[JHARKHAND ACT 07 OF 2012]

Jharkhand Municipal Act, 2011

An Act to consolidate and amend the laws relating to the Municipal Governments in the State of Jharkhand in conformity with the provisions of the Constitution of India as amended by the Constitution (Seventy fourth Amendment) Act, 1992, based on the principles of participation in, and decentralization, autonomy and accountability of, urban self-government at various levels, to introduce reforms in financial management and accounting systems, internal resource generation capacity and organizational design of municipalities, to ensure professionalisation of the municipal personnel, and to provide for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Jharkhand in the Sixty-one year of the Republic of India as follows:-

PART - I

PRELIMINARY

Chapter – 1

1.**Short title, extent and commencement-**

(1)This Act may be called the Jharkhand Municipal Act, 2011.

(2)It shall extend to the whole of the State of Jharkhand excluding cantonment areas therein.

(3)The provisions of the Act shall come into force on such date as the State Government may, by notification, appoint in this behalf.

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

(1)**"Ad hoc Committee"** means an Ad hoc committee appointed under section 47 of this Act;

(2)**"Administrator"** means any officer appointed by the State Government to exercise the powers and perform the functions and discharge duties conferred or imposed on the municipalities, the Standing Committee and the Municipal Commissioner or the Executive Officer, by or under this Act;

(3)**"Advertisement"** means any word, letter, model, sign, placard, board, notice, device, or representation whether illuminated or not, in the nature of and employed, wholly or in part, for the purpose of advertisement, announcement or direction and includes any hoarding or similar structure used or adapted to be used for the display of advertisement;

(4)**"Advertiser"** means a person who has been permitted, or has applied, under the rules, to display advertisement by writing or exhibiting by hanging or pasting or putting up a board or hoarding and, also includes an agent, representative or servant of such person;

(5)**"Annual Rental Value"** of a holding meansthe gross annual rental at which a holding may reasonably be expected to be let out.

(6)**"Archaeological site"** means an area in which archaeological relics are situated;

(7)**"Architect"** means an architect duly registered with Indian Council of Architects;

(8)**"Area Sabha"** means an Area Sabha constituted under section 39 of this Act;

(9)**″Assessment list″** means any municipal assessment register referred to under this Act, and includes any register subsidiary thereto;

(10)"**Auditor″** means an Auditor appointed under section 117 of this Act , and includes any officer authorized by him to perform all or any of the functions of an Auditor under this Act;

(11)**"Backward Classes"** means any socially and educationally Backward Classes of citizens recognized by the Government for purposes of clause (4) of Article 15 of the Constitution of India;

(12)**"Balance sheet"** means the balance sheet prepared under section 115 of this Act,

(13)**"Bio-medical waste"** means any waste generated during diagnosis, treatment, immunization or any health services of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals;

(14)**″Bridge"**includes culvert;

(15)**″Budget estimate″** means the budget estimate prepared under section 108 of this Act;

(16)**″Budget grant"** means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the municipality, and includes any sum by which such budget grant is increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the rules and the regulations made thereunder;

(17)**″Building"** means a structure constructed for whatever purpose and of whatever materials, and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections or part of a building or anything affixed thereto or any wall (other than a boundary wall of less than three meters in height) enclosing, or intended to enclose, any land, sign or outdoor display-structure but does not include a tent, shamiana or tarpaulin shelter;

(18)**″Building line"** means a line beyond which the outer face or any part of an external wall of a building should not project in the direction of any street, existing or proposed and sanctioned;

(19)**"Regulation"** means a regulation made under the provisions of this Act;

(20)**"Candidate"** means a person who has been duly nominated or claimed to have been duly nominated as a candidate of any election;

(21)**″Carriage"** means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes an in-rickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children or elderly, infirm or handicapped persons;

(22)**″Cart″** means any cart, hackney or wheeled vehicle with or without springs, which is not a carriage, and includes a hand-cart, a cycle van and a push van, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;

(23)**"Casual vacancy"** means a vacancy occurring otherwise than by efflux of time in the office of a member or in any other elective office, and **'casual election'** means an election held to fill a casual vacancy;

(24)**"Cesspool"** includes a settlement tank or other tank for the reception or disposal of foul matter from building;

(25)**"Charitable purpose"** includes the maintenance of an educational institution and the hostels attached thereto, which, though wholly or partly self-supporting, is maintained without the purpose of profit;

(26)**"Chairperson"** and **" Vice-Chairperson"** mean -

(a)in relation to a Municipal Corporation, the Mayor and the Deputy Mayor respectively; and

(b)in relation to a Municipal Council, and a Nagar Panchayat, the Chairperson and the Vice-Chairperson respectively;

(27)**"Commercial building"** means any building, which is used or occupied for carrying on any trade or commerce or industry or any work connected therewith or incidental or ancillary thereto;

(28)**"Commercial Holding"** means any holding or part of a holding which is used for display storage or sale of goods, either wholesale or retail, or a holding which is used for providing any service in lieu of payment. This also includes private educational institution, coaching centres etc. to whom Government does not provide any assistance whatsoever.

(29)**"Company"** means

(a)a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act;

(b)a co-operative society registered or deemed to be registered under the relevant provisions of the Co-operative Societies Act;

(c)a body corporate; and

(d)a firm or association carrying on business in this State whether incorporated or not and whether its principal place of business is situated in the State or not;

(30)**"Compound"** means land, whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings;

(31)**"Conservancy"** means the removal and disposal of sewage, offensive matter and rubbish; etc;

(32)**"Council" means the Council constituted for each municipality under section 15 of this Act;**

(33)**"Councillor",** in relation to a municipality means a person chosen by direct election from a Ward of that municipality;

(34)**"Cubical extent"** with reference to the measurement of a building, means the space contained within the external surface of its walls and roof and the upper surface of the floor of its lowest storey, or where the building consists of one story only, the upper surface of its floor;

(35)**"Dangerous disease"** means -

(a)cholera, plague, small-pox, cerebrospinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis, or syphilis; or

(b)any other epidemic, endemic, or infectious disease which the Government may, by notification, declare to be a dangerous disease for the purposes of this Act;

(36)"**Deputy Commissioner"** means the Deputy Commissioner of the district in which the municipality is situated;

(37)**"Development Plan / Master Plan"** means the draft Development Plan/Master Plan and the final Development Plan/Master Plan prepared under this Act;

(38)**"Director of Municipal Administration "** means an officer appointed as such by the Government, and includes an Additional Director, a Joint Director, a Deputy Director, or any other officer of the Government authorized by it to perform the functions of the Director of Municipal Administration under this Act;

(39)**"District Planning Committee"** means the committee constituted in pursuance of Article 243-ZD of the Constitution and referred to in section 383 of this Act to consolidate the plans prepared by the Panchayats and the municipalities in the district;

(40)"**Divisional Commissioner**" means the Divisional Commissioner of the division in which the municipality is situated;

(41)**"Drain"** includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rainwater or sub-soil water;

(42)**"Dwelling-house"** means a masonry building constructed, used, or adapted to be used, wholly or principally for human habitation;

(43)**"Election"** means an election to fill any vacancy in the office of Mayor, Deputy Mayor, Chairperson and Vice-Chairperson and the Councillor of any municipality;

(44)**"Elector"**, in relation to a ward, means a person whose name is for the time being entered in the electoral roll of that ward;

(45)**"Essential service"** means the service in connection with the pumping stations, drainage, conservancy or water supply of the municipality and any such other service as may be notified by the Government;

(46)"Executive Officer" means a person appointed by the Government in relation to a Municipal Council, or the Nagar Panchayat, the Executive Officer of the Municipal Council or the Nagar Panchayat;

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

(48)**"Filth"** means

(a)night soil or other contents of latrines, cesspools and drains;

(b)dirt, dung, refuse, useless or offensive materials thrown out in consequence of any process of manufacture, industry or trade; and

(c)putrid or putrifying substance;

(49)**"Finance Commission"** means the State Finance Commission constituted under Article 243-I of the Constitution of India and referred to in section 97 of this Act;

(50)**"Food"** includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into, or is used in the composition or preparation of, human food, and also includes confectionery, flavouring and colouring matters, spices and condiments;

(51)**"Footpath"** means a pavement, for use by pedestrians;

(52)**"Goods"** include animals;

(53)**"Government"** means the State Government of Jharkhand;

(54)**"Holding"** means land held under one title or agreement and surrounded by one set of boundaries:

Provided that, where two or more adjoining holdings held by the same owner form part and parcel of the site or premises of an apartment and a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act:

Explanation- Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this clause:

Provided further that where any building is capable of being enjoyed separately in parts, or where portions of such building are owned separately by different persons, or where the building comprises self contained and independent units, each of such parts, portions or units shall, on application by the owners, be deemed, to be a separate holding;

(55)**"House-drain"** means any drain of one or more premises used for the drainage of such premises;

(56)**"House-gully"** means a passage or a strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter for

municipal employees or for persons employed in the cleaning thereof or removal of such matter therefrom, and includes the air space above such passage or land;

(57)**"Hut"** means any building, no substantial part of which, excluding the walls upto a height of fifty centimeters above the floor or floor level, is constructed of masonry, reinforced concrete, steel, iron or other metal;

(58)**"Industrial township"** means such urban area or part thereof as the Government may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as it may deem fit, by notification, specify to be an Industrial Township;

(59)**"Infectious disease"** or "communicable disease" means any disease, which may be transmitted from one person to another and declared as such by the Government by notification;

(60)**"Larger urban area"** means municipal area classified as a larger urban area under section 8 of this Act;

(61)**"Licensed plumber",** "licensed surveyor", "licensed architect", "licensed engineer", "licensed structural designer" and "licensed clerk of works" respectively, means a person licensed by the municipality as a plumber, surveyor, architect, engineer, structural designer or clerk of works under this Act;

(62)**"Market"** includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruits, vegetables, live stock, or any other article of food of a perishable nature, or any other article for which there is a collection of shops or warehouses or stalls, declared and licensed by the municipality as a market;

(63)**"Master plan"** means a comprehensive plan showing therein the existing and proposed location and general layout of -

(a)arterial streets and transportation lines,
(b)residential sections,
(c)business areas,
(d)industrial areas,
(e)educational institutions,
(f)public parks, playgrounds and other recreational places, (g)public and semi-public buildings, and
(h)any other places put to any specified use;

(64)**"Metropolitan Planning Committee"** means a committee constituted in pursuance of Article 243ZE of the Constitution of India and referred to in section 384 of this Act to prepare a draft development plan for the Metropolitan area as a whole;

(65)**"Milk"** includes cream, skimmed milk, separated milk, and condensed, sterilized, desiccated or toned milk;

(66)**"Municipal Commissioner"** means a person appointed by the Government; in relation to a Municipal Corporation, the Municipal Commissioner of the Municipal Corporation;

(67)**"Municipality"** means an institution of self-government and includes Municipal Corporation, Municipal Council, and Nagar Panchayat constituted under this Act;

(68)**"Municipal Accounts Committee"** means a Municipal Accounts Committee constituted under section 124 of this Act;

(69)**"Municipal Accounting Manual"** means the Municipal Accounting Manual prepared and maintained under section 113 of this Act;

(70)**"Municipal Fund"** means the Municipal Fund referred to in section 99 of this Act;

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

(73)**"Occupier"** includes any person for the time being is paying or is liable to pay, to the owner the rent or any portion of the rent of the land or the building in respect of which the word is used or for damages on account of the occupation of such land or building and also includes a rent-free tenant:

Provided that an owner living in, or otherwise using, his own land or building shall be deemed to be the occupier;

(74)**"Offensive matter"** means kitchen or stable refuse, dung, dirt, putrid or putrefying substance, or filth of any kind which is not included in sewage;

(75)**"Ombudsman"** means an authority constituted for the municipalities for conducting investigation and enquiries in respect of, or involving corruption, maladministration etc.

(76)**"Owner"** includes the person for the time being receiving rent of any land or building or of any part of any land or building, whether on his own account or as an agent or trust for any person or society or for any religious or charitable purpose or as a receiver who would receive such rent if the land or the building or of any part of the land or the

building were let to a tenant; and also includes with reference to any animal, vessel or boat etc. who for the time being is in the change of such object.

(77)**"Platform"** means any structure which is placed on or covers or projects over any street or any open drain and includes balconies or other extension of buildings projecting at any height over such street or drain;

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

(79)**"Premises"** means any land or building / land or part of a building or any hut or part of a hut, and includes -

(a)the garden, ground and outhouses, if any, appertaining thereto, and

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

(80)**"Prescribed"** means prescribed by rules made by the Government under this Act;

(81)**"Public place"** means a space, not being private property, which is open to the use or enjoyment of the public whether such space is vested in the municipality or not;

(82)"**Public securities"** means-,

(a)securities of the Central Government or any State Government,

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

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

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

(83)**"Public Service Commission"** means the Public Service Commission for the State of Jharkhand constituted under Article 315 of the Constitution of India;

(84)**"Public street"** means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way, and includes -

(a)the access or approach to a public ferry,

(b)the roadway over any public bridge or causeway,

(c)the footpath attached to any such street, public bridge or causeway,

(d)the passage connecting to public streets, and

(e)the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land upto the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, upto such alignment;

(85)**"Regulations"** means the regulations made by a municipality under this Act;

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

(87)**"Scheduled Caste"** means such castes, races or tribes or parts of or groups within such castes, races or tribes as are notified to be Scheduled Castes under Article 341 of the Constitution of India;

(88)**"Scheduled Tribes"** means such tribes, or tribal communities or parts of or groups within such tribes or tribal communities as are notified to be Scheduled Tribes under Article 342 of the Constitution of India;

(89)**"Sewage"** means night soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;

(90)**"Slaughter house"** means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat;

(91)**"Smaller Urban Area"** means a municipal area classified as a smaller urban area under section 8 of this Act;

(92)**"State Election Commission"** means the State Election Commission referred to in Article 243-K and Article 243 -ZA of the Constitution of India and under Section 17 of this Act;

(93)"**State Government"** means the Government of Jharkhand;

(94)**"Street"** means a public street or a private street, and includes any highway and any causeway, bridge, viaduct, arch, road, lane, foot-way, sub-way, court, alley or riding path or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a foot-way as well as a carriage way in any street, the said term includes both;

forming part of a street from the adjoining land;

(96)**"Trade effluent"** means any liquid, either with or without particles of matter in suspension therein, which is so 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;

(97)**"Ward"** means the territorial constituency of municipality divided under section 15 of this Act;

(98)**"Ward Committee"** means a Ward Committee constituted under section 34 of this Act;

(99)**"Water course"** includes a river, stream or channel whether natural or artificial;

(100) **"Year"** means a financial year beginning on the first day of April.

(101)**"Zonal Committee"** means the Zonal Committee constituted in a municipality under section 49 of this Act.

PART - II

CONSTITUTION OF MUNICIPALITIES

Chapter - 2

Constitution ofMunicipal Areas and Classification of Municipalities

3.**Declaration of intention to constitute a municipal area –**

(1)The State Government may, after making such inquiry as it may deem fit, and having regard to the population of any local area, density of population, the percentage of employment in non-agriculture activities in such area, the

economic importance of such area, and such other factors as may be prescribed, by notification, declare its intention to specify such area to be a larger urban area, or a smaller urban area, or a transitional area:

Provided that local area having acquired urban characteristics and importance such as availability of market facilities, established industries or potentialities to attract industries or commerce or education, health care or other such infrastructures for economic and industrial growth may also be considered.

(2)The State Government shall, by notification, declare an area specified as -

(a)a larger urban area to be a Municipal Corporation;

(b)a smaller urban area to be a Municipal Council; and

(c)a transitional area that is to say, an area in transition from a rural area to an urban area to be a Nagar Panchayat.

(3)Notwithstanding anything contained in sub-section (1), the State Government may, by notification, determine separate conditions to constitute any hill area, pilgrim centre, tourist centre or mandi as a municipal area.

4.**Publication of declaration –**

(1)The notification intending to constitute a municipality under section 3 shall be published in the official gazette and at least in two leading newspapers one of which shall be in vernacular intelligible to the inhabitants of the local area concerned.

(2)A copy of the notification shall be pasted in a conspicuous place in the office of the Deputy Commissioner of the District and, in such other places as the Government may direct.

(3)The notification shall also be made either by announcement through mike in the local area concerned or through any other publicity media, as the Government may direct.

5.**Consideration of objections** -

(1)On publication of the notification under section 4, any person residing within the local area concerned in relation to which any such notification has been published or any municipality or panchayat affected by any such notification may submit objections, in writing, to the State Government within thirty days from the date of publication of such notification.

(2)The State Government shall consider all such objections before proceeding further.

6.**Constitution of Municipality -** On the expiry of thirty days from the date of publication of the notification under section 4 and after consideration of the objections which may be submitted in this regard, the State Government may, by a notification, constitute: -

(1)such a larger urban area as a Municipal Corporation;

(2)such a smaller urban area as a Municipal Council; and

(3)such an area in transition from a rural area to an urban area as a Nagar Panchayat.

7.**Incorporation of Municipality -**

(1)The municipality constituted under section 6 shall, by its name, be a body corporate with perpetual succession and a common seal, and subject to any restriction or qualification imposed by this Act or any other law shall be vested with the capacity of suing or being sued in its corporate name, enter into contracts and do all things necessary for the purpose of this Act;

(2)Allactions of the Municipal Corporation, Municipal Council and Nagar Panchayat shall expressly be taken in the name of such municipalities.

(3)Subject to the provisions of this Act, the municipality shall have the power to acquire, hold and dispose of properties.

8.**Classification of Municipal areas -** The State Government may, for the purpose of application of the provisions of this Act may classify any municipal area on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published, as –

(1)a larger urban area, namely, Municipal Corporation if the local body area is having population of one lakh and fifty thousands and above;

(2)a smaller urban area, namely, Municipal Council if the local body area is having population of forty thousand and above and less than one lakh and fifty thousand;

Provided a Municipal Council shall be classified as

Class 'A' Municipal Council, if the local body area is having population of one lakh and above and less than one lakh and fifty thousand; and

Class 'B' Municipal Council, if the local body area is having population forty thousand and above and less than one lakh; and

(3)a transitional area, namely, Nagar Panchayat if the local body area is having population of twelve thousand and above and less than forty thousand.:

Provided that for the purpose of classification of municipal areas in any hill area, pilgrim centre, tourist centre or manditown, the Government may, by notification, determine separate size of population for each class of such municipal areas.

Provided further that the Government may, having regard to the economic importance and such other factors in such local area, as it deem fit, and at its discretion, determine any local area irrespective of population specified in sub-section (3) constitute, by notification, a Nagar Panchayat.

9.**Power to abolish or alter limits of municipal area -** The State Government may, by notification, -

(1)withdraw any municipal area or part thereof from the operation of this Act, or

(2)exclude from a municipal area any local area comprised therein and defined in the notification, or

(3)include within a municipal area any local area contiguous to such municipal area and defined in the notification, or

(4)divide any municipal area into two or more municipal areas, or

(5)unite two or more contiguous municipal areas so as to constitute one municipal area, or

(6)revise the boundary of two or more contiguous municipal areas:

Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed mutatis mutandis in each such case:
Provided further that the views of the municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the municipality as aforesaid before a final declaration is made:
Provided also that no such notification shall be issued where any part of the municipal area or any neighbouring area is a Cantonment or part of a Cantonment, as defined in the Cantonment Act, 2006 (Central Act No. 41 of 2006).

10.**Power to include certain dwelling house, manufactory, etc., within a particular municipal area** - Where a dwelling house, manufactory, warehouse, or place of industry or business is situated within the limits of two or more adjacent municipal areas, the State Government may, notwithstanding anything contained elsewhere in this Act, by notification, declare the municipal area within which such dwelling house, manufactory, warehouse, or place of industry or business shall be deemed to be included for the purposes of this Act.

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11.**Disposal of assets and liabilities** -

(1)Where any local area which is within the jurisdiction of any other local authority is constituted as or included in a municipality, the Government may pass such orders as they may deem fit as to the transfer to such municipality, or disposal otherwise, of the assets or institutions of any such local authority in the local area and as to discharge of the liabilities, if any, of such local authority relating to such assets or institutions.

(2)Where any local area is excluded from a municipality and included within the jurisdiction of any other local authority, the Government may pass such orders as they deem fit, as to the transfer to such local authority or disposal otherwise, of the assets or institutions of such municipality in the local area and as to the discharge of the liabilities, if any, of such municipality relating to such assets or institutions.

12.**Power to exempt municipal area from operation of any provisions of the Act unsuited thereto –**

(1)The State Government may, by notification, and for reasons to be recorded in writing, exempt municipal areas from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such municipal areas until such provisions are applied thereto by notification.

(2)While a notification under sub-section (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from the operation of which the municipal areas as aforesaid are exempted.

13.**Reconstitution of Municipal Corporation, Municipal Council and Nagar Panchayat -**

(1)On and from the date of the commencement of this Act, the Municipal Corporation, the Municipal Council and the Nagar Panchayat, already constituted under the relevant provisions of various Acts shall be deemed to have been constituted and incorporated under this Act and are declared to be the Municipal Corporation, the Municipal Council and the Nagar Panchayat, as the case may be, with their respective names and in their respective areas.

(2)Any appointment, notification, notice, tax, scheme, license, permission, rule, regulation or form made or issued or imposed under the Acts referred

to in sub-section (1) in respect of such municipality which was in force as applicable immediately before the date of the commencement of this Act shall continue to be in force and be deemed to have been made, issued or imposed under the provisions of this Act unless and until it is superseded by any appointment, notification, notice, tax, scheme, license, permission, rule, regulation or

form made or issued or imposed under the Act.

14.**Review by the Government after publication of census report**

(1) The State Government shall undertake a review of the existing municipalities wherever they consider necessary and upgrade or reorganize them, having regard to the peri-urban areas and the out growths of the existing Municipal Corporation, Municipal Council and Nagar Panchayat, as the case may be, within one year after taking into consideration the Census report published by the Government of India.

(2) The Government may also consider converting panchayats into Nagar Panchayats after publication of census report by Government of India:
Provided that the procedure laid down for constitution of a municipal area shall be followed mutatis mutandis in each such case.

Chapter - 3

Constitution of Councils

15.**The Council -**

(1)There shall be constituted for each municipality a body of members to be called the Council having authority over the municipality.

(2)The Council shall consist of -

(a)such number of elected councillors, as there are wards within the municipal area as specified in section 17 of this Act :

Provided that the State Government shall determine the number of councillors for each municipality before every election, by notification ;

(b)in addition to the elected members specified in clause (a), the following shall also be members in the Council :-

(i) every Member of Legislative Assembly of the State representing a constituency of which a municipality or a portion thereof forms part,

(ii) every Member of the House of People representing a constituency of which municipality or a portion thereof forms part,

(iii) every member of the Council of the States registered as an elector within the municipality:

Provided that the members specified in clause (b) shall participate in the meetings of the Council but shall not have right to vote.

(c) persons having special knowledge or experience in municipal administration co-opted by the Councillors specified in clause 2 (a) as prescribed shall be three in the case of Municipal Corporation, two in the case of Municipal Council and one in the case of Nagar Panchayat: Provided also that in the case of Municipal Corporation, two among the co-opted members; and in case of Municipal Council, one among the co-opted members, shall be woman;
Provided further that the members co-opted under clause (c) shall participate in the meetings of the Council but shall not have right to vote.

(d) persons belonging to minorities co-opted by the councillors specified in clause (a) as prescribed shall be three in the case Municipal Corporation, two in the case of Municipal Council and one in the case of Nagar Panchayat:

Provided that in the case of Municipal Corporation, two among the co-opted members shall be women:

Provided further that in the case of Municipal Council, one among the co-opted members shall be woman:

Provided further that while co-opting members belonging to minorities, preference may be given to the members belonging to such of the minority communities which are not represented in the Council through direct election:

Provided further that the members co-opted under clause (d) shall participate in the meetings of the Council but shall not have right to vote.

16.**Constitution of Council** -

(1)All the seats specified in clause 2 (a) of section 15 shall be filled by direct elections, and for this purpose, each municipal area shall be divided into territorial constituencies referred as Wards.

(2) (a) In every Council , as nearly as possible but not exceeding fifty percent of the total seats of elected members shall be reserved for

(i) Scheduled Castes,

(ii) Scheduled Tribes,

(iii) Backward Classes, and

(iv) Women

The number of seats so reserved for Scheduled Castes and Scheduled Tribes shall as nearly as possible be the same proportion to the total number of seats to be filled up by direct election in that municipality as the population of the Scheduled Castes and

Scheduled Tribes as the case may be bears to the total population of the municipality and such seats shall be allotted by rotation to different wards in the municipality under the direction, control and supervision of the State Election Commission in the manner prescribed by it.

After reservation of seats for the Scheduled Castes and the Scheduled Tribes, the number of seats to be reserved for the Backward Classes shall be such number of seats within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in the manner prescribed. Such seats shall be allotted by rotation to different wards in the municipality during subsequent elections under the direction, control and supervision of the State Election Commission in the manner prescribed by it;

(b) As nearly as possible but not exceeding fifty percent of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Backward Classes, as the case may be;

(c)As nearly as possible but not exceeding fifty percent of the total number of the seats not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women.

(d) Such total number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the Backward Classes and unreserved category shall be allotted by rotation under the direction, control and supervision of the State Election Commission to different wards in a municipality in such manner as may be prescribed by it;

Explanation -For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of seats for the Scheduled Castes, Scheduled Tribes, Backward Classes and

Women under this sub-section shall commence from the first election held after the commencement of this Act:

Provided that the State Government shall undertake a review every ten years in the matter relating to reservation of offices under clause (a) sub-section (2):

Provided further that the reservation of offices under clause (a) sub-section (2) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.

(3)Every member elected under clause (a) of sub-section (2) of section 15 shall have the right to vote in the meetings of the Council.

(4)The Council shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.

(5)An election to constitute a Council shall be completed, as the case may be,

(a)before the expiry of the period specified in sub-section (4), or

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

Provided that where the remainder of the period for which the dissolved Council would have continued is less than six months, it shall not be necessary to hold an election for constituting the Council for such period.

(6)The Council constituted upon its dissolution before the expiration of the period specified in sub-section (4) shall continue only for the remainder of the period for which the dissolved Council would have continued under sub-section (4) had it not been so dissolved.

(7)In a municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted as a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6, as may be necessary for holding elections.

(8)If, for any reason, it is not possible to hold the general election of a Council before the expiry of the period of five years specified in sub-section (4), the Council shall stand dissolved on the expiration of the said period, and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may, by notification, appoint.

17.**Election of Councillors: (1)** Each council shall consist of such number of elected councillors as prescribed by the Government. The number of Councillors shall be determined on the basis of population ascertained at the last preceding census of which relevant figures have been published.

(2) The superintendence, direction and control of preparation of electoral rolls, reservation of seats to various categories, rotation of seats and the conduct of elections of councillors under this Act and the rules made thereunder shall vest in the State Election Commission constituted under Article 243-K read with Article 243 -ZA of the Constitution of India.

18.**Disqualification of Councillors:**

(1) Notwithstanding anything contained in this Act, a person shall be disqualified for election or after election for holding the office as councilor, if such person:

(a) is not a citizen of India;

(b) is so disqualified by or under any law, for the time being in force, for the purpose of elections to the Legislature of the State:

Provided no person shall be disqualified on the ground that he is less than twenty five years of age when he has attained the age of twenty one years,

(c) is in the service of the Central or State Government or any local authority; (d) is in the service of any institution receiving aid from the Central or State Government or any local authority;

(e) has been adjudged by a competent court to be of unsound mind;

(f) applies to be adjudicated or is adjudicated as an insolvent;

(g) has been dismissed from the service of the Central or State Government or any local authority for misconduct and has been declared to be disqualified for employment in the public service;

(h) has been sentenced by a criminal court, whether within or outside India, to imprisonment for an offence, other than a political offence for a term exceeding six months or has been ordered to furnish security for keeping good behavior under section 109 or section 110 of the Code of Criminal Procedure, 1973 and such sentence or order not having subsequently been reversed, or absconding being an accused in a criminal case for more than six months;

(i) has under any law for the time being in force become ineligible to be a member of any local authority;

(j) holds any salaried office or office of profit under the Municipality:

Provided that a person shall not be deemed to hold an office of profit under the municipality by reason only that he is a mayor or chairperson or councilor of a municipality,

(k) has been found guilty of corrupt practices:

Provided that on being found guilty of corrupt practices, the disqualification shall cease after six years of general election;

(l) if he has not paid all taxes due by him to the Municipality at the end of the financial year immediately preceding that in which the election is held;

(m) has been willfully omits or refuses to perform his duties and functions or abuses the power vested in him or is found to be guilty of misconduct on the discharge of his duties or become physically or mentally incapacitated for performing his duties;

(n) if he has more than two living children:

Provided that a person having more than two children on or upto the expiry of one year of the commencement of the Act shall not be deemed to be disqualified; (o) has been absent from three consecutive meetings or sittings of the Municipality without having previously obtained permission from the council at a meeting.

(2) If any question arises as to whether a Member of a Municipality at any level was before election or has become after election subject to any disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the State Election Commission. The matter of disqualification may be brought to the notice of the State Election Commission in the form of a complaint, application or

information by any person or authority. The State Election Commission may also take *suo-moto* cognizance of such matters and decide such matters expeditiously after allowing sufficient opportunity to the affected parties of being heard.

(3) If a person, who is chosen as a member of a Municipality, is or becomes a member of Lok Sabha, Rajya Sabha, Legislative Assembly, or is or becomes a member of Panchayat or Mukhia or Sarpanch then within fifteen days from the date of commencement of the term of office of a member of the Lok Sabha, Rajya Sabha, Legislative Assembly or a member of a Panchayat or Mukhia or Sarpanch, his seat in the Municipality shall become vacant unless he has previously resigned his seat in the Lok Sabha, Rajya Sabha, Legislative Assembly or Panchayat, as the case may be.

19.**Oath of allegiance to be taken by Councillors:**

(1)Notwithstanding anything contained in the Indian Oaths Act 1873, every person who is elected as a councillor shall, before taking his seat, make and subscribe at a meeting of the Council an oath or affirmation of his allegiance to the Constitution of India before the Divisional Commissioner or any officer authorized in this behalf by the State Government in the case of Municipal Corporation; or before the Deputy Commissioner or any officer authorized in this behalf by the State Government in the case of Municipal Council or Nagar Panchayat in the following form, namely;

The Oath shall be in the following form:

"I, ……. having been elected as a Councillor of the municipal area of …….. do swear in the name of the God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and I will faithfully discharge the duty upon which I am about to enter".

(2)Any councillor who having been elected as councillor, fails to make, within three months of the date on which his term of office commences, the oath or affirmation laid down in sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the period of three months as aforesaid by such period as it thinks fit.

20.**Term of office of councillors** - Subject to the provisions of sub-section (5) or sub-section (6), as the case may be, of section 16, a councillor shall hold office for a period of five years from the date of the first meeting of the municipality

under section 73 or, in the case of a councillor chosen to fill a casual vacancy, for the remainder of the term of office of his predecessor, unless –

(a)the municipality is dissolved earlier, or

(b)he resigns his office by notice, in writing, under his hand addressed to the Mayor and Chairperson, as the case may be, and thereupon, his office shall become vacant from the date of the notice, or

(c)his election is void, or is declared to be void, under the provisions of any law relating to municipal elections in the State, or

(d)the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under sub-section (1) of section 9.

21.**Recall of Councillor** -

(1)Every councillor shall be deemed to have vacated his office forthwith if he is recalled in accordance with the procedure specified in sub-sections (3) to (8) of this section.

(2)No such process of recall shall be initiated –

(a)within a period of one year from the date on which a councillor is elected and enters upon his office, or

(b)If the remaining term of office is less than six months.

(3)A notice of recall shall be made to the Municipal Commissioner or Executive Officer by a majority of electors of the ward on the date of notice:

(4)The Municipal Commissioner or the Executive Officer on receipt of notice of recall referred in sub-section (3) shall place the matter before the council at its next meeting for approval. The approval of the proposal shall not become valid unless it is approved by not less than two thirds of the total number of councilors:

(5)Thereupon the Municipal Commissioner or the Executive Officer shall submit the recall proposal along with the recommendation of the council to the Deputy Commissioner of that district:

(6)On receipt of the proposal under sub-section (5), the Deputy Commissioner shall, after satisfying himself and verifying that that the notice of recall is signed by a majority of electors of the ward on the date of notice and approved by not less than two-thirds of the total number of councillors shall send the proposal to the State Government, and thereupon, the State Government with its recommendation, shall make a reference to the State Election Commission.

(7)On receipt of the reference under sub-section (6), the State Election Commission shall arrange for voting on the proposal of recall, in such manner, as may be prescribed.

(8)When the councilor is recalled in the voting referred in sub-section (7), he shall cease to be a councilor.

(9)The process of recall of a councillor shall be initiated only once during the term of his office.

22.**Remuneration and allowances for Councillors-** The Mayor, Deputy Mayor, Chairperson, Vice-Chairperson and the Councillors may receive such remuneration and allowances as prescribed by the State Government.

Chapter - 4

Municipal Authorities

23.**Municipal authorities -**

(1)The municipal authorities for the purposes of giving effect to the provisions of this Act shall be, -

(a)in the case of a larger urban area namely Municipal Corporation, -

(i) the Municipal Corporation,

(ii) the Standing Committee,

(iii) the Mayor,

(iv) the Municipal Commissioner,

(v) The Executive Officer / Managing Director representing the Municipal Corporation establishing or acquiring public transport undertaking or water supply undertaking or any other public utility services;

(b)in the case of a smaller urban area namely Municipal Council, -

(i) the Municipal Council

(ii) the Standing Committee;

(iii) the Chairperson, and

(iv) the Executive Officer;

(c)in the case of a transitional area, namely, Nagar Panchayat, -

(i) the Nagar Panchayat ;

(i)

the Standing Committee; (ii) the Chairperson; and

(iii) the Executive Officer.

(2)The presiding officer of the municipality shall be, in the case of – (a)the Municipal Corporation, the Mayor,

(b)the Municipal Council, the Chairperson, and

(c)the Nagar Panchayat, the Chairperson.

24.**Constitution of Standing Committee of municipality -**

(1)In every municipality, there shall be a Standing Committee.

(2)The Standing Committee shall consist of -

(a)in the case of Municipal Corporation, the Mayor, the Deputy Mayor and the Chairpersons of Zonal Committees established under section 49 of this Act;

(b)in the case of Municipal Council, the Chairperson, the Vice-Chairperson and five elected councillors to be elected by the Council;

(c)in the case of Nagar Panchayat, the Chairperson; the Vice-Chairperson, and three elected councillors to be elected by the Council.

(3)The Mayor and Chairperson, as the case may be, shall be the presiding officer of the Standing Committee.

(4)The manner of transaction of business of the Standing Committee shall be such as may be prescribed.

(5)The Standing Committee shall be collectively responsible to the Municipal Corporation or the Municipal Council or the Nagar Panchayat, as the case may be.

(6) The term of office of the members of the Standing Committee shall be coterminous with the term of office of Councillors.

25.**Powers and functions of the Standing Committee** - The Standing Committee shall exercise the powers and perform the functions as specified in the Act.

26.**Election of Mayor and the Chairperson** -

(1)The Mayor and the Chairperson shall be elected by all the electors in the municipality.

(2)The provisions of this Act and the rules framed thereunder in relation to elections/disqualification/recall of a Councillor, shall apply, *mutatis mutandis*, in relation to the elections/disqualification/recall of the Mayor and Chairperson.

(3)If in a general election, a person is elected both as a Mayor or Chairperson and a councillor, he shall cease to be a councillor from the date of his election as Mayor or Chairperson.

(4)The Mayor or the Chairperson shall assume office forthwith after taking the oath of secrecy.

(5)The term of office of Mayor and chairperson shall be coterminous with the term of office of councilors.

27.**Reservation of office of Mayorand Chairperson**

(1)The office of the Mayor and Chairperson in municipalities shall be reserved in the following manner.

(2)

(a) As nearly as but not exceeding fifty percent of the total offices of Mayor and Chairperson as the case may be in the State shall be reserved for-

(i) Scheduled Castes,

(ii)Scheduled Tribes,

(iii)Backward Classes, and

(iv)Women;

(b) The number of offices so reserved for Scheduled Castes and Scheduled Tribes for the offices of Mayor and Chairperson within the State as the case may be shall bear as nearly as possible the same proportion of the total number of offices of Mayor and Chairperson within the State as the case may be as the population of the Schedule Castes and Scheduled Tribes bears to the total population of the State; and such offices shall be allotted by rotation to different municipalities by the State Election Commission in the manner prescribed by it;

(c) After reservation of offices for the Scheduled Castes and the Scheduled Tribes, the number of offices to be reserved for the Backward Classes for the office of Mayor and Chairperson within the state as the case may be shall be such number within the overall limit of fifty percent reservation for the Scheduled Castes, the Scheduled Tribes and the Backward Classes in the manner prescribed; and such offices shall be allotted to the remaining municipalities by rotation by the State Election Commission in the manner prescribed by it;

(d) As nearly as possible but not exceeding fifty percent of the total number of offices reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and Backward Classes, as the case may be;

(e) As nearly as possible but not exceeding fifty percent of the total number of the offices not reserved for Scheduled Castes, Scheduled Tribes and Backward Classes shall be reserved for women;

(f) Such total number of offices reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, Backward Classes, and unreserved category may be allotted by rotation under the direction, control and supervision of the State Election Commission to different municipalities in such manner as may be prescribed by it.

Explanation: For the removal of doubts, it is hereby declared that the principle of rotation for the purposes of reservation of offices for the Scheduled Castes and Scheduled Tribes and Backward Classes and women under this sub-section shall commence from the first election held after the commencement of this Act.

(3) The State Government shall undertake a review every ten years in the matter relating to reservation of offices under clause (a) of sub-section (2).

(4)The reservation of offices under clause (a) of sub-section (2) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.

28.**Election of Deputy Mayor and Vice-Chairperson**- The elected councillors shall in a meeting of the council elect in accordance with such procedure as may be prescribed by the State Government one from amongst themselves to be the Deputy Mayor or the Vice-Chairperson, who shall assume office forthwith after taking the oath of secrecy.

29.Oath of secrecy to be taken by Mayor, Chairperson, Deputy Mayor and Vice Chairperson. –

(1) The Mayor, Chairperson, Deputy Mayor and Vice Chairperson shall assume office after taking the oath of secrecy in the following form:-

"I, ..., having been elected as ……..in the municipal area of ……do swear in the name of God/ solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the presiding officer except as may be required for the due discharge of my duties".

(2)The oath of secrecy shall be administered by, -

(a)in the case of a Mayor by the Divisional Commissioner or any officer authorized in this behalf by the State Government,

(b)in the case of a Chairperson by the Deputy Commissioner or any officer authorized in this behalf by the State Government,

(c)in the case of Deputy Mayor, by the Mayor, and

(d)in the case of Vice Chairperson, by the Chairperson.

30.**Cessation of office of Mayor, Chairperson, Deputy Mayor and Vice Chairperson –**

(1). The Mayor or the Chairperson may resign his office by writing under his hand addressed to the Deputy Commissioner.

(2) The Deputy Mayor or the Vice-Chairperson may resign his office by writing under his hand addressed to the Mayor or the Chairperson as the case may be.

(3) Every resignation under sub-section (1) and (2) shall take effect on the expiry of seven days from the date of such resignation, unless within the said period of seven days they withdraw such resignation by writing under their hand addressed to the Deputy Commissioner or the Mayor or the Chairperson, as the case may be.

(4). The Deputy Mayor or the Vice-Chairperson, as the case may be, shall cease to hold office as such if they cease to be a Councillor.

(5). The Deputy Mayor, and the Vice-Chairperson may be removed from office by a resolution of no confidence motion carried by a majority of total number of councillors at a special meeting to be called for this purpose in the manner prescribed upon a requisition made in writing by not less than one third of the totalnumber of elected councillors, and the procedure for carrying out no-confidence motion shall be such as may be prescribed: Provided that no-confidence motion shall not be brought within one year of taking charge of the office: Provided further that no-confidence motion shall not be brought within a period of two years of first no-confidence motion:
Provided also that a no-confidence motion shall not be brought where the remaining term of office is less than six months.

31.**Powers of Mayor and Chairperson –**

The Mayor and Chairperson shall for the transaction of business connected with this Act or for the purpose of making any order authorized thereby exercise all the powers vested by this Act:

Provided that the Mayor and Chairperson shall not exercise any power which is directed to be exercised by the council and act in contravention of any resolution of the council.

32.**Powers of Deputy Mayor and Vice-Chairperson –**

(1)The Deputy Mayor / Vice-Chairperson shall exercise the powers, perform the functions, and discharge the duties, of the Mayor / Chairperson when- (a)the office of the Mayor / Chairperson falls vacant by reason of death, resignation, removal or otherwise, or

(b)the Mayor / Chairperson is, by reason of leave, illness or other cause, temporarily unable to exercise the powers, perform the functions, or discharge the duties of his office.

(2). The Deputy Mayor / Vice-Chairperson shall, at any time, exercise such other powers, perform such other functions, and discharge such other duties, as may be delegated to him under the provisions of this Act:

Provided that nothing done by the Deputy Mayor and Vice-Chairman under the authority of delegation shall be invalid for want of or defect in such delegation if it is done with the express or implied consent of the Mayor or Chairperson.

33.**Delegation of Powers and Functions.-**

(1)The council may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Standing Committee.

(2)The Standing Committee may, by order in writing, delegate, subject to such conditions as may be specified in the order, any of its powers or functions to the Municipal Commissioner and Executive Officer, as the case may be.

(3)Subject to such standing orders as may be made in this behalf –

(a)the Mayor and Chairperson may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Deputy Mayor or the Vice-Chairperson;

(b)the Municipal Commissioner or the Executive Officer may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions, to any officer or other employee of the municipality.

CHAPTER – 5

CONSTITUTION OF WARD COMMITTEES, AREA SABHAS AND OTHER COMMITTEES

34.**Constitution of Ward Committees** -

(1)There shall be constituted a Ward Committee for each ward of the municipality within two months of the election to the Council.

(2)Each Ward Committee shall consist of:-

(a)the Councillor of the municipality representing the ward, who shall be the Chairperson of the Ward Committee;

(b)the Area Sabha Representatives of the area situated in the ward;

(c)not more than ten persons representing the civil society from the ward nominated by the Council, in such manner as may be prescribed:

Provided that, if the population of the ward is not more than five thousand, the number of nominated members shall be four for the first two thousand population, and thereafter there shall be one additional member for every two thousand population or part thereof:

Provided further that not less than one third of the members nominated under clause (c) shall be from the Registered Welfare Organisations and Community Based Organisations in the Ward;

Provided further that not less than fifty percent of the members nominated under clause (c) shall be women.

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

(3)A person shall be disqualified for being nominated as a member of the Ward Committee under clause (c) of sub-section (2) or to continue as such member, if under the provisions of this Act or any other law for the time being in force, he would be disqualified for being elected as a councillor of a municipality.

(4)The Chairperson of the Ward Committee may invite any officer of the Government departments, which is concerned with the affairs of the municipality, as special invitees, to attend the said meetings in regard to the problems connected to their departments wherever necessary.

Provided that the chairperson of the Ward Committee may invite any representative of the civil society in the municipality not represented in the Ward Committee to participate in the meetings and in the deliberations.

(5)Any official nominated by the Municipal Commissioner or Executive Officer, shall be the Secretary of the Ward Committee. The Secretary shall record all minutes of the proceedings of the meeting of the Ward Committee and a copy of minutes of the proceedings of each meeting shall be forwarded by him to the Municipal Commissioner/ Executive Officer with the approval of the Chairperson of the Ward Committee within ten days of the meeting.

(6)The term of office of the Ward Committee shall be coterminous with the term of office of the Council.

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

35.**Functions of the Ward Committee -** The Ward Committee shall perform the following functions in the ward, namely:-

(i) Supervise :

(a)solid waste management,

(b)sanitation work,

(c)distribution of water supply,

(d)maintenance of parks, playgrounds, and market places,

(e)working of street lights and repairs to roads, and

(f)implementation of poverty programmes and development schemes; (ii) monitor the working of schools, dispensaries, health centres etc., under the control of the municipality;

(iii)assist in the preparation of development schemes;

(iv)encourage harmony and unity among various groups of people;

(v) mobilize voluntary labour and donations by way of goods or money for welfare programmes;

(vi)assist in identifying beneficiaries for the implementation of development and welfare schemes;

(vii)encourage art and cultural activities and activities of sports and games;

(viii)ensure people's participation in voluntary activities necessary for successful implementation of the developmental activities of the municipality;

(ix)facilitate collection of taxes, fees and other sums due to the municipality; (x) such other functions as may be prescribed.

36.**Rights of the Ward Committee –**

(1)The Chairperson and members of the Ward Committee shall have the right to seek information from the Municipal Commissioner or Executive Officer regarding any matter relating to the ward.

(2)Every Ward Committee shall have the right to –

(a)obtain information about the master plan and development plans of the municipality;

(b)obtain information from the Municipal Commissioner or Executive Officer on any matter relating to the ward,

(c)obtain information on Municipal Budget and details of all revenue items relating to the ward; and

(d)be consulted in the development of land use and zoning regulations within the ward.

37.Allocation of Funds -

(1)The municipality shall allocate twenty percent of the amount earmarked in the maintenance provision of municipal budget to Ward Committees for maintenance of services like water supply, sanitation, drains, street lights, parks, markets, etc.

(2)Allocation and utilisation of funds to and by the ward committees for maintenance of civic services shall be in the manner prescribed by the Government.

38.Appointment of sub-committees: The Ward Committee, from time to time, may appoint sub committees as it may think fit and may refer to such sub-committees for opinion or enquiry on any matter relating to the functions entrusted to the Ward Committee.

39.Ward Sabha

(1) In the case of a municipality having population less than one lakh, there shall be constituted a Ward Sabha for each ward and it shall consist of all the electors in the electoral roll relating to the ward.

(2) The Ward Sabha shall perform the functions and discharge the duties in relation to the ward an Area Sabha does in relation to the area as specified in section 40.

(3) There shall be a meeting of every Ward Sabha once in two months and the business of the meeting shall be conducted in accordance with such procedure as may be prescribed in the rules by the Government.

40. Determination of Areas –

In case of a municipality having population of one lakh or more, the State Government shall, by order, determine –

(a)the Areas into which each ward shall be divided; and

(b)As far as possible, the territories representing two or more but not exceeding five contiguous polling stations may be determined as an Area.

41. Area Sabha Representative- There shall be an Area Sabha Representative for each Area and shall be nominated by the Council.

42. Qualifications for being an Area Sabha Representative.-

Any registered voter in an Area may file his application for being considered as Area Sabha Representative to the Council, unless he is disqualified under any law for the time being in force for the purposes of elections to the Legislature of the State, or as councillor under this Act:

43.Nomination of Area Sabha Representative.- The Council shall nominate one among the applicants as Area Sabha Representative and the manner of nomination shall be, as prescribed by the State Government.

44.Term of office of Area Sabha Representative - An Area Sabha Representative shall hold office for a period, coterminous with the term of the Council.

45.Area Sabha –

(1)There shall be constituted an Area Sabha for each area determined under section 40, comprising all persons registered as voters of the area.

(2)The Area Sabha shall perform and discharge the following functions and duties, namely:-

(a)to identify eligible persons within the area for beneficiary-oriented schemes on the basis of criteria fixed by the State/Central Governments, and to prepare lists of eligible beneficiaries in an order of priority and forward the same to the municipality;

(b)to verify eligibility of persons getting welfare assistance from the State/Central Governments such as pensions and subsidies;

(c)to suggest location of streetlights, public water taps, community/public sanitation units, and other public amenities within the area;

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

(e)to assist the activities of urban public health centers in the area, especially in disease prevention, family welfare, and immediately report the incidence of epidemics and natural calamities;

(f)to impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution;

(g)to promote harmony and unity among various groups of people in the area;

(h)to arrange cultural festivals, sports meets, etc., to give expression to the talents of the people of the area; and

(i)such other functions and duties as may be assigned to the Area Sabha by the municipality from time to time.

(3) There shall be a meeting of every Area Sabha once in two months, and the business of the meeting shall be conducted in accordance with such procedure as may be prescribed in the rules by the Government

Other Committees

46.Subject Committee:

(1)A Municipal Corporation or a Class `A' Municipal Council may, from time to time, constitute Subject Committees consisting of elected councillors to deal with the following matters, namely:

(a)water-supply;

(b)drainage and sewerage;

(c)solid waste management;

(d)urban environment management and land use control;

(e)poverty and slum services;

(f)education and health; and

(g)welfare of Scheduled Castes, Scheduled Tribes, Backward Classes, and of Women and Children.

(2)Each Subject Committee shall consist of:

(a)seven members in the case of a Subject Committee of a Municipal Corporation, and

(b)five members in the case of a Subject Committee of a Class `A' of Municipal Council.

(3)The manner of the constitution and transaction of business of a Subject Committee shall be such as may be prescribed.

(4)The term of a Subject Committee shall be two years.

(5)The Chairperson of a Subject Committee shall be elected by its members from amongst themselves in the manner specified by regulations:

Provided that a member shall not be eligible for election as Chairperson for more than two terms.

(6)Each Subject Committee shall exercise such powers, and perform such functions, as may be specified by regulations.

(7)The recommendations of a Subject Committee shall be submitted to the Standing Committee for its consideration.

47.Ad hoc Committee -

(1)The Standing Committee of a Municipal Corporation or Municipal Council may, from time to time, appoint an Ad hoc Committeeto perform such functions, or conduct such enquiries, or undertake such studies including reports thereon, as may be specified by a resolution in this behalf.

(2)Any person, who is not a member but possesses special qualifications useful for the purpose of an Ad hoc Committee, may be associated therewith as its member.

(3)The manner of transaction of business in an Ad hoc Committee shall be such as may be laid down by the Standing Committee.

48. Joint Committee

(1)The State Government may, if it considers necessary so to do, constitute a Joint Committee for more than one municipality, or for one or more municipalities with other local authority or local authorities, for any purpose in which they are jointly interested or for delegating to it any power or function which calls for joint action.

(2)The Joint Committee shall consist of the following members:

(a)two elected members of each constituent municipality and local authority;

(b)one nominee of each of the concerned departments of the State Government or of the concerned statutory authorities under the State Government;

(c)such expert or experts as the State Government may nominate; and

(d)the Director of Municipal Administration or his representative who shall act as the convener of the Joint Committee.

(3)The procedure and transaction of business by a Joint Committee shall be such as may be prescribed.

49.Zonal Committee

(1)There shall be constituted by the Government, by notification, such number of zonal committees comprising territorial area of such number of wards as may be specified in the notification within Municipal Corporation, and each zonal committee shall consist of not less than five contiguous wards. The powers and functions of the zonal committee shall be such as may be notified by the Government.

(2)Each Zonal Committee shall consist of all the Councillors elected from the wards which are included in a Zonal Committee, and one of the members elected from among themselves in such manner as may be prescribed shall be the Chairperson of the Zonal Committee:

(3)Each Zonal Committee shall have a separate office located within the territorial limits of a Zonal Committee.

(4)The staff for each office of the Zonal Committee shall be in accordance with the norms fixed by the State Government from time to time.

(5)The term of the Zonal Committee and its Chairperson and members shall be co-terminus with the term of the Municipal Corporation.

(6)A Zonal Committee shall, subject to the general supervision and control of the Mayor, discharge, within the local limits of the Zone, the functions of the Municipal Corporation relating to provision of water supply, sewerage and drainage, removal of accumulated water on the streets or public places due to rain or otherwise, collection and removal of solid wastes, disinfection, provision of health, immunization services and bustee services, provision of lighting, repair of minor roads, maintenance of parks, drains and gullies, and such other functions as the Municipal Corporation may, from time to time, determine by regulations.

(7)The officers and employees of the Municipal Corporation who are assigned to a Zone for the discharge of the duties as aforesaid, shall carry out such directions as may be issued by the Zonal Committee in this behalf.

(8)An officer nominated by the Municipal Commissioner shall act as Convener of the Zonal Committee.

(9)The Zonal Committee shall incur such amount as may be allocated by the Municipal Corporation in the municipal budget for maintenance of services referred to in sub-section (6).

(10)The Zonal Committee shall meet at least once in three months or as frequently as is necessary to transact its business.

50.State Chamber of Municipal Councils

(1)The municipalities in the State after obtaining order of the Government, may join to form an association to be called the State Chamber of Municipal Councils;

(2)The functions of the Chamber formed under sub-section (1) shall be to advise the Government as well as municipalities on the improvement of municipal administration and to perform such other functions as the State Government may, from time to time prescribe.

51.Regulations of State Chamber of Municipal Councils

The following matters may be regulated by rules made by the State Government: (a)the constitution, aims and objects of the Chamber;

(b)the management and control of finances of the Chamber; and

(c)such other matters as notified by the Government.

CHAPTER - 6

Disclosure of Information to the General Public

52.Obligation of municipality with respect to disclosure-

(1)Every municipality shall:

(a)maintain all its records duly catalogued and indexed in a manner and form which facilitates the municipal authority under this Act to disclose the required information at regular intervals to the public,

(b)ensure that all the records that are appropriate to be computerized are within reasonable time, which shall not exceed two months from the date of commencement of this Act, subject to the availability of resources, computerized and connected through a network, so that access to such records is facilitated.

(2)The municipality shall disclose the following information viz.

(a)the particulars of the municipality;

(b)a statement showing constitution of municipal council, committees and other bodies by whatever name called, for purposes of exercising powers and performing functions of the municipality or rendering advice to it,

(c)statement as to whether meetings of municipal council, committees and other bodies are open to the public or not,

(d)minutes of meetings of municipal council, committees and other bodies;

(e)a directory of its officers and employees;

(f)particulars of officers who are empowered to grant concessions, permits or authorizations for any activity of the municipality,

(g)statutorily audited financial statements, Balance Sheet, Income & Expenditure, Receipts & Payments, and Cash Flow on a quarterly basis, within two months of end of each quarter; and for the full financial year, within two months of the end of the financial year;

(h)the statement showing each of the services being provided by the municipality and levels of each service;

(i)annual budget of municipality including provisions made to each ward, if any;

(j) particulars of all plans; and proposed expenditure on major services and activities together with actual expenditure on major services and activities during the year;

(k) details of subsidy programmes on major services and activities, including the amounts allocated; and criteria for identification of beneficiaries of such programmes;

(l) particulars of Master Plan, City Development Plan or any other plan relating to development of the municipality;

(m) particular of major works specified by the State Government together with information on the costs, starting and completion time and details of executing agency;

(n) details of income generated in the previous year by way of:-

(i) taxes, duties, cess and surcharge, rent from the properties, fees from licenses and permissions,

(ii) share of taxes levied by the State Government and transferred to municipality,

(iii) grants released by the State/Central Governments or any other agency for implementation of the schemes, projects and plans and nature and extent of utilization,

(iv) money raised through donations or contribution from public or non governmental agencies and nature and extent of utilisaton;

(o) details of taxes, duties, cess and surcharge, rent from the properties, fees from licenses and permissions that remain uncollected and the reasons thereof;

(p) Such other information as may be prescribed.

53.Obligations of Ward Committee regarding Public Disclosure

(1)The Ward Committee shall prepare a quarterly report of the financial transactions of the Ward Committee.

(2)The report of the Ward Committee shall be made available for public scrutiny.

54.Manner of Disclosure. – (1) The manner of disclosure shall include:-

(a)Newspaper in regional, Hindi and English language;

(b) Internet and Website

(c) Notice Boards of the Municipality, Zonal and Ward Offices;

(d) Broadcasting in the local All India Radio, local cable and other TV channels or any other method, as may be prescribed by the State Government.

(2) The information shall be disclosed in the language in which it is available with the municipality.

Chapter -7

Organizational Structure of Municipality

Statutory Officers of Municipality

55.Officers of Municipality.-

(1)Subject to the provisions of section 60, and as prescribed by the Government, the municipality shall have the following posts of officers, namely –

(a)in the case of Municipal Corporation, -

(i) Municipal Commissioner, an officer of Indian Administrative Service or Jharkhand Administrative Service,

(ii) Chief Finance Officer / Chief Accounts Officer from the office of Accountant General or senior officer of Finance or Accounts department of Government

(iii) Municipal Internal Auditor,

(iv) Chief Municipal Engineer,

(v) Chief Town Planner and Municipal Architect,

(vi) Chief Municipal Health Officer,

(vii) Chief Environmental Engineer (for solid waste management),

(viii)Chief Information and Technology Officer,

(ix) Municipal Law Officer,

(x) Municipal Secretary,

(xi) such number of Additional Municipal Commissioners,

(xii)

such number of Deputy/Assistant Municipal Commissioners; and

(xiii)such other officers as prescribed by the Government;

(b)in the case of a Municipal Council or Nagar Panchayat, -

(i) Executive Officer,

(ii) Municipal Finance Officer/Municipal Accounts Officer,

(iii) Municipal Engineer,

(iv) Municipal Health Officer,

(v) Environmental Engineer (for solid waste management),

(vi) Information and Technology Officer,

(vii) Municipal Secretary, and

(viii)such other officers as prescribed by the Government:

Provided that the State Government may increase or reduce the number of posts of the officers as aforesaid.

(2)The appointment of officers mentioned in sub-section (1) may be made either on a regular basis or on contract basis for such term as the state Government may prescribe.

(3)At the request of the Standing Committees of more than one municipality, the State Government may, by order, provide for sharing of services of officers referred to in sub-section (1) by such municipalities, and on such terms and conditions, as may be specified in the order.

(4)Subject to the provisions of sub-section (2), the appointment of officers referred to in sub-section (1) shall be made;

(a)by the State Government by notification from amongst the persons who are or have been in the service of the Government:

Provided that the appointment to the posts as aforesaid shall be on such terms and conditions, and for such period not exceeding five years in the first instance, as the State Government may determine:

Provided further that the State Government may, in consultation with the Standing Committee, extend the period of appointment from time to time, or (b)No person above the age of sixty years shall be appointed to any post in a municipality:

Provided that this provision shall not be applicable to appointments on contract basis.

(5)Until cadres of common municipal services for the State are constituted under sub-section (1) of section 62, the Standing Committee may determine which of the posts of officers referred to in sub-section (1) are necessary for Municipal Corporation or Municipal Council or Nagar Panchayat, and recommend to the State Government for creation and appointment of such posts.

(6)The method of, and the qualifications required for recruitment, and the terms and conditions of service including conduct and control, of officers appointed by the Government shall be such as may be prescribed.

(7)The officers referred in sub-section (1), shall be provided with periodic training.

(8)Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, at any time, in the case of any person appointed to any post referred to in sub-section (1), terminate his appointment:

Provided that if, in the case of any such officer, the Board so decides, the ULB shall recommend to State Government to terminate the appointment of such officer.

(9)The Municipal Commissioner or Executive Officer shall be responsible to implement the resolutions of the council and the committees, and exercise such powers and perform such functions as provided in the Act or the rules made thereunder.

(10)Notwithstanding anything contained in sub-section (2) or sub-section (3), prior approval of the State Government shall be necessary in the case of appointment of a person not recommended by the State Public Service Commission or Staff Selection Committee as the case may be

Municipal Establishment and Schedule of Posts

56.Municipal establishment and schedule of posts.-

(1)The posts of officers and other employees of the municipality, other than those referred to in sub-section (1) of section 55 shall constitute the municipal establishment.

(2) The posts of officers and other employees referred under sub-section(1) shall be classified into various categories by the State Government as prescribed.

(3) The State Government, on the recommendation of the Council, shall sanction the posts of officers and other employees of the municipality.

(4) The municipality shall prepare, and maintain, a schedule of posts of officers and other employees constituting the establishment of the municipality, to be called Establishment Schedule, and such Establishment Schedule shall include the designation, and the number of posts under each category.

(5). The Municipal Commissioner or Executive Officer shall place before the Standing Committee every year for its consideration the Establishment Schedule along with the proposals for such changes therein as he may consider necessary.

(6).The Standing Committee shall, after consideration of the Establishment Schedule along with the proposals, if any, for changes, if any, place the same along with its recommendations, before the Council for approval prior to the presentation of the budget estimates to the Council.

(7). On approval by the Council the Establishment Schedule shall be submitted to the State Government for sanction of the posts.

(8). The Standing Committee may , in case of exigency of service, sanction any post not included in the Establishment Schedule for a period not exceeding six months.

(9). The recruitment to the posts of officers and other employees of the municipality shall be made through the Public Service Commission or Staff Selection Committee as the case may be. (10). The officers and other employees of the municipality shall be provided with periodic training.

(11). Notwithstanding anything contained in the Act, the Standing Committee may decide to engage on contract basis, officers and other employees of the municipality against such posts of officers and other employees referred to in sub-section (1).

(12). Notwithstanding anything contained in the Act and subject to such rules prescribed therefor, the State Government shall have power to transfer an officer or employee of a municipality to any other municipality.

57.**Appointing Authorities** - Subject to the other provisions of this Act, the appointing authority in respect of the posts of officers and other employees constituting the establishment of the municipality shall be such as may be prescribed by the State Government.

58.Salaries and allowances of officers and other employees. -

(1)All officers and other employees of a municipality including the officers referred to in section 55 shall receive salaries and allowances out of the Municipal Fund.

(2)The municipality may also provide for pension, gratuity, provident fund, incentive, bonus, reward or penalty for its officers and other employees in accordance with such rules, norms, scales and conditions as may be prescribed by the State Government,

59.**Leave and other conditions of service. -** All officers and other employees of the municipality shall be subject to such conditions of service including leave and other benefits or obligations, not specifically provided for in this Act, as may be prescribed by the Government

60.**Appointment of officers of the state government for Municipalities. -**Notwithstanding anything contained in this Act, the State Government may appoint an officer possessing such qualifications as may be determined by it for a Municipal Council or Nagar Panchayat as

Executive Officer, Municipal Finance Officer, Municipal Engineer or Municipal Health Officer referred to in sub-section (1) of section 55 or with such designation as the State Government may consider necessary, and in such manner, and on such terms and conditions of service, as may be determined by the State Government in this behalf. The expenditure on account of salaries and allowances of any such officer shall be borne from the Municipal Fund:

Provided that the officer so appointed may be withdrawn by the State Government *suo motto* or if a resolution to that effect is passed by the council at a meeting called for this purpose by a two third majority of the councillors holding office for the time being.

Municipal Establishment Audit Commission

61.Municipal Establishment Audit Commission –

(1)The State Government may constitute a Municipal Establishment Audit Commission to review the establishment of the municipalities in the State once in ten years.

(2)The Commission shall consist of -

(a)a Chairperson who is or has been a member of the Indian Administrative Service of rank not below that of a Secretary to the State Government or an expert in personnel management having experience of not less than fifteen years,

(b)one Engineer of the rank of Chief Engineer of the State Government, either working or retired,

(c)one Chartered Accountant of fifteen years' standing or a person having not less than fifteen years of experience in financial management,

(d)one Officer not below the rank of a Deputy Municipal Municipal Commissioner or equivalent having not less than fifteen years of experience in municipal administration, and

(e)one other person having not less than fifteen years of experience in public administration.

(3)The Commission may carry out necessary studies for fixing norms and standards of manpower for different tasks performed at various levels of the municipalities.

(4)The State Government may, by rules, provide for the salaries, allowances and conditions of service of the Chairperson and other members of the Municipal Establishment Audit Commission.

Municipal Services Cadres

62.Cadres of common municipal services, appointments etc.-

(1)The State Government shall constitute cadres of common municipal services of such officers of municipality referred to in sub-section (1) of section 56 and other employees as may be determined by the State Government, from time to time.

(2)The Director of Municipal Administration shall be the appointing authority of all officers borne in common municipal services and shall have authority to transfer such officers and other employees from one municipality to another.

Municipal Ombudsman

63.Appointment and tenure of Municipal Ombudsman -

(1)The State Government may, on the recommendation of a Selection Committee of three persons constituted by the Government for the purpose, appoint one or more persons to be known as Municipal Ombudsman to carry out the functions entrusted under section 64 or State Government if considers it necessary, then recommend such deeds to State Ombudsman.

(2)The Selection Committee referred to in sub-section (1) shall consist of –

(a)the Chief Secretary to the State Government,

(b)a member of the State Public Service Commission, nominated by the Chairman of the said Commission, and

(c)a person of repute having not less than twenty years experience in public administration.

(3)The minimum age of a person for appointment as Municipal Ombudsman shall be fifty-five years.

(4)The appointment of a Municipal Ombudsman may be made for a period not exceeding three years:

Provided that the period of appointment of a Municipal Ombudsman may, subject to the recommendation of the Selection Committee referred to in sub-section (1), be extended for a further period not exceeding two years, subject however to the age limit of sixty-five years.

(5)Where the State Government is satisfied that in the public interest or for reason of incapacity of a Municipal Ombudsman, it is necessary so to do, may, for reasons to be recorded in writing, and by giving him three months' notice or by paying him three months' consolidated emoluments in lieu of the notice as aforesaid, remove him from office.

64.**Powers and Functions of Municipal Ombudsman** -The Municipal Ombudsman shall have the following powers and functions: -

(i)to receive complaints from any person relating to the provision of municipal services;

(ii)to consider the complaints as aforesaid and to facilitate their settlement or satisfaction by agreement through conciliation and mediation between the municipality and the aggrieved person by passing an award in this behalf; (iii) To look into complaints of corruption of officials and Mayor, Deputy Mayor, Chairperson or Vice-chairperson and councilors, and

(iv) to resolve, by way of arbitration, such disputes between municipalities or between a municipality and its citizens as may be agreed upon by the contesting parties in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (Act No. 25 of 1996).

65.Territorial jurisdiction:

(1)The State Government shall specify the territorial limits to which the authority of a Municipal Ombudsman shall extend.

(2) (a) The office of the Municipal Ombudsman shall be located at such place as may be specified by the State Government,

(b) A Municipal Ombudsman may, for expeditious disposal of complaints or conduct of arbitral proceedings, hold sittings at such places within the area of his jurisdiction, as he may consider necessary.

66.Qualifications, remuneration and office:

(1)A Municipal Ombudsman shall be a person of repute and shall have experience in civil services or public or municipal administration or management, and if such person is a civil servant, he shall be not below the rank of a Secretary to the State Government or a District Judge having jurisdiction within the State.

(2)The remuneration and other perquisites payable to a Municipal Ombudsman shall be such as may be determined by the State Government, from time to time.

(3)A Municipal Ombudsman shall be provided with an office with necessary complement of officers and other staff.

(4)A Municipal Ombudsman shall exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business thereof.

(5)A Municipal Ombudsman shall prepare an annual budget for his office in consultation with the State Government and shall have the power to incur expenditure for his office from the allotment provided in the budget.

67.**Review authority:** The aggrieved party may appeal in the High Court against the an order pronounced by Municipal Ombudsman.

68.**Publicity:** The State Government and the municipality shall give adequate publicity to the appointment of a Municipal Ombudsman under this Act for information of the public.

69.**Power to make rules:** The State Government may, in consultation with the Municipal Ombudsman make rules, *inter alia,* for the following matters:-

(1)grounds and procedure for filing of complaints/grievances;

(2)procedure for redressal of grievances;

(3)settlement of complaints by agreement;

(4)award by a Municipal Ombudsman;

(5)rejection of complaint;

(6)proceedings before the Review Authority;

(7)powers of Municipal Ombudsman and procedure of functioning as an Arbitrator and notification and enforcement of an award; and

(8)any other matter which is, or may be, required to be provided by rules.

Chapter - 8

Functional Domain of Municipalities

70.**Municipal Functions:**

(1)Every municipality shall provide on its own or arrange to provide through any agency the following functions and services-

(A) Core Functions

(i) Urban planning including town planning,

(ii)Regulation of land-use including protection of public land from encroachment and construction of buildings,

(iii)Planning for economic and social development,

(iv)Roads including footpath and road crossing facilities for

pedestrians and bridges,

(v)Water supply for domestic, industrial and commercial purposes,

(vi)Public health, sanitation including storm water drains, conservancy and solid and liquid waste management,

(vii)Fire services,

(viii)Urban forestry, protection of the environment, promotion of ecological aspects and maintenance of environmental hygiene,

(ix)Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded,

(x) Slum improvement and upgradation including providing basic facilities,

(xi)Urban poverty alleviation,

(xii)Provision and maintenance of urban amenities and facilities such as parks, gardens, playgrounds, public markets, bathing and washing ghats, waiting sheds for travelers,

(xiii)Promotion of cultural, educational and aesthetic aspects,

(xiv)Establishment and maintenance of burial and burning grounds, cremations, cremation grounds and electric crematoriums,

(xv)Cattle pounds, prevention of cruelty to animals,

(xvi)Collection and updating of vital statistics including registration of births, deaths and marriages,

(xvii)Provision and maintenance of public amenities including street lighting, parking spaces for vehicles, bus stops and public conveniences like toilet facilities at public places,

(xviii)Regulation of slaughter houses and tanneries and sale of meat, fish and other perishable food stuffs etc.

(B) General Functions

(i) Organising voluntary workers and promote community participation in all development activities,

(ii) Organise campaign for thrift,

(iii) Awareness building against social evils like alcoholism, consumption of narcotics, dowry and abuse of women and children,

(iv) Organize legal awareness campaigns among weaker sections, campaign against economic offences, adherence to civic duties, and promoting communal harmony,

(v) Provision of public transport,

(vi) Organise relief activities during natural calamities and maintain relief centres like hospitals, dispensaries, asylums, rescue homes, maternity houses and child welfare centres, etc.,

(vii)Mobilising local resources in cash or in kind,

(viii)Organise and promote resident welfare associations, neighbourhood groups and committees, and self-help groups with focus on the poor,

(ix) Disclosure and dissemination of information of public interest,

(x) Maintenance of public properties,

(xi) Issue of licences to dangerous and offensive trades and industries,

(xii) Issue of licence to domestic pet animals and destruction of stray dogs,

(xiii)Conservation and preservation of water bodies,

(xiv)Conservation and preservation of places and buildings of historical and cultural importance,

(xv) Promoting energy efficiency and build awareness on climate change,

(xvi)Promote introduction of Information Technology and e-Governance in the working of the Municipality.

(C)Sector-wise functions:

(i)Urban Planning including Town Planning

(a)Planned development of new areas for human settlement, erection and maintenance of boundary marks defining the limits or any alteration in the limits,

(b)Measures for beautification of the municipal area by setting up fountains, providing recreational areas, improving river banks, and landscaping,

(c)Integration of the development plans and schemes of the municipal area with the district or regional development plan,

(d)Preparation and keeping upto date of appropriate maps, data and records of lands within municipality and utility to which such lands are from time to time put;

(ii)Environment and Social Forestry:

(a)Organise campaign for environmental awareness,

(b)Motivating local action for its upgradation, planting of trees, etc.,

(c)Reclamation of waste lands, promotion of social forestry and maintenance of open spaces,

(d)Establishment and maintenance of nurseries, promotion of greenery;

(iii)Small Scale Industries:

(a)Promotion of handicrafts,

(b)Formulate and implement self-employment schemes in industrial sector,

(c)Implementation of the entrepreneur development programmes;

(iv)Housing:

(a)Identify the homeless, provision of house sites and houses, implementation of shelter rejuvenation programmes,

(b)Mobilise fund necessary for housing;

(v)Education and Culture:

(a)Run the pre-primary, primary, higher secondary and technical schools, vocational training centres, and implement literacy programmes,

(b)Promote civic education, adult education, social education and non-formal education,

(c)Promotion of cultural activities including music, physical education, sports and theatres and infrastructure therefor,

(d)Advancement of science and technology in urban life,

(e)Organization, establishment and maintenance of art galleries and botanical or zoological collections,

(f)Maintenance of municipal office, and of all public monuments and places of historical, artistic and other importance,

(g)Presentation of awards to persons of distinction, paying homage on death to persons of repute,

(h)Holding and regulation of fairs, festivals, industrial and health exhibitions;

(vi)Public Works:

(a)Construct and maintain the roads except National Highways, State Highways and major District roads within the municipality, and buildings for institutions including those transferred from Government.

(vii) Public Health and Sanitation:

(a)Run dispensaries, primary & public health centres and hospitals under all systems of medicines, child welfare centres and mother care homes,

(b)Organise remedial and other preventive measures against disease,

(c)Implement family welfare programmes,

(d)Organise mass inoculation campaigns for eradication of infectious diseases,

(e)Reclamation of unhealthy localities, removal of noxious vegetation and abatement of all nuisances,

(f)Maintenance of all public tanks and regulating the re-excavation, repair and up-keep of all tanks, wells and other sources of water-supply and provision for unfiltered water-supply for non-domestic uses,

(g)Public vaccination, prophylactic inoculations, vector control,

(h) Maintenance of ambulance service,

(i) Advancement of civic consciousness of public health and general welfare by organizing discourses, seminars and conferences,

(j) Prevention of food adulteration and control of eating-houses,

(k) Effective implementation of national and state strategies and programmes for prevention and control of diseases;

(viii)

Social Welfare: (a)Run anganwadis, and institutions for the welfare of handicapped, destitutes etc.,

(b)Sanction and distribute pension to destitutes, widows, handicapped, distribute unemployment wages, and implement Group Insurance Scheme to the poor,

(c)Implementation of programmes for liberation and rehabilitation of scavengers and their families,

(d)Campaigns for dissemination of information, vital for public welfare,

(e)Securing or removal of dangerous buildings and places, obstructions and projections in or upon streets, bridges and other public places;

(ix)Eradication of poverty:

(a)Develop skills and implement self-employment and group employment schemes for the poor, especially for women, (b)Create community assets to get continuing benefit to the poor; **(x)Development of the Scheduled Caste/Scheduled Tribe:**

(a)Implementation of beneficiary oriented schemes under Special Component Plan (SCP) and Tribal Sub Plan (TSP) and provide basic facilities in the residential centres and financial assistance for the Scheduled Caste/ Scheduled Tribe,

(b)Run nursery schools, vocational training centres for the Scheduled Caste/Scheduled Tribe;

(xi)Public Distribution system:

(a)Examine complaints against public distribution system and find out and implement remedial measures,

(b)Organise campaigns against offences relating to weights and measures,

(c)General supervision of shops and other public distribution system and to provide guidance;

(xii) Natural Calamity relief:

(a)Maintain relief centres and organise relief activities like provision to hospitals, dispensaries, asylums, rescue homes, maternity

houses, and child welfare centres, crematorium, burial ground etc.

(2) The municipality may plan, build, operate, maintain or manage the infrastructure required for the discharge of any of the functions, as aforesaid, either by itself, or through public-private partnership or by any agency under any concession agreement.

(3) The Government may direct a municipality to perform any of the functions as aforesaid, if such function is not taken up, or is postponed, by the municipality.

71. **Additional Functions assigned by Government:** (1) -The municipality may, subject to the underwriting of the costs by, and approval of, the Central Government or the State Government, as the case may be, undertake any function belonging to the functional domain of the Central Government or the State Government as the case may be, and such

functions may include primary education, curative health, urban transport, supply of energy, fire prevention and fire safety and urban poverty alleviation.

(2) The municipality may also, subject to the orders of the State Government, undertake such or all functions related to:

(i) Urban development including development of commercial infrastructure;

(ii) Public welfare including community relations; and

(iii). Such other functions as may be assigned

72.**First charge on Municipal Fund:** A municipality may, having regard to the satisfactory performance of its core functions which shall constitute the first charge on the Municipal Fund, and subject to its managerial, technical and financial capabilities, undertake or perform, or promote the performance of any of the general functions or sector-wise functions referred in section 70.

CHAPTER 9

CONDUCT OF BUSINESS

Transaction of Business by Municipality

73.First meeting of Municipality -

(1)The first meeting of a municipality after the general election of councillors to the municipality shall be convened within thirty days from the date of publication of the names of elected councillors in the Official Gazette under the provisions relating to municipal elections in the State.

(2)Seven days' notice shall be given for the meeting.

(3)In the case of a Municipal Corporation, the meeting shall be convened by the Divisional Commissioner or any officer authorized in this behalf by the State Government.

(4)In the case a Municipal Council or a Nagar Panchayat, the meeting shall be convened by the Deputy Commissioner or any officer authorized in this behalf by the State Government.

74.Ordinary Meetings.-

(1)The municipality shall meet at least once in every month for the transaction of its business.

(2)The Mayor or Chairperson, as the case may be, may whenever he thinks fit, and shall, upon a requisition in writing by not less than one-fifth of the Councillors, convene a meeting of the municipality.

75.**Notice of meeting and list of business**.- A list of business to be transacted at every meeting of the municipality, except at an adjourned meeting, shall be sent to the registered address of each councillor at least seventy-two hours 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 notice has been so given.

Explanation. - For the purposes of this section, "registered address" shall be the address for the time being entered in the register of addresses of councillors to be maintained by the Municipal Secretary.

76.**Emergent business - A**ny emergent business may be brought before, and transacted in the meeting with the permission of the Mayor or Chairperson:

Provided that any councillor may send or deliver to the Municipal Secretary notice of any resolution so as to reach him at least forty-eight hours before the time fixed for the meeting, and the Municipal

Secretary shall, with all possible means, take steps to circulate such resolution to every councillor in such manner as he may think fit:

Provided further that no business, which has no relevance to the municipality, shall be brought before the municipality.

77.**Quorum for transaction of business at a meeting of municipality and method of deciding questions.- (1)** The quorum necessary for the transaction of business at a meeting of the municipality shall be one-fifth of the total number of elected councillors.

(2) If at any time during a meeting of the municipality there is no quorum, it shall be the duty of 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 such meeting and brought before, it may be transacted at the adjourned meeting, and no quorum shall be necessary for such adjourned meeting.

(4) All matters required to be decided at a meeting of the municipality shall, save as otherwise provided in this Act, be determined by a majority of votes of the councillors present and voting.

(5) The voting shall be by show of hands, provided that the municipality 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.

(6) At any meeting of the municipality, where a poll is taken on a resolution before it, the votes of all the councillors present, and desire to vote shall be taken under the direction of the presiding officer of such meeting, who shall declare such resolution to have been carried or lost, as the case may be, in accordance with the result of such poll.

(7) At any meeting of the municipality, unless a poll is demanded by at least one-tenth of the councillors present, a declaration by the presiding officer of such meeting to the effect that a resolution has been carried or lost in such meeting, and an entry to that effect in the minutes of the proceedings of such meeting shall, for the purposes of this Act, be conclusive evidence of the fact that such resolution has been carried or lost, as the case may be.

78.Presiding officer of a meeting of Municipality.-

(1)The Mayor or Chairperson shall preside at every meeting of the municipality, and in his absence, the Deputy Mayor or Vice-Chairperson shall preside the meeting.

(2)If both Mayor or Chairperson and Deputy Mayor or Vice-Chairperson are absent; and if there is quorum one of the councilors present may be chosen to preside over the meeting.

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

79.Maintenance of order at a meeting of municipality and withdrawal and suspension of councillors

(1)The presiding officer of a meeting of the municipality shall preserve order thereat and shall have all the powers necessary for the purpose of preserving such order.

(2)The presiding officer of a meeting may direct any councillor, whose conduct is, in his

opinion, grossly disorderly, to withdraw immediately from the meeting, and every councillor so directed shall do so forthwith and shall absent himself during the remainder of the meeting.

(3)If any councillor is ordered to withdraw a second time, the presiding officer may warn such councillor of the action that may be taken under this sub-section, and may thereafter, if necessary, suspend such councillor from attending the meetings of the municipality for any period not exceeding sixty days, and the councillor so suspended shall absent himself accordingly:

Provided that the Mayor or Chairperson may at any time decide that such suspension be terminated:

Provided further that a councillor shall not, so long as he is debarred from attending any meeting of the municipality, attend any meeting of any committee of the municipality,

(4)In the case of grave disorder arising in a meeting and disobedience of orders of presiding officer, by the councillors, the presiding officer may, if he thinks necessary so to do, adjourn the meeting to a date specified by him.

80.Councillor having pecuniary interest in any contract etc. with municipality.-

(1)If a councillor has any pecuniary interest, direct or indirect, in any contract or proposed contract with or without employment, or other matter con-cerning the municipality, and is present at any meeting of the municipality or of a committee thereof at which such contract or employ-ment or other matter is subject of consideration, he shall, as soon as practicable after the commencement of such meeting, disclose the fact regarding such contract or employment or other matter, and shall not take part in the consideration or discussion of, or vote on, any question with respect to such contract or employment or other matter:

Provided that the provisions of this section shall not apply to a councillor for having interest as a tax-payer or inhabitant of the municipal area or consumer of water or having an interest in any matter relating to any civic service to the public.

(2)For the purpose of this section, a councillor shall be deemed to have an indirect pecuniary interest in a contract or employment or other matter, if he or his nominee is a member of any company or other body with which the contract is made or is proposed to be made or which has a direct pecuniary interest in the employment or other matter under consideration, or if he is a partner in a firm with which, or is in employment under a person with whom, the contract is made or is proposed to be made, or if such firm or person has a direct pecuniary interest in the employment or other matter under consideration:

Provided that: -

(a)the provisions of this sub-section shall not apply to a councillor who is a member of, or is in employment under, any public institution or organization under any law for the time being in force, and

(b)a councillor shall not, by reason of his membership of a company or other body, be treated as having any pecuniary interest in such company or other body if he has no beneficial interest in any share or stock of such company or other body.

(3)In the case of a councillor who is married and lives with his spouse, the interest of one shall be deemed, for the purposes of this section, to be the interest of the other.

Explanation -For the purposes of this section and section 81, "company" shall mean any body corporate, and shall include a firm or other association of individuals.

81.Disclosure of pecuniary interest. -

(1)A councillor may give to the Municipal Secretary a notice to the effect that he or his spouse is a member of a company or is a partner in a firm or is in the employment under a person, and if any contract is made or is proposed to be made with such company or firm or person, such notice shall, unless and until it is withdrawn, be deemed to be a sufficient disclosure of his interest in such contract or proposed contract which may be the subject of consideration at a meeting of the municipality after the date of the notice.

(2)The Municipal Secretary shall record in a book, to be kept for the purpose, particulars of any disclosure made under sub-section (1) of section 80 and of any notice given under sub-section (1) of this section, and the book shall be open during office hours for the inspection of any councillor.

82.**Right of Municipal Commissioner or Executive Officer and other officers to attend meeting of Municipality and Committees etc.-** The Municipal Commissioner or the Executive Officer, or any other officer of the municipality authorized by him in writing in this behalf, may attend any meeting of the municipality or of any committees.

83.Right of Councillors to ask questions.-

(1)A councillor may, subject to the provisions of sub-section (2), ask the Council or/and Standing Committee questions on any matter relating to the administration of the municipality or municipal governance, and all such questions shall be addressed to the Standing Committee and shall be

answered either by the Mayor or Chairperson or by any other member of the Standing Committee.

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

(a)not less than seven working days' notice, in writing, specifying the question shall be given to the Municipal Secretary;

(b)no question shall –

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

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

(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 municipality,

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

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

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

(ix)ask for information on trivial matters,

(x)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 municipality, or

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

(3)The presiding officer shall disallow any question, which is, in his opinion, in contravention of the provisions of sub-section (2).

(4)If any doubt arises whether any question is or is not in contravention of the provisions of sub-section (2), the matter shall be decided by the presiding officer, whose decision shall be final.

(5)The Mayor or Chairperson or any member of the Standing Committee shall not be bound to answer a question seeking information which has been communicated to him or to the Standing Committee in confidence or if, in his opinion, it cannot be answered in public interest.

(6)Unless otherwise directed by the presiding officer of the meeting, every question shall be answered at a meeting of the municipality.

84.Discussion on urgent public matters. -

(1)Any councillor may give notice of raising discussion on a matter of urgent public importance to the Municipal Secretary, stating clearly the matter to be raised.

(2)Such notice, supported by the signatures of at least two other councillors, shall reach the Municipal Secretary at least twenty four hours before the date on which such discussion is sought, and the Municipal Secretary shall immediately place it before the Mayor or Chairperson, as the case may be, and circulate the notice among the councillors in such manner as he may think fit.

(3)The Mayor or Chairperson may admit for discussion such notice as may appear to him to be of sufficient public importance and allow such time for discussion as he may consider appropriate.

(4)There shall be no formal resolution or voting on such discussion.

85.Asking for statement from Standing Committee.-

(1)Any councillor may ask for a statement from the Standing Committee on an urgent matter relating to the administration of the municipality by giving notice to the Municipal Secretary at least one hour before the commencement of the meeting of the municipality on any day.

(2)The Mayor or Chairperson or a member of the Standing Committee may either make a brief statement on the same day or fix a date for making such statement.

(3)Not more than two such matters shall be raised at a meeting and, in the event of more than two matters being raised priority shall be given to the matters which are, in the opinion of the Mayor or Chairperson, more urgent and important.

(4)There shall be no debate on such statement at the time it is made.

Minutes and Proceedings

86.**Keeping of minutes and proceedings.-** Minutes of each meeting of the municipality and of the committees of the municipality recording therein the names of the councillors present at such meeting and the proceedings of each such meeting shall be drawn up and entered in a book to be kept for that purpose by the Municipal Secretary and they shall be laid before the next meeting of the municipality or of the committees, as the case may be, and they shall be signed at such meeting by the presiding officer thereof.

87.**Circulation and inspection of minutes.-** Minutes of the proceedings of each meeting of the municipality and of the committees after they are signed by the presiding officer shall be circulated to all the councillors within seven days and shall, at all reasonable times, be available at the office of the municipality for inspection by any councillor, free of cost, and by any other person on payment of such fee as the municipality may determine.

88.**Forwarding of minutes to the State Government**

(1)The Municipal Secretary shall forward to the State Government a copy of the minutes of the proceedings of each meeting of the municipality or of the committees within seven days after they are signed..

(2)The State Government may, in any case, call for a copy or copies of all or any of the papers laid before the municipality or any committee of the municipality and, thereupon, the Municipal Secretary shall forward to the State Government a copy or copies of such paper or papers.

89.**Rules relating to conduct of business of the municipality.-** The State Government may, by rules, provide for such matters, not provided in this Act, relating to the conduct of business of the municipality or of its committees, as it may deem necessary.

Validation

90.Validation of act and proceedings.-

(1)No act or proceeding of the municipality or of any committee of the municipality shall be called in question merely on the ground of –

(a)the existence of any vacancy in, or any defect, initial or subsequent, in the constitution of, the municipality or any committee of the municipality, or

(b)any councillor having voted or taken part in any proceeding in contravention of any of the provisions of the Act; or

(c)any defect or irregularity not affecting the merit of any case to which such defect or irregularity relates.

(2)Every meeting of the municipality or any committee of the municipality, the minutes of the proceedings of which have been duly signed under section 86, shall be deemed to have been duly convened and to be free from any defect or irregularity.

CHAPTER 10

CONTROLLING AUTHORITIES AND THEIR POWERS

Direction and Control

91.**Power of Government to call for records etc. -** The State Government may, at any time, require any municipal authority:

(1)to produce any record, correspondence, plan or other document;

(2)to furnish any return, plan, estimate, statement of account or statistics; and

(3)to furnish or obtain any report,

and thereupon the municipal authority, shall comply and furnish the same without unreasonable delay.

92.**Power of State Government to depute officers to make inspection or examination and report-** The State Government may, depute any officer to inspect or examine any department, office, service, work or property of the municipality and to report thereon and such officer may for the purposes of such inspection or examination exercise all the powers of the State Government under section 91.

93.**Power of State Government to require municipal authorities to take action and issue directions** - (1) If, after considering the records required under section 91 or the reports under section 92 or any information received by the State Government and if the State Government is of opinion:

(a)that any action taken by a municipal authority is unlawful or irregular or any function or duty imposed on such authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner; or

(b)that adequate financial provision has not been made for the performance of any duty under this Act,

the State Government may, by order require such municipal authority to regularize such unlawful or irregular action or perform such duty or restrain such authority from taking such unlawful or irregular action or direct such authority to make to the satisfaction of the State Government, within such period as may be specified in the order, arrangement or financial provision as the case may be for the proper performance of such function or duty:

Provided that the State Government shall, unless in its opinion the immediate execution of such order is necessary, before making an order under this section give such municipal authority, in writing, an opportunity of showing cause within such period as may be specified by the State Government, why such order should not be made.

(2) If no action has been taken in accordance with the order under sub-section (1) within the period specified therein or if no cause has been shown under the proviso to that section or if the cause shown is not to the satisfaction of the State Government, the State Government may make arrangement for the taking of such action and may direct that all expenses connected therewith shall be defrayed from the Municipal Fund.

(3)For the purposes of sub-section (2), it shall be lawful for the State Government to appoint, for such period as the State Government may think fit, any person considered suitable by it, who shall exercise and perform, subject to such directions as the State Government may issue from time to time, all or any of the powers and functions of the municipal authorities necessary to implement the order under sub-section (1).

(4)Notwithstanding anything contained in the Act, the state government may issue such direction to the municipality, as it may deem fit, for carrying out the purposes of this Act.

94.**Power of State Government to cancel or suspend resolutions:**

(1) The state government may either *suo motto* or on a representation by any person cancel any resolution of thecouncil or of any committee of the municipality if in the opinion of the state

government such resolution is passed in excess of the powers conferred by law or is likely to cause financial loss to the municipality: Provided that the government shall before taking action under this sub-section give the council an opportunity for explanation.

(2) If in the opinion of the government immediate action is necessary the resolution may be kept under suspension pending action under sub-section (1).

95.**Power of State Government to remove Mayor, Deputy Mayor, Chairperson and Vice-chairperson:**

(1)If in the opinion of the State Government, the Mayor and Chairperson absents himself without sufficient cause for more than three consecutive meetings of the Council or willfully omits or refuses to perform their functions and duties under this Act, or is found to be guilty of misconduct in the discharge of their duties or becomes physically or mentally incapacitated for performing his duties or is absconder, being an accused in a criminal case for more than six months, the State Government may, after giving the Mayor and Chairperson a reasonable opportunity for explanation, by order, remove him from office.

(2)The Mayor and Chairperson so removed shall not be eligible for re-election as Mayor and Chairperson during the remaining term of office.

96.**Power of State Government to dissolve the Council .-**

(1)If, in the opinion of the State Government, the Council has shown its incompetence, or has persistently made default, in the performance of the functions, or in the discharge of the duties, imposed on it by or under this Act or any other law for the time being in force, or has exceeded or abused its powers, or is unable to function under the provisions of this Act, the State Government may, subject to the provisions of sub-section (2), by an order published in the *Official Gazette,* and stating the reasons therefor, declare the Council to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and dissolve it for such period, not exceeding six months, and with effect from such date, as may be specified in the order.

(2)Before making any order under sub-section (1) a notice shall be given by the State Government to the Council calling upon it to submit representation, if any, against the proposed order within such period as may be specified in the notice.

(3)The Mayor or Chairperson shall also be given a reasonable opportunity of being heard before making an order under sub-section (1).

(4)Not withstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of the order of dissolution under sub-section (1),

(a)all the Councillors including the members of the Standing Committee and of any committee of the municipality constituted under this Act, and the Mayor or Chairperson and the Deputy Mayor or Vice-Chairperson shall vacate their respective offices, and

(b)all the powers and duties which, under the provisions of this Act or the rules or the regulations made thereunder or any other law for the time being in force, which are exercised or performed by the members of the Standing Committee or of any committee of the municipality or the Mayor or Chairperson, shall thereafter be exercised or performed, subject to such directions as the State Government may give from time to time, by such person or persons as the State Government may appoint in this behalf:

Provided that when the State Government appoints more than one person to exercise any powers or perform any duties, it may, by order, and in such manner as it thinks fit, allocate such powers and duties among the persons so appointed:

Provided further that the State Government shall fix the remuneration of such person or persons, and may direct that such remuneration shall, in each case, be paid out of the Municipal Fund.

(5)For the avoidance of doubts, it is hereby declared that an order of dissolution under sub-section (1) of section 95 shall not affect or imply in any way the dissolution of the municipality as a body corporate.

PART III

FINANCIAL MANAGEMENT OF MUNICIPALITIES

Chapter – 11

Finance Commission and Financial Assistance

97.**Implementation of recommendations of the State Finance Commission -** After taking into the consideration the recommendations of the State Finance Commission constituted under Article 243-Y read with Article 243-I of the Constitution of India, the State Government shall determine-

(a)the devolution of net proceeds of the taxes, duties, tolls and fees to the municipalities,

(b)the assignment of taxes, duties, tolls and fees to the municipalities,

(c)the sanction of grants-in-aid to the municipalities from the Consolidated Fund of the State, and

(d)the other measures required to improve the financial position of the municipalities.

98.Financial assistance from the State Government

(1)The State Government, may, from time to time, give grants or financial assistance to the municipality with or without conditions under which such grants or financial assistance shall be applied.

(2)The State Government may, for giving such grants or assistance, lay down a scheme which may include the conditions of release of such grants or assistance and may provide for the division of municipalities into different classes for that purpose.

(3)The State Government may give grants to the municipality for implementation, in full or in part, of any scheme included in the annual development plan of the municipality.

(4)The State Government may constitute an authority, as may be prescribed, to institute a Jharkhand Urban Development Fund to finance urban development projects in the state.

Chapter - 12

Municipal Fund

99.Municipal Fund –

(1)There shall be a fund to be called the Municipal Fund which shall be held by the municipality in trust for the purposes of this Act, and all moneys realized or realizable under this Act and all moneys otherwise received by the municipality shall be credited thereto.

(2)Subject to such directions as the State Government may issue in this behalf, and keeping in view the classification of municipal areas under section 7, the income and expenditure of the

municipality shall be kept under such heads of accounts, including those for water-supply, drainage and sewerage, solid waste management, road development and maintenance, slum services, commercial projects and other account heads as may be specified and the general account head, in such manner, and in such form, as may be prescribed, so as to facilitate the imposition of user charges and preparation of any subsidy report under this Act.

Explanation.- For the purposes of this section, "commercial projects" shall include municipal markets, market development projects, property development projects, and such other projects of a commercial nature as may be specified by the municipality, from time to time.

(3)Every head of account specified under sub-section (1) shall be split up into a revenue account and a capital account and all items of income and expenditure shall be kept appropriately under such revenue account or capital account, as the case may be.

100. **Application of Municipal Fund-**The money credited to the Municipal Fund, from time to time, shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations made thereunder and for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.

101. **Payments not to be made out of Municipal Fund unless covered by budget grant.-** The Municipal Commissioner or the Executive Officer shall have powers to make payment of any sum out of the Municipal Fund or enter into any contract involving any expenditure, provided such payment or expenditure is covered by a current budget grant and sufficient balance of such budget grant is available, notwithstanding any reduction or transfer thereof under the provisions of this Act:

Provided that this section shall not apply to any payment in the following cases:- (a)refund of taxes and other money which are authorized by this Act,

(b)repayment of moneys belonging to contractors or other persons and held in deposit and all money collected by the municipality or credited to the Municipal Fund by mistake,

(c)temporary payment for works urgently required by the State Government in the public interest,

(d)expenses incurred by the municipality on special measures on the outbreak of dangerous diseases, natural or technological hazards or in any other emergent case,

(e)sums payable as compensation under this Act or the rules or the regulations made thereunder,

(f)sums payable -

(i)under orders of the State Government on failure of the municipality to take any action required by the State Government under any provision of this Act, or under any other law for the time being in force, or

(ii)under the decree or order of a civil or criminal court against the municipality, or

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

(iv) on account of the cost incurred in taking immediate action by any of the municipal authorities to avert a sudden threat or danger to the property of the municipality or to human life, and

(v)such other cases as may be determined by regulations:

Provided that contracts involving an expenditure not exceeding twenty lakh rupees in case of a Municipal Corporation, ten lakh rupees in case of a Municipal Council or five lakh rupees in case of a Nagar Panchayat shall be made by the Municipal Commissioner or the Executive Officer:

Provided further that no contract involving an expenditure exceeding twenty lakh rupees but not exceeding fifty lakh rupees in case of a Municipal Corporation, ten lakh rupees but not exceeding twenty five lakh rupees in case of a Municipal Council or five lakh rupees but not exceeding ten lakh rupees in case of a Nagar Panchayat shall be made by the Municipal Commissioner or the Executive Officer unless it has been sanctioned by the Standing Committee:

Provided further that no contract involving an expenditure exceeding fifty lakh rupees in case of a Municipal Corporation, twenty five lakh rupees in case of a Municipal Council or ten lakh rupees in case of a Nagar Panchayat shall be made by the Municipal Commissioner or the Executive Officer unless it has been sanctioned by the Municipal Corporation or Municipal Council or Nagar Panchayat, as the case may be:

Provided further that the ceiling of the expenditure mentioned above may be revised by the municipality, from time to time, keeping the revision in the cost of estimates etc. into account.

102. **Procedure when money not covered by budget grant is paid -** Whenever any sum is paid in any of the cases referred to in the first proviso to section 101, the Municipal Commissioner or the Executive Officer shall forthwith communicate the circumstances of such payment to the Standing Committee, and, thereupon, the Standing Committee may take, or recommend to the Council to take such action under the provisions of this Act as may appear to it to be feasible and expedient for covering the amount of such payment.

103. **Temporary payment from Municipal fund for works urgently required in public interest –**

(1)On a requisition, in writing, by the State Government, the Standing Committee, at any time, may require the Municipal Commissioner or the Executive Officer to undertake the execution of any work certified by the State Government to be urgently required in the public interest and, for this purpose, to make payment for such work from the Municipal Fund in so far as such payment may be made without unduly interfering with the regular work of the municipality.

(2)The cost of all works so executed, and the proportionate establishment charges for executing such work, shall be paid by the State Government and credited to the Municipal Fund.

(3)On receipt of a requisition under sub-section (1), the Standing Committee shall forthwith forward a copy thereof to the Council together with a report of the steps taken in pursuance of the said requisition.

104. **Power to incur expenditure beyond the limits of the municipality.-** Notwithstanding anything contained elsewhere in this chapter, the municipality may, with the approval of the State Government, authorize expenditure to be incurred beyond the limits of the municipal area for creation of physical assets relating to the core functions of the municipality outside the limits of such municipal area and for maintenance thereof for carrying out the purposes of this Act.

105. **Exclusive use of fund for particular purpose -**

(1)Notwithstanding anything contained elsewhere in this chapter, the State Government may, by order, require the municipality to establish a Revolving Fund by earmarking a portion of the Municipal Fund or a particular grant or a part thereof, or any item of receipt under any head of account, or any percentage thereof, or any share of tax receivable by the municipality other than taxes, duties and fines assigned to the municipality under this Act or any part thereof, to be utilized exclusively for such purpose related to municipal functions as may be specified by the State Government, and it shall be the duty of the municipality to act accordingly.

(2)Every municipality shall constitute a separate fund called the Basic Services to the Urban Poor Fund for the purposes of delivery of basic services of the urban poor, including the inhabitants of slum areas.

Explanation- For the purposes of this sub-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 centers, Community health centers, Pre-primary and primary education centers, 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.

(3)A minimum of twenty five percent of the funds within the municipality's budget shall be earmarked and credited to the fund created under sub-section (2), on yearly basis. The allocation to the fund shall be made from the following municipal budgetary resources-

(a)Municipality's own sources of revenue e.g. taxes, fees, user charges and rent etc.;

(b)Assigned revenues;

(c)Allocation from Central and State Finance Commissions, and other inter-governmental transfers;

(d)Contributions, in cash or kind, gifts from individuals, organizations and donors for services to the poor;

(e)Grants from externally aided projects;

(f)Sale of municipal assets;

(g)Others sources, as determined by the state government.

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

(4)The municipality shall prepare a separate budget known as P-budget along with the municipal budget, every year, which shall furnish the details of income and expenditure under fund created under sub-section (2).

(5)The fund created under sub-section (2) shall be in the nature of a non-lapsable fund. In the event of the annual allocations not fully utilized, the balance funds shall not be transferred to the municipal fund but carried forward for utilization in the subsequent year(s). The fund allocation in the subsequent years shall be considered in addition, and shall not be reduced by the unspent funds of the previous year(s).

(6)The municipality shall open a separate bank account with a nationalized bank called, 'Basic Services to Urban Poor Fund' account, wherein funds earmarked under sub-section (3) shall be periodically deposited, ensuring that the yearly allocation is equal to the allocation as in the municipal budget.

(7)The municipality shall maintain separate books of accounts with detailed accounting heads in line with municipal accounts manual, as referred under section 113, for operation of this special fund accounts.

106. **Operation of accounts**- Subject to the other provisions of this Act,

payment from the Municipal Fund shall be made in such manner as may be determined by regulations, and the heads of accounts referred to in section 99 shall be operated by such officers of the municipality as may be authorized by the municipality by regulations.

107. **Investment of surplus money -**

(1)Surplus money standing at the credit of any of the heads of accounts of the Municipal Fund which are not required, either immediately or at near future may, in accordance with such regulations as may be made by the municipality in this behalf, be transferred by the municipality, either in whole or in part, to any other head of account of the Municipal Fund:

Provided that no such money shall be transferred permanently from any of the heads of accounts to any other head of account without the previous approval of the municipality: Provided further that such surplus money standing at the credit of the Commercial Projects Account of the Municipal Fund shall not be transferred to the General Account of the Municipal Fund.

(2)Surplus money which are not transferred under sub-section (1) may be invested in public securities or small savings schemes, approved by the State Government, or deposited at interest with such scheduled bank as may be determined by the Standing Committee.

(3)Profit or loss, if any, arising from the investment as aforesaid shall be credited or debited, as the case may be, to the account to which such profit or loss relates.

Chapter - 13

Budget Estimates

108. **Preparation of budget estimate of municipality-**

(1)The Municipal Commissioner or the Executive Officer shall prepare in each year a budget estimate along with an establishment schedule of the municipality for the ensuing year, and such budget estimate shall be an estimate of the income and expenditure of the municipality.

(2)Subject to the provisions of sub-section (2) of section 99, the budget estimate shall separately state the income and the expenditure of the municipality to be received and incurred in terms of the various heads of accounts.

(3)The budget estimate shall state the rates, at which various taxes, surcharges, cesses and fees shall be levied by the municipality in the ensuing year.

(4)The budget estimate shall state the amount of money to be raised as loan during the ensuing year.

(5)The Mayor and the Chairperson shall present the budget estimate to the Standing Committee before the fifteenth day of February in each year.

(6)The budget estimate shall be prepared, presented and adopted in such form and in such manner, and shall provide for such matters, as may be prescribed.

(7)The annual statements prepared under sub-section (1) of section 117 and sub-section (2) of section 131 together with the reports prepared under sub-section (1) of section 107 and under sub-section (2) of section 329 shall be enclosed with the budget estimate.

109. Report on services provided at subsidised rate.-

(1)The Municipal Commissioner or the Executive Officer shall, while preparing the budget estimate, append thereto a report indicating whether the following services are being provided at a subsidized rate and, if so, the extent of the subsidy, the reasons therefor, the source from which the subsidy is being met, and the sections or categories of the local population who are the beneficiaries of such subsidy, namely:

(a)water-supply and disposal of sewage,

(b)collection, transporting and disposal of solid wastes,

(c)public transport, and

(d)any other service which the municipality or the government may decide, from time to time.

Explanation - A service shall be construed as being provided at a subsidized rate if its total cost, comprising the expenditure on operation and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.

(2)The Standing Committee shall examine the report referred to in sub-section (1) and place the same before the Council with its recommendations, if any, by 1st March of the financial year.

110.Sanction of budget estimate of municipality.-

(1) The Council shall consider the budget estimate and the recommendations, if any, of the Standing Committee thereon, and shall, by the fifteenth day of March in each year, sanction the budget estimate for the ensuing year with such changes as it may consider necessary, and forward the budget estimate so sanctioned to –

(a)the State Government, in the case of a Municipal Corporation,

(b)the Director of Municipal Administration, in the case of Municipal Council and Nagar Panchayat.

(2)The budget estimate received by the State Government or the Director of Municipal Administration, as the case may be, under sub-section (1) shall be returned to the municipality before the thirty-first day of March of that year with or without modifications of the provisions relating to grants by the State Government.

111. **Power to alter budget grant.-** A Council , on the recommendation of the Standing Committee, may from time to time, during a year –

(a) increase the amount of any budget grant under any head,

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

(c) transfer the amount of any budget grant or portion thereof under one head to the amount of budget grant under any other head, or

(d) reduce the amount of the budget grant under any head.

Chapter - 14

Accounts and Audit

112. **Maintenance of accounts.-** The Municipal Commissioner or the Executive Officer shall prepare and maintain accounts of income and expenditure of the municipality by way of Accrual Based Double Entry Accounting System and in such form, and in such manner, as may be prescribed,

113. **Preparation of Municipal Accounting Manual -** The State Government shall prepare and maintain a Manual to be called the Municipal Accounting Manual containing details of all financial matters and procedures relating thereto in respect of the municipality.

114. **Financial Statement.-**

(1)The Municipal Commissioner or the Executive Officer shall, within four months of the close of a year, cause to prepare a financial statement

containing an Income and Expenditure Account and a Receipts and Payments Account for the preceding year in respect of the accounts of the municipality,

(2)The form of the financial statement, and the manner in which the financial statement shall be prepared, shall be such as may be prescribed.

115. **Balance Sheet.-**

(1)The Municipal Commissioner or the Executive Officer shall, within four months of the close of a year, cause to be prepared a Balance Sheet of the assets and the liabilities of the municipality for the preceding year.

(2)The form of the Balance Sheet, and the manner in which the Balance Sheet shall be prepared, shall be such as may be prescribed.

116. **Submission of financial statement and balance sheet to auditor -** The financial statement prepared under section 114 and the balance sheet of the assets and the liabilities prepared under section 115 shall be placed by the Municipal Commissioner or the Executive Officer before the Standing Committee which, after examination of the same, shall adopt and remit them to the auditor as may be appointed in this behalf by the State Government.

117. **Power of Auditor.** -

(1)The municipal accounts as contained in the financial statement, including the accounts of special funds, if any, and the balance sheet shall be examined and audited by Director Local Fund Audit or his equivalent authority or an auditor appointed by the State Government from a panel of professional Chartered Accountants prepared in that behalf by the State Government.

(2)The Comptroller and Auditor General of India shall provide Technical Guidance and Supervision (TGS) over proper maintenance of accounts and audit thereof of municipalities.

Explanation- The Technical Guidance and Supervision (TGS) over municipalities by the Comptroller and Auditor General of India shall include providing guidance regarding maintenance of accounts, auditing standards, certification guidelines, training for capacity building, comments on accounts and test audit of municipalities selected as a representative sample.

(a)The Comptroller and Auditor General of India shall prepare an Annual Technical Inspection report based on the Technical Guidance

and Supervision (TGS) and the test check of accounts of municipalities, to be placed before the Standing Committee.

(b)The Annual Technical Inspection report of C&AG along with the Annual Report of the Director of Local Fund Audit shall be placed before the Legislature by the State Government.

(3)The Municipal Commissioner or the Executive Officer shall submit such further accounts to the Auditor and Comptroller and Auditor General of India, as may be required.

(4)The auditor appointed under sub- section (1) may: -

(a)require, by a notice, in writing, the production before him, or before any officer subordinate to him, of any document which he considers necessary for the proper conduct of the audit,

(b)require, by a notice, in writing, any person accountable for, or having the custody or control of, any document, cash or article, to appear in person before him or before any officer subordinate to him,

(c)require any person so appearing before him, or before any officer subordinate to him, to make or sign a declaration with respect to such document, cash or article or to answer any question or prepare and submit any statement, and

(d)cause physical verification of any stock of articles in the course of examination of accounts.

(5)The auditor, or the officer subordinate to him, may report any item of accounts contrary to the provisions of this Act to the Standing Committee or the Council as the case may be.

(6)The Standing Committee or the Council shall consider the report of the auditor along with test audit report of the Comptroller and Auditor General of India, as early as possible and shall, if necessary, take prompt action thereon, and shall also, if necessary, surcharge the amount of any illegal payment on the person making or authorizing it, and charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not, brought into account by such person, and shall, in every such case, certify the amount due from such person:

Provided that any person aggrieved by an order of payment of certified sums may appeal to the State Government whose decision on such appeal shall be final.

(7)Any person who willfully neglects, or refuses to comply with, the requisition made by an auditor, or the officer subordinate to him, shall, on conviction by a court, be punishable

with fine which may extend to two thousand rupees in respect of each item included in the requisition.

118. Audit report.

(1)As soon as practicable after the completion of audit of the accounts of the municipality, but not later than the thirtieth day of September each year, the Auditor shall prepare a report of the accounts audited and examined and shall send such report along with Test Audit Report of Comptroller and Auditor General of India to the Municipal Commissioner or the Executive Officer.

(2)The auditor shall include in such report a statement showing –

(a)every payment which appears to the auditor to be contrary to law;

(b)the account of any deficiency or loss, which appears to have been caused by gross negligence or misconduct of any person;

(c)the account of any sum received which ought to have been, but has not been, brought into account by any person, and

(d)any other material impropriety or irregularity in the account.

119. Placing of audited accounts before Council.

(1)The Municipal Commissioner or the Executive Officer shall place the audited financial statement, the balance sheet and the report of the auditor and his comments along with Test Audit Report of the Comptroller and Auditor General of India thereon before the Standing Committee which, after the examination thereof, shall place them before the Council with its comments, if any.

(2)The Municipal Commissioner or the Executive Officer shall remedy any defect that has been pointed out by the auditor in his report.

120. Submission of audited accounts -

(1)The Municipal Commissioner or the Executive Officer shall, after adoption of the financial statement and the balance sheet and the report of the auditor along with Test Audit Report of the Comptroller and Auditor General of India by the Council, forward the same to the State Government together with a report of the action taken thereon by the municipality and shall also send copies thereof to the Auditor and the Comptroller and Auditor General of India.

(2)If there is any difference of opinion between the auditor and the municipality or if the municipality does not remedy the defects or the

irregularities mentioned in the report of the auditor within a reasonable time, the auditor shall refer the matter to the State Government whose decision thereon shall be final and binding.

121. Power of State Government to enforce order upon audit report.- If any order made by the State Government under this chapter is not complied with, it shall be lawful for the State Government to take such steps as it thinks fit to secure the compliance of the order and to direct that all expenses therefore shall be defrayed from the Municipal Fund.

122. Special audit - In addition to the audit of annual accounts, the State Government or the municipality may, if it thinks fit, appoint an auditor to conduct special audit pertaining to a specified item or series of items requiring thorough examination, and the procedure relating to audit shall apply mutatis mutandis to such special audit.

123. Internal and social audit - The State Government or the municipality may provide for internal audit of the day-to-day accounts of the municipality in the manner prescribed.

124. Municipal Accounts Committee

(1)The Municipal Corporation and the Municipal Council shall, at its first meeting in each year or as soon as may be at any meeting subsequent thereto, constitute a Municipal Accounts Committee.

(2)The Municipal Accounts Committee shall consist of –

(a)such number of persons, not being less than three and not more than fifteen, as the State Government may determine, by notification for the municipality, to be nominated by the Council among the elected councillors not being the members of the Standing Committee from amongst themselves; and

(b)such number of persons, not being the councillors, officers, or other employees of the municipality and not exceeding two in number, having knowledge and experience in financial matters, as may be nominated by the municipality:

Provided that the persons nominated under clause (b) shall have no right of voting at the meeting of the Municipal Accounts Committee.

(3)The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its Chairperson.

(4)Subject to the other provisions of this Act, the members of the Municipal Accounts Committee shall hold office until a new committee is constituted.

(5)The vacancy arising out of the submission of resignation by the Chairperson or any other member in the committee shall be filled according to sub-section (2) and (3).

(6)Subject to the provisions of this Act and the rules and the regulations made thereunder, it shall be the duty of the Municipal Accounts Committee -

(a)to examine the accounts of the municipality showing the appropriation of sums granted by the municipality for its expenditure and the annual financial accounts of the municipality;

(b)to examine and scrutinize the report on the accounts of the municipality by the auditors appointed under section 117, and to satisfy itself that the moneys shown in the accounts as having been disbursed were available for, and applicable to, the services or purposes to which they were applied or charged and that the expenditure was incurred in accordance with the authority governing such expenditure;

(c)to submit report to the Standing Committee every year and from time to time on such examination and scrutiny;

(d)to consider the report of the auditors in cases where the State Government or the municipality requires them to conduct a special audit of any receipt or expenditure of the municipality or to examine the accounts of stores and stocks of the municipality or to check the inventory of the properties of the municipality including its land holdings and buildings; and

(e)to discharge such other functions as may be prescribed.

(7)The Municipal Accounts Committee may call for any book or document if, in its opinion, such book or document is necessary for its work and may requisition such officers of the

municipality, as it may consider necessary for explaining any matter in connection with its work.

(8)The manner of transaction of business of the Municipal Accounts Committee shall be such as may be determined by regulation.

Chapter - 15

Municipal Property

125. Power to acquire and hold property - The municipality shall, for the purposes of this Act, have power to acquire and hold by gift, purchase or otherwise, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area.

126. Vesting of property - Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties and all interest whatsoever nature or kind therein of the following categories within the limits of a municipal area, shall vest in the municipality-

a.Public lands not belonging to any Government department , statutory body,

b.Public tanks, streams, reservoirs, and wells;

c.Public markets and slaughterhouses;

d.Public sewers and drains, channels, tunnels, culverts and watercourses in, alongside, or under, any street;

e.Public streets and pavements, and stones and other materials thereon, and also trees on such public streets or pavements not belonging to any private individual,

f.Public parks and gardens, including squares and public open spaces,

g. Public *ghats* on rivers or streams or tanks,

h. Public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto,

i. Public places for disposal of the dead, excluding those governed by any specific law in this behalf,

j. Solid wastes collected on a public street or public place, including dead animals and birds, and

k. Stray animals not belonging to any private person.

127. Acquisition of property by Municipality by agreement, exchange, lease, grant etc. –

(1)The municipality may, on such terms and conditions as may be approved by it, acquire by agreement –

(a)any immovable property, and

(b)any easement affecting immovable property.

(2)The municipality may also acquire any property by exchange on such terms and conditions as may be approved by it.

(3)The municipality may also hire or take on lease immovable property on such terms and conditions as may be approved by it.

(4)The municipality may receive any grant or dedication by donor, whether in the form of any income or any movable or immovable property, by which the municipality may be benefitted in the performance of any of its functions.

(5)It shall be lawful for the municipality to be the beneficiary of any trust created under the Charitable and Religious Trusts Act, 1920, or the Indian Trusts Act, 1882.

128. Compulsory acquisition of land

(1)When any land, whether within or outside the limits of the municipal area, or any easement affecting any immovable property vested in the municipality, is required for any public purpose under this Act, the State Government may, at the request of the municipality, proceed to acquire such land or easement under the Land Acquisition Act, 1894.

(2)The municipality shall be bound to pay to the State Government the cost including all charges in connection with the acquisition of the land under the Land Acquisition Act, 1894.

(3)The municipality may resort to other methods of land assembly, including the use of transferable development rights.

129. Special provisions for acquisition of lands adjoining streets - Whenever the municipality makes a request to the State Government for acquisition of land for the purpose of widening or improving an existing street, it shall be lawful for the municipality to apply to the State Government for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

130. Disposal of property - Any property belonging to the municipality may be disposed of with the prior approval of the State Government in the manner hereinafter provided, namely:-

(1)the Standing Committee may sell, or grant lease of, or otherwise dispose of, by public auction, any movable property, and may grant lease of, or let out

on hire *or* authorise the developer appointed for the furtherance of the objective of the Act, to sublease or carry out any arrangement in any of the concession agreement under Public Private Partnership, any movable or immovable property, belonging to the municipality,

(2)the municipality may, with the prior approval of the State Government, for valuable consideration, sell or otherwise transfer, any immovable property belonging to it which is not required for carrying out the purposes of this Act, and

(3)the municipality shall not transfer any immovable property vested in it by virtue of section 126, but shall cause the same to be maintained, controlled and regulated in accordance with the provisions of this Act and the rules and the regulations made thereunder:

Provided that the State Government may authorize, in the public interest, the disposal of such immovable property by the municipality, if the municipality so requires, for reasons to be recorded in writing.

Explanation- "valuable consideration" shall, in relation to any immovable property, means anything of considerable value in terms of money or property given in lieu of transfer, by way of sale or otherwise, of such immovable property.

131. Inventory of properties of municipality -

(1)The Municipal Commissioner or the Executive Officer shall maintain a register and a map of all the immovable properties of which the municipality is the owner or which is vested in it, or which the municipality holds in trust for the Government, and a register of all movable properties belonging to the municipality.

(2)The Municipal Commissioner or the Executive Officer shall, in the case of the an inventory of the immovable property, prepare an annual statement indicating the changes, if any, in the said inventory and shall place the same before the Standing Committee and after its approval before the Council.

Chapter - 16
Borrowings

132. Comprehensive debt limitation policy - The State Government shall frame a comprehensive debt limitation policy applicable in the case of loans, including short-term loans, to be raised by the municipalities, laying down, inter alia, the general principles governing the raising of loans by the municipalities, the limit of the loans which any municipality may raise having regard to its financial capacity, the rate of interest to be paid for such loans, and the terms and conditions, including the period of repayment thereof.

133. Power of municipality to raise loan.-

(1)The municipality may, from time to time, raise, by a resolution in this behalf passed at a meeting of the municipality, a loan within the limits set by the comprehensive debt limitation policy framed under section 132, by the issue of debentures or otherwise, on the security of the property tax or of all or any of the other taxes, surcharges, cesses and fees and dues under this Act or of both the property tax and all or any of the other taxes, surcharges, cesses and fees and dues under this Act, or on the guarantee by the State Government, of any sum of money which may be required for the purpose of –

(a)execution of works under this Act, or

(b)acquisition of lands and buildings for the purposes of this Act, or

(c)paying off any debt due to the State Government, or

(d)repayment of a loan raised under this Act, or

(e)acquisition of a public utility concern which renders such services as the municipality is authorized to render under this Act, or

(f)purchase of vehicles, locomotive engines, boilers and machinery necessary for carrying out the purposes of this Act, or

(g)any other purpose for which the municipality is, by or under this Act or any other law for the time being in force, authorized to borrow:

Provided that any loan proposed to be raised which goes beyond the limits set by the comprehensive debt limitation policy as aforesaid shall require the previous sanction of the State Government with regard to its purpose, the quantum, the rate of interest and the period for repayment, and the other terms and conditions, if any:

Provided further that in addition to the loans as aforesaid, the municipality may also take loan from the State Government or any statutory body or public sector corporation.

(2)When any loan has been raised under sub-section (1), -

(a)no portion thereof shall, without the previous sanction of the State Government, be applied to any purpose other than that for which it has been raised, and

(b)no portion of any loan raised for any of the purposes shall be applied to the payment of salaries or allowances to any officer or other employee of the municipality, other than those who are exclusively employed for the purpose for which the loan has been raised.

Explanation- The expression "dues under this Act" in sub-section (1) shall, for the purposes of clause (e) of that sub-section, be deemed to include the income derivable from the public utility concern referred to in that clause.

134. Power of municipality to open credit account with bank-

Notwithstanding anything contained in section 133, the municipality may, where the raising of a loan is sanctioned by the State Government under that section, instead of raising such loan or any part thereof, take credit, on such terms as may be approved by the State Government, from any scheduled bank, to be kept in a cash account bearing the name of the municipality to the extent of such loan or any part thereof and, with the sanction of the State Government, may grant mortgage of all or any of the properties vested in the municipality by way of securing the repayment of the amount of such credit or of the sums advanced, from time to time, on such cash account with interest.

135. Power of municipality to raise short term loan.- Notwithstanding anything contained in this chapter, the municipality may, within the limits set by the comprehensive debt limitation policy framed under section 132, from time to time, take a short-term loan repayable within such period, not exceeding twelve months, from any scheduled bank, for such purpose, not being a purpose referred to in sub-section (1) of section 133, on such terms , and on furnishing such security for the repayment of such loan, as may be approved by the State Government.

136. Establishment of Sinking Fund.- The municipality shall establish a Sinking Fund in respect of each loan raised under section 133 for the repayment of money borrowed, or debentures issued, and shall, every year, pay into such Sinking Fund such sum as shall be sufficient for the repayment, within the period fixed for the loan, of the money borrowed or the debentures issued.

137. Application of Sinking Fund.- A Sinking Fund or any part thereof shall be applied to the discharge of the loan or a part of the loan for which such Fund was created and, until such loan or part thereof is wholly discharged, such Fund shall not be applied to any other purpose.

138. Power to discontinue payment towards Sinking Fund.- If, at any time, the sum standing at the credit of a Sinking Fund established under section 136 for the repayment of any loan is of such amount that if allowed to accumulate at the rate of interest sanctioned under the first proviso to sub-section (1) of section 133, it will be sufficient to pay off the loan within the period approved by the State Government under the said proviso, further payments towards such fund may be discontinued.

139. Investment of amount at the credit of Sinking Fund.-

(1)All moneys paid into a Sinking Fund shall, as soon as possible, be invested by the Standing Committee in –

(a)Government securities, or

(b)securities guaranteed by the Central Government or any State Government, or

(c)debentures issued by the municipality, or

(d)such other public securities as may be approved by the State Government,

and shall be held by the municipality for the purpose of repaying, from time to time, the loans raised by it by the issue of debentures or otherwise.

(2)All dividends and other sums received in respect of any investment under sub-section (1) shall, as soon as possible after their receipt, be paid into the Sinking Fund and shall be invested in the manner laid down in that sub-section.

(3)Money standing at the credit of two or more Sinking Funds may, at the discretion of the Standing Committee, be invested together as a common fund, and it shall not be necessary for the Standing Committee to allocate the securities held in such investments to the several Sinking Funds.

(4)Subject to the provisions of sub-section (1), any investment made under this section may, from time to time, be varied or transposed.

140. Power of municipalities to reserve a portion of debentures, issued for raising loan for investment.

(1)For the purpose of investment of any portion of the Municipal Fund, including Sinking Fund in the debentures issued by the municipality for raising a loan, the municipality may, within the limits set by the comprehensive debt limitation policy framed under section 132, reserve and set apart any portion of such debentures for issue at par thereto in the name of the municipality, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of raising the loan.

(2)The issue of any debentures by the municipality under sub-section (1) shall not operate to extinguish or cancel such debentures, but every such debenture shall be valid in all respects as if it were issued to, and in the name of, any other person.

(3)The purchase by, or the transfer, assignment or endorsement to, the municipality of any debenture issued by it shall not operate to extinguish or cancel such debenture and every such debenture shall be valid and negotiable in the same manner and to the same extent as if it were held by, or transferred, assigned or endorsed to, any other person.

141. Manner of repayment of loans.- Every loan raised by the municipality under section 133 shall be repaid within the time approved under that section and such repayment shall be made either from a Sinking Fund established under section 136 in respect of such loan or partly from such Sinking Fund and, to the extent to which such Sinking Fund falls short of the sum required for the repayment of such loan, partly from the loan raised for the purpose under section 133, as may be approved by the State Government.

142. Form and effect of debenture.- All debentures issued by the municipality shall be in such form, and shall be transferable in such manner, as the municipality may, by regulations, determine, 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 such debentures being prior in date to others.

143. Annual statement.

(1)The Municipal Commissioner or the Executive Officer shall, at the end of every year, prepare and submit to the municipality, an annual statement showing –

(a)the amount which has been paid into the Sinking Fund or Sinking Funds under section 136 during the year,

(b)the date of last investment made during the year,

(c)the aggregate amount of the securities in the hands of the municipality at the end of the year, and

(d)the aggregate amount which has been applied for the purpose of repayment of the loan under section 139.

(2) A copy of every such annual statement shall be submitted to the State Government by the Municipal Commissioner or the Executive Officer.

144. Annual examination of Sinking Funds.-

(1)All Sinking Funds established under this Act shall be subject to annual examination by the auditor appointed under section 117, who shall ascertain whether the cash and the value of securities belonging to such Sinking Funds are equal to the amount which should be at the credit of such Sinking Funds, had the investment under section 139 been regularly made and had the interest accruing from such investments been regularly obtained.

(2)The amount which should be at the credit of a Sinking Fund shall be calculated on the basis of the sums paid into such Sinking Fund under section 133.

(3)The value of securities belonging to a Sinking Fund shall be the current value of such securities, unless such securities become due for redemption at par with, or above, their face value before maturity in which case their current value shall be taken as their redemption value, except in the case of the debentures issued by the municipality which shall always be valued at par with their face value:

Provided the municipality shall make good immediately any loss owing to the sale of such debentures for repayment of the loan raised under sub-section (1) of section 133.

(4)The municipality shall forthwith pay into a Sinking Fund such amount as the auditor appointed under section 117 may certify to be deficit in respect of such Sinking Fund, unless the State Government specially sanctions a gradual readjustment of such deficit.

(5)If the cash and the value of the securities at the credit of a Sinking Fund are in excess of the amount which should be at the credit of such Sinking Fund, the auditor appointed under section 117 shall certify the amount of such excess sum, and the municipality shall, thereupon, transfer the excess sum to the Municipal Fund in the General Account.

(6)If any dispute arises as to the accuracy of any deficit or excess referred to in the certificate under sub-section (4) or sub-section (5), the municipality may, after payment of such deficit or after transfer of such excess, as the case may be, refer the matter to the State Government whose decision thereon shall be final.

145. Power of Municipality to borrow money from State Government and attachment of Municipal Fund for recovery of such money:

(1)The municipality may borrow money from the State Government for carrying out the purposes of this Act on such terms and conditions as the State Government may determine.

(2)If any money borrowed by the municipality from the State Government before the commencement of this Act or under sub section (1) is not repaid, or any interest due in

respect thereof is not paid according to the terms and conditions of such borrowing, the State Government may attach the Municipal Fund or any portion thereof.

(3)After such attachment, an officer as may be appointed in this behalf by the State Government shall deal with the Municipal Fund, or any portion thereof, so attached, in such manner as he thinks fit and may do all acts in

respect thereof which any municipal authority or an officer or other employee of the municipality might have done under this Act, if such attachment had not taken place, and may apply such Municipal Fund or a portion thereof, as the case may be, for payment of the arrear of the principal amount and the interest due in respect of such borrowing and of all expenses incurred on account of the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for the recovery of which the Municipal Fund was previously charged under any law for the time being in force, and all such prior debt shall be paid out of the Municipal Fund before any part thereof is applied for repayment of the money borrowed from the State Government.

146. Issue of Municipal Bonds for development of urban infrastructure and Pledging of Municipal Assets as security.-

(1). Subject to such guidelines and procedure as the Central Government may lay down, from time to time, and with the previous approval of the State Government, the municipality may issue tax-free Municipal Bonds for financing of projects for development of urban infrastructure.

(2). The municipality may pledge its movable and immovable assets, lands, buildings and revenues from tax in special escrow accounts as security for the Municipal Bonds issued for development of urban infrastructure.

147. Credit rating of Municipal Bonds. -

(1)A municipality shall, if and when required for the purpose of raising funds through a Municipal Bond, arrange to have a credit rating of the Municipality by a Credit Rating Agency, duly approved by the Central Government, in this regard.

(2)The municipality shall provide to the Credit Rating Agency such information as it may require.

148. Debt Service Reserve Fund - The municipality may set up a Debt Service Reserve Fund by providing special grants from its surplus revenue or through capitalization proceeds from Municipal Bonds to service bondholders in case of default in payment of principal and interest for a period not exceeding two years.

149. Limit to encumbrances through future debt.- If and when required, the municipality may, for the purpose of issuing Municipal Bonds, limit its future debt encumbrances by adoption of suitable debt service coverage ratio as a minimum ratio in relation to its future cash flow projections.

150. Use of proceeds from Municipal Bonds - The fund to be raised from the

Municipal Bonds shall be used for capital investment for development of urban infrastructure in the spheres of water-supply, sewerage, drainage, solid waste management, markets, roads, bridges, urban transport, and for reforming and improving the efficiency of existing systems of

municipal administration and for repayment of loans for the aforesaid purposes raised through earlier issues of municipal bonds or otherwise.

PART IV

MUNICIPAL REVENUE

Chapter - 17

Sources of Internal Revenues

151. Internal revenues of municipality.- The internal revenues of the municipality shall consist of its receipts from the following sources:-

(a)taxes levied by the municipality,
(b)user charges levied for provision of civic services, and
(c)fees and fines levied for performance of regulatory and other statutory functions.

152. Power to levy taxes.

(1)Subject to the provisions of this Act, the municipality shall have, for the purposes of this Act, the power to levy the following taxes:-

(a)property tax on lands and buildings,
(b)tax on vacant land,
(c)surcharge on transfer of lands and buildings,
(d)tax on deficit in parking spaces in any non-residential building,
(e)water tax,
(f)fire tax,
(g)tax on advertisements, other than advertisements published in newspapers,
(h)surcharge on entertainment tax,
(i)surcharge on electricity consumption within the municipal area, (j)tax on congregations,
(k)tax on pilgrims and tourists,
(l)toll –

(i)on roads, bridges, ferries and navigable channels; and
(ii)on heavy trucks which shall be heavy goods vehicles, and buses, which shall be heavy passenger motor vehicles, within the meaning of the Motor Vehicles Act, 1988, plying on a public street;

(m) Tax on Trade and Profession:

Provided that where tax on profession is levied on salaried employees, it may be deducted at source by the employer and be directly remitted to the municipality.

(2)Subject to the prior approval of the State Government, the municipality may, for raising revenue for discharging its duties, and performing its functions, under this Act, levy any other tax which the State Legislature has the power to levy under the Constitution of India.

(3)The levy, assessment and collection of taxes under this Act shall be in accordance with the provisions of this Act and the rules and the regulations made thereunder:

Provided that any person may make self-assessment and make payment of any levy or tax under this Act and rules and regulations made thereunder: Provided further that if any discrepancy or under-assessment is found in such self-assessment, such person shall be liable for payment of differential amount and a fine of not less than fifty percent and up to one hundred percent of such differential amount.

(4)(i) The holdings in the municipal area shall be classified by the municipality on the following criteria:-

(a)location of the holding –

(i)holding on the Principal Main Road,

(ii)holding on the Main Road,

(iii)holding other than sub-clauses (i) and (ii)

(b)use of the holding –

(i) purely residential,

(ii) purely commercial, i.e., shops, hotels, lodges, restaurants, godowns and other business establishments;

(iii)purely industrial, i.e., factories, mills, workshops and other manufacturing units;

(iv) holdings other than sub-clauses (i), (ii) and (iii)

(c) Type of construction –

(i) pucca building with R.C.C. R.B. Roof,

(ii) pucca building with asbestos/corrugated sheet roof, (iii) other buildings not covered in sub-clauses (i) and (ii).

(5)Subject to the approval of the State Government, the municipality may from time to time, publish the list of principal main roads as well as main roads and if necessary modify the lists for the purposes of this Act.

(6)For the purpose of calculation of Annual Rental Value of a holding, measurement of carpet area shall be calculated as under: -

(i) rooms – full measurement of internal dimension,

(ii) covered verandah–full measurement of internal dimension,

(iii) balcony/corridor, kitchen and store – Fifty percent measurement of internal dimension,

(iv) garage -One-fourth measurement of internal dimension,

(v) area covered by bathroom, latrines, portico and staircase shall not form part of the carpet area.

(vi) The rate of rental value per sq. ft. shall be fixed by the municipality with the prior approval of the State Government having regard to the situation, the use and the type of construction of the holdings,

(vii)The Annual Rental value shall be commuted as a multiple of the carpet area and the rental value fixed under clause (i),

(viii)The rental value per sq. ft. of carpet area for different classes of holdings shall be published from time to time by the municipality with the prior approval of the State Government.

(7)The following taxes shall be assessed on the basis of Annual Rental Value at such rates as prescribed by the Government from time to time :-

(i) Holding Tax

(ii) Water Tax

(iii) Latrine Tax

(iv) Tax on any other item included in Twelfth Schedule of the Constitution of India on such rate as prescribed.

(8)The municipality shall revise the rate of tax on Annual Rental Value once in five years or earlier with the prior approval of the State Government.

(9)If any difficulty arises in giving effect to this section or the municipality fails to comply with the provisions of this section, the Government may issue any direction.

153. Jharkhand Property Tax Board

(1). Composition of the Jharkhand Property Tax Board –

(a) The Board shall consist of Chairperson and two members,

(b) The Chairperson shall be a person who is or has been an officer of the State, Government not below the rank of Secretary including ex-officio Secretary; *(c)* The other members shall include those having knowledge and experience in the fields of municipal administration, valuation of properties, accountancy, law, engineering, and urban planning as the State Government may determine,

(d) The Chairperson and the members of the Board shall hold office for a period of three years and the terms and conditions of their service, including salaries and allowances, shall be such as may be prescribed by the State Government,

(e) Board shall have a Secretary who shall be appointed by the State Government.

***(2)* Appointment of Chairperson and Members –**

The State Government shall appoint a person as Chairperson and others as members.

(3)Functions of the Board –

1.Enumerate, or cause to enumerate, all properties in the municipalities in the state and develop a data- base,

2. Review the property tax system and suggest suitable basis for valuation of properties,

3.Design and formulate transparent procedure for valuation of properties,

4.Undertake valuation or cause valuation of all properties in the Municipalities in the state including central, state or municipal properties and exempted properties;

5.Recommend modalities for periodic revision;

6.Adjudicate property/Holding tax disputes and appeals;

7.Ensure quality in valuation of properties;

8.Ensure transparency in valuation process and facilitate disclosure of valuations for fair comparison;

10. Undertake directly or through any institution, training of officers and employees of Municipalities as the State Government may direct or as the Board may consider necessary for carrying out the purposes of this Act.

11. Discharge such other functions in the field of valuation including development of expertise in valuation of lands and buildings; and

12.Render such advice on valuation of properties to a Municipality as the State Government may, from time to time, require or as the Board may consider necessary for carrying out the purposes of this Act.

(4) Power to make rules –

a) The State Government may, by notification, make rules for carrying out the purposes of this section,

b) In particular, and without prejudice to the generality of the foregoing powers, the State Government may make rules relating to the organization of the Board, meetings of the Board, matters relating to officers and employees of the Board, working procedures and such other matters; and such rules may provide for all or any of the matters which may be or is required to be prescribed,

c) All Rules made by the State Government shall be published in

(5) Power to make regulations –

a) The Board may, with the previous approval of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder for carrying out the purposes of this Act.

b) The State Government may, in according such approval, make such additions, alterations and modifications therein as it thinks fit:

Provided that before making such additions, alterations or modifications the State Government shall give the Board an opportunity to express its views thereon within such period not exceeding two months as may be specified by the State Government.

c) All regulations made by the Board and approved by the State

(6) Annual Report -

The Board shall prepare an annual Report of its activities during the year in such form as may be prescribed by the State Government, and the State Government shall place the Report before the Legislature.

154. Power to levy user charges.- The municipality shall levy user charges for –

(i)provision of water-supply, drainage and sewerage,

(ii)solid waste management,

(iii) parking of different types of vehicles in different areas and for different periods,

(iv) stacking of materials or rubbish on public streets for construction, alteration, repair or demolition work of any type, and

(v)other services rendered by the municipality at such rates as may be

determined from time to time by regulations:

Provided that a municipality may, having regard to the conditions obtaining in the municipal area, decide not to levy or postpone any of the user charges as aforesaid:

Provided further that the State Government may direct the municipality to levy any of the user charges as aforesaid not levied, or postponed by the municipality.

155. Power to levy fees and fines. (1) The municipality shall have the power to levy fees in exercise of the regulatory powers vested in it by or under this Act or the rules or the regulations made thereunder for-

(a)sanction of building plans and issue of completion certificates,

(b)issue of municipal licenses for various non-residential uses of lands and buildings,

(c)licensing of -

(i) various categories of professionals such as plumbers and surveyors,

(ii) various activities such as sinking of tube-wells, sale of meat, fish or poultry, or hawking of articles,

(iii) sites used for advertisements or premises used for private markets, slaughterhouses, hospitals, nursing homes, clinics, factories, warehouses, godowns, goods transport depots, eating-houses, lodging-houses, hotels, theatres, cinema-houses and places of public amusement and for other non residential uses,

(iv) animals,

(v) carts or carriages or vehicles, and

(vi) such other activities which require a license or permission under the provisions of this Act, and

(d)issue of birth and death certificates.

(2) The municipality shall have power to levy fine for committing nuisance or for violating any provisions of the Act.

156. Levy of surcharge on tax or fee.- The municipality may levy a surcharge at such rate on a tax, or user charge, or fee towards electricity consumption within the municipal area.

157. Power to levy development charge.- The municipality may levy such development charge as may be determined by regulation, from time to time, on any residential building with a height of more than fourteen meters, or any non-residential building, having regard to its location along a particular category of street, its use characteristics, and sanctioned built up area.

158. Realisation of tax, fees, cess, etc under any other law.- The municipality may, if so authorized by any other law for the time being in force, realise any tax, development charge, cess, or fee, imposed under that law, or any dues payable under that law, in accordance with the provisions thereof.

159. Power to impose consolidated tax -

(1)Notwithstanding anything contained in the foregoing sections, the Municipal Commissioner or the Executive Officer, in lieu of imposing separately any two or more of the taxes described in sub- section (1) of

section 153 or subject to anyone or more of the said taxes and a drainage tax, or surcharge, may, with the previous approval of the Standing Committee, impose a consolidated tax, at such rate as it deems fit, assessed on the annual value of holdings situated within the municipality.

(2)Such consolidated tax shall be payable in such proportion by the owners and occupiers of holdings as the Municipal Commissioner or the Executive Officer, may determine.

160. Holding occupied by more than one person - When any holding is occupied by or let to two or more persons, being severally responsible for the maintenance or payment of rent for the portions occupied, the municipality may for the purposes of assessing such holding, either treat the whole thereof as one holding, or, with the written consent of owner or owners of such holding, treat each of the said several portions therein or any two or more of several portions together, or each floor or flat as a separate holding.

161. Taxes by whom payable –

(1)Any tax which is assessed on the value of the holding shall subject to the provisions of sections 153 be payable by the owner, and in his absence by the occupier of the holdings.

(2)Any tax which is assessed otherwise than the annual value of holding shall be payable by the persons in actual occupation of the holding within the municipality.

162.Duty on transfers of property -

(1)The State Government may impose a duty in municipal area on transfer of immovable property in accordance with the provision contained in sub-section (2).

(2)By the order of the State Government, duty imposed by the Indian Stamp Act, 1899 (II of 1899), as modified, from time to time, in its application to the State of Jharkhand, on instruments of sale and gift of immovable property situated within the limits of a municipality and executed on or after the date on which the provision of this Act came into force within that municipality be increased by two per centum on the value of the property. In the case of an usufructuary mortgage of immovable property, two per centum, on the amount secured, as set forth in the instrument.

(3)On the introduction of the transfer duty –

(i)section 27 of the said Indian Stamp Act, 1899 (II of 1899) as, from time to time, so modified, shall be read as if it specifically required the particulars referred to therein to be set forth

separately in respect of property situated within the limits of municipality and outside such limits respectively; and

(ii)section 64 of that Act, as, from time to time, so modified, shall be read as if it referred to the municipality as well as the Government.

(4)All collections resulting from the said increase shall, after the deduction of incidental expenses if any, be credited to the municipal fund at such time as may be prescribed.

Chapter - 18
Assessment

163.Assessment in case of holdings sub- divided into separate shares.-

(1)If the ownership of any holding or any part thereof is sub-divided into separate shares, the Municipal Commissioner or the Executive Officer may, on the application of any of

the co-owners divide the assessment of such holding or portion thereof in the following manner namely :-

(i) if the ownership is subdivided into two or more shares without separate allotment, or if as a result of such subdivision there is a separate allotment, of such holding or portion, which are not entirely independent and capable of separate enjoyment, the Municipal Commissioner or the Executive Officer may, if he thinks fit, apportion the assessment among the share-holders according to the value of their respective shares without assigning any separate number;

(ii) if, as the result of such subdivision, there are separate allotments of such holding or portion and if such allotments are made entirely independent and capable of separate enjoyment, the Municipal Commissioner or the Executive Officer may, if he thinks fit, assess such portions separately after assigning to them separate number; and

(iii)if, such separated portions of such holding or portion, are made, entirely independent and capable of separate enjoyment in conformity with the provisions of this Act or of any rules or regulations made thereunder, relating to buildings, the Municipal Commissioner or the Executive Officer shall assess such portion separately by assigning separate numbers thereto.

(2) Every alteration made under sub-section (1) shall be signed by the Municipal Commissioner or the Executive Officer and, subject to the result of an application under section 167, shall take effect from the quarter in

which the order has been passed, but the Municipal Commissioner or the Executive Officer, by such alteration shall not be deemed to have made a new or revised assessment list.

164.Assessment in case of holdings having been amalgamated.-

(1) If any holding bearing two or more holding numbers or portions thereof, are amalgamated into one or more new premises, the Municipal Commissioner or the Executive Officer shall assess them on amalgamation, after assigning to them one or more numbers, as the case may be, for the purposes of this Chapter:

Provided that no assessment on amalgamation of premises shall be made by the Municipal Commissioner or the Executive Officer except on application being made by the owner or owners thereof.

(2)Every alteration shall be signed by the Municipal Commissioner or the Executive Officer and, subject to the result of an application, shall take effect from the quarter in which the order has been passed, but the Municipal Commissioner or the Executive Officer, by such alteration, shall not be deemed to have made a new or revised assessment list.

165.Power of Standing Committee in case of excessive hardship.- Whenever, from the circumstances of the case, the levy of a tax on any holding leads to excessive hardship to the person liable to pay the same, the Standing Committee, on the recommendation of the Municipal Commissioner or the Executive Officer, may reduce the amount payable on account of such holding, or may remit the same:

Provided that such reduction or remission shall not, unless renewed by Standing Committee on similar recommendation of the Municipal Commissioner or the Executive Officer, have effect for more than one year.

166.Remission or adjustment on account of vacant holdings.-

(1)When any holding has been unoccupied and unproductive of rent for ninety or more consecutive days during any year and written notice of the fact has been given to the Municipal Commissioner or the Executive Officer, he shall remit and, if the tax has been paid, shall adjust against future demands. The amount of remission should be one-half of tax proportionate to the number of days the said holding has remained so unoccupied from the date of delivery of such notice.

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

(3) For the purposes of this section, neither the presence of a caretaker,

nor the mere retention in an otherwise unoccupied dwelling house of the furniture habitually used in it, shall constitute occupation of the house.

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

167.Application for review.

(1)Any person who is dissatisfied with the amount assessed upon him or the valuation or assessment of any holding, or who disputes his occupation of any holding, or his liability to be assessed, may apply to the Municipal Commissioner or the Executive Officer or an officer empowered in this behalf by the State Government to review the amount of assessment or valuation or to exempt him from the assessment or tax.

(2)All such applications containing objections shall be made in writing within thirty days after the receipt of the notice served upon him regarding the assessment or valuation for assessment of any holding:

Provided that the Municipal Commissioner or the Executive Officer may if he thinks fit extend the said period of thirty days to a period not exceeding sixty days.

168.Investigation of objections by Municipal Commissioner or Executive Officer.-

(1)All such objections shall be entered in a register to be maintained for the purpose and, on receipt of any objection, the Municipal Commissioner or the Executive Officer or any officer empowered in this behalf by the State Government shall give a notice in witting to the objector of a time and place at which his objection will be investigated.

(2)At the time and place so fixed, the Municipal Commissioner or the Executive Officer or any officer empowered in this behalf by the State Government shall hear the objection, in the presence of the objector or his authorised agent. If the objector makes a request for adjournment with a reasonable cause, the investigation may be adjourned.

(3)When the objection has been determined, the order passed on such objection shall be recorded in the said register and, if necessary an amendment made in the assessment list in accordance with the result of the objection.

169.Appeal to the Competent Court / District Judge.-

(1)Any person dissatisfied with the order passed on his objection may appeal to the Jharkhand Property Tax Council, whose decision shall be final.

(2)Such appeal shall be presented to the Jharkhand Property Tax Council within thirty days from the date of the order passed and shall be accompanied by an extract from the register of objection containing the order objected to, and shall be disposed of according to such procedure as may be prescribed by the State Government.

(3)The provisions of the Indian Limitation Act 1908 relating to appeals shall apply to every appeal preferred under this section.

(4)No appeal shall be admitted under this section unless an objection has first been determined under section 168.

(5)The Municipal Commissioner or the Executive Officer shall give effect to the decision of the said court but in the case of pendency of an appeal under this section shall not operate to delay or prevent the levy and realisation of any tax or installment thereof payable in respect of any holding according to the order of assessment under appeal but if by the final decision in the appeal it is determined that such tax or installment ought not to have been levied or realised in whole or in part, the Municipal Commissioner or the Executive Officer shall refund to the person from whom the same has been levied or realised, the amount of such tax or installment, or the excess thereof over the amount properly leviable in accordance with such final decision, as the case may be, or adjust such excess amount against any future demand.

170.Valuations when to final.- Every valuation made by the Municipal Commissioner or the Executive Officer under this Act shall, subject to the provision of sections 168 and 169, be final.

Chapter - 19

Tax on Advertisements other than Advertisements in Newspapers and License Fees for Advertisement Spaces

171.Prohibition of advertisements without written permission of the Municipal Commissioner or the Executive Officer -

(1)No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame post, kiosk, structure, vehicle, neon-sign or sky-sign, any advertisement or display any advertisement to public view in any

manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place, in any place within the municipal area without permission, in writing, of the Municipal Commissioner or the Executive Officer.

(2)The Municipal Commissioner or the Executive Officer shall not grant such permission, if –

(a)a license for the use of the particular site for the purpose of advertisement has not been taken, or

(b)the advertisement contravenes any provisions of this Act or the rules or the regulations made thereunder, or

(c)the tax, if any, due in respect of the advertisement has not been paid.

(3)No person shall broadcast any advertisement, except on radio or television, without the permission, in writing, of the Municipal Commissioner or the Executive Officer,

172.License for use of site for purpose of advertisement.-

(1)Except under, and in conformity with, such terms and conditions of a license as the municipality may, by the regulations, provide, no person being the owner, lessee, sub-lessee, occupier or advertising agent shall use, or allow to be used, any site in any land, building or wall, or erect, or allow to be erected, on any site any hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign for the purpose of display of any advertisement.

(2)For the purpose of advertisement, every person –

(a)using any site before the commencement of this Act, or

(b)intending to use any site, or

(c)whose license for use of any site is about to expire,

Within ninety days from the date of such commencement, shall apply for a license or renewal of license, as the case may be, to the
Municipal Commissioner or the Executive Officer in such form as may be specified by the municipality.

(3)The Municipal Commissioner or the Executive Officer shall, after making such inspection as may be necessary and within thirty days of the receipt of the application, grant or renew a license, as the case may be, on payment of

such fee as may be determined by regulations, or refuse or cancel a license, as the case may be.

(4)The Municipal Commissioner or the Executive Officer may, if, in his opinion, the proposed site for any advertisement is unsuitable from the considerations of public safety, traffic hazards or aesthetic design, refuse to grant a license, or to renew any existing license, within thirty days of the receipt of the application.

(5)Every license shall be for a period of one year except in the case of sites used for any temporary congregation of whatever nature including fairs, festivals, circus, yatra, exhibitions, sports events, or cultural or social programmes,

(6)The Municipal Commissioner or the Executive Officer shall cause to be maintained a register wherein the licenses issued under this section shall be separately recorded in respect of advertisement sites –

a.on telephone, telegraph, tram, electric or other posts or poles erected on or along public or private streets or public places,

b.in lands or buildings, and

c.in cinema-halls, theatres or other places of public resort.

173.Tax on advertisement. -

(1)Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign any advertisement, or displays any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place in any location in a municipal area including an airport or a port or a railway station, shall pay for every advertisement, which is so erected, exhibited, fixed or retained or so displayed to public view, a tax calculated at such rate as may be determined by regulations:

(2)Notwithstanding anything contained in sub-section (1), no tax shall be levied under this section on any advertisement which –

(a)relates to a public meeting or to an election to Parliament or the State Legislature or the municipality or any other local authority or to candidature in respect of such election, or

(b)is exhibited within the window of any building, if the advertisement relates to any trade, profession or business carried on in the building, or

(c)relates to any trade, profession or business carried on within the land or the building upon or over which such advertisement is exhibited and for which permission already taken under the building regulations, or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on, upon or in such land or building, or

(d)relates to the name of the land or the building upon or over which the advertisement is exhibited or the name of the owner or the occupier of such land or building, or

(e)relates to the business of any airport or port or railway administration, and is exhibited within such airport or port or railway station or upon any wall or other property of airport, port or railway station, or

(f)relates to any activity of the Central Government or the State Government or any local authority.

(3)The tax on any advertisement leviable under this section shall be payable in advance in such installments, and in such manner, as may be determined by regulations.

174.Permission of the Municipal Commissioner or the Executive Officer to be void in certain cases.- Any permission under section 171 shall be void,-

(a)if the advertisement contravenes the provisions of any regulations made under this Act, or

(b)if any material change is made in the advertisement or any part thereof without the previous permission of the Municipal Commissioner or the Executive Officer, or

(c)if the advertisement or any part thereof falls otherwise than by accident, or

(d)if, due to any work by the Central Government, the State Government, or the municipality, or by any statutory authority, the advertisement is required to be displaced.

175.License for use of site for purpose of advertisement to be void in certain cases. - Any license granted under section 172 shall be void, -

(a)if the licensee contravenes any of the terms and conditions of license or,

(b)if any addition or alteration is made to, or in the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon- sign or sky-sign, upon or over which the advertisement is erected, exhibited, fixed or retained, or

(c)if the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign over which the advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

176.Presumption in case of contravention.- Where any advertisement has been erected, exhibited, fixed or retained upon or over any building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign or displayed to public view from a public street or public place in contravention of the provisions of this Act or the regulations made thereunder, it shall be presumed, unless the contrary is proved, that the contravention has been made by the person or persons on whose behalf the advertisement purports to be or the agents of such person or persons.

177.Power of Municipal Commissioner or the Executive Officer in case of contravention.- If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or the regulations made thereunder, the Municipal Commissioner or the Executive Officer may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign, upon or over which such advertisement is erected, exhibited, fixed or retained to take down or remove such advertisement or may enter any land, building or other property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced or screened.

Explanation I- The word "structure" in this chapter shall include any movable board on wheels used as an advertisement or advertisement medium.

Explanation II- The word "advertisement", in relation to a tax on advertisement under this Act, shall mean any word, letter, model, sign, neon-sign, sky-sign, placard, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or in part for the purposes of, advertisement, announcement or direction.

178.Removal of poster, hoarding, etc. – Notwithstanding any other action that may be taken against the owner, or the occupier of any land or building, upon or over which there is any hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign for erecting any

advertisement in contravention of the provisions of this Act or the regulations made thereunder, or the person who owns such hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky- sign, the Municipal Commissioner or the Executive Officer may, for removal and storage of such hoarding, frame, post, kiosk, structure, vehicle, neon-sign or sky-sign, realize from such person such charges as may be fixed by the Standing Committee from time to time.

Chapter - 20

OTHER TAXES AND TOLLS

179.Toll on Bridges: The State Government may, with the consent of a municipality, make over to that municipality any existing toll-bar on a bridge within the municipal area to be administered by the municipality and, thereupon, the municipality shall administer such toll-bar until the State Government directs otherwise. Every such toll-bar, while so administered, shall be deemed to be a municipal toll-bar, and the profits derivable therefrom or such parts thereof as shall be agreed upon between the State Government and the municipality, shall be credited to the Municipal Fund.

180.Declaration of ferries as municipal ferries -

(1)Where a ferry plies between two points on a water-course and either one or both the points are situated within a municipal area, the State Government may, after considering the views of the concerned municipality, declare such ferry to be a municipal ferry, and, thereupon, the profits derivable from the plying of such ferry shall be credited to the Municipal Fund.

(2)Due compensation shall be given by the concerned municipality to any person for the loss which he may have sustained as a result of a ferry being declared to be a municipal ferry.

Chapter - 21

Payment and Recovery of Taxes

Recovery of Taxes by Municipality

181.Manner of recovery of taxes under the Act- Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be determined by regulations :-

(a)by presenting a bill, or

(b)by serving a notice of demand, or

(c)by distraint and sale of a defaulter's movable property, or

(d)by attachment and sale of a defaulter's immovable property, or (e)in the case of property tax on any land or building, by attachment of rent due in respect of such land or building, or

(f)by a certificate, distress warrant or body warrant under any law for the time being in force regulating the recovery of any dues as public demand, or

(g)by attachment and realisation from the bank accounts and other financial instruments held, individually or jointly, in the name of the defaulter.

182.Time and manner of payment of taxes – (1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such date, in such number of installments, and in such manner, as may be determined by regulations.

(2) If any amount due is paid on or before the date referred to in sub-section (1), a rebate of five per centof such amount shall be allowed.

(3) If any amount due is not paid within the due-date as referred in sub-section (1), a simple interest at one percent per month shall be charged.

183.Presentation of bill -

(1)When any tax has become due, the Municipal Commissioner or the Executive Officer 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)a tax on advertisements,

(b)a tax on tourists and congregations, and

(c)a toll:

Provided further that for the purpose of recovery of any tax by the preparation and presentation of a bill or notice of demand and the collection of tax in pursuance thereof, the Standing Committee may, with the approval of the municipality, entrust the work to any agency under any law for the time being in force, or to any other agency, on such terms and conditions as may be specified by regulations.

ExplanationI - A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting or by courier agency or by electronic mail to the person liable for payment of the amount included in the bill, and, in such case, the date of

certificate of posting, or the date on which it is delivered by the courier agency or by electronic mail shall be deemed to be the date of presentation of the bill to such person.

Explanation II - "courier agency" shall mean any agency engaged in door-to-door delivery of time-sensitive documents, utilizing the services of a person, either directly or indirectly, to carry such documents.

Explanation III-"electronic mail" shall include e-mail or facsimile transmission.

(2)Every such bill shall specify the particulars of the tax and the period to which the bill relates.

184.Regulations regarding payment and recovery of tax-

(1)To ensure payment and recovery of its tax dues, the municipality shall, by regulations, provide for –

(a)issue of notice of demand, charging of notice fee, levy of interest for delayed payment at a rate as may be specified, and the amount of penalty therefor,

(b)issue of warrant for attachment, distress, and sale of movable property for recovery of tax dues,

(c)attachment and sale of immovable property for recovery of tax dues,

(d)recovery of dues from a person about to leave the municipal area,

(e)issue of warrant for attachment and realisation from the bank accounts and other financial instruments held, individually or jointly, in the name of the defaulter, and

(f)issue of body warrant for recovery of tax dues.

(2)The Municipality may by regulation provide for collection of taxes and other dues through scheduled banks, electronic collection centers and other modes.

185.Requirement of payment of rent by occupier towards tax due on land or building.-

(1)For the purpose of recovery of property tax on any land or building from any occupier, the Municipal Commissioner or the Executive Officer shall, notwithstanding anything contained in any State law relating to premises tenancy or any other law for the time being in force, cause to be served on such occupier a notice requiring him to pay to the municipality any rent due, or falling due, from him in respect of the land or the building to the extent

necessary to satisfy the portion of the sum due for which he is liable under the said section.

(2)Such notice shall operate as an attachment of such rent unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due, any sum paid by him to the municipality in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the tax on land or building, he shall be entitled to recover from the person primarily liable for payment of such tax any amount for which credit is claimed,

(3)If any occupier fails to pay to the municipality any rent due or falling due which he has been

required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the municipality as an arrear of tax under this Act,

186.Recovery of property tax on lands and buildings or any other tax or charge when owner of land or building is unknown or ownership is disputed.–

(1) If any money is due under this Act from the owner of any land or building on account of tax on such land or building or any other tax, expense or charge recoverable under this Act, and if the owner of such land or building is unknown or the ownership thereof is disputed, the Municipal Commissioner or the Executive Officer may publish twice, on such land or building at an interval of not less than two months, a notification of such dues and of sale of such land or building for realization thereof, and may, after the expiry of not less than one month from the date of last publication of such notification, unless the amount recoverable is paid, sell such land or building by public auction to the highest bidder, who shall deposit, at the time of sale, twenty-five *per cent* of the purchase money, and the balance thereof within thirty days of the date of sale. Such notification shall be published in the *Official Gazette* and in local newspapers and by displaying on the land or the building concerned,

(2)After deducting the amount due to the municipality as aforesaid, the surplus sale proceeds, if any, shall be credited to the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Municipal Commissioner or the Executive Officer or a court of competent jurisdiction.

(3)Any person may pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned, such person may recover

such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such land or building.

187.Power of the Municipal Commissioner or the Executive Officer to prosecute or serve notice of demand.-

(1) When any sum is due from any person on account of –

(a)tax on advertisements other than the advertisements published in newspapers, or

(b)any other tax, fee or charge leviable under this Act,

the Municipal Commissioner or the Executive Officer may either prosecute such person, if prosecution lies under the provisions of this Act, or cause to be served on such person a notice of demand in such form as may be specified by regulations or in such other form as the Municipal Commissioner or the Executive Officer may deem fit.

(2) The provisions of section 184 shall apply *mutatis mutandis,* to every such recovery of sum due.

188.Cancellation of irrecoverable dues.- The municipality may, by order, strike off the books of the municipality any sum due on account of property tax or any other tax or on any other account, which may appear to it to be irrecoverable.

Recovery of Tax on lands or buildings by person primarily liable to pay to the municipality

189.Apportionment of property tax on lands and buildings by person primarily liable to pay.-

(1)Save as otherwise provided in this Act, the person primarily liable to pay the property tax in respect of any land or buildings, may recover,-

(a)If there be but one occupier of the land or the building, from such occupier half of the tax so paid, and, if there be more than one occupier, from each occupier half of such sum as bears to the entire amount of tax so paid by the owner the same proportion as the value of the portion of the land or the building in the occupation of such occupier bears to the entire value of such land or building:

Provided that if there be more than one occupier, such half of the amount may be apportioned and recovered from each such occupier in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building; and

(b)the entire amount of the surcharge on the property tax on any land or building from the occupier of such land or building who uses it for commercial or non-residential purposes:

Provided that if there is more than one occupier, the amount of surcharge on the property tax may be apportioned and recovered from each such occupier in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building.

(2)Notwithstanding anything contained in sub-section (1), if, as a result of the determination of the annual value of any land or building and the imposition of the property tax thereon under this Act for the first time, there is an increase in the amount of tax payable in respect of such land or building from the amount of tax previously payable under this chapter, the person primarily liable to pay the property tax may recover the difference in the amount due to such increase from the occupier or occupiers.

190.Mode of recovery.- If any person primarily liable to pay any property tax on any land or building or surcharge thereon is entitled to recover part of such property tax or surcharge thereon from an occupier of such land or building, he shall have for recovery thereof the same rights and remedies as if such part of the property tax or the surcharge thereon were rent payable to him by such occupier.

Chapter – 22

Commercial Projects

191.Commercial Projects and receipts therefrom.- The municipality may, either on its own or through public or private sector agencies, or under Public Private Partnership, undertake the planning, construction, operation, maintenance or management of commercial infrastructure projects, including district centres, community and neighbourhood shopping centres, industrial estates, bus or truck terminals and tourist lodges with commercial complexes and any other type of commercial projects including the development of social or economic infrastructures on commercial basis and may enter into different concession agreement for furtherance of the aims and objectives of this Act.

PART V

Chapter - 23

URBAN ENVIRONMENTAL INFRASTRUCTURE AND SERVICES

Private Sector Participation Agreement and Assignment to Other Agencies

192.Undertaking of project by municipality or by other agency.- Notwithstanding anything contained elsewhere in this Act, but subject to the provisions of any State law relating to planning, development, operation, maintenance and management of municipal infrastructure and services, a municipality may, in the discharge of its functions specified in section 70, section 71, and section 72, -

(a)promote the undertaking of any project for supply of urban environmental infrastructure and services through public-private participation in financing, construction, operation and maintenance of such project of a municipality irrespective of its cost,

(b)consider and approve the undertaking of any project relating to urban environmental infrastructure or services through public- private participation agreement, and

(c)consider and approve the undertaking of any project relating to urban environmental infrastructure or services by any institution, or government agency or any agency established under any other law for the time being in force, or jointly with any agency.

193.Types of Private Sector Participation Agreements.-

(1)Private sector participation agreements shall be such as may be prescribed.

(2)Without prejudice to the generality of the foregoing provisions of this section, such agreements may include the following:

(a)Build-Operate-Transfer Contract,

(b)Lease Contract,

(c)Management Contract,

(d)Service Contract,

(e)Concession contract, and

(f)Any other variants of the above contracts.

194.Functions assigned to municipality or other agencies.- In the discharge of its obligations for providing urban environmental infrastructure and services in relation to water supply, drainage and sewerage, solid waste management, communication systems and agencies, commercial infrastructure, the municipality may, wherever considered appropriate in the public interest, -

(a)discharge any of its obligations on its own, or

(b)enter into any private sector participation agreement.

Chapter - 24

Water - Supply

General

195.Definitions - In this chapter, unless the context otherwise requires,

(1)***"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, abutting on thestreet and has a stopcock 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 such stopcock, and

(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 includes, -

(i) where the communication pipe ends at a stopcock, such stopcock, and

(ii)any stopcock fitted on the communication pipe between the end thereof and the main;

(2)***"main"means*** a pipe laid by the municipality or any authority of the State Government for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any apparatus used in connection with such pipe;

(3)***"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 any tap;

(4)***"supply-pipe"*** means any service pipe other than communication pipe;

(5)***"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 such limits, or for the purpose of giving, or taking, a supply of water in bulk;

(6)***"water-fittings"*** 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.

Functions in Relation to Water-Supply

196.Duty of municipality to supply water.-

(1)It shall be the duty of the municipality to take steps, from time to time, either on its own or through any other agency, -

(a)to ascertain the sufficiency and wholesomeness of water supplied within the municipal area,

(b)to provide, or to arrange to provide, a supply of wholesome water in pipes to every part of the municipal area in which there are houses, for domestic purposes of the occupants thereof, and for taking the pipes affording that supply to such point or points as will enable the houses to be connected thereto at a reasonable cost, so, however that the municipality shall not be required to do anything which is not practicable at a reasonable cost or to provide such supply to any part of the municipal area where such supply is already available at such point or points, and

(c)to provide, as far as possible, a supply of wholesome water otherwise than in pipes to every part of the municipal area in which there are houses, for domestic purposes of the occupants thereof, and to which it is not

practicable to provide supply in pipes at a reasonable cost, and in which danger to health may arise from the insufficiency or unwholesomeness of the existing supply and a public supply is required and may be provided at a reasonable cost, and to secure 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 as to the point or

points to which pipes must be taken in order to enable houses to be connected to such point or points at a reasonable cost, or, if any question arises under clause (c) of that sub-section as to whether a public supply may be provided at a reasonable cost, such question shall be decided by the municipality.

197.Supply of water to connected premises.-

(1)The Municipal Commissioner or the Executive Officer may, on an application by the owner, lessee or occupier of any building, either on his own or through any other agency, arrange for supply of water from the nearest main to such building for domestic purposes in such quantity as may be deemed to be reasonable and may, at any time, limit the quantity of water to be supplied whenever considered necessary:

Provided that the Municipal Commissioner or the Executive Officer may, by order in writing, delegate the responsibility of receiving the application to any other agency.

(2)For the water supplied under sub-section (1), payment shall be made at such rate as may be fixed by the municipality, from time to time:

Provided that such rate shall, as far as practicable, cover the costs on account of management, operation, maintenance, depreciation, debt servicing, and other charges related to waterworks and distribution costs, including distribution losses, if any.

(3)A supply of water for domestic purposes shall be deemed not to include a supply –

(a)to any institutional building, assembly building, business building, mercantile building, industrial building, storage building, or hazardous building, as described to in sub section (2) of section 425, or any part of such building, other than that used as a residential building, or educational building, within the meaning of -clause (a), or -clause (b), of sub section (2) of that section, or

(b)construction purposes, or

(c)watering roads and paths, or

(d)purposes of irrigation, or

(e)gardens, fountains, swimming pools, or for any ornamental or mechanical purpose, or

(f)for animals or for washing vehicles where such animals or vehicles are kept for sale or hire.

198.Supply of water for non-domestic purposes.-

(1)The Municipal Commissioner or the Executive Officer or the other agency as the case may be, may, on receiving an application, in writing, specifying the purpose for which

the supply of water is required and the quantity which is likely to be consumed, arrange for supply of water for any purpose other than domestic purpose, on such terms and conditions, including the condition of withdrawal of water, as may be determined by regulations.

(2)For the water supplied under sub-section (1), payment shall be made at such rate as may be fixed by the municipality, from time to time:

Provided that such rate shall, as far as practicable, cover the costs on account of management, operation, maintenance, depreciation, debt servicing, and other charges related to water works and distribution costs, including distribution losses, if any.

(3)The Municipal Commissioner or the Executive Officer may withdraw such supply at any time, if he thinks it necessary to do so, in order to maintain sufficient supply of water for domestic purpose.

199.Provision of communication pipes and fittings.-

(1)When an application under section 197 or section 198 has been received, all necessary communication pipes and fittings shall be supplied by the municipality or other agency, and the work of laying and connecting such communication pipes and fittings shall be executed under the orders of the Municipal Commissioner or the Executive Officer or the other agency, as the case may be.

(2)The cost of making such connections and of such communication pipes and fittings and of the work of laying and connecting such communication pipes and fittings shall be paid by the owner or the person making such application.

(3)Notwithstanding anything contained in sub-section (1), the Municipal Commissioner or the Executive Officer may require any owner, or the person applying for supply of water, to provide, to his satisfaction, all communication pipes and fittings, and to carry out at the owner's or the applicant's cost and under his supervision and inspection, the work of laying and connecting such communication pipes and fittings.

(4)Where it is practicable to supply water at a reasonable cost within the meaning of sub-section (2) of section 197, the work relating to making

of connection and fixing of communication pipes and fittings shall be executed within a period of one month from the date of receipt of the application referred to in sub-section (1).

(5)The cost recovered under this section for making connection and supplying communication pipes and fittings shall be spent only on works relating to water-supply.

200.Water-supply through hydrants, stand-posts and other conveniences.-

(1)The municipality may, in exceptional circumstances, either on its own or through other agency, provide, an nominal, as fixed by the Government from time to time cost, supply of wholesome water to the public within the municipal area and may for the said purpose, erect public hydrants or stand-posts or other conveniences.

(2)The municipality may order the closure of a public hydrant, stand- post or other conveniences for reasons to be recorded in writing.

(3)The municipality may either on its own or through other agency provide for safety, maintenance and use of such public hydrants, stand-posts or other conveniences, subject to such conditions as may be specified by regulations.

201.Provision for fire hydrants.-

(1)The Municipal Commissioner or the Executive Officer shall, either on his own or through other agency, 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, and shall keep in good order such hydrants, and may, from time to time, renew every such hydrant.

(2)Letters, marks or figures shall be displayed prominently on a wall, building or other structure near every such hydrant to identify the location of such hydrant.

(3)As soon as the work relating to any such hydrant is completed, the Municipal Commissioner or the Executive Officer or the other agency, as the case may be, shall deposit a key thereof at the nearest place where a public fire engine is kept and in such other places as he may deem necessary.

(4)The Municipal Commissioner or the Executive Officer may, at the request and expense of the owner or the occupier of any building referred to in clause (a) of sub-section (3) of section 197, which is situated in or near a street in which a pipe, not being a trunk main, is laid, and being of sufficient

dimensions to carry a hydrant, fix on the pipe, and keep in good order, and, from time to time, renew, one or more fire hydrants as near to such building as may be convenient, to be used only for extinguishing fire.

(5)The Municipal Commissioner or the Executive Officer shall allow any person to take water for extinguishing fire from any pipe on which a hydrant is fixed without any payment.

202.Supply of water to areas outside municipal area.-

(1)The municipality may, subject to the satisfaction of the reasonable requirements of water within the municipal area, supply water to a local authority or any person outside the municipal area, either by itself of through any other agency.

(2)The supply of water under sub-section (1) shall be at such rate, not being less than the cost of production and delivery, including the costs of management, operation, maintenance, debt servicing, depreciation of plant and machinery, distribution-loss, and other charges, if any, as the municipality may, from time to time, determine.

Planning, Construction, Operation, Maintenance and Management of Waterworks

203.Public tanks, sub-soil water, etc. to vest in municipality.- All public tanks, reservoirs, cisterns, wells, tube-wells, aqueducts, conduits, tunnels, pipes, taps and other water works, whether made, laid or erected at the cost met from the Municipal Fund or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto, and any adjacent land, not being private property, appertaining to any such water source, which are situated within the municipal area, shall vest in the municipality.

204. Vesting of sub-soil rights.- All rights over the sub-soil water resources within the municipal area shall vest in the municipality.

205. Works to be undertaken for supply of water.- For the purpose of providing the municipal area with proper and sufficient supply of water for public and private uses, the municipality, either on its own or through any other agency, -

(a)shall cause to be constructed or maintained such tanks, reservoirs, engines, pipes, taps, and other water works as may be necessary, within or outside the municipal area,

(b)may purchase, or take on lease, any water works, or right to store or to take and convey water, within or outside the municipal area, and

(c)may enter into any agreement with any person or authority forthe supply of water:

Provided that the municipality may, with the approval of the State Government, make over to, or take over from, a statutory body any water works so as to do anything which may be necessary or expedient for the purpose of carrying out its functions under this Act or under any other law for the time being in force.

206. Management of waterworks.- Subject to the provisions of chapter XXIII, the Municipal Commissioner or the Executive Officer shall, either on his own or through any other agency, or through any parastatal agency working independently within municipal area before the commencement of the Act shall ensure immediately after the commencement of this Act that the water works start working under direct control and superintendence of the municipality, notwithstanding any provision or Government order contrary to this, manage waterworks and allied facilities belonging to the municipality and shall maintain the same in good repair and efficient condition and shall cause to be done, from time to time, all such things as shall be necessary or expedient for improving such waterworks and facilities.

207. Purity of water for domestic purpose.-

(1)The Municipal Commissioner or the Executive Officer shall, either on his own or through any other agency, at all times, ensure that the water in any waterworks belonging to the

municipality, from which water is supplied for domestic purposes, is wholesome. (2)The municipality or the other agency, as the case may be, shall, when so required by any competent authority under any law for the time being in force, arrange for the examination of water supplied for human consumption for the purpose of determining whether the water is wholesome,

208. Water not to be wasted.-

(1)No person, being the occupier of any premises to which water is supplied by the municipality or the other agency, shall, on account of negligence or other circumstances under the control of such occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of repair causing thereby waste of water.

(2)No person shall unlawfully flood, or draw off, divert, or take water from, any waterworks belonging to, or under the control of, the municipality, or from any watercourse or stream by which such water is supplied.

(3)No person shall unlawfully draw, divert or take water from any water works belonging to or under the control of the municipality by fixing motor or such other device to the trunk mains or mains or service pipes or supply pipes.

(4)Any person who contravenes the provisions of this section shall be liable to such fine, not exceeding ten thousand rupees, as may be determined by regulations.

Tube-wells and Wells

209. Prohibition regarding sinking of tube-wells, digging of wells, etc.-

(1)Notwithstanding any law for the time being in force with regard to this provision, no person shall, except with the prior permission, in writing, of the Municipal Commissioner or the Executive Officer, sink any tube-well or dig or construct any new well, tank, pond, deep boring, cistern or fountain in any municipal area.

(2)The Municipal Commissioner or the Executive Officer may grant such permission, and may issue a license for the purposes of sub-section (1), on such conditions, and on payment of such annual fee, as the municipality may, from time to time, specify.

(3)If any work as referred in sub section (1) is begun or completed without such permission, the Municipal Commissioner or the Executive Officer may, -

(a)by notice, in writing, require the owner or the other person, who has done such work, to fill up or demolish such work, within such time as may be specified in the notice, and if the work of filling up or demolition is not done within the time so specified, cause the work to be done and realize the expenses therefor from the owner or the person to whom such notice was given, or

(b)grant permission to retain such work on such terms and conditions as the Standing Committee may consider fit to impose.

210. Power to require filling up of wells- Whenever a supply of water has been provided in any municipal area, the municipality may, by notice, in writing, require the owner, lessee, or occupier, as the case may be, of a well, tube-well, tank or other water area,

forming part of any premises in such area, to fill up such well, tank or other water area.

211. Power to set apart wells, tanks, etc. for drinking, culinary, bathing and washing purposes.- The Standing Committee may, by order published at such places as it may think fit, set apart any tank, well, spring or watercourse, or any part thereof, vested in the municipality; or by an agreement with the owner thereof, set apart any private tank, well, spring or water course or part thereof, subject to any right which such owner may retain with the consent of the Standing Committee, for any of the following purposes, namely:-

(a)supply of water exclusively for drinking or for culinary purposes or for both, or

(b)bathing, or

(c)washing animals or clothes, or

(d)any other purpose connected with health, cleanliness or comfort of the inhabitants,

and may, by like order, prohibit bathing, or washing of animals or clothes or other things at any public place, not set apart for such purposes, or prohibit any other act by which water in any public place may be rendered foul or unfit for use, or provide for alternative facilities and conveniences to regulate the use of any tank, well, spring or watercourse to promote public safety, health and welfare.

Water-supply Mains and Pipes

212. Power to lay mains, service pipes etc. –

(1)The Municipal Commissioner or the Executive Officer may, either on his own or through any other agency, lay whether within or outside the municipal area, a main, or such service pipes with such stopcocks and other water fittings as he may deem necessary for supply of water to premises–

(a)in any street, and

forming part of a street, in, over or on that land,

and may, either on his own or through any other agency, from time to time, inspect, repair, alter, or renew or may, at any time, remove any such main, or service pipes, so laid, whether under this section or under any other provision of this Act:

Provided that where a consent required for the purposes of this sub-section is withheld, the Municipal Commissioner or the Executive Officer may, after giving the owner or the occupier of the land a notice, in writing, of his intention so to do, either on his own or

through any other agency, lay the main or the service pipes, as the case may be, in, over or on that land without such consent.

forming part of a street, the Municipal Commissioner or the Executive Officer or any other agency authorised by him 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.

213. Prohibition for laying water pipes and construction of latrines and cesspools.- Subject to such terms and conditions as may be provided by regulations for from time to time, the Municipal Commissioner or the Executive Officer shall have the power to prohibit –

(a)laying of water-pipes in any place where water is likely to be polluted, or

(b)construction of latrine or cesspool within six meters of any well, tank, water-pipe, or cistern, or

(c)the use of water from any polluted source of supply.

214. Power in relation to water supply.- The Municipal Commissioner or the Executive Officer may, subject to such terms and conditions as may be specified by regulations from time to time, require –

(a) the provision of separate supply-pipes for each land or building or each storey of a building,

(b) the owner of a land or building, or the person primarily liable for payment of tax in respect of a land or building, having no supply, or inadequate supply, of wholesome water for domestic purposes, to take supply of water from the mains of the municipality, and

(c) the occupier of any land or building to which water is supplied by the municipality, to keep the supply-pipes in efficient repair.

215.Power to turn off supply of water to premises.-

(1)Notwithstanding anything contained in this Act, the Municipal Commissioner or the Executive Officer may cut off the connection between any waterworks of the municipality and any premises to which water is supplied from such water-works, or may turn off such supply, in any of the following cases, namely:-

(d) if the person, whose premises are supplied with water, fails to pay any sum payable under sub-section (2) of section 197 or sub-section (2) of section 199 when due,

(e) if, after receipt of a notice, in writing, from the Municipal Commissioner or the Executive Officer requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water or to permit the same to be used in contravention of the provisions of this Act or the regulations made thereunder,

(f) if the occupier of the premises contravenes the provisions of sub-section (3) of section 197,

(g) if the occupier refuses to admit any officer or other employee of the municipality, duly authorized in that behalf, into the premises for the purpose of making any inspection under this Act or the regulations made thereunder,

(h) if the owner or the occupier of the premises willfully or negligently damages the meter or any pipe or tap conveying water from any waterworks of the municipality,

(i) if any pipes, taps, works or fittings, connected with the supply of water to the premises, be found, on examination, by the Municipal Commissioner or the Executive Officer, to be out of repair to such an extent as to cause so serious a waste of water that, in his opinion, immediate prevention is necessary,

(j) if the use of the premises for human habitation has been prohibited under this Act,

(k) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning off the water-supply is attached, and

(l) if, by reason of a leak in the service pipe or fitting, damage is caused to any public street and immediate prevention is necessary:

Provided that -

(i)water-supply shall not be cut off or turned off in any case referred to in clause (g) or clause (i), unless a notice, in writing, of not less than seventy-two hours has been given to the occupier of the premises, and

(ii)in the case referred to in clause (f) or clause (i), the Municipal Commissioner or the Executive Officer may carry out necessary repair to

pipes, taps, works, or fittings and recover the expenses thereof from the owner or the occupier of the premises.

(2)The expenses of cutting-off water-supply shall be paid by the owner or the occupier of the premises, as the case may be, and shall be recoverable from such owner or occupier as an arrear of tax under this Act.

Water Meters and Recovery of Charges

216.Power to provide water meters and recover charges.- The municipality may, -

(a)by regulations, specify the terms and conditions for –

(i) provision of water meters, either by itself or through an agent or by the owner or the occupier of any land or building, and

(ii) recovery of charges for supply of water as recorded by water meters, and

(b) take necessary steps for detection and elimination of any fraud in respect of such water meters.

217.Entrustment of operation and maintenance of waterworks and billing and collection of charges.- The Municipal Commissioner or the Executive Officer may, with the prior approval of the Standing Committee, entrust the work of operation and maintenance of waterworks in the municipal area and the work of billing and collection of water charges to any agency governed under any law for the time being in force, or any private agency.

Offence in Relation to Water-supply

218.Liability for offence in relation to water-supply.- If any offence relating to water-supply is committed under this Act in any premises connected with the municipal waterworks, the owner and the occupier of the said premises shall be jointly and severally liable for such offence.

Chapter - 25

Drainage and Sewerage

Functions in Relation to Drainage and Sewerage

219.Municipality to provide drainage, sewerage and outfall.- The municipality shall, either on its own or through any other agency, construct and maintain drains and sewers, and provide a safe and efficient outfall, in or outside the municipal area for effectual drainage and proper discharge of storm-water and

sewage of the municipal area in such manner as may not cause any nuisance, whether by flooding any part of the municipal area, or of the areas surrounding the outfall, or in any other way:

Provided that no place, which has not been used before the commencement of this Act for any of the purposes specified in this section, shall be so used except -

(a)in conformity with the provisions of any State law relating to land use planning or any other law relating thereto for the time being in force, or

(b)with the approval of the State Government, in the absence of any such law:

Provided further that with effect from such date as may be appointed by the State Government in this behalf, no sewage shall be discharged into any watercourse until it has been so treated as not to affect prejudicially the purity and the quality of the water of such water course.

220.Provision of means for disposal of sewage.- For the purposes of receiving, treating, storing, disinfecting, distributing, or otherwise disposing of sewage, the municipality may, either on its own or through any other agency, construct, operate, maintain, develop and manage any works within or outside the municipal area.

Proprietary Rights of Municipality in respect of drains and sewage disposal works 221.Vesting of public drains and sewage disposal works-

Subject to the provisions of chapter 23, -

(1)all public drains, all drains alongside or under any public street, and all sewage disposal works, constructed or acquired out of the Municipal Fund or otherwise, and all works, materials and things appertaining thereto, which are situated within or outside the municipal area, shall be vested in the municipality,

(2)for the purposes of laying, constructing, enlarging, deepening or otherwise repairing or maintaining any such drain or sewage disposal system, so much of the sub-soil appertaining thereto, as may be necessary for such purposes, shall be deemed also to be vested in the municipality, and

(3)all drains and ventilation shafts, pipes and all appliances and fittings connected with the drainage works constructed, erected or set up out of the Municipal Fund in or upon premises, not belonging to the municipality, whether

(a)before or after the commencement of this Act, and

(b)for the use of the owner or the occupier of such premises or not,

shall, unless the municipality has otherwise determined, or does at any time otherwise determine, vest, and shall be deemed always to have been vested, in the municipality.

Explanation - All public and other drains, which are vested in the municipality, are hereinafter referred to in this Act as municipal drains.

222.Power to make over to, or to take over from, statutory authority drainage and sewerage works.- The municipality may, with the prior approval of the State Government and

subject to such conditions as the municipality may determine, make over to, or take over from, an authority under any law for the time being in force any drain or sewer or sewage disposal works for administration and management thereof.

Municipal Drains

223.Power of making drains.-

(1)The Municipal Commissioner or the Executive Officer, or any other agency authorized by him in this behalf, may carry any municipal drain through, across, or under, any street, or any place laid out as, or intended for, a street or under any cellar or vault, which may be under any street, and, after giving a reasonable notice in writing to the owner or the occupier thereof, into, through or under any land whatsoever within the municipal area, or, for the purpose of out-fall or distribution of sewage, outside the municipal area.

(2)The Municipal Commissioner or the Executive Officer, or any other agency authorized by him in this behalf, may construct any new drain in place of an existing drain or repair or alter any municipal drain so constructed.

224.Sewage and rain water to be separate.- For the purpose of effectual drainage of any premises in accordance with the provisions of this chapter, it shall be competent for the Municipal Commissioner or the Executive Officer, or any other agency authorized by him in this behalf, to require that there shall be one drain for sewage, offensive matter and polluted water and an entirely separate drain for rain water or unpolluted sub-soil water or both rain water and unpolluted sub-soil water, each emptying into separate municipal drains or other suitable places.

225.Alteration, discontinuance, cleansing, etc, of drains- Subject to such terms and conditions as may be specified by regulations from time to time, the Municipal Commissioner or the Executive Officer, or any other agency authorised by him in this behalf, may –

(a)enlarge, alter the course of, lessen, or arch over, or otherwise improve, any municipal drain within the municipal area,

(b)discontinue, close up, or destroy any such drain,

(c)properly flush, clean, and empty such drain, and

(d)restrict throwing, emptying, or turning into any municipal drain, or into any drain communicating into the municipal drain, any matter likely to damage the drain or interfere with the free flow of its contents or affect prejudicially the treatment and disposal of its contents, or any chemicals, refuse or waste steam, or any liquid which is dangerous or is the cause of a nuisance or is prejudicial to health, or any petroleum products.

Explanation **-** For the purposes of this section, the expression "petroleum products" shall have the same meaning as in the Petroleum Act, 1934.

Drains of Private Streets and Drainage of Premises

226.Powers in relation to drainage.- Subject to such terms and conditions as may be specified by regulations from time to time, the Municipal Commissioner or the Executive Officer, or any other authorized by him in this behalf, may –

(a) permit the owner or the occupier of any premises having a drain, or the owner of a private drain, to have his drain made to communicate with the municipal drain for discharge

of foul water, or

(b) limit the use of the municipal drain by the owner or the occupier of any premises having a private drain or the owner of a private drain, or

(c) require the owner of any land or building, which is without sufficient means of effectual drainage, to construct a drain and to provide all such appliances and fittings as may be necessary for drainage of such undrained land or building, or (d) require the group of owners of a block of premises, which may be drained more economically or advantageously in combination than separately, to undertake at their own expense any work necessary for drainage of such block of premises to be drained by a combined operation, or

(e) require the owner of any land or building to carry out such construction, repair or other work as may be necessary for effectual drainage of such land or building, or

(f) authorize any person, who desires to drain his land or building into a municipal drain through a drain of which he is not an owner, to use the drain or declare such person to be the joint owner thereof.

227.Premises not to be erected without drains.-

(1)It shall not be lawful to erect or re-erect any premises in the municipal area or to occupy any such premises unless –

(a)a drain is constructed of such size, materials and description, at such level, and with such fall, as may appear to the Municipal Commissioner or the Executive Officer 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 Municipal Commissioner or the Executive Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matters, and conveying the same, from such premises and of effectually flushing the drain of such premises and every fixture connected therewith.

(2)The drain so constructed shall empty into a municipal drain situated at a distance of not exceeding thirty meters from the premises, but if no municipal drain is situated within such distance, then, such drain shall empty into a cesspool situated within the distance to be specified by the Municipal Commissioner or the Executive Officer for the purpose.

228.Affixing of pipes for ventilation of drains, etc –

(1)For the purpose of ventilating any drain or cesspools whether belonging to the municipality or to any other person, the municipality may erect upon any premises or affix to the outside building or to any tree or to any such through any projection from any building including the caves of any roof thereof in order to carry up such shaft or pipe through any such projection and lay in, through, or under any land such appliances as may in the opinion of the Municipal Commissioner or the Executive Officer, be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated.

(2)Such shaft or pipe shall be erected or affixed or removed in such manner as may be prescribed.

(3)If the Municipal Commissioner or the Executive Officer, declines to remove a shaft or pipe when so required by the owner of the premises, building or

tree, upon or to which the same has been erected or affixed, in accordance with the rules made in this behalf, the owner may within fifteen days of the receipt by him of the reply of the Municipal Commissioner or the Executive Officer apply to the competent court for an order that the same be removed.

(4)In the hearing and the disposal of the application under sub- section (3), the competent court shall follow such procedure as may be prescribed, and the order passed by the competent court shall be final and binding upon the parties.

(5)Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Municipal Commissioner or the Executive Officer, shall, so far as practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the Municipal Fund.

229.Construction of water closets and privies –

(1)It shall not be lawful to construct any water-closet or privy for any premises except with such terms not being inconsistent with rules or regulations for the time being in force, as the municipality may prescribe.

(2)In prescribing any such terms, the Municipal Commissioner or the Executive Officer, may determine in each case —

(a)whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other; and

(b)what shall be the site or position of each water-closet or privy.

(3)If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Municipal Commissioner or the Executive Officer, may after giving ten days notice to the owner or occupier of such premises, close such water-closet or privy and alter or demolish the same, and the expenses incurred by the municipality in so doing shall be paid by such owner or occupier or by the person offending.

230.Water-closets and other accommodation in building newly erected or re-erected –

(1)It shall not be lawful to erect or to re-erect or convert any building for, or intended for human habitation at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation and such urinal accommodation and accommodation for bathing or for the washing

of clothes and domestic utensils of such building as the Municipal Commissioner or the Executive Officer, may prescribe.

(2)In prescribing any such accommodation the Municipal Commissioner or the Executive Officer, may determine in each case –

(a)whether such building or work shall be served by the water-closet or by the privy system, or partly by one and partly by the other;

(b)what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

(3)In determining the accommodation to be required under sub-section (2) the Municipal Commissioner or the Executive Officer, shall have regard to the necessity of

providing adequate and suitable water-closet or privies and bathing places for the domestic servants employed by the occupants of the building.

231.Public necessities - The municipality shall provide and maintain in proper and convenient situations water-closet, latrines, privies and urinals and other similar conveniences for public necessities.

Trade Effluent

232.Special provisions relating to trade effluent.- Subject to the provisions of this Act and the regulations made thereunder and of any other law for the time being in force, the occupier of any trade premises may, with the approval of the municipality or, so far as may be permitted by this Act or the regulations made thereunder or any other law for the time being in force, without such approval, discharge into the municipal drain any trade effluent proceeding from such premises.

233.Special provisions regarding drainage of trade effluent.-

Notwithstanding anything contained in this Act or the regulations made thereunder or any usage, custom or agreement, where, in the opinion of the Municipal Commissioner or the Executive Officer, any trade premises are without sufficient means of effectual drainage and treatment of trade effluent or the drains thereof, though otherwise not objectionable, are not adapted to the general drainage system of the municipal area, or the effluent is not of specified purity, the Municipal Commissioner or the Executive Officer may, by notice, in writing, require the owner or the occupier of such premises –

(a)to discharge the trade effluent in such manner, at such times, through such drains, and subject to such conditions, as may be specified in the

notice, and to cease to discharge the trade effluent otherwise than in accordance with the notice,

b)to purify the trade effluent before its discharge into a municipal drain and to set up for purifying the trade effluent such appliances, apparatus, fittings and plants, as may be specified in the notice,

c)to construct a drain of such material, size and description, and laid at such level, and according to such alignment, and with such fall and outlet, as may be specified in the notice, or

d)to alter, amend, repair or renovate any purification plant, existing drain, apparatus, plant-fitting or article used in connection with any municipal or house-drain.

Chapter - 26

Other Provisions Relating to Water-Supply, Drainage and Sewerage

234.Connection with water works, mains and drains not to be made without permission.- Without the permission in writing, of the Municipal Commissioner or the Executive Officer, no person shall, for any purpose whatsoever, at any time, make, or cause to be made, any connection or communication with any waterworks or mains or drains constructed or maintained by, or vested in, the municipality.

235.Buildings, railways and private streets not to be erected or constructed over water mains or on municipal drains without permission-

(1)Without the permission of the Municipal Commissioner or the Executive Officer, no building, wall, fence or other structure shall be erected, and no railway or private street

shall be constructed, on any municipal drain or erected on any water mains constructed or maintained by, or vested in the municipality.

(2)If any building, wall, fence or other structure is erected, or any railway or private street is constructed, on any drain, or water works without the permission as aforesaid, the Municipal Commissioner or the Executive Officer may remove, or otherwise deal with, such erection or construction in such manner as he may think fit.

(3)The expenses incurred by the Municipal Commissioner or the Executive Officer for carrying out the purposes of sub-section (2), shall be paid by the owner of the private street or of the building, fence, wall or other structure

or, as the case may be, by the railway administration or the person responsible and shall be recoverable as an arrear of tax under this Act.

236.Railway administration to be informed in certain cases.- If the Municipal Commissioner or the Executive Officer desires to place or carry any pipe or drain or to do any other work connected with water-supply or drainage across any railway line, he shall inform the railway administration, who may execute the same at the cost of the municipality.

237.The Municipal Commissioner or the Executive Officer not to sanction building plan unless plan relating to water supply etc. is in conformity with rules and regulations.- Any building plan submitted to the Municipal Commissioner or the Executive Officer for sanction shall conform to such rules or regulations relating to water-supply, drainage, privy, urinal accommodation within the premises, and sewerage as may be made in this behalf, and no building plan shall be sanctioned by the Municipal Commissioner or the Executive Officer unless it so conforms .

238.Maps of underground water mains, supply pipes, drains, etc.- Subject to the provisions of section 411, the Municipal Commissioner or the Executive Officer shall cause to be maintained complete survey maps, drawings and descriptions of water-supply mains, supply-pipes, drains, etc. municipal drains, sewers, and connections thereto from all premises in the municipal area.

239.Rights of user of property for aqueducts, conduits etc.-

(1)The Municipal Commissioner or the Executive Officer may, either on his own or through any other agency authorized by him in this behalf, 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, without acquiring such immovable property, and may, at any time, for the purpose of examining, repairing, altering or removing such aqueducts, conduits or lines of mains or pipes or drains, after giving a reasonable notice of his intention so to do, enter on any such immovable property over, under, along or across which the aqueducts, conduits, or lines of mains or pipes or drains have been placed:

Provided that the municipality or the other agency, as the case may be, shall not acquire any right, other than a right of a user, in such property over, under, along or across which any aqueduct, conduit or line of mains or pipe or drain is placed.

(2)The powers conferred under sub-section (1) shall not be exercised in respect of any property which is vested in the State Government or any local

authority, or is under the control or management of the Central Government or the railway administration, save with the permission of the State Government or the local authority or the Central Government or the railway administration, as the case may be, and in accordance with such regulations as may be made in this behalf:

Provided that the Municipal Commissioner or the Executive Officer may, without such permission, repair, renew or amend any existing works, the character or position of which 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 of sewage, or is such that any delay would be dangerous to health, human life or property.

(3)In the exercise of the powers conferred on the Municipal Commissioner or the Executive Officer by this section, he, or any other agency authorized by him in this behalf, shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by him.

240.Power of owner of premises to place pipes and drains through land belonging to other persons.-

(1)If it appears to the Municipal Commissioner or the Executive Officer that the only or the 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 Municipal Commissioner or the Executive Officer may, by order, in writing, authorize the owner of such 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 Municipal Commissioner or the Executive Officer shall give to the owner of the immovable property a reasonable opportunity of showing cause, within such time as may be specified by him by order, in writing, as to why the order should not be made:
Provided further that the owner of the premises shall not acquire any right, other than the right of a user, in such immovable property over, under, along or across which any such pipe or drain is placed or carried.

(2)Upon the order under sub-section (1), the owner of the premises may, after giving a reasonable notice of his intention so to do, enter upon such immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under,

along or across such immovable property or for the purpose of repairing such pipe or drain.

(3)In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to such immovable property, and the owner of the premises shall –

(a)cause the pipe or drain to be placed or carried with the least possible delay,

(b)fill in, reinstate, and make good, at his own cost and with the least possible delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain, and

(c)pay compensation to the owner of such 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 such 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 immovable property, the Municipal Commissioner or the Executive Officer shall, by notice, in writing, require the owner of the premises to close, remove or divert the pipe or drain in such manner as shall be approved by him and to fill in, reinstate and make good such immovable property as if the pipe or drain had not been placed or carried over, under, along or across such immovable property:

Provided that no action under this sub-section shall be taken unless, in the opinion of the Municipal Commissioner or the Executive Officer, it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof, that the pipe or drain should be closed, removed or diverted.

241.Power of Municipal Commissioner or the Executive Officer to affix shafts etc. for ventilation of drain or cesspool and testing of drain.- Subject to such terms and conditions as may be specified by regulations from time to time, the Municipal Commissioner or the Executive Officer may, either on his own or through any other agency, authorized by him in this behalf, -

(a)erect upon any land or building or affix to the outside of any building, or to any tree, any shaft or pipe as may appear to him to be necessary for the purpose of ventilating any drain or cesspool, whether vested in the municipality or not, and

(b)examine the condition of a private drain or cesspool within the municipal area in respect of which there is reasonable ground for believing that such private drain or cesspool is in such condition as is prejudicial to health, or is a nuisance, by applying any test other than a test by water under pressure, and if he deems it necessary, by opening the ground.

242.Power of the Municipal Commissioner or the Executive Officer to execute work after giving notice to person liable.-

(1)When, under the provisions of this Act, any person is required, or is liable, to execute any work in relation to water supply, drainage and sewerage within the municipal area, the Municipal Commissioner or the Executive Officer may, in accordance with the provisions of this Act and the regulations made thereunder, cause such work to be executed after giving such person an opportunity of executing such work within such time as may be specified by him for this purpose.

(2)The expenses incurred or likely to be incurred by the Municipal Commissioner or the Executive Officer in the execution of any such work shall be payable by such person, and the expenses incurred by the Municipal Commissioner or the Executive Officer in connection with the maintenance of such work or 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.

243.Work to be done by licensed plumber.-

(1)The Standing Committee may grant license to any person possessing such technical qualification as may be determined by regulations to act as a licensed plumber.

(2)No person, other than a licensed plumber, shall execute any work described in chapter 24, chapter 25, and 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 Municipal Commissioner or the Executive Officer, 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.

(3)The municipality shall, by regulations, provide for –

(a)the terms and conditions of engagement of such licensed plumbers,

(b)their duties and responsibilities, and guidelines for their functions,

(c)the charges to be paid to them for different types of works,

(d)the hearing and disposal of complaints made by the owners or occupiers of any premises with regard to their work, and

(e)in case of contravention of any such regulations by any such plumber, the suspension or cancellation of such license, including prosecution under this Act.

244.Power of access to waterworks, drainage or sewerage installation.-

(1)The Municipal Commissioner or the Executive Officer, or any other agency authorized by him in this behalf, or any person appointed by the State Government in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon, or in connection with, any waterworks, drainage or sewerage at all reasonable times, -

(a)enter upon, and pass through, any land within or outside the municipal area, adjacent to, or in the vicinity of, such waterworks, in whomsoever such land may vest, and

(b)convey into and through any such land all necessary materials, tools and implements.

(2)In the exercise of any power conferred by this section, as little damage as possible may be done, and compensation for any damage which may be done in the exercise of any such power shall be paid by the Municipal Commissioner or the Executive Officer, or any other agency authorized by him in this behalf, or, by the State Government, if the damage has been caused by a person appointed by the State Government.

245.Prohibition of certain acts and penalty therefor.-

(1)No person shall –

(a)willfully obstruct any person acting under the authority of the Municipal Commissioner or the Executive Officer in setting out the lines of any works or pull up or remove any pillar, post or shaft fixed in the ground for the purpose of setting out lines of

such works, or deface or destroy any works made for such purpose, or

(b)willfully or negligently break, damage, turn on, open, close, shut off, or otherwise interfere with, any lock, cock, valve, pipe, meter or other work or apparatus belonging to the municipality, or

(c)unlawfully obstruct the flow of, or flush, draw off, or divert, to take water from, any waterworks belonging to the municipality or any water-course by which any such water is supplied, or

(d)unlawfully obstruct the flow of, or flush, draw off, or divert, or take, sewage work belonging to the municipality or break or damage any electrical transmission line maintained by the municipality, or

(e)throw any material including plastic bags and containers or waste of dairies, piggeries and poultry farms into any municipal drain or sewer, or

(f) obstruct any officer or other employee of the municipality in the discharge of his duties under chapter 24, chapter 25 and under this chapter or refuse, or willfully 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, or

(g)bathe in, at, or upon, any waterworks, or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any waterworks or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause the water of any sink or drain or any steam-engine or boiler or any polluted water to turn, or to be brought, into any waterworks, or do any other act, whereby the water in any waterworks is fouled or is likely to be fouled.

(2)Any person found indulging in the acts prohibited under sub-section (1) shall be liable to a fine not less than rupees one thousand or as may be determined by regulations, from time to time.

(3) 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 other consumers whose supply will be affected thereby.

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246.Penalty for damaging meter – Any person who willfully or negligently damages any meter or any of the fittings of the meter shall be liable to a fine not exceeding ten thousand rupees.

247.Sewerage charge and sewerage cess.-

(1)The municipality shall levy sewerage charge on the owners of premises for connection of such premises to sewerage mains, such amount being not less than one-half of the amount chargeable for water-supply under sub-section (2) of section 197 or sub-section (2) of section 198, as the case may be, as may be determined by regulations, from time to time.

(2)Where the owner of any premises in a locality where sewer is laid by the municipality has not taken connection from the sewerage mains, he shall be liable to pay a sewerage cess of such amount, not being more than one-half of the amount chargeable as sewerage charge under sub-section (1), as may be determined by regulations, from time to time.

(3)Where the owner fails to pay the sewerage charge or sewerage cess, such sewerage charge or sewerage cess, as the case may be, shall be realized from the occupier, and the occupier shall be entitled to recover the amount from the owner.

(4)The connection of premises to sewerage mains shall be provided within a period of thirty days from the date of receipt of an application in this behalf from the owner of the premises.

(5)The charges received by the municipality from the owner or the occupier for connecting the premises to sewerage mains shall be spent only for the works relating to the sewerage system.

248.Entrustment of operation and maintenance of sewerage works and billing and collection of sewerage charges.- The Municipal Commissioner or the Executive Officer may, with the prior approval of the Standing Committee, entrust the work of operation and maintenance of sewerage works in the municipal area and the work of billing and collection of sewerage charge or sewerage cess to any agency governed under any law for the time being in force or any private agency.

249.Power of State Government to exercise control over imperfect, inefficient or unsuitable waterworks, drainage works or sewerage works.-

(1)If, at any time, it appears to the State Government that any waterworks, or drainage works, or sewerage works executed by, or vested in, the municipality, are maintained, or worked, or run in an imperfect, inefficient

or unsuitable manner, the State Government may, by an order, in writing, direct the municipality to show cause within the period specified in the order why the waterworks, the drainage works or the sewerage works, as the case may be, with all plants, fittings and appurtenances thereof should not be handed over to the control and management of any person or any agency belonging to the State Government or any authority governed under any law for the time being in force, as may be specified in the order.

(2)If no cause is shown to the satisfaction of the State Government, within the period specified in the order referred to in sub-section (1), or the cause shown appears to be untenable, the State Government may, by order, in writing, direct that the waterworks, the drainage works or the sewerage works, as the case may be, with all plants, fittings and appurtenances thereof shall be handed over, for such period as it may fix, to the control and management of such persons, or agency, or authority, and on such terms and conditions, as the State Government may determine.

(3)During the period referred under sub-section (2), the complete control and management of such waterworks, drainage works or sewerage works, as the case may be, shall be vested in the person, or the agency, or the authority so appointed who shall engage such establishment for the purpose of maintaining and working of such waterworks, drainage works or sewerage works, as the case may be, as the State Government may from time to time determine; and such establishment may include the employees of the municipality who were employed, or have been employed, in the maintenance or working of such waterworks, drainage works or sewerage works.

(4)The cost of such establishment, including costs of all materials, implements and stores, shall be paid from the Municipal Fund within such period as may be fixed by the State Government.

250.Municipal Water Supply, Drainage and Sewerage Code.-

(1)The municipality shall prepare and maintain a Code to be called the Municipal Water-Supply, Drainage and Sewerage Code which shall include such regulations as may be made from time to time relating to the construction, maintenance, repair and alteration of waterworks, water-supply mains, supply-pipes, drains, sewers, privies and urinals, cesspools, and appurtenances thereof and other matters under chapter 24 or chapter 25 or this chapter.

(2)Such regulations shall provide for inspection of premises by the Municipal Commissioner or the Executive Officer, or any other officer, or any other agency, authorized by him in this behalf, as the case may be, to ascertain compliance with the provisions of this Act and the rules and the regulations made thereunder.

Chapter - 27

Solid Wastes and Conservancy

Functions in Relation to Solid Wastes Management

251.Duty of municipality in respect of solid wastes management and handling - The municipality shall, within the municipal area, be responsible for implementation of the rules made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986, to regulate the management and handling of municipal solid wastes and for development of any infrastructure for collection, storage, transportation, processing and disposal of such solid wastes.

252.Entrustment of management and handling of solid wastes and billing and collection of charges- Notwithstanding anything contained elsewhere in this Act, for the purposes of management and handling of municipal solid wastes and for development of infrastructure, if any, for collection, storage, transportation, processing and disposal of such solid wastes, a charge shall be levied, and payment thereof shall be made, at such rate as the municipality may fix, from time to time:

Provided that the charge as aforesaid shall, as far as practicable, be such as shall cover the costs on account of management and handling of municipal solid wastes and development of infrastructure, if any, for collection, storage, transportation, processing and disposal thereof and also the costs of debt-servicing, depreciation of plant and machinery, and other charges:

Provided further that the Municipal Commissioner or the Executive Officer may, with the prior approval of the Standing Committee, entrust development of infrastructure for collection, storage, transportation, processing and disposal of solid wastes and the work of management and handling of municipal solid wastes and of billing and collection of the charges as aforesaid to any agency governed under any law for the time being in force or to any private agency.

253.Functions of municipality. - The municipality shall either on its own or through any other agency authorized by it in this behalf, -

(a)organize collection of municipal solid wastes through any of the methods, like community bin collection, house-to-house collection, and collection on regular pre-informed times and schedules,

(b)devise collection of wastes from slums and squatter areas or other localities including hotels, restaurants, office complexes and commercial areas,

(c)remove at regular intervals all solid wastes so collected under clause (a) and clause (b) for disposal on daily basis, and

(d)arrange for making use of biodegradable wastes from slaughterhouses, meat and fish markets, and fruits and vegetable markets in an environmentally acceptable manner.

254.Solid wastes to be property of municipality. All solid wastes deposited in public receptacles, depots and places provided or identified under section 255 and all solid wastes collected by the municipal employees or contractors or any other agency authorized in this behalf shall be the property of the municipality.

255.Identification of places for disposal and final disposal of solid waste. - The municipality may, either on its own or through any other agency, cause the solid wastes to be disposed of at such place or places within or outside the municipal area, and in such manner, as it considers suitable:

Provided that no place which has not been used before the commencement of this Act for the purpose specified in this section, shall be so used, except -
(a) in conformity with the provisions of any State law relating to development planning and land use control or any other law relating thereto for the time being in force, or (b) in the absence of any such law, with the approval of the State Government:
Provided further that the solid wastes shall not be finally disposed of in any manner which the State Government may think fit to disallow.

Collection and Removal of Solid Wastes

256.Duty of owners and occupiers of premises to store solid wastes at the source of generation- It shall be the duty of the owners and the occupiers of all lands and building in the municipal area. –

(a)to have the premises swept and cleaned on a regular basis;

(b)to provide for separate receptacles or disposal bags for the storage of

(i) organic and bio-degradable wastes,

(ii) recyclable or non-bio-degradable wastes, and

(iii) domestic hazardous wastes.

so as to ensure that these different types of wastes do not get mixed; (c)to keep such receptacles in good condition and order; and

(d)to cause all such wastes, including rubbish, any noxious or offensive matter, night soil, filth, trade refuse, dung, bones, ashes, carcasses of dead animals, excrementitious matters, bio-medical wastes and other polluted and obnoxious matters to be collected from their respective premises and to be deposited in community bins or receptacles at such times and in such places as the Municipal Commissioner or the Executive Officer may, by notice, specify.

257.Duty of Cooperative Housing Society, Apartment Owners Association, etc.- It shall be the duty of the managements of co-operative housing societies, apartment owners associations, residential and non-residential building complexes, educational buildings, institutional buildings, assembly buildings, business buildings, mercantile buildings, industrial buildings, storage buildings, and hazardous buildings to provide at their premises community bins or disposal bags of appropriate size as may be specified by the municipality for temporary storage

of wastes (other than recyclable wastes), hazardous wastes, and bio-medical wastes for their subsequent collection and removal by the municipality:

Provided that a separate community bin shall be provided for the storage of recyclable wastes where door-to-door collection is not made.

258.Prohibitions. No person and no owner or occupier of any land or building shall –

(a)litter or deposit at any public place any solid waste, or

(b)deposit building rubbish in or along any public street, public place or open land, or

(c)allow any filthy matter to flow on public places, or

(d)deposit or otherwise dispose off the carcass or any part of any dead animal at a place not provided or identified for such purpose.

259.Penalty for littering on streets and depositing or throwing any solid waste- (1) Whoever litters on any street or public place or deposits or throws or causes or permits to be deposited or throws any solid waste or building rubbish at any place in contravention of the provisions of this Act, or permits the flow of any filthy matter from his premises, shall be punished on the spot with a fine, being not less than five hundred rupees, as may be determined by regulations, from time to time.

(2)Such spot fines may be collected by officers, not below the rank of a Sanitary Inspector, duly authorized by the municipality in this behalf.

260.Bio-medical wastes- It shall be the duty of the municipality, either on its own or through any other agency authorized by it in this behalf, to implement the provisions of the rules made by the Central Government for handling of bio-medical wastes to the extent such rules apply to the municipality.

261.Hazardous wastes - It shall be the duty of the municipality, either on its own or through any other agency authorized by it in this behalf, to implement the provisions of the rules made by the Central Government in exercise of the powers conferred by the Environment (Protection) Act, 1986, to regulate the management and handling of hazardous wastes to the extent such rules apply to the municipality.

Part - VI

Chapter - 28

State Municipal Regulatory Commission

262.Definitions: In this chapter, unless the context otherwise requires,

(a)"Chairperson" means the Chairperson of the State Commission;

(b)"High Court" means the High Court of the State;

(c)"Member" means a Member of the State Commission, and includes the Chairperson, and a Member of the State Commission;

(d)"State Commission" means the State Municipal Regulatory Commission constituted under sub-section (1) of section 263.

263.Constitution and incorporation of State Commission:

(1)The State Government shall, within six months from the date of commencement of this Act, by notification, constitute a State Commission to be known as the Jharkhand Municipal Regulatory Commission to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2)The State Commission shall be a body corporate, having perpetual succession and a common seal, and shall have the power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the name as aforesaid, sue or be sued.

(3)The head office of the State Commission shall be at such place as the State Government may, by notification, specify.

(4)The State Commission shall consist of such number of members including the Chairperson, not being more than three, as the State Government may determine.

(5)The State Government may appoint the Chairperson from amongst persons who have been Judge of the High Court or retired from the post of Chief Secretary or an equivalent post.

(6)The other members shall be persons having specialized knowledge in the areas of urban management, finance, engineering or law as may be prescribed.

(7)The Chairperson and the other members shall be appointed by the State Government on the recommendation of the Selection Committee constituted under section 264.

(8)The Chairperson or any other member shall not hold any other office.

(9)The Chairperson shall be the chief executive of the Regulatory Commission.

264.Constitution of Selection Committee by State Government:

(1)The State Government shall, for the purpose of selection of chairperson and members, constitute a Three Member Selection Committee of which one member shall be an expert having not less than fifteen years experience in infrastructure, finance or urban affairs.

(2)No appointment of a member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3)The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal, and six months before the superannuation, or the expiry of the term of office, of a member, make a reference to the Selection Committee for filling up of such vacancy.

(4)The Selection Committee shall finalize the selection of a member within one month from the date of reference to it by the State Government.

(5)Upon reference by the State Government, the Selection Committee shall recommend a panel of two names for every vacancy in the office of a member.

(6)Before recommending any person for appointment as a member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his function as a member.

265.Term of office, salary and allowances and other conditions of service of Chairperson and other Members: -

(1)The Chairperson and the other members shall hold office as such for a term of five years from the date of entering upon office, but shall not be eligible for re-appointment:

Provided that no Chairperson or any other member shall hold office as such after he has attained -

(a)in the case of the Chairperson, the age of sixty-five years, and

(b)in the case of any other member, the age of sixty-two years.

(2)The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and the other members shall be such as may be prescribed.

(3)The salary and allowances and the other terms and conditions of service of the Chairperson or any other member shall not be varied to his disadvantage.

(4)The Chairperson and every other member shall, before entering upon office, make, and subscribe to, an oath of office and of secrecy in such form and manner, and before such authority, as may be prescribed.

(5)Notwithstanding anything contained in sub-section (1) or sub-section (2), the Chairperson or any other member may -

(a)relinquish his office by giving, in writing, to the Governor a notice of not less than three months; or

(b)be removed from his office in accordance with the provisions of section 266.

(6)The Chairperson or any other member ceasing to hold office as such shall be ineligible for further employment under the Central Government or any State Government for a period of two years from the date from which he ceases to hold such office, and shall not–

(a)accept any commercial employment for a period of two years from the date from which he ceases to hold such office, and

(b)represent in any manner any person before the State Regulatory Commission or any similar Commission constituted by any other State Government.

Explanation. - For the purposes of this sub-section, -

(i)"Employment under the Central Government or any State Government" shall include employment under a local authority or any other authority within the territory of India or under the control of the Central Government or a State Government or under any corporation or society owned or controlled by the Central Government or a State Government;

(ii)"Commercial employment" shall mean employment in any capacity under, or as agent of, a person engaged in any trading, or commercial, industrial, or financial business, in any public utility undertaking of the State Government or Central Government working in the territory of the Jharkhand, and shall include employment as a director of a company or partner of a firm, and shall also include setting up of practice, either independently or as a partner of a firm or as an adviser or a consultant.

266.Removal of Chairperson and other Members:

(1)Subject to the provisions of sub-section (3), the Chairperson or any other Member shall be removed from his office by order of the Governor on the ground of proven misbehaviour after the High Court, on a reference being made to it by the Governor, has, on inquiry held in accordance with such procedure as may be prescribed in that

behalf by the High Court, report that the member ought, on such ground, to be removed.

(2)The Governor may suspend the Chairperson or any other member in respect of whom a reference has been made to the High Court under sub-section (1)

until the Governor has passed orders on receipt of the report of the High Court on such reference.

(3)Notwithstanding anything contained in sub-section (1), the Governor may, by order, remove from office the Chairperson or any other member, if he –

(a)has been adjudged an insolvent, or

(b)has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(c)has become physically or mentally incapable of acting as a member, or

(d)has acquired such financial or other interest as is likely to affect prejudicially his functioning as a member, or

(e)has so abused his position as to render his continuance in office prejudicial to the public interest.

(4)Notwithstanding anything contained in sub-section (3), the Chairperson or any other member shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the High Court, on a reference being made to it in this behalf by the Governor, has, on an enquiry held by it in accordance with such procedure as may be prescribed in this behalf by the High Court, reported that the member ought, on such ground, to be removed.

267.Officers of State Regulatory Commission and other Staff:

(1)The State Regulatory Commission may appoint a Secretary to exercise such powers, and perform such functions, under the control of the Chairperson, as may be specified by regulations made by the State Regulatory Commission.

(2)The State Regulatory Commission may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required to assist the State Regulatory Commission in the performance of its functions.

(3)The salaries and allowances payable to, and the other terms and conditions of service of, the Secretary and the other officers and employees of the State Regulatory Commission shall be such as may be determined by the State Regulatory Commission by regulations with the approval of the State Government.

(4)The State Regulatory Commission may appoint consultants to assist the State Regulatory Commission in the discharge of its functions on such terms

and conditions as the State Regulatory Commission may, by order, determine.

268.Functions of State Regulatory Commission:

(1)Notwithstanding anything contained elsewhere in this Act, the State Regulatory Commission shall perform the following functions, namely: -

(a)to determine separately for each municipality the rate at which it can charge for water-supply,

(b)to determine separately for each municipality the sewerage charges on the owners of premises for connection of such premises to sewerage mains,

(c)to determine separately for each municipality the rate or the principles for determination of the amount of charges for solid waste management,

(d)to determine separately for each municipality the rate or the principles for determination of charges for any other services,

(e)to set standards for the provision of municipal services in the State including standards relating to quality, continuity and reliability of such services,

(f)to suggest avenues for participation of private sector in the provision of municipal services,

(g)to ensure a fair deal to the citizens, and

(h)to promote competition, efficiency and economy in the activities of the municipalities in the provision of municipal services.

(2)Without prejudice to sub-section (1), the State Government may, by notification, confer any of the following functions on the State Regulatory Commission, namely: -

(a)to aid and advise the State Government on any matter concerning the provision of municipal services in the State and the formulation of state policies in this regard,

(b)to collect and record information concerning the provision of municipal services in the State,

(c)to collect and publish data and forecasts on the demand for, and the use of, municipal services in the State,

(d)to adjudicate upon the disputes and differences between any municipal authority and any suppliers of municipal services in the public or private sector or to refer such matters for arbitration,

(e)to co-ordinate with the environmental regulatory agencies and to evolve policies and procedure for appropriate environmental regulation of municipal services, and

(f)to aid and advise the State Government on any other related matters referred to the State Regulatory Commission by the State Government.

269.The Jharkhand State Municipal Advisory Committee: -

(1)The State Government may, by notification, constitute, with effect from such date as it may specify in such notification, a committee to be known as the Jharkhand State Municipal Advisory Committee.

(2)The Jharkhand State Municipal Advisory Committee shall consist of not more than twenty-one members to represent the interest of commerce, industry, transport, agriculture, labour, consumers of civic services, municipalities, non-governmental organizations and academic and research bodies in the municipal affairs sector.

(3)One of the members referred in sub section (2) shall be the Chairperson of the Jharkhand State Municipal Advisory Committee and he shall also be notified by the State Government.

270.Objects and functions of State Municipal Advisory Committee:

The objects and functions of the State Municipal Advisory Committee shall be to advise the State Regulatory Commission on –

(a)major questions of policy;

(b)matters relating to quality, continuity and extent of municipal services provided by the municipal authorities;

(c)protection of consumers of municipal services; and

(d)improvement of overall standards of performance, efficiency and economy in the provision of municipal services by municipal authorities.

271.Representation before State Regulatory Commission:- The State Regulatory Commission shall authorize any person as it deems fit to

represent the interest of the consumers of municipal services in the proceedings before it.

272.Appeal to High Court in certain cases:

(1)Any person aggrieved by any decision or order of the State Regulatory Commission may file an appeal to the High Court.

(2)Except as aforesaid, no appeal or revision shall lie to any court from any decision or order of the State Regulatory Commission.

(3)Every appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the State Regulatory Commission to the person aggrieved by the said decision or order:

Provided that the High Court, may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

273.Determination of user charges by State Regulatory Commission:

(1)Notwithstanding anything contained in any other law for the time being in force, the rates of user charges referred to in section 268 shall be determined by the State Regulatory Commission in accordance with the provisions of this Act and the rules and the regulations made thereunder.

(2)The State Regulatory Commission shall determine by regulations separately for each municipality the terms and conditions of, and the rates for, user charges as aforesaid and, in doing so, shall be guided by the following considerations, namely: -

(a)that the rates progressively reflect the cost of supply of municipal services at an adequate and improving level of efficiency;

(b)the factors which would encourage efficiency, economical use of resources, good performance, optimum investments and other matters which the State Regulatory Commission may consider appropriate;

(c)that the interest of the consumers of the municipal services are safeguarded and, at the same time, the consumers pay for availing of the municipal services in a reasonable manner based on the average cost of such services; and

(d)the production, distribution, and supply of municipal civic services are conducted on commercial basis.

(3)The State Regulatory Commission, while determining the user charges under this Act, shall not have any undue preference for any municipality but may differentiate between different municipalities, having regard to the population, density of population, revenue generation, economic importance and the actual conditions obtaining in different municipal areas and the managerial, technical, financial and organizational capacities of different municipalities.

(4)If the State Government requires the grant of any subsidy to any consumer or class of consumers of municipal services in the rates of user charges determined by the State Regulatory Commission, the State Government shall pay the amount to compensate the municipality or any other agency affected by the grant of such subsidy in such manner as the State Regulatory Commission may direct as a condition for implementation of the subsidy provided by the State Government.

(5)Where the State Regulatory Commission departs from any of the considerations specified in sub-section (2), it shall record the reasons for such departure.

274.Budget of State Regulatory Commission: The State Regulatory Commission shall prepare, in such form, and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the State Regulatory Commission, and forward the budget to the State Government.

275.Accounts and Audit of State Regulatory Commission:

(1)The State Regulatory Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be determined by the State Government in consultation with the Comptroller and Auditor-General of India.

(2)The accounts of the State Regulatory Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be determined by him, and any expenditure incurred in connection with such audit shall be payable by the State Regulatory Commission to the Comptroller and Auditor-General of India.

(3)The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Regulatory Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Regulatory Commission.

(4)The accounts of the State Regulatory Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Regulatory Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

276.Annual Report of State Regulatory Commission:

(1)The State Regulatory Commission shall prepare every year in such form, and within such time, as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.

(2)A copy of the annual report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

277.Transparency in State Regulatory Commission: The State Regulatory Commission shall ensure transparency while exercising the powers and discharging the functions under this Act.

278.Directions by State Government:

(1)In the performance of its functions, the State Regulatory Commission shall be guided by such directions in matters of policy involving public interest as the State Government may give to it in writing.

(2)If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the State Government thereon shall be final.

279.Proceedings before the State Regulatory Commission: All proceedings before the State Regulatory Commission shall be deemed to be judicial proceedings within the meaning of section 193 and section 228

of the Indian Penal Code 1860 (Act No. 45 of 1860), and the State Regulatory Commission shall be deemed to be a Civil Court for the purposes of section 345 and section 346 of the Code of Criminal Procedure, 1973 (Act No..2 of 1974).

280.Protection of action taken in good faith: No suit, prosecution or other legal proceedings shall lie against the State Government or the State Regulatory Commission or any officer of the State Government or any member, officer or other employee of the State Regulatory Commission for anything which is in good faith done or intended to be done under this chapter or the rules or the regulations made thereunder.

281.Punishment for non-compliance of orders or direction under the Act: Whoever fails to comply with any order or direction given under this chapter within such time as may be specified in the said order or direction, or contravenes, or attempts to contravene, or abets the contravention of, any of the provisions of this chapter or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to twenty-five thousand rupees, or with both, in respect of each such offence, and, in the case of a continuing offence, with an additional fine which may extend to one thousand rupees for every day during which the offence continues after conviction for the first such offence.

282.Punishment for non-compliance of direction given by State Regulatory Commission:

(1)In case any complaint is filed before the State Regulatory Commission by any person or if the State Regulatory Commission is satisfied that any person has contravened any direction issued by the State Regulatory Commission under this chapter, or the rules or the regulations made thereunder, the State Regulatory Commission may, after giving such person an opportunity of being heard in the matter, by order in writing, direct that

without prejudice to any other penalty to which he may be liable under this chapter, such person shall pay, by way of penalty, a fine which shall not exceed twenty-five thousand rupees for each such contravention and, in the case of a continuing contravention, with an additional fine which may extend to one thousand rupees for every day during which the contravention continues after first such contravention.

(2)Any amount payable under this section, if not paid, may be recovered as an arrear of land revenue.

283.Power to seizure: The State Regulatory Commission or any officer, not below the rank of a Gazetted Officer, specially authorized in this behalf by the State Regulatory Commission may enter any building or place where the State Regulatory Commission has reason to believe that any document relating to the subject-matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom, subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (Act 2 of 1974), in so far as it may be applicable.

284.Cognizance of offences: No Court shall take cognizance of an offence punishable under this chapter except upon a complaint, in writing, made by the State Regulatory Commission or by any officer duly authorized by the State Regulatory Commission in this behalf.

285.Inconsistency in laws: Nothing in this chapter or any rule or regulation made thereunder or any instrument having effect by virtue of this chapter or the rule or the regulation made thereunder shall have effect in so far as it is inconsistent with any provisions of the Consumer Protection Act, 1986

286.Delegation: The State Regulatory Commission may, by general or special order in writing, delegate to any member, or any officer of the State Regulatory Commission, or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this chapter, except the power to adjudicate disputes under clause (d) of sub-section (2) of section 268 and the power to make regulations under section 289, as it may deem necessary.

287.Overriding effect: Save as otherwise provided in section 285, the provisions of this chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

288.Power of State Government to make rules:

(1)The State Government may, by notification, make rules to carry out the purposes of this chapter.

(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a)the salary, allowances and other terms and conditions of service of the Chairperson and the other members under sub-section (2) of section 265;

(b)the form and the manner in which, and the authority before whom, the oath of office and secrecy shall be subscribed under sub-section (4) of section 265;

(c)the form in which, and the time at which, the State Regulatory Commission shall prepare its budget under section 274;

(d)the form in which the annual statement of accounts shall be prepared by the State Regulatory Commission under sub-section (1) of section 275;

(e)the form in which, and the time within which, the annual report shall be furnished under sub-section (1) of section 276;

(f)any other matter which may be, or is required to be, prescribed by rules.

289.Power of State Regulatory Commission to make regulations:

(1)The State Regulatory Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2)In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

(a)the powers and the duties of the Secretary under sub-section (1) of section 267;

(b)the salary and allowances and other terms and conditions of service of the Secretary and the other officers and employees under sub-section (3) of section 267;

(c)the terms and conditions of appointment of consultants under sub-section (4) of section 267;

(d)the manner in which the rates of user charges shall be determined under section 273;

(e)any other matter which may be, or is required to be, provided by regulations.

Chapter - 29

Public Streets

290.Surface transport system and accessories- For the purposes of this Act, -

(a)the surface transport system shall include streets, roads, footpaths, pedestrian pathways, parking areas, transportation terminals, both for passengers and goods, bridges, sub-ways, over-bridges, ferries and inland water transport systems, and

(b)the transport system accessories shall include traffic engineering schemes, street furniture, street lighting, parking lots and bus stops,

291.Vesting of public streets in municipality. -

(1)All public streets and parking areas within the municipal area including the soil, sub-soil, stones, other materials, side-drains, footpaths, pavements, sub-ways and over-bridges and all erections, implements and trees and other things provided therein, shall vest in the municipality:

Provided that no public street in the municipal area, which immediately before the commencement of this Act vested in the State Government or in any authority under any law for the time being in force, shall, unless so directed by the authority competent to take a decision in this behalf, shall vest in the municipality.

(2)The State Government may, subject to such terms and conditions as it may determine, by notification –

(a)transfer to any municipality any public street or parking area belonging to it, or

(b)take over from any municipality any public street or parking area, or

(c)transfer such public street or parking area, so taken over, to any authority governed under any law for the time being in force, or any other agency, for a limited period for the purpose of proper maintenance and development of such public street or parking area by such municipality or the State Government or such authority or agency, as the case may be.

(3)The Municipal Commissioner or the Executive Officer shall maintain a register, in such form, and in such manner, as may be specified by regulations, and such register shall separately include a list of all public streets vested in the municipality or in such authority or agency.

(4)The municipality may publish, in such form, and in such manner, as may be provided by regulations, the contents of such register for sale to the public.

292.Functions of municipality in respect of public streets etc.

(1)The municipality or any other agency, as the case may be, shall cause all public streets, parking areas, squares, sub-ways or over-bridges vested in it to be developed, maintained, controlled and regulated in accordance with the provisions of this Act and the regulations made thereunder.

(2)The municipality or any other agency, as the case may be, shall, from time to time, cause all public streets vested in it to be leveled, metelled, paved, channeled, 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 repair fences and guard rails thereon for the safety of pedestrians.

293.Power to make new public streets etc. The municipality or any other agency, as the case may be, may, at any time, -

(a)layout and make new public streets, or

(b)construct bridges or sub-ways, or

(c)turn or divert any existing public street, or

(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 its vicinity has been received, or

(e)declare any street, made and duly constructed under any scheme or any development or improvement scheme in pursuance of the provisions of any law for the time being in force or by any authority governed under any other law for the time being in force, to be a public street, or

(f)declare any private street to be a public street.

294.Minimum width of new public street- No new public street made, or declared as such, under this chapter, shall be less than ten meters in width including the footpath:

Provided that such width may be reduced in the case of a transitional area, for reasons to be recorded in writing, but the width shall in no case be less than six meters.

295.Acquisition of lands and buildings for public streets, public parking places and transportation terminals -

(1)The municipality may, subject to the other provisions of this Act, acquire -

(a)any land together with structure including building, if any, standing thereon for the purpose of opening, widening, extending

or otherwise improving any public street, parking or transportation terminal, square, park or garden or of making a new one or for enforcing the regular line of street,

(b)any land or any structure including building as aforesaid, as the municipality may think expedient, outside the regular line or projected regular line of the public street as aforesaid, and

(c)any land for the purpose of laying out, or making, a public parking place.

(2)Where any land or structure including building is required to be acquired under sub-section (1) and the municipality is satisfied that the remaining portion of the land will not be suitable or fit for any beneficial use to the owner, it shall, at the request of the owner, proceed for the acquisition of such remaining portion of the land also which shall, on acquisition, vest in the municipality.

(3)Where any land or structure including building is required to be acquired under sub-section (1) or sub-section (2), the procedure for such acquisition as provided in this Act shall apply.

296.Permanent closure of public street-

(1)The municipality may permanently close the whole or any part of a public street in the public interest or for the purpose of carrying out the provisions of this Act:

Provided that before closing such public street, the municipality shall, by notice published in such manner as may be provided by regulations, give an opportunity to the residents likely to be affected by such closure to make suggestions or objections, with respect to such closure, within one month from the date of publication of the said notice, and shall consider all such suggestions, or objections.

(2)Whenever any public street or a part thereof is permanently closed under sub-section (1), the site of such street or any portion thereof may be disposed of as land vested in the municipality.

297.Temporary closure of public street- The Municipal Commissioner or the Executive Officer may temporarily close the whole or any part of a public street to permit development and maintenance work, and may

authorize such closure for other purposes for any period not exceeding fifteen days.

298.Closure of Public Street for parking purposes and levy of parking fee-

(1)The municipality may close any portion of a public street and declare it as a parking area.

(2)Parking fees at different rates for different types of vehicles, in different areas, for different times of the day, and for different durations may be levied at such rates as may be determined by the municipality by regulations, from time to time.

299.Right of owners to require streets to be declared public-

(1)If any private street has been leveled, paved, metalled, flagged, channeled, sewered, drained, conserved, and lighted to the satisfaction of the Municipal Commissioner or the Executive Officer, he may, or on the requisition of a majority of the owners of such

private street, shall, declare such street to be a public street and, thereupon, the street shall vest in the municipality.

(2)The Municipal Commissioner or the Executive Officer may, at any time, by a notice fixed in any street or part thereof, not maintainable by the municipality, but which has already been leveled, paved, metalled, flagged, channeled, drained, sewered, conserved and lighted to his satisfaction, give intimation of his intention to declare such street or part thereof to be a public street, and unless within thirty days of such notice, the owner or anyone of the several owners of such street or such part of a street, lodges objection thereto at the office of the municipality, the Municipal Commissioner or the Executive Officer may, by notice, in writing, put up in such street or part thereof, declare such street or part thereof, as the case may be, to be a public street vested in the municipality.

Traffic Engineering Schemes, Street Furniture, Parking Lots and Bus Stops

300.Traffic engineering schemes -

The municipality may, either on its own or through any other agency authorized by it in this behalf, as and when necessary, having regard to the abutting land uses and traffic flow patterns, implement traffic engineering schemes to ensure public safety, convenience and expeditious movement of traffic including pedestrian traffic:

Provided that the traffic engineering schemes shall also be disabled-friendly. **301.Street furniture and bus stops -** The municipality shall, either on its own or through any other agency authorized by it in this behalf, from time to time, cause various items of street furniture including fences, guard- rails, traffic lights, traffic signs, street markings, median strips, bus stops and any other item to be installed or done, and shall cause them to be maintained so as to ensure public safety and convenience and expeditious movement of traffic including pedestrian traffic.

302.Prohibition against obstruction in or over streets: No one shall build any wall or erect any fence or other obstruction or projection or make any encroachment in or over any street.

303.Streets open to all: All streets vested in, or to be vested in, or maintained by municipality shall be open to all.

Street Lighting

304.Measures for lighting. –

(1)The Municipal Commissioner or the Executive Officer shall, either on his own or through any other agency, -

(a)take measures for lighting, in a suitable manner, such public streets and public places as may be specified by him,

(b)procure, erect and maintain such number of lamps, lamp- posts and other appurtenances as may be necessary for the purpose of lighting, and

(c)cause such lamps to be lighted by appropriate means.

(2)The Municipal Commissioner or the Executive Officer or any other agency so authorised may attach to the outside of any building brackets for lamps in such manner as may not cause any injury or inconvenience thereto.

305. Prohibition of removal, etc., of street lights:

(1) No person shall, without lawful authority, take away or willfully break, throw down or damage**:-**

(a) any street lights, set up in any public street or municipal garden, or in any open space, markets or buildings vesting in the municipality;

(b) any electric wire for lighting any such street lights;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or street lights;

(d) any property of the municipality in any street; and

(2) no person shall willfully extinguish the light or damage the appurtenance of any such street lights.

306. Persons accidentally breaking street light to repair the damage: If any person through negligence or accident breaks any street lights set up in any public street or municipal market, garden or public place or buildings vesting in the municipality, or breaks or damages any property of the municipality of any street, he shall pay the expenses of repairing the damage so done by him, besides penalty as may be fixed by the Commissioner or Executive Officer.

CHAPTER 30

Markets, Commercial Infrastructure and Slaughter houses

307.Municipal markets, slaughterhouses and stockyards. – All markets, slaughterhouses and stockyards which belong to or are maintained by the municipality shall be called municipal markets, municipal slaughter houses and municipal stockyards. All other markets, slaughterhouses and stockyards shall be deemed to be private.

308.Establishment of municipal markets, slaughterhouses and stockyards -

(1)The Municipal Commissioner or the Executive Officer, when authorised by the municipality in this behalf may –

(a)construct, purchase, take on lease or otherwise acquire any land or building for the purposes of establishing a new municipal market or a new municipal stockyard or of extending or improving any existing municipal market, municipal slaughterhouse, or municipal stockyard, as the case may be; and

(b)from time to time, build and maintain such municipal markets, municipal slaughterhouses and municipal stockyards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business therein or frequenting such markets, slaughterhouses or stockyards and charge rent, tolls and fees for the right to expose goods for sale in such markets and for the use of shops or stalls standing thereon and may provide and maintain any such markets, buildings or other places, machines, weights, scales and measures for the weighment of goods sold thereon.

(2)The Municipal Commissioner or the Executive Officer, with the approval of the Standing Committee, may collect such rents, tolls and fees either through the staff of

the municipality of farm out such rents, tolls and fees on such terms and subject to such conditions as he may think fit.

(3)The Municipal Commissioner or the Executive Officer may, by general or special order –

(a) cancel or annul any right to expose goods for sale; and

(b)refuse permission for the use of any shop or stall without payment of any compensation for such cancellation or refusal, if the person who has been granted that right –

(i)keeps closed his shop or stall for any period exceeding a fortnight without sending a previous notice to the Municipal Commissioner or the Executive Officer, or

(ii)fails to supply to the public the articles ordinarily kept for sale thereon at such times as may from time to time be fixed by the Municipal Commissioner or the Executive Officer.

309.Leasing of Commercial Infrastructure or Land – (1) The municipality may, either on its own or through any other agency authorised by it in this behalf implement any scheme for construction, operation, maintenance and

management of commercial infrastructure including district centres, neighbourhood shopping centres, shopping malls and office complexes, and may rent out, lease or dispose by outright sale, such commercial infrastructure or any part thereof.

(2) The Municipality may lease out any municipal land or property on such terms and conditions as prescribed.

310.Places for Slaughter of animals for sale –

(1) The municipality may, and when required by the State Government shall, fix places, within the limits of municipality, and grant or withdraw license for use of such places for the slaughter of animals for sale.

(2). When any such premises have been fixed, no person shall slaughter any animal for sale at any other place.

(3). Any person who slaughters for sale any animal at any place other than the one fixed by the municipality shall be punishable with fine which may extend to two thousand rupees.

311.Closing of Markets: Subject to such directions as the municipality may give in this behalf, the Municipal Commissioner or the Executive Officer or any other agency, as the case may be, may, after giving a notice, close any municipal market or slaughterhouse or stockyard or any portion thereof on and from the date specified in the notice, and the premises occupied for any municipal market, slaughterhouse or stockyard or any portion thereof so closed may be disposed of as the property of the municipality.

312.Use of municipal markets:

(1)No person shall, without the general or special permission, in writing, of the Municipal Commissioner or the Executive Officer, sell, or expose for sale, any article or animal in any municipal market within the municipal area.

(2)Nothing in sub-section (1) shall apply to meat or fish sold in any hotel or eating house for consumption on the premises.

(3)Any person who contravenes the provision of sub-section (1) shall be liable to a fine not exceeding two hundred rupees and to a further fine not exceeding fifty rupees for each day during which the offence is continued after conviction for such offence.

(4)Whoever, having been ordered by the Municipal Commissioner or the Executive Officer to clear out of any municipal market or slaughterhouse fails to do so or having once been expelled re-enters the municipal market or slaughterhouse shall, on conviction, be liable to a fine not exceeding two thousand rupees and to a further fine not exceeding two hundred rupees for every day during which the offence is continued after conviction of such offence.

313.Penalty for using unlicensed markets – Any person who being the owner or occupier of any land or building willfully or negligently permits the same to be used as a market without a license granted by the Municipal Commissioner or the Executive Officer under section 308 shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding one hundred rupees for each day during which the offence is continued after conviction of such offence.

314.Power to close unlicensed places. – The Municipal Commissioner or the Executive Officer may order any land, in respect of which a conviction has been made under section 313 to be closed as a market-place, and thereupon may take action to prevent such land being so used, and every person who sells or exposes for sale of any article, animals, meat or fish, intended for

human food or butter ghee, fruits or vegetables on any land which has been so closed, shall be liable to a fine not exceeding twenty-five rupees.

315.Regulations to be framed for markets and slaughterhouses –

(1)The Municipal Commissioner or the Executive Officer, may, with the approval of the Standing Committee, from time to time, make regulations, not inconsistent with any provisions of this Act or of any regulation made under this Act for the time being in force –

(a)for preventing nuisances or obstruction in any market building, market place or slaughterhouse or in the approaches thereto;

(b)fixing the days and the hours on and during which any market or slaughterhouse may be held or kept open for use;

(c)for keeping every market building, market place and slaughterhouse in a clean and proper state and for removing filth and refuse therefrom;

(d)requiring that any market building, market place or slaughterhouse be properly ventilated and be provided with sufficient supply of water;

(e)requiring that any market buildings and market places, passages be provided between the stalls of sufficient width for the convenient use of the public.

(2)Any person who slaughters for sale any animal at any place within municipality, other than the one fixed by the municipality under this section 310 shall be punishable with fine which may extend to two thousand rupees.

316.Levy of stallage, rent and fee - Subject to such regulations as may be made from time to time, the Municipal Commissioner or the Executive Officer, either on his own or through any other agency, as the case may be, may charge stallage, rent or fee for the occupation or use of facilities in a municipal market or a municipal slaughterhouse.

317.Use of premises as a hotel or lodging house –

(1)No person shall use or permit to be used any premises in the municipal area–

(a)as an eating house, tea or coffee shop, restaurant, dining saloon, refreshment room or for a like purpose; or

(b)for the preparation or sale for the purposes of trade of any article of human food or drink; or

(c)as a hotel or a lodging house,

except under and in accordance with the conditions of a license granted under the provisions of the regulations made in this behalf.

(2)The Municipal Commissioner or the Executive Officer may enter and inspect any premises used for any of the purposes specified in sub- section (1) and may inspect any goods, vessels or implements or other articles used for such purposes and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3)Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Municipal Commissioner or the Executive Officer under sub section (2), shall be liable to a fine, which may extend to two thousand rupees and in the case of continuing offence with further fine which may extend to fifty rupees for every day during which such offence continues.

318.Trade on milk and other products –

(1)No person shall –

(a)carry on the trade or business of a dealer in, or importer or seller of, sweet meats, milk, butter or other milk-products; or

(b)use or permit to be used for the purposes of trade, any premises for storing or selling milk or for making, storing or selling butter or other milk-products or sweet-meats,

except under and in accordance with the conditions of a license granted under the provisions of the regulations made in this behalf.

(2)The Municipal Commissioner or the Executive Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any goods, vessels or implements or other articles used for such purpose and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3)Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Municipal Commissioner or the Executive Officer under sub section (2), shall, on conviction be punished with fine which may extend to five hundred rupees and in the case of continuing offence with further fine which may extend to fifty rupees for every day during which such offence continues.

319.Use of premises for keeping milch cattle and other animals -

(1)No person shall use any premises in the municipal area –

(a)as a stable for milch cattle; or

(b)for the stallage or keeping of horses, camels, donkeys and animals other than milch cattle and animals intended for human food,

except under and in accordance with a license granted under the provisions of the regulations made in this behalf.

(2)The Municipal Commissioner or the Executive Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any animals kept on such premises or any vessels or implements used on such premises and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the proper ventilation, sanitation or drainage of such premises, or for proper supply of water to the animals kept on such premises or may require the use of the premises for such purpose to be discontinued.

(3)Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Municipal Commissioner or the Executive Officer under sub section (2), shall, be fined which may extend to two thousand rupees and in the case of continuing offence with further fine which may extend to fifty rupees for every day during which the offence is continued.

320.Power to take measures for the improvement of milk supply - The municipality may for the purpose of improving the supply of milk and milk products within the municipality –

(a)provide and set apart grazing grounds, dairies and residences for dairymen and milk-sellers within the municipality,

(b)with the sanction of the State Government, acquire land for the purposes specified in clause (a) outside the limits of the municipality,

(c)charge such fees for the use of such grazing grounds, dairies and residences as may be fixed by regulations made in that behalf,

(d)subject to such terms and conditions as the municipality may think fit, to impose, subsidize by such means as they may consider proper or guarantee the payment from the funds at their disposal of such sums as they may think fit, by way of interest on the capital expended, on the establishment, extension, maintenance, equipment or furnishing of privately-owned grazing grounds or private dairies either within or outside the municipality,

(e)provide or assist in the provision of facilities for and in connection with the transport of milk and other dairy produce into the municipality from any municipal or private dairy, and

(f)establish, furnish and maintain depots or stores for the sale of milk and other dairy produce from municipal and other dairies.

321.Power to make rules for the improvement of milk supply -

(1) The municipality may, subject to the approval of the State Government, make regulations consistent with this Act, -

(a)prohibit the use of any place within municipality for the purpose of the trade or business of a dairyman or as a dairy or for the sale of milk or milk products except under license from the Municipal Commissioner or the Executive Officer,

(b)prescribe and regulate the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of the dairies and cattle-sheds in the occupation of persons following the trade of dairymen or sellers of milk or milk products, and providing for the inspection of milch cattle and for securing the cleanliness of milk stores, milk shops and vessels used by such seller or dairymen for milk and milk products,

(c)prohibit the entry into the municipal limits of milk and milk products except under a license from Municipal Commissioner or the Executive Officer,

(d)require notice to be given by the Municipal Commissioner or the Executive Officer whenever any milch cow or buffalo is affected

with any contagious disease and prescribe precautions to be taken to protect milk against infection and contamination, and

(e)make provision generally to prevent the adulteration of milk within the municipality.

(2) Whoever contravenes any regulations made under this section, or any condition of any license granted under any such regulations, shall be liable for every such offence to a fine not exceeding two thousand rupees.

322.Prohibition of sale of diseased animals or adulterated articles intended for human food - No person shall sell, expose or hawk or keep for sale any animal intended for human consumption, which is diseased, and no person shall sell, store for sale, expose or hawk for sale or manufacture any food, drink or drug intended for human consumption or medical treatment which is adulterated or unfit for human consumption.

323.Prohibition of adulterants in place where butter, ghee etc., are manufactured or stored. – No person shall keep or permit to be kept in any shop or place in which milk is stored or in any manufactory, shop or place in which, butter, ghee, wheat-flour, mustard oil, tea, edible oil, edible fat or any article notified by the State Government in this behalf is manufactured or stored any substance intended to be used for adulteration of such milk, butter, ghee, wheat-flour, mustard oil or other article.

324.Inspection of place for sale of food or drink and seizure of unwholesome articles or utensils found therein –

(1)Any officer of the municipality duly authorised in this behalf by the Municipal Commissioner or the Executive Officer may, enter into and inspect any market, building, shop, stall or place used for the sale of any animal, food or drink intended for human consumption or for the preparation, manufacture or storage of the same for sale,

and may inspect and examine any such animal, food or drink and any utensil or vessel used for preparing, manufacturing or containing any such food or drink.

(2) If any such animal appears to such officer to be diseased; or if any such food or drink appears to him to be unfit for human consumption or adulterated, or if any such utensil or vessel is of such kind or in such state as to render any food or drink contained therein unfit for human consumption, he may seize and remove such animal, food or drink, utensil or vessel.

(3) The authorized officer may, instead of removing any animal, food or drink, utensil or vessel seized under sub-section (2), leave the same in such safe custody as the Municipal Commissioner or the Executive Officer directs in order that it may be dealt with as hereinafter in this chapter provided; and no person shall remove it from such custody or interfere or tamper with it in any way while it is so retained.

325.Destruction of animals and articles seized –

(1)When any animal, food, drink, utensil or vessel is seized under sub-section (2) of section 324 it may be destroyed by the officer making the seizure with consent of the owner or the person in whose possession it was found.

(2)The officer destroying any animal, food, drink, utensil or vessel under sub-section (1) shall report such destruction to the Municipal Commissioner or the Executive Officer.

(3)If any food or drink seized under sub-section (1) is of a perishable nature and is in the opinion of the officer making seizure, infected, unfit for human consumption, it may, with the previous sanction of the Municipal Commissioner or the Executive Officer, be destroyed without the consent referred to in sub-section (1).

(4)No claim for compensation or damage shall be entertained from any person in respect of any animal or article destroyed under sub-section (1) or (3).

326.Drainage of markets, slaughterhouses. etc. –

(1)Every owner, occupier or farmer of a market or of any place for the sale of meat, ghee, butter, fish or vegetable or of any slaughterhouse, within the limits of municipality, shall cause such drains to be made therein as shall be considered sufficient by the Municipal Commissioner or the Executive Officer, and, if required to do so by the Municipal Commissioner or the Executive Officer, shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such market, place or slaughterhouse in a clean and wholesome state.

(2)Any such owner, occupier or farmer who, after notice in writing given to him by the Municipal Commissioner or the Executive Officer that such market, place or slaughter-house is defective in any of the particulars specified in sub-section (1), and requiring him to remedy the defect

specified within such time as may be specified in the notice, makes default therein, shall be liable to a fine not exceeding two hundred rupees and to further fine not exceeding fifty rupees for every day during which such default is continued after the expiration of the time specified in such notice:

Provided that the time specified in the notice shall not be less than thirty days.

327.Power to make regulations regarding slaughterhouses, etc. – The municipality may make regulations consistent with this Act –

(i) prohibiting the use of any place as a slaughterhouse, or as a market or shop for the sale of animals, meat or fish intended for human food, or as a market for the sale of butter, ghee, fruit or vegetables, without a license granted by the Municipal Commissioner or the Executive Officer or otherwise than in accordance with the conditions of a license so granted;

(ii) prescribing the conditions subject to which, and the circumstances in which and the areas or localities in respect of which licenses for such use may be granted, refused, suspended or withdrawn;

(iii) providing for the inspection of and regulation of the conduct of business in a place used as aforesaid, so as to secure cleanliness therein or to minimize any injurious, offensive and dangerous effect arising or likely to arise therefrom;

(iv) controlling and regulating the admission within municipality for purpose of sale of the flesh (other than cured or preserved meat) of any cattle, sheep, goats or swine slaughtered at a slaughterhouse or a place not maintained or licensed under this Act;

(v) prescribing the fees to be paid for the use of municipal grazing grounds, dairies and residences;

(vi) regulating the sale or the manufacture, preparation, storage or exposure for sale of any specified articles of food;

(vii)regulating the hours and manner of transport within municipality of any specified article of food;

(viii)prescribing the standard weights and measures to be used within municipality and providing for the inspection of the same; and

(ix) fixing the fees for the grant of any license under this chapter.

PART VII

AND PUBLIC URBAN ENVIRONMENTAL MANAGEMENT, COMMUNITY HEALTH SAFETY

Chapter 31

Local Agenda for Urban Environmental Management

328.Benchmarking of service levels by the municipality-

(1)Having regard to the linkages between urban economy, infrastructure, productivity, poverty and environmental health in the municipal area, the municipality shall take adequate measures for –

(a)management of urban environment,

(b)measuring quality of living and working environment,

(c)monitoring of pollution levels, and

(d)undertaking health risk assessment.

(2)For carrying out the purposes of sub-section (1), the municipality shall involve such professional agencies and community based organizations, either in the public sector or in the private sector, as may be necessary, to –

(a)carry out studies on vulnerability and risk assessment,

(b)enhance the capability of concerned municipal or other agencies through research and training activities for better management of environment,

(c)prepare environmental management strategy and action plan, and establish adequate institutional framework for its implementation, and

(d)provide and manage environmental infrastructure services.

(3) The municipality shall before 31st March every year notify the standards to be achieved in relation to services relating to water supply, sewerage, sanitation, solid waste management, etc., as prescribed by the State Government, by the end of the next fiscal year. The standards to be achieved should be published every year in the State Gazette. These standards shall aim at achieving the benchmarks prescribed by the Government of India.

(4)The Municipality shall periodically review the status of delivery of various services being provided.

329.Functions in relation to urban environmental management and submission of report on environmental status of municipal area-(1)The municipality shall, either by itself or through any other agency, undertake functions relating to the following matters :-

(a)supply of safe water,
(b)low cost sanitation,
(c)environmentally sound solid waste management,
(d)toxic waste collection and disposal,
(e)waste recycling and recovery,
(f)preservation of wetlands,
(g)control of air pollution,
(h)control of sound pollution,
(i)control of cattle and other animalws in the municipal area,
(j)area improvement and resettlement,
(k)promotion of urban agriculture and urban forestry,
(l)development of parks, gardens and open spaces,
(m) promotion of community awareness on environmental education, and
(n)such other matters as the municipality may consider necessary.

(2)The Municipal Commissioner or the Executive Officer shall prepare and submit a report on the environmental status of the municipal area at the time of submission of the budget estimates.

Chapter 32

Environmental Sanitation and Community Health,

Duties and General Powers

330.Duties of the municipality for environmental sanitation- It shall be the duty of the municipality or any other agency authorized by it in this behalf to take adequate measures for each of the following matters, namely:- (a)inspection, supervision, regulation, and control of premises to ensure proper environmental sanitation,

(b)regulation of public bathing and washing,
(c)provision and maintenance of public conveniences,
(d)licensing of animals and control of stray animals, (e)licensing of butchers and slaughterhouses, and (f)control of nuisances.

331.Powers of the Municipal Commissioner or the Executive Officer- Subject to such regulations as may be made in this behalf, the Municipal Commissioner or the Executive Officer may, either on his own or through any other agency or officer authorized by him in this behalf, -

(a)cause any building or other premises to be inspected for the purpose of ascertaining the sanitary conditions thereof,

(b)require the owner or the occupier of any land or building or any part thereof to cleanse it, if it appears necessary so to do for reasons of sanitation,

(c)issue such order as he deems necessary for the improvement of any insanitary huts and sheds and untenanted premises which are likely to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood or are, for any reason, likely to endanger community health or safety,

(d)by notice, prohibit the owner or the occupier from the use of any building, or any room in a building, which appears to him to be unfit for human habitation, as dwelling, or

(e)direct the filling up of any well, pool, ditch, tank, pond, pit or undrained ground, cistern, or reservoir of any waste or stagnant water, which appears to him to be, or likely to become, injurious to health or offensive to the neighbourhood.

332.Removal of rubbish, etc. from premises -

(1)The Municipal Commissioner or the Executive Officer may contract with the occupier of any premises to remove rubbish or offensive matter direct there from and may charge fees in this behalf.

(2)When building operations are being carried on in any premises or when any premises are used for carrying on any manufacture, trade or business, the Municipal Commissioner or the Executive Officer may –

(a)by written notice direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises in the course of such operations, manufacture, trade or business and to remove the same at such times in such carts or receptacles, and by such routes as may be specified in the notice to a place provided or appointed in this behalf by the Municipal Commissioner or the Executive Officer; or

(b)after giving such occupier written notice of his intention so to do, himself cause all such rubbish and offensive matter to be removed; and charge such occupier for such removal such periodical fee as he may specify in such notice:

Provided that the requisition under clause (a) shall not be enforced by the Municipal Commissioner or the Executive Officer nor shall action be taken by him under clause

(b) until the occupier of the premises has been given an opportunity of being heard within such time as may be specified in the written notice that is served on him.

333.Penalty for not removing offensive matter from or near the road - Any person who, being the occupier of a house in or near a public street within the municipality, keeps or allows to be kept, for more than twenty-four hours, or for more than such shorter time as may be determined by a regulation, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such house or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same, shall be liable to a fine not exceeding five thousand rupees.

334.Penalty for allowing sewage, offensive matter or rubbish to be thrown or run into street or drain. – Any person who within the municipality –

(1)without the permission of the Municipal Commissioner or the Executive Officer throws or puts or causes or permits to throw or put any sewage or offensive matter upon any street or public place of drops, passes or places or causes to be dropped, passed or placed into or in any sewer or drain any brick, stone, earth or ashes or any substance or matter, which or by reason of which such sewer or drain or any drain communicating therewith is likely to be obstructed; or

(2)causes or allows the water or any sink, sewer or cesspool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any streets or causes or allows any offensive matter to run, drain or to be thrown or put upon any street or causes or allows any offensive matter to run, drain or to be thrown into a surface drain in such a manner as to cause a nuisance; or

(3)without the permission of the Municipal Commissioner or the Executive Officer causes or suffers to be discharged into any drain from any factory, bakery, distillery, workshop or workplace or from any building or place in which steam, water or mechanical power is employed any water, steam, or fumes or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would be likely to create a nuisance,

shall be liable to a fine not exceeding five thousand rupees.

335.Power to regulate excavation.

(1)The Municipal Commissioner or the Executive Officer may, by a general or a special order affecting such portion of the municipal area as may be specified therein, prohibit –

(a)the making of excavation for the purpose of taking earth there from or storing rubbish or offensive matter therein, or

(b)the digging of cesspool, tanks, ponds, wells or pits, without his special permission.

(2)No person shall make any excavation referred to in clause (a), or dig any cesspool, tank, pond, well or pit referred to in clause (b), of sub-section (1) in contravention of any such order.

(3)If any such excavation is made, or any such cesspool, tank, pond, well or pit is dug in contravention of the order under sub-section (1), the Municipal Commissioner or the Executive Officer may, by notice, in writing, require the owner or the occupier of the

land, on which such excavation is made or such cesspool, tank, pond, well or pit is dug, to fill it up with earth or other material approved by him.

336.Power to require trees, hedges, etc., to be trimmed –

(1)Whoever, without the permission of Municipal Commissioner or the Executive Officer lops or cuts the branches or twigs of any tree or plant

standing on a public place, or plucks the fruits, flowers or leaves of such tree or plant, or causes any damages thereto, shall be punishable with fine which may extend to five thousand rupees, and in the case of a second or subsequent breach, to two thousand rupees.

(2)The Municipal Commissioner or the Executive Officer may, if he thinks fit, by notice, in writing, require the owner or the occupier any land in the municipal area on which trees, shrubs or hedges are growing to keep such trees, shrubs or hedges in a trim condition, and remove any such tree, shrub or hedge, if it obstructs traffic on any street or poses a danger to public safety or overhangs any street causing inconvenience or danger to the passers-by.

(3)If it appears to the Municipal Commissioner or the Executive Officer that immediate action is necessary for public safety, he may, without notice, cause such tree, shrub or hedge to be removed from the land as aforesaid and the expenses thereof shall be paid by the owner or the occupier of such land.

337.Power to require protection of streets during cutting down of trees etc. -

(1)No person shall, without the previous permission in writing of the Municipal Commissioner or the Executive Officer, cut down any tree or cut off a branch of any tree, or erect or demolish any building or part of a building or alter or repair the outer portion of any building, where such action is of a nature to cause obstruction, danger or annoyance or risk of obstruction, danger or annoyance to any person using a street.

(2)The Municipal Commissioner or the Executive Officer may at any time by a notice require that any person doing or proposing to do any of the acts referred to in sub-section (1) shall refrain from commencing or continuing the act unless he puts up, maintains, and provides from sunset to sunrise with sufficient lighting such hoardings or screens as are specified or described in the notice and may also at any time, by notice require the removal, within a time to be specified in the notice, of any hoarding or screen erected in anticipation or in pursuance of any of the said acts.

(3) Whoever contravenes the provisions of sub-section (1) or omits to comply with the terms of a notice under sub-section (2), shall be punishable with fine which may extend to five thousand rupees and in case of a

continuing contravention or omission with a further fine which may extend to two hundred rupees for every day

Regulation of Public Bathing, Washing, Water tank etc.

338.Regulation of public bathing etc. –

(1)The Municipal Commissioner or the Executive Officer may, by order –

(a)regulate the use by the public of any river or other public place, whether vested in the municipality or not, for bathing or washing,

(b)prohibit the use by the public of any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or any part of any river, whether vested in the municipality or not, for bathing or washing,

(c)prohibit steeping in any tank, reservoir, stream, well or ditch of any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health,

(d)prohibit bathing in any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well by a person suffering from any contagious or infectious disease,

(e)prohibit any person engaged in any trade or manufacture from causing to flow into any lake, tank, reservoir, cistern, well, duct or other places for storage of water, whether vested in the municipality or not, or drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture, or willfully do any act connected with any such trade or manufacture whereby such water is likely to be fouled or corrupted, or

(f)prohibit, by notice, the washing of clothes by washer men in pursuance of their calling, except at such places as may be licensed for this purpose.

(2)Any person who fails to comply any direction under sub section (1) shall be liable to a fine not exceeding five thousand rupees.

339.Prohibition of pollution of water by steeping therein animal or other matter. –

(1)No person shall –

(a)steep in any tank, reservoir, wells,trough or ditch any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b)whilst suffering from any contagious, infectious or loathsome disease, bathe in or near any lake, tank reservoir, fountain, cistern, duct, stand-pipe, stream, well or trough, or any part of river within the limits of the municipality or within five kilo meters upstream from the municipal boundary.

(2)Any person who contravenes any order of the Municipal Commissioner or the Executive Officer under sub-section (1) shall be liable to a fine not exceeding one thousand rupees.

340.Pollution of watercourse prohibited. -

(1)Save to such extent, in such manner and subject to such conditions as may be prescribed, no person shall –

(a)put, or cause to be put, or cause to fall or flow or be carried, or knowingly permit to be put or to fall or flow or be carried, into any watercourse –

(a)any solid or liquid sewage matter, or

(b)any poisonous, noxious or pollution liquid proceeding from any manufacturing process, or

(b)put, or cause to be put, or cause to fall or be carried, or knowingly permit to be put or to fall or be carried, into any watercourse, so as, either singly or in

combination with other similar acts of the same or any other person, to interfere with due flow of such water course, or to pollute the water therein, the solid refuse of any manufacturing-process or quarry, or any other rubbish or cinders, or any other waste or putrid solid matter, or

(c)commit a nuisance in or in the neighbourhood of any water- course.

(2)Whoever contravenes any provision of sub-section (1) shall, on conviction, be punishable with fine not exceeding ten thousand rupees, and in the case of a continuing offence, with an additional fine not exceeding five hundred rupees per day.

341.Power to require removal of nuisance arising from tank –

(1)The Municipal Commissioner or the Executive Officer may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, re-excavate, fill up ordrain off a private well, tank, reservoir, cistern, pool, depression of excavation therein which may appear to the Municipal Commissioner or the Executive Officer to be injurious to health or offensive to the neighbourhood.

(2)Any person who fails to comply with a requisition issued by the Municipal Commissioner or the Executive Officer under sub-section (1) shall be liable to a fine not exceeding five thousand rupees, and to a further fine not exceeding two hundred rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

342.Power to require cleansing of sources of water for drinking or culinary purposes – The Municipal Commissioner or the Executive Officer may by notice require the owner of, or the person having control over, a private watercourse, spring, tank, well, or other places, the water of which is used or likely to be used for drinking or culinary purposes, to clean the same, from time to time, of silt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as to the Municipal Commissioner or the Executive Officer may seem fit, and in the case of a well to repair the same.

343.Power to prohibit use of polluted water for drinking or culinary purposes –

(1)If the Director of Public Health, the Civil Surgeon of District, the Municipal or any Health Officer authorised on this behalf certifies that the water of any watercourse, spring, tank, well, or other place, used or likely to be used for drinking or culinary purpose, is, if so used, liable to endanger or cause the spread of disease and that, owing to its situation or other cause, such place cannot effectively be protected from pollution, or if the owner of, or person having control over, any such place refuses or neglects, to comply with a requisition of the Municipal Commissioner or the Executive Officer under section 342, the Municipal Commissioner or the Executive Officer may –

(a) by public notice prohibit the use or removal of water from such place for drinking or culinary purpose during a period to be specified in the notice and take such steps as

he may consider necessary to prevent the removal of water for such purposes; or

(b) in the case of private well, require the owner of, or person having control over it, to close it permanently or to seal it up with suitable materials.

(2)Any person who fails to comply with an order under this section shall be liable to a fine not exceeding five thousand rupees.

344.Power to inspect and disinfect sources of water used for drinking - The Municipal Commissioner or the Executive Officer or any person authorised by him in that behalf may, at all reasonable times, inspect and disinfect any watercourse, spring, tank, well or other place from which water is, or is likely to be taken for drinking or culinary purposes: Provided that reasonable notice shall be given before inspection of a well situated within a house.

Public Conveniences

345.Public latrines and urinals -

(1)The municipality shall, by itself or through any other agency, provide and maintain in proper and convenient places a sufficient number of public latrines and urinals for use by the public.

(2)Such public latrines and urinals may be so constructed as to provide separate compartments for each sex.

General Provisions

346.Prohibition of nuisances -

(1)No person shall –

(a)commit any nuisance in any public street or public place, or

(b)unauthorizedly affix upon any building, monument, post, wall, fence, tree or other public place, any bill, notice or other document, or

(c)unauthorizedly deface, or write upon, or otherwise mark on any building, monument, post, wall, fence, tree or other public place, or

(d)litter the public places, or

(e)carry rubbish, filth or other polluted and obnoxious matter along any route in contravention of any prohibition made in this behalf by the Municipal Commissioner or the Executive Officer by notice, or

(f)bury or cremate or otherwise dispose of any corpse at a place not licensed for the purpose, or

(g)disturb public peace or order in violation of sound pollution control order, if any, or

(h)cause pollution of air in violation of air pollution control order, if any, or

(i)cause obstruction to the movement of vehicular or pedestrian traffic without permission from the competent authority.

(2)Where the Municipal Commissioner or the Executive Officer is of the 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 all of the owners, lessees or occupiers of such land or building to remove or abate the nuisance by taking such measures, in such manner, and within such period, as may be specified in the notice.

(3)Where the Municipal Commissioner or the Executive Officer is of the opinion that immediate, removal of any nuisance continuing on any land or building in contravention of the provisions of this Act is necessary, he may, for reasons to be recorded in writing, cause such nuisance to be removed forthwith.

(4)Any person or group of persons who fails to comply with any order under this section shall be liable to a fine not exceeding five thousand rupees.

347.Playing of loudspeakers – Whoever in contravention of any general or special prohibition issued by the Municipal Commissioner or the Executive Officer, and without the permission of the Municipal Commissioner or the Executive Officer, plays loud-speaker shall be punishable with fine which may extend to two thousand rupees.

348.Bill-sticking without permission -

(1)Whoever, without the consent of owner or occupier or other person for the time being in charge, affixes or causes to be affixed any poster, bill, notice, playcard or other paper or means of advertisement against or upon any

street, building, wall, tree, board, fence or pole or writes upon, spoils, defaces or marks any such building, wall, tree, board, fence or place with chalk or paint or any other way whatsoever, shall be punishable with a fine which may extend to two thousand rupees.

(2)Notwithstanding anything contained in this Act, a court may take cognizance of an offence under sub-section (1) of this section upon the complaint of the owner or occupier or other person in charge of the property in respect of which such offence is alleged to have been committed.

349.Destroying direction posts, lamp-posts, etc. – Whoever without being authorised by the Municipal Commissioner or the Executive Officer, defaces or disturbs any municipal direction-post, street name, lamp-post or lamp or extinguishes any municipal light in any public place, shall be punishable with fine which may extend to one thousand rupees.

350.Indecent or obscene pictures or printed or written matter -

(1)Whoever affixes to, inscribes or stencils on any house, building, wall, hoarding, gate, fence, pillar, post, board, tree, road or any other place whatsoever so as to be visible to a person being in, or passing along, any street, public highway or footpath and whoever affixes or inscribes or stencils on any public latrine or urinal, or delivers, or attempts to deliver, or exhibit to any inhabitant or to any person being in or passing along any street, public highway or foot path, or throws into the area of any house or exhibits to public view in the window of any house or shop, any picture or printed or written matter which is of an indecent or obscene nature, shall on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to two thousand rupees or with both.

(2)Whoever gives or delivers to any other person any such pictures, or printed or written matter mentioned in sub-section (1), with the intent that the same, or some one or more thereof, should be affixed, inscribed, stenciled, delivered or exhibited as therein mentioned, shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to five thousand rupees, or with both.

(3)Any police officer may, on receipt of a complaint lodged by the Municipal Commissioner or the Executive Officer, arrest without warrant any person whom the

Municipal Commissioner or the Executive Officer may find committing any offence under this section.

351.Use of steam whistle, etc. –

(1)No person shall use or employ in any factory or other place any whistle or trumpet, or any other mechanical contrivance which emits an offensive noise, for the purpose of summoning of dismissing workmen or persons employed, nor shall any person by means of any contrivance increase the noise emitted in any such factory or place by the exhaust pipe of any engine, without the written permission of the Municipal Commissioner or the Executive Officer. In granting the permission, the Municipal Commissioner or the Executive Officer may impose such conditions as he may deem proper, restricting the times at which such whistle or trumpet or other contrivance may be used.

(2)The Municipal Commissioner or the Executive Officer may on giving one month's notice revoke any permission given under sub-section- (1).

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

352.Regulations – The municipality may make regulations consistent with this Act regulating the use of, and the prevention of nuisance in regard to bathing and washing places, streams, channels, tanks and wells and water supply from these sources.

353.Control of pollution- Subject to the provisions of any law relating to air, water or noise pollution, for the time being in force and in accordance with any notification by the State Government in that behalf, the municipality may function as a competent authority for the enforcement of such law.

354.Power to require wells, tanks, etc., to be rendered safe.

(1)Where in any municipal area, any well, tank, reservoir, pool, depression or excavation, or any bank or tree is, in the opinion of the Municipal Commissioner or the Executive Officer, in a ruinous state for want of sufficient repairs, protection or enclosure and is a nuisance or is dangerous to passersby, the Municipal Commissioner or the Executive Officer may, by notice, in writing, require the owner or any other person claiming to be the owner thereof, or failing any of them, the occupier thereof, to repair, protect or enclose it in such manner as he thinks necessary, and if, in the opinion of the Municipal Commissioner or the Executive Officer, the danger is imminent, he shall forthwith take such steps as he thinks necessary to avert such danger.

(2)The Municipal Commissioner or the Executive Officer may also, if it appears to him to be necessary so to do, cause a proper hoarding or fence or other means of protection to be put at the cost of the owner or occupier of such land for safety of the public.

(3)Any person who fails to comply with a requisition issued by the Municipal Commissioner or the Executive Officer under sub-sections (1) or (2) shall be liable to a fine not exceeding five thousand rupees, and to a further fine not exceeding two hundred rupees for every day during which the default is continued after expiration of eight days from the date of service on him of such requisition.

355.Quarrying, blasting, cutting timber or building operations- No person shall quarry, blast, cut timber, or carry on building operations in such manner as to cause, or likely to cause danger to persons passing by, or dwelling or working, in the neighbourhood.

356.Power to stop improper use of land or building- If, within any municipal area, any land or building, by reason of its being abandoned or unoccupied-

(a)is in a filthy or unwholesome state, or

(b)has become a resort of –

(i)idle and disorderly persons, or

(ii)persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or

(c)is used for gambling or immoral purposes, or

(d)is likely to cause a nuisance,

the Municipal Commissioner or the Executive Officer may, after due enquiry, by notice, in writing, require the owner or any person claiming to be the owner of such land or building, or the lessee, or any person claiming to be the lessee, thereof to -

(a) secure, enclose, cleanse or clear such land or building, or

(b) stop use of such land or building for gambling or immoral purposes, or

(c) abate the nuisance, within such time as may be specified in the notice,

and shall affix a copy of such notice on the door of the building or on some conspicuous part of the land, as the case may be.

357.Polluters to pay- The municipality may, by regulation, provide for recovery of charges and imposition of penalty on those persons who are directly responsible for causing pollution of any kind referred to in this chapter.

Chapter 33

Restraint of Infection

358.Power to require improvement of drainage of land –

(1)Whenever, it appears to the Municipal Commissioner or the Executive Officer that any land is not drained to his satisfaction, the Municipal Commissioner or the Executive Officer may require the owner within ten days to drain the said land into such drain or outlet.

(2)If it appears to the Municipal Commissioner or the Executive Officer that any land for want of drainage is in a state injurious to health or offensive to the neighbourhood, the Municipal Commissioner or the Executive Officer may require the owner or occupier, or both within fifteen days to drain such land.

(3)If for the purposes of effecting any drainage under this section, it is, in the opinion of the Municipal Commissioner or the Executive Officer, necessary to acquire any land, not being the property of the person who is required to drain his land or to pay compensation to any other person, the Municipal Commissioner or the Executive Officer shall provide such land and pay such compensation. The Municipal Commissioner or the Executive Officer shall acquire and provide such land at the cost of the owner and pay such compensation as may be determined and realise the same from the owner.

359.Abatement of nuisance of mosquito. – If in the opinion of the Municipal Commissioner or the Executive Officer –

(a)any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, watercourse or any collection of water, or

(b)any cistern or other receptacle for water whether within or outside a building, or

(c)any land on which water accumulates and which is situated within a distance of one hundred yards from any building used as dwelling house,

is likely to become a breeding place of mosquitoes, or in any other respect a nuisance, the Municipal Commissioner or the Executive Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials or to take such action for removing or abating the nuisance.

360.Penalty for disobeying requisition. – Any owner or occupier of a house or land who fails to comply with a requisition issued by the Municipal Commissioner or the Executive Officer, shall be liable after the expiration of eight days from the date of service on him of such requisition. to a fine not exceeding five thousand rupees, and to a further fine not exceeding two hundred rupees for every day during which the default is continued

361.Municipality to prevent and check dangerous diseases-

(1)It shall be the duty of the municipality to take such measures as are necessary for preventing, or checking the spread of, any dangerous disease in the municipal area or of any epidemic disease among any animals therein.

(2)Any person, whether as a medical practitioner or otherwise, being in charge of, or in attendance upon, any other person whom he knows or has reason to believe to be suffering from a dangerous disease, or being the 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 Municipal Commissioner or the Executive Officer.

362.Power of the Municipal Commissioner or the Executive Officer to inspect any place and take measures to prevent spread of dangerous disease-

(1)The Municipal Commissioner or the Executive Officer may, at any time, by day or by night, and with or without notice, inspect any place in which any dangerous disease is reported or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place, and shall forthwith send information thereof to the State Government, the District Magistrate and the senior most functionary of the Health Department of the State Government in the District.

(2)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 a guest or relative of the person who owns, or pays rent for such room or house, or

(c) living in a sarai, hotel, boarding-house, or hostel, or

(d) lodged in premises occupied by members of two or more families,

the Municipal Commissioner or the Executive Officer or any person authorized by him in this behalf may, on the advice of any Medical Officer, 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.

363.Power of Municipal Commissioner and Executive Officer to cleanse, disinfect, destroy, or control places of infection-

(1)The Municipal Commissioner or the Executive Officer may cleanse, or disinfect, or cause destruction of, any building, hut or shed, water-source or lodging and eating house, if, in his opinion, such cleansing, disinfection or destruction would tend to prevent or check the spread of any dangerous disease, and, in case of emergency, he may cause such cleansing or disinfection to be done by the employees of the municipality at the cost of the owner or the occupier of such place, or, at the cost of the municipality, if, in his opinion, such owner or the occupier is unable to pay the cost owing to poverty.

(2)Where the Municipal Commissioner or the Executive Officer is satisfied that the destruction of any building, hut or shed, or clothing, or article is immediately necessary for the purpose of preventing the spread of any dangerous disease, he may cause such building, hut or shed or clothing or article to be destroyed:

Provided that compensation may be paid by the Municipal Commissioner or the Executive Officer to any person who sustains substantial loss by the destruction of such building, hut or shed or clothing or article.

(3)The Municipal Commissioner or the Executive Officer may, on being satisfied that it is in the public interest so to do, by order, in writing, direct that any lodging house or any place in the municipal area where articles of food and drink are sold, or prepared, or stored or exposed for sale, being a lodging house or place in which a case of dangerous disease exists or has recently occurred shall be closed for such period as may be specified in the order:

Provided that such lodging house or place may be declared to be open, if the Municipal Health Officer certifies that it has been disinfected or is free from infection.

(4)The Municipal Commissioner or the Executive Officer or any person authorized by the municipality may, at all reasonable times, enter into, and inspect, any market, building, shop, stall or place used for the sale of food

or drink, or as a slaughter house, or for the sale of drugs, and inspect and examine any food, drink, animal or drug, which may be found therein and, if any article of food or drink, animal or drug therein, intended for the consumption of persons, appears to be unfit therefor, he may, by notice, restrict the sale of such food, drink, animal or drug, in such manner, and for such period, as he may deem fit.

(5)If the Municipal Commissioner or the Executive Officer is of the opinion that the water in any well, tank, or other place in the municipal area is likely to cause the spread of any disease, he may, by notice, in writing, prohibit the drawal or use of such water for drinking, and require the owner or the person having control of such well, tank, or other place by the notice to take such steps as may be required to prevent the public from having access to, or from using, such water and may take such other steps as he may consider expedient to prevent the outbreak or spread of such disease:

Provided that in the case of an emergency, the Municipal Commissioner or the Executive Officer or any person authorized by him in this behalf may, with or 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 preventing the spread of any dangerous disease.

364.Special measures in case of outbreak of dangerous or epidemic diseases -

(1)In the event of any municipal area or any part thereof being affected or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Municipal Commissioner or the Executive Officer may, 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 of preventing the outbreak of such disease, with the previous approval of the municipality, -

(a) take such special measures, and

(b) by 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 of such disease:

Provided that where, in the opinion of the Municipal Commissioner or the Executive Officer, immediate action is necessary, he may take such action without such approval and shall forthwith report such action to the municipality.

(2)Any person, who commits a breach of any direction given in the notice under clause (b) of sub-section (1) shall be deemed to have committed an offence under section 188 of the Indian Penal Code, 1860.

365.Means for disinfection -

(1)The municipality may, in its discretion, or shall, when the State Government so directs, -

(a) provide proper places within the municipal area with necessary attendants and apparatus for disinfection of conveyances, clothings, beddings, or other articles which have been exposed to infection, and

(b) cause conveyances, clothings, beddings, or other articles brought for disinfection, to be disinfected, either free of charge or on payment of such charges as it may fix.

(2)The Municipal Commissioner or the Executive Officer may notify places at which such conveyances, clothings, beddings, or other articles, which have been exposed to infection, shall be washed and if he does so, no person shall wash any such conveyances, clothings, beddings, or other articles at any place, not so notified, without previous disinfection.

(3)The Municipal Commissioner or the Executive Officer may direct the destruction of any clothing, bedding, or other article likely to retain infection, and may give such compensation as he thinks fit for any clothing, bedding or other article, so destroyed.

366.Special conveyance for carrying infected persons -

(1)Subject to such regulations as may be made in this behalf, the Municipal Commissioner or the Executive Officer may, either on his own or through any other agency, provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or dead bodies of persons who died of any such disease.

(2)The Municipal Commissioner or the Executive Officer may, either on his own or through any other agency, provide for disinfection of any public conveyance, which has carried any person suffering from a dangerous disease, or the corpse of a person who died of any such disease.

367.Prohibitions- Subject to such regulations as may be made in this behalf, the Municipal Commissioner or the Executive Officer may prohibit –

(a)the letting out of any infected building without being first disinfected,

(b)the disposal of infected articles without disinfection,

(c)the washing of any infected clothes by any washerman or laundry, and

(d)the making and selling of food, or washing of clothes, by infected persons.

368.Regulations for control, etc., of infectious diseases.- The municipality may make regulations for the control, restraint and prevention of any dangerous disease and in particular, and without prejudice to the generality of the foregoing power, may, and when required by the State Government shall make regulations regarding the following matters:-

(a)the restraint, segregation and isolation of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion;

(b)the removal, disinfection and destruction of personal effects, goods, houses and other property exposed to infection or contagion;

(c)the removal to hospital and the treatment of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion;

(d)the speedy burial or cremation of the bodies of persons who have died due to any dangerous disease;

(e)house-to-house visit and inspection;

(f)the promotion of cleanliness, ventilation and disinfection;

(g)the duties in respect of the prevention and notification of any dangerous disease, and in respect of persons suffering or suspected to be suffering therefrom, of the owners and occupiers of tea-gardens, factories, mills and workshops and of other persons employing in any one place not less than fifty persons;

(h)the duties of parents or guardians whose children being school children are suffering or have recently suffered from any dangerous disease or have been exposed to infection or contagion and the duties of person in charge of schools in respect of such children;

(i)the prevention of the spread from any animal or the carcasses or product of any animal to man, of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or any other disease communicable to human beings by any animal or the carcass or product of any animal;

(j)the prevention of the spread and the eradication of malaria, the destruction of mosquitoes and the removal or abatement of conditions permitting or favouring the multiplication or prevalence of mosquitoes;

(k)the prevention of the spread of diseases by flies or other insects and the destruction of such insects and the removal or abatement of conditions permitting or favouring the prevalence or multiplication of such insects;

(l)the destruction of rodents and other vermin and the removal or abatement of conditions permitting or favouring the harbouring or multiplication thereof;

(m) the prevention of the spread of any dangerous disease by carrying of any business, trade or profession,

(n)the disposal of any refuse, waste matter or other matter or thing, which has been contaminated with or exposed to infection or contagion.

Chapter 34

Disposal of the Dead

369.Acts prohibited in connection with disposal of dead-

(1)No person shall –

(a) retain a corpse on any premises without burning, burying or otherwise lawfully disposing it off, for so long a time after death as to create a nuisance,

(b) carry a corpse, or a part of a corpse, along any street without having or keeping such corpse or part of a corpse decently covered or without taking such precautions to prevent risk of infection or injury to the community health as the Municipal Commissioner or the Executive Officer may, by notice, from time to time, think fit to require,

(c) carry, except when no other route is available, a corpse or part of a corpse along any street on which the carrying of corpse is prohibited by notice issued by the Municipal Commissioner or the Executive Officer in this behalf,

(d) remove a corpse or part of a corpse, which has been kept or used for purpose of dissection, otherwise than in a closed receptacle or vehicle,

(e) place or leave, during its conveyance, a corpse or part of a corpse, on or near any street without urgent necessity,

(f) bury, or cause to be buried, any corpse or part of a corpse in the grave or vault or otherwise in such manner as may cause the

surface of the coffin or, when no coffin is used, of the corpse or part of the corpse, to be at a depth of less than two meters from the surface of the ground,

(g) build, dig, or cause to be built or dug, any grave or vault in any burial ground at a distance of less than one-half of a meter from the margin of any other grave or vault,

(h) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line, not marked out for such purpose by or under the order of the Municipal Commissioner or the Executive Officer,

(i) reopen for the interment of a corpse or of any part of a corpse a grave or vault already occupied, without the written permission of the Municipal Commissioner or the Executive Officer,

(j) make, without the permission of the Municipal Commissioner or the Executive Officer, any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship,

(k) make, without the permission of the Municipal Commissioner or the Executive Officer, any interment or otherwise dispose of any corpse in any place which is closed,

(l) build, dig, or cause to be built or dug, any grave or vault, or, in any way, dispose of, or suffer or permit to be disposed of, any corpse at any place, which is not permitted under this chapter, without the permission of the Municipal Commissioner or the Executive Officer, and

(m) exhume without the permission of the Municipal Commissioner or the Executive Officer, anybody from any place for the disposal of the dead except under the provisions of the Code of Criminal Procedure, 1973, (Act 2 of 1974) or any other law for the time being in force.

(2)The Municipal Commissioner or the Executive Officer may, in special cases, grant permission for any of the purposes referred to in clauses (j) to (m) of sub-section (1), subject to such general or special order as the State Government may, from time to time, make in this behalf.

(3)Any contravention of the provisions of clauses (j) to (m) of sub-section (1) shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973.

370.Registration of places for disposal of the dead -

(1)Subject to such regulations as may be made in this behalf, every owner or person having the control of any place already used for disposal of the dead, but which is not vested in, or owned by, the municipality or any Board appointed by the State Government for administration of such place, shall submit to the Municipal Commissioner or the Executive Officer an application for registration of such place, containing such particulars as may be specified by the municipality, within a period of three months from the date of commencement of this Act.

(2)If the Municipal Commissioner or the Executive Officer is satisfied with the application and the particulars under sub-section (1), he may register such place on such terms and conditions as may be provided by regulations.

(3)The Municipal Commissioner or the Executive Officer may, with the approval of the Standing Committee, provide suitable and convenient places for the disposal of the dead within the municipal area, subject to the provisions of any State law regulating such land use or, in the absence of any provisions of any State law in this behalf in the municipal area, with the approval of the State Government.

(4)No place which has not previously been lawfully used or registered for the disposal of the dead shall be opened for such disposal except in conformity with the provisions of any State law regulating such land use or, in the absence of any provisions of any State law in this behalf in the municipal area, with the approval of State Government.

371.Prohibition to bury or burn in unregistered ground –

(1)No corpse shall be buried or burnt other than in a place which is borne on the register of the municipality as an open burial or burning ground, or has been provided by the

municipality for the purpose, but the Municipal Commissioner or the Executive Officer may grant special permission for a corpse to be buried or burnt elsewhere.

(2)Whoever within the municipal area knowingly buries or burns or causes, procures or suffers to be buried or burnt any corpse in or on any ground not registered as burial or burning ground or which has not been provided by

the municipality for the purpose, shall be liable to fine not exceeding five thousand rupees.

372.Power to cause corpses to be burnt or buried according to the religious tenets of the deceased. –After the expiration of not less than twenty four hours from the death of any person, the Municipal Commissioner or the Executive Officer may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the heirs of the such person. In every such case, the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

373.Power to provide for burial of paupers free of charge - The municipality may, from time to time out of the municipal fund provide for the burial and burning of paupers free of charge within the limits of municipal area.

374.Power to license fuel shops at burning grounds -

(1)The Municipal Commissioner or the Executive Officer may from time to time grant license to persons applying for the sale at the burning grounds of fuel and other articles used for the cremation of dead bodies, and in case any such license is granted shall, prescribe a scale of rates for the sale of such articles; and any person not so licensed, who, within three hundred yards of any such burning ground, sells or offers for sale any such fuel or other articles shall be liable to fine not exceeding five thousand rupees.

(2)The Municipal Commissioner or the Executive Officer may, on good and sufficient cause revoke or withdraw any such license as he may think fit, and any person to whom any such license is granted, who charges for the sale of any such article at higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Municipal Commissioner or the Executive Officer be liable to have his license cancelled and shall also be liable to fine not exceeding two thousand rupees.

375.Power to require closing of burning and burial grounds, etc.- Where the Municipal Commissioner or the Executive Officer is of the opinion that any burning place or burial ground or place for the disposal of the dead has become offensive or dangerous to the health of persons residing in the neighbourhood, or for any other reasons may, with the previous approval of the Standing Committee, and by notice, in writing, require the owner or the person in charge of such burning place or burial ground or place for the

disposal of the dead, to close such burning place or burial ground or place for the disposal of the dead, from such date as may be specified in the notice.

376.Disposal of dead animals-

(1)Whenever any animal, which is under the charge of any person, dies, such person shall, within twenty-four hours of such death, either, -

(a)convey the carcass to a place provided or identified under this Act for the final disposal of carcasses of dead animals, or

(b)give notice of the death to the Municipal Commissioner or the Executive Officer whereupon he shall cause the carcass to be disposed of.

(2)In respect of the disposal of the carcass of a dead animal under clause (b) of sub-section (1), the Municipal Commissioner or the Executive Officer may charge such fee as may be determined by the municipality by regulations.

(3)Where any dead animal does not belong to any person, the Municipal Commissioner or the Executive Officer shall act immediately for causing the carcass to be removed and disposed .

(4)Any person bound to act in accordance with sub-section (1) of this section shall, if he fails so to act, be punished with fine which may extend to one thousand rupees.

377.Power to make regulations – The municipality may make regulations consistent with the Act for controlling and regulating the use and management of burial and burning grounds and the disposal of corpses.

Chapter 35

Urban Forestry, Parks, Gardens, Trees and Playgrounds

378.Municipality to implement schemes.

(1)The municipality shall take necessary steps for –

(a)promotion of urban forestry,

(b)creation of public parks and gardens, and planting of trees, (c)provision of parks and playgrounds for children and youth, (d)provision of street-side gardens,

(e)encouragement of nurseries, and

(f)organization of flower shows.

(2)The municipality may, from time to time, take steps to promote awareness about the national heritage of flora and fauna among the school children and the youth.

(3)The municipality may, from time to time, take steps to promote harvesting of rainwater in public parks, gardens and other open spaces under its administrative control, and may also undertake campaigns to promote public awareness for conservation of rainwater.

PART VIII

REGULATORY JURISDICTION

Chapter 36

Development Plans

379.Representation in District Planning Committee or Metropolitan Planning Committee – Having regard to the provisions of article 243ZD and article 243ZE of the Constitution of India and of State law enacted under these articles, a municipality shall participate in the election of members of the District Planning Committee or the Metropolitan Planning Committee, as the case may be, and such members shall actively represent the interests of the municipality in such Committees.

380.Municipality to implement development plans.

(1)Having regard to the draft development plan, as prepared by the District Planning Committee or the Metropolitan Planning Committee, as the case may be, and as approved by the State Government, the municipality shall implement such components of such development plan as relates to its jurisdiction and carry out such functions as may be assigned to it in this behalf.

(2)Without prejudice to the generality of the foregoing provisions of this section, the municipality shall undertake –

(a)preparation of plans for improvement under chapter 37, and

(b)plans for infrastructure development including water-supply, drainage and sewerage, solid waste management, roads, and transport system accessories.

381.Preparation of development plans by municipalities –

(1)Every Ward Committee shall prepare every year in such form, as may be prescribed, a development plan for the Ward along with an estimate of the

expenditure therefor, for the next year and after finalizing it in a meeting held three months before a financial year, submit the same to the municipality concerned.

Provided that in case of Municipal Corporation, the Ward Committee after preparation of development plan shall submit the same to the Zonal Committee and the Zonal Committee after consolidating the development plans in the wards in its jurisdiction shall submit the same to the municipality concerned.

(2)Every municipality shall prepare every year in such form as may be prescribed, a development plan for the municipal area for the next year having regard to the development plans submitted to it by the Ward Committees in the municipality, and submit the same before such date, as may be prescribed, to the District Planning Committee or the Metropolitan Planning Committee, as the case may be.

Explanation- For the purpose of this section 'development plan' means a development plan for economic development, social justice and improvement of living conditions in relation to matters enumerated in the Twelfth Schedule to the Constitution of India including the matters to which the administrative power vests in the municipality under the provisions of this Act or any other law.

(3)Each municipality shall prepare perspective five-year plan for its development and furnish the same to the District Planning Committee or the Metropolitan Planning Committee, as the case may be.

(4)While preparing the annual plan referred in sub-section (2), the municipality shall prioritise the projects on the basis of schemes beneficial to the municipality as a whole, those beneficial to a number of wards or for individual ward in that order.

(5)The municipality shall also have power to prepare and implement detailed Town Planning Schemes subject to the master plan prepared by the Development Authorities.

382.Entrustment of schemes to municipalities for implementation-

(1)Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to the condition, as they may think fit to impose, entrust by an order published in the official Gazette to a

municipality, the implementation of such schemes of economic development and social justice including the schemes in relation to the matter enumerated in the Twelfth Schedule to the Constitution of India, as they deem fit.

(2)Where the State Government entrust a scheme under sub-section (1) to the municipality, they shall allot to that municipality such fund and staff as may be necessary to enable the municipality to implement the scheme.

383.District Planning Committee –

(1) The Government shall constitute in every district, a District Planning Committee at the district level to consolidate the plans prepared by the panchayats and the municipalities in a district and to prepare a draft development plan for the district as a whole in which number of members from ULBs shall be notified by the State Government for the purpose.

(2) The Committee shall consolidate the plans prepared by the panchayats and the municipalities in the district and prepare a draft development plan for the district as a whole and perform such other functions relating to district planning, as may be assigned to it by the State Government, from time to time, by notification in the official Gazette.

(3)The Committee shall, in preparing the draft development plan,-

(a)have regard to-

(i) matters of common interest between the panchayats and the municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of the infrastructure and environmental conservation; and

(ii) the extent and type of available resources, whether financial or otherwise;

(b)consult such institutions and organizations as the State Government may, by order specify.

384.Metropolitan Planning Committee –

(1)The Government shall, by notification in the official Gazette, constitute a Metropolitan Planning Committee in a metropolitan area to prepare a draft development plan for such area as a whole.

(2)The Metropolitan Planning Committee shall consist of twenty one members of whom-

(a)fourteen shall be elected, in such manner as may be prescribed, by and from amongst, the elected members of the municipalities and the panchayats in the metropolitan area in proportion to the ratio between the population of the municipalities and panchayats in that area;

(b)seven shall be nominated by the Government of whom-

(i) one shall be an eminent person having experience in local administration or public administration;

(ii)one shall be an officer not below the rank of Senior Town Planner of the Town Planning Department;

(iii)one shall be an officer not below the rank of Chief Engineer;

(iv)one shall be the Secretary to Government in charge of Urban Development Department.

(3)one shall be the Deputy Commissioner of the district in which the metropolitan area is comprised or where more than one district are comprised in the metropolitan area, one of the Deputy Commissioner of such district, as the Government may nominate;

(4)The Mayor of the Municipal Corporation in the Metropolitan Area shall be the Vice-Chairperson of the Committee;

Provided that when there is more than one Municipal Corporation in the Metropolitan Area, one of the Mayors shall be nominated by the Government by rotation.

(5)The Chairperson of the Committee shall be the Minister in-charge of Urban Development Department of the Government.

(6)There shall be a Secretary to the Committee and he shall be nominated by the Government.

(7)The members mentioned under clause (a) to sub-section (2) shall be elected under the guidelines, supervision and control of the State Election Commission.

(8)Where the Government are of opinion that representation of the Central or State Government and of any organization or institution is necessary for carrying out the functions assigned to the Committee, they may provide for the inclusion of the representatives of the Government concerned or of such organization or institution, as invitees, in the Committee for the limited purpose of carrying out the functions so assigned to it.

(9)The Committee shall prepare draft development plan for the metropolitan area as a whole and perform such other functions relating to planning and co-ordination for the metropolitan area as may be assigned to it by the State Government, from time to time.

(10) The Committee shall, in preparing the draft development plan-

(a)have regard to-

(i) the plans prepared by the municipalities and the panchayats in the metropolitan area;

(ii)matters of common interest between the municipalities and panchayats including the co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii)the overall objectives and priorities set out by the Central or the State Government;

(iv)the extent and the nature of investments likely to be made in the Metropolitan area by agencies of the Central and State Governments and other available resources, whether financial or otherwise;

(b)Consult such institutions and organizations as the State Government may, by order, specify.

(11) The Secretary shall forward the development plan, as recommended by the Metropolitan Planning Committee, to the Government for approval.

(12) The procedure to be followed in the meeting including the quorum for such meeting of the Metropolitan Planning Committee shall be governed by such rules as may be prescribed.

Chapter 37

Improvement

385.Removal of congested buildings -

(1)If it appears to the Municipal Commissioner or the Executive Officer that any block of buildings is in an unhealthy condition by reason of the manner in which the buildings are crowded together or the narrowness, closeness, or faulty arrangement of streets or the want of proper drainage and ventilation or the impracticability of cleansing the buildings or by reason of any other cause to be specified in writing, he shall cause such block of buildings to be inspected by the Chief Municipal Health Officer and the Chief Municipal Engineer, who shall consult the owners and the occupiers of such block of buildings and the owners and the occupiers of other buildings affected by the unhealthy condition and shall, thereafter, make a report, in writing, to him regarding the sanitary condition of such block of buildings.

(2)If, upon receipt of the report under sub-section (1), the Municipal Commissioner or the Executive Officer considers that the sanitary condition of such block of building is likely to cause risk of disease to the inhabitants of the buildings or the neighbourhood or otherwise endanger the community health, he shall, with the approval of the Standing Committee, select the buildings which, in his opinion, should wholly or in part be removed in order to abate the unhealthy condition of such block of buildings, and may, thereupon, by notice, in writing, require the owners of such buildings to remove them within such period as may be specified in the notice :

Provided that before issuing the notice, a reasonable opportunity shall be given to the owners to show cause, either in writing or in person, why the buildings should not be removed:
Provided further that the Municipal Commissioner or the Executive Officer shall, for the removal of any such building, which may have been erected lawfully, pay compensation to the owner for any such building.

(3)If the notice under sub-section (2) requiring any owner of a building to remove such building is not complied with, and, after the expiration of the period specified in the notice, the Municipal Commissioner or the Executive Officer may himself remove the building and recover from the owner of the building the expenses of such removal as an arrear of tax under this Act.

386.Power to require improvement of building unfit for human habitation-

(1)If, upon information in his possession, the Municipal Commissioner or the Executive Officer is satisfied that any building is in any respect unfit for human habitation, he may, unless, in his opinion, the building is not capable of being rendered fit at a reasonable expense, serve on the owner of the building a notice requiring him, within such period, 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 such works will render the building fit for human habitation.

(2)In addition to the notice served on the owner of the building under sub-section (1), the Municipal Commissioner or the Executive Officer may also serve a copy of the notice

on any other person having an interest in the building, whether as a lessee or as a 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 works necessary to render the building so fit and the estimated value which the building will have on completion of the works.

(4)If the notice under sub-section (1) requiring the owner of the building to execute the works of improvement is not complied with, and, on the expiration of the period specified in the notice, the Municipal Commissioner or the Executive Officer 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.

(5)Whenever it appears to the Municipal Commissioner or the Executive Officer that any building, by reason of being unsecured and untenanted or by reason of having fallen into ruins leads to the commission of a nuisance or for the harbourage of snakes or other noxious animals, the Municipal Commissioner or the Executive Officer may require the owner of such building, or the owner of the land to which such building is attached, to secure the same or to remove or level such ruins, as the case may require.

(6)Whenever on any land, being private property, there exists thick vegetation or undergrowth which appears to be injurious to health or to form an impediment to efficient ventilation, the Municipal Commissioner or the Executive Officer may by notice require the owner or occupier of such land, to clear away and remove such vegetation or undergrowth. within a period to be specified in such notice.

7.(a) The Municipal Commissioner or the Executive Officer, with the approval of the Standing Committee, may by a general order prohibit the making of excavations for the purpose of digging earth or stones therefrom, or for the purpose of storing rubbish or offensive matter therein or the digging or construction of tanks, pits and cesspools, without special permission previously obtained.

(b) Any person who contravenes an order under clause (a) this sub-section shall be liable to a fine not exceeding two thousand rupees.

(8)If the Municipal Commissioner or the Executive Officer, with the approval of the Standing Committee, is of the opinion that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner –

(a)in any place within the limits of municipality, is injurious, or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood, or

(b)in any place within or outside the limits of municipality, is likely to contaminate the water-supply of municipality, or otherwise render it unfit for drinking purposes makes a report to the State Government, and the State Government may, on receipt of report from the municipality, by public notice, prohibit the cultivation of such crop, the use of such manure or the use of such method of irrigation or impose such conditions with respect thereto as may prevent injury therefrom:

Provided that, if the act prohibited has been practiced in the ordinary course of husbandry at any time during the preceding five successive years, compensation for the damages at the rates specified shall be paid to all persons affected by such prohibition from the municipal fund

387.Power to order demolition of building unfit for human habitation-

(1)Where, upon information in his possession, the Municipal Commissioner or the Executive Officer is satisfied that any building is unfit for human habitation and is not capable at a reasonable expense of being rendered fit, he shall serve upon the owner of the building and upon any other person having an interest in the building, whether as a lessee or as a 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 the owner of the building, or other person, upon whom a notice has been served under sub-section (1), appears in pursuance thereof before the Municipal Commissioner or the Executive Officer and gives an undertaking that he shall, within a period specified by the Municipal Commissioner or the Executive Officer, execute such works of improvement in relation to the building as will, in the opinion of the Municipal Commissioner or the Executive Officer, render the building fit for human habitation or that the building shall not be used for human habitation until the Municipal Commissioner or the Executive Officer on being satisfied that it has been rendered fit for such habitation, the Municipal Commissioner or the Executive Officer shall not make an order of demolition of the building.

(3)If no such undertaking as is referred to in sub-section (2) is given, or if, in a case where any such undertaking has been given, the works of improvement to which the undertaking relates are not carried out within the specified period or the building is used in contravention of the undertaking, the Municipal Commissioner or the Executive Officer 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 demolished within six weeks on the expiration of that period.

(4)Where an order of demolition of a building under sub section (3) has been made, the owner of the building or any other person having an interest therein shall demolish such building within the period specified in the order, and if such building is not demolished within that period, the Municipal Commissioner or the Executive Officer shall demolish the building and shall sell the materials thereof.

(5)Any expenses incurred by the Municipal Commissioner or the Executive Officer for carrying out the purposes of sub-section (4) which cannot be met 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)Any person who fails to comply with the notice issued by the Municipal Commissioner or the Executive Officer under sub-section (1) shall be liable to a fine not exceeding two thousand rupees and to a further fine of two hundred rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such notice.

(7)In determining, for the purposes of this section whether a building is unfit for human habitation, regard shall be had to its condition in respect of the factors, such as, -

(a)repair,

(b)stability,

(c)freedom from damp,

(d)natural light and air,

(e)water-supply,

(f)drainage and sanitary conveniences, and

(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 for human habitation only if it is so defective in one or more of the factors as aforesaid that it is not reasonably suitable for occupation in that condition.

(8)For the purposes of this section, "works of improvement", in relation to a building, shall include 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 courtyard,

(h)removal of rubbish, filth and other polluted and obnoxious matters, and

(i) any other work including the demolition of any building or any part thereof which, in the opinion of the Municipal Commissioner or the Executive Officer, is necessary for executing any of the works as aforesaid.

(9)The provisions of this section shall not apply in relation to any building in any area which has been declared to be a slum area under any State law relating to improvement or clearance of slums.

388.Abandoned or unoccupied premises - If it appears to the Municipal Commissioner or the Executive Officer that any building or structure has been abandoned or is unoccupied and has become a resort of disorderly persons or is by reason of its condition seriously detrimental to the amenities of the neighbourhood, the Municipal Commissioner or the Executive Officer may give a written notice to the owner of such building or structure if he is known and found to be a resident within the limits of municipality, or to any person who is known or believed to claim to be the owner, if the person is resident within the limits of the municipality, and shall also affix a copy of the notice on some conspicuous part of the building or of structure requiring all persons having any right or interest therein to take such order with said building or structure as may, in the opinion of the Municipal Commissioner or the Executive Officer be necessary to prevent the same from being resorted to as aforesaid or from being seriously detrimental to the amenities of the neighbourhood.

389.Reclamation of low-lying sites –

(1)If for any reason it appears to the Municipal Commissioner or the Executive Officer that the level of site on which it is proposed to erect or re-erect a building is so low that such building is likely to become insanitary or likely to be a source of nuisance, he shall give to the owner of the site proposed to be built upon, a notice in writing, calling

upon him to show cause in writing within thirty days after the receipt of such notice as to why the site should not be reclaimed with such materials and raised to such height and within such period, not being less than six months from the date of the notice, as the Municipal Commissioner or the Executive Officer thinks fit; and in the notice, the Municipal Commissioner or the Executive Officer shall also specify the cost at which the site can be reclaimed and raised by municipal agency if the owner desires to employ that agency.

(2)If no reply is received to the notice within such period as aforesaid, or if the reply furnished by the owner appears to be insufficient or not well founded, the Municipal Commissioner or the Executive Officer may, by a notice in writing direct such owner or occupier –

(a)to reclaim and raise the site within the specified period; or

(b)to pay to the Municipal Commissioner or the Executive Officer within thirty days after the receipt of the said notice the estimated cost of reclaiming and raising the site by municipal agency.

(3)If the owner fails to commence the reclamation and raise the site to specific height with the specified materials within the specified period, or has not paid the estimated cost of reclaiming and raising the site, the Municipal Commissioner or the Executive Officer shall carry out and complete the work and recover the cost from the owner

390.Power to prohibit re-erection of building on inaccessible sites -

(1)If any building is so situated as to be inaccessible to a fire-engine or as to cause obstruction to a fire-engine to reach the site, the Municipal Commissioner or the Executive Officer may, by a notice in writing addressed to the owner of the building order to demolish such portion to enable a fire engine to reach the site.

(2)No person shall erect or re-erect any building in contravention of a notice under sub-section (1).

391.Removal of building materials from any premises in certain cases. – If it appears to the Municipal Commissioner or the Executive Officer that any stones, rafters, building materials or debris of building materials are stored or collected in or upon any premises in such quantity or bulk or in such a way to constitute a harbourage or breeding place for rats or other vermin or is otherwise a source of danger or nuisance to the occupier of the said premises or to persons residing in the neighbourhood thereof, the Municipal Commissioner or the Executive Officer may by a written notice require the owner of such premises or the owner of the materials or debris so stored or collected therein, to remove or dispose of the same or to take such measure as may, in the opinion of the Municipal Commissioner or the Executive Officer, be necessary or expedient to abate the nuisance or prevent a recurrence thereof.

392.Cleansing and disinfecting of buildings –

(1)If the Municipal Commissioner or the Executive Officer is of the opinion that the owner, or occupier of any building suffers due to filthy or unwholesome circumstances, he may, by a notice, require him within twenty four hours to cleanse the same or otherwise put it in a proper state and thereafter to keep it in a clean and proper state and if it appears to be necessary for sanitary purpose so to do, may at any time, by notice direct the occupier

of any building to lime-wash or otherwise cleanse the said building inside and outside in the manner and within the period to be specified in the notice.

(2)If the Municipal Commissioner or the Executive Officer is of opinion that the cleansing or disinfecting of a building or any part thereof, or any article therein, would retain infection and prevent or check the spread of any disease, he may, by a notice, require the owner or occupier to cleanse or disinfect the same in the manner and within the period to be specified in the notice.

393.Area improvement scheme.- If the municipality, based upon information in its possession in respect of any built-up area within the municipal area, is satisfied that –

(a)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 narrowness or bad arrangement of the streets or want of light, air,

ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of that area, or

(b)because of bad layout or obsolete or undesirable dwellings, renewal of such area is necessary, or

(c)there is need to create new or improved means of communication and facilities for traffic, and that the most satisfactory method of remedying these defects is to prepare an area improvement scheme in respect of such area,

it may pass a resolution so to do.

Explanation – For the purposes of this section and section 394, the expression "built-up area" shall mean an area which, in the opinion of the Standing Committee, is densely built-up.

394.Matters to be provided in area improvement scheme. An area improvement scheme may provide for all or any of the following matters, namely:-

(a)laying out, or relaying out, land, either vacant or already built upon,

(b)filling up, or reclamation, of low lying ,swampy or unhealthy areas or leveling up of land,

(c)redistribution of sites belonging to owners of property comprised in the scheme,

(d)reconstitution of plots,

(e)construction or reconstruction of buildings,

(f)restriction on the erection or re-erection of any building or any class of buildings,

(g)imposition of conditions and restrictions in regard to the open spaces to be maintained around any building, percentage of built-up area for a plot, number, height and character of buildings allowed in specified areas, sub-division of plots, discontinuance of objectionable uses of land or building in any area for specified periods, parking spaces and loading and unloading spaces for any building and advertisement signs,

(h)closure or demolition of buildings or portions of buildings unfit for human habitation,

(i)demolition of objectionable buildings or portions thereof,

(j)laying out of new streets or roads and construction, diversion, extension, alteration, improvement and closing up of streets or roads and other means of communication,

(k)regular lines of streets and prohibition of buildings within the regular lines of streets,

(l)construction, alteration and removal of bridges and other structures,

(m) provision for traffic engineering schemes, street lighting, street furniture and other conveniences,

(n)provision for water-supply, sewerage, surface or sub-soil drainage and sewage disposal,

(o)provision for open spaces,

(p)preservation and protection of objects of historical importance or of national interest or of natural beauty and of buildings actually used for religious purposes, and

(q)any other matter not inconsistent with the provisions of this Act and for which, in the opinion of the municipality, it is expedient to make provisions with a view to improving the area to which the scheme relates.

395.Submission of area improvement scheme to municipality and State Government-

(1)Every area improvement scheme shall, as soon as may be after it has been prepared, be submitted for approval by the Municipal Commissioner or the Executive Officer to the municipality which may either approve the scheme without modifications or with such modifications as it may consider necessary, or reject the scheme with directions to the Municipal Commissioner or the Executive Officer to have a fresh scheme prepared according to such directions.

(2)No area improvement scheme approved by the municipality under sub-section (1), which involves acquisition of land and provision of funding support from the State Government, shall be valid unless it has been approved by the State Government.

396.Re-housing scheme- While preparing an improvement scheme under this chapter for any area, the Municipal Commissioner or the Executive Officer may also prepare a scheme (hereinafter referred to in this Act as re-housing scheme) for the construction, maintenance and management of such

buildings as he may consider necessary for providing accommodation for persons who are likely to be displaced by the execution of the area improvement scheme.

397.Area improvement scheme and re-housing scheme to comply with structure plan- No area improvement scheme or re-housing scheme prepared under this chapter shall be valid unless such scheme is in conformity with the provisions of the structure plan, if any, for the municipal area.

Explanation– ***"Structure Plan"*** shall mean a plan which provides a broad strategic framework for preparation of subsequent local plans and takes into consideration the regional context, the transportation linkages and the issues relating to employment, shelter and environment.

398.Execution of area improvement scheme- Any area improvement scheme prepared under this chapter may be executed by the municipality itself or by such person or authority as the Standing Committee may select under chapter XXIII.

399.Power to acquire land and building for area improvement scheme- Subject to the provisions of this Act, the municipality may require acquisition of any land or building, whether situated in the municipal area or not, for the purpose of –

(a)opening out any congested or unhealthy area or otherwise improving any portion of municipal area, or

(b)erecting sanitary dwellings for working and poor people, or

(c)executing any development plan or scheme for the benefit of persons residing in the municipal area.

400.Power of municipality to define and to alter limits of slum- The municipality may define the external limits of any slum and may, from time to time, alter such limits.

401.Slum improvement scheme -

(1)Notwithstanding anything contained in any other law for the time being in force, the municipality may, with the approval of the State Government, take up survey and prepare such improvement scheme for the purpose of effecting environmental or general improvement of slums as it may consider necessary, and publish a copy of such scheme in such manner as may be prescribed.

(2)The slum improvement scheme may provide for all or any of the following matters:-

(a)water-supply including sinking of tube-wells, laying of water pipelines, installation of overhead reservoirs,

(b)drainage and sewerage including connections with any existing channel or sewer main or laying or diverting of drains,

(c)conversion of service privies into septic tank privies or water-borne privies connected with sewer mains,

(d)flushing arrangements for privies and urinals,

(e)sewage and garbage removal,

(f)raising, lowering or leveling of land and improvement of pathways and passages,

(g)lighting including laying of cables or overhead lines,

(h)land tenure and housing;

(i)social security;

(j)education;

(k)health;

(l)livelihoods;

(m) such other matters as may be considered necessary for carrying out the purposes of this chapter.

(3)While approving any slum improvement scheme, the State Government shall take into account the activities of other agencies or authorities affecting all or any of the matters referred to in sub-section (2).

402.Acquisition of right of user –

(1)If, at any time, it becomes necessary to acquire the right of user in any land in or around any slum for the purpose of implementing any improvement scheme in respect of such

slum, the State Government may, on the recommendations of the municipality in this behalf, declare, by notification, its intention to acquire such right, and invite suggestions or objections from persons likely to be affected thereby within such time as may be specified in the notification.

(2)Every suggestion or objection received under sub-section (1) shall be heard by the Municipal Commissioner or the Executive Officer after giving an opportunity to make personal representations, if any.

(3)The Municipal Commissioner or the Executive Officer shall submit a report to the Standing Committee after the hearing under sub-section (2) and after making such enquiry in this behalf as he may consider necessary.

(4)After considering the views of the Standing Committee, the State Government may, by notification, declare that the right of user in such land shall be acquired.

(5)With effect from the date of publication of the notification under sub-section (4), the right of user in such land shall vest in the municipality, free from all encumbrances.

403.Work to be executed in slum. Notwithstanding anything contained in the foregoing provisions of this chapter, the Municipal Commissioner or the Executive Officer may, for reasons of environmental sanitation, cause the following works to be executed in any slum: -

(a)sinking of tube-wells inside the slum area including laying of water-pipe lines, installation of overhead reservoirs,

(b)laying of drains or diversion of existing drains,

(c)conversion of service privies into connected privies or septic tanks,

(d)appurtenances necessary to maintain flushing arrangements of privies and sewers,

(e)removal of silt from sewers and sludge from septic tanks,

(f)removal of solid or liquid wastes including cleansing of the deck or squatting platform of the connected privies, or septic tanks,

(g)laying of internal roads,

(h)provision of street lighting, and

(i)repair work relating to any of the works referred to in clauses (a) to (f).

404.Power of Government to require municipality to prepare a Master Plan-

(1)Notwithstanding anything contained in this Act, the State Government may, by notification, require the municipality to prepare and submit to the State

Government before a specified date a Draft Master Plan in respect of the municipality.

(2)The Master Plan shall consist of the localities, wards, streets and portions of streets reserved for residential, commercial, industrial, public and agricultural purposes.

(3)The manner of sanctioning the Master plan and its revision shall be as prescribed by the state government.

(4)The State Government may direct the Chief Town Planner or other Consultants to prepare the Master Plan, if

(a)within the period specified or within such period which the Government has extended, no Master Plan has been prepared; or.

(b) at any time the Government is satisfied that the municipality is not taking steps necessary to prepare such Master Plan within that period, and

(c)where by virtue of the forgoing provisions of this Act, a Master Plan is to be prepared.

(5) After preparation of the draft Master Plan, the Chief Town Planner shall submit the same to the State Government.

(6) All expenses incurred under this section in connection with the preparation of Master Plan for the municipality shall be met by the municipality.

Chapter 38
Public Streets

General Powers

405.Municipal Streets Technical Committee. -

(1)The municipality shall constitute a Municipal Streets Technical Committee with the following elected members, namely:-

(a)in the case of a Municipal Corporation, seven councillors chosen by the Council,

(b)in the case of a Class 'A' Municipal Council, five councillors chosen by the Council, and

(c)in the case of a Class 'B' Municipal Council or a Nagar Panchayat, three councillors chosen by the respective Council.

(2)In addition to the members mentioned in sub-section (1), the Municipal Streets Technical Committee shall also have five other members, namely:-

(a)the Municipal Commissioner or the Executive Officer who shall be the convener of the Committee,

(b)the Municipal Engineer,

(c)a police officer to be nominated by the Superintendent of Police of the District concerned, and

(d)two officers having responsibility for fire services and preparation of development plans for the municipal area, to be nominated by the State Government either from amongst the officers of the municipality or from the officers of the concerned State Government Departments or any authority under any law for the time being in force or any technical persons having special knowledge of urban transport and traffic.

(3)The term of the Municipal Streets Technical Committee shall be such as may be specified by the Mayor or Chairperson, and a new Municipal Streets Technical Committee shall be constituted before the expiry of the term of the existing Municipal Streets Technical Committee.

(4)The Municipal Streets Technical Committee shall meet at least once in a month.

(5)The Municipal Streets Technical Committee shall, in order to secure the expeditious, convenient and safe movement of traffic, including pedestrian traffic, and suitable and adequate parking facilities on and off the public streets, and having regard to, -

(a)the desirability of securing and maintaining reasonable access to premises,

(b)the effect on the amenities of any locality affected, and

(c)any other relevant matter referred to it by the municipality,

aid, advise and assist the municipality in the following matters, namely:-

(j) classification of public streets and specification of width thereof,

(ii) prescription of regular line of street,

(iii) regulation of land uses abutting the streets,

(iv) regulation of traffic,

(v) designation of on-street parking areas,

(vi) allocation of rights of way for underground utilities,

(vii)placement of street furniture,

(viii)placement of authorized fixtures on streets, such as electric and telegraph poles, post-boxes, telephone junction boxes, sheds for buses, and milk booths,

(ix) opening of new public streets,

(x) permanent or temporary closure of existing public streets,

(xi) declaring private streets as public streets, and

(xii)any other matter that may be referred to it by the municipality.

(6)The Municipal Streets Technical Committee shall make recommendations to the municipality on any matter in conformity with the structure plan, or area improvement scheme under section 393 or rehousing scheme section 396 as the case may be, or any other development and improvement scheme prepared by any competent authority under any law for the time being in force, and shall take into account such plans, proposals, surveys, studies and supporting technical data on such matter as might be in the possession of the municipality or any planning or development authority or any Department of the State Government or any such competent authority.

Explanation. – "Structure Plan" shall have the same meaning as in the explanation below section 397.

(7)The Municipal Streets Technical Committee may call for any record, document, map or data from the municipality or any planning or development authority or any Department of the State Government or any other authority under any State law for the time being in force, and, thereupon, it shall be the duty of such Department or authority to comply with such requisition.

(8)The municipality shall consider the recommendations of the Municipal Streets Technical Committee and take such decision thereon as it thinks fit after taking into account plans, proposals, surveys, studies, and supporting technical data, if any, referred to in sub-section (6).

(9)If any doubt arises as to whether the decision under sub-section (8) is in conflict with any plan, scheme or programme of any competent authority under any law for the time being in force, the matter shall be referred to the State Government whose decision thereon shall be final.

406.Classification of public streets. -

(1)The Standing Committee shall classify all public streets in the municipal area into the following categories:-

(a)category I – arterial roads,

(b)category II – sub-arterial roads,

(c)category III – connected roads,

(d)category IV – local roads, and

(e)category V – pedestrian pathways.

(2)The classification shall be done with due regard to the traffic pattern of a public street and the nature and volume of traffic on it, its existing width, and abutting land uses:

Provided that different names of public streets, which constitute essentially parts of a continuous traffic corridor, shall not come in the way of their inclusion in any particular category.

(3)The Standing Committee shall, from time to time, specify the minimum widths of different categories of public streets without regard to the existing widths of such streets as may be included in such categories:

Provided that the minimum width of any public street included in category I or category II or category III or category IV shall be not less than ten meters including the adjoining footpath, if any, and that of a public street included in category V, shall be not less than six meters:
Provided further that such minimum widths may be revised by the Standing Committee from time to time.

(4)The classification of the public streets in different categories may be revised, from time to time.

407.Compulsory provision of footpaths.

(1)The municipality shall ensure, within a reasonable time, and subject to the availability of resources, that all public streets under category I, category II and category III have raised footpaths adjoining such public streets.

(2)Notwithstanding the existing situation, the Standing Committee shall specify different minimum widths for footpaths which are adjacent to the public streets under category I, category II, or category III so as to be not less than one and a half meters on each side in any case:

Provided that more than one minimum width may be specified for the footpath abutting each category of public street so as to provide for different requirements owing to different abutting land uses:

Provided further that while prescribing or revising any regular line of a public street, it shall be stipulated that the specifications of minimum width for footpaths shall be complied with.

(3)The minimum widths referred to in sub-section (2) may be revised by the Standing Committee.

408.Naming and numbering of streets and public places.

(1)The municipality shall –

(a)determine the name or number, by which any street or public place vested in it 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 or some convenient part of such street, the name or number by which it shall be known, and

(c)cause to be put up or painted on boards of suitable size the name of any public place vested in the municipality.

(2)The municipality may, having regard to the hierarchy of the street system, by regulations, specify the norms according to which the streets may be named or numbered.

(3)No person shall destroy, remove, deface, or, in any way, alter any such name or number put up, or paint any name or number different from that put up or painted by order of the municipality.

409.Unique premises number. –

(1)The municipality shall, assign a unique premises number to every premises or part thereof in the municipal area and shall cause to be maintained a register wherein such unique premises number shall be recorded in respect of each such premises.

Explanation. – In this section, the expression "unique premises number" shall mean a number assigned to the premises or part thereof by the municipality in the following manner, namely:-

(a)the first three digits indicating the ward number,

(b)the next three digits indicating the street number,

(c)the next four digits indicating the premises number,

(d)the next three digits indicating the sub-premises number,

(e)the next one digit indicating the code of the building use, such as residential, commercial, industrial or other use, and

(f)the last one digit indicating the code of type of construction.

(2)When the unique premises numbers in respect of premises in any ward of the municipality have been determined, the Municipal Commissioner or the Executive Officer shall notify such unique premises numbers in such manner as may be prescribed.

(3)When, after the unique premises numbers in respect of premises in any ward have been notified under sub-section (2), any person is required under this Act or any other state law for the time being in force to make any application to the municipality for any permission or license or for payment of any tax, or for payment of any dues for any service, or for such other purposes as may be prescribed, the person making the application shall mention in the application the unique premises number assigned under sub-section (1).

410.Rights of way for underground utilities. -Subject to the provisions of the Indian Telegraph Act, 1885, the Indian Electricity Act, 1910, and such other laws as may be notified by the State Government for the purposes of this section, the State Government may, by rules, provide for the following, namely: -

(a)the sanction by the municipality of specific rights of way in the sub-soil of public and private streets in any municipal area for different public utilities including electric supply, telephone or other telecommunication facilities, gas pipes, water-supply, drainage and sewerage, and

underground rail system, pedestrian sub-ways, shopping plazas, warehousing facilities and apparatus and appurtenances related thereto

(b)the levy of any fee or charges under any of the Acts or other laws as aforesaid,

(c)the furnishing to the municipality of maps, drawings and statements which shall enable it to compile and maintain precise records of the placement of the underground utilities in the municipal area,

(d)the fixing of time limit for execution of work and imposing of such conditions in this respect as the municipality may consider appropriate, and

(e)the imposing of penalty in case of delay in the completion of work.

411.Maps of underground utilities. The Municipal Commissioner or the Executive Officer shall cause to be maintained complete survey maps, drawings and descriptions of all underground utilities in the municipal area, and maps of fire hydrants and sewerage man-holes in such form, and in such manner, as may be provided by regulations, and shall ensure the secrecy of the same in conformity with the provisions of any law relating to Right to Information.

412.Power to prohibit use of public streets for certain kinds of traffic.

(1)The municipality may, by notice, in writing, -

(a)prohibit or regulate, either temporarily or permanently, 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 a public street or a portion thereof, the transit of any vehicle of such type, form, construction, weight, emission, or size, or of any vehicle laden with such heavy or unwieldy object as is likely to cause injury to the roadways or any construction thereon, or of any vehicle on the ground of public convenience, except under such conditions as to time, mode of traction or locomotion, use of appliances for the protection of roadways, number of lights and appliances, and other general precautions, and on payment of such charges, as may be specified by the municipality generally or specifically in each case,

(c)prohibit, at all times or during any particular hours, entry of any vehicular traffic from, or exit of such vehicular traffic into, any premises from any particular public street carrying such traffic.

(2)Any notice under sub-section (1) shall, if such notice applies to any particular public street, be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which such notice applies or, if such notice applies generally to all public streets, be advertised.

(3)Notwithstanding anything contained in sub-section (1), the municipality may declare, by notice, in writing, that any pedestrian pathway, or a portion thereof, shall be used as bicycle and pedestrian track.

(4)The notice referred to in sub-section (3) shall be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which the provisions of sub-section (3) apply.

Regular Line of Street

413.Defining regular line of street. –

(1)The municipality may, with due regard to the minimum widths specified for various categories of streets including the footpaths adjoining the same, define the regular line on one or both sides of any public street or portions thereof in accordance with the regulations made in this behalf and may redefine at any time any such regular line:

Provided that before such defining or redefining, as the case may be, the municipality shall, by notice, afford a reasonable opportunity to the residents of premises abutting on such public street to make suggestions or objections with respect to the proposed defined or redefined line of the street and shall consider all such suggestions or objections which may be made within one month from the date of publication of such notice:

Provided further that the street alignment of any public street operative under any law for the time

being in force in any part of the municipal area immediately before the commencement of this Act shall be deemed to be the regular line of such public street defined by the municipality under this sub-section.

(2)The line defined or redefined shall be called the regular line of the 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.

(4)The Municipal Commissioner or the Executive Officer shall maintain a register containing such particulars as may be specified by the municipality in this behalf, with plans attached thereto, showing all public streets in respect of which the regular line of the street has been defined or redefined and containing any other particulars which he may deem necessary.

(5)All such registers shall be open to inspection by any person on payment of such fee, and any extract therefrom may be supplied on payment of such charge, as may be determined by the municipality by regulations.

414.Setting back buildings to regular line of street. -

(1)If any part of a building abutting a public street is within the regular line of that street, the municipality may, whenever it is proposed –

(a)repair, rebuild or construct such building or pull down such building to an extent, measured in cubic meters, exceeding one-half thereof above the ground level, or

(b)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, as respects the additions to, or rebuilding, construction, repair or alterations of, such building, require such building to be set back to the regular line of such 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 reason of any order of the municipality or otherwise, pulled down, the Municipal Commissioner or the Executive Officer may forthwith take possession, on behalf of the municipality, of the portion of the land within the regular line of the street heretofor occupied by such building and, if necessary, clear the same.

(3)Any land taken possession under this section shall be deemed to be part of the public street and shall be vested in the municipality.

415.Compulsory setting back of building to regular line of street-

(1)Where any building or any part thereof is within the regular line of a public street and, in the opinion of the municipality, it is necessary to set back such building or part thereof to the regular line of such street, the Municipal Commissioner or the Executive Officer shall, by a notice served on the owner of such building 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 such street, should not be pulled down and the land within the regular line acquired by the municipality.

(2)If the owner fails to show cause as required under sub-section (1), the Municipal Commissioner or the Executive Officer may, with the approval of the municipality, require the owner, by another notice to be served on him in such manner as may be specified by regulations, to pull down the building or part thereof, which is within the regular line of the street, within such period as may be 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 under sub-section (2), the Municipal Commissioner or the Executive Officer may pull down the same, and all the expenses incurred in so doing shall be payable by the owner and be recoverable from him as an arrear of tax under this Act.

416.Setting forward of building to regular line of street- The municipality may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the regular line of a public street and may require any building to be set forward in the case of reconstruction thereof or of a new construction.

Explanation – For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building, and it shall be deemed to be a sufficient compliance with the permission or the requirement to set forward a building to the regular line of a street, if a wall of such materials and dimensions, as are approved by the municipality, is erected along such line.

417.Acquisition of open land and land occupied by platforms etc., within regular line of street- If any land, whether open or enclosed, not vested in the municipality and not occupied by any building, is within the regular line of a public street or if any platform, verandah, step, compound wall, hedge or fence or some other structure, authorized or not, external to a building abutting on a public street, or a portion of such platform, verandah, step, compound wall, hedge, fence or other structure is within the regular line of such street, the Municipal Commissioner or the Executive Officer may, with the prior approval of the municipality and after giving the owner of such land or building not less than seven clear days notice of his intention so to do, take possession, on behalf of the municipality, of such land with its enclosing wall, hedge or fence, if any, or of such platform, verandah, step, compound wall, hedge, fence or other structure or of any portion thereof 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 a part of the public street and shall be vested in the municipality:

Provided that where the land or the building is vested in the State Government or the Central Government or any agency thereof, the Municipal Commissioner or the Executive Officer shall not take possession thereof without the previous sanction of the State Government or the Central Government, as the case may be.

418.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 regular line of a public street and the municipality is satisfied that the land remaining after the excision of the portion within such line will not be suitable or fit for any beneficial use, it may, at the request of the owner, acquire such land in addition to the land within such line, and such surplus land shall be deemed to be part of the public street and shall be vested in the municipality.

(2)Such surplus land may, thereafter, be utilized for the purpose of setting forward a building under section 416 or for such other purpose as the municipality may deem fit.

419.Compensation to be paid in certain cases of setting back or setting forward of building etc.

(1)A compensation shall be paid by the municipality to the owner of any building or land acquired for a public street under the provisions of section 414, section 415, section 417, or section 418 for any loss which such owner may sustain in consequence of his building or land

being so acquired and for any expense incurred by such owner in consequence of any order made by the municipality.

(2)If, in consequence of any order under section 416 to set forward a building, the owner of such building sustains any loss or damage, compensation shall be paid to him by the municipality for such loss or damage.

(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 such building, belongs to the municipality, the order or permission of the municipality to set forward the building shall be a sufficient conveyance to the said owner of the said land, and the price to be paid to the municipality by the said owner of 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 municipality requires any building to be set forward, the owner of the building is dissatisfied with the price fixed to be paid to the municipality or with any of the terms or conditions of conveyance, the Municipal Commissioner or the Executive Officer 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 to the court of the District Judge having jurisdiction for determination of the price, and the decision of the said court thereon shall be final.

Obstruction on Streets

420.Special provision regarding streets belonging to Central or State Government. –

(1)If any national highway, state highway, or a street is vested in the Central Government or the State Government, as the case may be, -

(a)the municipality shall not, in respect of such national highway, state highway, or street, grant permission to do any act, the doing of which without its permission, in writing, would contravene the provisions of this Act, except with the sanction of the Central Government or the State Government, as the case may be, and

(b)if so required by the Central Government or the State Government, the municipality shall exercise the powers conferred upon it by this Act or any regulations relating to such street.

(2)In the case of roads vested in the State Government, and passing through the municipal area, the municipality shall have control over such roads in so far as permission for temporary occupation thereof and removal of encroachments therefrom are concerned, but the maintenance of such roads shall remain with the State Government.

421.Temporary erection on streets during festivals. -

(1)The Municipal Commissioner or the Executive Officer may grant permission, in writing, for temporary erection of a booth, pandal, or any other structure on any public place on occasions of ceremonies and festivals, on payment of such fee, and on such conditions, as may be determined by the municipality by regulations, and for such period as may be mentioned in the letter of permission:

Provided that no permission shall be given under this section without consulting the Superintendent of Police of the district or any police officer of equivalent rank having jurisdiction over the municipal area.

(2)The person to whom such permission is granted shall fill in the ground and reinstate the same to the satisfaction of the Municipal Commissioner or the Executive Officer within such period as may be mentioned in the letter of permission.

422.Precautions during construction or repair of street, drain or premises- Subject to the terms and conditions as may be specified by regulations, the Municipal Commissioner or the Executive Officer, during construction or repair of any public street or any municipal drain or any premises vested in the municipality, shall

(a)cause the same to be fenced and guarded,

(b)take proper precaution against accident affecting public street or adjoining buildings,

(c)prohibit, without his written permission, the deposit of any building material or the setting up of any scaffolding or any temporary erection on any public street,

(d)close any street wholly or partly to traffic,

(e)provide for necessary diversion of traffic, wherever necessary,

(f)ensure the reinstatement of the public street or restoration of any drain or premises to its original condition, and

(g)take steps for repairing or enclosing of any place which, in his opinion, is dangerous or causing inconvenience to traffic along a street or to persons who have legal access thereto or to the neighbourhood thereof, and recover the costs of such repair works from the owner or the occupier of any such place or premises.

423.Power of municipality in relation to regulation of street- Subject to such terms and conditions as may, from time to time, be specified by regulations, the municipality may –

(a)prohibit or regulate vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or injury to the roadways,

(b)prohibit, at all times or during any particular hours, entry of any vehicular traffic from, or exit of such vehicular traffic into, any premises from any particular public street carrying such traffic,

(c)prohibit tethering of any animal for any purpose in any public street,

(d)prohibit in any street installation of structures or fixtures which may cause obstruction,

(e)prohibit the opening of the ground floor door, gate, bar or window outwards on any street,

(f) prohibit projections upon any street, or drain, or open channel in any street, and

(g)remove anything encroached, erected, deposited or hawked on any public place or public street in contravention of the provisions of this Act.

424.Restoration of municipal properties by public utilities -

(1)Subject to such terms and conditions as may be prescribed, any public utility concern requiring the use of the sub-soil under any municipal street, drain, land or other property for the purpose of laying lines for such utility service such as electric supply or telecommunication, shall obtain permission of the municipality for such use.

(2)At the time of according such permission, the municipality shall, in consultation with such public utility, arrive at the full cost of restoration of the sub-

soil and the surface thereon and obtain an undertaking from the public utility that such restoration shall be done at their cost so as to bring back the property to its original condition to the satisfaction of the municipality within a reasonable time after the completion of the work.

Chapter - 39

Buildings

Procedure

425.Definitions :- In this chapter, unless the context otherwise requires, the expression,

(1)"**to erect a 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 extent above the level of 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 plinth has been pulled down, or

(iii)any frame-building of which more than half of the number of posts or 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 so constructed for human habitation or, if originally so constructed for human habitation, subsequently appropriated for any other purpose,

(d)to convert into more than one dwelling-house a building originally constructed as one dwelling-house only,

(e)to convert into a place of religious worship or into a 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 formed by the roofing or covering of such space,

(g)to convert two or more tenements in a building into a greater or lesser number of such tenements,

(h)to convert into a stall, shop, office, warehouse or godown, workshop, factory or garage any building not originally constructed for use as such, or to convert any building constructed for such use, by sub-division or

addition, into greater or lesser number of such stalls, shops, offices, warehouses or godowns, workshops, factories or garages,

(i)to convert a building, which, when originally constructed, was legally exempt from the operation of any building regulations or any rules made under this Act or in any other law for the time being in force, into a building which, had it been originally erected in its converted form, would have been subject to such building regulations,

(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,

(k)to make any addition to a building, and

(l)to remove or reconstruct the principal staircase of a building or to alter its position;

(m) to erect mobile tower (by whatever name it is called) either on ground or on a building.

(2)"Occupancy" or "use-group" means the principal occupancy for which a building or a part of a building is used or intended to be used, and the occupancy classification shall, unless otherwise spelt out in any development plan or any other improvement scheme under any law for the time being in force, include: -

(a)residential buildings, that is to say, any building in which sleeping accommodation is provided for normal residential purposes with or without cooking facility or dining facility or both, and such building shall include one or two or multi-family dwelling, lodging or rooming houses, hostels, dormitories, apartment houses and flats, and private garages,

(b)educational buildings, that is to say, any building used for school, college or day-care purposes involving assembly for instruction, education or recreation incidental to educational use,

(c)institutional buildings, that is to say, any building or part thereof ordinarily providing sleeping accommodation for occupants and used for the purposes of medical or other treatment or care of persons suffering from physical or mental illness, disease or infirmity, care of infants, convalescents or aged persons and for penal or correctional detention in which the liberty of the inmates is restricted, and such buildings shall include hospitals, clinics, dispensaries, sanatoria, custodial institutions,

and penal institutions like jails, prisons, mental hospitals and reformatories,

(d)assembly buildings, that is to say, any building or part thereof where groups of people congregate or gather for amusement or recreation or for social, religious, patriotic, civic, travel, sports, and similar other purposes, and such buildings shall include theatres, motion picture houses, drive-in-theatres, city halls, town halls, auditoria, exhibition halls, museums, skating rinks, gymnasia, restaurants, eating-houses, hotels, boarding-houses, places of worship, dance halls, club rooms, gymkhanas, passenger stations and terminals of air, surface and other public transportation services, recreation piers, and stadia,

(e)business buildings, that is to say, any building or part thereof used for transaction of business or for the keeping of accounts and records or for similar purposes and such buildings shall include offices, banks, professional establishments, court houses, and libraries for the principal function of transaction of public business and keeping of books and records, and shall also include office buildings (premises) solely or principally used as an office or for office purpose,

(f)mercantile buildings, that is to say, any building or part thereof used as shops, stores or markets for display or sale of merchandise, either wholesale or retail, or for office, storage or service facilities incidental to the sale of merchandise and located in the same building, and such building shall include establishments wholly or partly engaged in wholesale trade, manufacturer's whole-sale outlets (including related storage facilities), warehouses, and establishments engaged in truck transport (including truck transport booking agencies),

(g)industrial buildings, that is to say, any building or structure or part thereof in which products or materials of all kinds and properties are fabricated, assembled or processed as in assembly plants, and such buildings shall include laboratories, power

plants, smoke houses, refineries, gas plants, mills, dairies, factories, workshops, automobile repair garages and printing presses,

(h)storage buildings, that is to say, any building or part thereof used primarily for the storage or sheltering of goods, wares or merchandise as in warehouse, and such buildings shall include cold storages, freight depots,

transit sheds, store houses, public garages, hangars, truck terminals, grain elevators, barns and stables,

(i)hazardous buildings, that is to say, any building or part thereof used for the storage, handling, manufacture or processing of highly combustible or explosive materials or products, which are liable to burn with extreme rapidity or which may produce poisonous fumes or explosions during storage, handling, manufacture or processing or which involve highly corrosive, toxic or noxious alkalis, acids or other liquids or chemicals producing flames, fumes, explosions or mixtures of dust or which result in the division of matter into fine particles subject to spontaneous ignition;

(3)"**Alteration**" means the change from one occupancy to another, or the structural change, such as the addition to any area or height, or the removal of a part of building, or the change to the structure, such as the construction, or cutting into, or removal of, any wall, partition, column, beam, joist, floor, or other support, or the change to, or closing of, any required means of ingress or egress, or the change to any fixture or equipment;

(4)"**Plan**" means a plan prepared by a surveyor, or a draughtsman, or an engineer or an architect licensed by the municipality in accordance with the regulations made by it, who would hereinafter referred as Licensed Architect..

Explanation - For the purposes of classification of a building according to occupancy under clause (2),

(a)an occupancy shall be deemed to include subsidiary occupancies, which are contingent upon such occupancy, and

(b)building with mixed occupancies shall mean those buildings in which more than one occupancy are present in different portions thereof.

(5)"**Economically Weaker Sections**" means such class of persons as may be notified by the appropriate Government from time to time, for the purpose of providing housing.

(6)"**Low Income Group**" means such class of persons as may be notified by the appropriate Government from time to time for the purpose of providing housing.

(7)"**Group Housing**" means Housing for more than one dwelling unit, where land is owned jointly (as in the case of co-operative societies or the public agencies, such as local authorities or housing boards, etc) and the construction is undertaken by one Agency.

(8)"**Plotted Development Scheme**" means the type of development for low income housing shall be plotted development as row housing/flatted development as row housing or a group housing on cluster pattern.

(9)"**Shelter Fee**" means fee levied and collected in lieu of the reservation of land or floor area as the case may be, determined on the basis of the rates notified by the State Government.

(10) "**Floor Area Ratio(FAR)**" means the quotient obtained by dividing the total covered area (plinth area) on all the floors by the area of the plot:

FAR= ——————————— X 100 Total covered area on all floors
Plot area

426.Prohibition of erection without sanction: - No person shall construct, or erect, or commence to construct any building or any structure of a permanent nature or execute any of the work relating to the construction of building including addition, alteration or modification of an existing building in any municipal area, save and except in accordance with building regulation and until approval is accorded by competent authority of the ULB.

427.Sanction of building plan –

(1) No person shall construct, or commence to construct any building or any structure of a permanent nature or execute any work relating to construction of building or undertake any alteration, addition or modification of an existing building, unless the building plan is approved by a licensed architect:

(2) Individual residential building plan on an area of a plot upto 500 Sq.mtr. shall be approved by the Licensed Architect/Post Graduate Civil Engineer. The State Government shall finalize the procedure and rules for this purpose from time to time.

(3) The Building plans under the ULB except those mentioned in sub-para-2 of section 427, shall be approved by the ULB as done before commencement of this Act.

Provided that no Licensed Architect shall approve any building plan unless it is in conformity with building regulations framed by the State Government/ municipality and Master Plan with requisite fee as per building bye-laws to be deposited through bank draft in the ULB.

Provided further that any Licensed Architect, who is found to have approved a building plan in contravention or in deviation of building regulations, shall be liable to pay fine which shall not be less than one lakh rupees or sentence to imprisonment for a period which may extend to one year, or both as prescribed by the state government from time to time.

(4) Notwithstanding anything contained in this Act, the municipality shall also, as prescribed by the State Government, have the authority to sanction the building plan as in case of section 427(2).

(5) Any person who earns as a proprietor or colonizer to establish colony or constructs or gets constructed building as a building contractor or who working as colonizer or building contractor or gets constructed buildings or flats for transfer by sale or otherwise, under a public or Government institution, municipality and development area, shall develop the colony under the provision of this Act as rules and bye-laws framed for this purpose on the following conditions:-

(a) Earmarking of land for urban poor in Plotted Development Scheme:-

(i) In all plotted development schemes of area above one hectare (10,000 sqm) not less than 10% of the gross land (which should not be less than 20% of developed land)area shall be earmarked for economically weaker sections and low income groups. Provided that where the total area of land is between 4000 to 10,000 sqm, either land may be reserved for EWS & LIG or shelter fee as prescribed by the appropriate government, shall be collected as the case may be.

(ii) All plotted development schemes of area below 4000 sqm may be exempted from reservation of land as well as payment of shelter fee.

(iii) The size of the plot reserved for EWS and LIG shall not be less than 30 sqm and 40 sqm respectively and not exceed 48 sqm.

(b) Earmarking of FAR for urban poor in Group Housing Schemes:-

(i) In all group housing schemes of total plot area of 3000 sqm and above, reservation to the extent of 15% of permissible FAR or 35% of the total dwelling units, whichever is higher shall be provided.

(ii) All group housing schemes with plot area below 3000 sqm may be exempted from reservation of floor area as well as payment of shelter fee.

(iii) The carpet area of the dwelling unit reserved for EWS shall not be less than 25 sqm and for LIG it should not be more than 48 sqm (as per Affordable Housing Guidelines) or as prescribed by the appropriate Government.

(c) Identification of Eligible Persons & Determination of Cost of Land/Houses:- (i) A government department/agency of the appropriate Government shall maintain an inventory of all the plots or houses as the case may be reserved for the Economically Weaker Sections (EWS) and the Low Income Groups (LIG) and ensure its protection from encroachment.

(ii) For the allotment of plots or houses to the Economically Weaker Sections (EWS) and the Low Income Group (LIG), the procedure for the selection of

eligible persons and the determination of the cost of such plots or houses shall be such as may be prescribed by the appropriate Government.

(d) Incentives to Developers:-

Ever y developer who makes provision for earmarking of land or floor area as the case may be for EWS and LIG housing shall be incentivized as may be prescribed by the appropriate Government and may include relaxation of density norms, land use concessions through conversion of part of residential use for commercial use, higher Floor Area Ratio, Transferable Development Right, etc. and/or cross-subsidization.

(e) Non-residential Development:-

The appropriate government shall consider levy of suitable fee e.g. impact fee on all non-residential land development/buildings above 1000 sqm to generate resources for the shelter fund which ma y be used for provision of land, housing, basic service etc. to the urban poor.

(f)Limitation of Shelter Fee:-

The Shelter Fee so 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 housing for Economically Weaker Sections (EWS) and Low Income Groups (LIG).

428.Construction of building in contravention of building regulation- Any building or structure of permanent nature which has been constructed or construction has commenced in contravention or breach or deviation of building regulation shall be liable to be demolished.

Provided that the owner or occupier or any person responsible for construction of a building or structure of permanent nature or commencement of construction in contravention, breach, or deviation of building regulation shall further be liable to pay a penalty of minimum of one lakh rupees which may extend up to ten lakhs rupees, depending upon size of the building or structure and extent of deviation: Provided further that the penalty under this section shall be in addition to

any other fine provided under this Act including fine for compounding as may be provided under building regulation.

429.Building plan approved by Licensed Architect to be submitted to Municipal Commissioner or the Executive Officer -

(1)Every Licensed Architect, who approves a map of individual residential building plan on a plot upto 500 Sq.mtr shall within fifteen days from approving the plan submit details of construction plan along with approval granted by him to the Municipal Commissioner or the Executive Officer.

(2)On receipt of approved building plan from the Licensed Architect, the Municipal Commissioner or the Executive Officer may inquire and verify and satisfy himself that the building construction plan conforms to building regulation and other parameters required under building bye-laws framed under this Act and if it is found non confirming to building bye-laws, it would be liable for necessary action by the ULB, that includes cancellation of the approval given by the Architect.

(3)If Municipal Commissioner or the Executive Officer, on such inquiry or verification finds that the building or structure of permanent nature construction plan has been approved by the Licensed Architect in contravention, breach or deviation of building regulation, Fire safety standard norm, standard of Master Plan or other parameters under this Act, he shall immediately stop construction work and proceed to take action against owner, occupier or any person responsible for construction of such building in contravention, breach or deviation of building regulation and other parameter and shall also proceed to take action against the Licensed Architect, who approved such building construction plan.

430.Deviation in construction of building within permitted level – If any building or structure of permanent nature has been constructed or commenced to construct after duly approved building construction plan, is found to have deviated from approved construction plan within permitted level deviation, the Municipal Commissioner or the Executive Officer shall not order for its demolition:

Provided that the Municipal Commissioner or the Executive Officer shall proceed to realize such fine or penalty as is prescribed under this Act or rules, regulation or building regulation as the case may be: Provided further that deviation within permitted level shall not be a ground to prosecute the licensed architect.

431.Periodic Inspection of construction activity -

(1)Every licensed architect, who has approved a map of individual residential building plan on a plot upto 500 Sq.mtr shall periodically inspect construction of such building or structure of permanent nature approved by him, as prescribed by the State Government, and if he is satisfied that the construction of the building is in breach or violation of building construction plan approved by him, he shall immediately report to the Municipal Commissioner or the Executive Officer of such violation and this shall be his responsibility.

(2)On receipt of information of construction in breach or violation of approved building construction plan from the licensed architect, the Municipal Commissioner or the Executive Officer shall forthwith stop or cause to stop the construction of such building and shall proceed to take such action against the erring person including

demolition of erected building or structure as is permitted under this Act or rule or building regulations.

(3)It shall be open to the Municipal Commissioner or the Executive Officer to himself inspect or cause an inspection by such other officer or employee of the municipality duly authorized by him and on such inspection if he is satisfied that building or structure is being constructed in breach or violation of approved building construction plan or building regulation or other parameters under this Act, he shall proceed to take such action as is permitted under this Act, Rule, Regulation.

432.No action to be taken without affording opportunity -

(1)The Municipal Commissioner or the Executive Officer shall not pass any adverse order against the owner, occupier or any person responsible for construction of a building or structure of permanent nature in breach or violation of approved building construction plan or any breach or contravention of building regulation or other parameters under this Act unless the person concerned has been afforded opportunity against such adverse order to be passed by the Municipal Commissioner or the Executive Officer.

(2)The Municipal Commissioner or the Executive Officer shall not pass any adverse order against any licensed architect. without affording opportunity of hearing to him.

(3)It shall be open to the Municipal Commissioner or the Executive Officer to pass an order stopping construction activity of a building or structure of permanent nature in breach or contravention of approved construction plan or building regulation and other parameters under this Act pending final decision by him.

433.Pending sanction of building construction plan - All building construction plans, which are pending for approval by respective ULBs of the State on or before commencement of this Act, shall with effect from enforcement of this Act be dealt with in the manner prescribed herein above.

434.Framing of Building Regulation -

(1)The State Government shall frame building regulation for the municipalities:

Provided that State Government may frame one building regulation for all the municipalities or separate regulation for separate municipalities.

(2)Building regulation framed by the State Government shall be enforceable from the date it is published in Official Gazette.

(3)It shall be open to municipalities to introduce such modification, addition or alteration in the building regulation, framed by the State Government consistent with specific requirement of such municipalities:

Provided that any such modification, addition or alteration in the regulation introduced by the municipality shall not be enforceable unless it is approved by the State Government: Provided further that if State Government does not communicate its decision within ninety days from the receipt of modified regulation from the municipality, it shall be deemed on the expiry of ninety days to have been approved by the State Government.

435.Municipalities to maintain Register of Licensed Architects -

(1)Every municipally shall maintain a register of Licensed Architects, who shall be considered as authorized architects to approve a map of individual residential building plan on a plot upto

500 Sq.mtr for construction of buildings or for undertaking alterations, additions or modifications to the existing buildings..

(2)Every Licensed Architect desirous of getting his name included in register of municipality shall make an application to the Municipal Commissioner or the Executive Officer along with a fee of five thousand rupees.

(3) The municipality shall prescribe qualifications and other requirements to license an architect.

(4)On such application being made, the Municipal Commissioner or the Executive Officer on being satisfied that the applicant is eligible to be licensed as architect, shall cause his name to be entered in the register of Licensed Architects of the municipality.

(5)Every Licensed Architect who is or was registered/empanelled with any of the Development Authorities of the State on or before commencement of this Act shall be deemed to be Licensed Architect of a municipality for a period of six months from the commencement of this Act:

Provided that every Architect whether or not registered/empanelled with any Development Authorities of the State on or before commencement of this Act, shall make application to the Municipal Commissioner or the Executive Officer within six months, failing which he shall cease to be a Licensed Architect. For providing license to the

Architects, general notice shall be published in the daily newspaper and ULB notice board.

Provided further that six months after commencement of this Act, only such Architects shall be entitled to approve building construction plan whose name is registered in the register of Licensed Architects of the municipality.

(6)Validity period of license of Licensed Architects shall be two years which can be renewed on submission of license fee as per sub-clause (2) above.

436.Order of demolition and stoppage of buildings or works in certain cases and appeal:-

(1)Where the erection of any building or the execution of any work has been commenced, or is being carried on, or has been completed without, or contrary to, the approval referred to in section 427, or in contravention of any of the provisions of this Act or the rules or the regulations made thereunder, the Municipal Commissioner or the Executive Officer 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 the work has been commenced or is being carried on or has been completed, within such period, not being less than five days and more than fifteen 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 such person, as may be specified in the order :

Provided that no order of demolition shall be made unless such person has been given, by means of a notice served in such manner as the Municipal Commissioner or the Executive Officer may think fit, an opportunity of showing cause why such order shall not be made: Provided further that where the erection of any building or the execution of any work has not been completed, the Municipal Commissioner or the Executive Officer 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 such person to stop the erection of such building or the execution of such work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (3).

Explanation. - In this chapter, “the person at whose instance” shall mean the owner, or the occupier, or

any other person who causes the erection of any building or the execution of any work, including alterations or additions, if any, to be done, or does it by himself.

(2)The Municipal Commissioner or the Executive Officer may make an order under sub-section (1), notwithstanding the fact that the assessment of such building has been made for the levy of the property tax on lands and buildings.

(3)Any person aggrieved by an order of the Municipal Commissioner or the Executive Officer under sub-section (1) may, within thirty days from the date of the order, prefer an appeal against the order before the Building Tribunal.

(4)Where an appeal is preferred under sub-section (3) against an order under sub-section (1), the Municipal Building Tribunal referred in section 442 may stay the enforcement of the order on such terms, if any, and for such period, as it may think fit:

Provided that where the erection of any building or the execution of any work has not been completed at the time of the order under sub-section (1), no order staying the enforcement of the order under that sub-section shall be made by the Municipal Building Tribunal unless a surety, sufficient in the opinion of that Tribunal has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(5)Save as provided in this section, no Court shall entertain any suit, application or other proceeding for injunction or other relief against the Municipal Commissioner or the Executive Officer to restrain him from taking any action, or making any order, in pursuance of the provisions of this section.

(6)Every order made by the Municipal Building Tribunal on appeal and, subject to such order, every order made by the Municipal Commissioner or the Executive Officer under sub-section (1), shall be final and conclusive.

(7)Where no appeal has been preferred against an order made by the Municipal Commissioner or the Executive Officer under sub-section (1) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, 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 appeal, and, on the failure of such person to comply with the order within such period, the Municipal Commissioner or the Executive Officer may himself cause the building or the work to which the order relates to be demolished, and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

(8)Notwithstanding anything contained in this chapter, if the Standing Committee is of the opinion that immediate action is called for in relation to a building or a work being carried on in contravention of the provisions of this Act, it may, for reasons to be recorded in writing, cause such building or work to be demolished forthwith.

437.Order of stoppage of building or work in certain cases:-

(1)Where the erection of any building or the execution of any work has been commenced or is being carried on without, or contrary to, the approval referred to in section 427 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provisions of this Act or the rules or the regulations made thereunder, the Municipal Commissioner or the Executive Officer 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)

(a)Notwithstanding anything contained elsewhere in this Act or in any rules or regulations made thereunder, no owner of any building, and no person engaged in the construction of any building on behalf of the owner thereof, shall allow storage or stagnation of water in the site for the construction of such building and every such owner or every such person, as the case may be, shall completely empty all collections of such water at least once in a week;

(b)Where the construction of a building is carried on in contravention of the provisions of clause (a), the Municipal Commissioner or the Executive Officer may, in addition to any other action that may be taken under this Act, by order, in writing, require the person at whose instance such storage or stagnation of water in the site for the construction of the building is made, to stop forthwith any further construction of the building, and such order shall remain in force till the person as aforesaid complies with the requirements of the order as aforesaid, to the satisfaction of the Municipal Commissioner or the Executive Officer.

(3) If an order by the Municipal Commissioner or the Executive Officer under clause (b) of sub-section (2) directing any person to stop the construction of any building is not complied with, the Municipal Commissioner or the Executive Officer may take such measures as he deems fit or 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 by the Municipal Commissioner or the Executive Officer, and the police officer shall comply with such requirement.

(4)If an order by the Municipal Commissioner or the Executive Officer under section 436, or under sub-section (1) of this section, directing any person to stop the erection of any building or the execution of any work, is not complied with, the

Municipal Commissioner or the Executive Officer may take such measures as he deems fit or 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 by the Municipal Commissioner or the Executive Officer, and the police officer shall comply with such requirements.

(5)No Court shall entertain any suit, application or other proceeding for injunction or other relief against the Municipal Commissioner or the Executive Officer to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(6)On the compliance with the requirement under sub-section (5), the Municipal Commissioner or the Executive Officer may, if he thinks fit, depute, by an order, in writing, a police officer or an officer or other employee of the municipality to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued.

(7)Where a police officer or an officer or other employee of the municipality has been deputed under sub-section (6) to watch the premises, the cost of such deputation, to be determined by the municipality by regulations, shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section (1) has been given, and shall be recoverable from such person as an arrear of tax under this Act.

438.Construction of building in contravention of the provisions of the Act or the rules made thereunder:-

(1)Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force, any person, who, being responsible, by himself or by any other person on his behalf, so constructs, or attempts, or conspires to so construct, any new building or additional floor or floors of any building, in contravention of the provisions of this Act or the rules made thereunder, as endangers, or is likely to endanger, human life, or any property of the municipality, whereupon the water supply, drainage or sewerage or the road traffic is disrupted or is likely to be disrupted or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to fifty thousand rupees.

Explanation. - "Person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier, or a servant or agent of an owner, occupier, lessee, mortgagee, consultant, promoter or financier, who supervises, or causes the construction of, any new building or additional floor or floors of any building as aforesaid.

(2)The offence under sub-section (1) shall be cognizable and non-bailable within the meaning of the Code of Criminal Procedure, 1973.

(3)Where an offence under sub-section (1) has been committed by a company, the provisions of section 610 shall apply to such company.

Explanation. - "Company" shall have the same meaning as in the Explanation to section 610

439.Power of Municipal Commissioner or the Executive Officer to require alteration of work:-

(1)The Municipal Commissioner or the Executive Officer may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, suo-moto/special complaint or during inspection, by notice, in writing, specify any matter in respect of which such erection or execution is without, or contrary to, the approval referred to in section 427 or is in contravention of any condition of such approval or of any of the provisions of this Act or the rules or the regulations made thereunder and require the person who gave the notice or the owner of such building or work either –

(a)to make such alterations as may be specified by the Municipal Commissioner or the Executive Officer in the notice with the object of bringing the building or the work in conformity with such approval or such condition of such approval or the provisions of this Act or the rules or the regulations made thereunder, or

(b)to show cause, within such period as may be stated in the notice, why such alterations should not be made.

(2)If such person or such owner does not show any cause as aforesaid, he shall be bound to make the alterations specified in the notice.

(3)If such person or such owner shows the cause as aforesaid, the Municipal Commissioner or the Executive Officer shall, by order, either cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he thinks fit.

440.Completion certificate:-

(1)Every person giving a notice or every owner of a building or work to which such notice relates shall, within one month after the completion of erection of such building or execution of such work, deliver or send or cause to be delivered or sent to the Municipal Commissioner

or the Executive Officer a notice, in writing, of such completion accompanied by a certificate in the form specified in the rules and

regulations made in this behalf and shall give to the Municipal Commissioner or the Executive Officer all necessary facilities for inspection of such building or work.

(2)No person shall occupy, or permit any other person to occupy, any such building or use, or permit any other person to use, any building or a part thereof affected by any such work until permission has been granted by the Municipal Commissioner or the Executive Officer in this behalf in accordance with the rules and the regulations made under this Act:

Provided that if the Municipal Commissioner or the Executive Officer fails, within a period of thirty days of receipt of the notice of completion, to communicate his refusal to grant such permission, such person may make a representation in writing to the Mayor or the Chairperson concerned.

Municipal Building Code

441.Power of State Government to make building code and to classify municipal areas for the purpose of application of building code:-

(1)The State Government shall prepare a Code to be called the Municipal Building Code containing rules providing for –

(a)the regulation or restriction of the use of sites for buildings,

(b)the regulation or restriction of buildings, and

(c)compliance with the provisions of any law relating to urban land ceiling or urban land use planning.

(2)Without prejudice to the generality of the foregoing power, such Code may provide for all or any of the following matters :-

(a)information and plans to be submitted together with application under any of the provisions of this chapter,

(b)requirements of sites,

(c)means of access,

(d)development of land into land sub-division and layout,

(e)land use classification and uses,

(f)open space, area and height limitations,

(g)parking spaces,

(h)requirements of parts of building plinth, habitable room, kitchen, pantry, bathroom, water closet, loft, ledge, mezzanine floor, store-room, garage,

roof, basement, chimney, lighting and ventilation of room, parapet, wells, septic tanks, and boundary wall,

(i)provision of lifts,

(j)exit requirements including doorways, corridors, passageways, staircases, ramps and lobbies,

(k)fire protection requirements,

(l)materials and designs for interior decoration,

(m)

special requirements of occupancies for residential building, educational building, institutional building, assembly building, business building, mercantile building, industrial building, storage building and hazardous building

(including those for assembly, movement, parking, loading, unloading, public conveniences, water-supply and vendors plazas),
(n)structural design,
(o)quality of materials and workmanship,
(p)alternative materials, methods of design, construction and tests,
(q)building services including electric supply and such supply from non-conventional sources of energy, air-conditioning or heating, and telecommunication systems,
(r)water-supply, water harvesting, and plumbing services,
(s)rain water harvesting,
(t)recycle and reuse of waste water,
(u)signs and outdoor display structures,
(v)special requirements for building in the hill areas,
(w) special requirements of access for handicapped persons,
(x)protection against natural disasters including earthquakes and cyclones and technological disasters, and
(y)any other matter considered necessary in relation to building activities.

(3)The State Government may, by notification, exempt any municipal area or any group of municipal areas from the operation of all or any of the provisions of this chapter or the rules made under this section.

(4)While such exemption under sub-section (3) remains in force in any municipal area or group of municipal areas, the State Government may make rules consistent with the provisions of this chapter for application to such municipal area or group of municipal areas.

(5)In case of, acquisition of land for Public Welfare Schemes such as Roads, Drains, Parks and Community buildings etc. Tradable Development Right (TDR) certificate and extra FAR may be provided to the effected persons by the ULB after obtaining the permission of the State Government.

Municipal Building Tribunal

442.Municipal Building Tribunal:-

(1)The State Government may appoint one or more Municipal Building Tribunals (hereinafter referred to in this section as the Tribunal) as may be considered necessary to hear and decide appeals arising out of matters referred to in chapter XXXIX in accordance with such procedure, and to realize such fees in connection with such appeals, as may be prescribed.

(2)Each Tribunal shall consist of a Chairperson and two other members.

(3)The Chairperson shall be appointed by the State Government from the persons, who are or have been members of the State Superior Judicial Service,

(4)The State Government shall appoint other two members of the Tribunal, one of whom may be a Town Planner not below the rank of Assistant Town Planner and other may be a Civil Engineer or Architect having minimum fifteen years experience:

Provided that a councillor or a person who is or has been an officer or other employee of the municipality shall not be eligible for appointment as a member of the Tribunal

(5)The Chairperson and the other members of the Tribunal shall hold office during the pleasure of the Governor and shall be paid from the municipal fund and their terms and conditions shall be as prescribed by the State Government.

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(6)The State Government may, if it thinks fit, remove for reason of incompetence or misconduct for any other good or sufficient reason the Chairperson or any other member of the Tribunal.

(7)The Tribunal shall have such officers and other employees, appointed on such terms and conditions, as may be prescribed, and the expenses of the Tribunal shall be paid out of the Municipal Fund.

(8)The provisions of Part II and Part III of the Limitation Act, 1963, relating to appeals shall apply to every appeal preferred under this section.

(9) No court shall have jurisdiction in any matter for which provision is made in this chapter for appeal to the Tribunal.

General Powers

443.Building at corners of streets:-

(1)Notwithstanding anything contained in this Act or the rules and the regulations made thereunder or of any other law for the time being in force, the Municipal Commissioner or the Executive Officer may, in the case of any building which is intended to be erected at the corner of two streets, -

(a)refuse sanction for such reasons as may be recorded in writing, or

(b)impose restrictions on its use, or

(c)place special conditions concerning exit to, or entry from, any street, or

(d)require it to be rounded off or splayed or cut off to such height and to such extent as he may determine, or

(e)acquire such portion of the site at the corner as he may consider necessary for public convenience or amenity:

Provided that nothing shall be done in any case under the provisions of this sub-section without scrutiny of such case and without prior approval of the Standing Committee, in accordance with the provisions of this chapter.

(2)The Municipal Commissioner or the Executive Officer may, by order, in writing, require any alteration, corresponding to any of the provisions in clauses (b) to (e) of sub-section (1), to be made to any building completed before the commencement of this Act.

444.Provision as to building and work on either side of new street or near fly- over or transportation terminal:-

(1)The sanction to the erection of any work on either side of a new street may be refused by the Municipal Commissioner or the Executive Officer unless and until such new street has been leveled, and, in the opinion of the Municipal Commissioner or the Municipal Commissioner or the Executive Officer, wherever practicable, metalled or paved, drained, lighted and laid with a water main, to his satisfaction.

(2)The sanction to the erection of any such building or the execution of any such work may be refused by the Municipal Commissioner or the Executive Officer, if

such building or any portion thereof or such work comes within the regular line of any street, the position and direction of which have been laid down by the Municipal Commissioner or the

Executive Officer but which has not been actually erected or executed, or if such building or any portion thereof or such work is in contravention of any building plan or any other scheme or plan prepared under this Act or any other law for the time being in force.

(3)The Municipal Commissioner or the Executive Officer may refuse permission for the erection or re-erection of any building which, when completed, will be within such distance from a fly-over or over bridge or transportation terminal or other construction as may be provided by rules or regulations made in this behalf.

445.Provision against use of inflammable material for building etc. without permission:-

(1)No roof, verandah, pandal or wall of a building or no shed or fence shall be constructed or reconstructed of cloth, grass ,leaves, mats or other inflammable materials except with the permission, in writing, of the Municipal Commissioner or the Executive Officer, nor shall any such roof, verandah, pandal, wall, shed or fence, constructed or reconstructed in any year, be retained in a subsequent year except with the fresh permission obtained in this behalf.

(2)Every permission under sub-section (1) shall expire at the end of the year for which it is granted.

(3)The Municipal Commissioner or the Executive Officer may regulate the use of materials, design or construction or other practices for interior decoration in accordance with the rules and the regulations made in this behalf.

446.Power to regulate future construction of buildings in particular streets or localities:-

(1)The Municipal Commissioner or the Executive Officer may, subject to the prior approval of the Standing Committee, give notice of his intention to declare-

(a)that in any street or portion thereof specified in such notice, the elevation and construction of the frontage of all buildings or any classes of buildings erected or re-erected after such notice shall, in respect of their architectural features, be such as the Standing Committee, may, consider suitable to the locality, or

(b)that in any locality specified in such notice, there shall be allowed the erection of only detached or semi-detached building or both and that the

land appurtenant to each such building shall be of an area, being not less than that specified in such notice, or

(c)that the division or sub-division of building plots in a particular locality shall be of a minimum specified area, or

(d)that in any locality specified in the notice, the construction of more than a specified number of buildings on each acre of land shall not be allowed, or

(e)that in any street, portion of a street, or locality, specified in such notice, the construction of any one or more of the different classes of buildings (such as residential, educational, institutional, assembly, business, mercantile, industrial, storage, and hazardous buildings) shall not be allowed without the special permission of the Standing Committee.

(2)The Standing Committee, shall consider all suggestions or objections, received within a period of three months of the publication of such notice, and may confirm the declaration, or may modify it, so, however that the effect of such notice is not extended.

(3)The Municipal Commissioner or the Executive Officer shall publish any declaration so confirmed or modified in the Official Gazette and the declaration shall take effect from the date of such publication.

(4)No person shall, after the date of publication of such declaration, erect or re-erect any building in contravention of such declaration.

(5)The Standing Committee shall ensure that such declaration is in conformity with the provisions of any State law relating to urban land use planning.

447.Power to stop excavation:- If, during excavation or any other operation for the purpose of construction of any building or execution of any work, any of the underground utilities (such as electric or telephone cables, water-supply, drainage and sewerage mains, and gas pipes) is touched or is likely to be touched, or if the Municipal Commissioner or the Executive Officer is of opinion that such excavation may cause danger to the public, the Municipal Commissioner or the Executive Officer may, by order, in writing, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.

448.Power to require alteration of existing buildings:- The Municipal Commissioner or the Executive Officer may, with a view to promoting convenience, safety, privacy of the public or the occupier, or sanitation or to securing conformity with the provisions of this Act and the

regulations made thereunder, by order, in writing, require the owner of any existing building to make such alterations therein, and within such period, as may be specified in the order:

Provided that before making any such order, the Municipal Commissioner or the Executive Officer shall afford a reasonable opportunity to the owner to show cause why such order should not be made.

449.Power to order removal of dangerous buildings:-

(1)If any wall or building, or anything affixed thereto, is deemed by the Municipal Commissioner or the Executive Officer to be in a ruinous state, or is likely to fall, or to be in any way dangerous, he shall forthwith cause a notice, in writing, to be served on the owner and to be put on some conspicuous part of the wall or building or served on the occupier, if any, of the building requiring such owner or occupier forthwith to demolish, repair, or secure such wall, building or thing, as the case may require.

(2)The Municipal Commissioner or the Executive Officer may, if it appears to him necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building for the safety of the public or the inmates thereof; and may, after giving them such notice as the Municipal Commissioner or the Executive Officer may think necessary, require the inmates of the building to vacate it.

(3)The provisions of this Act and of any rules or regulations made thereunder relating to buildings shall apply to any work done in pursuance, or in consequence, of a notice issued under sub-section (1).

(4)

(a)Notwithstanding anything contained in the foregoing provisions of this section, the Municipal Commissioner or the Executive Officer may, forthwith or with such notice as he thinks fit, demolish, repair or secure or cause to be demolished, repaired or secured, any such wall or building or thing affixed thereto, on the report of the

Municipal Architect and Town Planner, certifying that such demolition, repair or securing of the building, wall or thing is necessary for the safety of the public or the inmates of the building,

(b)in any such case, the Municipal Commissioner or the Executive Officer may cause the inmates of the building to be summarily removed from such building or from such portion thereof as he may consider necessary.

(c)all expenses incurred by the Municipal Commissioner or the Executive Officer for carrying out the purposes of this sub-section shall be paid by the owner of such wall, building or thing.

(5)Anything done or any action taken by the Municipal Commissioner or the Executive Officer under sub-section (4) shall, unless the contrary is proved, be deemed to have been done or taken lawfully and in good faith.

450.Inspection of building:-

(1)The Municipal Commissioner or the Executive Officer or any officer authorised by the Municipal Commissioner or the Executive Officer may, at any time during the erection or re-erection of a building or the execution of any work under this chapter, make an inspection thereof without giving any previous notice of his intention so to do.

(2)The Municipal Commissioner or the Executive Officer or any officer authorised by the Municipal Commissioner or the Executive Officer may inspect any existing building at any time by giving seven days notice in advance.

451.Permission in case of non-residential uses of premises:-

(1)No person shall, without the previous permission, in writing, of the Municipal Commissioner or the Executive Officer, or otherwise than in conformity with the conditions, if any, of such permission, put any premises to non-residential use including the use for an educational building or an institutional building or an assembly building or a business building or a mercantile building or an industrial building or a storage building or a hazardous building.

(2)The Municipal Commissioner or the Executive Officer may refuse to give such permission in any case on the ground that such use: -

(a)would be objectionable by reason of the density of population in the neighbourhood, or

(b)would add to the traffic constraints in the vicinity including parking spaces for vehicles, or

(c)would not conform to other predominant uses in the neighbourhood, or

(d)would constitute a fire hazard, or

(e)would be a nuisance to the inhabitants of the neighbourhood, or

(f)in the case of a hospital or a clinic, would be harmful to the patients due to noise or an environment, which poses a health hazard, or

(g)in the case of an educational building, would deprive the students of playground facilities.

(3) Subject to any land use control under this Act or any other law for the time being in force, the decision of the Municipal Commissioner or the Executive Officer in every case where permission is refused under this section shall be final.

452.Conditions for grant of permission:- In the case of any premises for the use of which a license or permission is required from the State Government or any authority under any law for the time being in force, the Municipal Commissioner or the Executive Officer shall not grant such permission under this Act to any person until such person produces before the Municipal Commissioner or the Executive Officer the license or the permission from the State Government or such authority, as the case may be, and submits a duly authenticated copy thereof to him :

Provided that in the case where production of a permission of the municipality is a precondition for the grant of a license or permission under any other law for the time being in force, the Municipal Commissioner or the Executive Officer may grant a provisional permission which shall be authenticated to be final only upon production of a license or permission under the said law:
Provided further that such provisional permission shall have validity only for the purpose of fulfilling any precondition for the grant of the license or the permission under any other law as aforesaid.

Regulation of Building Uses

453.Power to prohibit change of authorized use of building:-

(1)No person shall, without the permission, in writing, of the Municipal Commissioner or the Executive Officer or otherwise than in conformity with the conditions of such permission, -

(a)use, or permit to be used, for the purpose of human habitation any building or part thereof not originally erected or authorized to be used for such purpose,

(b)change, or allow the change of, the use of a building for any purpose other than that specified in the approved plan,

(c)change, or allow the change of, the use of any building erected before the commencement of this Act contrary to the use for which such erection was originally approved or to the use to which such building was actually put,

(d)convert, or allow the conversion of, a tenement within a building to an occupational use, other than the use intended in the original approved plan, or materially alter, enlarge, or extend such use.

(2)If, in any case, such permission is given, no change of occupancy or use shall be allowed before necessary alterations or provisions have been made to the satisfaction of the Municipal Commissioner or the Executive Officer and in accordance with the provisions of this Act and the rules and the regulations made thereunder and any other law for the time being in force.

(3)Any change of use made before the commencement of this Act, except in so far as such use is permissible under the provisions of an earlier State law on the subject in force before the commencement of this Act, shall be deemed to be a change in contravention of the provisions of this Act.

(4)Without prejudice to any other action that may be taken against any person, whether owner or occupier, contravening any provision of this section, the municipality may levy on such person such fine, not exceeding, in each case, one hundred rupees per square meter per month for the area under unauthorized use throughout the period during which such contravention continues, as may be provided by regulations.

(5)The Municipal Commissioner or the Executive Officer may, if he deems fit, order that such unauthorized use be stopped forthwith:

Provided that before making any such order, he shall give a reasonable opportunity to the person affected to show cause why such order shall not be made.

(6)Any person aggrieved by an order of the Municipal Commissioner or the Executive Officer under sub-section (5) may, within thirty days from the date of the order, prefer an appeal against the order before the Building Tribunal, whose decision in the matter shall be final and conclusive.

(7)When an appeal is preferred under sub-section (6), the Building Tribunal may stay the enforcement of the order made by the Municipal Commissioner or the Executive Officer under sub-section (5) on such terms, and for such period, as it may think fit.

(8)Save as otherwise provided in this section, no court shall entertain any suit, application or other proceeding for any relief or injunction, restraining the Municipal Commissioner or the Executive Officer or the Standing Committee, or the municipality from taking any action or making any order in pursuance of the provisions of this section.

Explanation. - For the purposes of this chapter, "unauthorized use" shall mean change or conversion of a building without approval from one occupancy or use group to another occupancy or use group referred to in sub-section (2) of section 425.

454.Power to prevent use of premises for specified purpose in particular area for environmental reasons:-

(1)The municipality may give notice of its intention to declare that in any area specified in the notice, no person shall, for environmental reasons stated therein, use any premises for any purpose specified in the notice.

(2)Any objection to any such notice shall be received within a period of thirty days from the date of the notice.

(3)The municipality shall consider all objections received within the period as aforesaid, giving any person affected by the notice an opportunity of being heard, and may, thereupon, make a declaration in accordance with the notice under sub-section (1), with such modifications, if any, as it may think fit.

(4)Every such declaration shall be published in the manner provided by regulations and shall take effect from the date of such publication.

(5)No person shall, in any area specified in the declaration published under sub-section (4), use any premises for any purpose specified in the declaration and the Municipal Commissioner or the Executive Officer shall have the power to stop such use of any such premises by such means as he may consider necessary.

(6)The municipality shall ensure that such declaration is in conformity with the provisions of any land use plan in force in the municipal area under any State law regulating such use.

Chapter 40

Municipal Licenses

455.Premises not to be used for non-residential purpose without municipal license-

(1)Except as hereinafter provided in this Act, no person shall use, or permit to be used, any premises for any of the non residential purposes mentioned in the Schedule without or otherwise than in conformity with the terms of a license granted by the Municipal Commissioner or the Executive Officer, so as not to contravene the provisions of sub-section (2) of this section :-

Provided that no such license shall be given in respect of any non-residential use of a premises, if such use is otherwise than in conformity with the provisions of this Act, or

any other law for the time being in force, or the rules or the regulations or the orders made thereunder:
Provided further that except in cases which come under the provisions of sub-section (2) of this section or section 457 or section 458, the power to issue such license within its jurisdiction may be exercised by the Municipal Commissioner or the Executive Officer, subject to such conditions, and in such manner, as may be determined by regulations.

(2)In the case of a non-residential use of a premises for a purpose for which a license or permission is required from the State Government or any statutory body under any law for the time being in force, no license under this section shall be given until the license or the permission under the said law has been produced before the Municipal Commissioner or the Executive Officer, and duly authenticated copies thereof have been submitted to him:

Provided that in the case where the production of a license under this Act is a pre-condition for the grant of a license under any other law for the time being in force, the Municipal Commissioner or the Executive Officer may grant a provisional license, which shall be authenticated to be final only upon the production of a license or permission under the said law:
Provided further that such provisional license shall have validity only for the purpose of fulfilling the preconditions of the grant of a license under any other law as aforesaid.

(3)In specifying the terms of a license granted under this section, the Municipal Commissioner or the Executive Officer may require the licensee to take all or any of such measures as he may deem fit to guard against danger to life, health or property or for the abatement of nuisance of any kind.

(4)The municipality shall, by regulations, determine the fees to be paid in respect of a license granted under sub-section (1), and may specify different fees for different categories of non-residential uses in different areas within the municipal area :

Provided that no such fees shall exceed two thousand and five hundred rupees in any case.

(5)The municipality may, by regulations, determine -

(a)as to when the initial license is to be taken out and the procedure of annual renewal thereof, is to begin, and

(b)the matters connected with the display of license, inspection of premises, power of inspectors, and such other matters as may be deemed necessary.

456.Power to grant license for fairs and melas - The Municipal Commissioner or the Executive Officer may require the owner or lessee of a fair or mela or

exhibition or entertainment to produce consent letter from the owner or lessee of the land on which such fair or mela or exhibition or entertainment is held before granting license in that behalf. The license shall be granted by the Municipal Commissioner or the Executive Officer on such terms and conditions and on payment of such fee as may be determined by the municipality.

457.Licensing of places for keeping horses and cattle -

(1)Within such limit as the municipality may determine, no cartman, livery stable-keeper of vehicles plying for hire or dairyman shall keep horses, ponies or cattle for the purposes of trade or business except in a place licensed by the Municipal Commissioner or the Executive Officer.

(2)The Municipal Commissioner or the Executive Officer may license places for such purpose, and may levy a fee, subject to the approval of the standing committee, not exceeding twenty rupee on the issue and renewal in the first and seventh months of each year.

(3)Every license granted under sub-section (1) shall be subject to such conditions as the Municipal Commissioner or the Executive Officer may impose in respect of the site, construction, materials and dimension of any structure erected for keeping horses, ponies or cattle or in respect of the fencing, drainage, cleansing of such place as he thinks necessary.

458.Licensing of places for keeping pigs, sheep and goats – Within such limits as the Municipal Commissioner or the Executive Officer may direct, no person shall keep pigs or more than ten sheep or ten goats except under a license granted by the Municipal Commissioner or the Executive Officer which shall be renewable annually and the said license shall be subject to the payment of an annual fee not exceeding two hundred rupees and subject to such terms and conditions as may be laid down in the by-laws made by the municipality under this section.

459.Penalties –

Any person who within the limits of the municipality –

(i)without a license uses any place for any of the purposes specified, or

(ii)being a holder of license, breaks any condition of such license,or

(iii) keeps any pigs, sheep or goats contrary to conditions of license,

shall be liable to a fine not exceeding one hundred rupees and further fine not exceeding ten rupees for every day, during which the offence is continued after he has been convicted of such offence.

460.Registers to be maintained- The Municipal Commissioner or the Executive Officer shall maintain in such form, and in such manner, as may be prescribed, two separate registers of which –

(a)one shall contain premises wise information of non-residential uses, indicating the unique premises number, if any, assigned under this Act, and

(b)the other shall contain such information, on the basis of different non-residential user groups for factories, warehouses, medical institutions, educational institutions, and such other uses, as may be provided by regulations.

461.Municipal license for private markets.

(1)The Municipal Commissioner or the Executive Officer may, with the prior approval of the municipality, grant to any person a license to establish or keep open a private market on payment of such fees as may be determined by the municipality by regulations, and may specify such conditions consistent with this Act as he may deem fit.

(2)When the Municipal Commissioner or the Executive Officer refuses to grant any license, he shall record a brief statement of the reasons for such refusal.

(3)The Municipal Commissioner or the Executive Officer may, with the prior approval of the municipality and for reasons to be recorded in writing, by order, suspend a license in respect of a private market for such period as he thinks fit or cancel such license.

(4)A private market in respect of which the license has been suspended or cancelled under sub-section (3) shall be closed with effect from such date as may be specified in the order of suspension or cancellation.

(5)When the municipality decides to acquire any private market, the Municipal Commissioner or the Executive Officer shall notify the owner of such market the date on which the market

shall be acquired by the municipality, such date being not less than sixty days from the date of issue of the notice to the owner; and from that date the market shall vest in the municipality.

(6)If there is any dispute regarding the amount of compensation to be paid for the acquisition of any private market between the municipality and the owner of the market, the matter shall be referred to the Competent Court of Jurisdiction whose decision shall be final.

462.Private market not to be kept open without a license –

(1)Except under a license granted by the Municipal Commissioner or the Executive Officer, in accordance with the general or special conditions issued by the Standing Committee in that behalf, and in conformity with its terms, no person shall establish or keep a private market or, when established, remove it from one place to another, or re-open or re-establish it after it has been closed for a period in excess of twelve months or enlarge its area or dimensions :

Provided that the Municipal Commissioner or the Executive Officer shall not refuse a license to keep a private market or cancel or suspend the same, for any cause other than the owner's failure to comply with this Act or the rules and regulations, if any, framed under this Act or the terms of his license after compliance has been required of him.

(2)When the Municipal Commissioner or the Executive Officer, has refused, cancelled or suspended any license to keep a private market, he shall cause a notice thereof in Hindi language to be conspicuously exhibited near the building or place where such market is or was to be held.

463.Penalty for using unlicensed market - Any person who being the owner or occupier of any land or building willfully or negligently permits the same to be used as a market without a license granted by the Municipal Commissioner or the Executive Officer, shall be liable to a fine not exceeding ten thousand rupees for every such offence and to a further fine not exceeding one thousand rupees for each day during which the offence is continued after conviction of such offence.

464.Municipal license for sale of flesh, fish or poultry.

(1)No person shall, without or otherwise than in conformity with a license from the Municipal Commissioner or the Executive Officer, carry on the trade of a butcher, fish-monger, 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 person shall sell, or expose for sale, any flesh obtained from an animal unless the skinned carcass of the animal is stamped in such manner as the Municipal Commissioner or the Executive Officer may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licensed slaughterhouse:

Provided further that no license shall be required for any place used for sale, or storage for sale, of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

(2)The Municipal Commissioner or the Executive Officer may, by order, and subject to such conditions as to supervision and inspection as he may think fit to impose, grant a license or may, by order and for reasons to be recorded in writing, refuse to grant a license.

(3)The municipality shall, by regulations, determine the procedure for the issue of a license and renewal thereof.

(4)If any place is used for the sale of flesh, fish or poultry intended for human food in contravention of the provisions of this section, the Municipal Commissioner or the Executive Officer may stop the use of such place in such manner, as he may consider necessary.

465.Prohibition of unlicensed activities.

(1)Without or otherwise than in conformity with the terms of a license granted by the Municipal Commissioner or the Executive Officer in this behalf, no person shall, within the municipal area, use, or permit to be used, any land or building -

(a)for keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce, or

(b)as a market in respect of which a license is required under this Act, or

(c)for carrying out work as an artisan, or

(d)for trade of a butcher, fish-monger, poulterer or importer of flesh intended for human food or for sale thereof.

(2)If any land or building, public or private, is used, or permitted to be used, in contravention of the provisions of sub-section (1), the Municipal Commissioner or the Executive Officer may stop the use thereof by such means as he deems fit, and may confiscate any article in respect of which such use is being made, prepare an inventory thereof, and, in the case of perishable items, auction them without notice.

(3)Any person carrying out any trade in contravention to the provision of sub-section (1) and (2) shall be liable to a fine of two thousand rupees and for the continuing offence fifty rupees per day from the date of its confirmation after the order is made.

466.Power to stop use of premises used in contravention of licenses.

(1)If the Municipal Commissioner or the Executive Officer is of the opinion that any premises is being used for a non-residential purpose without a license under this Act or otherwise than in conformity with the terms of a license 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.

(2)If a person continues to use a premises in contravention of the provisions of sub-section (1), the Municipal Commissioner or the Executive Officer may, notwithstanding any other action that may be taken against such person under this Act, levy on such person a continuing fine in accordance with the provisions of sub-section (3) of section 465.

467.Power to seize food or drug etc.-

(1)The Municipal Commissioner or the Executive Officer, or any officer or other employee of the municipality authorized by him in this behalf, may, at any time by day or night, without notice, inspect and examine any food or drug or any utensil or vessel used for preparing, manufacturing or storing such food or drug.

(2)If, upon such inspection or examination, any such food or drug is, in the opinion of the Municipal Commissioner or the Executive Officer or the officer or other employee authorized by him in this behalf, unwholesome or unfit for human consumption, or is not what it is represented to be, or if any such utensil or vessel is of such kind, or in such state, as to render any food or drug prepared, manufactured, or stored therein, unwholesome or unfit for human consumption, he may seize, seal or carry away such food or drug or utensil or vessel.

(3)If any food or drug seized under sub-section (2) is, in the opinion of the Municipal Commissioner or the Executive Officer, unfit for human consumption, he shall cause such food or drug to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption, and the expenses thereof shall be recovered from the person in whose possession such food or drug was found at the time of its seizure.

Chapter 41

Vital Statistics

468.Appointment of Chief Registrar and Registrars. –

(1)The Chief Municipal Health Officer shall be the Chief Registrar of Births and Deaths occurring in the municipal area.

(2)The Municipal Commissioner or the Executive Officer shall, for the purposes of this chapter, appoint such number of persons to be Registrars of Births and Deaths as he deems necessary and shall define the respective areas which shall be under the charge of such Registrars.

469.Duties of Registrars. - Each Registrar shall keep himself informed of every birth or death occurring within the area of his jurisdiction and shall ascertain such particulars in respect of every birth or death as may be prescribed in this behalf.

470.Registers to be maintained.

(1)Such particulars regarding births and deaths as the Municipal Commissioner or the Executive Officer may, from time to time, specify, shall be entered in separate registers of births and of deaths, and such registers shall be maintained by each Registrar.

(2)The State Government may prescribe the forms of the registers of births and deaths required to be maintained under sub-section (1) and the manner in which such registers shall be maintained.

(3)On an application from a person interested, the Chief Registrar or a Registrar, as the case may be, shall issue an extract from any entry in a register on payment of such fees as may be determined by the municipality by regulations.

471.Registration of births and deaths. Subject to the provisions of the Registration of Births and Deaths Act, 1969, the municipality shall cause registration of births and deaths taking place within the municipal area and extracts of information therefrom shall be supplied, on application, in such form of a certificate and on payment of such fees, as may be determined by regulations.

472.Registration of name of child or of alteration of name-

(1)When the birth of any child has been registered without a name, and when a name is given to it, or, the name, if any, by which it was registered, is to be altered, the parent or the guardian of such child or other person giving the name or proposing to alter the name may, within sixty months next after the registration of the birth, deliver to the Registrar of the area in which the birth was registered, such certificate as hereinafter provided, and the Registrar, upon receipt of the certificate, shall, without any erasure of the original entry, forthwith enter in the register the name mentioned in the certificate as having been given to the child or altered.

(2)The certificate shall be in such form as the Municipal Commissioner or the Executive Officer may, from time to time, specify, and shall be signed by the

parent, or the guardian of the child or other person giving or altering the name of the child.

473.Correction of errors in registers of births or deaths-

(1)Any clerical error, which may, at any time, be discovered in a register of births or register of deaths, may be corrected by any person authorized in this behalf by the Municipal Commissioner or the Executive Officer.

(2)An error of fact or substance in any such register may be corrected by any person authorized as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the Municipal Commissioner or the Executive Officer by the person requiring such error to be corrected, of a declaration (setting forth the nature of the error and the fact of the case) on oath made before a Magistrate, by the person required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such person, by a person having knowledge of the case.

(3)Except as provided in sub-section (2), no alteration shall be made in any such register.

474.Information of births. It shall be the duty of the father or the mother of every child born in the municipal area and, in default of the father or the mother, of any relative, of the child living in the same premises and, in default of such relative, of the person having charge of the child, to give, to the best of his or her knowledge and belief, to the Registrar of the area concerned within eight days after such birth, information containing such particulars as may be prescribed in this behalf:

Provided that -

(a)in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the Registrar shall not enter in the register the name of any person as father of such child, except at the joint request of the mother and the person acknowledging himself to be the father of such child, and such person shall, in such case, sign the register together with the mother,

(b)a person required to give information only in default of some other person shall not be bound to give such information if he believed, and had reasonable grounds for believing, that such information had been given, and

(c)when a child is born in a hospital or a nursing home or a maternity home, none but the officer-in-charge thereof shall be bound to forward forthwith to the Registrar a report of such birth in such time, and in such form, as the Chief Registrar may, from time to time, specify.

475.Information regarding finding of newborn child- In case any newborn child is found exposed, it shall be the duty of any person finding such child or of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the Chief Registrar or the Registrar, within eight days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as such person possesses.

476.Information regarding deaths-It shall be the duty of the nearest relative present at the time of the death or in attendance during the last illness of any person dying in the municipal area and, in default of such relative, of any person present or in attendance at the time of the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the person as aforesaid, of each inmate of such premises and of the caretaker or other person causing the corpse of the deceased person to

be disposed of, to give, to the best of his knowledge and belief, to the Registrar of the area within which the death took place information containing such particulars as may be prescribed within twenty-four hours of such death :

Provided that -

(a)if the cause of death is known to be a dangerous disease, the information as aforesaid shall be given within twelve hours of its occurrence, and

(b)if the death of any person occurs in a hospital or a nursing home or a maternity home, it shall be the duty of none but the medical officer or other officer-in-charge thereof to forward forthwith a report of such death in such form as the Chief Registrar may, from time to time, specify.

477.Medical Practitioner to certify cause of death- In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, such practitioner shall, within three days of his becoming cognizant of the death of such person, sign and forward to the Chief Registrar a certificate of the cause of death of such person in such form as shall, from time to time, be specified by the Municipal Commissioner or the Executive Officer in this behalf, and the cause of death as stated in such certificate shall be entered in the register together with the name of the certifying medical practitioner.

478.Duties of police in regard to unclaimed corpses- It shall be the duty of the police to convey every unclaimed corpse to a registered burial or burning ground or other place for disposal of the dead or to a duly appointed mortuary and, thereafter, to inform the Registrar within whose jurisdiction such corpse was found.

479.Sextons etc., not to bury etc., corpse. A sexton or a keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated in municipal area or not, shall not bury, burn or otherwise dispose of, or allow to be buried, burnt or otherwise disposed of, any corpse unless such corpse is accompanied by a certificate in such form as may be prescribed, and signed by a Registrar appointed under section 468 or by a registered medical practitioner or any other medical practitioner authorized by the State Government in this behalf.

Chapter 42

Disaster Management

480.Management of natural or technological disasters-

(1)As far as possible, the municipality shall, in collaboration with the concerned authorities of the Central Government or the State Government, including the meteorological office, have prepared environmental base maps and impact area diagrams and shall collect other relevant data and shall take necessary steps for erecting installations and other accessories required to mitigate the effects of natural or technological disasters.

(2)The municipality shall organise emergency operations and promote public awareness in relation to disaster management.

(3)The municipality shall take adequate measures to implement the regulations, if any, made by the planning and urban development authorities to mitigate earthquake hazards in high seismic zones and to promote citizen awareness in this regard.

(4) The Municipal Corporations having a population of ten lakhs and more shall prepare a Fire-hazard Response and Mitigation Plan every year as prescribed by the state government through consultative process and publish the Plan in the State Gazette.

Chapter 43

Industrial Townships

481.Exclusion of industrial townships from municipal areas. –

(1) The State Government may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as it may deem fit, by notification, specify to be an industrial township.

(2) The provisions of this Act, to the extent prescribed by State Government, shall apply to the industrial township

(3) The State Government may appoint a committee under the chairpersonship of the Deputy Commissioner of the district in which the industrial township is situated to oversee the working of the industrial township as prescribed.

PART - IX

POWERS, PROCEDURES, OFFENCES AND PENALTIES

Chapter- 44

Procedure

Licenses and Permissions

482. Signature, conditions, duration, suspension, revocation, etc., of licences and permissions-

(1)Whenever it is provided in this Act or the rules or the regulations made thereunder that a license or a permission, in writing, may be granted for any purpose, such license or permission shall be signed by the Municipal Commissioner or the Executive Officer or by any other officer empowered to grant such license or permission under this Act or the rules or the regulations made thereunder and shall specify the following particulars in addition to any other particulars required to be specified under any other provision of this Act or the rules or the regulations made thereunder :-

(a)the date of the grant of license or permission,

(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 license or the permission.

(2)Except as otherwise provided in this Act or the rules or the regulations made thereunder, for every such license or permission, a fee may be charged at such rate as may, from time to time, be fixed by the municipality, and such fee shall be payable by the person to whom the license or the permission is granted.

(3)Save as otherwise provided in this Act or the rules or the regulations made thereunder, any license or permission granted under this Act or the rules or the regulations made thereunder may,

at any time, be suspended or revoked by the Municipal Commissioner or the Executive Officer or 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 the restrictions or conditions of license or permission 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 the rules or the regulations made thereunder relating to any matter for which the license or the permission, as the case may be, was granted :

Provided that -

(a)before making any order of suspension or revocation, an opportunity shall be given to the grantee of the license or the 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 the revocation of the license or the permission, as the case may be.

(4)When any such license or permission is suspended or revoked, or when the period for which such license or permission was granted has expired, the grantee shall, for the purposes of this Act and the rules and the regulations made thereunder, be deemed to be without a license or permission, as the case may be, until such time as the order suspending or revoking the license or the permission, as the case may be, is rescinded or until the license or the permission, as the case may be, is renewed.

(5)Every grantee of any license or permission granted under this Act shall, at all reasonable times while such license or permission, as the case may be, remains in force, if so required by the Municipal Commissioner or the Executive Officer or the other officer by whom it was granted, produce such license or permission, as the case may be.

Entry and Inspection

483.Power of entry- The Municipal Commissioner or the Executive Officer or any other officer or employee of the municipality authorized by the Municipal

Commissioner or the Executive Officer in this behalf or empowered by or under any provision of this Act, may enter into or upon any land or building with or without assistants or workmen, for the purpose of -

(a)ascertaining whether in connection with the land or the building there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder, or

(b)ascertaining whether or not circumstances exist which render it necessary for the Municipal Commissioner or the Executive Officer or any other officer or employee of the municipality authorized by him in this behalf or empowered by or under any provision of this Act, to take any action or execute any work under this Act or the rules or the regulations made thereunder, or

(c)taking any action or executing any work authorized or required by or under this Act or the rules or the regulations made thereunder, or

(d)making such inquiry, inspection, examination, measurement, valuation or survey as may be authorized or required by or under this Act or as may be necessary for the proper administration of this Act, or

(e)generally ensuring efficient discharge of the functions by any of the municipal authorities under this Act or the rules or the regulations made thereunder.

484.Power to enter land or adjoining land in relation to any work-

(1)The Municipal Commissioner or the Executive Officer or any person authorized by him in this behalf or empowered by or under this Act, may enter upon any land within fifty meters of any work authorized by or under this Act with or without assistants or 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 purpose connected with the execution thereof.

(2)Every person so authorized shall, before entering upon any such land, state the purpose thereof, and shall, if so required by the owner or the occupier thereof, fence off so much of the land as may be required for such purpose.

(3)Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be necessary, and compensation shall be payable by the municipality in accordance with the rules or the regulations made under this Act in this behalf to the owner or the occupier of such land or to both for any such damage, whether permanent or temporary.

485.Breaking into building-

(1)It shall be lawful for the Municipal Commissioner or the Executive Officer or any person authorized by him in this behalf or empowered by or under 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 is necessary for the purpose of such entry, and

(b)if the owner or the occupier is absent or, being present, refuses to open such door, gate or other 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 Municipal Commissioner or the Executive Officer or the person authorized 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 situated, to witness the entry or the 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 Standing Committee, 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.

486.Time of making entry. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry authorized under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Municipal Commissioner or the Executive Officer is satisfied that the erection of any building or the execution of any work has been commenced or is being carried on in contravention of the provisions of this Act in any premises between the period of sunset and sunrise, he may, if he considers it necessary so to do, enter such premises during such period accompanied by a police officer to make an inspection thereof and take such action as may be necessary under this Act.

487.Consent ordinarily to be obtained- Save as otherwise provided in this Act or the rules or the regulations made thereunder, no land or building shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving such occupier or owner, as the case may be, not less than twenty four hours notice, in writing, of the intention to make such entry:

Provided that no such notice shall be necessary if the municipality considers, for reasons to be recorded in writing, that there is immediate urgency for such entry and the service of a notice, in writing, may defeat its purpose:

Provided further that no such notice shall be necessary, if the land or the building to be entered is a factory or workshop or trade premises or place used for any of the purposes referred to in section 455 or a stable for horses or a shed for cattle or a latrine or a urinal or a work under construction, or for the purpose of ascertaining whether any animal intended for human consumption is slaughtered on such land or in such building in contravention of the provisions of this Act or the rules or the regulations made thereunder.

488.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.

489.Prohibition of obstruction or molestation in execution of work. No person shall obstruct or molest any person authorized or empowered by or under this Act, or with whom the municipality or any of the municipal authorities referred to in section 23 has lawfully contracted, in the execution of his duty or anything which he is authorized or empowered or required to do by virtue, or in consequence, of any of the provisions of this Act or the rules or the regulations made thereunder, or in fulfillment of his contract, as the case may be.

Public Notices and Advertisements

490.Public notices how to be made known. Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Municipal Commissioner or the Executive Officer or any other officer of the municipality authorized 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 such locality or by publishing the same by advertisement in local newspapers or by such other means as the Municipal Commissioner or the Executive Officer may think fit.

491.Newspapers in which advertisements or notices to be published- Whenever it is provided by or under this Act or the rules or the regulations made thereunder that notice shall be given by advertisement in local newspapers or a notification or information shall be published in local newspapers, such notice, notification or information shall be inserted in at least two newspapers of which at least one shall be in the regional language.

Evidence

492.Proof of consent etc. of Municipality, Standing Committee, Mayor or the Chairperson, Municipal Commissioner or the Executive Officer, etc.- Whenever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, anything or the validity of anything done depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of -

(a)the Council, or

(b)the Standing Committee, or

(c)the Mayor or the Chairperson, or

(d)the Municipal Commissioner or the Executive Officer or any other officer of the municipality,

as the case may be, a document, in writing, signed, -

(i)in the cases referred to in clause (a) and clause (b), by the Municipal Secretary where there is a Municipal Secretary, or where there is no Municipal Secretary, by the Municipal Commissioner or the Executive Officer, and

(ii)in the cases referred to in clause (c) and clause (d), by the Municipal Commissioner or the Executive Officer, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion, satisfaction, as the case may be, shall be sufficient evidence thereof.

Notices, etc.

493.Notices etc., to fix reasonable time. Where any notice, bill, order, or requisition, issued or made under this Act or the rules or the regulations made thereunder, requires anything to be done, for the doing of which no time is fixed in this Act or the rules or the regulations made thereunder, such notice, bill, order or requisition shall specify a reasonable time for doing the same.

494.Signature on notices etc., may be stamped.

(1)Every license, permission, notice, bill, summons or other document, which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Municipal Commissioner or the Executive Officer or any other officer of the municipality, shall be deemed to be properly signed if it bears a

facsimile of the signature of the Municipal Commissioner or the Executive Officer or such other officer, as the case may be, and stamped thereupon.

(2)Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund. under section 106.

495.Notices etc., by whom to be served or issued- Every notice, bill, summons, or other document, required by this Act or the rules or the regulations made thereunder to be served upon, or issued to, any person, shall be served or issued by an officer or other employee of the municipality or by any person authorized by the Municipal Commissioner or the Executive Officer in that behalf.

496.Service of notices etc.

(1)Every notice, bill, summons, order, requisition or other document required or authorized by this Act or the rules or the regulations made thereunder to be served or issued by or on behalf of the municipality or by any of the municipal authorities referred to in section 23, or by any officer or other employee of the municipality, shall, save as otherwise provided in this Act or the rules or the regulations made thereunder, be deemed to be duly served, -

(a)where the person to be served is a company, if the document is addressed to 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, or

(b)where the person to be served is a partnership, if the document is addressed to the partnership 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, or

(c)where the person to be served is a public body or a municipality, or a society or other body, if the document is addressed to the secretary, treasurer or other officer of such public body, municipality, society, or other body at its principal office, and is either, -

(i)sent by registered post, or

(ii)delivered at that office, and

(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 such person.

(2)Any document, which is required or authorized to be served on the owner or the occupier of any land or building, may be addressed to "the owner" or "the occupier", as the case may be, of such land or building (naming such 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 or a copy thereof so addressed, is delivered to some person on the land or the building or, where there is no such person to whom it can be delivered, is affixed to some conspicuous part of such land or building.

(3)Where a document is served on a partnership under this section, the document shall be deemed to be duly served on each partner.

(4)For the purpose of enabling any document to be served on the owner of any premises, the Municipal Commissioner or the Executive Officer may, by notice, in writing, require the occupier of such 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 494 or section 495 or in this section shall apply to any summons issued under this Act by any court.

Explanation. – For the purposes of this section, a servant shall not be deemed to be a member of the family.

Enforcement of Orders to Execute Works etc.

497.Time for complying with requisition or order, and power of Municipal Commissioner or the Executive Officer to enforce requisition or order on default-

(1)When, under this Act or the rules or the regulations made thereunder, any requisition or order made by a notice, in writing, is issued to any person or persons by any municipal authority or any officer of the municipality, such authority or officer shall specify in such notice such period within which-

(a)such requisition or order shall be complied with, and

(b)any objection thereto, in writing, shall be received by such authority or officer, as such authority or officer may consider reasonable.

(2)If any such requisition or order or any portion thereof is not complied with within the period specified in the notice under sub-section (1), the Municipal Commissioner or the Executive Officer may, subject to such regulations as may be made by the municipality in this behalf, take such measures, or cause such measures to be taken, as may, in his opinion, be necessary for causing due compliance with such requisition or order, and, except where otherwise expressly provided in this Act or the rules or the regulations made thereunder, the expenses, if any, incurred by such authority or officer in causing such compliance shall be recovered from the person or persons to whom such notice is issued.

(3)The Municipal Commissioner or the Executive Officer may take any scheme, execute any work, or cause anything to be done under this section, notwithstanding any prosecution or punishment or liability to punishment of any person under this Act or the rules or the regulations made thereunder for his failure to comply with such requisition or order.

498.Submission of objections to comply with notice.

(1)Any person who has been served with a notice under sub-section (1) of section 497 may, within such period as is specified in such notice, deliver to the municipal authority or the officer or the municipality, as the case may be, any objection, in writing, setting forth the objections which he may desire to state for withdrawal or modification of such notice.

(2)Every such objection shall be placed before the Municipal Commissioner or the Executive Officer for determination and, pending such determination, compliance with any requisition or order in accordance with such notice shall be stayed.

(3)The Municipal Commissioner or the Executive Officer or, if he so directs, any other officer of the municipality of such rank as may be specified by him, other than an officer who has issued such notice, shall, after hearing the person concerned or his agent duly authorized by him, in writing, in this behalf and after considering the circumstances of the case, make such order, either confirming or modifying or canceling the notice, as he thinks fit.

(4)

(a)Where the Municipal Commissioner or the Executive Officer or the other officer of the municipality referred to in sub-section (3) makes an order under that sub-section, either confirming or modifying the notice, he may, if he thinks fit, -

(i)direct that a portion of the expenses, if any, to be incurred in complying with the notice as confirmed or modified shall be borne by the municipality, and

(ii)fix a time within which the notice so confirmed shall be complied with.

(b) If the notice as confirmed or modified is not complied with by such person within the time fixed under sub-clause (ii) of clause (a), the Municipal Commissioner or the Executive Officer shall take such measures, or cause such work to be executed, or such thing to be done, as may, in his opinion, be necessary for causing due compliance with such notice, and the expenses, if any, incurred by the Municipal Commissioner or the Executive

Officer in this behalf shall be payable by such person to the Municipal Commissioner or the Executive Officer on demand and, if not paid within ten days of such demand, shall be recoverable as an arrear of tax under this Act.

Recovery of Expenses

499.Power of the municipality to enter into agreement for payment of expenses in installments-

(1)When, under this Act or the rules or the regulations made thereunder, the expenses of any measure taken or work executed or thing done by or under the order of any municipal authority or any officer of the municipality or any Magistrate are payable by any person, the Municipal Commissioner or the Executive Officer may, if he thinks fit and with the approval of the Standing Committee, notwithstanding anything to the contrary contained in this Act or the rules or the regulations made thereunder, enter into an agreement with such person for payment of such expenses in such installments, and at such intervals, as will

secure the recovery of the whole amount due with interest thereon at such rate of interest as may be determined by the State Government, from time to time, within such period, not exceeding six years, as the municipality may determine.

(2)Every such agreement shall provide for adequate security against the whole amount due from such person.

500.Power of the municipality to declare certain expenses to be improvement expenses-

(1)If any expenses are to be recovered or are incurred on account of any work mentioned -

(a)in section 224 and section 226, or

(b)in the rules or the regulations made under this Act,

the municipality may, if it thinks fit, declare such expenses to be improvement expenses. (2)A register shall be maintained by the Municipal Commissioner or the Executive Officer showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may, from time to time, be determined by the Standing Committee.

501.Improvement expenses, how recoverable and by whom payable-

(1)Any improvement expenses under section 500 shall be a charge on the premises in respect of which, or for the benefit of which, such expenses are incurred, and shall be recoverable in such installments, and at such intervals, as may be sufficient to discharge such expenses with interest thereon at such reasonable rate as may be determined by the municipality from time to time, and within such period, not exceeding thirty years, as the municipality may in each case determine.

(2)The improvement expenses shall be payable by the owner or the occupier of the premises on which such expenses are chargeable.

502.Recovery of improvement expenses paid by occupier- Notwithstanding anything contained in section 501, when the occupier of any premises pays any installment of improvement expenses, he shall, subject to any agreement to the contrary, if any, between himself and the owner of such premises, be entitled to deduct the amount of such installment from the rent payable by him to such owner or to recover such amount from such owner in pursuance of any order of a court of competent jurisdiction.

503.Right of the owner or occupier to redeem charge for improvement expenses. At any time before the expiration of the period for payment of any

improvement expenses, the owner or the occupier of the premises on which such expenses are chargeable may redeem such charge by paying to the municipality such part of such expenses as is still payable.

504.Execution of work by occupier on the failure of owner. Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or the rules or the regulations made thereunder, the occupier, if any, of such land or building may, with the approval of the Municipal Commissioner or the Executive Officer, execute such work and shall, subject to any agreement to the contrary between himself and the owner of such land or building, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct any amount thereof from the rent payable by him to such owner.

505.Relief to receivers, agents and trustees-

(1)Whenever under this Act or the rules or the regulations made thereunder, any person, by reason of his -

(a)receiving the rent of any immovable property as receiver or agent or trustee of such property, or

(b)being such receiver or agent or trustee, would receive the rent if such property were let to a tenant,

is bound to discharge any obligation imposed on the owner of such property but has not at his disposal funds belonging or payable to such owner, sufficient for the purpose of discharging such obligation, shall, within a period of six weeks from the date of service upon him by any municipal authority or officer of the municipality empowered in this behalf under this Act, of any notice requiring him to discharge such obligation, apply to a court of competent jurisdiction for leave to raise such funds or for such directions as he may consider necessary for such purpose.

(2)If such receiver or agent or trustee fails to apply to a court of competent jurisdiction under sub-section (1) or, after such court has granted leave to raise funds or has issued directions, fails to discharge such obligation or to comply with such directions within twelve months of such leave or such directions, he shall be personally liable to discharge such obligation.

Payment of Compensation

506.General power of the municipality to pay compensation. In any case not otherwise expressly provided for in this Act or the rules or the regulations made thereunder, the Municipal Commissioner or the Executive Officer may, with the

prior approval of the Standing Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or the rules or the regulations made thereunder on the Municipal Commissioner or the Executive Officer or on any other officer or other employee of the municipality.

507.Compensation to be paid for damage to property of municipality.

(1)Any person who has been convicted of any offence under this Act or the rules or the regulations made thereunder shall, without prejudice to any punishment to which he may be

subject, be liable to pay such compensation for any damage to any property of the municipality resulting from such offence as the appropriate municipal authority may consider reasonable.

(2)In the case of any dispute regarding the amount of compensation under sub-section (1), such amount shall, on an application, in writing, made by such person to the Magistrate who convicts such person of such offence, be determined by such Magistrate, and, if the amount of compensation so determined is not paid by such person, such amount shall be recovered under a warrant from such Magistrate as if it were a fine imposed by him on the person liable thereof.

Recovery of Expenses or Compensation in Case of Disputes

508.Reference by municipality to Civil Court in certain cases of recovery of expenses

(1)If, in respect of any expenses referred to in section 501, any dispute arises, the Municipal Commissioner or the Executive Officer shall refer such dispute to the Civil Court having jurisdiction for determination.

(2)Upon such reference, the Municipal Commissioner or the Executive Officer shall defer further proceedings for the recovery of such expenses and shall recover only such amount, if any, as may be determined by the Civil Court having jurisdiction.

509.Application to Civil Court in certain cases of payment of expenses or compensation- Save as otherwise provided in this Act or the rules or the regulations made thereunder or in any other law for the time being in force, in the case of any dispute in respect of any expenses or any compensation payable to any person by any municipal authority or any officer or other employee of the municipality or any other person under this Act or the rules or the regulations made thereunder, the amount of such expenses or such compensation shall be determined

by the Civil Court having jurisdiction at any time within one year from the date of such expenses or such compensation first becoming due.

510.Recovery of expenses or compensation determined under section 509 - If the amount of any expenses or compensation determined under section 509, is not paid on demand, such amount shall be recoverable as if the same were due under a decree of the Civil Court having jurisdiction or in the manner provided in chapter XXI.

511.Recovery of expenses or compensation by suit in court. Notwithstanding anything contained in section 510, any expenses or compensation determined under section 509 may be recovered by a suit brought in a court of competent jurisdiction.

Recovery of Certain Dues

512.Recovery of certain dues of municipality- Save as otherwise provided in this Act or the rules or the regulations made thereunder, any sum due to the municipality on account of any charge, cost, expense, fee, rate or rent or on any other account under this Act or the rules or the regulations made thereunder shall be recoverable from the person from whom such sum is due as if it were property tax and shall also be recovered under Public Demand Recovery Act.

Obstruction of Owner by Occupier

513.Application to Civil Court by owner when occupier prevents from complying with Act etc.

(1)Any owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or the rules or the regulations made thereunder or any requirement under any such provision in respect of such land or building, apply to the Civil Court having jurisdiction within the time fixed for compliance with such provision or

requirement, and, thereupon, such owner shall not be liable for his failure to comply with such provision or requirement within the time fixed for such compliance.

(2)On receipt of any application under sub-section (1), the Civil Court may make an order, in writing, requiring the occupier of the land or the building, as the case may be, to afford all reasonable facilities to the owner for complying with the provision or the requirement as aforesaid, and may also, if it thinks fit, direct that the costs of such application and order shall be paid by the occupier.

(3)The occupier shall, within eight days from the date of any order under sub-section (2), afford all reasonable facilities to the owner in compliance with such

order. In the event of any continued refusal by the occupier to do so, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise have incurred by reason of his failure to comply with the provision or the requirement as aforesaid.

Proceedings before the Civil Court

514.Procedure in Civil Court.

(1)Whenever under this Act any application, appeal or reference is made to a Civil Court having jurisdiction, such Civil Court may, for the purpose of any inquiry or proceeding in connection with such application, appeal or reference, summon and enforce the attendance of witnesses and compel them to give evidence or compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the Code of Civil Procedure, 1908, and, in all matters relating to any such enquiry or proceedings, the Court shall be guided generally by the provisions of the Code of Civil Procedure, 1908, so far as such provisions are applicable to such inquiry or proceeding.

(2)If, in any such inquiry or proceeding, any person summoned to appear before the Court fails to do so, the Court may proceed with such inquiry or proceeding in his absence.

(3)The cost of every such inquiry or proceeding shall be payable by such person or persons, and in such proportion or proportions, as the Court may direct, and, the amount of such cost shall be recoverable as if the same were due under a decree of the Court.

515.Fees in proceeding before Civil Court.

(1)The municipality may specify a fee -

(a)for making under this Act any application, appeal or reference to a Civil Court having jurisdiction, or

(b)for issue of any summons or other process in any inquiry or proceeding in connection with such application, appeal or reference :

Provided that the fee, if any, under clause (a) shall not, in the case where the value of any claim is capable of being estimated in money, exceed the fee leviable in a similar case under the Code of Civil Procedure, 1908.

(2)No application, appeal or reference under this Act shall be received by a Civil Court having jurisdiction until the fee, if any, under clause (a) of sub-section (1) has been paid:

Provided that the Civil Court may, in any case in which it thinks fit so to do, -

(i)receive such application, appeal or reference, or

(ii)issue summons or other process,

without payment of such fee.

516.Repayment of half of fees on settlement before hearing- Whenever under this Act any application, appeal or reference to a Civil Court having jurisdiction is settled by agreement between the parties concerned before hearing of such application, appeal or reference, half the amount of any fee paid by any of such parties under sub-section (2) of section 515 shall be repaid by the Civil Court to such party.

Municipal Magistrates and Proceeding before Municipal Magistrates

517.Municipal Magistrate.

(1)The State Government may, in consultation with the High Court of the State, designate one or more Judicial Magistrates for the trial of offences against -

(a)this Act, and

(b)the rules and the regulations made thereunder,

and may prescribe the time within which, and the place at which, such Judicial Magistrate or Judicial Magistrates shall sit for such trial of offences.

(2)Every such Judicial Magistrate shall exercise all other powers, and discharge all other functions, of a Magistrate as provided in this Act.

(3)Every Judicial Magistrate appointed under sub-section (1) shall be called Municipal Magistrate.

(4)Each Municipal Magistrate shall have jurisdiction over such municipal area or areas as may be specified by the State Government by notification.

518.Procedure in the court – **(1)** The procedure in the court of a Municipal Magistrate shall, except where otherwise specifically provided in this Act, be in accordance with the provisions of the Code of Criminal Procedure, 1973.

(2) The offences mentioned in sections 426, 436, 437, 439, and 607 shall be compoundable within the meaning of the Code of Criminal Procedure, 1973. **519.Power of Municipal Magistrate to hear cases in absence of accused summoned to appear.** If, in any case, any person, who is summoned to appear before a Municipal Magistrate to answer any charge of an offence under this Act or the rules or the regulations made thereunder, fails to appear on the date and at the time and the place mentioned in the summons issued in this behalf or on any

subsequent date to which the hearing of such case is adjourned, the Municipal Magistrate may, if -

(a)service of the summons is, to his satisfaction, proved to have been effected, and

(b)no sufficient cause is shown for non-appearance of such person,

hear and determine such case in the absence of such person.

520.Limitation of time for prosecution- No person shall be liable to any punishment for an offence under this Act or the rules or the regulations made thereunder unless a complaint of such offence is made before a Municipal Magistrate within six months next after -

(a)the date of commission of such offence, or

(b)the date on which the commission or the continuance of such offence is first brought to the notice of the municipality or the Municipal Commissioner or the Executive Officer.

521.Complaint regarding nuisance and removal thereof-

(1)The Municipal Commissioner or the Executive Officer or any other officer of the municipality authorized by him in this behalf, in writing, or any person who resides or owns property in the municipal area, may complain of the existence of any nuisance to a Municipal Magistrate.

(2)Upon receipt of such complaint, the Municipal Magistrate, after making such inquiry as he considers necessary, may, if he thinks fit, by an order, in writing, -

(a)direct the person responsible for such nuisance or the owner of the land or the building on which such nuisance exists, to take, within such period as may be specified in the order, such measures for abating, preventing, removing or remedying such nuisance as may appear to the Municipal Magistrate to be practicable and reasonable, and may direct the Municipal Commissioner or the Executive Officer to enforce any of the provisions of this Act or the rules or the regulations made thereunder for prevention of such nuisance, and

(b)further direct the person held responsible for the nuisance to pay to the complainant such reasonable cost of the complaint (including compensation for loss of time in prosecuting such complaint) as the Municipal Magistrate may determine :

Provided that where, in the opinion of the Municipal Magistrate, immediate action to prevent the nuisance is necessary, he may dispense with the inquiry and make forthwith such order as he considers necessary.

(3)If any person responsible for any nuisance or any owner of any land or building on which any nuisance exists fails to comply with any order under sub-section (2) within the period specified in the order, the Municipal Commissioner or the Executive Officer may, on the expiry of such period, proceed to take necessary action in accordance with the order, or may take such other measures to abate, prevent, remove or remedy the nuisance as he may consider necessary, and the cost of any such action shall be recovered from such person or such owner, as the case may be.

522.Power of Municipal Magistrate to direct payment of fine and demolition of unlawful works-

(1)If, under this Act or the rules or the regulations made thereunder, any person is, in respect of any unlawful work, liable -

(a)to pay any fine, and also

(b)to demolish such work,

the Municipal Magistrate having jurisdiction may, in his discretion, direct such person to pay the fine and also to demolish the work.

(2) All sums realized on account of fine under this section shall be credited to the Municipal Fund.

Legal Proceedings

523.Power to institute etc. legal proceeding and to obtain legal advice. The Municipal Commissioner or the Executive Officer may –

(a)take, or withdraw from, proceeding against any person who is charged with -

(i)any offence under this Act or any rules or regulations made thereunder, or

(ii)any offence which affects, or is likely to affect, any property or interest of the municipality or the due administration of this Act, or

(iii) committing any nuisance whatsoever, or

(b)contest or compromise any appeal against assessment of any tax or rate, or

(c)take, or withdraw from, or compromise, any proceeding under this Act for the recovery of expenses or compensation claimed to be due to the municipality, or

(d)withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person, or

(e)defend any suit or other legal proceeding brought against the municipality or against any municipal authority or any officer or other employee of the municipality in respect of anything done or omitted to be done by the municipality or such municipal authority or officer or other employee under this Act or the rules or the regulations made thereunder in the official capacity, or

(f)compromise, with the approval of the Standing Committee or, where there is no Standing Committee, with the approval of the Council, any claim, suit or other legal proceeding brought against the municipality or any municipal authority or any officer or other employee of the municipality in respect of anything done or omitted to be done under any of the foregoing clauses of this section, or

(g)withdraw from, or compromise, any claim against any person in respect of a penalty payable under any contract entered into with such person by the Municipal Commissioner or the Executive Officer on behalf of the municipality, or

(h)institute or prosecute any suit or other legal proceeding or, with the approval of the Standing Committee, or where there is no Standing Committee, with the approval of the Council, withdraw from, or compromise, any suit or claim, other than a claim referred to in clause (d), instituted or made, as the case may be, in the name of the municipality or the Municipal Commissioner or the Executive Officer, or

(i)obtain, for any of the purposes mentioned in the foregoing provisions of this section or for securing lawful exercise or discharge of any power or duty vested in, or imposed upon, any municipal authority or any officer or other employee of the municipality, such legal advice and assistance as he may, from time to time, consider necessary or expedient, or as he may be required by the Council or the Standing Committee, to obtain.

524.Notice, limitation, and tender of amends in suits against municipality etc.-

(1)No suit shall be instituted in any court having jurisdiction against any municipal authority or any officer or other employee of the municipality or any person acting under the direction of any municipal authority or any officer or other employee of the municipality in respect of anything done, or purported to be done, under this Act or the rules or the regulations made thereunder, until the expiration of one month next after a notice, in writing, has been delivered or left at the

office of such authority or at the office or the residence of such officer or other employee or person, stating –

(a)the cause of action,

(b)the name and residence of the intending plaintiff, and

(c)the relief which such plaintiff claims.

(2)Every such suit shall be commenced within four months next after accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required under sub-section (1).

(3)If the municipal authority, at the office of which, or the officer or the other employee of the municipality or the person acting under the direction of any municipal authority or any officer or other employee of the municipality, at the office or the residence of whom, a notice has been delivered or left under sub-section (1), satisfies the court having jurisdiction that the relief claimed was tendered to the plaintiff before the institution of the suit, the suit shall be dismissed.

(4)Nothing in the foregoing provisions of this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963.

525.Indemnity. No suit shall be maintainable against any municipal authority or any officer or other employee of the municipality or any person acting under the direction of any municipal authority or any officer or other employee of the municipality or a Magistrate in respect of anything done lawfully and in good faith and with due care and attention under this Act or the rules or the regulations made thereunder.

Powers and duties of Police Officers

526.Co-operation of police.

(1)Every Police-Officer-in-charge of police station within the jurisdiction of the municipality and every officer, and every other employee, subordinate to him, if any, (hereinafter referred to in this section as the designated authority), shall -

(a)co-operate with the municipality for carrying into effect, and enforcing, the provisions of this Act and for maintaining good order in and outside the municipal area, and

(b)assist the municipality or the Municipal Commissioner or the Executive Officer or any other officer or other employee of the municipality in carrying out any order made by or under this Act.

(2)It shall be the duty of every police officer -

(i)to communicate without delay to the Municipal Commissioner or the Executive Officer or any other officer of the municipality any information which he received in respect of any design to commit, or any commission of, any offence under this Act or the rules or the regulations made there under, and

(ii)to assist the Municipal Commissioner or the Executive Officer or any other officer or other employee of the municipality requiring his aid for the lawful exercise of any power vested in the municipality or the Municipal Commissioner or the Executive Officer or such other officer or other employee under this Act or the rules or the regulations made thereunder.

(3)Any officer or other employee of the municipality may, when empowered by a general or special order of the Inspector-General of Police, or the Municipal Commissioner of Police, if

any, on the recommendation of the municipality in that behalf, exercise the powers of a police officer for such of the purposes of this Act as may be specified in such general or special order.

(4)The District Magistrate, the Sub-Divisional Magistrate, and the officers under them and the other employees subordinate to them shall cooperate with the municipal authorities in the performance of their duties under this Act.

527.Power of police to arrest offenders –

(1) Any police officer may arrest any person who commits, in his view, any offence under this Act or the rules or the regulations made thereunder, provided

that such person declines to give, on demand, his name and address or gives a name or address which the police officer has reason to believe to be false.

(2)No person so arrested shall be detained in custody after his correct name and address are ascertained or without the order of a Municipal Magistrate for a period longer than twenty-four hours from the time of arrest, exclusive of the period necessary for the journey from the place of arrest to the court of such Municipal Magistrate.

(3)On an application, in writing, of the Municipal Commissioner or the Executive Officer or any other officer authorized by him in this behalf, any police officer above the rank of a constable shall arrest any person who obstructs the Municipal Commissioner or the Executive Officer or any other officer or other employee of the municipality in the exercise of any power or performance of any function or discharge of any duty under this Act or the rules or the regulations made thereunder.

(4)On an application, in writing, of the Municipal Commissioner or the Executive Officer or any other officer, not below the rank of an officer authorized in this behalf by the Municipal Commissioner or the Executive Officer under sub-section (3), any police officer above the rank of a constable shall arrest any person who, in violation of the order referred to in sub-section (1) of section 436, commences the erection of a building, or execution of any work, referred to in that sub-section or carries on such erection or such execution.

General Provisions

528.Validity of notice and other document. No notice, order, requisition, license or permission, in writing, or any other document, issued under this Act, shall be invalid merely by reason of defect of form.

529.Admissibility of document or entry as evidence. A copy of any receipt, application, plan, notice, order, or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorized by the Municipal Commissioner or the Executive Officer 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 transactions 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.

530.Evidence of officer or employee of the Municipality. No officer or other employee of the municipality shall, in any legal proceeding to which the

municipality is not a party, be required to produce any register or document, the contents of which can be proved under section 514 by a certified copy, or to appear as a witness to prove

any matter or transaction recorded therein, save by an order made by a court having jurisdiction.

531.Prohibition against obstruction of Mayor or the Chairperson or any municipal authority etc. - No person shall obstruct or molest -

(a)any municipal authority, or the Mayor or the Chairperson, or the Deputy Mayor, the Vice-Chairperson, or a Councillor, or the Municipal Commissioner or the Executive Officer, or any officer or employee of the municipality or any person employed by the municipality, or

(b)any person, authorized or empowered by or under this Act or with whom the municipality or any of the municipal authorities has lawfully entered into a contract, in the performance of his or its duty, or in the execution of his or its work, or anything which he or it is empowered or required to do by virtue, or in consequence, of any provision of this Act or the rules or the regulations made thereunder, or in the fulfillment of the contract, as the case may be.

532.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 authorized by this Act or the rules or the regulations made thereunder.

533.Prohibition against removal or obliteration of notice. No person shall, without authority, remove, destroy, deface or otherwise obliterate any notice exhibited by or under the orders of the municipality, or any municipal authority, or any officer or other employee of the municipality specified by the Municipal Commissioner or the Executive Officer in this behalf.

534.Prohibition against unauthorized dealings with public place or materials. No person shall, without authority in that behalf, remove earth, sand or other material from, or deposit any matter in, or make any encroachment on, any land vested in the municipality, or in any way obstruct such land.

535.Liability for loss, waste or misapplication of money or property of the municipality-

(1)Every person shall be liable for the loss, waste, or misapplication of any money or other property, owned by, or vested in, the municipality, if such loss, waste or

misapplication is a direct consequence of his neglect or misconduct in the performance of his duty, and he may, after being given an opportunity by a notice served in the manner provided for the service of summons in the Code of Civil Procedure, 1908, to show cause by a representation, in writing or oral, why he should not be required to make good the loss, by order, be surcharged with the value of such property or the amount of such money by the Director of Municipal Administration, and if the amount is not paid within one month of the expiry of the period of appeal specified in sub-section (2), it shall be recoverable as an arrear of tax leviable under this Act.

(2)The person, against whom an order under sub-section (1) is made, may, within thirty days of the date of communication of the order, appeal to the State Government, and the State Government may confirm, modify or disallow the surcharge:

Provided that no person shall, under this section, be called upon to show cause after the expiry of a period of four years, or, in the case of a councillor, after a period of one year, from the occurrence of such loss or waste or misapplication.

536.Councillors and officers and other employees of the municipality to be public servants.- Every Councillor, the Municipal Commissioner or the Executive Officer, and every other officer or other employee of the municipality shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

537.Other laws not to be disregarded.- Save as otherwise expressly provided in this Act, nothing contained in this Act shall be construed to authorize the municipality or any municipal authority or any officer or other employee of the municipality to disregard any law for the time being in force.

Chapter 45
Election

538.The State Election Commission -The preparation of electoral rolls for and the conduct of elections to, all municipalities shall be under the superintendence, direction and control of the State Election Commission.

539.Notification of Municipal Elections- The State Government on recommendations of the State Election Commission, for constituting the municipalities fix date or dates through notification published in the official Gazette and that the electors have a right to elect the councillors of the municipality in accordance with the provisions of this Act.

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540.Extension of time for completion of election - It shall be competent for the State Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued under section 539.

541.Administrative machinery for the conduct of election –

(1)The State Government shall, when so required, for the conduct of elections of municipalities, make available to the State Election Commission, the services of officers and staff in the required number.

(2)The State Election Commission for the conduct of municipal elections, shall designate or nominate the Deputy Commissioner of the District as a District Election Officer (municipalities) for each district :

Provided that the District Election Officer (municipalities) subject to direction, control and supervision of the State Election Commission, shall co-ordinate and supervise all works relating to conduct of election in the area within his jurisdiction.

(3)For the municipal elections, the State Election Commission, on the recommendations of the District Election Officer (Municipalities) shall appoint Returning Officer for each Municipality who shall not be below the rank of Deputy Collector.

(4)The State Election Commission, on the recommendation of the District Election Officer (Municipalities) shall appoint one or more Assistant Returning Officers for each Municipality who shall be an officer of the State Government to assist the Returning Officer of the Municipality in the discharge of his functions

(5)The District Election Officer (Municipalities) shall appoint a Presiding Officer and as many Polling Officer or Officers as he deems necessary to assist the Presiding Officer for every polling station in each municipality:

Provided that any person who is a Government servant or a servant of Government Company or servant of Government aided institutions may be appointed as Presiding Officer or Polling Officer: Provided further that when a Polling Officer is absent from the polling station, the Presiding Officer

may appoint any person who is present at the polling station other than the persons appointed by the candidate for the elections as Polling Officer and shall accordingly inform the District Election Officer (Municipalities):

Provided also that the Polling Officer, subject to the direction of the State Election Commission, on being authorised by the Presiding Officer perform all or any of the functions of Presiding Officer under this Act and the rules framed thereunder.

(6)If the Presiding Officer owing to illness or any other unavoidable reason is compelled to be absent from the polling station, then his functions shall be performed by such Polling Officer who has been so authorised previously by the Returning Officer (Municipality) to perform such functions during such absence.

(7)It shall be the general duty of the Presiding Officer to maintain order at the polling station and see that the poll properly goes.

(8)It shall be the duty of a Polling Officer of a polling station to assist the Presiding Officer of such polling station in discharge of his functions.

542. Staff of certain authorities to be made available for election work -

(1)The authorities specified in sub-section (2) shall, when so requested by the District Election Officer, (Municipalities), make available to any Returning Officer such staff (including teachers, professors, non-teaching staff) as may be necessary for the performance of any duties in connection with an election. Duties related with polling, counting of votes, maintenance of law and order, patrolling and magistracy etc. shall be deemed to be election duty.

(2)The following shall be the authorities for the purposes of the Act, namely -

(a)every local authority;

(b)every University established or incorporated by or under a Central or State Act;

(c)a Government company as defined in section 617 of the Companies Act, 1956 (Act No.1 of 1956);

(d)any other institution, concern or undertaking which is established by or under a Central or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

543.Furnishing of certain information essential for candidates -

(1)A candidate shall, apart from any information which he is required to furnish in his nomination papers delivered under the Act or the rules made thereunder, also furnish information on affidavit on the following aspects in relation to his/her candidature -

(a)whether he is convicted or acquitted or discharged of any criminal offence in the past, if any, whether he is punished with imprisonment or fine;

(b)whether the candidate is accused in any pending case, or of any offence punishable with imprisonment for more than six months, and in which a

charge has been framed or cognizance has been taken by a competent court of law prior to six months of filing of nominations, and if so, the details thereof,

(c).the assets (including movable, immovable and bank balances, etc.) of a candidate, and of his/her spouse and that of his/her dependents,

(d)the liabilities, if any, particularly whether there are any overdues of any public financial institution or Government dues, and

(e)the educational qualifications of the candidate.

(2)In case of non-furnishing of the affidavit by any candidate, the nomination of the candidate shall be liable to rejection by the Returning Officer at the time of scrutiny of nominations for such non-furnishing of the affidavit.

(3)The information so furnished by each candidate in the affidavit referred in sub section (1) shall be disseminated by the respective Returning Officer by displaying a copy of the affidavit on the notice board of his office and also by making copies thereof available freely and liberally to the representatives of the print and electronic media and to any other candidate or person on deposit of fee as prescribed by the State Election Commission.

(4)If any rival candidate furnishes information to the contrary by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above.

544.Penalty for filing false affidavit, etc. — A candidate who himself or through his proposer, with intent to be elected in an election, —

(i) gives false information which he knows or has reason to believe to be false; or

(ii)conceals any information, in his nomination paper or in his affidavit which is required to be delivered, as the case may be,

shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to one year or with fine, or with both.

545.Requisitioning of premises, vehicles, etc., for election purposes —

(1)If it appears to the State Government that in connection with an election within the State-

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

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

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

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

(2)The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3)Whenever any premises, vehicle, vessel or animal is requisitioned under clause (a) or (b) of subsection (1), the period of such requisition shall not extend beyond the period for which such premises, vehicle, vessel or animal is required for any of the purposes mentioned in that sub-clause.

(4)In this section —

(a)"premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b)"vehicles" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

546.Payment of compensation —

(1)Whenever in pursuance of sub-section (1) of section 546, the State Government requisitions any premises, there shall be paid to the persons interested in the premises, compensation, the amount of which shall be determined by taking into consideration the - (a)rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

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

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an Arbitrator, the amount of compensation to be paid shall be such as the Arbitrator appointed in this behalf by the State Government may determine:
Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an Arbitrator appointed in this behalf by the Government for determination, and shall be determined in accordance with the decision of such Arbitrator. **Explanation :** — In this section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under sub-section (1) of section 546 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(3)Whenever in pursuance of sub-section (1) of section 546 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an Arbitrator, the amount of compensation to be paid shall be such as the Arbitrator appointed in this behalf by the State Government may determine:
Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agreed upon, and in default of agreement, in such manner as an Arbitrator appointed by the State Government in this behalf may decide.

547.Power to obtain information — The State Government may with a view to requisitioning any premises, vehicle, vessel or animal under sub-section (1) of section 546 or determining the compensation payable under section 547, by order, require any person to furnish to such authority as may be specified in the order

such information in his possession relating to such premises, vehicles, vessels or animals as may be so specified.

548.Powers of entry into and inspection of premises, etc. — Any person authorized in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under sub-section (1) of section 546 should be made in relation to such premises, vehicle, vessel or animal, or with a view to securing compliance with any order made under that sub section.

549.Eviction from requisitioned premises —

(1)Any person remaining in possession of any requisitioned premises in contravention of any order made under sub-section (2) of section 546, may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

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

550.Release of premises from requisition —

(1)When any premises requisitioned under sub-section (1) of section 546 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there was no such person, to the person deemed by the State Government to be the owner of such premises and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2)Where the person to whom possession of any premises requisitioned under sub-section (1) of section 546 is to be given under this section cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the official gazette.

(3)When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and

from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

551.Delegation of functions of the State Government with regard to requisitioning — The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of section 546 to 550 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

552.Penalty for contravention of any order regarding requisitioning- If any person contravenes any order made under sections 546, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

553.Right to Vote —

(1)No person shall vote at an election in any ward if he is subject to any of the disqualifications referred to in the Act.

(2)No person shall vote at a general or bye-election in more than one ward, and if a person votes in more than one such ward, his votes in all such wards shall be void.

(3)No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been registered in the electoral roll for the ward, and if he does so vote, all his votes in that ward shall be void.

(4)No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police.

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

(5)Nothing contained in sub-section (2) and (3) shall apply to a person who has been authorized to vote as proxy for an elector under this Act in so far as he votes as a proxy for such elector.

554.Special procedure for preventing impersonation of electors — With a view to preventing impersonation of electors, provision may be made by rules under this Act, —

(a)for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of

voting at a polling station before delivery of such ballot paper or ballot papers to him;

(b)for the production before the Presiding Officer or a Polling Officer of a polling station by every such elector as aforesaid of his identity card as prescribed by the State Election Commission; and

(c)for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper has already such a mark on his thumb or any other finger or does not produce on demand his identity card before the Presiding Officer or a Polling Officer of the polling station.

555.Electors of Municipality - All such persons who are enrolled as electors in the electoral roll or that part of the electoral rolls of the State Legislative Assembly Constituency for the time being in force which is concerned with the ward of any municipality shall be the electors for concerned municipality elections:

Provided that the State Election Commission suo motto or on receipt of written representation from an aggrieved person, is of the opinion that there is sufficient reason for doing so, may direct such changes to be made in the electoral rolls of the concerned ward of the municipality, as it may deem proper:
Provided further that no such change of the electoral roll shall be made after the notification of the date of municipality election by the Governor under section 539.

556.Observers –

(1)The State Election Commission may nominate observers who shall be an officer of State Government to oversee the conduct of election or elections in a ward or a group of constituencies and to perform such other functions as may be entrusted to him by the State Election Commission.

(2)The Observer nominated under sub-section (1) shall have the power to direct the Returning Officer for the ward or for any of the wards for which he has been nominated, to stop the counting of votes at any time before the declaration of the result or not to declare the result, if

in the opinion of the Observer, booth capturing has taken place at a large number of polling stations or at places fixed for the poll or counting of votes, or any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll at that polling station or place cannot be declared.

(3)Where an Observer has directed the Returning Officer under this section to stop counting of votes or not to declare the result, the Observer shall forthwith report the matter to the State Election Commission and thereupon the State Election Commission shall, after taking all material circumstances into account, issue appropriate directions.

Explanation - For the purposes of sub-section (2) and sub-section (3), "Observer" shall include any such officer of the State Election Commission as has been assigned under this section the duty of overseeing the conduct of election or elections in a ward or group of wards by the State Election Commission.

557.District Election Officer (Municipalities), Returning Officer, Presiding Officer, etc. deemed to be on deputation to State Election Commission - The District Election Officer (Municipalities), Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer related with election work of municipalities and any police officer designated for the time being by the State Government, to assist the conduct of such election shall be deemed to be on deputation to the State Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the result of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the State Election Commission.

ELECTORAL OFFENCES

558.Promoting enmity between classes in connection with election - Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

559.Prohibition of public meetings during period of forty-eight hours ending with the hour fixed for conclusion of poll –

(1)No person shall-

(a)convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b)display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c)propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement,

with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

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

(3)In this section, the expression "election matter" means any matter intended or calculated to influence or affect the result of any election.

560.Disturbances at election meetings –

(1)Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both. An offence punishable under this sub-section shall be cognizable.

Explanation: 'Public meeting' means meeting of a political character held in any ward between the date of the issue of a notification under this Act calling upon the ward to elect a councillor or councillors and the date on which such election is held.

(2)If any police officer reasonably suspects that any person is committing an offence under subsection (1) he may, if requested so to do by the chairman of the meeting require that person to declare him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

561.Restrictions on the printing of pamphlets, posters, etc.-

(1)No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face, the name and address of the printer and the publisher thereof.

(2)No person shall print or cause to be printed any election pamphlet or poster-

(a)unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b)unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document, -

(i)where if printed in the capital of the State, to the State Election Commission, and

(ii)in any other case, to the Deputy Commissioner of the district in which it is printed.

(3)For the purposes of this section -

(a)any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression "printer" shall be construed accordingly; and

(b)"election pamphlet or poster" means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates but does not include any handbill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

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

562.Maintenance of secrecy of voting –

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

(2)Any person who contravenes 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.

563.Officers etc., at elections not to act for candidates or to influence voting–

(1)No person who is a District Election Officer (Municipalities) or a Returning Officer, or an Assistant Returning Officer, or a Presiding or Polling Officer at an election, or an officer or clerk appointed by the Returning Officer or the Presiding

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Officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act, other than the giving of vote for the furtherance of prospects of the election of a candidate.

(2)No such person as aforesaid, and no member of a police force, shall endeavour- (a)to persuade any person to give his vote at an election; or

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

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

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

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

564.Prohibition of canvassing in or near polling stations

(1)No person shall, on the date or dates on which a poll is taken at 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 vote of any elector; or

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

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

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

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

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

565.Penalty for disorderly conduct in or near polling stations –

(1)No person shall, on the date or dates on which a poll is taken at any polling station -

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

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

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

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

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

566.Penalty for misconduct at the polling station –

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

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

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

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

567.Penalty for failure to observe procedure for voting - If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.

568.Penalty for illegal hiring or procuring of conveyance at elections - If any person is guilty of any such corrupt practice as is specified in sub-section (6) of

section 587 or in connection with an election, he shall be punishable with imprisonment which may extend to three months and or with fine.

569.Breaches of official duty in connection with election –

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

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

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

(4)The persons to whom this section applies are the District Election Officers (Municipalities), Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the 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 purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

570.Penalty for Government servants for acting as election agent, polling agent or counting agent - If any person in the service of the Government acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

571.Prohibition of going armed to or near a polling station –

(1)No person, other than the Returning Officer, the Presiding Officer, any police officer and any other person appointed to maintain peace and order, at a polling station who is on duty at the polling station, shall, on a polling day, go armed with arms, as defined in the Arms Act, 1959 (Act No.54 of 1959), of any kind within the neighbourhood of a polling station.

(2)If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3)Notwithstanding anything contained in the Arms Act, 1959 (Act No.54 of 1959), where a person is convicted of an offence under this section, the arms as defined in the said Act found in his possession shall be liable to confiscation and the license granted in relation to such arms shall be deemed to have been revoked under section 17 of that Act.

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

572.Removal of ballot papers from polling station to be an offence –

(1)Any person who at any election takes, or attempts to take, a ballot paper out of a polling station, or willfully 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.

573.Offence of booth capturing –

(1) Whoever commits an offence of booth capturing shall be punishable with imprisonment for term which shall not be less than one year but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine;

Explanation For the purposes of this clause, "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 preventing others from free exercise of their right to vote;

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

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

(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.

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

574.Other offences and penalties therefor –

(1)A person shall be guilty of an electoral offence if at any election he –

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

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

(c)fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or 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 papers therein used for the purposes of the election; or

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

(2)Any person guilty of an electoral offence under this section shall –

(a)if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

(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 an 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, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

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

575.Grant of paid holiday to employees on the day of poll –

(1)Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote at an election to the municipalities of the State shall, on the day of poll, be granted a holiday.

(2)No deduction or abatement of the wages of any such person shall be made on account of a holiday having been granted in accordance with sub-section (1) and if such person is employed on the basis that he would not ordinarily receive wages for such a day, he shall nonetheless be paid for such day the wages he would have drawn had not a holiday been granted to him on that day.

(3)If an employer contravenes the provisions of sub-section (1) or sub-section (2), then such employer shall be punishable with fine which may extend to five hundred rupees.

(4)This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

576.Liquor not to be sold, given or distributed on polling day –

(1)No spirituous, fermented or intoxicating liquors or other substances of a like nature shall be sold, given or distributed at a hotel, eating-house, tavern, shop or any other place, public or private, within a polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

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

(3)Where a person is convicted of an offence under this section, the spirituous, fermented or intoxicating liquors or other substances of a like nature found in his possession shall be liable to confiscation and the same shall be disposed off in such manner as may be prescribed.

577.Account of election expenses and maximum thereof —

(1)Every candidate at a municipal election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election, incurred or authorised by him or by his election agent between the dates on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

(2)The account shall contain such particulars, as may be prescribed.

(3)The total of said expenditure shall not exceed such ceiling as may be prescribed.

578.Disqualification on failure to lodge account of election expenses - If the State Election Commission is satisfied that a person

(a)has failed to lodge an account of election expenses within the time and manner required by or under this Act; and

(b)has no good reason or justification for the failure,

the State Election Commission shall by order declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

579.Qualification for Membership- Every person whose name is in the list of voters of any municipal ward shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected as a member of the municipality:

Provided that in the case of seats reserved for Scheduled Castes or Scheduled Tribes or Backward Classes or Women, no person who is not a member of any of the Schedule Castes or Scheduled Tribes or Backward Classes or is not a woman, as the case may be, shall be qualified to be elected to suchseat.

ELECTION PETITIONS

580.Election Petition

(1)The election to any office of a municipality shall not be called in question except by an election petition as prescribed:

Provided that if an election to any office of a Nagar Panchyat is under dispute, the election petition shall lie before such Munsif within whose jurisdiction such Nagar Panchyat is situated and if the election to any office of Municipal Council and Municipal Corporation is under dispute, the election petition shall lie before such Sub-Judge within whose jurisdiction such municipality is situated.

581.Parties to the petition -A petitioner shall make as a respondent to his petition -

(a)where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b)any other candidate against whom allegations of any corrupt practice are made in the petition.

582.Contents of Petition - An election petition—

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

(b)shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c)shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act No.5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed

form in support of the allegation of such corrupt practice and the particulars thereof.

(d)Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

583.Bar to interference by courts in electoral matters- Notwithstanding anything contained in this Act -

(a)the validity of any law relating to the delimitation of wards or the allotment of seats to such wards, made or purporting to be made under Article 243 ZA of the Constitution of India shall not be called in question in any court;

(b)no election to any municipality shall be called in question except by an election petition presented to the prescribed authority under this Act.

584.Grounds for declaring election to be void –

(1)Subject to the provisions of sub-section (2) if the prescribed authority is of opinion -

(a)that on the date of his election, a returned candidate was not qualified or was disqualified, to be chosen as a councillor under this Act; or -

(b)that any corrupt practice has been committed by a returned candidate or his agent or by any other 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 a returned candidate, has been materially affected -

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

(ii)by any corrupt practice committed in the interests of the returned candidate by an agent; or

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

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

the prescribed authority shall declare the election of the returned candidate to be void. (2)If in the opinion of the prescribed authority, any agent of a returned candidate has been 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 and every such corrupt practice was committed contrary to the orders and without the consent of the candidate;

(b) that the candidate took all reasonable measures 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 agent;

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

585.Grounds on which a candidate other than the returned candidate may be declared to have been elected –

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

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

(b) that but for the votes obtained by the returned candidate by corrupt practices 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.

(2)The decision of the prescribed authority shall be final.

586.Corrupt Practices - The following shall be deemed to be corrupt practices for the purposes of this Act-

(a)bribery as defined in clause (i) of section 123 of the Representation of the People Act, 1951 (Central Act No. 48 of 1951), for the time being in force;

(b)undue influences as defined in clause (ii) of the said section for the time being in force;

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

(d)the promotion of or attempt to promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the election of that candidate to or for prejudicially affecting the election of any candidate;

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

(f)the hiring or procuring whether on payment or otherwise, any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent, or the use of such vehicle or vessel for the free conveyance of any

voter (other than the candidate himself, the member 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 use of any public transport vehicle or vessel or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause;

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

(g)the holding of any meeting at which intoxicating liquors are served;

(h)the issuing of any circular, placard or poster having reference to the election which does not bear the name and address of the printer and publisher thereof;

(i)any other practice which the Government may by rule specify to be a corrupt practice.

587.Order as to corrupt practices - The corrupt practices referred to under this Act shall entail disqualification for membership of any local authority for a period of five years counting from the date on which the finding of the prescribed authority as to such practices takes effect under this Act.

588.Communication of orders - The prescribed authority under section 581 of this Act shall after announcing the orders made under this Act send a copy thereof to the State Election Commission and the District Magistrate.

589.Fresh election, if a seat becomes vacant - If the seat of any member has become vacant or is deemed to have become vacant under this Act, a fresh election for the vacancy so caused shall be held in accordance with the provisions of this Act.

Chapter 46

Rules and Regulations

590.Power to make rules.-

(1)The State Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2)Any rule made under this Act may provide that any contravention thereof shall be punishable with fine which may extend to five thousand rupees.

(3)Every rule made under this Act shall, as soon as may be after it is made, be laid before 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 sessions aforesaid, the State Legislature agrees in making any modification in the rules or the State Legislature agrees that the rules 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, so however that such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

591.Power to amend Schedule.- The State Government may, by notification, add to, amend or alter the Schedule to this Act.

592.Power to make regulations.- The municipality may, from time to time, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder for the purpose of giving effect to the provisions of this Act.

593.Conditions precedent to making of regulations.- The power to make regulations under this Act is subject to the condition of the regulations being made after previous publication and to the following further conditions, namely-

(a)such draft of regulations shall not be further proceeded with until a period of one month has expired from the date of such publication,

(b)for not less than one month during such period, a printed copy of such draft shall be kept in the office of the municipality for public inspection, and any person shall be permitted at any reasonable time to peruse such draft, free of charge, and

(c)printed copies of such draft shall be obtainable by any person requiring such draft on payment of such fee as may be fixed by the Standing Committee.

594.Regulations to be subject to approval of the State Government –

(1)No regulation made by the municipality under this Act shall have any effect until it has been approved by the State Government and published in the Official Gazette.

(2)Before approving any regulations, the State Government may make such changes therein as may appear to it to be necessary.

595.Power of the State Government to cancel or modify regulations –

(1)If the State Government is, at any time, of the opinion that any regulation should be cancelled or modified, either wholly or in part, it shall cause the reasons for such opinion to be communicated to the municipality, and shall specify a

reasonable period within which the municipality may make such representation with regard thereto as it may think fit.

(2)After receipt and consideration of any such representation or if, in the meantime, no such representation is received, after the expiry of the period as aforesaid, the State Government may, at any time, by notification, cancel or modify such regulation either wholly or in part.

(3)The cancellation or modification of any regulation under sub-section (2) shall take effect from such date as the State Government may specify in the notification under that sub-section or, if no such date is specified, from the date of publication of such notification:

Provided that such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.

596.Supplemental provisions respecting regulations.- Any regulation, which may be made by the municipality under this Act within one year from the date of commencement of this Act may be altered or rescinded by the municipality with the approval of the State Government.

597.Penalty for breach of regulation –

(1)Any regulation made under this Act may provide that a contravention thereof shall be punishable-

(a)with fine which may extend to five thousand rupees, or

(b)with an additional fine in the case of a continuing contravention, which may extend to two hundred and fifty rupees for every day during which such contravention continues after conviction for the first of such contravention, or

(c)with fine which may extend to two hundred and fifty rupees for every day during which the contravention continues, after the receipt by the person contravening the regulation of a notice requiring such person to discontinue such contravention from the Municipal Commissioner or the Executive Officer or any other officer of the municipality, duly authorized in that behalf.

(2)Any such regulation may also provide that a person contravening that regulation shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention.

598.Rules and regulations to be available for inspection and purchase-

(1)A copy of all rules and regulations made under this Act shall be kept at the office of the municipality and shall, during office hours, be open, free of charge, to inspection by any inhabitant of the municipal area.

(2)Copies of such rules and regulations shall also be kept at the office of the municipality and shall be sold to the public at such price as the Standing Committee may determine.

599.Doubts as to powers, duties or functions of municipal authorities - If any doubt arises as to the municipal authority to which any particular power, or function or duty pertains, the Mayor or the Chairperson shall refer the matter to the State Government, and the decision of the State Government thereon shall be final.

Chapter 47

Offences and Penalties

600.Punishment for certain offences - Whoever -

(a)contravenes any provision of any of the sections, sub-sections, clauses, provisos or any other provision of this Act, 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 provisions, shall be punishable -

(i)with fine which may extend to twenty five thousand rupees, or with imprisonment which may extend to six months, or both;

(ii)with an additional fine in the case of a continuing contravention or failure, which may extend to one hundred rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure subject to a maximum of five thousand rupees.

601.Punishment for acquiring share or interest etc. with municipality.- Any councillor who knowingly acquires, directly or indirectly, any share or interest in any contract made with, or any work done for, the municipality ,except as a shareholder (other than a Director) in an incorporated company or as a member of a co-operative society, shall be deemed to have committed the offence punishable under section 168 of the Indian Penal Code.

602.Fine for not paying tax under chapter 19.- If any person erects, exhibits, fixes or retains any advertisement referred to in chapter 19, without paying any tax under that chapter, he shall be punished with fine which shall not be less than an amount equal to two times of such tax; and further, depending upon the gravity of the breach, the fine may extend upto an amount equal to five times the amount payable as such tax.

603.Fine for putting building to any use other than that for which a license has been granted. - When any premises is used or is permitted to be used by any person for any purpose other than that for which a license has been granted under sub-section (1) of section 455 or as a stable or cattle-shed or cow-house, then such person shall, without prejudice to any other penalty to which he may be subject, be liable to a fine which may extend, in the case of a masonry building to five thousand rupees and, in the case of a hut to five hundred rupees, and, in the case of continuance of such use, to a further fine which may extend, in the case of a masonry building, to five hundred rupees and, in the case of a hut, to one hundred rupees for each day during which such use continues after the first day.

604.Penalty for obstructing contractor.- Whoever obstructs or molests any person with whom the municipality has entered into a contract for execution of any work under this Act shall, on conviction, be punished with imprisonment for a term which may extend to two months or with a fine which may extend to ten thousand rupees or both.

605.Penalty for causing damage to property belonging to municipality. - No person shall cause any damage to any property belonging to the municipality. Any person causing any

damage to any property belonging to the municipality shall, on conviction, be punished with fine which may extend to five thousand rupees or imprisonment for a term of one month or both.

606.Encroachment on streets.-

(1) No person shall cause any encroachment or obstruction on any municipal property such as a street or footpath or park without specific permission of an officer of the municipality duly authorized to grant such permission. Any person causing such encroachment or obstruction on any municipal property as aforesaid shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(2) The Municipal Commissioner or the Executive Officer shall have power to remove any encroachment and obstruction on the municipal

property if it is not authorized, or if it objectionable or obstructs traffic.

607.Punishment of imprisonment in default of payment of fine.- In every case where, under this Act, an offence is punishable with fine, or with imprisonment, or with both, and a person is sentenced by a Court having jurisdiction to pay a fine, it shall be competent for such Court to direct that in default of payment of fine, he shall suffer imprisonment for such term or, as the case may be, such further term, not exceeding six months, as the Court may fix.

608.General penalty. - Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order or requisition issued under any provisions thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to one hundred rupees for every day after the first during which he has persisted in such failure or contravention.

609.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 in charge 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 of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. – For the purposes 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.

610.Prosecution.- Save as otherwise provided in this Act, no Court shall proceed to the trial of any offence punishable by or under this Act except on the complaint of, or upon information received from, the Municipal Commissioner or the Executive Officer or any person authorized by him by general or special order in this behalf.

611.Compounding of offences.-

(1)The Municipal Commissioner or the Executive Officer or, if so authorized by the municipality in this behalf by a general or special order, the Municipal Health Officer, the Municipal Engineer or any other officer of the municipality may, either before or after the institution of the proceeding and on payment of such fee as may be specified by regulations, compound any offence as may be classified as compoundable by the State Government, by rules.

(2)Notwithstanding anything contained in sub-section (1), no offence punishable by or under this Act or by any rule or regulation made thereunder shall be compoundable if such offence is committed due to the failure to comply with any notice, order or requisition, as the case may be, issued by or on behalf of any of the municipal authorities referred to in section 23, unless and until such notice, order or requisition, as the case may be, has been complied with in so far as such compliance is possible.

(3)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.

Chapter 48

Extension of the Act to Other Areas and Inclusion or Exclusion of Areas within or from the Municipal Area

612.Power of State Government to notify intention to extend the Act to other areas- Notwithstanding anything contained in any other law for the time being in force, the State Government may, by notification and in such other manner as it may determine, declare its intention to extend, subject to such modifications and restrictions, if any, as may be specified in the notification, all or any of the provisions of this Act to any other area.

Miscellaneous and Transitory Provisions

613.Provisions of the chapter to override other provisions.- The provisions of this chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

614.Removal of difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order do or cause to be done anything which may be necessary for removing the difficulty.

615.Repeal and Savings. –

(1)With effect from the date of coming into force of this Act, the Jharkhand Municipal Act, 2000, and Ranchi Municipal Corporation Act, 2001 shall stand repealed.

(2)The gram panchayats, panchayat samities and zilla parishads, constituted under the Jharkhand Panchayat Raj Act 2001, whose jurisdiction extends over the municipal area shall not exercise powers and functions as have been entrusted to the municipality under this Act.

(3)The operation of Ranchi Regional Development Authority set up under the Jharkhand Regional Development Authority Act, 2001 shall cease within limits of Ranchi Municipal Corporation.

(4)The operations of Mineral Area Development Authority set up under the Jharkand Mineral Development Authority Act, 1986, to the extent notified by the State Government, shall

cease to exist with effect from the date this Act comes into force and shall vest with Dhanbad Municipal Corporation.

(5)The operations of Hazirabagh Mines Board set up under the Hazirabagh Mines Board Act, 1936, to the extent notified by the State Government, shall cease to exist with effect from the date this Act comes into force and shall vest with Hazirabagh Municipality.

(6)Notwithstanding the provisions of sub-sections (1), (3), (4) and (5) -

(a)subject to the scrutiny of the requirements of the municipality assessed by an officer or officers appointed by the State Government, every such officer or other employee serving with various authorities, organisations set up under the Acts listed in sub-sections (1), (3), (4) and (5) of this section, immediately before the date of the commencement of this Act and on and from such date shall be deemed to have been transferred to and become an officer or other employee of the municipality with such designation as the

municipality may determine and may hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as he would have held if the Acts were not repealed, and shall continue to do so unless and until such tenure, remuneration and terms and condition are duly altered by the municipality:

Provided that any service rendered by such an officer or other regular employees before the repeal of various Acts referred in sub sections (1), (3), (4) and (5) shall be deemed to be service rendered under the municipality:

Provided further that the officer or officers appointed by the State Government shall screen and verify service record of each officer and employee and only such officers and employees shall be absorbed in the municipality which have been appointed against duly sanctioned posts in accordance with law by a competent authority,

(b)anything done or any action taken (including any appointment made and rules or regulations issued under various Acts listed in sub-section (1), (3), (4) and (5)) shall continue to be in force and be deemed to have been done or taken under the provisions of this Act unless it is superseded, modified, or altered by anything done or any action taken under this Act,

(c)all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the various authorities and organisations set up under the Acts listed in sub-sections (1), (3), (4) and (5) of this section shall be deemed to have been incurred, entered into or engaged to be done by, with or for the municipality,

(d)all properties movable and immovable and all rights, titles, and interests in any property vested in the authorities and organisations set up under the Acts listed in sub-sections (1), (3), (4) and (5) of this section shall vest in the municipality and all properties in possession of such organisations shall be deemed to be properties of the municipality,

(e)all suits, prosecutions, and other legal proceedings instituted or which might have been instituted by, for, or against the said authorities and organisation set up under the Acts listed in sub-sections (1), (3), (4) and (5) of this section may be continued or instituted by, for or against the municipality,

(f)all sums charged on any property under various Acts listed in sub-sections (1), (3), (4) and (5) of this section or the rules or regulations framed thereunder shall continue to be charged on that property and the charge shall be enforceable by the municipality,

(g)from the date, the Act comes into effect, the municipality will have the same right as the said various authorities and organisations had in all lands within the area notified under sub-section (1), (3), (4) and (5) of the Act which were previously held by the said various authorities and organisations on lease from the State Government for a certain period or the possession of which has been delivered to the aforesaid authorities and organizations,

(h)the municipality shall continue to enjoy the powers to realise the various sources of income in terms of levies, fees, cess, etc.; otherwise empowered to be realised by said various authorities and organisation under their respective Acts and rules and regulations framed thereunder specified under sub-sections (3), (4) and (5) of this section of the Act, as if the said authorities were still functioning under their respective statutes until the same are amended by the municipality, from time to time.

(7)Notwithstanding anything contained in this Act, the councils constituted under the Acts referred in sub-section (1) shall continue in office till expiry of their respective terms.

(8)Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the Acts referred in sub-section (1) shall be deemed to have been done or taken in exercise of the powers conferred under this Act, as if this Act were in force on the day on which such thing or action was done or taken.

616. Hindi and English version of this Act:

If any dispute arises out of English translation of this Act, provisions in Hindi version shall prevail. **617. Indemnity :**

No suit or other legal proceedings shall lie against the Government and so suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

SCHEDULE

(See section 455)

PURPOSES FOR WHICH PREMISES MAY NOT BE USED WITHOUT A LICENCE OR WRITTEN PERMISSION

(1)Aerated water – manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(2)Aloe fibre and yarn – storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(3)Ammunition - storing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(4)Arecanut – soaking.

(5)Article made of flour – baking, preparing, keeping or storing for human consumption (for other than domestic use).

(6)Asafoetida – storing, except for domestic purposes.

(7)Ash - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever, dumping or shifting – except for domestic purposes.

(8)Autocar or Autocycle servicing or repairing.

(9)Bakelite goods – manufacturing or processing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(10)Bamboo – storing for sale, hire or manufacture – except for domestic purposes.

(11)Banking.

(12)Bidi leaves – storing or processing – except for domestic purposes. (13)Biddies (indigenous cigarettes), snuff, cigars or cigarettes manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(14)Biscuit - baking, preparing, keeping or storing for human consumption (for other than domestic use).

(15)Bitumen - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(16)Blacksmith.

(17)Blasting powder – Storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever – except for domestic purposes.

(18)Blood - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever – except for domestic purposes.

(19)Boarding and Lodging Houses including paying guest accommodation and working men/women hostels – keeping.

(20)Bones – manufacturing by any process, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever – except for domestic purposes.

(21)Bread – baking, preparing, keeping or storing for human consumption (for other than domestic use).

(22)Bricks or tiles by hand power - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(23)Bricks or titles by mechanical power - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(24)Brushes - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(25)Camphor - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever or boiling – except for domestic purposes.

(26)Candles - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(27)Carbide of calcium – storing – except for domestic purposes.

(28)Cardboard – storing, manufacturing – except for domestic purposes. (29)Carpet – manufacturing.

(30)Cashewnut - storing, packing, preparing or manufacturing by any process, whatsoever.

(31)Catgut - manufacturing, storing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(32)Celluloid or celluloid goods, storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever – except for domestic purposes.

(33)Cement concrete designs or models - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(34)Charcoal - dumping, shifting, selling or storing manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever- except for domestic purposes.

(35)Chemicals, liquid, non-liquid - preparation, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(36)Chilli, Chillis or masala or corn or seeds – grinding by machinery, selling wholesale or storing for wholesale trade – except for domestic purposes.

(37)Chlorate mixture - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever – except for domestic purposes.

(38)Cinder - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever, dumping or shifting.

(39)Cinematograph films stripping in connection with any trade - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever, shooting of, treating or processing – except for domestic purposes.

(40)Cloth – dyeing, bleaching, mercerizing or storing – except for domestic purposes.

(41)Cloth or clothes of cotton, wool, silk, art silk, etc. - except for domestic purposes.

(42)Coal – dumping, shifting, selling or storing – except for domestic purposes.

(43)Coconut fibre, husk, shells - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(44)Coir yarn - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(45)Coke – storing - except for domestic purposes.

(46)Combustible – storing, baking, preparing, keeping or storing for human consumption (for other than domestic use).

(47)Compound gas (oxygen, nitrogen, hydrogen, carbon dioxide, sulphur, chlorine, acetylene) – except for domestic purposes.

(48)Coppersmithy.

(49)Copra – preparing or storing or selling wholesale - except for domestic purposes.

(50)Cosmetics or toilet goods - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(51)Cotton of all kinds, cotton refuse, cotton seed-storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(52)Cow-dung cake - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(53)Dammar (Resin) - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(54)Detonator – storing - except for domestic purposes.

(55)Drugs, Retail sale - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(56)Dry leaf – storing - except for domestic purposes.

(57)Dye (stuff) - packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(58)Dynamite – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(59)Eating house or catering establishment - Keeping of an.

(60)Electroplating.

(61)Explosive paint (nitro-cellulose, lacquer, enamel) – storing - except for domestic purposes.

(62)Fat-manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(63)Felt – storing - except for domestic purposes.

(64)Fibre – selling or storing.

(65)Fin - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(66)Firewood – selling or storing - except for domestic purposes.

(67)Firework – manufacturing, storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(68)Fish, Fish (dried), Fish oil - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(69)Flax – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(70)Fleshing - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(71)Flour-packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(72)Food, Food for Retail sale - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(73)Fuel – using for any industrial purpose.

(74)Fulminate of mercury, Fulminate of silver - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(75)Furniture – making or storing for sale.

(76)Gas – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(77)Gelatine – storing - except for domestic purposes.

(78)Gelignite - except for domestic purposes.

(79)Ghee - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(80)Glass or glass articles, glass leveling, glass cutting and glass polishing - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(81)Gold – refining.

(82)Goldsmithy.

(83)Grain – selling wholesale or storing for wholesale trade, parching. (84)Gram – husking by machinery.

(85)Grass – storing - except for domestic purposes.

(86)Groundnut – selling wholesale or storing for wholesale trade.

(87)Groundnut seeds, tamarind seeds or any other seeds - parching.

(88)Gun-cotton-storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes. (89)Gunny bag - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(90)Gunpowder-storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(91)Gunpowder – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(92)Hair - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(93)Hair dressing salon or a barber's shop - Keeping.

(94)Hay or fodder – selling or storing - except for domestic purposes.

(95)Hemp – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(96)Hessain cloth (Gunny-bag cloth) - storing, - except for domestic purposes. (97)Hides, Hides (dried), Hides (raw) - storing, packing, pressing, cleansing, preparing or manufacturing by any process, tanning, pressing or packing or whatsoever - except for domestic purposes.

(98)Hoof - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(99)Horn - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(100) Ice (including dry ice) - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(101) Incense of esas - storing - except for domestic purposes.

(102) Ink for printing, writing, stamping etc. - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(103) Insecticide or disinfectants - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(104) Jaggery - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(105) Jute - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(106) Khaki – preparing.

(107) Khokas, boxes, barrels, furniture or any other article of wood - except for domestic purposes.

(108) Keeping of horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce thereof.

(109) Lac - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(110) Laundry shop- Keeping.

(111) Lead – melting.

(112) Leather - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(113) Leather, leather cloth or rexina cloth or water-proof cloth – storing, manufacturing by mechanical means, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(114) Lime, lime-shell - storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(115) Linseed oil - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(116) Litho press - Keeping

(117) Lodging house - Keeping

(118) Machinery – using for any industrial purpose.

(119) Manure - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(120) Marble cutting, grinding, dressing or polishing.

(121) Manufacturing article from which offensive or unwholesome smell, fume, dust or noise arises.

(122) Match, Matches for lighting (including Bengal matches) - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(123) Matirf-clifs and nillfiws - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(124) Meat-storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(125) Metal (ferrous or non-ferrous or antimony by excluding previous metal) cutting or treating metal by hammering, drilling, pressing, filing, polishing, heating or by any other process whatever or assembling parts of metal, beating, breaking, hammering and casting.

(126) Methylated spirit, denatured spirit or French polish, storing - except for domestic purposes.

(127) Nitro-compound, Nitro-cellulose, Nitro Glycerin, Nitro Mixture- storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever - except for domestic purposes.

(128) Offal – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(129) Oil - storing, packing, pressing, cleansing, preparing or manufacturing by any process, whatsoever.

(130) Oil other than petroleum (either by mechanical power or by hand power or ghani driven by bullock or any other animal) - manufacturing,

parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(131) Oil-cloth - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(132) Oilseeds including almonds, but excluding cotton seeds, storing - except for domestic purposes.

(133) Old Paper or waste paper including old newspapers, periodicals, magazines, etc. - except for domestic purposes.

(134) Packing stuff (paper cutting, husic, saw dust, etc.) - except for domestic purposes.

(135) Paddy – boiling or husking by machinery.

(136) Paints - manufacturing, storing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(137) Paper or cardboard – manufacturing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(138) Paper (other than old paper) in pressed bales or loose or in reams - except for domestic purposes.

(139) Petroleum, petroleum products - other than dangerous petroleum, as defined in the Petroleum Act, 1934 - except for domestic purposes.

(140) Pharmaceutical or medical products - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(141) Photography – studio.

(142) Phosphorus – storing, except for domestic purposes.

(143) Pickers from hides - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(144) Pitch – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(145) Plastic or Plastic goods - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(146) Plywood – storing - except for domestic purposes.

(147) Polythene - manufacturing or storing.

(148) Pottery, pottery by hand power - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever – except pottery by mechanical or any power other than hand power.

(149) Precious metals- Refining of or recovering them from embroideries.

(150) Printing press - Keeping

(151) Radio, Radio (wireless receiving set) – selling, manufacturing, assembling, servicing and repairing.

(152) Rags, including small pieces or cuttings of cloth, hessian cloth, gunny-bag, cloth, silk, art silk or woolen cloth - except for domestic purposes.

(153) Resin (including rosin) - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever - except for domestic purposes.

(154) Rubber or rubber goods - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(155) Rug - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(156) Safety fuses, fog signals, cartridges, etc. - except for domestic purposes.

(157) Sago – manufacturing or distilling.

(158) Salpetre - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever - except for domestic purposes.

(159) Sandalwood - except for domestic purposes.

(160) Sanitary-ware of china-ware - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(161) Shellac - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(162) Silk – packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(163) Silk waste, or silk yarn waste, art silk waste, or art silk yarn waste - except for domestic purposes.

(164) Silversmithy.

(165) Sisal fibre – storing - except for domestic purposes.

(166) Skin (raw or dried) - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever - except for domestic purposes.

(167) Soap - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(168) Spinning or weaving cotton, silk, art silk or jute or wool with the aid

of power.

(169) Spirit - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(170) Stone grinding, cutting, dressing or polishing.

(171) Straw – selling or storing - except for domestic purposes.

(172) Sugar-packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(173) Sugar, sugar candy - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(174) Sulphur - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever - except for domestic purposes.

(175) Surki - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(176) Sweetmeat and confectionery goods - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(177) Tallow- storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(178) Tallow – manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(179) Tar – storing, manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(180) Tarpauline – storing - except for domestic purposes.

(181) Thatching material – selling or storing.

(182) Thinner – storing - except for domestic purposes.

(183) Tiles – manufacturing.

(184) Timber - selling or storing - except for domestic purposes.

(185) Timber or wood sawing or cutting by mechanical or electric power.

(186) Tinsmithy.

(187) Tobacco (including snuff, cigar, cigarette and bidi) - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(188) Turpentine - storing, packing, pressing, cleansing, preparing or

manufacturing by any process whatsoever - except for domestic purposes.

(189) Varnish – manufacturing or storing.

(190) Varnish - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever - except for domestic purposes.

(191) Washerman's trade.

(192) Welding of metal by electric, gas or any process whatsoever.

(193) Wooden furniture, boxes, barrels, kokas, or other articles of wood or of plywood or of sandalwood - manufacturing, parching, packing, pressing, cleaning, cleansing, boiling, melting, grinding or preparing by any process, whatsoever.

(194) Wool, Wool (raw) - storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever - except for domestic purposes.

(195) Yarn – dyeing or bleaching.

(196) Yarn other than waste yarn - except for domestic purposes.

(197) Sale purchase and repairing of all apparatus running from electricity

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