this Act may enter into or upon any land or building with or without assistants and workmen :—

(a) for the purposes of ascertaining whether there is or has been in connection with the land or building any contravention of the provisions of this Act or any bye-law made thereunder ;

(b) for the purposes of ascertaining whether or not circumstances exist which would authorise or require the Commissioner, or any Corporation officer or employee authorised or empowered in this behalf to take any action or execute any work under this Act or any bye-law made thereunder ;

(c) for the purposes of taking any action or executing any work authorised or required by this Act or any bye-law made thereunder ;

(d) to make any inquiry, inspection, examination, measurement, valuation or survey authorised or required by or under this Act or necessary for the proper administration of this Act ;

(e) generally for the purpose of efficient discharge of the functions by any of the municipal authorities under this Act or any bye-law made thereunder.

358. *Power to enter land, adjoining land in relation to any work.* —(1) The Commissioner or any person authorised by him in this behalf or empowered in this behalf by or under any provision of this Act, may enter on any land within thirty-five metres of any work authorised by or under this Act with or without assistants and workmen for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(2) The person so authorised shall, before entering on any such land state the purpose thereof and shall, if so required by the owner or occupier thereof, fence off so much of the land as may be required for such purpose.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Corporation in accordance with bye-laws made in this behalf to the owner or occupier of land or to both for any such damage, whether permanent or temporary.

359. *Breaking into building.* —(1) It shall be lawful for the Commissioner, or any person authorised by him in this behalf or empowered in this behalf by or, under any provision of this Act to make any entry into any place, and to open or cause to be opened any door, gate or other barrier :—

(a) if he considers the opening thereof necessary for the purpose of such entry ; and

(b) if the owner or occupier is absent or being present, refuses to open such door, gate or barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier the Commissioner or the person authorised or empowered in this behalf, shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situate, to witness

the entry or opening and may issue an order in writing to them or any of them so to do.

(3) A report shall be made to the Corporation as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

360. *Time of making entry.*— Save as otherwise provided in this Act or any bye-law made thereunder no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

361. *Consent ordinarily to be obtained.*— Save as otherwise provided in this Act or any bye-laws made thereunder, no land or building shall be entered into without the consent of the occupier, or if there is no occupier, or the owner thereof and no such entry shall be made without giving the said owner or occupier, as the case may be, not less than twenty-four hours written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a factory, workshop or trade premises or a place used for any of the purposes specified in section 324 or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction or for the purpose of

ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any bye-law made thereunder.

362. *Regard to be had to social or religious usages.*— When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered and no apartment in the actual occupancy of a female, shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

363. *Prohibition of obstruction or molestation in execution of work.*—No person shall obstruct or molest any person authorised or empowered by or under this Act or any person with whom the Corporation or the Commissioner has lawfully contracted, in the execution of his duty or of anything which he is authorised or empowered or required to do by virtue or in consequence of any of the provisions of this Act or any bye-law made thereunder, or in fulfilment of his contract, as the case may be.

364. *Public notices how to be made known.*— Every public notice given under this Act or any bye-law made thereunder, shall be in writing under the signature of the Commissioner or of any Corporation officer authorised by him in this behalf and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality or by publishing the same or by beat of drum or by advertisement in local newspaper or by any two or more of these means, and by any other means that the appropriate municipal authority may think fit.

365. *Newspaper in which advertisement of notices to be published.*—Whenever it is provided by this Act or any bye-law made thereunder that notice shall be given by advertisement in local newspapers or that a notification or information shall be published in local newspapers, such notice, notification or information shall be inserted if practicable in at least two newspapers in such languages as the Corporation may from time to time specify in this behalf :

Provided that if the Corporation publishes a municipal journal a publication in that journal shall be deemed to be a publication in a newspaper of the language in which the said journal may be published.

366. *Proof of consent etc. of Commissioner etc.*— Whenever under this Act or any rule, regulation or bye-law made thereunder the doing of or the omission to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of the Commissioner or of any

Corporation officer a written document signed by the Commissioner or officer purporting to convey or set forth such approval,

sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

367. *Notices, etc. to fix reasonable time.*— Where any notice, act, order or requisition issued or made under this Act or any rule, regulation or bye-law made thereunder required anything to be done for the doing of which no time is fixed in this Act or the rule, regulation or bye-law, the notice, act, order or requisition shall specify a reasonable time for doing the same.

368. *Signature on notices etc. may be stamped.* —(1) Every licence, written permission, notice, act, summons or other document which is required by this Act or any rule, regulation or bye-law made thereunder to bear the signature of the Commissioner or of any Corporation officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or officer, as the case may be, stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Corporation Fund under section 71 and such classes of documents as may be prescribed.

369. *Notice etc. by whom to be served or issued.*— All notices, acts, summons and other documents required by this Act or any rule, regulation or bye-laws made thereunder to be served upon or issued to any person, shall be served or issued by Municipal officers or other Corporation employee or by other persons authorised by the Commissioner.

370. *Service of notices, etc.* —(1) Every notice, act, summons, order, requisition or other document required or authorised by this Act or any rule, regulation or bye-law made thereunder to be served or issued by or on behalf of the Corporation or by the Commissioner or any Corporation officer on any person shall, save as otherwise provided in this Act or such rule, regulation or bye-law, be deemed to be duly served :—

(a) where the person to be served is a company, if the document is addressed to a Director or the Secretary of the company at its registered office or at its principal office or place of business and is either—

(i) sent by registered post ; or

(ii) delivered at the registered office or at the principal office or place of business of the company ;

(b) where the person to be served is a partnership firm, if the document is addressed to the partnership firm at its principal place of business, identifying it by the name or style under which its business is carried on and is either—

(i) sent by registered post ; or

(ii) delivered at the said place of business ;

(c) where the person to be served is a public body or a Corporation or a society or other body, if the document is addressed to the Secretary, Treasurer or other head officer of that body, Corporation or Society at its principal office, and is either—

(i) sent by registered post ; or

(ii) delivered at that office ;

(d) in any other case, if the document is addressed to the person to be served and—

(i) is given or tendered to him ; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the

municipal area, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it relates ; or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or"the occupier" as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served :—

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1) ; or

(b) if the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises the Commissioner may by notice in writing require the occupier of the premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in section 368 and section 369 and in this section shall apply to any summons issued under this Act by a Court.

(7) A servant is not a member of the family within the meaning of this section.

371. *Power in case of non compliance with notice, etc.*— In the event of a non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule, regulation or bye-laws made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the authority or officer at whose instance the notice, order or requisition has been issued, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or the work required to be done or executed by such person and all the expenses incurred on such account shall be payable to the Commissioner on demand and if not paid within ten days after such demand, shall be recoverable as an arrear of tax under this Act.

372. *Liability of occupier to pay in default of owner.* —(1) If any notice, order or requisition has been issued to any person in respect of property of which he is the owner, the authority or officer at whose instance such notice, order or requisition has been issued may require the occupier of such property or any part thereof to pay to him, instead of to the owner, any rent payable by him in respect of such property as it falls due up to the amount recoverable from the owner under section 371 :

Provided that if the occupier refuses to disclose the correct amount of the rent payable by him or the name or address of the person to whom it is

payable, the authority or officer may recover from the occupier the whole amount recoverable under section 371 as an arrear of tax under this Act.

(2) Any amount recovered from an occupier instead of from an owner under sub-section (1), shall in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid by the owner.

373. *Execution of work by occupier in default of owner and deduction of expenses from rent.*— Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or any bye-law made thereunder, the occupier, if any, of such land or building may with the approval of the

Commissioner, execute the said work and he shall, subject to any contract between the owner and occupier to the contrary be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct the amount thereof from the rent payable by him to the owner.

374. *Relief to agents and trustees.* —(1) Where any person, by reason of his receiving rent of immovable property as a receiver, agent or trustee would be bound to discharge any obligation imposed by this Act, or any rule, bye-law, regulation or order made under it for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands, belonging to the owner sufficient for the purpose.

(2) The burden of proving any act entitling a receiver, agent or trustee to relief under sub-section (1) shall lie upon him.

(3) Where any receiver, agent or trustee has claimed and established his right to relief under this section, the Commissioner may, by notice in writing require him, to apply to the discharge of his obligation as aforesaid, the first, moneys which may come to his hands on behalf, or for the use of the owner, and on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

375. *General power to pay compensation.*— In any case not otherwise provided for in this Act or in any bye-law made thereunder, the Commissioner, with the previous approval of the Corporation, may pay compensation to any person who sustains damage by reasons of the exercise of any of the power vested by this Act or any bye-law in the Commissioner or in any Corporation officer or other Corporation employee.

376. *Compensation to be paid by offenders for damage caused by them.*—(1) Any person who has been convicted of an offence against this Act or any bye-law made thereunder shall, notwithstanding any punishment to which he may have been sentenced for the said offence, be liable to pay such compensation for any damage to the property of the Corporation resulting from the said offence as the appropriate municipal authority may consider reasonable.

(2) In the event of a dispute regarding the amount of compensation payable under sub-section (1), such amount shall, on application made to him, be determined by the Magistrate before whom the said person was convicted of the said offence ; and on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant ; from the said Magistrate as if it were a fine imposed by him on the person liable therefor.

377. *Mode of receiving certain dues.*— In any case not expressly provided for in this Act or any bye-law made thereunder any sum due to the Corporation on account of any charges, costs, expenses, fees or rent for any other account under this Act or any such bye-law may be recoverable from any person from whom such sum is due as arrears of tax under this Act :

Provided that no proceedings for the recovery of any sum under this section, shall be commenced after the expiry of three years from the date on which such sum became due.

378. *Right of owner to apply to Court of the District Judge in case of obstruction by occupier.* —(1) The owner of any land or building may if he is prevented by the occupier thereof from complying with any provision of this Act or any bye-law made thereunder or with any notice, order or requisition issued under such provision, apply to the Court of the District Judge, and where such application is made within any time that may be fixed for the compliance with such provision or notice, order or requisition, the owner shall not be liable for his failure to comply with the provision or notice, order or requisition within the time so fixed.

(2) The Court on receipt of such application may make a written order requiring the occupier of the land or building to afford all reasonable facilities to the owner for

complying with the said provision, or notice, order or requisition and may also, if it thinks fit direct that the costs of such application and order be paid by the occupier.

(3) After eight days from the date of the order referred to in sub-section (2), the occupier shall afford all such reasonable facilities to the owner for the purpose aforesaid as may be specified in the order and in the event of his

continued refusal to do so, the owner shall be discharged during the continuance of such refusal from any liability which may have been otherwise incurred by reasons of his failure to comply with the said provisions or notice, order or requisition.

379. *General powers and procedure of the Court of District Judge.*—The procedure provided in [1][the Code of Civil Procedure, 1908 (5 of 1908)], in regard to suits shall be followed in the disposal of application, appeal or references that may be made to the Court of the District Judge under this Act or any bye-law made thereunder.

380. *Fees in proceeding before the Court of District Judge.* —(1) The Government may, by notification in the [2][Government Gazette], prescribe what fee shall be paid :—

(a) on any application, appeal or reference under this Act or any bye-law made thereunder to the Court of the District Judge ; and

(b) for the issue, in connection with any inquiry or proceedings before that Court under this Act or bye-laws, of any summons or other process :

Provided that the fee, if any prescribed under clause (a) shall not in cases in which the value of the claim or subject matter is capable of being estimated in money, exceed the fees liable for the time being under the provisions of the [3][Court Fees Act, Samvat 1977], in cases in which the amount of the claim or subject matter is of a like amount.

(2) The Government may, by like notification, determine the person by whom the fee, if any, prescribed under clause (a) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by the Court of the District Judge until the fee, if any, prescribed therefor under clause (a) of sub-section (1) has been paid :

Provided that the Court may in any case in which it thinks fit so to do—

(i) receive an application, appeal or reference made by or on behalf of a poor person ; and

1.Substituted for “the Code of Civil Procdure, Samvat 1977” by S.O. 3466 of 2020 dated 05.10.2020.
3.Now Court Fees Act, 1870 (07 of 1870).

(ii) issue process on behalf of any such person, without payment or on payment of part of the fees prescribed under this section.

381. *Repayment of half fee on settlement before hearing.*— Whenever an application, appeal or reference made under this Act or any bye-law made thereunder to the Court of the District Judge is settled by agreement between the parties before the hearing, half the amount of all fees paid up to that time, shall be repaid by the Court to parties by whom the same have respectively been paid.

382. *Power of the Court of District Judge to delegate certain powers and to make rules.*— The Court of the District Judge may:—

(a) delegate, either generally or specially, to the Court of an Additional District Judge, power to receive applications and reference under this Act or any rule, regulation or bye-laws made thereunder, and to hear and determine such application and references ; and

(b) with the approval of the Government, make rules not inconsistent with this Act or any rule, regulation or bye-law made thereunder, providing for any matter connected with the exercise to the jurisdiction conferred upon the Court by this Act which is not herein specially provided for.

383. *Punishment for certain offences.*— Whoever—

(a) contravenes any provision of any of the sections, sub-sections, clauses, provisos or other provisions of this Act, mentioned in the first column of the table in the Second Schedule ; or

(b) fails to comply with any order lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub- sections, clauses, provisos or other provision shall be punishable—

(i) with fine which may extend to the amount specified in the third column of the said Table ; and

(ii) in the case of a continuing contravention or failure ; with an additional fine which may extend to the amount specified in the fourth column of that Table for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

[1][383A. *Eviction of unauthorised occupants.* —(1) Notwithstanding anything contrary contained in this Act or in any other law for the time being in force, if the Commissioner is of the opinion that any person is in unauthorised occupation of any property and that he should be evicted, the Commissioner 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 Commissioner is satisfied that the property is in unauthorised occupation, the Commissioner 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 Commissioner 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 Commissioner 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 newspapers 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 Commissioner 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 Commissioner 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.

1. Section 383A inserted by S.O. 3466 (E) of 2020 dated 05.10.2020.

(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 occupation' means occupation by any person of any property, being the property of the Corporation or where Corporation 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.]

384. *General Penalty.*— Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to [1][two thousand rupees] and in the case of a continuing failure or contravention with an additional fine which may extend to [2][one hundred rupees] for every day after the first conviction during which he has persisted in the failure or contravention.

385. *Offences by Companies.* —(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was incharge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer such director, manager, secretary or other officer shall be deemed

1. Substituted for "five hundred rupees" by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Substituted for "fifty rupees" *ibid*.

to be guilty of that offence and shall be liable to be proceeded against and punishable accordingly.

Explanation :—For the purpose of this section,—

(a) "Company" means a body corporate, and includes a firm or other association of individuals ; and

(b) "Director" in relation to a firm means a partner in the firm.

386. *Police establishment.* —(1) Every Corporation shall, unless relieved of this obligation by the Government, maintain sufficient police establishment for its police requirements within the municipal area for the performance of the duties imposed on it by this Act.

(2) The establishment maintained under sub-section (1) shall consist of part of the general police force under the Government within the meaning of section 2 of the Police Act, Samvat 1983, and shall consist of such number of officers and men who shall respectively receive such pay, leave, allowance, gratuities and pensions as the Corporation may from time to time after consultation with the Director General of Police and subject to the final decision of the Government direct.

387. *Arrest of offenders.* —(1) Any police officer may arrest any person who commits in his view any offence under this Act or against any rule, regulation or bye-law made thereunder if,—

(a) the name and address of such person be unknown to him ; and

(b) such person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address is ascertained or, without the order of the nearest Magistrate, for a period longer than twenty-four hours from the time of arrest exclusive of the time necessary for the journey from the place of arrest to the court of such Magistrate.

(3) It shall be the duty of all police officers to give immediate information to the Commissioner or any other appropriate Corporation officer, of the commission of or the attempt to commit any offence against this Act or any rule, regulation or

bye-law made thereunder and to assist all Corporation officers and other Corporation employees in the exercise of their lawful authority.

388. *Powers to initiate legal proceedings etc. and obtain legal advice.*— The Commissioner may,—

(a) take, or withdraw from, proceeding against any person who is charged with—

(i) any offence against this Act or any rule, regulation or bye-law made thereunder ; or

(ii) any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of this Act ; or

(iii) committing any nuisance whatsoever ;

(b) contest or compromise any appeal against [1][taxable annual value] or the assessment of any tax or rate ;

(c) take or withdraw from the compromise ; proceeding under section 376 for the recovery of expenses or compensation claimed to be due to the Corporation ;

(d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person ;

(e) defend any suit or other legal proceeding brought against the Corporation or against the Commissioner or a Corporation employee in respect of anything done or omitted to be done by any one of them in his official capacity ;

(f) with the approval of the Corporation, admit or compromise any claim, suit or other legal proceeding brought against the Commissioner or any Corporation officer or other Corporation employee in respect of anything done or omitted to be done as aforesaid ;

(g) withdraw or compromise any claim against any person in respect of a penalty payable under contract entered into with such person by the Commissioner on behalf of the Corporation ;

1. Substituted by S.O. 3466(E) dated 05.10.2020 for “rateable value”.

(h) obtain such legal advice and assistance as he may from time to time think necessary or expedient to obtain or as he may be required by the Corporation to obtain for any of the purposes mentioned in the foregoing clauses or for securing lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any Corporation officer or other Corporation employee.

389. *Prosecution.*— Save as otherwise provided in this Act, no court shall try an offence made punishable by or under this Act or any rule or any bye-law made hereunder, except on the complaint of, or upon information received from the Commissioner, or any other officer of the Corporation authorised by him in this behalf.

390. *Composition of offences.* —(1) The Commissioner or any other officer of the Corporation authorised by it in this behalf by a general or special order or a sub-committee of the Corporation appointed by it may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act, or any rule or any bye-law made thereunder.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence so compounded.

391. *Protection of action taken in good faith etc.*— No suit or prosecution shall be entertained in any court against the Corporation or against the Commissioner or against any Corporation officer or other Corporation employee or against any person acting under the order or direction of the Corporation or the Commissioner for anything which is in good faith done or intended to be done under this Act or any rule, regulation or bye-law made thereunder.

392. *Notice to be given of suits.* —(1) No suit shall be instituted against the Corporation or against the Commissioner or against any Corporation officer or other Corporation employee or against any person acting under the order or any direction of the Corporation or the Commissioner or any Corporation officer or other Corporation employee, in respect of any act done, or purporting to have been done, in pursuance of this Act or any rule, regulation or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the Corporation office and, in the case of such employee or person unless notice in writing has also been delivered to him or left at his office or place of residence, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of residence of intending plaintiff, and unless the plaint contains a statement that such notice has been so left or delivered.

(2) No suit, such as is described in sub-section (1) shall, unless it is a suit for the recovery of immovable property or for a declaration of title thereto be instituted after the expiry of six months from the date on which the cause of action arises.

(3) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by giving of the notice or the postponement of the institution of the suit.

CHAPTER XXII

RULES, REGULATIONS AND BYE-LAWS

393. *Supplemental provisions respecting rules.* —(1) Any rule which the Government is empowered to make under this Act may provide that any contravention thereof shall be punishable with fine which may extend to [1][two thousand rupees].

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before [2][each House of the State Legislature] while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive session aforesaid, [3][both the Houses] agree to make any modification in the rule or [3][both Houses] agree that this rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be however, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

394. *Supplemental provisions regarding regulations.* —(1) Any regulation which the Corporation under this Act may make with the approval of Government, may be altered or rescinded by the Corporation with the approval of the Government in the exercise of its powers under this Act.

(2) Any regulation made under this section may provide that contravention thereof shall be punishable with fine which may extend to five hundred rupees.

(3) No regulation made by the Corporation under this Act shall have effect until it has been published in the [4][Government Gazette by the Government.

1. Substituted for "one thousand rupees" by S.O. 3466 (E) of 2020 dated 05.10.2020. 2. Now the Legislative Assembly of the Union territory of Jammu and Kashmir. 3. Now the Legislative Assembly.

395. *Powers to make bye-laws.*—[1][Subject to the provisions of this Act and the rules made thereunder], the Corporation may in addition to any bye-laws which it is empowered to make under any other provision of this Act make bye-laws to provide for all or any of the following matters, namely :—

A. Bye-laws relating to taxation :—

(i) the maintenance of such books and registers by the Commissioner and particulars which such books and registers should contain ;

(ii) the inspection of and the obtaining of copies and extracts from such books and registers and fees, if any, to be charged for the same ;

(iii) the publication of rates of taxes as determined by the Government from time to time ;

(iv) the requisition by the Commissioner of information and returns from persons liable to pay taxes ;

(v) the notice to be given to the Commissioner by any person who becomes the owner or possessor of a vehicle or animal in respect of which any tax is payable under this Act ;

(vi) the wearing of badge by the driver of any such vehicle and the display of number plate on such vehicle ;

(vii) the submission of returns by the persons liable to pay any tax under this Act ; and

(viii) any other matter relating to the levy, assessment, collection, refund or remission of taxes under this Act.

B. Bye-laws relating to water supply, drainage and sewage disposal :—

(i) the power of the Commissioner to close water works for the supply of water, whether for domestic purposes or not, or for gratuitous use and to prohibit the same and use of water for the purpose of business ;

(ii) the connection of supply pipes for conveying to any premises a supply of water from municipal water works ;

1.Substituted for "Subject to the provisions of this Act" by S.O. 3466 (E) of 2020 dated 05.10.2020.

(iii) the making and renewing connections with municipal water works ;

(iv) the power of the Commissioner to take charge of private connection ;

(v) the power of the Commissioner to alter the position of connection ;

(vi) the equitable distribution of water supplied to occupiers ;

(vii) the size, material, equality and description and position of the pipes and fitting to be used for the purpose of any connection with or any communication from any municipal water works and the stamping of pipes and fitting and fees for such stamping ;

(viii) the size, material, equality and description of pipes, cisterns and fittings which are found on an examination under the provisions of this Act to be so defective that they cannot be effectively repaired ;

(ix) the provision and maintenance of meters when water is supplied by measurement ;

(x) the prohibition of fraudulent and unauthorised use of water and the prohibition of fraud in connection with meters ;

(xi) the maintenance of pipes, cisterns and other water works ;

(xii) the regulation or prohibition of the discharge or deposit of offensive or obstructive matter, polluted water or other polluted and obnoxious matter into sewers ;

(xiii) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation, shafts, pipes, latrines, urinals, cesspools and other drainage works ;

(xiv) the cleaning of drains ;

(xv) the prohibition of erection of buildings over drains without the

permission of the Commissioner ;

(xvi)the connection of private drains with municipal drains ;

(xvii) the location and construction of cesspools ;

(xviii)the covering and ventilation of cesspools ;

(xix)the period or periods of the day during which trade effluent may be discharged from any trade premises into municipal drains ;

(xx) the exclusion from trade effluent of all condensing water ;

(xxi) the elimination from trade effluent, before it enters a municipal drain, of any constituent which in the opinion of the Corporation would, either alone or in combination with any matter with which it is likely to come into contact while passing through municipal drains, injure or obstruct those drains or make specially difficult or expensive the treatment or disposal of the sewage from those drains ;

(xxii) the maximum quantity of trade effluent which may, without any consent or permission, be discharged from any trade premises into municipal drains on any day ;

(xxiii) the regulations of the temperature of trade effluent at the time of its discharge into municipal drains and the securing of the neutrality of trade effluent (that is to say that neither acid nor alkaline) at the time of such discharge ;

(xxiv) the charges to be paid to the Corporation by occupiers of trade premises for the reception of trade effluent into municipal drains and disposal thereof ;

(xxv) the provisions and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into municipal drains from trade premises ; and

(xxvi) the provisions and maintenance of such meters as may be required to measure the volume of any trade effluent being discharged from any trade premises into municipal drains and the testing of such meters.

C. Bye-laws relating to streets :—

(i) the closure of streets when any work is in progress and alternative passage during the progress of such work ;

(ii) the erection of a temporary nature during festivals ;

(iii) the setting up of boards on buildings adjacent to streets during their construction or repair ;

(iv) the precautions to be taken when permission is granted to any private individual for opening or breaking up any public street and the fees to be paid for the restoration of a street in its original sanction ;

(v) the permission, regulation or prohibition of use or occupation of any street or place by itinerant vendors or hawkers or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall and fees chargeable for such occupation ;

(vi) any other matter in connection with the construction, repair, maintenance, naming, numbering and lighting of streets for which provision is necessary or should be made ;

D. Bye-laws relating to building :—

(i) the regulation or restriction of the use of sites for buildings for different areas ;

(ii) the regulation or restriction of buildings in different areas ;

(iii) the form of notice of erection of any building or execution of any work and the fee in respect of the same ;

(iv) the plans and documents to be submitted together with such notice and the information and further information to be furnished ;

(v) the level and width of foundations, level of lowest floor and stability of structure ;

(vi) the construction of buildings and the materials to be used in the construction of buildings ;

(vii) the height of buildings whether absolute or relative to the width of streets or to different areas ;

(viii) the number and height of storeys composing a building and height of rooms and the dimensions of rooms intended for human habitation ;

(ix) the provision of open spaces, external and internal and adequate means of light and ventilation ;

(x) the provision of means of egress in case of fire, fire escapes and water lifting devices ;

(xi) the provisions of secondary means of access for the removal of house refuse ;

(xii) the materials and methods of construction of external and partly walls, roofs and floors ;

(xiii) the position, materials and methods of construction of hearths, smoke escapes, chimneys, staircases, drains and cesspools ; (xiv) the provisions of lifts ;

(xv) the paving of yards ;

(xvi) the restriction on the use of inflammable materials in buildings ; (xvii) the restriction on construction of foundation on certain sites ; (xviii) the measures to be taken to protect buildings from damp arising from sub-soil ;

(xix) the wells, tanks and cisterns and pumps for the supply of water for human consumption in connection with buildings ;

(xx) in the case of wells, the dimensions of the well, the manner of enclosing it and if the well is intended for drinking purposes the means which shall be used to prevent pollution of the water ; (xxi) the supervision of buildings ;

(xxii) the setting back of garages and shops from the regular line of a street ;

(xxiii) the construction of portable structure and permission for such construction.

E. Bye-laws relating to sanitation and public health :—

(i) the position of latrines and urinals ;

(ii) the provision of air spaces between latrines and buildings of places used for various purposes ;

(iii) the white washing of buildings ;

(iv) the provisions of having accommodation for sweepers in buildings newly erected requiring ten or more latrines ;

(v) the regulation or prohibition of the stabling or herding of animals or any class of animals so as to prevent danger to public health ;

(vi) the seizure of ownerless animals straying within the limits of the municipal area and the regulation and control of pounds ;

(vii) the fixing and regulation of the use of public bathing and washing places ;

(viii) the prevention of the spread of dangerous diseases ;

(ix) the segregation in or the removal or expulsion from any part of the municipal area or the destruction of animal suffering or reasonably suspected to be suffering from any infectious or contagious disease ;

(x) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water supply and of appliances for the distribution of water ;

(xi) the enforcement of compulsory vaccination and inoculation ;

(xii) the proper disposal of corpses, the regulation and management of burning and burial places and other places for the disposal of corpses and the fees chargeable for the use of such places where the same are provided or maintained at the expense of the Corporation Fund.

F. Bye-laws relating to public safety and suppression of nuisances :—

The regulation or prohibition for the purpose of sanitation or the prevention of disease or the promotion of public safety or conveniences of any act which occasions or is likely to occasion a nuisance and for the regulation or prohibition of which no provision is made elsewhere by this Act.

G. Bye-laws relating to markets, slaughter houses, trades and occupations :—

(i) the days on, and the hours during which any market or slaughter house may be kept open for use ;

(ii) the regulation of the design, ventilation and drainage of markets and slaughter houses and the materials to be used in the construction thereof ;

(iii) the keeping of markets and slaughter houses and the lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth, rubbish and other polluted and obnoxious matter therefrom and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same ;

(iv) the manner in which animals shall be admitted in slaughter houses ;

(v) the manner in which animals may be slaughtered ;

(vi) the provision of passage of sufficient width between the stalls in market buildings and market places for the convenient use of the public and the prevention of encroachment of such passage ;

(vii) the setting apart of separate areas for different classes of articles in market buildings and market places ;

(viii) the disposal or destruction of animals offered for slaughter which are from disease or any other cause, unfit for human consumption ;

(ix) the destruction of carcasses which from any disease or any other cause are found after slaughter to be unfit for human consumption ;

(x) the regulation of the entry of animal into slaughter house and bringing out of the carcasses of such animals after slaughter and the fee to be paid for use of slaughter houses ;

(xi) the proper custody and care of animals for the keeping of which licences are granted under section 324 ;

(xii) the regulation of the import of animals and flesh within the municipal area ;

(xiii) the rendering necessity of licences for the use of premises within the municipal area as stables or cow houses or as an accommodation for sheep, goat or buffalo and the fees payable for such licences and the conditions subject to which such licences may be granted, refused, suspended or revoked ;

(xiv) the regulation of sarais, hotels, dak bungalows, lodging houses, boarding houses, buildings, let-in-tenements, residential clubs, restaurants, eating houses, cafes, refreshment rooms and places of public ;

(xv) recreation, entertainment or resorts ;

(xvi) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise injurious offensive or dangerous effects arising or likely to arise therefrom ;

(xvii) the regulation of the posting of bills and advertisements and of the position, size, shape or style of the name boards, signboards and signposts ;

(xviii) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method ;

(xix) the procedure regarding grant of permit to establish a factory, workshop or trade premises ;

(xx) the regulation of smoke in factories, workshop and trade premises ;

(xxi) the regulation of sanitary conditions in factories, workshops and trade premises ;

(xxii) the regulation of the use in any factory, workshop or trade premises of whistle, trumpet, siren or horn worked by steam, compressed air, electricity, or other mechanical means ;

(xxiii) the prevention of nuisance in any market building, market place, slaughter house or any factory or trade premises.

H. Bye-laws relating to improvement :—

(i) the form and contents of an improvement scheme or a rehousing scheme ;

(ii) the procedure to be followed in connection with the framing, submission, approval and sanction of such scheme ;

(iii) the local inquiries and other hearings that may be held before a scheme is framed, approved or sanctioned ;

(iv) the alteration of an improvement scheme or a rehousing scheme after approval and sanction ;

I. Bye-laws relating to miscellaneous matters :—

(i) the prevention and extinction of fire ;

(ii) the circumstances and the manner in which owners of land or building in the municipal area temporarily absent therefrom or not resident therein may be required to appoint as their agents for all or any of the purposes of this Act or of any bye-laws made thereunder, persons residing within or near the municipal area ;

(iii) the regulation and control of Corporation dispensaries ;

(iv) the rendering of necessary licences—

(a) for the proprietors or drivers of hackney-carriers, cycle rickshaws, thelas, the rahries kept or plying for hire or used for hawking articles ;

(b) for persons working as job porters for the conveyance of goods ;

(v) the classification of cinema theatres for the purposes of levying theatre-tax ;

(vi) any other matter which is to be or may be prescribed by bye-laws made under this Act or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Corporation, necessary for the efficient municipal government of the municipal area.

396. *Penalty for breaches of bye-laws.* —(1) Any bye-laws made under this Act may provide that a contravention thereof shall be punishable—

(a) with fine which may extend to five hundred rupees ; or

(b) with fine which may extend to five hundred rupees and in the case of continuing contravention, with an additional fine which may extend

to fifty rupees for every day during which such contravention continues after conviction for the first contravention ; or

(c) with fine which may extend to fifty rupees for every day during which the contravention continues, after the receipt of a notice from the Commissioner or any Corporation officer duly authorised in that behalf by the person contravening the bye-laws requiring such person to discontinue such contravention.

(2) Any such bye-law may also provide that a person contravening the same shall be required to remedy, so far as lies in his powers, the mischief, if any, caused by such contravention.

397. *Supplemental provisions respecting bye-laws.* —(1) Any power to make bye-laws conferred by this Act is conferred subject to the conditions of the bye-laws being made after previous publication and their not taking effect until they have been approved by the Government and published in the [1][Government Gazette].

(2) The Government in approving a bye-law may make any change therein which appears to it to be necessary.

(3) The Government may, after previous publication of its intention, cancel any bye-laws which it has approved and thereupon the bye-law shall cease to have effect.

398. *Bye-laws to be available for inspection and purchase.* —(1) A copy of all bye-laws made under this Act shall be kept at the Corporation office and shall, during office hours, be open free of charge to inspection by any person of the municipal area.

(2) Copies of all such bye-laws shall be kept at the Corporation office and shall be sold to the public at the cost price either singly or in collections at the option of the purchaser.

CHAPTER XXIII

CONTROL

399. *Power of Government to require production of document.*— The Government or the Director may at any time require the Commissioner—

(a) to provide any record, correspondence, plan or other document in his possession or under his control ; and

(b) to furnish any return, plan, estimate, statement, account or statistics relating to the proceedings, duties or works of the Corporation or any of the Corporation authorities.

400. *Inspections.*— The Government may depute any officer to inspect or examine any municipal department or office or any service or work undertaken by the Corporation or any of the municipal authorities or any property belonging to the Corporation and to report thereon and the Corporation and every Corporation authority and all Corporation officers and other Corporation employees shall be bound to afford the officer so deputed access at all reasonable times to the premises and properties of the Corporation and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.

401. *Powers to give directions.* —(1) If whether on receipt of any information or report obtained under section 399 or section 400 or otherwise, the Government is of the opinion,—

(a) that any duty imposed on the Corporation or any of its authority by or under this Act, has not been performed or has been performed in an imperfect, insufficient or unsuitable manner ; or

(b) that adequate financial provision has not been made for the performance of any such duty,

the Government may direct the Corporation or the Commissioner, within such period as it thinks fit, to make arrangements to its satisfaction for the proper performance of duty, or, as the case may be, to make financial provisions to its satisfaction for the performance of the duty and the Corporation or the Commissioner concerned shall comply with such directions.

Provided that unless in the opinion of the Government the immediate execution of such order is necessary, it shall, before making any directions under this section, give the Corporation or the Commissioner an opportunity of showing cause why such direction should not be made.

402. *Powers to provide for enforcement of direction under section 401.*— If within the period fixed by a direction made under sub-section (1) of section 401, any action the taking of which has been directed under that sub-section,

has not been duly taken, the Government may make arrangements for the taking of such action and may direct that all expenses connected therewith shall be defrayed out of the Corporation Fund.

403. *Power of revision.*— The Government may at any time, for the purposes of satisfying itself as to the correctness, legality, propriety or regularity of any proceeding or order passed by any officer of the Government or the Commissioner or any officer subordinate to him, call for and examine the record and may pass such order with reference thereto as it may think fit.

404. *Dissolution of Corporation.* —(1) If, in the opinion of the Government, the Corporation is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law or exceeds or abuses its powers, the Government may by an order published, together with a statement of the reasons therefor, in the [1][Government Gazette], declare the Corporation to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and dissolve the Corporation :

Provided that before making an order of dissolution as aforesaid, reasonable opportunity shall be given to the Corporation to be heard and to show cause why order of dissolution should not be made.

(2) When the Corporation is dissolved by an order under sub-section (1)—

(a) all Councillors, shall on such date as may be specified in the order vacate their offices without prejudice to their eligibility for election under clause (d) ;

(b) all powers and duties conferred and imposed upon the Corporation by or under this Act shall be exercised and performed by such person or authority as the Government may by notification appoint in this behalf ; and

(c) all property in possession of Corporation shall be held by the Government ;

(d) the Government shall reconstitute a Corporation as specified under sub-section (2) of section 4 and election to reconstitute such Corporation shall be completed before expiration of a period of six months from the date of dissolution ; provided that where the remainder of the period for which the dissolved Corporation would have continued, is less than six month, it shall not be necessary to

hold any election under this sub-section for reconstituting the Corporation for such period ;

(e) the Corporation reconstituted upon the dissolution of the existing Corporation before the expiration of its duration, shall continue only for the remainder of the period for which the dissolved Corporation would have continued under section 5 had it not been so dissolved.

405. *Delegation.* —(1) The Government may, by notification, delegate, all or any of its powers under this Act, except the power to make rules, to any officer subject to such restrictions and conditions as may be specified in the notification.

(2) The Commissioner may by order direct that any power conferred or any duty imposed on him by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised and performed also by any Corporation officer or other Corporation employee specified in the order.

406. *Validity of notices and other documents.*— No notice, order, requisition, licence, permission in writing or any other document issued under this Act shall be invalid merely by reason of defect of form.

407. *Admissibility of document or entry as evidence.*— A copy of any receipt, application, plan, notice, order or other document or of any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorised by the Commissioner in this behalf, be admissible in evidence of the existence of the document or entry and shall be admitted as evidence of the matters and transaction therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters and transactions.

408. *Evidence of Corporation officer or employee.*— No Corporation officer or other Corporation employee shall, in any legal proceedings to which the Corporation is not a party, be required to produce any register or document the contents of which can be proved under section 410 by a certified copy, or to appear, as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause.

409. *Prohibition against obstruction of Mayor or any Corporation authority.*— No person shall obstruct the Corporation or the Commissioner, the Mayor or any of the Deputy Mayors, any councillor or any person employed in the Corporation or any person with whom the Commissioner has entered into a contract on behalf of the Corporation in the performance of his duty or of anything which they are empowered or required to do by virtue or in consequence of any provision of this Act or any rule, regulation or bye-law made thereunder.

410. *Prohibition against removal of mark.*— No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorised by this Act or of any rule or bye-law made thereunder.

411. *Prohibition against removal or obliteration of notice.*— No person shall, without authority in that behalf, remove, destroy, deface or otherwise obliterate any notice exhibited by or under orders of the Corporation or any other Corporation authority or any Corporation officer or other Corporation employee specified by the Commissioner in this behalf.

412. *Prohibition against unauthorised removal of deposit, etc.*— No person shall, without authority in that behalf, remove earth, sand or other material or deposit any matter or make any encroachment in or on any land vested in the Corporation or in any way obstruct the same.

413. *Liability of Councillors.* —(1) Every Councillor shall be liable for the loss, waste or misapplication of any money or other property belonging to the Corporation, if such loss, waste or misapplication is reported either by the Audit Agency or otherwise comes to the notice of the Corporation to be direct consequence of his neglect or misconduct in the performance of his duties as a Councillor ; 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 why he should not be required to make good the loss, 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 shall proceed forthwith to recover the amount as if it were an arrear of land revenue, and have it credited to the Corporation Fund.

(2) The person against whom an order under sub-section (1) is made by the Director may within thirty days of the date of communication of the order make an appeal to the Government :

1. Substituted for “the Code of Civil Procedure, Samvat 1977” by S.O. 3466 (E) of 2020 dated 05.10.2020.

Provided that no person shall under this section be called upon to show cause after the expiry of a period of five years from the occurrence of such loss, waste or

misapplication or after the expiry of two years from the time of his ceasing to be a Councillor.

414. *Councillors and Corporation officers and employees to be public servants.*— Every councillor, the Commissioner and every Corporation officer and other Corporation employees, shall be deemed to be a public servant within the meaning of section 21 of [1][the Indian Penal Code (45 of 1860)].

415. *Annual Administration Report.* —(l) As soon as may be after 1st day of April, in every year and not later than such date as may be fixed by the Government in this behalf, the Corporation shall submit to the Government a detailed report of its activities during the preceding years on such forms as the Government may direct.

(2) The Commissioner shall prepare such report and the Corporation shall consider it and forward the same to the Government with its resolution thereon, if any.

(3) Copies of the report shall be kept for sale at the Corporation office.

416. *Construction of reference.*— Save as expressly provided in this Act and unless the context otherwise requires, after the establishment of the Corporation, any reference in any enactment, rule, bye-laws, order, scheme, notification or other instrument having the force of law, to any local authority having jurisdiction in the municipal area or any part thereof shall, unless the context or subject otherwise requires, be construed as reference to the Corporation.

417. *Special provision as to rural areas.*— Notwithstanding anything contained in the foregoing provisions in this Act—

(a) the Corporation, with previous approval of the Government, may, by notification in the [2][Government Gazette], declare that any portion of the rural areas shall cease to be included therein and upon the issue of such notification that portion shall be included in and form part of the urban areas ;

1.Substituted for "the Jammu and Kashmir State Ranbir Penal Code, 1989" by S.O. 3466 (E) of 2020 dated 05.10.2020.
2.Now Official Gazette.

(i) exempt the rural areas or any portion thereof from such of the provisions of this Act as it deems fit ; and

(ii) levy taxes, rates, fees and other charges in the rural areas or any portion thereof at rates lower than those at which such tax, rate, fee or other charges are levied in the urban areas, or exempt such areas or portion from any such tax, rate, fee or other charge.

418. *Power to suspend any resolution or order of Corporation.*— If the Government is of the opinion that the execution of any resolution or order of the Corporation or of any other Corporation authority or employee subordinate thereto or the doing of any act which is about to be done or is being done by or in excess of powers conferred by this Act or any other law for the time being in force or is likely to lead breach of the peace or cause injury and/or annoyance to the public or any class or body of persons, the Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act.

419. *Power of Government to modify proceedings.*— The Government may by written order modify, annul or omit from the records any proceedings of the Corporation which it considers not to be in conformity with this Act or any rules or bye-laws made thereunder and may do all things necessary to secure such conformity :

Provided that unless in the opinion of the Government the immediate making of such order is necessary it shall before making an order under this section, give the Corporation an opportunity of showing cause why such an order should not be made.

420. *Powers of Government to withdraw any area of Municipal area, from operation of Act.* —(1) The Government may, by notification, withdraw from the operation of this Act, any area of a municipal area of the Corporation :

Provided that no such notification shall be issued unless the same has been published for inviting objections and suggestions, if any, which have been duly considered to.

(2) When a notification is issued under this section in relation to any municipal area, this Act, all notifications, rules, regulations, bye-laws, orders, directions and powers issued, made or conferred under this Act shall cease to apply to the said area.

421. *District Planning Committee.* —(1) The Corporation shall prepare every year a development plan for its area and submit it to [1][the District Planning Committee].

(2) [1][The District Planning Committee] shall consolidate the Development plans prepared and submitted to it by the Corporation under sub-section (1) and prepare a draft development plan for the district as a whole.

[2][x x x x]

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

(a) have regard to :—

(i) matters of common interest between the municipalities and Panchayats including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation ;

(ii) the extent and type of available source whether financial or otherwise ;

(b) consult such institutions and organisations as the [4][State Government] may specify.

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

422. *Transitional provisions.*— In any enactment other than the Jammu and Kashmir Municipal Act, 2000 in force on the date immediately preceding the appointed day on which notification is published under sub-section (2) of section 3 of this Act or in any rule, order or notification made or issued thereunder and in force on such date, unless a different intention appears—

(a) reference to municipalities, Municipal Council and Municipal Committees constituted under the Jammu and Kashmir Municipal Act, 2000 shall be construed as reference to the Corporation and

1. Substituted for "The District Planning and Development Board" by S.O. 3466 (E) of 2020 dated 05.10.2020.

2.Existing sub-section (3) omitted *ibid*.

3. Renumberred *ibid*.

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

such enactment, rule, order or notification shall apply to the Corporation ;

(b) reference to the President or the Vice-President of a municipality constituted under the Jammu and Kashmir Municipal Act, 2000 shall be constructed in respect of the municipal area as reference to the Commissioner appointed under this Act ;

(c) reference to the members of a municipality constituted under the Jammu and Kashmir Municipal Act, 2000 shall in respect of the Corporation be construed as reference to the Councillor of the Corporation constituted under this Act ;

(d) references to any Chapter or section of the Jammu and Kashmir Municipal Act, 2000 shall, as far as possible, be construed in respect of the municipal area as reference to this Act or its corresponding Chapter or section.

423. *Provisions regarding officers and employees.* —(1) When any municipality including area comprising rural area or a part thereof, if any, is declared and constituted a Corporation under sections 3 and 4 of this Act, the entire officers and employees serving in municipality including area comprising rural area or a part thereof, if any, on a post shall be deemed to be transferred to the Corporation on the existing terms of service and integrated into the corresponding municipal service.

(2) The Corporation may recruit additional staff where necessary subject to the conditions as may be laid down by the Government.

(3) In making appointment to any post referred to in this section, the appointing authority shall follow the instructions issued by the Government from time to time in relation to reservation of appointment or post for Scheduled Castes, Scheduled Tribes, Backward Classes and other category of persons.

424. *Assets, liabilities, debts, obligation, contracts and pending proceedings.* ––(1) All assets and properties vesting in, all debts, liabilities and obligations incurred by and all contracts made by, or on behalf of the municipality including area comprising rural area or a part thereof, if any, declared and constituted to be a Corporation under sections 3 and 4 of this Act, be deemed to have been vested in, to have been incurred and made by the Corporation and shall continue in operation accordingly.

(2) All proceedings pending before any authority of the said municipality including area comprising rural or a part thereof, if any, on the day the Corporation was constituted under the provisions of this Act, are required to be instituted before or undertaken by the Commissioner, shall be transferred to and continued by such authority before or by whom they have to be instituted or undertaken under the provisions of this Act.

(3) All appeals pending before any authority of the said municipality including area comprising rural area or a part thereof, if any, on the day the Corporation was constituted, shall in so far as may be practicable, be disposed of as if the same were pending before the said authority after the declaration and constitution of the Corporation.

(4) All prosecutions instituted by or on behalf of the said municipality including area comprising rural area or a part thereof, if any, and all suits and legal proceedings instituted by or against the said municipality including area comprising rural area or a part thereof, if any, pending on the day the Corporation was constituted, shall be deemed to have been instituted by or against the Commissioner.

425. *Provision for municipality or local authority which is superseded.*— Any reference in the foregoing sections to municipalities or a local authority shall, in case such municipality or a local authority has been superseded or placed under the charge of an administrator under any enactment made for that purpose be deemed to be a reference to the person or persons appointed to exercise the powers or to perform the functions of such municipality or local authority under any law relating to such municipality or the Municipal Corporation or local authority.

426. *Power to enquire and make report about misconduct of certain officer or official.* —(1) On a complaint being made to the Corporation by any Councillor that an officer or official of the Corporation or any other class of Government officer or official discharging any duties in relation to the functions of the Corporation, to which the Government may, by notification, extend the provisions of this section has misconducted himself in his official capacity, the Corporation may enquire into the matter and submit a report alongwith the *prima facie* evidence to the superior officer whom it may concern and the said officer shall, after such further enquiry as may be required, take suitable action under intimation to the Corporation and the Government.

(2) On the report being made by any Councillor 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 Corporation, 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 Corporation 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, and the said officer shall, after such enquiry as may be required, take suitable action under intimation to the Corporation and the Government.

427. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act or by reasons of anything contained in this Act to any other enactment for the time being in force, the Government may, as occasion requires, by order direct that this Act shall during such period as may be specified in the order but not extending beyond the expiry of two years from the commencement orders have effect subject to such adaptations whether by way of modification, addition or omissions as it may deem to be necessary and expedient.

428. *Repeal of Act No. VIII, Samvat 2008.* —(1) On and from the date of commencement of this Act, the Jammu and Kashmir Municipal Act, Samvat 2008 shall stand repealed (hereinafter referred to as the repealed Act) :

Provided that the repeal shall not effect :—

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

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act ; or

(c) 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 anything done or any action taken (including any appointment, or delegation made, notification, notice, order, instruction or direction issued, rule, regulation, bye-law, form or scheme framed, certificate obtained, permit or licence granted, registration affected, tax imposed or fee or rate levied), under the repealed Act shall, in so far as it is in force immediately before the commencement 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.

FIRST SCHEDULE

(See section 324)

PART–I

PURPOSES TO WHICH PREMISES MAY NOT BE USED WITHOUT A LICENCE

1. Banking.
2. Cinematograph films, shooting of.
3. Cinematography film by any process whatsoever, treating of.
4. Chillies or masala or corn or seeds, grinding by mechanical means. 5. Cloth, yarn or leather in indigo or in other colours, dyeing or printing of. 6. Cloth or yarn bleaching.
7. Keeping of an eating house or catering establishment.
8. Grain, parching.
9. Ground nut seeds, tamarind seeds or any other seeds, parching. 10. Hair dressing saloon or a barber's shop.
11. Hides or skins, whether raw or dried, tanning, pressing or packing. 12. Keeping a laundry shop.
13. Leather goods, manufacturing or by mechanical means.
14. Keeping of a litho press.
15. Keeping of a lodging house.

16. Metal casting.
17. Precious metals, refining of or recovering of them from embroideries.
18. Keeping of a printing press.
19. Keeping a sweetmeat shop excepting the premises already licensed as an eating house.
20. Keeping a tailoring shop.
21. Carrying on the trade or business of or any operation connected with the trade of :—
    (i) Autocar or autocycle servicing or repairing.
    (ii) Blacksmithy.
    (iii) Coppersmithy.
    (iv) Electroplating.
    (v) Glass bevelling.
    (vi) Glass cutting.
    (vii)Glass polishing.
    (viii)Goldsmithy.
    (ix) Marble cutting, grinding, dressing or polishing.
    (x) Metal (ferrous or non-ferrous or antimony but excluding precious metal) cutting or treating metal by harmoring, drilling, pressing, filling, polishing, heating or by any other process whatsoever or assembling parts of metal.
    (xi) Photography studio.
    (xii) Radio (wireless receiving set) selling, repairing, servicing or manufacturing.
    (xiii)Silversmithy.

    (xiv)Spinning or weaving cotton silk, art silk, or jute or wool with the aid of power.
    (xv) Stone grinding, cutting, dressing or polishing.

(xvi)Timber or wood sawing or cutting, by mechanical or electric power.
(xvii)Tinsmith.

(xviii) Washerman's trade.

(xix)Welding of metal by electric, gas or any process whatsoever.

22. Manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, moulting, grinding or preparing by any process whatever any of the following articles :—

(i) aerated waters.

(ii) Bakelite goods.

(iii) Beedies (indigenous cigarettes), snuff, cigars or cigarettes.

(iv) Bitumen.

(v) Blasting powder.

(vi) Bones.

(vii)Bricks or tiles by hand power.

(viii)Bricks or tiles by mechanical power.

(ix) Brushes.

(x) Candles.

(xi) Catgut.

(xii) Celluloid or celluloid goods.

(xiii)Cement concrete designs or models.

(xiv) Charcoal.

 (xv) Chemicals.

(xvi) Cinematograph films stripping in connection with any trade. (xvii) Cosmetics or toilet goods.

(xviii) Cotton, cotton refuse, cotton waste, cotton yarn, silk, silk yarn, silk inclusive of waste yarn, art silk, art silk waste, art silk yarn, wool or woollen refuse or wastes.

(xix) Cotton seeds.

(xx) Dammar.

(xxi) Dynamite.

(xxii) Fat.

(xxiii) Fireworks.

(xiv) Flax.

(xxv) Ink for printing, writing, stamping etc.

(xxvi) Gas.

(xxvii) Ghee.

(xviii) Glass or glass articles.

(xxix) Gunpowder.

(xxx) Hemp.

(xxxi) Ice (including dry ice).

(xxxii) Insecticide or disinfectants.

(xxxiii) Leather, cloth or rexin cloth or water proof cloth.

(xxxiv) Lime.

(xxxv) Linseed oil.

(xxxvi) Matches for lighting (including Bengal matches).

(xxxvii) Mattress and pillows.

(xxxviii) Offal.

(xxxix) Oil-cloth.

(xl) Oil other than petroleum by hand power or animal.

(xli) Pharmaceutical or medical products.

(xlii) Rubber of rubber goods.

(xliii) Paints.

(xliv) Paper or cardboard.

(xlv) Pickers from hides.

(xlvi) Pitch.

(xlvii)Plastic goods.

(xlviii) Pottery by hand power.

(xlix) Pottery by mechanical or any power other than hand power. (l) Sanitary-ware or China-ware.

(li) Soap.

(lii) Sugar.

(Iiii) Sweetmeat and confectionery goods.

(liv) Tallow.

(lv) Tar.

(Ivi) Varnishes.

(Ivii) Wooden furniture, boxes, barrels, khokhas or other articles of wood or of plywood or of sandal wood.

PART–II

ARTICLE WHICH MAY NOT BE STORED IN ANY PREMISES WITHOUT A LICENCE

1. Asafootida.
2. Ashes.
3. Bamboos.
4. Bidi or Bidi Leaves.
5. Blasting powder.
6. Blood.
7. Bones, bone meal or bone powder.
8. Camphor.
9. Carbide of calcium.
10. Card board.
11. Celluloid or celluloid goods.
12. Cement.
13. Charcoal.
14. Chemical Liquid.
15. Chemicals, non-liquid.
16. Chillies.
17. Chlorate mixture.
18. Cinematograph films-non-inflammable or acetate or safety base.
19. Cloth in pressed bales or boras.
20. Cloth or clothes of cotton, wool, silk, art silk etc.

21. Coal.
22. Coconut fibre.
23. Coke.
24. Compound gas, such as oxygen gas, nitrogen gas, carbon dioxide,

chlorine gas, acetyalom gas, etc.

25. Copra.
26. Cosmetics and toilet needs.
27. Cotton including kapok surgical cotton and silky cotton.
28. Cotton refuse or waste or cotton yarn, refuse or waste.
29. Cotton seed.
30. Detonators.
31. Dry leaves.
32. Dynamites.
33. Explosive paint such as nitrocellulose paint, lacquer paint, enamel paint etc.
34. Fat.
35. Felt.
36. Fins.
37. Firewood.
38. Fire-works.
39. Fish (dried).
40. Flax.
41. Fulminate.
42. Fulminate of mercury.

43. Fulminate of silver.
44. Golatino.
45. Gelignite.
46. Grass.
47. Gun-powder.
48. Gun-cotton.
49. Gunny bags.
50. Hair.
51. Hemp.
52. Hay or fodder.
53. Hessian cloth (gunny bag cloth).
54. Hides (dried).
55. Hides (raw).
56. Hoofs.
57. Horns.
58. Incense or esas.
59. Jute.
60. Khokhas, boxes, barrels, furniture, or any other article of wood.
61. Lacquer.

62. Leather, leather cloth, raxin cloth and water proof cloth.

63. Matches for lighting (including Bengal matches).

64. Methylated spirit, denatured spirit or French polish.

65. Nitro-cellulose.

66. Nitro-compound.

67. Nitro-glycerine.

68. Nitro-mixture.

69. Offal.

70. Oil, other than petroleum.

71. Oil seeds including almonds, but excluding cotton seeds.

72. Old paper or waste paper including old newspaper, periodicals, magazines.

73. Packing stuff (paper cutting).

74. Paints.

75. Paper other than old paper in pressed bales or loose or in reams.

76. Petroleum, other than dangerous petroleum as defined in the Petroleum Act, 1934.

77. Phosphorous.

78. Pharmaceutical or medical goods.

79. Photostat, cyclostyling, typing and printing machines.

80. Plastic or plastic goods.

81. Plywood.

82. Rags, including small pieces or cutting of cloth, hessian cloth, gunny bag cloth, silk, art silk or woollen cloth.

83. Resin or dammar Batter otherwise known as Ral.

84. Rubber and rubber goods.

85. Safety fuses, fog signals, cartridges etc.

 86. Saltpetre.

87. Sandal wood.

88. Sanitary-ware, hardware and other articles made of iron, iron sheets, pipes, iron angles and GI pipes.

89. Shoes including leather, PVC, Canvas, rubber and plastic shoes.

90. Silk waste or silk yarn waste, art silk waste or art silk yarn waste. 91. Sisal fibre.

92. Skins (raw or dried).

93. Straw.

94. Sulphur.

95. Tallow.

96. Tar, ditch, dammar or bitumen.

97. Tarphlin.

98. Thinner.

99. Timber.

100. Turpentine, utensils, crockery, China and earthen-ware, aluminium ware, stainless steel and iron goods.

101. Varnish.

102. Wool (raw).

103. Yarn other than waste yarn.

*SECOND SCHEDULE

* Second Schedule is missing in the Original Act.